



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

August 22, 2025

Nicholas R. Ghirelli
City Attorney
City of Rancho Cucamonga
1 Civic Center Circle, PO Box 1059
Brea, California 92822-1059

Re: Your Request for Advice
Our File No. A-25-114

Dear Mr. Ghirelli:

This letter responds to your request for advice on behalf of Rancho Cucamonga (the “City”) Vice Mayor Lynne Kennedy and Councilmember Ryan Hutchison regarding conflict of interest provisions of the Political Reform Act (the “Act”).¹ 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.

QUESTION

Under the Act, may Vice Mayor Kennedy and Councilmember Hutchison take part in governmental decisions regarding the legislative land use approvals (the “Project”) submitted by the Red Hill Country Club (the “Club”) where Vice Mayor Kennedy and Councilmember Hutchison each have non-equity, non-transferrable, and non-voting social memberships? If they have a conflict due to their memberships, does the rule of necessity apply to allow a majority of the City Council to participate in the preliminary review of the Project and future decisions regarding the Project?

CONCLUSION

Under the Act, Vice Mayor Kennedy and Councilmember Hutchison are not prohibited from making, participating in making, or in any way using or attempting to use their official position to

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.

influence any governmental decisions related to legislative land use approvals submitted by the Club because it is not reasonably foreseeable that the Project will have a material financial effect on their interests in the Club.

FACTS AS PRESENTED BY REQUESTER

The City has received a letter of inquiry regarding the Project from a representative of the Board of Directors of the Club, located at 8358 Red Hill Country Club Dr., Rancho Cucamonga. The Club is a private country club encompassing approximately 132 acres on the City's western border. The Club's property is currently designated as "Open Space" under the City's General Plan and is zoned as "Parks" in the City's Development Code. The Club's letter expresses interest in pursuing an application for the following Project:

- Approximately 3-acre parcel located within the Club's lower-level parking area: amend the General Plan land use designation to "N – Suburban Neighborhood Moderate" and amend the zoning to "M – Medium Residential" in order to allow up to 14 dwelling units per acre.
- Approximately 3-acre parcel along the ninth hole, paralleling Calle Casino: amend the General Plan land use designation to "N – Traditional Neighborhood Low" and amend the zoning to "L – Low Residential" in order to allow up to 13 single-family lots, each with a minimum lot size of 7,200 square feet.

For property owner-initiated legislative approvals, such as the Project's proposed General Plan amendments and zone changes, City policy generally requires the proposal to be presented to the City Council prior to the submittal of a formal application. The purpose of this early review process is to provide the property owner with preliminary staff and Council feedback on the proposed legislative approvals, such as whether the requested land uses are appropriate for the property. However, no specific decision is made on the Project. Based on that feedback, the property owner can make an informed decision on whether to pursue their application knowing whether the Council is generally supportive or concerned about the legislative aspects of the Project. The Club has requested a preliminary review of the above-referenced legislative approvals. The Club has submitted to the City a conceptual plan for the revised layout of the Club as part of its request for a preliminary review of the proposed zone changes and general plan amendments to permit residential development on Club property. The conceptual plan's modifications to the parking lot and tennis court are being considered separate and apart from the proposed residential development, and on their own would not require approval by the City Council. At this time, no formal application for the Project has been submitted, nor has the Club submitted an application for a specific housing development.

Vice Mayor Kennedy and Councilmember Hutchison are both "social" members of the Club. A social membership is a non-equity, non-transferrable, and non-voting membership. Social members do not have a property interest in the Club's land. Neither Vice Mayor Kennedy nor Councilmember Hutchison hold any interest in the nonprofit corporation that owns and operates the Club. Social members have an unlimited right to use Club facilities, except for the golf course (unless playing as a guest of an equity member). As provided in response to follow-up questions, "social" memberships are available to the public, subject to approval by the Club's Board of

Directors following the completion of an application. Once approved, all social members must pay an initiation fee which is set at the time of admission to the Club, and monthly membership dues set by the Club's Board of Directors.² Both Vice Mayor Kennedy and Councilmember Hutchison paid the fair market value of their "social" memberships at the time they were each admitted to the Club and pay regular monthly dues. Mayor Dennis Michael, who is an equity member of the Club, will recuse himself from decisions involving the Club, including the proposed Project, under prior guidance provided by the Commission (*Ghirelli* Advice Letter, FPPC File No. A-24-017).

In regard the project, you have provided that the development proposed may have an effect the Club but that there is no indication that the project is necessary for the viability of the Club. You also indicate that there will be little to no effect on the amenities offered to members. In particular, you state that, pursuant to the conceptual plan provided to the City by the Club, a portion of the proposed residential development would be located on an existing parking lot that is currently available to social members and their guests, but the lost parking spaces would be relocated closer to the clubhouse and the Project would not result in a net loss of parking. In addition, the conceptual plan also shows the existing tennis court replaced with a pickleball court. However, modifications to the parking lot and tennis court on their own would not require City Council approval, and the Club is considering these modifications separate and apart from the proposed residential development.

ANALYSIS

Section 87100 prohibits any public official from making, participating in making, or using his or her official position to influence a governmental decision in which the official has a financial interest. A public official has a "financial interest" in a governmental decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the public official's interests as set forth in Section 87103. These interests include:

- A business entity in which he or she has a direct or indirect investment of \$2,000 or more (Section 87103(a)); or in which he or she is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- Real property in which he or she has a direct or indirect interest of \$2,000 or more. (Section 87103(b), Regulation 18703.2.)
- The official's personal finances, including those of his or her immediate family (Section 87103.)

I. Real Property Interest

² Based on the facts provided, there is no indication of a financial interest in the Club as a source of gifts. To the extent the Club is the source of gifts to either of the officials, you should seek additional advice identifying the gifts as we express no opinion regarding disqualification based on a financial interest in a source of gifts.

We first address whether Vice Mayor Kennedy's and Councilmember Hutchison's interest in the Club constitutes real property. In making this determination, we have considered prior letters that address similar interests in club memberships.

Section 82033 defines "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 that person's immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a 10-percent interest or greater."

A. No interest in the Club's assets

In the *Doering* Advice Letter, No. A-12-068, we found that a proprietary membership in a club, a nonprofit corporation registered as a 501(c)(7) non-profit mutual benefit organization, was real property. We said that the proprietary members had an equitable right of ownership to the club's real and personal property because they were entitled to a proportionate share of the value of the assets if the club were to be dissolved.

In this case, you state that Vice Mayor Kennedy's and Councilmember Hutchison's social membership is a non-equity membership that provides no property interest in the Club's land. Consequently, unlike the proprietary club membership in *Doering*, their memberships do not constitute a real property interest.

B. Value of membership does not affect the Club's assets or value of the land.

A club membership does not constitute an interest in real property where the club holds title to the land and the value of the membership is not related to increases or decreases in the assets of the club or the value of the land upon which it is located. (See *Cook* Advice Letter, No. 1-91-468; *Greenwell* Advice Letter, No. A-97-543.)

You provided facts stating that Vice Mayor Kennedy and Councilmember Hutchison have no property interest in the Club's land, no right to transfer their memberships, and no voting power. Under these facts, the value of the membership is not related to an increase or decrease in the Club's assets, or the value of the land where the Club is located. Additionally, you have confirmed that the developments proposed in the Project are not necessary for the viability of the Club. Consequently, Vice Mayor Kennedy and Councilmember Hutchison do not have an interest in the Club's property within the meaning of Section 87103(b). (Section 82033; See *Doering* Advice Letter, No. A-12-068; *Greenwell* Advice Letter, No. A-97-543; *Marlyn* Advice Letter, No. A-97-378; *Wiener* Advice Letter, No. A-92-149; *Cook* Advice Letter, No. 1-91-468.)

II. Investment in a Business Entity.

"Investment" means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or

beneficially by the public official, or other filer, or that person's immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000)." (Section 82034.) The Commission has determined that club memberships can be an investment in a business entity. (See *Hentschke* Advice Letter, No. I-91-445; *Strauss* Advice Letter, No. I-90-654.) Also, the Act defines "business entity" as any organization or enterprise operated for profit. (Section 82005.)

Here, the social membership held by both Vice Mayor Kennedy and Councilmember Hutchison for the Club is not an investment in a business entity because the social membership cannot be transferred and thus cannot be resold for profit or loss. Also, the Club is a non-profit corporation, so the Club is not a business entity under the Act. Consequently, Vice Mayor Kennedy and Councilmember Hutchison do not have an interest in the Club as a business entity within the meaning of Section 87103(a).

III. Personal Financial Interest.

Generally, a financial effect is presumed to be reasonably foreseeable if the interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. (Regulation 18701(a).) If the interest is "not explicitly involved" in the decision, a financial effect is reasonably foreseeable if the effect can be recognized as a realistic possibility and more than hypothetical or theoretical. A financial effect need not be likely to be considered reasonably foreseeable. (Regulation 18701(b).)

Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest. (Regulation 18702.) For an interest in the official's personal finances, a governmental decision will have an effect on this interest if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing. (Regulation 18702.5(a).)

Based on the facts provided, decisions to develop the Project may have an effect on the Club and its property but are not necessary for the viability of the Club. Moreover, while the Project potentially alters parking for members, the Project will not result in a loss of parking as the Club is considering the relocation of the lost parking spaces to another location closer to the clubhouse. The decision to relocate the parking spaces does not require the City Council's approval. The only other amenity that you have indicated may be affected under the proposal is the conversion of a tennis court into a pickleball court. However, this is a change unrelated to the Project, which the Club will consider independently, and does not require City Council approval. The facts presented do not suggest that the changes will be significant enough to have a measurable impact on the councilmembers' assets -- the social membership. It is unlikely that any effect on the Club from the legislative land use approvals is significant enough to foresee a change in the price of the "social" membership at the Club, and these decisions are not likely to affect Vice Mayor Kennedy's or Councilmember Hutchison's personal expenses, income, assets, or liabilities.

The social memberships held by Vice Mayor Kennedy and Councilmember Hutchison are not disqualifying interests under the Act, and consequently they are not disqualified from taking part in governmental decisions related to the land use approvals the Club submitted in the Project.

If you have other questions on this matter, please contact me at mroeckl-navazio@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

By: *Margaret L. Roeckl-Navazio*
Margaret L. Roeckl-Navazio
Counsel, Legal Division

MRN:aja