



FAIR POLITICAL PRACTICES COMMISSION

P.O. Box 807 • 428 J Street • Sacramento, CA 95812-0807
(916) 322-5660 • Fax (916) 322-0886

August 20, 2002

David R. Chapman, Port Attorney
Port of San Diego
Post Office Box 120488
San Diego, CA 92112-0488

**Re: Your Request for Advice
Our File No. A-02-115**

Dear Mr. Chapman:

This letter is in response to your request for advice on behalf of the San Diego Unified Port District (“District”) and San Diego County¹ regarding the financial reporting provisions of the Political Reform Act (the “Act”).² The Commission does not act as a finder of fact when providing assistance; this assistance is based solely on the facts you provide. (*In re Oglesby* (1975) 1 FPCC Ops. 71; Govt. Code § 83114.)

QUESTION

For purposes of the financial reporting requirements of section 87302 of the Act, what are the jurisdictional boundaries of the District?

CONCLUSION

Except for real property, for purposes of the financial reporting requirements of section 87302, the jurisdictional boundaries of the District are the same as its geographic boundaries (described in our discussion, which follows). For purposes of reporting an interest in real property that is a financial interest to a designated employee of the District, real property that is located, in whole or in part, within, or not more than two miles outside the boundaries of real property over which the District exercises

¹ By letter dated June 14, 2002, the San Diego County Counsel’s Office confirmed that the County of San Diego concurs in this request for advice.

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

jurisdiction, or other real property acquired or used by it, is deemed to be within its jurisdiction. (Section 82035.)³

FACTS

The District⁴ is a public agency and tideland trustee organized pursuant to the San Diego Unified Port District Act of 1962, as amended (“SDUPDA”).⁵ The District is governed by the Board of Port Commissioners and each commissioner is a “designated employee” under the District’s conflict of interest code. The District’s geographic boundaries consist of all of the corporate areas of each of the Cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach, plus any unincorporated territory in the County of San Diego contiguous thereto and economically linked to the development and operation of San Diego Bay. The District’s geographic boundaries and the areas within which the District exercises jurisdiction are defined at section 5 of the SDUPDA.

Pursuant to section 14 of the SDUPDA, the District has acquired title to tidelands, submerged lands, and also acquired other properties conveyed to it by the Cities of Chula Vista, Coronado, Imperial Beach, National City, and San Diego, and property conveyed from the unincorporated area of San Diego County. Generally, these properties are located proximate to San Diego Bay. These properties now include filled tidelands on which are situated Charles A. Lindbergh Field (an international airport), the San Diego Convention Center, and at least two hotels. (*Patello Advice Letter*, No. A-86-078.) Although the State of California holds title to navigable waterways and the lands beneath the waters of the San Diego Bay, the authority to manage and control these lands was delegated to the District with passage of the SDUPDA.

ANALYSIS

Under section 87302, a local public agency such as the District must have a conflict of interest code that requires “designated employees” (see section 82019) to disclose their financial interests. (See also section 87206.) These “financial interests”⁶ are defined under the Act as financial interests located within, or attributable to sources located or doing business within, the agency’s jurisdiction.

“Jurisdiction” is defined with respect to a local governmental agency as the region, county, city, district or other geographical area in which the local governmental agency has jurisdiction. (Section 82035.) An official’s real property interest, however, is deemed to be within a local governmental agency’s jurisdiction if the property or any part of it is located within, or not more than two miles outside of, the geographical boundaries

³ Irrespective of whether a given financial interest is required to be reported under section 87302, a public official still may not make, participate in making, or influence a governmental decision that will have a reasonably foreseeable material financial effect on his or her economic interests. (Sections 87100 and 87103.)

⁴ The District is a “local government agency” within the meaning of the Act. (Section 82041.)

⁵ Harbors & Navigation Code, Appendix 1, section 14.

⁶ See sections 82030 (income), 82033 (interest in real property), and 82034 (investments.)

of the local governmental agency's jurisdiction, or located within two miles of any land owned or used by the local governmental agency. (*Id.*)

According to information you provide, sections 5 and 14 of the SDUPDA distinguished between the geographic area comprising the District's territory and the limited areas within that territory over which the District exercised its jurisdiction. The latter was limited to tidelands and submerged lands conveyed to the District by the Cities of San Diego, Chula Vista, Coronado, National City and Imperial Beach, plus any unincorporated territory in the County of San Diego contiguous thereto and economically linked to the development and operation of the Bay of San Diego, plus airports owned and operated by San Diego County or these five cities. (*Graf v. San Diego Unified Port District* (1992) 7 Cal. App.4th 1224, 1229.) However, the 1996 amendments to the SDUPDA separated the District's land management jurisdiction from its regulatory, taxing, and police power jurisdiction. Whereas its land management jurisdiction remained as before, it appears that the regulatory, taxing and police power jurisdictions of the District were extended to apply to the entirety of the District's geographic boundaries.

Section 82035⁷ on its face makes no distinction as to the nature of the jurisdiction exercised by a local governmental agency nor whether its exercise of jurisdiction in a particular area encompasses the full breadth of the agency's jurisdiction or something less. To define the reach of an official's reporting obligation, it is sufficient that the agency have the ability to exercise some facet of its jurisdiction within a particular geographic area. As long as an agency official has the ability to make decisions affecting an area, the potential exists that those decisions might materially affect whatever economic interests the official has in that area. Reporting those financial interests furthers the purposes of the Act.⁸

Thus, pursuant to the 1996 amendments, the financial reporting obligations of section 87302 apply to financial interests located in any of the corporate areas of each of the Cities of San Diego, Chula Vista, Coronado, National City, and Imperial Beach, plus any unincorporated territory in the County of San Diego contiguous thereto and economically linked to the development and operation of San Diego Bay. When that financial interest is an interest in real property, the financial reporting obligations also encompass real property located, in whole or in part, within, or not more than two miles outside the boundaries of real property over which the District exercises jurisdiction, or other real property acquired or used by it.

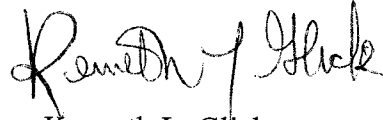
⁷ A local governmental agency's jurisdiction is typically derived under its organic statute. We do not purport to interpret these statutes. The Commission's jurisdiction is limited to the Act and our advice is limited to matters under the Act.

⁸ Section 81003 of the Act provides that its provisions be liberally construed to accomplish its purposes.

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

Sincerely,

Luisa Menchaca
General Counsel

A handwritten signature in black ink, appearing to read "Kenneth L. Glick". The signature is written in a cursive style with a large initial "K".

By: Kenneth L. Glick
Counsel, Legal Division

KLG:jg

I:\AdviceLtrs\02-115