



FAIR POLITICAL PRACTICES COMMISSION

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July 17, 2000

Kathy Howard
City Councilmember, City of West Covina
1428 East Merced
West Covina, California 91791

**Re: Your Request for Advice
Our File No. A-00-151**

Dear Councilmember Howard:

This letter is in response to your request for advice about the conflict-of-interest laws in the Political Reform Act (sometimes called the "Act").¹

QUESTION

Under the Political Reform Act, may you participate in the decision to purchase property that is currently being leased by a Republican central committee if you are currently an unpaid elected member of that committee?

CONCLUSION

Yes. You do not have a conflict of interest in that decision because you do not have an economic interest in the Republican central committee for purposes of the Act.

FACTS

You are an elected member of the 60th Assembly District Republican Central Committee ("committee"), a political, nonprofit organization. The committee does not provide you with any compensation, gifts or reimbursement. The committee leases office space in a strip mall from the Scofield Family Trust. The City Council of West Covina, sitting as the West Covina

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18109 - 18996, of the California Code of Regulations.

Redevelopment Agency, may negotiate with the trust to acquire the property. Such an acquisition could result in: (1) termination of the lease and possibly increased rental costs for new space; (2) relocation payments from the trust or redevelopment agency to the city; and (3) assignment by the trust of the remaining lease term to the redevelopment agency.

ANALYSIS

Conflict-of-Interest Prohibition

Under the Political Reform Act, a public official may not make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which the official knows, or has reason to know, that he or she has a financial interest. (Section 87100.) The Commission has developed an eight-step approach for determining whether an individual has a disqualifying financial interest in a decision. (Regulation 18700(b).)

1. Public Official

The conflict-of-interest prohibition only applies to public officials. (Section 87100.) As a member of the city council, you are a public official as defined by the Act. (Section 82048.)

2. Conduct Covered

The prohibition covers specific conduct: making, participating in making, or attempting to use one's official position to influence a governmental decision. (Section 87100.) These terms are defined in Regulations 18702-18702.4. By voting and deliberating on the purchase of property by the redevelopment agency, you will be engaging in conduct regulated by the Act. (Regulation 18702.1.)

3. Economic Interests

A public official has a disqualifying financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, or on the following enumerated economic interests:

1. Any business entity in which the official has a direct or indirect investment worth \$1,000 or more. (Section 87103(a).)
2. Any real property in which the official has a direct or indirect interest worth \$1,000 or more. (Section 87103(b).)
3. Any source of income of \$250 or more provided to the official within 12 months before the decision. (Section 87103(c).)
4. Any business entity in which the official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)

5. Any donor of gifts worth \$300 or more provided to the official within 12 months before the decision. (Section 87103(e).)

A decision will have a financial effect "on the official," within the meaning of Section 87103, if the decision will increase or decrease the official's personal expenses, income, assets, or liabilities, or those of his or her immediate family. (Regulation 18703.5.) This is known as the "personal financial effect" rule. Under your facts, it does not appear that the city's decision to purchase the trust property will have any affect on your personal expenses, income, assets or liabilities. Therefore, the personal financial effect rule does not apply.

In addition, you have not described any other economic interest that will be affected by the city's decision to purchase the trust property. You do mention that you are an elected member of the Republican central committee, which leases the trust property. However, you do not receive any income from the committee, and the committee is not a business entity as defined in the Act. (See Section 82005.) Therefore, you do not have an economic interest in the committee on the basis that is a source of income to you, or on the basis that you hold a management position on the committee. (Section 87103(c), (e).)

Since you have not identified any economic interest that may give rise to a disqualifying financial interest in the city's decision to purchase the trust property, you do not have a conflict of interest in that decision. You have also asked about other conflict-of-interest laws outside the Political Reform Act, such as the Community Redevelopment Law in the California Health and Safety Code, and Government Code Section 1090. The Commission's jurisdiction is limited to the Political Reform Act. Consequently, we cannot advise you regarding the other laws mentioned in your request. (Section 83111.)

For additional guidance, I have enclosed a conflict-of-interest fact sheet. If you have other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
Assistant General Counsel



By: Julia Bilaver
Staff Counsel, Legal Division

LM:JB:kw