



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

July 10, 2026

Christine Dietrick
City Attorney
900 Palm Street
San Luis Obispo, CA 93401-3249

**Re: Your Request for Advice
Our File No. A-26-037**

Dear Ms. Dietrick:

This letter responds to your request for advice on behalf of City of San Luis Obispo (“City”) Mayor Erica Stewart 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. Further, the Commission is not authorized and does not provide advice concerning past conduct. (Regulation 18329(b)(6)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to future actions.

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.

QUESTION

May Mayor Stewart take part in City Council decisions relating to a sewer lateral program where her spouse, Shay Stewart, is an independent real estate agent with Comet Realty, a real estate brokerage operating in the City?²

CONCLUSION

Yes, based on the facts presented, Mayor Stewart may take part in the decisions related to a sewer lateral program in the City because it is not reasonably foreseeable that the decisions would have a material financial effect on any of Mayor Stewart's financial interests as inspections of sewer laterals are already required upon the sale of property and the associated costs of replacing laterals are allocated between the seller and the buyer.

FACTS AS PRESENTED BY REQUESTER

Mayor Stewart has served as Mayor of the City since 2021 and her current term ends in 2026. Mayor Stewart's spouse, Shay Stewart, is a realtor and property manager with Comet Realty, a real estate brokerage operating in the City.

Comet Realty serves as the property manager for over 200 rental properties within the City. Comet Realty does not own any properties within the City. Shay Stewart is an independent real estate agent who represents both buyers and sellers of properties within the City and negotiates his commission with his clients. He does not have an ownership interest in Comet Realty, is not paid a salary from Comet Realty, and does not serve as a director, officer, partner, trustee, employee, or hold any position of management with Comet Realty. Instead, he is an independent contractor and reports his payments for tax purposes on Form 1099. He pays 40 percent of his commissions to Comet Realty as the brokerage of record. Other than managing properties solely outside of the City, his commission income from Comet Realty is his sole income. Shay Stewart has received, or is expected to receive, at least \$1,000 or more from Comet Realty within the 12 months prior to the time a governmental decision is made concerning the sewer lateral program.

² We note that your request for advice additionally sought assistance regarding Mayor Stewart's involvement in decisions related to the imposition of a rental registry. However, the facts provided indicate Mayor Stewart had previously participated in related decisions regarding the registry. Because the Commission does not issue advice relating to past conduct, we are unable to advise you regarding this question and we express no opinion on Mayor Stewart's involvement in previous directions provided by the City Council to staff, including the direction provided to staff to further study a rental registry program. We further note that the determination that the question relates to past conduct does not reflect any conclusion of past misconduct.

Since January 1, 2020, the City has required inspections of private sewer laterals upon sale of the property, subject to specified exceptions that are not relevant to the question posed here. The cost of this inspection is around \$350. On April 21, 2026, staff introduced an ordinance that would require replacement of laterals that, upon inspection, are rated a “poor” or “failed” condition. You confirmed Mayor Stewart recused from taking part in this matter. However, more decisions regarding the sewer lateral program are expected to come before the City Council in the future. Under the proposed ordinance, the cost of replacement would be the financial responsibility of the seller but could be shifted by private agreement to the purchaser. The City would not be involved in any such private agreement regarding cost allocation. The anticipated cost of the replacement varies based on property characteristics, but average prices are around \$13,000 for most properties.

Mayor Stewart and Shay Stewart do not have any information as to whether the property of any current or prospective client of Shay Stewart’s would be affected by the proposed replacement upon sale program because neither know the condition of any current or prospective clients’ laterals at this time. Also, neither Mayor Stewart nor Shay Stewart can speculate as to whether a property being subject to the proposed sewer lateral program would have any impact on his commission because it is not known whether or how such a requirement would be addressed in a particular sales transaction either as to sales price or cost allocation negotiations between seller and buyer.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use the official’s 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 an interest specified in Section 87103,³ including:

- Any business entity⁴ in which the public official has a direct or indirect investment 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).)

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

⁴ The Act defines “business entity” to mean any organization or enterprise operated for profit including a sole proprietorship. (Section 82005.)

- Any source of income, including commission income, 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).) In the case of community property interests in a spouse's income, the threshold would be \$1,000.⁵
- An interest in the official's personal finances and those of the official's immediate family.⁶ (Section 87103.)

Under Regulation 18700.1(c)(1), "commission income" means gross payments received by a public official for services rendered as a broker, agent, or other salesperson for a specific sale or similar transaction. The sources of commission income in a specific sale or similar transaction for a real estate agent includes the broker and brokerage business entity under whose auspices the agent works; the person the agent represents in the transaction; and any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker. (Regulation 18700.1(c)(2)(C).)

As for clients who have current listings with the Mayor's spouse, those clients are not considered sources of income under Section 87103(c). While "income" under the Act includes promised income,⁷ we have consistently advised that merely having a listing on a property does not constitute promised income because a listing is too speculative to rise to the level of promised income. (*Houston* Advice Letter, No. A-09-033; *Confer* Advice Letter, No. A-93-147; *Felts* Advice Letter, No. A-85-130.) However, once the sale is pending, the client is deemed to be a source of promised income under Section 87103(c). (*Id.*) Additionally, we have consistently advised that while a single listing does not give rise to a strong expectation of eventual commission income, several listings may, together, give rise to the strong prospect of future income from a client. (*Id.*) Thus, if a client has multiple listings with the agent, the client is deemed to be a source of promised income under Section 87103(c).

Based on facts provided, Mayor Stewart has an indirect source of income financial interest in Comet Realty, the brokerage business entity under whose auspices her spouse works; in clients her spouse represents in a transaction from whom her spouse has received income or promised income, including those clients who have multiple listings or who have a sale pending;

⁵ The Act defines "income" to include any community property interest in the income of a spouse. (Section 82030.)

⁶ The Act defines "immediate family" to include the official's spouse. (Section 82029.)

⁷ Regulation 18700(c)(6)(C) provides that income is "promised to" the public official if the official has a legally enforceable right to the promised income.

and, in any person who receives a finder's or other referral fee for referring a party to the transaction to the broker, or who makes a referral pursuant to a contract with the broker. No facts are presented regarding sources of commission income other than Comet Realty and clients her spouse has represented in real estate transactions and has received income or promised income. As such, the analysis is limited to consideration of the conflict-of-interest provisions as applied to the identified sources of income including clients of Mayor Stewart's spouse who may be a source of commission income or promised commission income. To the extent Mayor Stewart has an interest in any other person including any other interest in a client of her spouse's business, she may want to seek further advice identifying the person.

You confirmed, as an independent contractor, Shay Stewart does not have an investment or ownership interest in Comet Realty. Additionally, he does not serve as a director, officer, partner, trustee, employee, or hold any position of management with Comet Realty. Thus, notwithstanding Mayor Stewart's interest in Comet Realty as a source of income, she does not have a separate business entity interest in Comet Realty. However, since Shay Stewart works as an independent contractor, his independent contracting business constitutes a business entity under the Act. As such, Mayor Stewart has an indirect interest in that business entity. Additionally, Mayor Stewart has an economic interest in her personal finances and those of her spouse.⁸

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

⁸ If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity, any related effect on the official's personal finances is not considered separately. (Regulation 18702.5(c).)

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, as the facts indicate here, 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.

Regulation 18701(b) also provides factors that should be considered in determining whether a governmental decision will have a reasonably foreseeable financial effect on a financial interest not explicitly involved in a decision. Among those factors, under Regulation 18701(b)(1), is "[t]he extent to which the occurrence of the financial effect is contingent upon intervening events, not including future governmental decisions by the official's agency, or any other agency appointed by or subject to the budgetary control of the official's agency."

As noted above, Mayor Stewart has a financial interest in Comet Realty, her spouse's independent contracting business, and clients represented by her spouse in real estate transactions.

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 an individual and 1) the decision may affect the individual's income, investments, or other assets or liabilities by \$ 1,000 or more; or 2) the official knows or has reason to know that the individual has an interest in a business entity that will be financially affected under the materiality standards in Regulation 18702.1; or 3) the official knows or has reason to know that the individual has an interest in real property and: the property is a named party in, or the subject of, the decision as defined in 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 18702.3(a)(2).) Additionally, 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: 1) the business entity is explicitly involved in the decision (Regulation 18702.1(a)(1)); 2) the decision may result in an increase or

decrease of the entity's annual gross receipts, or the value of its assets or liabilities, in an amount equal to or greater than \$1,000,000, or five percent of its annual gross receipts and the increase or decrease is equal to or greater than \$10,000 (Regulation 18702.1(a)(2)); 3) the decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than \$250,000, or one percent of its annual gross receipts and the change in expenses is equal to or greater than \$2,500 (Regulation 18702.1(a)(3)); or 4) 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)).

The facts state the City has required inspections of private sewer laterals upon sale of the property since January 1, 2020. The decisions at issue relate to a proposed ordinance that would require property owners to replace the sewer lateral in the property if the property rated a "poor" or "failed" condition from the inspection. The average cost to replace a sewer lateral in a property is around \$13,000 for most properties. The cost of replacing a sewer lateral would be the responsibility of the seller but this cost could be shifted to the buyer by private agreement. Additionally, you confirmed Mayor Stewart and her spouse do not have any information as to whether the property of any current or prospective client of her spouse's would be affected by the proposed replacement upon sale program because her spouse does not know the condition of any current or prospective clients' laterals at this time.

Nothing in the facts suggests a realistic possibility that the decisions related to a sewer lateral program would have a material financial effect on Comet Realty, Shay Stewart's independent contracting business, or clients of Shay Stewart.

Comet Realty. Since the costs of replacing a sewer lateral are allocated between the seller and the buyer of the property, it is not reasonably foreseeable that the requirement to replace a sewer lateral on a property that rates "poor" or "failed" during the inspection would financially affect the real estate brokerage firm involved in the sale of the property.

Shay Stewart's Independent Contracting Business. Similarly, it is not reasonably foreseeable that the need to replace a sewer lateral on a property would financially affect the realtor or the realtor's business involved in the sale of the property as these costs are allocated between the seller and the buyer. Additionally, since Mayor Stewart and Shay Stewart do not know the condition of any current or prospective clients' laterals, it is not reasonably foreseeable that the decisions related to the proposed ordinance would have a financial effect on any of Mayor Stewart's financial interests, including any interest in Shay Stewart's independent contracting business and his clients who are a source of income.

Clients of Shay Stewart. Since the City has required inspections of sewer laterals since at least 2020, sellers and buyers have been taking the cost of replacing a sewer lateral rated “poor” or “failed” during inspection into consideration. The proposed ordinance would simply require a “poor” or “failed” sewer lateral to be replaced prior to the sale of the property. So, it is not reasonably foreseeable that the decisions regarding the potential ordinance would have a financial effect on the buyer or the seller that had not been anticipated prior to the potential ordinance as these costs have always been considered in the transaction. Additionally, any financial effect on clients of Shay Stewart would be contingent on the occurrence of intervening events outside the City Council’s control, including the results of the inspection and the negotiations between the buyer and seller as to who would incur the cost of replacing the sewer lateral if it were to fail the inspection.

Accordingly, the Act does not prohibit Mayor Stewart from taking part in the decisions related to a sewer lateral program for properties sold in the City based on the economic interests analyzed above. However, we must caution that, with respect to clients of Mayor Stewart’s spouse, this conclusion is limited to clients from which her spouse received income or promised income solely as their real estate agent. To the extent Mayor Stewart or her spouse has any other interest in a client of the independent contracting business, she should seek additional advice.

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