



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

September 16, 2024

Gwen Kellas

Via email: [REDACTED]

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

Re: No Action Closure Letter, In the Matter of Gwen Kellas, FPPC No. 2020-00548

Dear Gwen Kellas,

The Enforcement Division of the Fair Political Practices Commission (“Commission”) enforces the provisions of the Political Reform Act.¹ This letter arises from a series of sworn complaints alleging that you, in your capacity as Chairperson for the San Simeon Community Services District (“District”) had conflicts of interest when participating in and voting on matters related to the Waste Water Treatment Plant (“WWTP”) located next to your property. After a review of the available evidence, the Enforcement Division is closing its file in this matter with this 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 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.

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 WWTP located on a coastal bluff west of Highway 1 and adjacent to a creek. The WWTP bluff site is protected by a support wall built in the early 1960s, which has been shored up with riprap over the years. The wall supports the entire end of the bluff. You own a condominium that is located within 500 feet of the WWTP site and the property shares the same bluff stability issues as the WWTP. The riprap that was added also supports the stability of the real property upon which your condominium sits. The California Coastal Commission requires the District to complete a Coastal Development Permit, including a Coastal Hazard Response Plan related to this, and this issue occupies much of the District’s official business.

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.

You sought advice from the Commission's Legal Division in 2019 to determine whether you could participate in decisions related to the WWTP and the Coastal Hazard Response Plan. The Advice Letter determined that you would have a conflict of interest with respect to decisions concerning the maintenance, repair, relocation, removal, and restoration of the WWTP. This was due to the nearness of the WWTP (within 500 feet) and because it was contemplated that the work necessary to address the CCC's concerns would directly impact your real property due to the shared stability concerns on the coastal bluff. However, the advice determined that you could participate in decisions related to the potential relocation site(s) for a new WWTP and an Overlook Plan that was further than 500 feet from your property.

The allegations raised in the complaints were generally that: you could not participate at all in decisions related to the WWTP, that you could not work on related projects despite what was suggested in the Advice Letter, and that you were motivated by your own economic interests rather than the interests of the District. After a review of the evidence regarding these allegations, the Enforcement Division has found insufficient evidence that there was a governmental decision that would have a reasonably foreseeable material financial effect on your real property interest.

On March 14, 2023, you participated in, but ultimately abstained from, voting on a decision related to the approval of designs for the replacement of a pipe bridge that was located within 500 feet of your property. Ordinarily, this would be a conflict of interest requiring you to recuse yourself from the vote and from all discussion concerning the item. However, the Act's Conflict of Interest Regulations provide an exception to a finding of a material financial effect where, "the decision solely concerns repairs, replacement, or maintenance of existing ... sewer ... facilities."³ The necessity for replacing the pipe bridge was not related to the stability of the bluff supporting your residence and therefore we find that the exception would apply here. Nevertheless, you are advised that when recusing from a decision due to a conflict of interest, you must provide disclosure of your financial interest verbally or in writing and you must not take part in the decision.⁴

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

Sincerely,

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

cc: Sworn Complainant, Julie Tacker

³ Regulation 18702.2, subdivision (d)(1).

⁴ Regulation 18707, subdivision (b).