



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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(916) 322-5660 • Fax (916) 322-0886

October 17, 2018

Ms. Robin Bolster-Grant
501 Washington St.
Watsonville, CA. 95076

Re: Your Request for Advice
Our File No. A-18-195

Dear Ms. Bolster-Grant:

This letter responds to your request for advice regarding the revolving door provisions of the Political Reform Act (the "Act").¹

Please note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Upon leaving your position with the County of Santa Cruz Cannabis Licensing Office what restrictions do the Act's post-governmental employment provisions place on you?

CONCLUSION

Because you will not be leaving a position as a local elected official, a chief administrative of a city or county, or a chief administrator of a special district, the Act's post-governmental employment provisions will not apply to your appearances and communications before your former government employer. However, prior to leaving your position, you may be disqualified from taking part in any governmental decisions affecting a potential employer under Section 87407 and 87100.

FACTS

You are the Cannabis Licensing Manager for the County of Santa Cruz and have held that position for one year. Prior to taking this position, you worked in the County's planning department for 16 years as a project planner and mid-level manager of the code compliance division. You filed

¹ 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.

a Statement of Economic Interests (Form 700) for both positions. You became an attorney in 2017 prior to assuming the Cannabis Licensing Manager position and are now contemplating going into private practice in the area of land use and environmental law. In your current position, you have worked with the Santa Cruz County Counsel to create a licensing program for the commercial cultivation, manufacture and distribution of cannabis. The County ordinance governing the licensing program went into effect on June 8, 2018. The Cannabis Licensing Office has not yet issued any licenses, but you anticipate that a dozen or so licenses will be issued by the end of the year.

You have assisted several dozen cannabis business owners in navigating the complex set of land use and operational regulations covering commercial cannabis and have represented the Cannabis Licensing Office before the County Board of Supervisors. Your position is considered Executive Management. You report to the Deputy County Administrative Officer, who in turn reports to the County Administrative Officer.

Upon leaving your current position, you would like to provide a guidance to a wide range of land use professionals, including real estate developers, property owners, and cannabis businesses regarding Santa Cruz County's land use regulations, permitting and licensing processes.

You will be leaving your position with the Cannabis Licensing Office on October 26, 2018 and would like to know if the Act's revolving door provisions apply to you and whether you may represent cannabis businesses by providing advice if you do not attempt to exert influence on County decision makers.

ANALYSIS

Local One-Year Ban

Local governmental officials who leave governmental service are subject to the Act's one-year ban in Section 87406.3. Generally, this restriction prohibits certain former local officials from representing any other person, for compensation, before his or her former agency for the purpose of influencing the agencies actions.

Section 87406.3(a) provides:

“(a) A local elected official, chief administrative officer of a county, city manager, or general manager or chief administrator of a special district who held a position with a local government agency as defined in Section 82041 shall not, for a period of one year after leaving that office or employment, act as agent or attorney for, or otherwise represent, for compensation, any other person, by making any formal or informal appearance before, or by making any oral or written communication to, that local government agency, or any committee, subcommittee, or present member of that local government agency, or any officer or employee of the local government agency, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any

action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.”²

Further interpreting which officials the local one-year ban applies to under Section 87406.3(a), Regulation 18746.3(a) states:

“(a) The prohibitions of Government Code section 87406.3 apply to a public official who, on or after July 1, 2006, holds a position as a:

“(1) Local elected official;

“(2) Chief Administrative Officer of a county;

“(3) City manager, including the chief administrator of a city; or

“(4) General manager or chief administrator of a special district who holds a position with a local government agency as defined by Government Code section 82041, including the general manager or chief administrator of an air pollution control district or air quality management district.”

Under the facts you have provided, you will be leaving from the position of Cannabis Licensing Manager for Santa Cruz County. Because you will not be leaving from a position as a local elected official, a chief administrative officer of a city or county, or a chief administrator of a special district, the Act’s one-year ban for local officials in Section 87406.3 does not apply to your circumstances.

Negotiating Prospective Employment

All public officials, including local officials, leaving governmental service are also subject to restrictions when negotiating prospective employment. Under Section 87407 and Regulation 18747, prior to separation from government service, a public official is prohibited from making, participating in making, or influencing a “governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.”

In addition, the Act’s conflict-of-interest provisions prohibit an official from making, participating in making, or influencing any governmental decision with a reasonably foreseeable material financial effect on the source of promised income. (See Sections 87100, *et seq.* and Regulations 18700, *et seq.*)

However, you have not indicated whether you are currently negotiating perspective employment with any specific employer or provided details regarding any particular governmental decision before your agency that may affect a potential employer. Accordingly, we cannot determine whether you are subject to disqualification from any particular governmental decision

² Under Section 82041, “[l]ocal government agency’ means a county, city or district of any kind including school district, or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.”

under either Sections 87407 or 87100. If you need additional assistance regarding these provisions, you should seek further advice providing all relevant facts.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Sukhi K. Brar
Senior Counsel, Legal Division

SKB:jgl