



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

March 4, 2026

Yolanda Summerhill
Assistant City Attorney
100 Civic Center Drive
Newport Beach, CA 92660

**Re: Your Request for Advice
Our File No. A-26-006**

Dear Ms. Summerhill:

This letter responds to your request for advice on behalf of City of Newport Beach (“City”) Mayor Lauren Kleiman 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.

QUESTIONS

1. Does the Act prohibit Mayor Kleiman from taking part in governmental decisions relating to the Airport Area Specific Plan, where her spouse is a licensed real estate broker whose client has an ownership interest in five of the 234 parcels of real property located within the Airport 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. If Mayor Kleiman has a disqualifying financial interest in the decisions related to the Airport Area Specific Plan, does the public generally exception apply? If not, what are the recusal procedures, and can the decisions be segmented?

CONCLUSIONS

1. Yes. The Act prohibits Mayor Kleiman from taking part, in any manner, in governmental decisions relating to the Airport Area Specific Plan because it is reasonably foreseeable that the decisions will have a material financial effect on her spouse's sources of commission income as the decisions will involve the adoption of a development plan or criteria applying to the sources' real properties and will determine the zoning or rezoning of the properties.
2. No, the public generally exception would not apply to the facts presented here due to the unique effect of the decisions on Mayor Kleiman's source of income interest. Mayor Kleiman must follow the recusal procedures set forth in Section 87105(a) and Regulation 18707(a). To the extent the relevant decisions can be segmented in a manner satisfying Regulation 18706(a), discussed below, Mayor Kleiman may be permitted to take part in the governmental decisions. Please seek further advice, as needed.

FACTS AS PRESENTED BY REQUESTER

On January 13, 2026, the City Council considered approval of a Professional Services Agreement with Kimley-Horn and Associates, Inc. to prepare a regulatory Specific Plan for the Airport Area. The Specific Plan will include an evaluation of existing conditions, outreach, drafting the plan, and preparation of environmental analysis under the California Environmental Quality Act ("CEQA").

The Airport Area is located within District 3. The "Airport Area" is comprised of 234 parcels and is generally located southeast of the John Wayne Airport and bound by Campus Drive to the northeast and northwest, Jamboree Road to the southeast, and Bristol Street to the southwest.

A "specific plan" is a zoning document that implements the goals and policies of the General Plan. It contains detailed development standards and implementation measures for comprehensive and cohesive buildout of an area, including primary and supporting land uses, infrastructure, traffic, mobility, public amenities, parks, and long-term economic sustainability.

The City seeks to establish a comprehensive specific plan to guide the evolution of the Airport Area, which historically supported business, industry, and airport-related uses, to a

mixed-use district with housing, consistent with the City's planning framework and housing policies identified in prior planning documents including the following:

- The 2006 Newport Beach General Plan Land Use Element identified the Airport Area as one of the greatest opportunities in the City to evolve from a business park to a mixed-use district with integrated and cohesive residential villages.
- The 2006 General Plan's vision was to develop up to 2,200 dwelling units of which approximately 1,877 total units have either been entitled or are under construction. Although goals and policies were included for the orderly evolution of the Airport Area to a mixed-use district, the implementation has not occurred as envisioned.
- The City's 6th Cycle Housing Element, adopted in 2022, continued to identify the Airport Area as a key focus area to accommodate redevelopment of housing projects that help the City meet its Regional Housing Needs Assessment allocation. Planning documents identify opportunities for up to 2,577 new dwelling units within this area. Notably, these are in addition to the 2,200 units contemplated as part of the 2006 General Plan.

The Specific Plan would provide an opportunity to update and consolidate existing zoning districts in the Airport Area, including several planned communities that are outdated and no longer reflect the City's visions of the future, namely these are the Koll Center Planned Community and the Newport Place Planned Community. Together, these govern most of the Airport Area and provide little flexibility to property owners.

Mayor Kleiman was elected to represent District 6. Mayor Kleiman's spouse is a licensed real estate broker. Within the past two years, Mayor Kleiman's spouse has had one active listing and three closed transactions, all outside of Newport Beach, with a property owner who also owns or has an ownership interest in five of the 234 parcels within the Airport Area that will be subject to the Airport Area Specific Plan. The five parcels, several of which are "fully developed," are held by the property owner through Limited Liability Companies ("LLCs"). The property owner has a 50 percent or greater interest in some of the LLCs. Mayor Kleiman's spouse has served as broker to this property owner on several transactions dating back to 2010. Mayor Kleiman's spouse has received, or is expected to receive, at least \$1,000 or more from the property owner's LLCs within the 12 months prior to the time a decision is made concerning the Airport Area Specific Plan.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use their position to influence a government decision in which 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,² or on an interest specified in Section 87103, including:

- Any business entity in which the public official has a direct or indirect investment³ worth \$2,000 or more (Section 87103(a)) and any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- Any source of income⁴ aggregating \$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(c).)

A source of commission income⁵ for a real estate broker includes any person the broker represents in a transaction. (Regulation 18700.1(c)(2)(B).) The Act defines "person" to include an individual and limited liability company. (Section 82047.) In addition to having a source of income financial interest in any business entity, the official has a source of income financial interest in any individual owning a 50 percent or greater interest in that business entity; and any individual, regardless of the individual's ownership interest in that entity, who has the power to direct or cause the direction of the management and policies of the business entity. (Regulation 18700.1(a)(2)(A)-(B).)

Mayor Kleiman has a financial interest in any business entity in which her spouse does business as a real estate broker,⁶ and in any sources of commission income to her spouse, through her community property interest in her spouse's income. The facts provided state Mayor Kleiman's spouse has received, or is expected to receive, at least \$1,000 or more from the property owner's LLCs within the 12 months prior to the time a decision is made concerning the Airport Area Specific Plan. Additionally, the facts provided state the property owner has a 50 percent or greater interest in some of the LLCs. Thus, Mayor Kleiman has a source of income

² The Act defines "immediate family" to include the official's spouse. (Section 82029.)

³ For purposes of Section 87103, an "indirect investment or interest" includes any interest owned by the spouse of a public official. (Section 87103.)

⁴ "Income" includes any community property interest in a spouse's income. (Section 82030(a).)

⁵ "Commission income" means gross payments received by a public official as a result of services rendered as a broker, agent, or other salesperson for a specific sale or similar transaction. Commission income is received when it is paid or credited. (Regulation 18700.1(c)(1).)

⁶ The facts provided state Mayor Kleiman's spouse is a real estate broker; however, the facts do not state whether her spouse is a director, officer, partner, trustee, employee, or holds any position of management with a brokerage business entity. Due to our conclusion that Mayor Kleiman has a source of income financial interest in the property owner and the property owner's LLCs, we do not further analyze her financial interest in any business entity in which her spouse does business as a real estate broker.

financial interest in the property owner, under Regulation 18700.1(a)(2)(A), and in the property owner's LLCs, under Section 87103(c).

Foreseeability and Materiality

For a conflict of interest to exist, it must be reasonably foreseeable that the governmental decision would have a material financial effect on the public official's financial interests. (Regulation 18700(d)(1)-(2).)

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on a financial interest explicitly involved in a 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 financial interest is not explicitly involved in a decision the applicable standard for determining the foreseeability of a financial effect on a financial interest is found in Regulation 18701(b) which 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.

As noted above, Mayor Kleiman has a source of income financial interest in the property owner's LLCs. Regulation 18702.3 outlines when a financial effect of a governmental decision on a source of income is material. Relevant to these facts, the reasonably foreseeable financial effect of a governmental decision is material if the source is a business entity that will be financially affected under the materiality standards in Regulation 18702.1. (Regulation 18702.3(a)(4).)

Regulation 18702.1 provides that the reasonably foreseeable financial effect of a governmental decision on a business entity is material if 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)(4)(A)-(B).) Based on the facts provided, the property owner’s LLCs have an interest in five parcels of real property located within the Airport Area.

Regulation 18702.2(a)(1) and (2) provides that the reasonably foreseeable financial effect of a governmental decision on a parcel of real property is material whenever the governmental decision:

- Involves the adoption of or amendment to a development plan or criteria applying to the parcel. (Regulation 18702.2(a)(1).)
- Determines the parcel’s zoning or rezoning, other than a zoning decision applicable to all properties designated in that category; annexation or de-annexation; inclusion in or exclusion from any city, county, district, or local government subdivision or other boundaries, other than elective district boundaries. (Regulation 18702.2(a)(2).)

According to the City staff report provided with the request, the Airport Area Specific Plan will contain detailed development standards and implementation measures for the comprehensive and cohesive buildout of the Airport Area and will provide an opportunity to update and consolidate existing zoning districts in the Airport Area, which historically supported business, industry, and airport-related uses, in order to move to a mixed-use district with housing, consistent with the City’s planning framework.

Based on the facts provided, the five parcels of real property owned by the property owner’s LLCs are among the properties in the Airport Area that will be affected by the decisions related to the Airport Area Specific Plan. Since the decisions will include the adoption of, or amendment to, a development plan or criteria applying to the parcels and will determine the parcels’ zoning or rezoning, it is reasonably foreseeable that the decisions will have a material financial effect on the real property owned by Mayor Kleiman’s source of income financial interest. Thus, Mayor Kleiman may not take part in the decisions related to the Airport Area Specific Plan.⁷

⁷ Since we have determined the Act prohibits Mayor Kleiman from taking part in the governmental decisions related to the Airport Area Specific Plan since it is reasonably foreseeable that the decisions will have a material financial effect on the property owner’s LLCs (Mayor Kleiman’s source of income financial interest), we do not need to further analyze whether she is also prohibited based on her financial interest in the individual property owner as a source of income.

Public Generally Exception

Where a public official has a disqualifying financial interest in a decision, the official may take part in the decision if the effect on their financial interest is indistinguishable from its effect on the public generally. (Regulation 18700(d)(3).) A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on their financial interest is not unique compared to the effect on the significant segment. (Regulation 18703(a).)

A significant segment of the public is at least 25 percent of all: businesses; real properties; or individuals within the official's jurisdiction. (Regulation 18703(b)(1)(A)-(C).) However, we need not further consider whether a significant segment is affected because the facts indicate that the decision will have a "unique effect" on Mayor Kleiman's source of income financial interests, the property owner and the property owner's LLCs. Applicable to these facts, a "unique effect" on a public official's financial interest exists if a decision will have a disproportionate effect on the official's interests in business entities or real properties resulting from a cumulative effect of the official's multiple interests in similar entities or properties that is substantially greater than the effect on a single interest. (Regulation 18703(c)(3).)

Based on the facts provided, Mayor Kleiman's source of income financial interests own or has an ownership interest in five of the 234 parcels located within the Airport Area. The public generally exception will not be applicable under the facts presented due to the unique effect of the decisions on the source's multiple interests (five parcels) that is substantially greater than the effect on a single interest.

Disqualification and Recusal

Since Mayor Kleiman has a disqualifying financial interest in the governmental decisions related to the Airport Area Specific Plan, she is prohibited from making, participating in making, or in any way attempting to use her position to influence those decisions. Regulation 18704 defines "making, participating in making, and attempting to use their position to influence" a governmental decision as follows:

- *Making a Decision:* A public official makes a governmental decision if 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. (Regulation 18704(a).)
- *Participating in a 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. (Regulation 18704(b).)

- *Using Official Position to Attempt to Influence a Decision.* A public official uses an official position to influence a governmental decision if the official: 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 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)(1)-(2).)

In response to your inquiry, Mayor Kleiman must follow the recusal procedures set forth in Section 87105(a) and Regulation 18707(a). Specifically, Mayor Kleiman must, prior to consideration of the item, do all of the following:

- Publicly identify the financial interest(s) that gives rise to the conflict of interest in detail sufficient to be understood by the public. (Section 87105(a)(1).)
- Recuse from discussing and voting on the matter. (Section 87105(a)(2).)
- Leave the room until after the discussion, vote, and any other disposition of the matter is concluded. (Section 87105(a)(3).)

Segmentation

Finally, you ask whether the decisions related to the Airport Area Specific Plan can be segmented to allow for the official's participation. We have advised that under certain circumstances, some large, complex decisions may be divided into separate decisions so that even if an official has a disqualifying financial interest in one component of the series of decisions, they may still participate as to the other components in which they have no disqualifying financial interest. (Regulation 18706(a).) Regulation 18706(a) requires all of the following in order to segment decisions:

- (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated⁸ to the decision in which the official has a disqualifying financial interest;

⁸ For purposes of Regulation 18706, decisions are "inextricably interrelated" when the result of one decision will effectively determine, affirm, nullify, or alter the result of another decision. (Regulation 18706(b).)

(2) The decision in which the official has a financial interest is segmented from the other decisions;

(3) The decision in which the official has a financial interest is considered first and a final decision is reached by the agency without the disqualified official's participation in any way; and

(4) Once the decision in which the official has a financial interest has been made, the disqualified public official's participation does not result in a reopening of, or otherwise financially affect, the decision from which the official was disqualified.

To the extent that the decisions related to the Airport Area Specific Plan can be segmented in a manner satisfying the above criteria and the decisions that would have a material financial effect on the property owner's LLCs are final, Mayor Kleiman may be permitted, under Regulation 18706(a), to take part in the remaining governmental decisions. If you need additional assistance regarding the segmentation of any specific decision, it is advisable you seek further advice prior to Mayor Kleiman taking part in the decision.

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

Sincerely,

Dave Bainbridge
General Counsel

JennaRinehart

By: Jenna C. Rinehart
Senior Counsel, Legal Division

JR:aja