



## FAIR POLITICAL PRACTICES COMMISSION

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(916) 322-5660 • Fax (916) 322-0886

**This Letter Supersedes Prior Advice Letters. See List Below.**

May 4, 2009

Jon Givner  
Deputy City Attorney  
City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, California 94102

Re: Your Request for Advice  
**Our File No. I-09-062**

Dear Mr. Givner:

This letter responds to your request for advice regarding the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Please note that our advice is based solely on the provisions of the Act. We therefore offer no opinion on the application, if any, of other conflict-of-interest laws such as common law conflict of interest or Government Code Section 1090. Additionally, because your request is of a general nature, we are providing informal assistance rather than formal advice.<sup>2</sup>

### QUESTIONS

1. Does a tenant with a month-to-month lease in a residential unit covered by a local rent control ordinance have an economic interest in that leasehold under the Act?

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c)(3), copy enclosed.)

2. Does a tenant with a month-to-month lease in a residential unit not covered by a local rent control ordinance but subject to other statutes providing a right to 60-day eviction notice have an economic interest in that leasehold under the Act?

### CONCLUSION

1. No. A tenant with a month-to-month lease in a residential unit covered by a local rent control ordinance does not have an economic interest in that leasehold under the Act.
2. No. A tenant with a month-to-month lease in a residential unit not covered by a local rent control ordinance but subject to other statutes providing a right to a 60-day eviction notice does not have an economic interest in that leasehold under the Act.

### FACTS

You are the Deputy City Attorney for the City and County of San Francisco and the head of the Ethics Team. You are requesting written advice on behalf of city public officials who reside in rental units in San Francisco with month-to-month leases. The San Francisco Residential Rent Stabilization and Arbitration Ordinance (the "Rent Ordinance") regulates rents and evictions for certain residential rental units in San Francisco. The Rent Ordinance restricts the ability of property owners to increase rents for covered units and limits the bases on which a landlord may evict a renter from those units. The Rent Ordinance's protections also apply to units with month-to-month leases. Civil Code Section 1946.1 applies to persons who have been living in a rental unit for over one year regardless of whether or not they are covered by a rent control ordinance and prohibits a landlord from evicting such tenants without prior notice of at least 60 days. You ask if public officials have an economic interest in month-to-month leases that are covered under a rent control ordinance and if public officials have an economic interest in month-to-month leases that are covered under Civil Code Section 1946.1.

### ANALYSIS

Section 82033 defines an interest in real property to include any "leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more . . ." Regulation 18233 states that the "terms 'interest in real property' and 'leasehold interest' as used in Government Code Section 82033 shall not include the interest of a tenant in a periodic tenancy of one month or less."

Based upon the language in Regulation 18233, month-to-month leases are not interests in real property and/or leasehold interests for purposes of the Act. This is regardless of whether or not there is a rent control ordinance in the jurisdiction. Therefore, the public officials in your jurisdiction who currently occupy rental properties

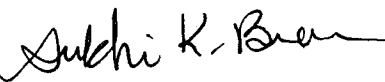
under month-to-month leases subject to the rent control ordinance do not have a real property or leasehold interest in those leases.

Civil Code Section 1946.1 requires that anyone who has resided in a rental property for one year or more to be given at least 60-days notice before eviction. You have asked whether or not officials renting residential property on a month-to-month basis who fall outside the scope of the rent ordinance, but who are covered by Civil Code Section 1946.1 have an economic interest in their leaseholds because they must be given 60 days notice before eviction. When determining if an official has an economic interest in a leasehold under that Act we look to the terms of the lease agreement not the length of time that an official may be entitled to notice before eviction by a landlord. Therefore, public officials who hold month-to-month periodic tenancies do not have an economic interest in that leasehold under the Act, even when they are entitled to be given 60 days notice before eviction.<sup>3</sup>

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

Sincerely,

Scott Hallabrin  
General Counsel

  
By: Sukhi K. Brar  
Counsel, Legal Division

SKB:jgl

Enclosure

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<sup>3</sup> This Advice Letter was originally issued on April 23, 2009, and subsequently reissued with non-substantive revisions on May 4, 2009.

**Superseded Letters:**

*Woodworth* Advice Letter, No. A-91-234

*Molesworth* Advice Letter, No. A-06-080