



California Fair Political Practices Commission

May 8, 1990

Charles Mack
County Counsel
County of Yolo
625 Court Street, Room 201
Woodland, CA 95696

Re: Your Request for Confirmation of
Telephone Advice
Our File No. I-90-227

Dear Mr. Mack:

On March 14, 1990, Victoria Davis of your office was provided telephone advice by this agency in response to her question whether, under provisions of the Political Reform Act ("the Act"),¹ a member of the Yolo County Planning Commission had a disqualifying conflict of interest on a pending use permit decision concerning a sand and gravel processing plant. Ms. Davis informed us that: (1) the planning commissioner owned property whose nearest border to the subject property was 380 feet; (2) the property consisted of a walnut grove and a small residential unit further removed from the subject property; (3) the proposed project involved several trucks hauling sand and gravel; (4) the environmental impact report indicated no detrimental impact from the truck trips; and (5) she did not anticipate any other impact from the project.

Because the commissioner's property was not directly involved in the pending decision, we advised Ms. Davis that Regulation 18702.3 (copy enclosed) was applicable. This advice was limited only to a general discussion of this regulation: whether or not a disqualifying conflict of interest was present was to be determined on the basis of whether the requisite financial thresholds of Regulation 18702.3(a)(3)(A) and (B) were met. Because the Commission does not act as a finder of fact,² Ms. Davis was not advised with respect to any of her factual determinations which led

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 (In re Oglesby (1975) 1 FPPC Ops. 71, copy enclosed.)

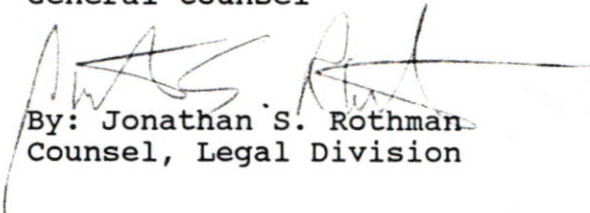
her conclusion, as reflected in her subsequent memorandum enclosed with your letter, that no conflict was present.

With respect to the memorandum, we are able to confirm that it constitutes an accurate summary and application of the relevant regulations as discussed in the prior telephone conversation. We cannot confirm either the factual analysis or conclusions, and instead leave such determinations to your office.³

I hope this letter has provided you with the guidance you requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: Jonathan S. Rothman
Counsel, Legal Division

KED:JSR:plh

Enclosures

³ Because the memorandum was prepared by Ms. Davis subsequent to receiving general guidance from this agency, we believe it is inaccurate to characterize the memorandum as one prepared with our consultation.