



# California Fair Political Practices Commission

June 17, 1992

Stephen M. Eckis  
City Attorney  
City of Poway  
13325 Civic Center Drive  
P.O. Box 789  
Poway, CA 92074-0789

Re: Your Request for Informal Assistance  
Our File No. I-92-292

Dear Mr. Eckis:

I am writing to confirm our telephone conversation of June 9, 1992, wherein we discussed your request for informal assistance, Letter No. I-92-292.<sup>1</sup> As the City Attorney for the City of Poway, you requested general advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>2</sup>

You posed a number of hypothetical questions regarding a potential member of the Poway Housing Commission, who would also be a resident of a housing project owned either by the city or the Poway Redevelopment Agency. Since your questions were general in nature and you did not name a specific housing commissioner, informal and general responses to your questions were given.

I advised you to consult Regulation 18702.4 because you stated that the housing commissioner would have a leasehold interest in any decision. However, please note that if it is a periodic tenancy of one month or less, it is not considered a leasehold interest pursuant to Regulation 18233. Also, any

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<sup>1</sup> 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).)

<sup>2</sup> 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.

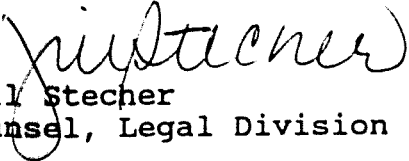
decisions regarding the amount of rent, maintenance fees or subsidy should be analyzed under Regulation 18702.1(a)(4) and possibly (d).

The questions we discussed involved commissioners who would be the representatives of the mobilehome parks in which they live. Enclosed are some advice letters which deal with public officials who live in mobilehome parks and their ability to participate in certain governmental decisions. (Battersby Advice Letter No. I-91-034; Shaw Advice Letter Nos. I-87-181 and I-87-190; Morten Advice Letter No. 91-374.)

Even if the effect of a governmental decision is material, disqualification is not required if the effect of the decision on an official's economic interest is not distinguishable from the effect on the public generally. (Section 87103.) I have also enclosed an outline regarding the "public generally" exception. It is incumbent upon you to ascertain from the facts if this exception applies. The Commission does not act as the finder of fact in providing advice. (In re Ogelsby (1975) 1 FPPC Ops. 71.)

I trust this gives some guidance to you in the formation of the Poway Housing Commission.

Sincerely,

  
Jill Stecher  
Counsel, Legal Division

JS:aa

Enclosures