

*Do not allow source of income to the public official.*

*Ted*

**Memorandum**

To : File

Date : October 17, 1978

*77-78-306*

From : FAIR POLITICAL PRACTICES COMMISSION  
Dwight E. Dickerson

Subject: Chris Burns' letter to the FPPC dated September 25, 1978

The question raised in Mr. Chris Burns' letter was whether the Emeryville City Attorney was disqualified from participating in Planning Commission decisions affecting the Watergate Tenants Association (Association). Mr. Burns, President of the Association, was concerned that the City Attorney may have a conflict of interest because of the Attorney's pending libel suit against the Association whereby he is seeking damages of \$6 million. It is our understanding from Mr. Burns that the City Attorney has not received nor has been promised income aggregating \$250 or more from the Association.

I responded to Mr. Burns' inquiry by telephone. I informed him that the filing of a law suit by the City Attorney seeking damages from the Association did not make the Association a source of income to the City Attorney. Based upon these considerations, I told Mr. Burns that §§87100 and 87103 of the Act does not prohibit the City Attorney from participating in Planning Commission discussions which may affect the Association.

DED:nrw

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SEP 25 1978  
WATERGATE TENANTS ASSOCIATION

6--A ADMIRAL DRIVE, #481  
Emeryville, California 94608

September 25, 1978

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Mr. Ted Prim, Chief  
Conflicts of Interest Division  
Fair Political Practices Commission  
1100 "K" Street Building  
Sacramento, California 95814

Dear Mr. Prim:

In addition to previous correspondence and discussions we have had with you about certain political activities about the Watergate Company's application for a tentative subdivision map in Emeryville, we have additional inquiries. Please be aware that this is only an inquiry about a public official performing official duties - it has nothing to do with his private life or him personally.

The immediate question is, is the City Attorney in a Conflict of Interest position with respect to the Emeryville City Council meeting to be held this Thursday, September 28th to consider final approval of the Watergate tentative subdivision map? The question arises because he presently has a lawsuit pending in Superior Court, Alameda County, against 650 individuals who have a direct interest in the matter being considered.

The facts are:

1. On August 25th Mr. James Stanford White, City Attorney in Emeryville, entered a lawsuit in Superior Court, Alameda County, against myself, against the Watergate Tenants Association and against Does 1 through 650. The suit seeks punitive damages of \$6.5 million. A copy is attached.
2. Watergate Tenants Association is a voluntary organization representing all people who rent apartments at Watergate. It has existed for about five years. There are no dues, but there are, from time to time, various social and business meetings.
3. The 650 Does presumably are the approximately 650 people who signed petitions relative to the matter being considered at recent Emeryville City meetings. There were two forms of petitions - a copy of each is attached. The petitions had been presented to the City Clerk on August 22, 1978, so the identities could have been ascertained before August 25th.

Mr. Ted Prim  
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Further, as to the letters to the State Bar which are the subject of the law suit, they were merely inquiries about a public official's performance of his official City duties. There were not intended to raise any questions about the man's character or personal life, nor were they intended to convey the idea that the man is dishonest or self-serving. My attorney's opinion is that the suit was an attempt at intimidation.

One more point. Mr. White was just appointed as permanent City Attorney at the City Council Meeting last Tuesday, September 22nd. We think that Mr. White probably has a conflict of interest in performing such City responsibilities at the same time that the above mentioned suit against a significant number of Emeryville residents is pending in Superior Court.

We would like your opinion.

We would like your consideration of this question prior to the meeting this Thursday, September 28th.

Sincerely yours,



Chris Burns  
President  
Watergate Tenants Association

CB:rms  
Encls.