



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

December 22, 2025

Phaedra. A. Norton
SBEMP Attorneys
74774 Highway 111
Indian Wells, CA 92210

Re: Your Request for Advice
Our File No. A-25-137

Dear Ms. Norton:

This letter responds to your request for advice on behalf of Mayor Pro Tem Richard Royce 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.

QUESTIONS

Does the Act prohibit City of Banning Mayor Pro Tem Royce from taking part in governmental decisions relating to a proposed development project by Loma Linda University, known as the Mission Heights Banning Bench Project, where the boundary line of one project parcel is within 500 feet of his residential property?

CONCLUSION

Yes, the Act prohibits Mayor Pro Tem Royce from taking part in governmental decisions relating to the project because the closest edge of the project site is less than 500 feet from his real property and there is no clear and convincing evidence that the project would have no measurable impact on his real property. To the extent that decisions pertaining to the Project can

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.

be segmented, as described below, such that Project-related decisions would not involve parcels within 1,000 feet of Mayor Pro Tem Royce's real property, he would be permitted under the Act to take part in those remaining decisions.

FACTS AS PRESENTED BY REQUESTER

The City of Banning will be receiving an informal presentation by Loma Linda University ("Loma Linda") regarding a proposed development project commonly referred to as the Mission Heights Banning Bench Project ("Project").

The Project components, as proposed by Loma Linda, will consist of low, medium, and high density residential (a total of approximately 2,400 dwelling units), commercial, school, park and recreation center, a lake, a basin, and open space. The property owned by Loma Linda consists of more than 700 acres and is made up of more than 30 parcels. The project as proposed will also include off-site improvements.

Mayor Pro Tem Royce owns a residence located within 500 feet of one of the Project parcels. That parcel is designated as "Open Space – Parks" under the Project plan. While there will be development on this parcel the development will occur more than 1,445 feet from Mayor Pro Tem Royce's property. In addition, the area that falls within 1,000 feet of Mayor Pro Tem Royce's Property is open space and will remain open space because there is a fault line and an approximately 330-foot tall hill that makes development of that portion of the parcel infeasible.

The Project components will span 29-plus other parcels, which are anticipated to be developed in phases. Except for the parcel nearest Mayor Pro Tem Royce's property, discussed above, all other parcels expected to be developed, including the next closest parcel (APN 535-070-009), will be more than 500 feet from Royce's Property.² It is anticipated that offsite improvements (i.e., roadway, water, wastewater, electric) would be developed further than 1,000 feet from Mayor Pro Tem Royce's real property. In addition, Loma Linda anticipates developing the project in phases with the first phase of development being more than 1,000 feet from Royce's Property. To be clear, the topographical boundary discussed above—established by a 330-foot hill and fault line—makes any development within 1,000 feet of Mayor Pro Tem Royce's property infeasible. As such, the land within 1,000 feet of Mayor Pro Tem Royce's property is open space and will continue to be designated open space because of the topography of the parcel. Further, due to the height of the hill, the Project site is not visible from Mayor Pro Tem Royce's property and it is necessary to travel approximately two miles around the hill to see the Project.

Attachments included with your request for advice include overhead maps of the area that mark the distance and obstacles between Mayor Pro Tem Royce's property and the various

² In a map provided with your request for advice, it appears that the closest point of the next closest parcel, APN 535-070-009, is located just under 1,000 feet away from Mayor Pro Tem Royce's property. This is also reflected in a second map you provided in a follow-up email. However,

Project parcels. In addition to the undeveloped, open space area established by the 330-foot tall hill and fault line, Mayor Pro Tem Royce's property is also separated from the Project parcels by several blocks and houses. The park/recreation center to be developed in the parcel closest to Mayor Pro Tem's property is located more than 1,000 feet from the property.

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.) These economic interests include "[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more." (Section 87103(b).)

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 involves property located 500 feet or less from the 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).)

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 also material whenever the governmental decision involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel's:

- (A) Development potential;
- (B) Income producing potential;
- (C) Highest and best use;
- (D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or
- (E) Market value.

(Regulation 18702.2(a)(8).)

Given Regulation 18702.2's references to "the property line of the parcel," the relevant distance between a public official's real property and the real property at issue in a governmental decision, for purposes of the Act, is the distance measuring directly from parcel to parcel or "as the crow flies." In limited instances where the decision affects only a clearly defined, specific, and isolated site, such as a particular building on a large tract of land, we have advised that the parcel-to-parcel measurement would not be the appropriate distance to determine materiality. (See, e.g., *Leishman* Advice Letter, No. A-21-154; *Zaragoza* Advice Letter, No. A-19-078.)

Here, Mayor Pro Tem Royce's property is located within 500 feet of one of the 30-plus Project parcels. Moreover, while the Project does not propose any specific development on the property within 500 feet of Mayor Pro Tem's Royce's property, the proposal includes a specific designation of the property as "Open Space – Paks." Thus, the proposal encompasses the entirety of the property and is not limited to the site of the construction or actual development. As such, the relevant distance is the distance between the closest point of Mayor Pro Tem Royce's real property and the Project property.

Because the distance between Mayor Pro Tem Royce's real property and the Project property is less than 500 feet, a Project-related decision is presumed to have a reasonably foreseeable, material financial effect on Mayor Pro Tem Royce's real property unless rebutted by clear and convincing evidence the decision would have no measurable impact on Mayor Pro Tem Royce's property. While the facts indicate that the development of the property nearest Mayor Pro Tem Royce's property would be infeasible due to the location of a fault line, the Project would specifically designate the land closest to Mayor Pro Tem Royce's property as "Open Space – Parks," thereby precluding certain potential developments that might otherwise be possible. In other words, even to the extent development is not feasible, the designation provided by the proposed Project ensures that the use of the property remains open space and potentially excludes less desirable uses within a close proximity to Mayor Pro Tem Royce's property. Further, the scale of the Project is large, involving the introduction of approximately 2,400 new dwelling units, which suggests a likely impact on the value of residential real properties in the surrounding area. Consequently, the available facts do not establish clear and convincing evidence of no measurable effect on Mayor Pro Tem Royce's real property, and he may not take part in the decisions.

Under Regulation 18706(a), an agency may segment a decision in which a public official has a financial interest, to allow participation by the official, provided all of the following conditions apply:

- (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated to the decision in which the official has a disqualifying financial interest;
- (2) The decision in which the official has a financial interest is segmented from the other decisions;
- (3) The decision in which the official has a financial interest is considered first and a final decision is reached by the agency without the disqualified official's participation in any way; and
- (4) Once the decision in which the official has a financial interest has been made, the disqualified public official's participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

Decisions are “inextricably interrelated” when the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision.

As discussed above, Mayor Pro Tem Royce is within 500 feet of the closest parcel and appears to be just within 1,000 feet of the next closest parcel.³ To the extent that the Project-related decisions can be segmented in a manner satisfying the above criteria, Mayor Pro Tem Royce would be permitted under Regulation 18706(a) to take part in governmental decisions not involving those parcels within 1,000 feet of his real property.

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

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

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³ As with the parcel located within 500 feet of his real property, Mayor Pro Tem Royce is also disqualified from governmental decisions involving real property located within 1,000 feet of his real property due to impact on market value that a project of this size would likely have on nearby property values. (Section 18702.2(a)(8)(E).)