



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

January 8, 2025

Eleassia Davis
[REDACTED]

Re: Warning Letter: FPPC No. 2023-00575, In the Matter of Eleassia Davis

Dear Eleassia Davis,

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ The Enforcement Division received several complaints against you in your former capacity as Mayor Pro Tem of the City of Tracy. The complaints alleged that you had a conflict of interest when you repeatedly discussed a City project, referred to as the Aquatic Center, at City Council meetings. You had a conflict of interest in governmental decisions related to this project because you own real property within 500 feet of the project’s intended location.

No public official at any level of state or local government may make, participate in making, or in any way attempt to use their official position to influence a governmental decision in which the official knows or has reason to know 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 on the official, the official’s immediate family, or on the official’s financial interest or interests.³ When the governmental decision involves property located 500 feet or less from the property line of the official’s property interest, the official has a conflict of interest in that decision unless there is clear and convincing evidence that the decision will not have any measurable impact on the official’s property.⁴

The Enforcement Division has completed its investigation of the facts in this case. Specifically, the Enforcement Division found that you had a conflict of interest when you discussed or were present for discussions about the Aquatic Center on March 7, 2023; April 4, 2023, and June 27, 2023. The City of Tracy and a developer, Surland Communities LLC, have a longstanding development agreement that includes the development of an Aquatic Center. An Aquatic Center is also listed as one of the Capital Improvement Projects that the City of Tracy would like to invest in. The intended location for this Aquatic Center is 16 acres of land within a development owned and built by Surland Communities LLC. The location is within 500 feet of your real property interest.

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

² Section 87100.

³ Section 87103.

⁴ Regulation 18702.2, subdivision (a)(7)

On March 7, 2023, at the part of a city council meeting where council members shared updates and information and made requests to staff for future agenda items, you discussed the aquatics center. The minutes captured your remarks as, “Mayor Pro Tem Davis shared that she and Council Member Bedolla are in Dallas Texas at the P3 Conference and requested support for asking staff to start researching alternative sites on City owned land to locate a community aquatics center and research the use of the P3 model.”

On April 4, 2023, the city council considered item 3.B, “City Council receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates.” The Minutes noted that the discussion repeatedly involved the Aquatic Center and you did not recuse yourself. Instead, the minutes noted, “Council Member Bedolla asked for support to have staff include Legacy Fields as a potential site for the Aquatics Center when bringing back the pending Council item. Council Member Evans and Mayor Pro Tem Davis supported the request.” Mayor Young requested that the future of the Aquatic Center be made a discussion item for a future meeting.

On June 27, 2023, the city council again considered a similar item, “City Council (1) receive an informational report regarding the Fiscal Year 2023-2024 and 2024-2025 City Council Strategic Priorities, (2) provide feedback on strategic priority goals and objects, and (3) by motion accept the City Council Workshop Report as the February 4 and 5, 2023 Special Meeting Minutes.” According to the complainant, you again participated in the discussion and you were present when the Council gave direction to the staff regarding the Aquatic Center.

On July 5, 2023, the city council considered an agenda item on whether or not to formally accept the 16 acres from the developer for the purpose of building the Aquatics center. You recused yourself from this agenda item and were not present, did not participate, and did not vote on this agenda item. The City Council voted to accept the 16 acres and proceed with the original intended location for the Aquatic Center.

Under the Act, a governmental decision means any action taken by a government agency that has a financial effect on any person other than the governmental agency making the decision.⁵ The city council did not make a governmental decision related to the Aquatic Center until July 5, 2023. However, the conflict analysis is not limited to only the date of the decision. An official is prohibited from making, participating in making, or using or attempting to use their official position to influence a government decision when they have a conflict of interest in the decision. An official is making a decision if they direct any action on behalf of the official’s agency.⁶ An official participates in a decision when the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review.⁷ Here, you were present at several discussions that touched on the Aquatic Center. You directed staff to research alternative sites for the aquatic center and expressed support for similar requests from other council members. You failed to recuse yourself from these discussions. Therefore, the

⁵ Regulation 18700, subdivision (c)(4).

⁶ Regulation 18704, subdivision (a).

⁷ Regulation 18704, subdivision (b).

Enforcement Division finds that you had a conflict of interest in the July 5, 2023 decision by participating in earlier, related discussions pertaining to the Aquatic Center.

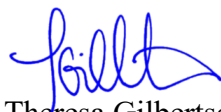
With respect to the finding of violations, the Enforcement Division has determined that mitigating circumstances exist here. You have consistently recused yourself from prior and subsequent agenda items that directly and specifically involved the Aquatic Center. Your recusals were proper, as you cited the nature of your conflict, and you left the meeting. You received advice from counsel that your presence at the discussions was not improper because there was no decision related to the Aquatic Center directly before the city council at the time. You are no longer in office, having reached your term limit as a member of the city council. Therefore, the Enforcement Division will resolve this matter with this letter.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

Please feel free to contact me at (279) 237-5960 or tgilbertson@fppc.ca.gov with any questions you may have regarding this letter.

Sincerely,



Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Brandi Marotta, Sworn Complainant