



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

December 15, 2025

David M. Fleishman
City Attorney
847 Monterey Street, Suite 211
San Luis Obispo, California 93401

Re: Your Request for Advice
Our File No. A-25-140

Dear Mr. Fleishman:

This letter responds to your request for advice on behalf of Atascadero City Councilmember Heather Newsom regarding the 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 Councilmember Newsom take part in governmental decisions pertaining to the adoption of a Proposed Short-Term Rental Ordinance (“Proposed Ordinance”) that would establish a permit program and various requirements for property owners who rent their respective property out on a short-term basis, given that she is already a short-term rental property owner under the current process, which requires approval of a home occupation business license?

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.

CONCLUSION

No, given the broader nature of the Proposed Ordinance and its various new requirements affecting the permitted use of the short-term rental property—which go beyond the current requirements applicable to short-term rental properties—the Proposed Ordinance would have a reasonably foreseeable, material financial effect on Councilmember Newsom’s property. Therefore, the Act prohibits her from taking part in governmental decisions pertaining to the adoption of the Proposed Ordinance.

FACTS AS PRESENTED BY REQUESTER

Heather Newsom is a member of the Atascadero (“City”) City Council. Under the City’s current law, short-term rentals are permitted in any zone in the City with the approval of a home occupation business license and subject to the following limitations:

- (1) short-term rentals are not permitted within an accessory dwelling unit (“ADU”), a junior accessory dwelling unit (“JADU”) or an urban dwelling unit (“UDU”) built after January 1, 2020, in conformance with State law;
- (2) short-term rentals are not permitted in deed-restricted affordable units;
- (3) only one short-term rental is permitted in each single-family or multi-family property;
- (4) a maximum of 40 percent of units in mixed-use buildings may operate as short-term rentals; and
- (5) short-term rentals can only be rented to one rental party at a time.

The Proposed Ordinance, as currently drafted, would create a short-term rental permit program wherein the City would require persons wishing to operate a short-term rental to obtain both a short-term rental permit and a business license. It would also impose certain development standards on short-term rentals. Through the permit program, the City would evaluate short-term rental permit applications for compliance with the development standards. Among other things, the proposed development standards would place limitations on the location and quantity of short-term rentals in the City.

In particular, the Proposed Ordinance limits the number of short-term rentals in the City based on the zoning designation of the property.

Properties located in single-family zones would be permitted to operate one dwelling unit as a short-term rental provided that the unit is not an ADU, JADU, or UDU, built after January 1, 2020, a deed-restricted affordable unit, or any other unit restricted to long-term stays per State or local code, and the property is owner-occupied unless there is an active short-term rental on the property that predates the Proposed Ordinance.

Residences located in multiple-family zones (multi-family zones) would be permitted to operate at least one, but not more than 25 percent of the residential units on the property as a short-term rental provided that the unit is not an ADU, JADU, or UDU, built after January 1,

2020, a deed-restricted affordable unit, or any other unit restricted to long-term stays per State or local code. (Proposed Ordinance Section 9-6.187(b)(2).)

Lastly, for mixed-use developments, the Proposed Ordinance would allow at least one but not more than 40 percent of the residential units to operate as short-term rentals provided that the unit is not an ADU, JADU, or UDU, built after January 1, 2020, a deed-restricted affordable unit, or any other unit restricted to long-term stays per State or local code.

Councilmember Newsom has an interest in a family trust that owns a single-family residence located within the Medium Density Residential Multifamily (RMF-10) zoning district (“Property”) which, for purposes of analysis under the Act, may be assumed to be greater than 10 percent. Councilmember Newsom has rented the Property to third parties and intends to similarly rent the Property in the future. She does not reside on the Property. The RMF-10 zone is one of two multi-family zones in the City. Proposed Ordinance Section 9-6.187(b)(2) would apply to the RMF-10 zone. While Councilmember Newsom’s Property itself does not contain a multi-family residence, one property within 500 feet of her Property contains multiple units on a single parcel, and several properties within 1000 feet of her Property are multi-family residences. There are approximately 2,400 parcels in the City that are zoned Multiple Family Residential (either RMF-10 or RMF-24) out of approximately 11,000 total parcels in the City.

The Proposed Ordinance is not before the City Council presently, and the City Council has taken no action relating to the Proposed Ordinance. The Proposed Ordinance was removed from the City Council’s agenda for its September 9, 2025 meeting to allow the City to seek formal FPPC advice regarding Councilmember Newsom’s participation. However, the Proposed Ordinance is expected to come before the City Council again in the future in its current form.

Also included with your request for advice is a copy of the Proposed Ordinance. The Proposed Ordinance would establish an annual short-term rental permit requirement, with permits to be reviewed by the Community Development Director. Likewise, permit renewal applications must be submitted on an annual basis. The Community Development Director may impose conditions of approval deemed reasonable and necessary to ensure that the use will comply with renewal requirements. Fees are associated with the short-term rental permit application, as well as documents such as a site and floor plan. Violations of any requirements of the Municipal Code or any permit conditions shall be considered a misdemeanor. Violations related to health and safety shall be considered an infraction subject to increasing penalties of up to \$1,500 (first infraction), \$3,000 (second infraction), and \$5,000 (subsequent infractions). After three verified code violations, the City shall revoke the property’s short-term rental permit until the property is transferred to a new, unrelated owner. Existing Vacation Rental Business Licensees may continue to operate without a short-term rental permit until December 31, 2025. All short-term rental operators must obtain a short-term permit before or concurrently with their Business License applications to continue operations from January 1, 2026 onwards.

The Proposed Ordinance includes additional standards for short-term rentals. Short-term rentals are required to include smoke alarms and carbon monoxide detectors, a fire extinguisher, and an informational sheet identifying emergency resources, local evacuation zone information, and fire safety information. Only one party is permitted to occupy a short-term rental at any

given time. Quiet hours are established from 9:00 PM to 7:00 AM Sunday through Thursday, and 11:00 PM to 7:00 AM on Friday and Saturday. A 24-hour contact must be identified and available to respond to and resolve complaints regarding short-term rentals within one hour of notification from the City. All short-term rental operators must be registered for the collection of the City's Transit Occupancy Tax. These standards apply to all properties and licensees with existing issued and active business licenses to operate short-term rentals.

In a follow-up email, you clarified that the property owned by the family trust has an active short-term rental license. Most recently, it was rented on a long-term basis for a tenancy of greater than 30 days. You also clarified that the ordinance will not directly increase, decrease, or otherwise impact the actual number of short-term rentals operated in the City, nor would it change the zoning of any existing parcels. Rather, the ordinance would regulate where short-term rentals can be located and how many may be located on a single parcel. Finally, you clarified that Councilmember Newsom is currently permitted to operate a short-term rental on the Property and that would remain true under the Proposed Ordinance. Per Section 9-6.187(h) of the Proposed Ordinance, the Proposed Ordinance would have retroactive effect and would apply to all properties and licenses with existing issued and active business licenses to operate short-term rentals.

ANALYSIS

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official’s immediate family,” or on certain specified economic interests. (Section 87103.) Among those specified economic interests are:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.
- (c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(Section 87103.) A public official has an economic interest in the pro rata share of the interests in real property, sources of income, and investments of a trust in which the official has a direct, indirect, or beneficial interest of 10 percent or greater. (Regulation 18234(a).) Accordingly, Councilmember Newsom has a pro rata share of the interests in the family trust including interests in the rental business as a business entity and source of income, a property interest in the rental property, and potential interest in any tenant as a source of income.

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, “[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. 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).”

Where an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, “[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.”

Under Regulation 18702.2(a)(5), 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 the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property.

Here, the adoption of the Proposed Ordinance would establish an annual Short-Term Rental Permit program involving numerous new requirements that apply to Councilmember Newsom’s Property. Currently, approval of a home occupation business license is required. The Proposed Ordinance would require both a business license and a short-term rental permit. Under the Proposed Ordinance, the permit process would require an application and associated fee to be submitted on an annual basis. The Property would be subject to numerous requirements, ranging from the placement of an informational sheet regarding emergency resources to observation of “quiet hours” on the Property. The short-term rental permit would also subject Councilmember Newsom to increasing fines for health and safety infractions. Given the various changes to the permitted use of Councilmember Newsom’s Property under the Proposed Ordinance, governmental decisions pertaining to the Proposed Ordinance would have a reasonably foreseeable, material financial effect on the Property under Regulation 18702.2(a)(5). (See the *Jex Advice Letter*, No. I-21-063.) Consequently, the Act prohibits Councilmember Newsom from taking part in the proceeding.²

Notably, the Act does not prohibit an official from taking part in a decision if the financial effect on a public official’s financial interest is indistinguishable from its effect on the

² In light of this conclusion, it is unnecessary to further analyze the potential impact of Proposed Ordinance decisions on the rental business as a business entity or source of income, or on tenants or clients of the rental business.

public generally. Under Regulation 18703, the public generally exception applies if the official establishes that a significant segment of the public is affected, and the official's financial interest is not unique compared to the effect on the significant segment. A significant segment of the public includes at least 25 percent of all residential real property within the official's jurisdiction. (Regulation 18703(b)(1)(B).) Here, the short-term rental requirements are potentially applicable to all properties as they address the rental requirements for any property owner who wishes to use a property for this purpose. Nonetheless, as an actual short-term rental owner, Councilmember Newsom's rental property would be uniquely affected by the Proposed Ordinance compared to those residential properties that are not operated as a rental property. Additionally, the effect on Councilmember Newsom's rental property is further distinguished by the fact that preexisting short-term rentals are not subject to the same restrictions as new applicants for short-term rentals under the Proposed Ordinance. As such, the facts provided do not establish that the public generally exception applies in these circumstances.

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

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

KC:aja