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

December 16, 2024

John Gaglioti
Via email

Pat Lintell
Via email

Re: No Action Closure Letter: FPPC Case No. 2021-00285, In the Matter of John Gaglioti and Pat Lintell

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 Gaglioti and Lintell, in their capacity as members of the City Council for the City of Del Rey Oaks, had real property interests that were within 500 feet of the subject of governmental decision(s). After a review of the available evidence, the Enforcement Division is closing our investigation in this matter due to insufficient evidence of a violation.

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 a decision if it is reasonably foreseeable the decision will have a material financial effect on the official's 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.[3] 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.[4]

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[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, and all regulatory references are to this source.
[2] Section 87100.
[3] Regulation 18701.
[4] Regulation 18701, subdivision (b).

Then, there is a determination as to whether the reasonably foreseeable financial effect will be material.[5] When the effect is considered material, there is a conflict of interest. The regulations regarding the materiality standard for real property interests is found in Regulation 18702.2.

On January 26, 2021, the City Council of Del Ray Oaks considered the agenda item: "Consider Appeal of the November 10, 2020 Planning Commission Decision Regarding Del Rey Oaks Garden Center." The subject of the decision, hereafter, the "Garden Center" was located within 500 feet of the personal residence of both Gaglioti and Lintell. The Garden Center was located on property owned by and leased from the City. The City Council discussed the item, with both Gaglioti and Lintell asserting that they did not own the property where they lived. According to the staff report, the Garden Center had petitioned the Planning Commission for a new conditional use permit that would increase the lease boundary in order to retroactively cover the area that the Garden Center had already encroached upon. In addition, the new permit would have allowed for expanded hours of operation. The staff report attached to this agenda item recommended granting the appeal in part because of public complaints about the Garden Center and that the Garden Center was out of compliance with the terms of the lease and the lessee had failed to meet with staff to discuss the lease. The City Council, including Gaglioti and Lintell voted to grant the appeal.

The City Council further discussed this issue on February 23, 2021 but no action was taken. On March 25, 2021, the City Council further discussed the matter of the Garden Center being out of compliance with the terms of their lease, the terms of their conditional use permit, and the terms of an Encroachment Permit. As a result, the City Council issued a letter to the lessee demanding that the lessee come into compliance with the lease, the conditional use permit, and the encroachment permit. As the February 23 meeting and the March 25 meeting did not create any new obligation for the lessee, the Enforcement Division finds that both meetings did not result in a governmental decision that could create a conflict of interest.

For both individuals, the financial interest at issue is a real property interest in property that was in close proximity to the subject of the governmental decision on January 26, 2021. In the case of Gaglioti, the Enforcement Division determined that at this time, both Gaglioti and Lintell were not the owner of the real property but rather had a leasehold interest or equivalent. For example, the real property where Gaglioti resided was owned and held by a revocable trust created by Gaglioti's mother. According to grant deeds, Lintell had gifted her real property interest to her son, leaving her with only a life estate on the date of the decision and by February 8.

The first step in determining if there is a conflict of interest is to assess whether it is reasonably foreseeable that the decision will have a financial effect on the interest. Here, for purposes of this letter, the Enforcement Division assumes that there would be a reasonably foreseeable financial effect of the January 26 decision. The next step would be to determine whether the financial effect will be material. For leasehold interests, the governmental decision must a) change the termination date of the lease, b) increase or decrease the potential rental value of

[5] Regulation 18700, subdivision (d)(2).

the property, c) change the official's actual or legally allowable use of the property, or d) impact the official's use and enjoyment of the property.[6]

The Enforcement Division has determined that there is insufficient evidence that the governmental decision on January 26, 2021, the vote to grant the appeal of the new conditional use permit, would have a material financial effect on either official's interest. There is no evidence that the original lease conditions or the proposed changes to the conditional use permit would have any impact on the official's leasehold interest, the rental value for either property, the actual or legal use of their property, or would impact the official's use and enjoyment of the property. Though the Garden Center is in close proximity, it is unlikely that changes to the legal boundary for the Garden Center would have any recognizable impact on the leaseholder's interests.

Based on the foregoing, we have closed our investigation in this matter. If you have any questions regarding this matter, please feel free to contact me at (279) 237-5960.

Sincerely,

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Sworn Complainant, Kenneth Rutherford

[6] Regulation 18702.2, subdivision (c).