

# State of California



## Fair Political Practices Commission

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

January 13, 1977

77-01-214

Mr. Gerald A. Sperry, City Attorney  
Office of the City Attorney  
Stockton, CA 95202

Dear Mr. Sperry:

Thank you for your letter of December 22, 1976, concerning the conflict of interest provisions of the Political Reform Act. This letter will confirm our conversation of January 3, 1977, in which I advised you that the staff would be unable to provide you with definitive answers to your questions at this time.

As I indicated, the staff can only provide advice to persons requesting guidance on their own behalf or on behalf of their clients. Accordingly, if Mr. Coy wishes to seek advice on the matters discussed in your letter, he should authorize you to represent him and we then will be happy to try to assist you. If you do seek future advice, please include additional information with respect to the manner of financing for each entity, the types of decisions which are made by each entity, the interrelationship between the entities, and any additional information which you believe would be helpful.

There is one question posed in your letter which I can answer at the present time. You asked whether Mr. Coy could be prevented from holding office by virtue of potential conflicts of interest. Under the Political Reform Act, a public official is prohibited from making, participating in the making, or using his official position to influence the making of a governmental decision in which he has a financial interest. Government Code Section 87100. However, no provision of the Act, and no provision of a Conflict of Interest Code promulgated pursuant to the Act, prevents a person from assuming office.

Enclosed please find a copy of an opinion request submitted by Charles F. Leach, No. 76-092, which poses questions

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similar to the ones set forth in your letter. I have included your name on our mailing list for this opinion so that you will receive the proposed draft opinion when it is ready and will be able to submit written comments on the draft and/or testify during the Commission's deliberations with respect to the draft. If you have any further questions, please contact either me or Ed Kerry.

Sincerely,

*Ted Prim*

Ted Prim  
Staff Counsel  
Legal Division

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Enclosure

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CITY OF STOCKTON

OFFICE  
OF THE CITY ATTORNEY  
STOCKTON, CA 95202

(209) 944-8333

December 22, 1976

Fair Political Practices Commission  
Post Office Box 807  
Sacramento CA 95814

REQUEST FOR ADVISORY OPINION

The Honorable Manuel Silveria, City Councilman for the City of Stockton, has submitted the following question and hereby requests an advisory opinion from the Fair Political Practices Commission.

"Is there any conflict of interest in Mr. Ed Coy's holding the position of membership in the City's Planning Commission while concurrently holding positions in the private sector as Executive Director of the Downtown Stockton Associates; Executive Director of the Central Parking District; and Executive Director of the Assessment District (Business Improvement Area I-B)?"

FACTS

DOWNTOWN STOCKTON ASSOCIATES

The Downtown Stockton Associates is a non-profit corporation which has for its corporate purposes,

"to secure for its members the benefit of united effort for the extension and promotion of trade and commerce; to promote good fellowship and cooperative relationship among its members; to secure protection for its members against fraud and imposition, and to promote in general the business interest in Stockton, California, and vicinity." (Article II, By Laws of the Downtown Stockton Associates).

*"Stockton... Someplace Special!"*

Ed Coy receives a salary as Executive Director and serves at the pleasure of the Board of Directors.

#### CENTRAL PARKING DISTRICT

The City of Stockton entered into a contract (still in effect) with the Downtown Stockton Associates under which contractor (Downtown Stockton Associates) will render certain technical, professional and managerial services in connection with the administration of affairs of the Central Parking District. Ed Coy has been assigned the responsibility by the contractor (DSA) to run and manage the Central Parking District. Ed Coy is paid for his management services by the Downtown Stockton Associates and not by the Central Parking District.

#### BUSINESS IMPROVEMENT AREA I-B

Business Improvement Area I-B is a non-profit corporation which has among its corporate purposes:

"specifically and primarily to advising and making recommendations to the Council of the City of Stockton, a municipal corporation of the State of California, on how to stimulate and support the general promotion of business and retail trade activities in the 'Area', the promotion of public events which are to take place on or in public places in the 'Area', the decoration of any public place in the 'Area', the furnishing of music in any public place in the 'Area'." (Article II, Articles of Incorporation, Business Improvement Area I-B).

"... No substantial part of its activities shall be devoted to carrying on propaganda, or otherwise attempting to influence legislation ...". (Article III, Articles of Incorporation, Business Improvement Area I-B).

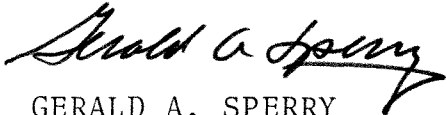
Ed Coy serves as Executive Director of this Assessment District having been elected by the Board of Directors.

Mr. Ed Coy asserts that he, as a member of the Planning Commission has disqualified himself from voting on issues directly or indirectly affecting the Downtown District which he represents by virtue of his position as Executive Director of the Downtown Stockton Associates.

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Will you please review this matter and advise whether Mr. Ed Coy is disqualified from serving on the Stockton City Planning Commission.

If additional facts or information is needed, please advise.



GERALD A. SPERRY  
CITY ATTORNEY

GAS:cj

cc: City Council  
Planning Commission  
City Manager