

Chick Jensen

February 6, 1980

Cynthia D. Grant
26505 Dutcher Creek
Cloverdale, CA 95425

A-80-125

Dear Ms. Grant:

Thank you for your letter dated January 16, 1980, seeking informal advice regarding the conflict of interest code provisions of the Political Reform Act. Specifically, you ask about the applicability of these provisions to the City of Cloverdale.

Government Code Section 87300 requires every agency to adopt a Conflict of Interest Code. Included within the definition of "agency" are cities. See Government Code Sections 82003 and 82041. Therefore, the City of Cloverdale is required to adopt a Conflict of Interest Code for its employees.

The Political Reform Act has established June 30, 1980, as the deadline for all cities to adopt Codes. See Government Code Section 87303. If the City fails to adopt a Code by this date, you or any other resident of the City may seek an order from the Superior Court that would compel the City to adopt a Code. See Government Code Section 87305.

You have also asked whether it is necessary for there to be a Conflict of Interest Code in order for you to bring a suit alleging Conflict of Interests.

Government Code Section 87100 provides:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Government Code Section 87103 states that:

An official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the public official has a direct or indirect investment worth more than one thousand dollars (\$1,000);

(b) Any real property in which the public official has a direct or indirect interest worth more than one thousand dollars (\$1,000);

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars (\$250) or more in value received by or promised to the public official within twelve months prior to the time when the decision is made; or

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, by any business entity controlled by the public official or by a trust in which he has a substantial interest. A business entity is controlled by a public official if the public official, his agents, spouse and dependent children hold more than fifty percent of the ownership interest in the entity. A public official has a substantial interest in a trust when the official, his spouse and dependent children have a present or future interest worth more than one thousand dollars (\$1,000).

Any person residing in the jurisdiction may sue for injunctive relief in the Superior Court to overturn governmental decisions that were made in violation of Government Code Sections 87100 and 87103. See Government Code Section 91003(b). These provisions of the Act are applicable to all public officials within the City even if no Conflict of Interest Code has been adopted.

Cynthia D. Grant
February 6, 1980
Page Three

I hope that this informal advice is helpful. If I can be of further assistance, please do not hesitate to contact me. I have enclosed for your review a copy of the Act and those Commission regulations that pertain to the Act's conflict of interest provisions.

Sincerely,

Dwight E. Dickerson
Counsel
Legal Division

DED:plh
Enclosures

20-21
JAN 21 8 55 AM '80

January 16, 1980

Gentlepeople;

Attached please find a copy of a letter I've submitted to the Cloverdale Reveille, as well as a copy of the clipping that prompted it.

Conflict-of-interest is epidemic in Cloverdale. In fact, I visited the District Attorney's office this past year to see if there was anything I could do to bring it to a halt. The abuses of those in power disgust many Cloverdale residents but fear of retaliation keeps them from speaking out. The deputy d.a. I talked to told me I had to produce witnesses (who will only come out when it's safe, of course.) He also told me that if Cloverdale had a conflict-of-interest code I could sue-- but, Cloverdale doesn't have a code, of course, and is not at all eager to get one. Isn't there any way to force the City Council's hand? Is it true that there must be such a code before an individual can bring suit?

My thanks for giving your attention to a matter that has plagued many of us for years. Any help you can offer will be greatly appreciated.

Sincerely,

Cynthia D. Grant

Cynthia D. Grant
26505 Dutcher Creek
Cloverdale, Ca. 95425

January 16, 1980

Editor;

The prospect of a sea of new tract homes may warm our realtor-mayor's heart but it leaves me decidedly cold.

However, the main issue in the proposed annexation and development is an advanced and clear-cut case of conflict-of-interest.

Ron Dering is Cloverdale's planning consultant, for which he receives a salary. How can he also represent the Furber family, which owns one of the major parcels being considered for annexation?

As the Reveille said in an editorial: "Dering has been hired to help the city through the difficult task of annexing large parcels to the city. In his staff capacity, he will be advising on how these parcels should be zoned, what the ultimate land use should be, and how many variances should be given to developers... Granted, other people will have to approve his decisions. But the facts remain. Dering has been hired to help the city with the annexations. He is on contract with the developers. In a real sense he will be in a position to draw up the developer's plans, and then put on his city hat and judge them. It is rather like having the City Attorney represent someone who is suing the City."

This kind of charade is possible only in a city that does not have a conflict-of-interest code. Apparently the Cloverdale City Council will adopt such a code only if forced to. In the meantime they persist in making a joke of government and fair play.

Chapter Seven, section 87100 of the Fair Political Practices Act of 1974 states: "No public official on any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

Cloverdale, they're playing your song.

Cynthia D. Grant
26505 Dutcher Creek
Cloverdale, Ca. 95425

PS: Who are the people who will ultimately approve Mr. Dering's decisions? Tell me it's not the City Council.

Three property owners plan for 1,300 new houses

Cloverdale Reveille

The Cloverdale City Council last week learned three property owners south of the city are proceeding with detailed annexation plans that may eventually add 230 acres and up to 1,300 new houses to the city.

"We'd like to see this thing go as soon as possible," said Mayor Jack Domenichelli of the annexation applications for land west of Highway 101 and north of Kelly Road.

Planning consultant Ron Dering, representing the Alan Furber family, requested the annexation process be continued for their 95.2 acre parcel. About 450-550 houses may be built there.

Santa Rosa developers Louis Meyers and Ernest Thomas, are the purchasers of 135 acres adjoining the Furber property to the north. They could possibly build up to 786 houses.