

# State of California



# Fair Political Practices Commission

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

Technical Assistance	•••	Administration	•••	Executive/Legal	•••	Enforcement	•••	Conflict of Interest
(916) 322-5662		322-5660		322-5901		322-6441		322-6444

January 10, 1979

James R. Christiansen  
 City Attorney  
 P.O. Box 278  
 Carpinteria, CA 93013

*A-79-114*

Re: Opinion Request  
 No. 78-015

Dear Mr. Christiansen:

Thank you for your letter of December 13, 1978, requesting an opinion regarding the conflict of interest provisions under the Political Reform Act. Since your letter raises no substantial question of interpretation under the Act, no formal opinion will be issued. However, I hope the following informal advice provided pursuant to Government Code Section 83114(b) answers your questions.

The facts as I understand them are as follows. The Architectural Advisory Board ("Board") participates in the official recommendation process to the Planning Commission and the City Council regarding development projects in the City of Carpinteria. The members of the Board are unpaid. However, several members are practicing architects in Carpinteria and surrounding areas and as such have projects of their own which may occasionally come before the Planning Commission and City Council. Some of these projects may also have received advisory approvals by the Board. The Board members do not participate in the consideration of any projects in which they have been involved as the architect or in any other capacity.

As you know, Government Code Section 1090, et seq., is not part of the Political Reform Act ("Act") and, therefore, I cannot comment on its interpretation. With respect to the Act, you asked four questions.

First, you asked whether a project which was designed by a Board member may be reviewed by the Board. Nothing in

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the Act would prohibit the Board from considering the project. However, if the Board is a decision-making body within the meaning of the Fair Political Practices Commission's regulation, 2 Cal. Adm. Code Section 18700(a)(1), the member who designed the project would be required to disqualify himself from making, participating in the making or using his official position to influence the Board's decision or recommendation.

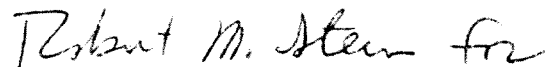
Second, you asked whether a member of the Board who designed a project which was approved by the Board could become an advocate for the project before the Planning Commission or City Council. A member of the Board, in his private capacity, may become an advocate before the Planning Commission and City Council since he is neither a member or employee of nor does he have budgetary control over either such body. See 2 Cal. Adm. Code Section 18700(e).

Third, you asked whether a Board member may participate in the consideration of a project designed by another architect on behalf of a developer who is a source of income to the Board member. The answer to this question is the same as the answers to the two previous questions. If the Board is a decision-making body pursuant to 2 Cal. Adm. Code Section 18700(a)(1), the Board member may not participate in decisions which foreseeably will have a material financial effect on the developer. In his private capacity, however, the Board member may appear before the Planning Commission and City Council on behalf of the developer without violating the Act.

Fourth, you asked whether the answers to questions two and three would be different if the project did not require approval by the Board. The answer is no.

If you wish to appeal the denial of your request for a formal opinion, you may do so pursuant to 2 Cal. Adm. Code Section 18321. If you have any questions regarding this matter, please contact Ted Prim, Chief of the Conflicts of Interest Division.

Sincerely,



Michael Bennett  
Executive Director

MB:TP:plh

Enclosures: 2 Cal. Adm. Code Sections  
18700 and 18702