

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

September 9, 1997

James A. Giblin  
5 Sheryl Court  
Pleasant Hill, California 94523

**Re: Your Request for Advice  
Our File No. A-97-461**

Dear Mr. Giblin:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").<sup>1</sup>

### QUESTIONS

1. May you make a contribution to the campaign of a city councilmember who, along with the rest of the city council, appointed you to the planning commission without violating Section 85705?
2. May you serve as campaign treasurer to a city councilmember who, along with the rest of the city council, appointed you to the planning commission?

### CONCLUSIONS

1. No. You may not contribute to the campaign of a city councilmember who, along with the rest of the city council, appointed you to the planning commission.
2. If you serve as campaign treasurer and will be making, accepting, or soliciting contributions on behalf of the person who appointed you, you will violate Section 85705.

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<sup>1</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

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## FACTS

You are a planning commissioner for the City of Pleasant Hill, California. You were appointed by the entire Pleasant Hill City Council. Two of the councilmembers who were on the council at the time of your appointment are running for re-election in November. You would like to support the candidates by contributing money to their campaign and/or by serving as campaign treasurer.

## ANALYSIS

Section 85705 was added to the Act by Proposition 208, which was passed by the voters on November 5, 1996. Section 85705 provides as follows:

“No person appointed to a public board or commission or as Trustee of the California State University or Regent of the University of California during tenure in office shall donate to, or solicit or accept any campaign contribution for, any committee controlled by the person who made the appointment to that office or any other entity with the intent that the recipient of the donation be any committee controlled by such person who made the appointment.”

A planning commission is a “public board or commission” pursuant to Section 85705. (*Petzold* Advice Letter, No. I-97-212; *Vasquez-Connolly* Advice Letter, No. A-97-181.) You have stated that you were appointed<sup>2</sup> to the planning commission by the entire city council. Thus, you may not donate to, solicit, or accept campaign contributions for any committee controlled by a member of the city council that appointed you. Therefore, you may not make a contribution to the campaign of any member of the city council that appointed you.

Volunteer personal services are not contributions. (Section 82015 and Regulation 18215(c)(2).) Therefore, volunteer personal services that an appointed individual provides to a candidate or the campaign of the candidate who appointed the individual do not constitute a contribution to that candidate. However, in addition to restricting a governmental appointee from making a contribution to any committee controlled by the person who appointed him or her, Section 85705 provides that the appointee may not solicit or accept any campaign contribution for any committee controlled by the person who appointed him or her. Under Section 85705,

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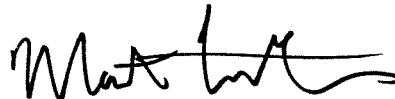
<sup>2</sup> The Commission does not act as the finder of fact in providing advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

you may not perform volunteer services for a committee controlled by the person who appointed you, if the services involve soliciting or accepting campaign contributions. If you, as campaign treasurer, receive contribution checks on behalf of the appointing officials, even if you merely open and log in the checks, you would be deemed to have accepted the contributions. (*Vasquez-Connolly* Advice Letter, *supra*.) What volunteer personal services are allowed under Section 85705 and what constitutes "solicit" are more thoroughly discussed in the *Dunn* Advice Letter, No. A-97-389 and the *Guinan* Advice Letter, No. I-97-305 (copies enclosed).

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Marte Castaños  
Staff Counsel, Legal Division

SGC:MC:jlw

Enclosures