



California Fair Political Practices Commission

April 6, 1990

Honorable Harriet M. Stockwell
Councilmember
City of El Cajon
581 Rim Rock Road
El Cajon, CA 92020

Re: Your Request for Advice
Our File No. A-90-123

Dear Ms. Stockwell:

You have requested advice regarding the application of the conflict-of-interest provisions of the Political Reform Act (the "Act")¹ to your duties as a member of the El Cajon City Council. The following advice is based upon the facts provided in your letter and our telephone conversation of March 22, 1990, which this letter confirms.

QUESTION

Both you and your husband have purchased two plots in the El Cajon Cemetery which have a current fair market value of \$900. Under the Act, may you participate in decisions involving the proposed extension of Greenfield Drive and the expansion of the El Cajon Cemetery?

CONCLUSION

Under the Act, you do not have an interest in real property worth \$1,000 or more. Therefore, you may participate in decisions regarding the extension of Greenfield Drive and the expansion of the El Cajon Cemetery.

FACTS

You are a member of the El Cajon City Council. In 1985, you and your husband purchased two plots in the El Cajon Cemetery for \$700. The fair market value of plots in the cemetery is now \$450 each. Therefore, the current fair market value of your two plots is \$900.

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

The council is considering the proposed extension of Greenfield Drive, which would cut across property El Cajon Cemetery would like to use for expansion.

-ANALYSIS

The Act prohibits a public official from making, participating in, or using her official position to influence a governmental decision in which she knows or has reason to know she has a financial interest. (Section 87100.) A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official or a member of her immediate family or on, among other things:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

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

(Section 87103(a)-(d).)

As a member of the El Cajon City Council, you are a public official. (Section 82048.) Therefore you may not participate in a decision if it is reasonably foreseeable that the decision will have a material financial effect on any real property in which you have an interest of \$1,000 or more. (Section 87103(b).)

Section 82033 defines an "interest in real property" as:

... any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is


one thousand dollars (\$1,000) or more....
(Emphasis added.)

Since the current fair market value of the two cemetery plots is \$900, you do not have an interest in real property worth \$1,000 or more. Therefore, you may participate in decisions regarding the proposed Greenfield Drive and El Cajon Cemetery expansion. However, should the fair market value of your two plots increase to \$1,000, please contact our office for a reconsideration of this advice. At your request, I discussed this advice with your City Attorney, Mr. McDougal, on March 26, 1990.

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

Sincerely,

Kathryn E. Donovan
General Counsel

By:  Jill R. Stecher
Counsel, Legal Division

KED:JRS:plh