



California Fair Political Practices Commission

June 13, 1990

Andre de Bortnowski
Special Counsel
Inland Valley Development Agency
Hawkins, Delafield and Wood
6320 Canoga Avenue, Suite 400
Woodland Hills, CA 91367

Re: Your Request for Informal Assistance
Our File No. I-90-356

Dear Mr. de Bortnowski:

This is in response to your letter requesting advice regarding your responsibilities as Special Counsel to the Inland Valley Development Agency with respect to their disclosure obligations under the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} You have specifically requested informal assistance with respect to your question.^{2/}

QUESTION

What is the jurisdiction of the Inland Valley Development Agency for purposes of the disclosure and disqualification provisions of the Act?

CONCLUSION

The Inland Valley Development Agency's jurisdiction is the territory within which the agency may lawfully exercise its authority. Accordingly, the area currently occupied by Norton Air Force Base and all the area within a 3-mile radius of the base

^{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. (Section 83114; Regulation 18329(c)(3).)

are part of Inland Valley Development Agency's jurisdiction for disclosure and disqualification purposes of the Act. Real property is deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

FACTS

The Inland Valley Development Agency (the "agency") was formed on January 24, 1990 as a joint powers agency pursuant to Government Code Section 6500, et seq. The agreement includes San Bernardino County and the Cities of Colton, Loma Linda and San Bernardino. The members of the agency will be comprised of public officials from the various local government agencies that are party to the agreement.

Pursuant to the agreement and implementing Legislation, the agency may establish a redevelopment project area anywhere within a 3-mile radius of Norton Air Force Base. Norton Air Force base has been slated for closure by the federal government.

ANALYSIS

The Political Reform Act was enacted by the people of the State of California by initiative in 1974. The purpose for the disclosure and disqualification provisions of the Act was to ensure that public officials, whether elected or appointed, would perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).)

Thus, under the Act, every public official must disclose all his or her economic interests that could foreseeably be affected by the exercise of the official's duties. (Sections 81002(c), 87200-87313.) Further, Section 87300 provides that every agency shall adopt and promulgate a conflict of interest code. Section 87302 requires that every conflict of interest code shall specifically enumerate 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.

In addition, the code shall contain requirements that each designated employee shall file statements disclosing reportable investments, business positions, interests in real property and income. (Section 87302(b).) Disqualification shall be required by the conflict of interest code when the designated employee has a financial interest as defined in Section 87103, which it is reasonably foreseeable may be affected materially by the decision. (Section 87302(c).)

You have asked about the jurisdiction of the Inland Valley Development Agency for purposes of the disclosure and disqualification provisions of the Act. Section 82035 of the Act defines "jurisdiction" as:

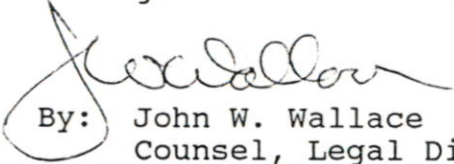
...the state with respect to a state agency and, with respect to a local government agency, the region, county, city, district or other geographical area in which it has jurisdiction. The jurisdiction of a member of a regional coastal zone conservation commission shall be the permit area in which the regional commission has jurisdiction. Real property shall be deemed to be "within the jurisdiction" with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Funk and Wagnalls Standard College Dictionary (1974) defines "jurisdiction" as the lawful "right to exercise official authority, whether executive, legislative or judicial." Or, in the alternative the "territory within...[which] such lawful authority may be lawfully exercised." Under your facts, the agency's redevelopment powers are limited by the Assembly Bill that created the agency to the area within a 3-mile radius of Norton Air Force Base. Accordingly, the area currently occupied by Norton Air Force Base and all the area within a 3-mile radius of the base are part of agency's jurisdiction for disclosure and disqualification purposes of the Act. In addition, real property shall be deemed to be "within the jurisdiction" with respect to a local government agency if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

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

Sincerely,

Scott Hallibran
Acting General Counsel


By: John W. Wallace
Counsel, Legal Division

SH:JWW:dg

Enclosures