



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

February 6, 2026

Heidi van Tongeln
Interim City Attorney
City of Santa Monica
City Hall
1685 Main Street, Room 310
Santa Monica, California 90401

Re: Your Request for Formal Advice
Our File No. A-25-156

Dear Ms. van Tongeln:

This letter responds to your request for advice on behalf of Councilmember Dan Hall of the City of Santa Monica (the “City”), regarding the Political Reform Act (the “Act”) and Government Code Section 1090, et seq.¹ Please note that we are only providing advice under Section 1090 and the Act, not under other general conflict of interest prohibitions, such as common law conflict of interest.

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.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General’s Office and the Los Angeles County District Attorney’s Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice “is not admissible in a criminal proceeding against any individual other than the requestor.” (See Section 1097.1(c)(5).)

QUESTIONS

1. Does the Act prohibit Councilmember Hall from taking part in City decisions related to relocating the Santa Monica Shelter (“Samoshel”), currently located approximately 840 feet from the parcel line of his leased apartment?
2. Does Councilmember Hall have a financial interest in the City contract to relocate Samoshel, which is currently located approximately 840 feet from the parcel line of his leased apartment, which would prohibit his participation in the contract under Section 1090?

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.

CONCLUSIONS

1. The relocation of Samoshel would have a material financial effect on his leasehold interest in his apartment located approximately 840 feet from Samoshel because, based on the facts presented, it is reasonably foreseeable that the decision would impact his use and enjoyment of the property or the rental value of the property, within the parameters of the City's rent control law. Therefore, he is prohibited from taking part in City decisions related to relocating Samoshel under the Act.

2. Councilmember Hall may not participate in a City contract related to the relocation of Samoshel because he has a disqualifying conflict of interest under the Act. However, the City is not prohibited from entering into a contract for the relocation of Samoshel under Section 1090, because a leasehold interest in real property located in close proximity to the subject of a contract does not alone establish a financial interest in the contract under Section 1090.

FACTS AS PRESENTED BY REQUESTER

Samoshel is built on a city-owned parcel located at 505 Olympic Boulevard in the City's downtown. The People Concern (the "TPC") operates Samoshel. TPC is a non-profit social service agency that receives annual funding from the City for Samoshel through its Human Services Grants Program. Samoshel offers low-barrier shelter and wrap-around services in a congregate setting. The shelter aims to help unhoused individuals rebuild their lives and transition into permanent housing. Samoshel serves adults, young adults, teens, individuals with all disabilities, and those with chronic health illnesses. Samoshel's capacity is 60 beds. Adjacent to Samoshel, on the same parcel, is an access center also operated by TPC. The access center provides no-barrier services to the unhoused, including meals, bathing and laundry facilities, and medical care and referrals. The access center can service up to 200 people a day at peak. When it was built in 1994, Samoshel was not intended to be a permanent building. The City is considering relocating Samoshel outside of downtown and replacing the existing sheltering model with a "healing center" approach. The City has also begun engaging in discussions to relocate the services provided at the access center outside of the City's Downtown

Councilmember Hall leases an apartment in the City's downtown area. His apartment is subject to the City's rent control law, and his lease term is 12 months. Councilmember Hall has no plans to move out of his apartment, and the relocation of Samoshel is not anticipated to change the termination date of his lease. His apartment is located approximately 840 feet from the parcel line of Samoshel. The area between Councilmember's apartment and Samoshel is generally developed in accordance with the City's downtown land use pattern, designated for the greatest density and commercial activity. Several residential and commercial buildings are situated between Councilmember Hall's residence and the end of the street on which his apartment is located. The metro light rail tracks and the City's Big Blue Bus depot separate Councilmember Hall's street from Samoshel. Potential receiver sites for Samoshel are all located outside of downtown, and all are over 1,000 feet from Councilmember Hall's leased apartment.

ANALYSIS

The Act

Section 87100 prohibits any public official from making, participating in making, or otherwise using their 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 the official, the official’s immediate family, or specified interests, distinguishable from its effect on the public generally, including a financial effect on any real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103; Section 87103(b).) An “interest in real property” includes any leasehold “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.” (Section 82033.) Councilmember Hall has identified a real property interest in his leased apartment located in the City’s downtown area.

Foreseeability and Materiality Standards

Regulation 18701 provides the standard for determining the foreseeability of a financial effect on an economic interest, whether explicitly or not explicitly involved in the governmental decision. Under Regulation 18701(a), a “financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or subject of, a governmental decision before the official or the official’s agency.” “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.” (Regulation 18701(b).)

Regulation 18702.2 provides the standards for determining when a governmental decision’s reasonably foreseeable effect on an official’s real property interest is material. For a leasehold interest, Regulation 18702.2(c) provides that a reasonably foreseeable financial effect on an official’s leasehold interest is material if the decision will:

- (1) Change the termination date of the lease;
- (2) Increase or decrease the potential rental value of the property;
- (3) Change the official’s actual or legally allowable use of the property; or
- (4) Impact the official’s use and enjoyment of the property.

(Regulation 18702.2(c)(1)-(4).)

Here, Councilmember Hall’s leasehold financial interest is not a named party or a subject of the decision. The proposed decision by the City to relocate Samoshel outside the City’s downtown would leave the City-owned parcel where Samoshel is currently located, approximately 840 feet from the parcel line of Councilmember Hall’s leased apartment, vacant. The City could use that parcel for a more or less desirable project, or it may remain vacant. Additionally, individuals using the shelter and access center would likely relocate out of the area

if the shelter and access center move, which would likely impact Councilmember Hall's use and enjoyment of his apartment. Additionally, while the property is subject to the City's rent control law, the property's rental value may change notwithstanding the limitations of the rent control provisions. Based on the facts provided, it is reasonably foreseeable that the financial effect on Councilmember Hall's interest in his leased apartment is material, and he is prohibited from taking part in City decisions related to the relocation of Samoshel under the Act.²

Section 1090

Section 1090 applies to virtually all state and local officers, employees, and multimember bodies, whether elected or appointed, at both the state and local level, and generally prohibits a public officer or employee, while acting in his or her official capacity, from making or participating in the making of a contract in which the officer or employee is financially interested. Section 1090 is intended "not only to strike at actual impropriety, but also to strike at the appearance of impropriety." (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.)

Under Section 1090, a member of a public agency's governing body is conclusively presumed to participate in the making of a contract under the governing body's authority, irrespective of whether he or she actually participates in the making of that contract. (*Id.* at pp. 649-650.) Therefore, Section 1090 prohibits the entire body from entering into a contract in which a member of the body is financially interested, even if that member abstains from participating in the making of, or fully discloses his or her financial interest in, the contract. (*Ibid.*)

Section 1090 does not specifically define the term "financial interest." Case law and Attorney General opinions state that prohibited financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain. (*People v. Vallerga* (1977) 67 Cal.App.3d 847, 867, fn. 5; *Terry v. Bender* (1956) 143 Cal.App.2d 198, 207-208; 85 Ops.Cal.Atty.Gen. 34, 36-38 (2002); 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).) Officials are deemed to have a financial interest in a contract if they might profit from it in any way. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.)

Councilmember Hall is an elected member of the City's governing body and subject to Section 1090. He is presumed to participate in the making of any contract made under the City Council's authority. Councilmember Hall leases an apartment located approximately 840 feet from the City-owned parcel where Samoshel is currently located. The potential receiver sites for Samoshel are all outside the City's downtown and over 1,000 feet away from his apartment.

² A councilmember disqualified from a decision relating to an agenda item noticed for consideration at a public meeting subject to the Brown Act (Section 54950 et seq.) must not take part in the decision (Regulation 18707). Councilmember Hall's recusal from the decision must meet the following criteria: (1) Publicly identify the type of financial interest held by the official that gives rise to the conflict of interest, meaning identify the real property address, assessor's number, or identify that the property is the official's personal residence; (2) Publicly identify the financial interest immediately prior to consideration of the agenda item; and (3) Follow the recusal procedure, leave the room after the identification required by this regulation is made, and refrain from any participation in the decision (Regulation 18707(a)(1)-(3).)

Here, the issue is whether Councilmember Hall has a prohibitory financial interest in a contract to relocate Samoshel based on the proximity of his leased apartment to the current shelter site. The sole interest Councilmember Hall has identified in the potential contract is his leasehold interest in his apartment. We have previously advised that an official's leased real property located within close proximity to the subject of the contract does not alone establish a financial interest in a contract under Section 1090. (See *Ramirez* Advice Letter No. A-23-070 [The close proximity of the official's leased real property to the site of a development project without additional facts demonstrating an effect on the official's interest does not establish a financial interest under Section 1090.]) Barring additional facts to the contrary, Councilmember Hall would not have a prohibited financial interest in a contract regarding the relocation of Samoshel under Section 1090, but as discussed above, he does have a disqualifying financial interest in decisions under the Act. Although he cannot participate in decisions regarding Samoshel, Section 1090 does not prohibit the City from entering into a contract to relocate Samoshel.

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

Sincerely,

Dave Bainbridge
General Counsel

Margaret L. Roeckl-Navazio

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

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