



FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3050 • Sacramento, CA 95811

Scott Donaldson

Via email: sdonaldson@delreyoaks.org

March 11, 2024

Re: No Action Closure Letter: Scott Donaldson, FPPC No. 2021-01076

Dear Scott Donaldson,

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ This letter is in response to a sworn complaint alleging that you were in violation of the Act’s conflict of interest provision. The Enforcement Division has completed its investigation and has determined that the complaint has been disproven.

Under the Act, no public official may make, participate in making, or influence a governmental decision in which they have a financial interest.² A public official has a financial interest in a decision 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, on a member of their immediate family, or on certain specified financial interests such as a real property interest in which the official has a direct or indirect interest worth \$2,000 or more.³ To assess whether the financial effect will be material, the Regulations provide that for a real property interest that is not the subject of the governmental decision but is within 500 feet of the property that is the subject of the governmental decision, the financial effect is presumed to be material.⁴ However, for a property between 500 and 1,000 feet from the property that is the subject of the governmental decision, the decision only has a material financial effect where the decision would change the parcel’s development potential; income producing potential; highest and best use; character by substantially altering traffic levels intensity of use, parking, view privacy, noise levels or air quality; or market value.⁵

In 2021, the City of Del Rey Oaks was considering decisions concerning the Fort Ord Regional Trail and Greenway project (“FORTAG.”) This project proposed the construction of a 27-mile long, 12-foot wide continuous paved bicycle and pedestrian trail with an open-space buffer on

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.

³ Regulations 18700.

⁴ Regulation 18702.2, subdivision (7).

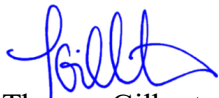
⁵ Regulation 18702.2, subdivision (8).

both sides. In anticipation of the council voting on the FORTAG project, the city requested advice from the Legal Division to determine whether officials could properly participate in the decision-making. The Legal Division was provided with facts from the requestor, including that Donaldson's property was between 500 and 1,000 feet of the proposed routing of the project. Based on the facts provided, the advice letter provided that Donaldson would not have a conflict of interest. As such, Donaldson participated in and voted on the project. Under the Act, the advice, if based upon accurate facts, provides a complete defense in any enforcement proceeding.⁶ The complaint at issue asserted that Donaldson's property abutted the project and was less than 500 feet from the proposed routing. The investigation determined that there was no evidence to support the complainant's assertion. The proposed routing of the project was consistent with the facts presented to the Legal Division. Therefore, the allegation of a conflict of interest has been disproven.

Based on the foregoing, we have closed our investigation into this matter.

Should you have any questions regarding this letter, please feel free to contact me at (279) 237-5960 or Tgilbertson@fppc.ca.gov.

Sincerely,



Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Sworn Complainant, Patrice Vecchione

⁶ Section 83114, subdivision (b).