



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

December 1, 2025

Keith F. Collins
Deputy City Attorney
City of Pismo Beach
6439 Auburn Blvd.
Citrus Heights, CA 95621

**Re: Your Request for Advice
Our File No. A-25-143**

Dear Mr. Collins:

This letter responds to your request for advice on behalf of City of Pismo Beach (“City”), City Manager Jorge Garcia, 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

Does City Manager Jorge Garcia have a disqualifying interest in City decisions under the Act related to a lawsuit filed against the City for the street closure of Highland Drive and two related streets, where Mr. Garcia owns a residence located on Highland Drive?

CONCLUSION

Yes. The facts indicate that the decisions to reopen Highland Drive and two related streets would bring development, traffic, and construction to an undeveloped parcel and potentially other lots accessible through that parcel. The impacts would not be confined to the area 1,400 feet away from his residence, where the road is closed. The impacts, increased traffic

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.

and construction, related to the known and potential future development will flow directly past his residence and have the potential to change the character of his neighborhood. Therefore, it is reasonably foreseeable that the decisions would have a material financial effect on his residential property interest and he may not take part in the decisions.

FACTS AS PRESENTED BY REQUESTER

City Manager Garcia owns a residence located on Highland Drive and has lived there since July 2019. His residence is located approximately 1,400 feet from the end of Highland Drive, where the City acted in 2018 to close the street. Garcia was not employed with the City at the time of the City's action. He was appointed City Manager on October 3, 2023.

Measure H-2014 and the Closure of Roads

In November 2014, the voters of the City of Pismo Beach adopted Measure H-2014, which amended the City's General Plan in a number of regards, specifically with reference to development in "Planning Area R." This area consists of a number of parcels currently outside the City limits, but within the City's sphere of influence. Measure H-2014 placed a limit on the size of parcels within Planning Area R, and further limited the types of land uses allowed within Planning Area R, should those properties ever be annexed into the City at some point. Measure H-2014 also removed references in the City's Land Use and Circulation elements of the General Plan to an inland arterial road running from Price Canyon Road to Oak Park Boulevard, as well as references to the extension of Highland Drive and Ventana Road to the inland arterial road.

According to the impartial analysis in the voting pamphlet for Measure H,² Planning Area R consisted of three properties in Price Canyon, a total of about 890 acres and Measure H added another 250 acre parcel to Planning Area R, for a total of four parcels and approximately 1,100 acres. The initiative added a watershed and resource management (WRM) designation to these parcels, limited the minimum size to 40 acres, while limiting the permitted uses to dry farming, dry farming vineyards, grazing, animal raising, agricultural uses and a maximum of two residential units. The impartial analysis also states that these limitations would only apply if Planning Area R is annexed into the City.

In 2018, the City adopted a resolution to close the dead-end portions of Rancho Pismo Drive, Highland Drive, Ventana Drive, and Morgan Drive. Because the inland arterial and connections to the inland arterial roads were no longer included as part of the City's General Plan, the roads that currently dead end at the City limit, Rancho Pismo Drive, Highland Drive, Ventana Drive, and Morgan Drive were considered to be no longer needed for vehicular traffic into Planning Area R. The City determined that there are adequate road connection options from those parcels to existing roads within the County of San Luis Obispo that made a connection

² <https://www.slocounty.ca.gov/departments/clerk-recorder/forms-documents/elections-and-voting/past-elections/general-elections/2014-11-04-general/sample-ballot/sample-ballot-ballot-type-13-2014-11-04>, as accessed November 14, 2025.

with existing City streets unnecessary and that since the parcels were undeveloped, no existing through traffic would be impacted by the closure of the dead-end portions of the above-referenced streets.

The City is being sued by Spanish Vineyards, the owners of two parcels which border the City and are within its sphere of influence in Planning Area R. The parcel owners' lawsuit states that prior to Measure H, Ventana Drive and Highland Drive (which run parallel to each other) were to serve as collector streets to intersect the planned inland arterial road running from Price Canyon Road to Oak Park Boulevard. The lawsuit alleges, among other things, that the 2018 street closure was improper, and that Highland Drive and Morgan Drive provide access to one of their parcels, and Rancho Pismo Drive provides access to a second parcel. The lawsuit alleges that the closure was a pretext for preventing or restricting residential development of parcels outside the City's jurisdiction. Further, it alleges that Highland Drive, Rancho Pismo Drive, and Morgan Drive will be necessary for future use of the owner's two properties as they are developed under County law.

If the lawsuit is successful, the street closures may be set aside. Highland Drive would be the primary street to access the undeveloped lots. The parcel accessible from Highland Drive, if opened, is one lot with a proposed current project to develop two houses and an ADU. The parcel also has a shared road to other lots in the County. The City has no specific information on any current or planned development on those lots.³ If the plaintiff were to succeed, the streets would be reopened; however, since these roads are currently "dead ends," roads would need to be created on the other side and opened. The opened roads would allow for the current proposed development and any other unknown development of the other three parcels. If the plaintiff is not successful, there would be no change to the current conditions.

ANALYSIS

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests, distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103 and include: any real property in which the official has a direct or indirect interest worth more than \$ 2,000 or more. (Section 87103(b), Regulation 18702.2.)

³ Historically, it appears that Measure H precluded development projects such as a proposed development called Spanish Springs. According to the City's Fiscal Report regarding the Spanish Springs Project, Spanish Springs was designed to consist of hundreds of homes, a 150-room hotel, a 10,000-square-foot conference center and a nine-hole golf course across about 961 acres. (See Spanish Springs Specific Plan Fiscal Impact Analysis, City of Pismo Beach, p. vi. , <https://www.pismoeach.org/DocumentCenter/View/9258/Final-Spanish-Springs-SP-Fiscal-Report?bidId>, accessed November 14, 2025.) Additionally, the City's FAQs for that project state that one portion of the project "will need to be accessed from the upper portion of Highland Drive, from Rancho Pismo Drive to the site where the water tanks are located, because there is no other feasible way to get to this portion of the project." (Spanish Springs Project Documents | Pismo Beach, CA - Official Site Spanish-Springs-FAQ-Final-4-1-13, p. 7, accessed November 14, 2025.)

City Manager Jorge Garcia has a residence located approximately 1,400 feet from the road closure on Highland Drive. We consider whether it is reasonably foreseeable that the City's lawsuit decisions would have a material financial effect on his real property interest.

Foreseeability and Materiality

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. (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). Relevant to these facts, an official's real property is the "subject of a decision" where that decision: "[i]nvolves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the [official's] 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).) The facts indicate that decisions regarding the lawsuit will relate to the potential opening of the three roads and additional construction to provide access to the parcels/development at issue. However, there is no indication at this time that the official's parcel will receive a benefit or detriment disproportionate to other properties along these roads as a result.

Regarding financial interests not explicitly involved in a decision, as is present here, 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. (Regulation 18701(b).)

To determine whether a decision's financial effect on an official's interest in real property is material, we look to the standards in Regulation 18702.2. Generally, the financial effect of a governmental decision involving property 1,000 feet or more from the property line of the official's property on an official's residential parcel is presumed not to be material. (Regulation 18702.2(b).) However, this presumption may be rebutted with clear and convincing evidence that the governmental decision would have a substantial effect on the official's property. (*Ibid.*)

The City's lawsuit decisions concern the possible reopening of three dead-end roads in order to access two large undeveloped parcels in the Planning Area R. The current development plan known to the City is to develop one parcel with two homes and an ADU. However, the facts indicate that Measure H was an earlier attempt to preclude the development of Planning Area R, notwithstanding the fact that this area lies outside the City's boundaries. The lawsuit alleges that the City's road closures were also intended to prevent development in the area. One such development was the previously proposed Spanish Springs Project, which would have consisted of hundreds of homes, a large hotel, conference center, and golf course. Additionally, the facts

indicate that Planning Area R is currently undeveloped, approximately 1,100 acres, and is directly adjacent to City Manager Garcia's residential neighborhood

Because there are strong indications that the reopening of the roads in question is a potential first step in the future development of Planning Area R, which could lead to the development of additional lots that share the road with this parcel it is reasonably foreseeable that the lawsuit and any City decisions regarding the lawsuit has the potential to change or preserve the nature of the existing neighborhood. Highland Drive, which currently dead-ends 1,400 feet from the official's residence, would be the primary street for accessing the undeveloped lots. The changes to Highland Drive and its character would not be confined to the area where the road is closed. The known and potential future development of the large parcels will involve increased flow of traffic and construction that will flow directly past his residence. These facts rebut the presumption, and the potential for development accessed by Highland Drive would have a substantial effect on the official's interest in this residential property. Therefore, we advise that it is reasonably foreseeable that the lawsuit decisions will have a material financial effect on the official's residential parcel. City Manager Jorge Garcia has a disqualifying interest in the lawsuit decisions and may not take part in the discussions or decisions.

We note that settlement agreements for a lawsuit are contract decisions that are subject to Section 1090. This law generally prohibits public officers, while acting in their official capacities, or any body or board of which they are members, from making contracts in which the officer is financially interested. However, an official has a financial interest in a contract under Section 1090 only when there is a sufficient connection between the contract in question and the interest held by the official. We have previously advised that an official does not have a financial interest in a contract decision under Section 1090 solely because the official owns property near the project. (See, e.g., *Duke* Advice Letter, No. A-24-112 [the official did not have a financial interest in road project agreements under Section 1090 solely due to the proximity of his property to a road that was subject to the agreements involved]; and *Bordson* Advice Letter, No. A-17-059 [several officials did not have a financial interest in a contract under Section 1090, which involved frontage road improvements affecting the officials' real properties and business interests, simply because the officials' interests were adjacent to the project and would peripherally benefit along with numerous other properties and businesses along the route]. Therefore, Section 1090 would not apply to a settlement agreement in this matter solely due to the location of City Manager Jorge Garcia's residential property.

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

Sincerely,

Dave Bainbridge
General Counsel

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By: L. Karen Harrison
Senior Counsel, Legal Division

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