



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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November 17, 2025

Richard D. Pio Roda
City Attorney
409 13th Street
Suite 600
Oakland, California 94612

Re: Your Request for Informal Assistance
Our File No. I-25-086

Dear Mr. Pio Roda:

This letter responds to your request for advice on behalf of City of San Leandro City Engineer Jayson Imai regarding the conflict of interest provisions of the Political Reform Act (the "Act").¹ Given that your questions are general in nature and based on limited facts, we treat your request as one for informal assistance.²

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions, such as common law conflict of interest or Section 1090.

Also 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. Finally, the Commission does not provide advice with respect to past conduct. Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to prospective actions. (Regulation 18329(b)(6)(A).)

QUESTIONS

1. May Mr. Imai participate in the City of San Leandro's decisions related to the Bay Fair Community Based Transportation Plan, given that both his personal residence and his rental property are located within the Transportation Plan area?

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 18104 through 18998 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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

2. May Mr. Imai participate in the City of San Leandro's decisions related to the Development Plan implementing the Bay Fair Transit Oriented Development Specific Plan, given that both his personal residence and a rental property he owns are located over 1,000 feet from the Development Plan area?

CONCLUSIONS

1. For the Transportation Plan, Mr. Imai's properties are generally within the area subject to the decisions. Accordingly, the decisions involve property located 500 feet or less from Mr. Imai's two properties, and he may not generally take part in the decisions due to the financial effect on his property interests. However, each decision must be examined on a case-by-case basis. In limited circumstances, Mr. Imai may not be prohibited from taking part in the decisions, but only if there are no indications of a financial effect on his rental business or tenants, and clear and convincing evidence that the decision will not have any measurable impact on his properties. To the extent Mr. Imai needs additional assistance regarding any specific decision relating to the Transportation Plan, he should seek additional advice identifying the decision before him.

2. In regard to the Development Plan, Mr. Imai's properties are located 1,000 feet or more from the area, and there are no indications that the decisions will provide his properties with a disproportionate benefit. Additionally, there are no indications of a potential financial effect on his rental business or tenants. Thus, Mr. Imai is not generally prohibited from taking part in the decisions. However, again, decisions must be examined on a case-by-case basis, and Mr. Imai may be disqualified from the decisions to the extent there are indications of any financial effect on his rental business or tenant, any indications of a disproportionate benefit to his properties, or clear and convincing evidence that the decision would have a substantial impact on either of his properties. To the extent Mr. Imai needs additional assistance regarding any specific decision relating to the Development Plan, he should seek additional advice identifying the decision before him.

FACTS AS PRESENTED BY REQUESTER

In 2018, the City of San Leandro (the "City") adopted the Bay Fair Transit Oriented Development (TOD) Specific Plan in an effort to revitalize the area surrounding the Bay Area Rapid Transit's (BART) Bay Fair station into a well-connected, mixed-use transit district. The City is now in the process of preparing a Development Plan for Sub-Area 1 (the "Development Plan") to implement the Specific Plan. The area is already in use as a large mall and shopping complex. The aim of the Development Plan is to provide a framework for transforming underused land into walkable blocks, green infrastructure, and development-ready sites. The Development Plan will establish an updated circulation network of complete streets, developable blocks, and green infrastructure plans, analyze district-wide parking needs, prepare a detailed development and parcelization plan, and develop conceptual designs and cost estimates for key district-scale infrastructure needed to remove major physical barriers in the Development Plan area. The Development Plan may alter the intensity of use, parking, and traffic levels in the area.

Concurrently, the City is collaborating with Alameda County and various transportation partners to develop the Bay Fair Community Based Transportation Plan (the "Transportation Plan"), which will identify transportation challenges in the broader Bay Fair area and prioritize solutions in both jurisdictions. The aim of the Transportation Plan is to improve transportation into

the Development Plan area by “focus[ing] on improvements to public streets and sidewalks—not private properties or BART-owned land.”³ While the Transportation Plan’s area encompasses the Development Plan’s area, the Development Plan and the Transportation Plan are separate and distinct plans in terms of staffing, stakeholders, and subject matter. The Transportation Plan includes and focuses on the Development Plan area, but expands outward to include the surrounding neighborhoods. Because the Transportation Plan aims to improve transportation in the Development Plan area, it is assumed that any decisions or projects made regarding the Transportation Plan will have some level of effect on traffic levels and parking in the area.

As the City Engineer, Mr. Imai is expected to provide input, opinions and recommendations on both the Development Plan and the Transportation Plan prior to their adoption by the City Council. Once adopted, both plans will be implemented by developers and other private entities, who will build relevant real property and infrastructure. Mr. Imai will have ultimate approval authority over plans submitted by developers for projects in the Development Plan and will be responsible for signing off on construction documents related to both plans.

Mr. Imai owns a personal residence (the “Residence”) and a rental property (the “Rental”) on 150th Street that are within the Transportation Plan area and outside of the Development Plan area. The Residence is approximately 1,982 feet from the Development Plan area, and the Rental is located approximately 1,933 feet from the Development Plan area. Both properties are located in the same gated community.

ANALYSIS

The Act’s conflict of interest provisions prohibit any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. (Section 87100.) As City Engineer, Mr. Imai is a public official. Therefore, he is subject to the Act’s conflict of interest provisions. At issue is whether Mr. Imai will have a disqualifying financial interest in the Development Plan or the Transportation Plan decisions. However, because no specific decisions have been provided for analysis, we provide general information on the standards that will apply based on the limited facts provided and recommend that he seek additional advice as needed when there are decisions available to analyze.

The Commission has defined “making,” “participating in making,” and “influencing” a governmental decision in Regulation 18704 as follows:

Making a Governmental Decision: A public official makes a governmental decision when the official authorizes or directs any action, votes, appoints a person, obligates or commits the official’s agency to any course of action, or enters into any contractual agreement on behalf of the official’s agency. (Section 87100; Regulation 18704(a).)

³ Bay Fair Community-Based Transportation Plan, <https://bayfaircbtp.org/learn-more-1> (last visited Oct 1, 2025).

Participating in Making a Governmental Decision: A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review. (Section 87100; Regulation 18704(b).)

Influencing a Governmental Decision: A public official uses an official position to influence a governmental decision if the official:

- (1) Contacts or appears before any official in the official's agency or in an agency subject to the authority or budgetary control of the official's agency for the purpose of affecting a decision; or
- (2) Contacts or appears before any official in any other government agency for the purpose of affecting a decision, and the public official acts or purports to act within the official's authority or on behalf of the official's agency in making the contact. (Regulation 18704(c).)

Here, the City Council, rather than Mr. Imai, will vote on whether to adopt the Development Plan and Transportation Plan. However, as City Engineer, Mr. Imai may participate in or influence the City's decisions by providing input, opinions, and recommendations on both plans prior to their adoption by the City Council. In addition, Mr. Imai will be making a decision when he commits the City to a course of action by approving plans submitted by developers and signing off on construction documents related to both plans.

A public official has a financial interest in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on one or more of the public official's financial interests. (Section 87103.) Relevant to these facts, Section 87103 defines "financial interests" to include:

- An interest in a business entity in which the official has a direct or indirect investment worth \$2,000 or more. (Section 87103(a).)
- Any real property in which the official has a direct or indirect interest worth more than \$ 2,000 or more. (Section 87103(b).)
- An interest in a source of income to the official or promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)

Here, Mr. Imai has identified a business entity and source of income interest in his rental business, a real property interest in both the Residence and the Rental Property, and a source of income interest his tenant(s).⁴ The issue is whether Mr. Imai may take part in decisions regarding

⁴ No facts were provided regarding the official's tenant(s), so we do not further analyze whether the official has a conflict of interest due to his source of income in a tenant. Please seek further advice if a tenant is a named party or the subject of the decision or will be affected financially in any manner by the decision at issue.

the Development Plan or Transportation Plan without those decisions having a reasonably foreseeable material financial effect on his interests.

Foreseeability

An official has a prohibited conflict of interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's interests as identified and distinguishable from the decision's effect on the public generally. A decision's effect on an official's interest is presumed to be reasonably foreseeable if the interest is explicitly involved in the decision as a named party in, or the subject of, the decision. (Regulation 18701(a).) A financial interest is the "subject of a proceeding," if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6). (Regulation 18701(a).) Here, the facts do not indicate that any of Mr. Imai's interests are a named party in, or the subject of, decisions regarding either the Development Plan or Transportation Plan.

Where, as here, an official's interest is not explicitly involved in a governmental decision, the decision's effect on such an interest is reasonably foreseeable if it "can be recognized as a realistic possibility and more than hypothetical or theoretical." (Regulation 18701(b).)

Materiality

Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material, depending on the nature of the interest. In this case, Mr. Imai has multiple different interests located varying distances from the Development Plan and Transportation Plan, respectively. We therefore analyze the potential materiality of the effect of these decisions on his interests according to each plan, below.

The Transportation Plan

Where a governmental decision involves real property located 500 feet or less from the property line of a parcel of property in which an official has a financial interest, the reasonably foreseeable financial effect of a governmental decision on the parcel, other than a leasehold interest, is presumed to be material unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property. (Regulation 18702.2(a)(7).)

Here, Mr. Imai has real property interests in both the Residence and the Rental Property, both located directly within the Transportation Plan area. Since both the Residence and the Rental Property are located within 500 feet of the Transportation Plan's area, the reasonably foreseeable financial effect of a governmental decision on Mr. Imai's real property interests is presumed to be material. Thus, absent clear and convincing evidence that the decision will not have any measurable impact on his real property interest in the Residence or the Rental Property, Mr. Imai may not participate in decisions regarding the Transportation Plan.

The Development Plan

Next, we consider whether Mr. Imai may participate in or influence decisions regarding the Development Plan. Where a decision involves real property which is 1,000 feet or more from an official's property, it is presumed that the effect of the decision will not be material unless there is clear and convincing evidence that it would have a substantial effect on the official's property. (Regulation 18702.2(b).) This presumption may be rebutted with clear and convincing evidence that the governmental decision would have a substantial effect on the official's property. (Regulation 18702.2(b).)

In addition, the reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the parcel will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services. (Regulation 18702.2(a)(6).)

Though the facts indicate that the Development Plan may alter the intensity of use, parking, and alter traffic levels, the area is already in use as a large mall and shopping complex. In addition, no specific decisions have been identified, so there is not enough evidence to rise to the level of the "clear and convincing" standard to establish that the project would have a "substantial effect" on the Residence or Rental Property. Moreover, there are no facts to suggest that construction of, or improvements to, streets, water, sewer, storm drainage, or similar facilities under the Development Plan would confer a disproportionate benefit or detriment to Mr. Imai's parcels, compared to other properties. Accordingly, Mr. Imai's real property interests in the Residence and Rental Property do not generally prohibit him from participating in decisions related to the Development Plan. However, as you have not identified a specific decision, we must also advise Mr. Imai to seek advice concerning specific decisions as they arise, should there be any questions of whether the decision may have a clear and convincing financial effect on his property interests or a disproportionate benefit or detriment on to the properties.

Finally, we turn to whether Mr. Imai's business entity interest in the Rental Property precludes him from participating in the Development Plan.⁵ Applicable to his rental business, where a governmental decision involves an official's financial interest in a business entity that is not explicitly involved in the decision, the reasonably foreseeable financial effect on such a business entity interest is material if:

- The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or greater than: (A) \$1,000,000; or (B) five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.

⁵ As noted above, since no facts were provided regarding Mr. Imai's tenant(s), we do not analyze whether he has a conflict of interest due to his source of income in a tenant(s). Please seek further advice if a tenant is a named party or the subject of the decision or will be financially affected by a decision at issue.

- The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or greater than: (A) \$250,000; or (B) one percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.
- The official knows or has reason to know that the entity has an interest in real property and the property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6), or there is clear and convincing evidence the decision would have a substantial effect on the property.

(Regulation 18702.1(a).)

The facts provided do not identify any specific decisions regarding the Development Plan that would result in an increase or decrease of the business's assets or liabilities, cause the business to incur or avoid additional expenses, or to reduce or eliminate expenses. Nor do the facts provide clear and convincing evidence that such decisions would have a substantial effect on the business's Rental Property. For these reasons, Mr. Imai's business entity interest does not generally prohibit him from participating in decisions related to the Development Plan. However, as noted above, we advise you to seek advice regarding specific decisions concerning the Development Plan as they arise.

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

Sincerely,

Dave Bainbridge
General Counsel

Toren A. Lewis

By: Toren Lewis
Counsel, Legal Division

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