

# State of California [A-77-295]



## Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 ••• 1100 K STREET BUILDING, SACRAMENTO, 95814

July 27, 1977

Patrick J. Sampson  
City Attorney  
P. O. Box 660  
Pomona, CA 91769

Re: Opinion Request No. 77-009

Dear Mr. Sampson:

Thank you for your letter of April 18, 1977, requesting an opinion with respect to whether the Community Redevelopment Commission of the City of Pomona, which was formed pursuant to Health and Safety Code Section 33201, is required to adopt a conflict of interest code. Since your question does not raise a substantial question of interpretation of the Political Reform Act, no formal opinion will be issued. However, I hope the following informal advice will answer your question.

All local government agencies, except for those which perform a solely advisory function, must adopt a conflict of interest code. Government Code §§ 82003, 82019, 82041, 87300.<sup>1/</sup> See 2 Cal. Adm. Code §18751. The question in this case, therefore, is whether the Community Redevelopment Commission is a decision-making or a solely advisory body. The Fair Political Practices Commission has adopted a regulation which defines a decision-making body as follows:

A board or commission possesses decision-making authority whenever:

(A) It may make a final governmental decision;

(B) It may compel a governmental decision; or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or

<sup>1/</sup> All statutory references are to the Government Code unless otherwise noted.

(C) It makes substantive recommendations which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

(2 Cal. Adm. Code §18700(a)(1))  
(Emphasis added).

It is our conclusion that community redevelopment commissions are decision-making bodies within the meaning of this regulation since they can prevent certain governmental decisions from being made because of their exclusive power to initiate such decisions.

Health and Safety Code §33202 outlines the responsibilities of community redevelopment commissions:

If a community redevelopment commission is created as provided in Section 33201, its function shall be to prepare a redevelopment plan for each project area, hold and conduct hearings thereon, adopt and submit such plan, together with a report to the legislative body, pursuant to all the provisions, requirements and procedures of Article 4 (commencing with Section 33330) of Chapter 4 of this part; and the agency, in such case, shall not be required to perform such functions. The legislative body may additionally delegate any of its functions as the government body of the agency to the community redevelopment commission.

An examination of this provision reveals that two mandatory functions are outlined for each community redevelopment commission. First, the commission must prepare and adopt a redevelopment plan for the project areas. Second, it must prepare a report for submission to the legislative body. These functions are delegated exclusively to the community redevelopment commission and must be performed prior to any final decisions on the redevelopment plan by the redevelopment agency or the city council. Thus, once the city council determines to operate pursuant to the redevelopment law set forth in the Health and Safety Code, the community redevelopment commission has the sole responsibility for preparing the plan and the report. It is our understanding that the city council cannot strip the community redevelopment commission of these powers without both repealing the ordinance creating the commission and pursuing the redevelopment plan without benefit of the redevelopment law. Pending such repeal, we think that the community redevelopment commission has the exclusive power to initiate decisions relative to

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the preparation of the redevelopment plan and the report. The fact that the plan and the report are not final actions, but only intermediate steps, in the process of implementing a redevelopment plan is not significant for purposes of determining whether an agency is decision-making in character pursuant to 2 Cal. Adm. Code §18700(a)(1)(B). Subsection (B) only requires that an agency have the exclusive power to initiate a decision in order for that agency to possess decision-making authority; it does not require that the agency make final decisions as described in subsection (A) of the regulation. Accordingly, we conclude that community redevelopment commissions are not solely advisory, but rather, are decision-making in nature, and therefore, must adopt a conflict of interest code.

If you wish to appeal the denial of your opinion request, you may do so pursuant to 2 Cal. Adm. Code §18321. If you have any questions, please contact Michael Baker, Chief of the Commission's Legal Division.

Sincerely,



Michael Bennett  
Executive Director

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