

83114  
20al 18329 (b)  
18700 (f)

# 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 • • Statements of Economic Interest  
(916) 322-5662 322-5660 322-5901 322-6441 322-6444

September 16, 1981

Robert G. Boehm  
City Attorney  
City of Chico  
Municipal Building  
Post Office Box 3420  
Chico, CA 95927

A-81-09-053

Dear Mr. Boehm:

I am writing in response to your request for advice of August 24, 1981. I would like to point out to you that the Commission staff gives advice under Government Code Section 83114 only in the case of written requests by specifically identified persons whose duties are in question under the Act. See 2 Cal. Adm. Code Section 18329(b). As a result, we do not and cannot give advice in response to hypothetical questions. One reason why we do not answer hypothetical questions is that real situations are generally more complex than hypothetical questions suggest, and the advice that we do give is usually tied directly to the specific facts of a situation. Therefore, I cannot give you advice pursuant to Government Code Section 83114 regarding the hypothetical questions which you have posed in your letter.

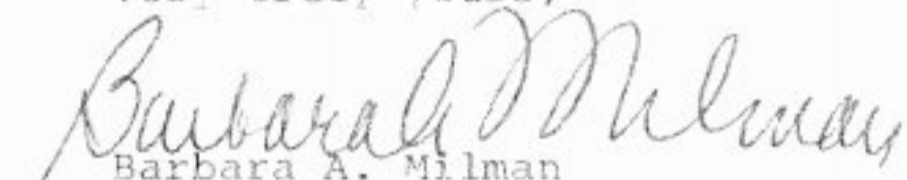
Although I cannot give you advice under Government Code Section 83114, I can direct your attention to those sections of the Act and the Code which are relevant in solving the questions which you have posed. In particular, you should look at 2 Cal. Adm. Code Section 18700(f). This section permits public officials who have otherwise disqualified themselves on matters before their own agencies to appear before those agencies to represent their own personal interests. In general, this regulation is aimed

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at the situation where an office holder's interests would not be fairly represented before a government agency if the office holder were not allowed to appear and argue on behalf of his or her own interests. It does not authorize a public official to act in a representative capacity with respect to any other person's interests.

If any member of the City of Chico Planning Commission has an actual situation in which there is a potential conflict of interest, and in which he or she would like the advice of the Commission, we will be happy to provide advice for the particular factual situation involved. However, in order to provide such advice, we will need to be given the name of the individual planning commissioner involved, and a description of the specific facts as to which advice is requested. In the meantime, I hope that this letter has been of some help to you.

Very truly yours,

  
Barbara A. Milman  
Chief  
Legal Division

BAM:ce



# CITY OF CHICO, CALIFORNIA

MUNICIPAL BUILDING - P. O. BOX 3420, 95927

TELEPHONE (916) ~~848-4401~~ 895-4825 30 AM '81



August 24, 1981

Fair Political Practices Commission  
Legal Division  
P. O. Box 807  
Sacramento, CA 95805

Dear Sirs:


Pursuant to California Government Code Section 83114, the City of Chico hereby requests a written opinion by the Fair Political Practices Commission on the conflict of interest questions raised in the following five fact patterns.

- I. City of Chico Planning Commissioner X is the sole owner of property located in the City of Chico. Planning Commissioner X applies for a use permit to use his property, which is located in the central commercial district, as a bar. Under the applicable provisions of the Chico Municipal Code, such use requires a use permit. Planning Commissioner X, recognizing he may have a conflict of interest, advises the Planning Commission at the time the matter is brought before the Planning Commission that he is removing himself from participation on the issue and from voting on the application. Planning Commissioner X promptly removes himself from the podium and at the time the matter is opened to testimony from the public, Planning Commissioner X steps up to the podium and advocates as a "member of the general public" for approval of his application for a use permit. Does this act of Planning Commissioner X constitute an act of participation according to the term "influencing" within the Fair Political Practices Commission regulations and is therefore a conflict of interest?
- II. Same fact pattern as in I, except Planning Commissioner X owns the property in co-tenancy with Mr. Y. Is there a conflict of interest?
- III. Same fact pattern as in I, except Planning Commissioner X is a partner in the X, Y, Z Company which owns the property. Is there a conflict of interest?
- IV. Same fact pattern as in I, except Planning Commissioner X is a stockholder in a company which owns the property. Is there a conflict of interest?

- V. Same fact pattern as in I, except Planning Commissioner X is a realtor representing for pay Mr. Y who is instead the sole owner of the property. Is there a conflict of interest?

I would hope you could give us a definitive written opinion of the issues raised in the above situations at your earliest convenience. If you have any questions, please let me know.

Yours very truly,



Robert G. Boehm  
City Attorney

RGB/mt