

August 15, 1978

78-08-127

Joseph M. Sullivan
3221 Liberty Avenue
Alameda CA 94501

Dear Mr. Sullivan:

Thank you for your letter of July 21, 1978, regarding the conflict of interest provisions of the Political Reform Act. Government Code Section 87100 states that no public official shall make, participate in the making or use his official position to influence a governmental decision which he knows or has reason to know will foreseeably and materially affect his financial interests. Section 87103 provides that an official has a financial interest in any source of income of \$250 or more. Commission regulation 2 Cal. Adm. Code Section 18702(b)(3) provides that an official should disqualify himself from making, participating in the making or using his official position to influence a governmental decision which would materially affect his income or the source of his income.

Therefore, Mr. Sherrat would not have to disqualify himself unless the ordinance in question would foreseeably and materially affect the real estate company for which his spouse works or the amount of income which he receives as a result of her employment. The fact that his spouse's real estate company or other boards of realtors around the state are opposed to increasing transfer taxes does not in and of itself constitute a conflict of interest. If you have information which suggests that Mr. Sherrat's income or the source of his income would be materially affected by the ordinances in question, you should contact either me or the district attorney for Alameda County.

If you have any further questions, please do not hesitate to contact either me or Ted Prim, Chief of the Commission's Conflicts of Interest Division.

Sincerely,

James E. McManus,
Acting Director
Enforcement Division

JEM:pvp

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Alameda, California,
July 21, 1978

Fair Political Practices Commission
11 "K" Street
P.O. Box 807
Sacramento, CA 95814

Gentlemen:

The following occurred at the Alameda City Council meeting of July 18. The business under discussion was:

"INTRODUCTION OF ORDINANCES:

"1. Amending the Alameda Municipal Code by Amending Section 3-1112 of Article 1, Chapter 11, Title III Thereof, Relating to the Rate of City's Real Property Conveyance Tax."

I raised the question of a conflict of interest, requesting that Councilman Richard Sherratt not vote on the ordinance for the following reasons:

(1) Councilman Sherratt's wife works for a real estate company. Boards of realtors throughout the state, including Alameda, are strongly opposed to the documentary transfer tax act. (2) Councilman Sherratt has a pecuniary interest in his wife's earnings in the real estate business by virtue of California's community property laws. Thus, it could reasonably be assumed that for those two reasons Councilman Sherratt's vote could be influenced by his wife's real estate background.

City Attorney Carter Stroud ruled that the Fair Political Practices Act permitted Councilman Sherratt to vote on the ordinance. He voted on it.

I would appreciate your views as to whether the foregoing constitutes a conflict of interest under the Fair Political Practices Act.

Yours truly,

Joseph M. Sullivan

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