



FAIR POLITICAL PRACTICES COMMISSION

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November 14, 2001

John Sulpizio, Port Director
Port of Sacramento
Post Office Box 980070
West Sacramento, CA 95798-0070

**Re: Your Request for Advice
Our File No. A-01-212**

Dear Mr. Sulpizio:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹ This letter is limited solely to provisions of the Act, and should not be taken as advice or an opinion regarding any other areas of the law potentially raised by your letter. This advice is based upon the facts as provided in your request letter.² Please note that this letter should not be construed to evaluate any conduct that has already taken place. (Regulation 18329(b)(8)(A).)

QUESTION

For purposes of the financial disclosure requirements under § 87302, what is the jurisdiction of the Port of Sacramento³?

CONCLUSION

The jurisdiction of the Port District is all of the land within its geographical boundaries, as well as any real property that has been acquired by eminent domain or other means. For purposes of financial disclosure, real property or any part of it that is

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

² This advice is applicable and confers immunity only to the extent that the facts provided to us are correct, and that all of the material facts have been disclosed. (*In re Oglesby* (1975) 1 FPPC Ops. 71; § 83114.)

³ The statutory denomination for the Port of Sacramento is the Sacramento-Yolo Port District (herein referred to as the "Port District").

within, or not more than two miles outside the boundaries of the Port District, or other real property acquired or used by it, is deemed to be within its jurisdiction.

FACTS

You are the port director for the Port of Sacramento. As the port director, you file annual statements of economic interest ("SEI") pursuant to Government Code § 87302. The geographic boundaries of the port district are all of the lands within Sacramento County and the 1st Supervisorial District of Yolo County. The port district has also annexed or acquired by eminent domain some other properties.

To your knowledge, the port has no power or jurisdiction in any area outside the port's immediate geographic area, except over the above mentioned properties that previously were annexed or acquired through the exercise of eminent domain or by some other means. Further, the port has no current plans to exercise eminent domain power.

ANALYSIS

Under § 87302, a local public agency, such as the Port District, must have a conflict of interest code that requires "designated employees" to disclose "interests in real property." (See also § 87206.) The definition of an "interest in real property" states that it must be "located in the jurisdiction." (§ 82033.) Jurisdiction is defined as follows:

"'Jurisdiction' means 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.** 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." (§ 82035, emphasis added.)

Applying these provisions to the Port District, its jurisdiction, for purposes of disclosure of real property interests by designated employees, would be within or not more than two miles outside of the Port District's geographic boundaries, or other real property acquired or used by it. (See *Biondo* Advice Letter, No. A-86-238.)

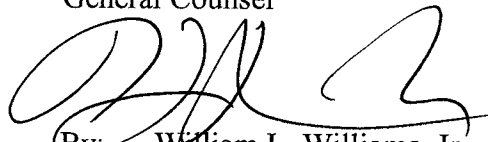
You have expressed a concern that the Port District's extra-territorial powers of eminent domain may enlarge the scope of its jurisdiction for financial disclosure purposes. As a local public entity, the Port District "may acquire property by eminent domain outside its territorial limits for water, gas, or electric supply purposes or for airports, drainage or sewer purposes if it is authorized to acquire property by eminent domain for the purposes for which the property is to be acquired." (Code of Civ. Pro. § 1240.125.) However, until such power is exercised, and the property is acquired, it would not come within the definition of "jurisdiction" as set forth in § 82035. (See *Takahashi* Advice Letter, I-90-535.) The possibility that sometime in the future the Port District may expand its jurisdiction by the use of eminent domain or other forms of

property acquisition does not alter its present jurisdictional boundaries. Therefore, no increased financial disclosure obligation for designated employees would flow from the Port District's unexercised power of eminent domain.⁴

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

Sincerely,

Luisa Menchaca
General Counsel



By: William L. Williams, Jr.
Staff Counsel, Legal Division

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⁴ Irrespective of whether a given financial interest is required to be reported on a statement of economic interests, a public official still may not make or participate in making a governmental decision that will have a reasonably foreseeable material financial effect on his or her economic interest. (§§ 87100, 87103.)