



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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May 29, 2025

Kane Thuyen
Senior Assistant City Attorney
City of Burbank
275 East Olive Ave.
Burbank, CA 91502

Re: Your Request for Informal Assistance
Our File No. I-25-057

Dear Mr. Thuyen:

This letter responds to your request for advice on behalf of Burbank (“City”) City Council Member Christopher Rizzotti, regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹ Because your inquiry is general in nature, we are treating your request as one for informal assistance.²

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTIONS

Under the Act, may City Council Member Rizzotti take part in governmental decisions regarding tenant protection-related and landlord-related regulations, including program funding, registration requirements, tenant protections, and rent caps, given that he owns four residential rental units in the City? If he would generally be prohibited from taking part, would the “public generally exception” apply to allow his participation?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSIONS

Without additional details regarding specific decisions, we can only provide general and conservative advice. However, based on the facts provided we must generally advise that Council Member Rizzotti is prohibited from taking part in such decisions because they would either establish restrictions placed on his property or may impact the income or liabilities of his sources of income by \$1,000 or more. Additionally, given his multiple interests, we can only generally advise that Council member Rizzotti's interest would be uniquely affected by the decisions, such that the public generally would not apply to allow him to take part in the decisions.

FACTS AS PRESENTED BY REQUESTER

On August 9, 2023, the City of Burbank ("City") considered adopting local residential tenant protections more restrictive than the California Tenant Protection Act. After several study sessions, the City was directed to return an ordinance for City Council consideration and potential adoption.

On July 30th, 2024, the City Council adopted a tenant protection ordinance ("Ordinance") that increased relocation assistance for all no-fault just cause evictions, added anti-retaliation tenant protection provisions, and established a local enforcement mechanism by authorizing legal action and certain administrative remedies for violations of the Ordinance. The Ordinance was effective on August 31, 2024.

Councilmember Rizzotti was elected to the City Council in November of 2024. Since he was elected, the City Council has considered modifying the tenant protections in the Ordinance, including adding an exemption for small, non-commercial property owners related to increases to relocation assistance for no-fault just cause evictions and anti-harassment tenant protections.

Councilmember Rizzotti did not take part in any discussion or decision involving these modifications to the Ordinance and has recused himself based upon his real estate property interests within the City. His real estate property interests within the City include: (1) an ownership interest in his primary residence ("Residence"); and (2) four residential rental properties that were built more than 15 years ago and are not single-family homes ("Rentals"). He acts as a lessor of the Rentals and collects rent from tenants who reside in the four Rentals.

The City Council anticipates additional discussion related to tenant protection or landlord-related regulations, which include the following topics of discussion:

- Enforcement Funding;
- City Relocation Funding;
- Rental Property Registry Program Funding;
- Rental Property Registry Requirements for Owners;
- New Tenant Protection Regulations; and
- City Rent Caps.

Because the Ordinance enhances the California Tenant Protection Act, it also incorporates the California Tenant Protection Act's exemptions. As such, any regulation mentioned above would

not apply to rental units that are already exempt from the California Tenant Protection Act, such as housing units that are 15 years old or newer, or those single-family homes that are not owned by a real estate investment trust, corporation, limited liability company, or management of a mobile home park. Councilmember Rizzotti's Rentals are not exempt from the Ordinance or the California Tenant Protection Act requirements, as they were built more than 15 years ago and are not single-family homes.

In a follow-up phone call, you noted that decisions relating to enforcement funding, city relocation funding, and registry funding would be general funding decisions—that is, how much funding the City should allocate for each of these purposes. Regarding the remaining topics—registry requirements, new tenant protection regulations, and city rent caps—you noted that these were topics of interest the City Council would likely want to revisit, but no specific decisions have taken shape yet.

Based upon the City's current Housing Element, rental units have traditionally constituted more than 25 percent of the City's residential real property units. Specifically, the most current Housing Element has identified that in 2018, there were 41,505 residential real property units within the City, with 24,138 (approximately 58.2%) being identified as rental units. However, the City is currently unable to determine how many of the residential property units will be exempt from the Ordinance decisions, because the City is still in the process of gathering the information on the number of rentals built in the past 15 years and the number of rental single family-type homes not owned by a real estate investment trust, corporation, limited liability company, or management of a mobile home park. The City is broadly aware that only 1.7 percent of the City's housing units were built in the past 15 years, and that single-family type homes make up 48.6 percent of the City's housing units.

ANALYSIS

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official’s immediate family,” or on certain specified economic interests. (Section 87103.) Among those specified economic interests are:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(Section 87103(a)-(c).) Councilmember Rizzotti has a real property interest in his residence, as well as his four residential rental properties. He also has a business entity interest in his rental business, as well as source of income interests in his business and any tenant, who has provided income exceeding \$500 or more in the 12 months prior to the decision.

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, “[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

Where an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, “[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.”

The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision changes the permitted use of, or restrictions placed on, the official’s property. (Regulation 18702.2(a)(5).) Additionally, a decision’s reasonably foreseeable financial effect on a source of income is material whenever the source of income is an individual and the decision may affect the individual’s income, investments, or other assets or liabilities (other than an interest in a business entity or real property) by \$1,000 or more. (Regulation 18702.3(a)(2)(A).)³

Determining whether it is reasonably foreseeable that a particular decision will have a material financial effect on an official’s financial interests requires the analysis of a specific decision. Here, the potential governmental decisions relate to determining the allotted funding for regulation enforcement, relocation assistance, and a rental property registration program. Other decisions relate to rental registration requirements, new tenant protection regulations, and rent caps. Given the lack of details regarding any particular decision, we provide general information on the rules applicable to his interests. Councilmember Rizzotti should seek additional advice as needed for a particular decision, once that decision is better understood.

³ A governmental decision also has a material financial effect on an official’s tenant as a source of income when the official knows or has reason to know that the individual has an interest in real property and there is clear and convincing evidence the decision would have a substantial effect on the property. (Regulation 18702.3(a)(2)(C)(ii).) However, a tenant’s periodic tenancy of one month or less does not constitute an interest in real property for purposes of the Act. (Regulation 18233.) The provided facts do not establish whether Councilmember Rizzotti’s tenants have traditional leases (e.g., a one-year lease) or a month-to-month tenancy. However, in light of our general analysis and conclusions, it is not necessary to also analyze Regulation 18702.3(a)(2)(C)(ii) at this time.

As a general matter, we can only conservatively advise that Councilmember Rizzotti is prohibited from taking part in the types of decisions identified. With respect to decisions relating to rental registration requirements and funding related to a registration program, such decisions would create and shape new restrictions that would apply to Councilmember Rizzotti's rental properties, thereby it is reasonably foreseeable the financial effect of the decision is material under Regulations 18701(a) and 18702.2(a)(5). With respect to funding for enforcement of tenant protection regulations, as well as a relocation assistance program, such decisions may materially affect his interest in his tenants as sources of income by impacting their income or liabilities by \$1,000 or more. (Regulation 18702.3(a)(2)(A).) Decisions on new tenant protection regulations and rent caps would similarly establish and shape restrictions that apply to Council Member Rizzotti's rental properties, some of which may also impact his tenants' income or liabilities by \$1,000 or more. Consequently, under the Act, Council Member Rizzotti is generally prohibited from taking part in all such decisions.

Public Generally Exception

Commonly referred to as the "public generally" exception, Regulation 18703 permits a public official to take part in a governmental decision that affects one or more of the official's interests if the decision's financial effect on the interest is indistinguishable from its effect on the public generally. (See Section 87103.) Under Regulation 18703(e)(4), a specific rule that applies in special circumstances, the financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally, where there is no unique effect on the official's interest if the official establishes the decision is limited to establishing, eliminating, amending, or otherwise affecting the respective rights or liabilities of tenants and owners of residential rental property, including a decision regarding a rent control ordinance or tenant protection measures, provided all of the following criteria are met:

- (A) The decision is applicable to all residential rental properties within the official's jurisdiction other than those excepted by the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.40, et seq.).
- (B) The official owns three or fewer residential rental units. For purposes of this regulation, a residential rental unit is each individual unit consisting of a single-family household.
- (C) The only interests affected by the decision are:
 - 1. Interests resulting from the official's lease of residential real property, as the lessor of the property.
 - 2. An interest in the official's primary residence as either a lessee or owner of the property.

Although the decisions at issue here involve the respective rights and liabilities of tenants and owners of residential rental property, including potential rent control ordinances and tenant protection measures, Councilmember Rizzotti owns four rentals units and, therefore, the exception established under Regulation 18703(e)(4) does not apply.

In the absence of a special rule applying, Regulation 18703 contains the more general standard for determining whether a decision's effect on a public official's interest(s) would be indistinguishable from the effect on the public generally. A public official may take part in a

governmental decision that affects one or more of the official's interests if the official establishes that the that a significant segment of the public is affected and the effect on the official's financial interest is not unique compared to the effect on the significant segment. A significant segment of the public includes 25 percent of all residential real property within the official's jurisdiction. (Regulation 18703(b)(1)(B).) A unique effect on a public official's financial interest includes a disproportionate effect on the official's interests in business entities or real properties resulting from the cumulative effect of the official's multiple interests in similar entities or properties that is substantially greater than the effect on a single interest. (Regulation 18703(c)(3).)

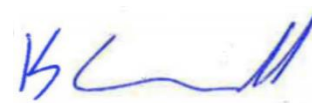
Rental units have traditionally constituted more than 25% of the City's residential real property units. Without more complete data on the percentage of rental properties exempt from the California Tenant Protection Act and therefore exempt from the related City ordinances and regulation (i.e., the percentage of rentals built in the past 15 years and single-family rental properties not owned by a real estate investment trust, corporation, limited liability company, or management of a mobile home park), the official has not established that a significant segment of the City's rental units would be subject to the Ordinance. However, even without such data, it is unlikely the public generally exception would apply because Councilmember Rizzotti would experience a unique effect, given that the cumulative effect on his multiple interests would presumably be substantially greater than the effect on a single interest.

If Councilmember Rizzotti has a question regarding his ability to take part in a specific governmental decision, he may request additional advice once more details on that decision are known. If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

KC:aja