



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

February 14, 2024

John Russell
[REDACTED]

Mary Margaret Maguire
[REDACTED]

William Maurer
[REDACTED]

San Simeon Community Services District
111 Pico Avenue
San Simeon, CA 93452

Re: Advisory Letter, In the Matter of John Russell, Mary Margaret Maguire, and William Maurer; FPPC No. 2020-00576

Dear All,

The Enforcement Division of the Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act.¹ This letter arises from a sworn complaint alleging that the Board of Directors and the General Manager had conflicts of interest related to the San Simeon Community Services District’s (“District”) plan to relocate a wastewater treatment plant. In response to the complaint, the Enforcement Division opened this case against former members of the San Simeon Community Services District John Russell, Mary Margaret Maguire, and William Maurer. After a review of the available evidence, the Enforcement Division is closing its file in this matter with this advisory letter as discussed below.

No public official at any level of state or local government may make, participate in making, or in any way attempt to use her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest.² A public official has a financial interest in

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18104 through 18998 of Title 2 of the California Code of Regulations.

² Section 87100.

a decision if it is reasonably foreseeable the decision will have a material financial effect on the official's interest, such as a real property interest.

To determine if a public official's participation in a governmental decision is a conflict of interest, there is a determination of the reasonable foreseeability that the governmental decision will have a financial effect on the official's financial interest. For interests that are not explicitly involved in the decision, the effect must be more than theoretical or hypothetical, but must be a realistic possibility. Factors to consider are the extent to which the occurrence is contingent upon intervening events, whether the official should anticipate a financial effect when using appropriate due diligence and care, and whether the interest is the type that would typically be affected by the governmental decision. After establishing reasonable foreseeability, the next step is to determine if the effect is material. In the case of the materiality of a decision impacting a real property interest, the effect is generally material when the financial interest is in close proximity to the property at issue in the governmental decision. If the effect is material, the official has a conflict of interest and may not influence, participate in, or vote on the governmental decision.

The District provides water and wastewater utilities for the community of San Simeon, an unincorporated coastal community. The District has approximately 250 ratepayers and covers a total area of about 100 acres. For several years, the District has been in the process of addressing the impact of an unpermitted wastewater treatment plant located on the coast. The California Coastal Commission requires the District to relocate this facility. In 2019 and 2020, the Board Members for the District were in discussions regarding potential parcels to purchase for this purpose. During these discussions, at least one board member recused themselves from the discussions due to a potential conflict of interest. The named Respondents had an interest in real property in close proximity to the parcel at issue. However, the Respondents did not make a final decision to purchase a parcel. Instead, the District contracted the services of an outside vendor to determine the next best course of action. The three named Respondents are no longer on the District's Board of Directors.

After an investigation, the Enforcement Division found insufficient evidence to establish that a governmental decision occurred or that there is reasonable foreseeability that a governmental decision made by the District would have had a material financial effect on the public officials' real property interests. Even though we are closing our file in the matter, please be advised of the conflict of interest provisions of the Act in any future actions the District may take. Also, consider such legal requirements as proper recusal when officials have a conflict of interest. Additionally, the regulations provide an exception for when the participation of one or more conflicted officials is legally required.³ The regulation provides details on when this exception may be invoked and how to properly execute the exception.

If you need guidance regarding the Act's conflict of interest provisions, contact the Commission's Advice team by calling 1-866-275-3772 or sending an email to advice@fppc.ca.gov. There is also information pertaining to the conflict of interest provisions available on the Commission's website, www.fppc.ca.gov.

³ Regulation 18705.

If you have any questions regarding this letter, please contact me at tgilbertson@fppc.ca.gov or by phone at (279) 237-5960.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Gilbertson', with a stylized flourish at the end.

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

cc: Sworn Complainant, Julie Tacker