



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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September 09, 2025

Joseph M. Montes
Burke, Williams & Sorensen, LLP444
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Los Angeles, CA 90071

Re: Your Request for Advice
Our File No. A-25-116

Dear Mr. Montes:

This letter responds to your request for advice on behalf of Alhambra City Council, members Mayor Katherine Lee, Vice Mayor Jeffrey Koji Maloney, and Councilmember Ross Maza regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

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.

QUESTION

May Mayor Lee, Vice Mayor Maloney or Councilmember Maza participate in Alhambra City Council decisions regarding the City’s Historical Preservation Ordinance where each official owns property identified as a potential historical resource?

CONCLUSION

Mayor Lee, with two properties identified as potentially eligible individual historic resources and thus subject to restrictions in use under the decision, has a disqualifying financial interest in the decision and may not participate. Vice Mayor Maloney and Councilmember Maza have “contributor” properties that would not be subject to restrictions under the decision unless the Council subsequently designates a Historic District that includes their property. The process for

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.

making a Historic District designation will be established under the proposed Ordinance. Notwithstanding a financial interest in the decisions based on their residential property interests, at least 15 percent of the parcels in their respective districts will similarly be designated as contributor properties, and at least 15 percent are within 500 feet of an eligible property. In comparison to these properties, there is no unique effect on the officials' respective residential properties. Accordingly, neither Vice Mayor Maloney nor Councilmember Maza is disqualified from the decision under the public generally exception.

FACTS AS PRESENTED BY REQUESTER

Alhambra ("City") is located in Los Angeles County's San Gabriel Valley about eight miles east of downtown Los Angeles. The City was incorporated in 1903 and became a charter city in 1915. With its robust history, the City has initiated a Historical Preservation Program (the "Program").

The Program emerged from the Council's August 19, 2019 adoption of the Alhambra General Plan "Vision 2040." It included Policy R-6F, which called for a local regulatory framework for the designation and protection of significant historic and cultural resources. On October 11, 2020, the City Council adopted an ordinance to amend Alhambra's Municipal Code and establish the Alhambra Historic Preservation Commission.

The Program has been divided into three phases and has been carried out since 2020. The three Program phases are as follows:

- (1) Historical Context Statement: Completed in 2022, it provides a framework for identifying historic properties;
- (2) Historic Resources Survey (the "Survey"): Completed in 2023, it identified 865 potentially eligible resource properties that can be designated as a designated historic resource; and
- (3) Adoption of a Historic Preservation Ordinance (the "Ordinance").

Phases one and two do not alter any property rights or obligations. Phase 3, the adoption of the Ordinance, will implement the work done in Phases one and two and provide the requirements for historically preserving properties. The City Council is set to consider a first reading of the proposed Ordinance prepared by the Historic Preservation Commission and Planning Commission .

The Ordinance

The proposed Ordinance, which will apply City-wide, establishes the process for determining a property's status as a historic resource. Statuses include: eligible or potentially eligible individual resource, contributor or non-contributor in an eligible or potentially eligible historic district, designated landmark, or contributor or non-contributor in a designated historic district.

The City's Historic Resources Survey preliminarily identified potentially eligible individual resources and potentially eligible historic districts; however, further evaluation in the form of a historic resource assessment would be necessary to determine whether a property is an eligible resource, and a historic resources survey report would be necessary to determine if an area with a grouping of resources qualifies as an eligible historic district. The Ordinance generally seeks to identify and protect the City's historical resources. In it a "historic resource" is defined as, "the broad category of all historic resource types that are significant in the history or prehistory of the City . . . [and] can include buildings, structures, objects, sites, and historic districts." They can be listed in the City's Register of Historic Resources or similar state and federal analogues.

More specifically, under the Ordinance, a "designated historic resource" (e.g., a designated landmark or contributor in a designated historic district) would be eligible for Mills Act contracts and associated tax relief; use of the California Historical Building Code; exemption from design review requirements; reduced building permit fees; and waiver of certain parking requirements. A precursor to a designated historic resource is a "potentially eligible resource." Specifically, a potentially eligible resource identified in the Survey (Phase two, above) is one that can be designated as a historic resource by receiving a Historic Preservation Commission recommendation and City Council approval.

Under the proposed Ordinance, the consent of the owner of a potentially eligible resource is not required, and any third party could apply for a potentially eligible resource to become a designated historic resource. The City Council would be allowed to veto a property owner's objection to historic designation with a four-vote supermajority. It is important to note that even if a property is not designated as a potentially eligible resource, there is a process under the proposed Ordinance to petition to have that property designated as a historic resource.

The proposed Ordinance also imposes requirements on owners of potentially eligible resources identified in the Survey, even though they have not been designated as historical resources yet through application and City Council approval. The requirements are triggered when the owner seeks to make certain modifications to the property or structures thereupon. In particular, if such an owner seeks to do a "major alteration," as defined in the proposed Ordinance, this would require the owner to hire a "Qualified Professional" (e.g., architect or historian) to conduct a historic resources assessment to determine the eligibility of structures and the property for potential historical designation.

If the historic resources assessment finds that the potentially eligible resource is eligible to become a designated historic resource, then the owner must apply for and obtain a certificate to complete the proposed improvement from the Historic Preservation Commission. Alternatively, if the assessment finds that the potentially eligible resource is not eligible to become a designated historic resource, then no additional historical review process would apply to the improvements.

Thus, the owner of a property identified as a "potentially eligible" resource in the Survey who seeks to do things such as demolish a structure, carry out a series of certain, collective minor alterations, or make certain window/door replacements on a street-facing façade, must hire a professional to conduct the historic resources assessment before carrying out the work and obtain Historic Preservation Commission certification if it is eligible to become a designated historic resource.

Lastly, the proposed Ordinance includes provisions establishing general requirements for maintenance and repair of historic resources, as well as procedures for rectifying unsafe or dangerous conditions, while still prioritizing protection and preservation of historic resources. Additionally, the Ordinance calls for fines and penalties for violation of the Historic Preservation Ordinance, including up to a 5-year moratorium on development of a subject property that is in violation of the Ordinance, and restricting any future permits for development, such that it cannot exceed the original square footage of the historic resource.

Official's Property Interests

Mayor Lee owns one commercial property and a separate residential property that are each identified as potentially eligible individual historic resources on the Survey.

Vice-Mayor Maloney and Councilmember Maza each own a single residential property that is identified in the Survey as a "contributor to a potentially eligible historic district." Under the proposed Ordinance, these properties are not subject to any additional level of review or permit process unless and until the Council actually formally designates a Historic District that includes their property. This would require a historic resources survey report to determine if an area with a grouping of resources qualifies as an eligible historic district. Both Vice Mayor Maloney's and Councilmember Maza's properties are within 500 feet of a potentially historic resource under the Survey.

For further context, as noted above, the Survey identified 865 properties in the City as potentially eligible historical resources. There are approximately 21,000 properties in the City total, approximately 1,500 of which are nonresidential. Vice Mayor Maloney and Councilmember Maza represent District 2 and 3, respectively. There are 4,561 total parcels in District 2 and 3,070 total parcels in District 3. You provided a map of the City which shows that approximately half of the properties in District 2 and District 3 are identified as contributor properties. It is also your understanding that more than 15 percent of the parcels in District 2 and District 3 are within 500 feet of a potentially eligible historical resource, similar to the two officials' properties. The officials' properties are located in developed residential neighborhoods, and each residence would be affected in a manner similar to the neighboring properties.

ANALYSIS

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests, distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103 and include any real property in which the official has a direct or indirect interest worth \$2,000 or more. (Section 87103(b).)

Related to the proposed Ordinance decision, Mayor Lee has identified a financial interest in one commercial property and one residential property.² Vice-Mayor Maloney and Councilmember Maza have each identified a financial interest in a single residential property. At issue is whether it is reasonably foreseeable that the proposed Ordinance decision will have a material financial effect on any of the officials' respective real property interests.

Foreseeability and Materiality

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 governmental decision affects a real property financial interest as described in Regulation 18702.2(a)(1)-(6), discussed further below. (Regulation 18701(a).) For financial interests not explicitly involved in a decision, if the financial effect can be recognized as a realistic possibility and is 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. (Regulation 18701(b).)

For determining the material effect of the decisions on real property interests, we look to the applicable real property materiality standards in Regulation 18702.2. Relevant to these facts, an interest in real property is explicitly involved in the decision and the effect of the decision on the interest is both foreseeable and material if the decision:

- Involves the adoption of or amendment to a development plan or criteria applying to the parcel;
- Determines the parcel's inclusion or exclusion in any city subdivision or boundaries;
- Involves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property

(Regulation 18701(a) and Regulation 18702.2(a)(1), (2), and (5).)

Additionally, 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 involves property located 500 feet or less from the

² Although it appears that Mayor Lee also has a business entity interest as a landlord, no further facts were provided as to her financial interests, and due to our conclusion, we do not further consider her interests in the business as a business entity and source of income, or any tenants as a source of income.

property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property. (Regulation 18702.2(a)(7).)

Mayor Lee

Mayor Lee owns one commercial property and a separate residential property that are each identified as a potentially eligible individual historic resource on the Survey. Under the proposed Ordinance, Mayor Lee would be required to hire a Qualified Professional for an assessment of either property to determine its eligibility to be a designated historic resource in the event Mayor Lee wants to perform repairs such as demolishing a structure, carry out a series of certain, collective minor alterations, or make certain window/door replacements on a street-facing façade ("major alteration") to the property. If Mayor Lee's property is assessed as eligible, she will have to obtain a Historic Preservation Commission certification in order to make the alterations.

Because the proposed Ordinance involves development criteria applicable to the property and will impose restrictions on the official's ability to make alterations to the properties as "potentially eligible historic resources," her properties are the subject of the decision, and it is reasonably foreseeable that the decision would have a material financial effect on the official's interest in her real properties. Absent an exception, Mayor Lee has a disqualifying financial interest and may not take part in the decision.

Vice-Mayor Maloney and Councilmember Maza

These two officials have each identified a financial interest in a single residential property that is identified in the Survey as a "contributor to a potentially eligible historic district." Under the proposed Ordinance, these properties are not subject to any additional level of review or permit process unless and until the Council actually formally designates a Historic District that includes their property. While this will require a subsequent historic resources survey report to determine if their properties are in an area that qualifies as an eligible historic district, the proposed Ordinance will determine the process the City would use to designate the properties' area as a Historic District in the future. While the specifics of the process have not been identified, it appears that establishing the process under which areas, including the officials' respective contributor property, can be established as a Historic District is a decision involving the development criteria of the property.

Provided the properties are the subject of the decisions, it is reasonably foreseeable that the decisions would have a material financial effect on their interests in the properties. We also note that even to the extent the properties are not the subject of the decisions (as it is not entirely clear what the process to establish a Historic District will entail), each official's property is located within 500 feet of a property identified as a historic resource under the Survey, and no facts are provided showing that the decision will not have any measurable impact on the official's property.

Therefore, it is reasonably foreseeable that the decision will have a material financial effect on their individual properties under either Regulation 18702.2(a)(1) or (7). Absent an exception, Vice-Mayor Maloney and Councilmember Maza each have a disqualifying interest in the decision and may not participate in the decision.

Public Generally Exception

When an official has a disqualifying financial interest under the Act, an official may still participate under the “public generally” exception. Regulation 18703(a) permits a public official to take part in a governmental decision under the Act 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. This standard is met if the official establishes 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. (Regulation 18703(a).)

Where the only interest the official has is in their primary residence, a significant segment of the public includes at least 15 percent of residential real property within the official’s jurisdiction. (Regulation 18703(b)(2).) Otherwise, a significant segment of the public is at least 25 percent of all businesses, real property, or individuals within the official’s jurisdiction. A unique effect on an official’s interest includes a disproportionate effect on the development potential or use of the official’s real property, or on the income producing potential of the official’s real property or business entity; or its proximity to the project that is the subject of the decision.

Mayor Lee owns two properties, one commercial and one residential that are explicitly involved in the decision, and the decision will impact her ability to develop or make changes to her two properties. With only 865 properties identified as potentially eligible historical resources, the majority of which appear to be residential, the official has not established that at least 25 percent of the parcels in her jurisdiction will be affected by the decision, and that there will not be a disproportionate effect on the development potential or use of the official’s real property, or on the income producing potential of the official’s real property or business entity. Therefore, the public generally exception does not apply to allow her participation.

Turning to the other officials, the facts state that at least 15 percent of the real property parcels in Vice-Mayor Maloney’s District 2 and in Councilmember Maza’s District 3 are designated as contributor properties and that at least 15 percent of the properties in the Districts are within 500 feet of eligible property. Similar to the officials’ residential properties, these are largely residential parcels in developed residential neighborhoods. The officials have established that each parcel would be affected in a manner similar to the neighboring properties, and there would be no unique effect on their properties as a result of the decision. Therefore, the public generally exception applies and allows Vice-Mayor Maloney’s and Councilmember Maza’s participation in the decision.

If you have other questions on this matter, please contact me at KHarrison@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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