



California Fair Political Practices Commission

October 27, 1987

Robert G. Boehm
City Attorney
City of Chico
196 E. Fifth Street
PO Box 3420
Chico, CA 95927

Re: Your Request for Advice
Our File No. A-87-237

Dear Mr. Boehm;

You have written seeking advice regarding the appropriateness of listing the City of Chico plan check engineer as a designated position in your city's conflict of interest code.

As you are aware, we have also received a letter from Mr. Robert D. McGhie, the City of Chico plan check engineer. In the letter, Mr. McGhie offers his arguments regarding the inappropriateness of listing the plan check engineer as a designated position.

The Commission does not have the authority to act as fact finder in disputes concerning local conflict of interest codes. As a consequence we find there is no need to pen two separate analyses, and we will be addressing both your inquiries with this single response. In meeting our obligation to Mr. McGhie, we will be sending him a copy of this letter.

QUESTION

Should the position of plan check engineer be listed as a designated employee position in the City of Chico's conflict of interest code?

CONCLUSION

The position must be included in the conflict of interest code if it involves the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

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FACTS

The conflict of interest code for the City of Chico lists plan check engineer among the designated positions. Because it is a designated position, the plan check engineer is required to file a statement of economic interests with the city. Pursuant to the conflict of interest code, the plan check engineer must disclose:

Category 1c - Any direct or indirect investment in a building and construction business, worth more than \$1,000 and located or doing business in the city.

Category 2a - Any direct or indirect interests in real property worth more than \$1,000 and located in the city or within two miles thereof.

Category 3c - Any source of income of \$250 or more located or doing business in the city and engaged in the building and construction industry.

Category 4c - Any business entity located or doing business in the city and engaged in the building and construction industry in which the city official is a director, officer, partner, trustee, employee or holds any management position.

Among the responsibilities listed in the job description for the City of Chico plan check engineer are to determine valuation and building fees; assist contractors, architects, engineers and others with interpretation of the building codes and ordinances; perform structural inspections in the field as required; act as Building Official when so assigned.

According to your supplemental letter, dated September 30, 1987, the building official and community services director, who supervise the plan check engineer, feel that the plan check engineer is frequently called upon to make discretionary decisions. You cite as an example that the job involves determining whether or not adequate corrective measures have been instituted so as to cure building code violations. To do this, you say the engineer is required to interpret the meaning of building and municipal code sections and decide whether acceptable engineering practices have been followed.

The building official reviews most of the decisions of the plan check engineer. However, the building official is not an engineer and relies on the plan check engineer's engineering expertise.

ANALYSIS

The Political Reform Act (the "Act")^{1/} requires that "every agency shall adopt and promulgate a Conflict of Interest Code...." (Section 87300.) "Agency" is defined in Section 82003 as "any state agency or local government agency." Section 87302 provides that the code shall include:

... specific enumeration of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest, and for each such enumerated position, the specific types of investments, interests in real property, and sources of income which are reportable.

Section 87302(a).

Regulation 18700 (copy enclosed) provides some guidance in identifying designated positions:

(c) A public official or designated employee "participates in the making of a governmental decision" when, acting within the authority of his or her position, he or she:

(1) Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or

(2) Advises or makes recommendations to the decision-maker, either directly or without significant intervening substantive review, by:

(A) Conducting research or making any investigation which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision; or

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

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(B) Preparing or presenting any report, analysis or opinion, orally or in writing, which requires the exercise of judgment on the part of the official or designated employee and the purpose of which is to influence the decision.

Regulation 18700(c).

The responsibility for determining if a code meets the specifications of the Act rests with the "code reviewing body." (Section 87303.) The Commission may provide technical assistance to agencies in the preparation of conflict of interest codes, however, each agency is responsible for adopting a code appropriate to its individual circumstances. (Section 87312.)

In the present case, we agree that a position with the responsibilities identified in the job description for the plan check engineer is appropriately listed as a designated position in a local conflict of interest code. According to case law these responsibilities are not ministerial, as argued by Mr. McGhie, but discretionary. A discretionary act, as distinguished from a ministerial act, has been described as follows:

Where the law prescribes and defines the duties to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment, the act is ministerial, but where the act to be done involves the exercise of discretion and judgment it is not to be deemed merely ministerial.

Elder v. Anderson, 205 Cal. App.
2d 326, 331.

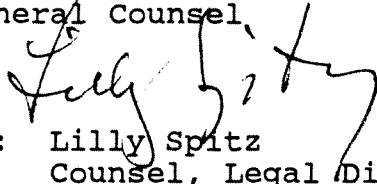
Still, if a designated employee wishes to challenge a portion of the conflict of interest code, as appears to be the situation here, he or she must submit a petition to the local agency. Should the agency deny the petition, the employee has the right to appeal to the code reviewing body. (Section 87307.) The code reviewing body for the City of Chico is the Chico City Council. (Section 82011(c).) Judicial review of any action of a code reviewing body may be sought by the employee. (Section 87308.)

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If you have any further questions regarding this matter,
please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Lilly Spitz
Counsel, Legal Division

DMG:LS:plh
Enclosure
cc: Robert D. McGhie



OFFICE OF THE
CITY ATTORNEY

196 E. Fifth Street
P.O. Box 3420
Chico, CA 95927
(916) 895-4825

95' 10 0 31 11 87

September 11, 1987
CA/PEND/20:34-1

Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814

Attention: Legal Assistance Division

This is a request for an opinion on the appropriateness of including a particular City position in the list of employees who are designated to make financial disclosures under the City's conflict of interest code.

A plan check engineer employed by the City of Chico is required to file a statement of economic interest pursuant to Section 2R.04.180 of the Chico Municipal Code, entitled "Conflict of interest code." The engineer believes that his position should be removed from the list of designated positions set forth in Section 2R.04.180. A copy of Section 2R.04.180 is enclosed, as is a copy of the employee's job description.

The particular question I would like you to address is: Is the position of plan check engineer one which involves the making or participating in the making of decisions which may foreseeably have a material effect on any financial interest under Government Code Section 87302, thus requiring inclusion in the list of designated positions in the City's conflict of interest code?

Very truly yours,

Robert G. Boehm
City Attorney

EEM:sg

Enclosures

cc: Robert McGhie - w/encl.

ADMINISTRATION AND EMPLOYER-EMPLOYEE RELATIONS RULES

2R.04.150 City manager authorized to execute agreement for fire training burn.

The city manager is hereby authorized to execute agreements for fire training burns in a standard form approved by the city attorney. (Council Reso. No. 135 82-83)

2R.04.160 City manager authorized to execute employee group insurance plans and amendments.

The city manager is authorized to execute employee group insurance plans and amendments subject to agreement with the representatives of recognized employee organizations and the inclusion of any required funding therefor in the annual budget of the city or in a supplemental appropriation thereto. (Council Reso. No. 12 83-84)

2R.04.170 City manager authorized to execute agreements with community organizations.

The city manager is hereby authorized to execute agreements for expenditure of city funds with community organizations for which the city council has approved funding as part of the annual budget. (Council Reso. No. 12 84-85 § 1)

2R.04.180 Conflict of interest code.

- A. Adoption of Model Conflict of Interest Code. The Model Conflict of Interest Code as set forth in Section 18730 of Title 2 of the California Administrative Code, together with any amendments thereto hereinafter enacted by the Fair Political Practices Commission, is hereby adopted by reference and constitutes the conflict of interest code of the city of Chico.
- B. Place of Filing Statements of Economic Interests. City officers, city employees, and members of city boards and commissions (hereinafter referred to as "city officials") shall file statements of economic interests with the city clerk as provided for in Section 4(C) of the Model Conflict of Interest Code.
- C. Disclosure Categories. The disclosure categories for city officials, provided for in Section 3 of the Model Conflict of Interest Code, shall be as follows:

1. Disclosure Categories for Investments in Business Entities.

Category 1a. City officials in this category shall report any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business in the city.

Category 1b. City officials in this category shall report any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is engaged in contracting with or selling to the city.

Category 1c. City officials in this category shall report any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business in the city and is engaged in the building and construction industry.

Category 1d. City officials in this category shall report any direct or indirect investment in a business entity worth more than \$1,000 where the business entity is located or doing business at the Chico Municipal Airport.

2. Disclosure Categories for Interests in Real Property.

Category 2a. City officials in this category shall report any direct or indirect interests in real property worth more than \$1,000 where the real property is located within the city or within two miles of the city's boundaries.

Category 2b. City officials in this category shall report any direct or indirect interests in real property worth more than \$1,000 where the real property is located at the Chico Municipal Airport.

3. Disclosure Categories for Sources of Income.

Category 3a. City officials in this category shall report any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business in the city.

Category 3b. City officials in this category shall report any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is engaged in contracting with or selling to the city.

Category 3c. City officials in this category shall report any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business in the city and engaged in the building and construction industry.

Category 3d. City officials in this category shall report any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating \$250 or more in value, where the source of income is located or doing business at the Chico Municipal Airport.

4. Disclosure Categories for Business Entities in Which the City Official is a Director, Officer, Partner, Trustee, Employee, or Holds Any Position in Management.

Category 4a. City officials in this category shall report any business entity in which the city official is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is located or doing business in the city.

Category 4b. City officials in this category shall report any business entity in which the city official is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is engaged in contracting with or selling to the city.

Category 4c. City officials in this category shall report any business entity in which the city official is a director, officer, partner, trustee, employee, or holds any position in

management where the business entity is located or doing business in the city and is engaged in the building and construction industry.

Category 4d. City officials in this category shall report any business entity in which the city official is a director, officer, partner, trustee, employee, or holds any position in management where the business entity is located or doing business at the Chico Municipal Airport.

D. Designated Position. The designated positions in the city provided for in Section 2 of the Model Conflict of Interest Code, and the disclosure categories applicable to such designated positions shall be as follows:

Designated Position	Disclosure Category
City manager's office	
Deputy city manager	1a, b; 2a; 3a, b; 4a, b
Assistant city manager	1a, b; 2a; 3a, b; 4a, b
Finance office	
Finance officer	1a, b; 2a; 3a, b; 4a, b
Finance analyst	1a, b; 2a; 3a, b; 4a, b
City clerk's office	
City clerk	1b, 3b, 4b
City attorney's office	
Assistant city attorney	1a, b; 2a; 3a, b; 4a, b
Community services department	
Community services director	1a, b; 2a; 3a, b; 4a, b
Community services assistant	1a, b; 2a; 3a, b; 4a, b
Community services department—	
Building division	
Building official	1c; 2a; 3c; 4c
Combination inspector	1c; 2a; 3c; 4c
Plan check engineer	1c; 2a; 3c; 4c
Community services department—	
Park department	
Park director	1b; 3b; 4b
Urban forester	1b; 3b; 4b
Community services department—	
Planning division	
Planning director	1a; 2a; 3a; 4a
Associate planner	1a; 2a; 3a; 4a
Assistant planner	1a; 2a; 3a; 4a
Community services department—	
Public works division	
Director of public works	1a, b; 2a; 3a, b; 4a, b

ADMINISTRATION AND EMPLOYER-EMPLOYEE RELATIONS RULES

Assistant director of public works	1a, b; 2a; 3a, b; 4a, b
Transportation coordinator	1b; 3b; 4b
Traffic engineer	1b; 3b; 4b
Associate civil engineer (engaged in construction inspection)	1c; 2a; 3c; 4c
Construction inspection surveyor	1c; 2a; 3c; 4c
Equipment maintenance supervisor	1b; 3b; 4b
Public works supervisor	1b; 3b; 4b
Fire department	
Fire chief	1a, b; 2a; 3a, b; 4 a, b
Batallion chief	1a, b; 2a; 3a, b; 4a, b
Fire apparatus engineer (engaged in inspection duties)	1c; 2a; 3c; 4c
Police department	
Chief of police	1a, b; 3a, b; 4a, b
Police captain	1a, b; 3a, b; 4a, b
Police lieutenant	1a, b; 3a, b; 4a, b
Airport commission	
member	1d; 2b; 3d; 4d
Appeals board member	1a; 2a; 3a; 4a
Park commission	
member	1a, b; 3a, b; 4a, b
Architectural review board	
member	1a; 2a; 3a; 4a
Consultants	The disclosure categories determined by the city manager to be applicable to a consultant based on the nature of the services to be performed by the consultant

(Council Reso. No. 99 84-58, Council Reso. No. 69 85-86, Council Reso. No. 123 86-87)

2R.04.190 City manager authorized to execute and file applications, assurances and agreements with U.S. Department of Transportation for aid in the financing of planning, capital and/or operating assistance projects pursuant to Section 9 of the Urban Mass Transportation Act of 1964, as amended.

A. The city manager is hereby authorized to execute and file applications on behalf of the city of Chico with the U.S. Department of Transportation to aid in the financing of planning, capital and/or operating assistance

projects pursuant to Section 9 of the Urban Mass Transportation Act of 1964, as amended.

- B. The city manager is hereby authorized to execute and file with such applications an assurance or any other document required by the U.S. Department of Transportation effectuating the purposes of Title VI of the Civil Rights Act of 1964.
- C. That the city manager is hereby authorized to furnish such additional information as the U.S. Department of Transportation may require in connection with the application for the program of projects.
- D. That the city manager is hereby authorized to set forth and execute affirmative minority business policies in connection with the program of projects' procurement needs.
- E. That the city manager is hereby authorized to execute grant agreements on behalf of the city of Chico with the U.S. Department of Transportation for aid in the financing of the planning, capital and/or operating assistance program of projects.

(Council Reso. No. 191 84-85)

2R.04.200 City manager authorized to execute emergency access agreements.

The city manager is hereby authorized to execute emergency access agreements with property owners who are required to provide emergency access from a building across adjacent private property to the public right-of-way. (Council Reso. No. 30 85-86 § 1)

2R.04.210 City manger authorized to select methods of state unemployment insurance benefit reimbursement.

The city manager is hereby authorized to select appropriate methods of state unemployment insurance benefit reimbursement which are in the best interests of the city, and to advise the State Employment Development Department of such selection. (Council Reso. No. 70 85-86)

CITY OF CHICO • CLASSIFICATION PLAN • JOB DESCRIPTION

DATE ADOPTED BY CITY MANAGER:	COMP. CODE:	SERVICE:	JOB TITLE:
5-23-84	9410	Classified	PLAN CHECK ENGINEER

DEFINITION

Under general supervision, to check residential, commercial and industrial building construction and equipment installation plans, calculations and test results; to inspect buildings and structures at various stages of construction or alteration; to assist in developing and conducting training programs; and to do related work as assigned.

TYPICAL DUTIES

Perform professional engineering work in checking residential, commercial and industrial building construction and equipment installation plans and drawings for conformance to building, structural, electrical, plumbing, and air conditioning code applications and related structural engineering requirements; determine valuation and building fees; check calculations and test reports; assist contractors, architects, engineers and others in the solution of complex structural, mechanical, electrical and related problems and with interpretation of the building codes and ordinances; maintain cooperation with other departments concerned with building and related code compliance; perform structural inspections in the field as required; develop and conduct training programs for Building Division personnel; act as Building Official when so assigned.

DESIRED QUALIFICATIONS

Knowledge of: Principles of civil engineering with emphasis in structural engineering; building construction codes, ordinances and enforcement requirements related to structural, electrical, plumbing, air conditioning and related installations; State and Federal regulations related to building construction and energy requirements and principles and techniques of building inspection work.

Ability to: Read and interpret building plans and specifications; perform difficult engineering and analyses and to check building construction calculations made by architects and engineers; interpret technical building codes; work cooperatively with the public and others; supervise and train subordinates.

Experience: Two years experience in the design or review of building construction plans.

Education: Graduation from college with a Bachelor's Degree in civil or structural engineering or architecture. ICBO certification as a Plans Examiner also desirable.

OR

Any combination of additional experience, education and certification that could likely provide the required knowledge and abilities.



OFFICE OF THE
CITY ATTORNEY

196 E. Fifth Street
P.O. Box 3420
Chico, CA 95927
(916) 895-4825

OCT 1 4 04 PM '87
September 30, 1987
CA/PEND/20:34-2

Lilly Spitz, Esq.
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814

RE: 87-237

Dear Ms. Spitz:

I met with the City's Building Official, Community Services Director and Personnel Director this morning to discuss specifics regarding Mr. McGhie's duties as a plan check engineer for the City of Chico. The Building Official is Mr. McGhie's immediate supervisor and the Community Services Director supervises the building, public works, and planning departments.

The Building Official, Community Services Director, and Personnel Director concluded that the written job description which was forwarded to you previously is quite accurate. Perhaps the only duty listed which Mr. McGhie is not asked to perform is developing and conducting training programs. However, Mr. McGhie did do some work on this task a couple of years ago.

The Building Official and Community Services Director felt that Mr. McGhie is frequently called upon to make discretionary decisions. As an example, Mr. McGhie's job involved determining whether or not adequate corrective measures have been instituted so as to cure building code violations. To do this, he is required to interpret the meaning of building and municipal code sections and decide whether acceptable engineering practices have been followed.

As a supervisor, the Building Official does review most of Mr. McGhie's decisions. However, the Building Official is not an engineer and therefore relies on Mr. McGhie's engineering expertise.

I hope that this letter gives you all the information necessary to render an opinion in this matter. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

Elizabeth McGie
Elizabeth E. McGie
Assistant City Attorney

EEM:sg

cc: Robert McGhie

October 6, 1987

Lilly Spitz, Esq.
Fair Political Practices Commission
428 "J" Street, Suite 800
Sacramento, CA 95814

RE: 87-237

Dear Ms. Spitz:

The City of Chico has requested an opinion, from your office, regarding requirements for filing conflict of interest statements. I am writing this letter to reduce the size of your task. I objected to the inclusion of my position in the City of Chico's Conflict of Interest Code, and requested the Council amend their ordinance, to remove my position. During my appearance before the Council, the City Attorney expressed his opinion that my position should be included on the list of designated positions. I disagreed with that opinion, since, I believe my duties are ministerial and not discretionary. Then, upon the suggestion of the City Attorney, the Council directed the City Attorney to solicit an opinion from the Fair Political Practices Commission.

The questions to be answered are:

1. Are the duties of the Plancheck Engineer ministerial or discretionary?
2. Does state law mandate the inclusion of ministerial positions on the list of designated positions in local conflict of interest codes?

The Assistant City Attorney's letter indicates that the City may not understand the basis of my request. In her letter, dated September 30, 1987, she states that she met with the City's Building Official and Community Services Director, and they concluded that the job description, you were sent, was accurate. I do not, and have not, contended that the description of my duties is not accurate. My contention is that these duties are ministerial, and therefore, state law does not mandate that I file conflict of interest statements. She further states "The Building Official and Community Services Director felt that Mr. McGhie is frequently called upon to make discretionary decisions". I must object to this characterization. Since, the question is one of law and not fact, their opinions are irrelevant. In addition, opinion evidence is not substantial evidence unless supported by facts. She states that I make determinations of the adequacy of corrective measures, but fails to offer any evidence to show that these determinations are not ministerial. She attempts to have you infer, that since I am required to determine the meaning of the building and municipal

codes, that these determinations must necessarily be discretionary, and not ministerial. The City Attorney's opinion seems to be that all decisions involving the enforcement of statues, ordinances, regulations, resolutions and rules must necessarily be discretionary, without presenting any factual or legal basis for such a conclusion. The Assistant City Attorney adds that the Building Official reviews most of my decisions, but is not an engineer, and therefore, relies on my engineering expertise. Since discretionary decisions are generally not reviewable, and she clearly admits that most of my decisions are regularly reviewed, her statement clearly indicates that my duties are ministerial and not discretionary. She also seems to infer that reliance can somehow change ministerial decisions into discretionary ones. She cites no authority to support such a conclusion.

The City has furnished you with my job description. It describes the skills I am required to possess, and the types of tasks that I am required perform. It does not, however, describe the process of plan review and approval. It is essential that you understand the process to make any determination. Therefore, I have attached the relevant sections of the City's Municipal Code that describe the process. (See Sections 16.10.050 to 16.10.130A) Some explanation is necessary. First, while the Code refers only to the Building Official, most the tasks are actually performed by his staff, i.e.; the Plancheck Engineer, the building inspectors or clerical personnel. The exceptions are, those sections which grant the Building Official discretionary authority, and those tasks that are actually performed by other departments. The process may be simply described as follows:

1. Determine that the applicant has complied with the requirements of all other departments and agencies that have authority to exercise jurisdiction. This is a purely clerical task.
2. Determine that the applicant has paid all required fees and assessments. This is also a purely clerical task and, in many cases, is done by the clerical staff.
3. Determine that the plans and application conform to the requirements of the City's Building, Electrical, Mechanical, Plumbing, and Zoning Codes, or any approved deviations from these codes. This does not include authorizing deviations, but only determining that the plans conform to the any variances, use permits or modifications that may have been granted by others.

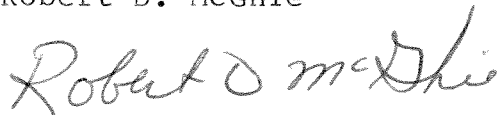
The process begins with filing of an application and, in most cases, plans outlining the work to be performed. A copy of the plans and application are distributed to other departments for their review. With respect to County Health and Public Works Departments, the applicant is advised to submit directly to the appropriate department. When required, the applicant is also

advised to contact the local school district for their requirements. The plans and application are reviewed, by either the Plancheck Engineer or a Building Inspector, for compliance with the City's Building, Electrical, Mechanical, Plumbing, and Zoning Codes. The Building Official exercises supervision and review over this process. While the review process does require special knowledge, it does not involve the making discretionary decisions. The plan either demonstrates that the proposed work will comply or it doesn't. If the plan and application demonstrates that the proposed work will comply, there is no discretion to withhold a permit when the required fees are tendered. Likewise, if the plans indicate that the proposed work will violate applicable laws, rules or regulations, a permit may not be issued. In this event, a list stating the deficiencies is sent to the applicant, so he may correct his plans and obtain the requested permits. The only discretion, in the whole process, is when the Plancheck Engineer or Building Inspector determines that the plan does not provide sufficient information, to show that the proposed work will conform. He then request additional information, to allow completion of the review. This is clearly a ministerial process.

The City Attorney maintains that my position is discretionary and not ministerial. However, the City has failed to present any competent or substantial evidence to support this opinion. The City has not pointed to any section in the City's Municipal Code, the Uniform Building Code, or any law, or regulation that confers any discretionary power or authority upon the position of Plancheck Engineer. Nor may the description, of the duties of the Plancheck Engineer, be read to confer any such power or authority. I therefore request, that you determine that the duties, of the Plancheck Engineer, are ministerial, and that state law does not mandate the inclusion of such positions in the City's Conflict of Interest Code.

Thank you for your consideration of this request.

Respectfully,
Robert D. McGhie

A handwritten signature in cursive script that reads "Robert D. McGhie".

Plancheck Engineer

cc: City Attorney

5. Refrigerating equipment which is part of the equipment for which a mechanical permit has been issued pursuant to this chapter; and
 6. Any unit refrigerating system.
- C. Plumbing Permits. A plumbing permit shall be required for the installation, removal, alteration, repair, or replacement of any plumbing equipment on or within any building, structure, or premises in the city; except that a plumbing permit shall not be required for the following:
1. Plumbing equipment exempted from the plumbing standards adopted by Chapter 16.06 of this title;
 2. Repair work undertaken to stop leaks in drains, soil, waste, or vent pipes not requiring the removal or replacement of any trap, drain pipe, soil, waste or vent pipe or any part thereof; and
 3. Work undertaken to clean stoppages or repair leaks in pipes, valves, or fixtures when such work does not involve or require the rearrangement or replacement of valves, pipes, or fixtures.

(Ord. 1646 § 4 (part))

16.10.040 Required permits—Sign permits.

A sign permit shall be required for the erection, re-erection, construction, or alteration of any sign on or within a building, structure, or premises in the city; except that a sign permit shall not be required for the following:

- A. Signs exempted from the sign standards adopted by Chapter 16.06 of this title;
- B. The changing of the advertising copy or message on a painted or printed non-electrical sign;
- C. The changing of the advertising copy or message on theater marquees and similar signs specifically designed for the use of replaceable copy, whether or not such sign is an electrical sign; and
- D. Painting, repainting, or cleaning of a sign unless a structural change is being made.

(Ord. 1646 § 4 (part))

16.10.050 Applications for permits—Place of filing, form, and content.

Applications for a permit required by this chapter shall be filed with the building division and shall be in a form prescribed by the building official. Such applications shall be signed by the person to whom the permit is to be issued or by such person's authorized agent and shall contain the following information:

- A. A general description of the work to be performed;
- B. A description of the premises on which the work is to be performed by street address or any other description which will readily identify the location of such premises;
- C. The use or occupancy for which the work is intended;
- D. The estimated value of the work; and
- E. Such other information as may be required by the city building official.

(Ord. 1646 § 4 (part))

16.10.060 Applications for permits—Plans and specifications to accompany application.

- A. Applications for a permit required by this chapter shall be accompanied by one or more sets of plans and specifications, together with such engineering calculations, diagrams, and other data as may be required by the city building official. Plans and specifications submitted with an application for a permit shall be drawn to scale upon substantial paper or cloth, shall be of sufficient clarity to indicate the location, nature, and extent of the work to be performed, and shall show in detail that such work will conform to the building standards adopted by Chapter 16.06 of this title, and any other applicable laws or regulations.
- B. The building official may waive the submission of plans and specifications if the building official finds that the nature of the work to be performed is such that the review of plans and specifications is not necessary to obtain compliance with this title, the building standards adopted by Chapter 16.06 of this title, and other applicable laws or regulations.

BUILDINGS AND CONSTRUCTION

- C. The building official may require plans and specifications, as well as any engineering calculations, diagrams, or other data required to be submitted pursuant to this section, to be prepared by an engineer or architect licensed under the laws of this state.

(Ord. 1646 § 4 (part))

16.10.070 Applications for permits— Qualification of applicant.

An application for a permit required by this chapter may be filed only by a person having the following qualifications or such person's authorized agent:

- A. Any person who holds a valid contractor's license issued pursuant to Chapter 9, Division 3 of the California Business and Professions Code (commencing with Business and Professions Code Section 7000) and who has applied for a permit to perform the kind of work for which such license was issued;
- B. Any person who is an owner-builder or otherwise exempt from the state Contractors' License Law in accordance with the provisions of Article 3, Chapter 9, Division 3 of the California Business and Professions Code (commencing with Business and Professions Code Section 7040).

(Ord. 1646 § 4 (part))

16.10.080 Applications for permits— Owner-builders.

Where an application for a permit required by this chapter is made by an owner-builder or by the authorized agent of an owner-builder, the building official shall cause the notice and the owner-builder verification form prescribed by Sections 19830 and 19831 of the California Health and Safety Code to be given to the owner-builder. Such notice and owner-builder verification form shall be given to the owner-builder by mail or shall be given to the owner-builder by personally delivering a copy to the person applying for the permit if such person presents identification sufficient to verify that he or she is the owner of the building,

structure, or premises on or within which the work authorized by the permit is to be performed. No permit shall be issued to an owner-builder unless and until the owner-builder has completed the owner-builder verification form and filed the same with the building division. (Ord. 1646 § 4 (part))

16.10.090 Applications for permits—Proof of compliance with occupational health and safety permit requirements.

Where an application for a permit required by this chapter is made by a person performing work on a building or structure which requires an occupational health and safety permit issued by the industrial safety division of the state Department of Industrial Relations in accordance with the provisions of Part 1, Division 5 of the California Labor Code (commencing with Labor Code Section 6300), such application shall be accompanied by proof demonstrating that the person filing the application has been issued such a permit. (Ord. 1646 § 4 (part))

16.10.100 Applications for permits— Review by fire chief.

Where an application is filed for a basic building permit to erect, construct, enlarge, alter, repair, improve, move or convert a building or structure, other than a building or structure classified as a Group R, Division 3 or Group M occupancy by the basic building standards adopted by Chapter 16.06 of this title, the building official shall forward a copy of such application and the plans and specifications and any relevant engineering calculations, diagrams and data accompanying the application to the fire chief who shall review same for compliance with the fire and life safety regulations adopted by this title or the laws of this state. (Ord. 1646 § 4 (part))

16.10.110 Applications for permits— Expiration of application.

Where an application for a permit required by this chapter is filed with the building

division, but no permit is issued within 180 days following the date the application is filed by reason of the failure of the applicant to supply plans and specifications together with such engineering calculations, diagrams, or other data and information as required by the building official, the application shall expire and any plans and specifications, engineering calculations, diagrams, or other data and information submitted for review shall thereafter be returned to the applicant or destroyed by the building official. Provided that, where an applicant has failed to supply plans and specifications, engineering calculations, diagrams, and other data and information required by the building official in a timely manner but demonstrates to the satisfaction of the building official that such failure was due to circumstances beyond the applicant's control, then the time for the expiration of the application may be extended by the building official once for a period not exceeding 180 days. (Ord. 1646 § 4 (part))

16.10.120 Issuance of permits—Form and content of permits.

A permit issued pursuant to the provisions of this chapter shall be in the form prescribed by Section 19825 of the California Health and Safety Code. Such permit shall contain the information and declarations required by Section 19825 of the California Health and Safety Code and any additional information required by the building official. (Ord. 1646 § 4 (part))

16.10.130 Issuance of permits—Approval of permits.

A. Following the filing of an application for a permit required by this chapter, the building official shall review the application and any plans and specifications, engineering calculations, diagrams, or other data and information required to be submitted therewith and shall approve and issue a permit to the applicant authorizing performance of the work described in the application upon determining that:

1. The application and all plans and specifications, engineering calculations,

diagrams, and other data submitted therewith complies with the building standards adopted by Chapter 16.06 of this title;

2. An owner-builder verification form, when required, has been completed and returned to the building division;
3. Compliance with occupational safety and health permit requirements, if applicable, has been demonstrated;
4. The fire chief, when required, has reviewed the application and the plans and specifications, engineering calculations, diagrams and other data submitted therewith for compliance with the fire and life safety regulations adopted by this title or the laws of the state;
5. The declarations set forth in the building permit have been properly executed;
6. All building permit fees and plan check fees required by the schedule of building permit and plan check fees adopted pursuant to this chapter, as well as all sewer fees, storm drainage fees, street facility improvement fees, interim school facility fees and other public improvement fees levied and assessed pursuant to this code have been paid; and
7. All other requirements of this code or any other applicable laws and regulations have been met.

B. A permit for the construction or installation of part of a building, structure, building service equipment, or sign may be approved and issued by the building official before the entire plans and specifications for the whole building, structure, building service equipment, or sign have been submitted or approved if an applicant has submitted sufficient information to demonstrate that the part of the building, structure, building service equipment, or sign to be constructed or installed complies with the standards adopted by Chapter 16.06 of this title and the applicant has met all other conditions for the issuance of a permit required by this section. Provided that, if a permit is approved and issued for the construction or installation of part of a building, structure, building service equipment, or sign, then the holder of such permit shall proceed with as much of the building,



California Fair Political Practices Commission

October 27, 1987

Robert D. McGhie
Plan Check Engineer
City of Chico
PO Box 338
Forest Ranch, CA 95942

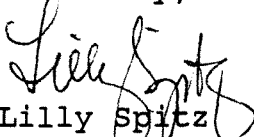
Re: Our File No. A-87-237

Dear Mr. McGhie:

We are in receipt of your letter of October 6, 1987, offering your arguments regarding the inclusion of the position of plan check engineer as a designated employee in the conflict of interest code for the City of Chico. Enclosed you will find our response to the formal request for written advice from the City of Chico on this same issue.

You will note from the analysis provided in the enclosed document that the Commission is not the appropriate arbiter for disputes regarding local conflict of interest codes. We advise you to seek appropriate administrative and judicial remedies should you decide to pursue this matter.

Sincerely,


Lilly Spitz
Counsel, Legal Division

Enclosure
cc: Robert G. Boehm



California Fair Political Practices Commission

September 17, 1987

Robert G. Boehm
Chico City Attorney
P.O. Box 3420
Chico, CA 95927

Re: 87-237

Dear Mr. Boehm:

Your letter requesting advice under the Political Reform Act was received on September 16, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh



California Fair Political Practices Commission

October 27, 1987

Robert D. McGhie
Plan Check Engineer
City of Chico
PO Box 338
Forest Ranch, CA 95942

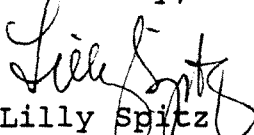
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Sincerely,


Lilly Spitz
Counsel, Legal Division

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