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

April 28, 2026

Juan Morán
City of Calexico
c/o City Clerk's Office
608 Heber Avenue
Calexico, CA 92231

Re: Your Request for Advice
Our File No. A-26-035

Dear Mr. Morán:

This letter responds to your request for advice 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, do you have a financial interest in your parents' home, where you currently reside, as a result of being named a beneficiary in their revocable living trust that would result in a conflict of interest in decisions related to the creation of a variance to resolve a boundary-condition issue impacting several properties, including your parents' property?

CONCLUSION

A beneficiary of a trust does not have an economic interest in the trust's real property if the official does not currently receive income from the trust and does not have an irrevocable future right to receive income or principal. Occupancy alone does not give rise to an interest in real property. Barring any other interest in the decision, you may make, participate in making or

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[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.

use your official position to influence City decisions regarding the boundary issue and variance without violating the Act's conflict-of-interest provisions.

FACTS AS PRESENTED BY REQUESTER

You were recently appointed and sworn in on March 2, 2026, as a commissioner on the City of Calexico's Measure H Oversight Committee. Prior to your appointment, and in your private capacity, you began advocating for a resolution of a long-standing boundary-condition issue affecting several residential properties along Vega Street, Elena Place, and Elena Drive. One of the affected properties is your parents' home, which is your current residence.

Following significant rain associated with Tropical Storm Mario, residents, including your family, documented worsening boundary-condition issues behind your homes, adjacent to the commercial mortuary property. The storm highlighted existing deterioration and raised concerns related to safety, privacy, and the condition of the existing boundary.

You also state that you began looking into the issue as a private resident, prior to your appointment to the Measure H Committee. Prior to your appointment, you submitted a petition on behalf of multiple affected households requesting that the City evaluate the boundary conditions and consider appropriate remedies, including potential buffering or other improvements, as well as speaking at City Council meetings, meeting with City staff, and requesting that the City explore available administrative and discretionary tools. However, you have not pursued the issue since your appointment to the Measure H Committee.

In a follow-up email, you provided additional details concerning the boundary issue. The boundary condition issue involves a longstanding physical discrepancy along the shared boundary between several residential properties on Vega Street, Elena Place, and Elena Drive, and the adjacent commercial mortuary parcel. Because the mortuary is a legally nonconforming use, the City cannot enforce the current ordinance requiring a six-foot masonry wall and landscaped buffer.

Originally, several residents were exploring the possibility of constructing a uniform masonry wall, but that option could not proceed due to the parcel's nonconforming status. You would like to request a City-initiated general variance that would apply equally to all affected households. Such a variance could potentially allow residents to construct a seven-foot fence, at their discretion, without additional cost to the homeowners, in recognition of the sensitive nature of the adjacent business. However, you state that you have not pursued this issue since you were appointed to the Measure H Committee.

One of the properties in question is held in your parents' revocable living trust. The deed is recorded in the trust's name. You are not an owner, co-owner, or beneficiary with any present beneficial interest in the property. You are listed only as a successor trustee, which provides no current authority, control, or financial interest while the Settlors are living and serving as Co-Trustees. You reside in the home with your parents. You do not pay rent, are not a tenant, do not have a lease, and have no financial interest in the home. Your parents, as the Settlors, retain

full control of the trust and the exclusive power to revoke or amend it at any time. In a follow-up email, you also confirmed that you do not receive any income or distributions from the trust.

ANALYSIS

Certain state and local public officials must file periodic Statements of Economic Interests ("SEIs") disclosing pertinent economic interests that may be affected during the performance of their official duties. (Sections 87200-87350.) Public officials who are required to file SEIs are either identified in Section 87200 ("statutory filers") or designated in an agency's conflict-of-interest code ("designated employees" or "code filers"). (See Sections 87300 and 87302.)

The threshold question here is whether the Measure H Committee members meet the definition of a "public official" under the Act. Section 82048 defines a "public official" as every member, officer, employee, or consultant of a state or local government agency. The term "member" is further defined by Regulation 18700(c)(2), which states:

> (2) 'Member' does not include an individual who performs duties as part of a committee, board, commission, group, or other body that does not have decisionmaking authority.
>
> (A) A committee, board, commission, group, or other body possesses decisionmaking authority whenever:
>
> (i) It may make a final governmental decision;
>
> (ii) It may compel or prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto that may not be overridden; or
>
> (iii) It makes substantive recommendations and, over an extended period of time, those recommendations have been regularly approved without significant amendment or modification by another public official or governmental agency.
>
> (B) A committee, board, commission, group, or other body does not possess decisionmaking authority if it is formed or engaged for the sole purpose of researching a topic and preparing a report or recommendation for submission to another public official or governmental agency that has final decisionmaking authority, and does not meet any of the criteria set forth in subsection (2)(A)(iii).

Thus, if the Measure H Committee has decisionmaking authority under any of the above tests, its members would be considered public officials and are subject to the Act's conflict-of-interest provisions. Alternatively, if the Measure H Committee does not have decisionmaking authority, its members are not considered public officials under the Act and are not subject to the Act's conflict-of-interest provisions. However, in light of the conclusion below, it is not necessary to determine whether the Measure H Committee possesses any decisionmaking authority.

Interests in Trust's Real Property

The Act's conflict of interest provisions prohibit 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. (Section 87100.) 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, distinguishable from its effect on the public generally, on one or more of the public official's interests. (Section 87103; Regulation 18700(a).) 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 interest in real property in which the public official has a direct or indirect interest worth $2,000 or more.

The Act defines an "interest in real property" to include "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." (Section 82033.) Regulation 18234 provides that an official has a financial 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. However, an official has an interest in a trust under Regulation 18234, in pertinent part, only if the official is:

(2) A beneficiary and:

(A) Presently receives income; or

(B) Has an irrevocable future right to receive income or principal.

Accordingly, we must determine whether you have an interest in the property under the provisions of Regulation 18234. You have indicated that you are a beneficiary of the trust. As stated above, an official has an interest in property held by a trust if the official is a beneficiary and either presently receives income or has an irrevocable future right to receive income or principal. (Regulation 18234(c)(2).) You state that the trust is revocable and that you do not receive any distribution from the trust. Based on the facts presented, you do not have a financial interest in your parents' home for the purpose of the Act. Because you do not have an economic interest in real property, and barring any other interest in the decision, you may make, participate in making or use your official position to influence City decisions regarding the boundary issue and variance without violating the Act's conflict-of-interest provisions.

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

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

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By: Zachary W. Norton
Senior Counsel, Legal Division