

RAVI MEHTA  
CHAIRMAN



FAIR POLITICAL PRACTICES COMMISSION

August 28, 1996

Dennis Backlund  
488 University Avenue  
Apartment 503  
Palo Alto, California 94301

Re: Your Request for Advice  
Our File No. A-96-252

Dear Mr. Backlund:

This is in response to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Please note that nothing in this letter should be construed to evaluate past conduct.

QUESTION

In your position on the City of Palo Alto's Historic Resources Board, may you participate in decisions regarding the historic building in which you live?

CONCLUSION

You may participate in decisions regarding the historic building in which you live if the decisions will not increase or decrease your expenses, income, assets, or liabilities by \$250.

FACTS

You are a tenant with a month-to-month agreement for payment of rent in a major historic landmark in downtown Palo Alto. In your position on the City of Palo Alto's Historic Resources Board, you review and vote on changes to city historic landmarks including the building in which you live.

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<sup>1</sup> Government Code Sections 81000-91015. Commission regulations appear at Title 2, Sections 18000-18995 of the California Code of Regulations.

ANALYSIS

Section 87100 of the Act prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest.

Section 87103 specifies that 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 the effect on the public generally, on the official or a member of his or her immediate family or on:

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

(Section 87103(b).)

The Act defines a real property interest to include a leasehold interest. (Section 82033.) A leasehold interest does not include the interest of a tenant in a periodic tenancy of one month or less. (Regulation 18233.) You have a month-to-month tenancy in the property that may be subject to decisions of the Historic Resources Board. Accordingly, you do not have a real property interest in the apartment building.

Please keep in mind, however, that you are prohibited from participating in any decisions that will have a material financial effect on you personally. (Section 87103.) Commission regulations provide that you may not participate in any decision that will have the effect of increasing or decreasing your "personal expenses, income, assets, or liabilities" by \$250 in any 12-month period. (Regulation 18702.1(a)(4).)<sup>2</sup> Therefore, if any decision regarding your building will have the effect of increasing or decreasing your rental payments, or other expenses, by \$250 in any 12-month period, you may not participate in the decision.

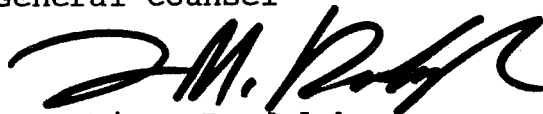
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<sup>2</sup> An effect is considered reasonably foreseeable if there is a substantial likelihood that it will occur. Certainty is not required. However, if an effect is only a mere possibility, it is not reasonably foreseeable. (In re Thorner (1975) 1 FPPC Ops. 198.)

If you have any further questions, please feel free to contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel

A handwritten signature in black ink, appearing to read "L. Randolph", written over the printed name.

By: Liane Randolph  
Counsel, Legal Division

SGC:LR:ak