



California Fair Political Practices Commission

December 26, 1989

Mary Lou Howard
Post Office Box 4039
Burbank, California 91503

Re: Your Request for Informal Assistance
Our File No. I-89-650

Dear Ms. Howard:

You are seeking advice regarding application of the conflict-of-interest provisions of the Political Reform Act (the "Act")¹ to your duties as a member of the Burbank City Council and Burbank Redevelopment Agency. Because your questions regarding possible conflicts of interest do not refer to a specific pending governmental decision, we are treating your request as one for information assistance, pursuant to Regulation 18329(c) (copy enclosed).²

QUESTIONS

As a member of the Burbank City Council and the Burbank Redevelopment Agency, may you participate in decisions concerning property:

(1) owned exclusively by your late husband's sister and brother-in-law and located within one of the agency's redevelopment areas?

(2) owned by your late husband's sister and brother-in-law, or his employer, in other city locations?

(3) owned by you, your brother-in-law, and your late husband's sister in other city locations?

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

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

CONCLUSIONS

(1) and (2) You may participate in decisions concerning development projects proposed for the real property owned by your late husband's sister, your brother-in-law, and his employer.

(3) You may not participate in decisions concerning proposals that will have a material financial effect on those real properties that you own jointly with your brother-in-law and your late husband's sister.

FACTS

You are a member of the Burbank City Council and the Burbank Redevelopment Agency. Your brother-in-law and late husband's sister ("the Augustines") own real property within one of the agency's redevelopment areas. Both the Augustines and their employer own real property in other locations within the city. You and the Augustines also jointly own real property in other city locations.

With respect to these jointly-owned real properties, you have indicated that your interest is limited to the properties themselves and does not include participation in any partnership or corporate entity in which the Augustines might be involved. The only real properties in which you have any interest are those owned jointly by you and the Augustines. You have abstained from voting on proposals concerning any of these properties. You have also abstained from participating in decisions concerning other properties owned by the Augustines in which you have no interest.

ANALYSIS

Section 87100 prohibits a public official from participating in, or using his or her position to influence a governmental decision in which the official knows or has reason to know he or she has a financial interest. As a member of both the Burbank City Council and the Burbank Redevelopment Agency, you are a public official. (Section 82048.) Therefore, you may not participate in any decision of the council or redevelopment agency in which you have a financial interest.

An official has an interest in a financial decision if it reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his or her immediate family or on, among other things:

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

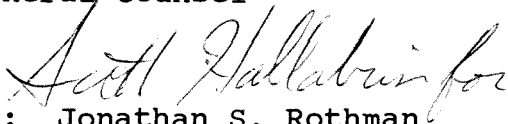
"Immediate family" means spouse and dependent children. (Section 82029).

For purposes of the Act, your brother-in-law and late husband's sister are not considered part of your immediate family. Since neither you nor members of your immediate family have an interest in properties owned exclusively by the Augustines, you are not disqualified under the Act from participating in any decisions concerning these properties. This includes the property located within the agency's redevelopment area as well as the properties in other city locations. However, you do have a financial interest in decisions affecting real property owned jointly by you and the Augustines. (Section 82033, Section 87103(b).) The Act requires you to disqualify yourself from participating in any decision which would foreseeably have a material financial effect on these real property interests. I have enclosed copies of Regulations 18702.1 and 18702.3 to assist you in determining when decisions of your agency could have a material financial effect on your real property interests.

I trust this letter has provided you with the guidance you requested. If you have any further questions regarding this matter please contact me at (916) 322-5091.

Sincerely,

Kathryn E. Donovan
General Counsel


By: Jonathan S. Rothman
Counsel, Legal Division

KED:JSR:plh

Enclosures

November 4, 1989

FPPC

Nov 13 8 31 AM '89

John Wallace
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA
95804-0807

Re: Conflict of Interest/Advice Letter

Dear Mr. Wallace:

I am a member of the City Council of the City of Burbank and a member of the Redevelopment Agency of the City of Burbank. I am requesting an advice letter from the Fair Political Practices Commission regarding a possible conflict of interest that may affect me.

My brother-in-law, David Augustine, and my late husband's sister, Patricia Augustine, own a small parcel of land within one of the Agency's redevelopment areas. Neither my late husband or I or any member of my immediate family have any interest whatsoever in this property. I and my immediate family do not receive any income from this property. I have been advised in the past that I could vote on development projects proposed for this property. However, it has been my practice to abstain from voting on any project that may affect any property owned by the Augustines or by David Augustine's employer, the Bandy Company. I have done so in order to avoid even an appearance of a potential conflict of interest. Although I fully intend to continue this practice, I seek your advice as to the legal requirements under the law.

Under the Fair Political Practices Act, am I precluded from voting on any development project that may be proposed for this property owned by the Augustines? If I am prohibited from voting on such proposals, am I also precluded from voting on projects within 300 feet of the Augustines' property?

I should also indicate that the Augustines and I jointly own other lots in the City. I obviously refrain from voting on any proposal that may affect those properties and I adhere to the distance requirements of the Fair Political Practices Act. However, whatever interest I share with the Augustines in these jointly owned lots is limited to such lots. I am not a part of any partnership or corporation that the Augustines own, manage, or are a part of. My involvement with the Augustines is solely limited to a joint interest in certain properties, and as I stated above, I have absolutely no financial or other interest in the specific property within a redevelopment area as mentioned above.

Please provide me with your written advice letter on this issue at your earliest convenience. If you have any questions, please do not hesitate to give me a call at (818)845-8151. Thank you for your assistance and guidance.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mary Lou Howard".

Mary Lou Howard
P.O. Box 4039
Burbank, CA 91503



California Fair Political Practices Commission

November 20, 1989

Mary Lou Howard
P.O. Box 4039
Burbank, CA 91503

Re: Letter No. 89-650

Dear Ms. Howard:

Your letter requesting advice under the Political Reform Act was received on November 13, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jonathan Rothman 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. Code of Regs. 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,

A handwritten signature in cursive script that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh