



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

June 25, 2026

Osa Wolff
Orinda City Attorney
550 California Street, Suite 1200
San Francisco, CA 94104

**Re: Your Request for Advice
Our File No. A-26-064**

Dear Ms. Wolff:

This letter responds to your request for advice on behalf of Orinda (the “City”) Councilmembers Darlene Gee, Cara Hoxie, and Janet Riley regarding 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, may City Councilmembers Gee, Hoxie, and Riley take part in a governmental decision regarding the general use permit application submitted by the Orinda Country Club (the “Club”), where Councilmembers Gee and Hoxie have regular memberships and Councilmember Riley has a social membership?

CONCLUSION

Yes, under the Act, Councilmembers Gee, Hoxie, and Riley are not prohibited from taking part in a governmental decision related to the general use application submitted by the Club because it is not reasonably foreseeable that the Club’s proposed changes put forth in the application will have a material financial effect on their respective interests in the Club. Based on the facts provided, any financial effect from a decision regarding a permit to convert tennis

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.

courts into pickleball courts or allow a part-time driving range on an existing golf course will be nominal, inconsequential, or insignificant.

FACTS AS PRESENTED BY REQUESTER

The City is a 12.8-square-mile, semi-rural incorporated community with a population of approximately 19,500 people, located in Contra Costa County. The City Council is comprised of five members, of whom three constitute a quorum.

The Club is a nonprofit mutual benefit association founded in 1924 and sits on 250 acres. Public records indicate that the Club is in good financial standing. In fiscal year 2024, the Club reported net assets of \$26,143,777, and there is no indication that the Club will dissolve. Members of the Club have access to a golf course, tennis courts, and other amenities. The Club has eight tennis courts in total, split into an “upper” and “lower” segment. There are five courts in the “upper” and three in the “lower” segment. The Club has submitted a general use application to the City to approve transforming one or more of the “lower” tennis courts into pickleball courts and approval of a part-time driving range on portions of the 16th and 17th fairway (the “Project”). The Club has operated the pickleball courts and driving range informally, without a permit, and wishes to formalize these uses. No additional landscaping or construction is contemplated for the Project.

The Club has a tiered membership. Each tier has different access, privileges, and fees. The Club has a maximum number of 560 “regular group” members and 275 “social group” members. Members of the “regular group” and “social group” must apply for and be accepted into the Club. Both groups pay an upfront membership fee called an “initiation fee” and monthly fees set by the Club’s Board of Directors (the “Board”). Only “regular group” memberships may be transferred. Upon resignation from the Club, “regular group” memberships are transferred to an incoming member, and the resigning member gets the incoming member’s “initiation fee” less the “transfer fee,” as determined by the Board. Also, both groups of members have a vote in the Club’s elections for the Board and, in the event of dissolution, a pro rata share of the Club’s assets and real estate. “Regular group” members get one full vote and one full share of assets upon dissolution, whereas “social group” members get a one-quarter vote in elections and one-quarter of a share of assets in the event of dissolution.

Councilmembers Gee and Hoxie have “regular group” memberships, and Councilmember Riley has a “social group” membership. None of the Councilmembers serve on the Club’s Board.

ANALYSIS

The Act

Section 87100 prohibits any public official from making, participating in making, or using his or her 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 one or more of the public official's interests as set forth in Section 87103. The interests relevant to the facts here are:

- A business entity in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a)); or is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- Real property in which the official has a direct or indirect interest of \$2,000 or more. (Section 87103(b), Regulation 18703.2.)
- The official's personal finances, including those of his or her immediate family. (Section 87103.)²

I. Real Property Interest

We first address whether Councilmembers Gee's, Hoxie's, and Riley's interests in the Club constitute real property. Section 82033 defines an "interest in real property" to include:

[A]ny leasehold, beneficial or ownership interest, or an option to acquire such an interest in real property 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. Interests in real property of an individual includes 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.

In the *Doering* Advice Letter, No. A-12-068, we found that a proprietary membership in a club, a nonprofit corporation registered as a 501(c)(7) non-profit mutual benefit organization, was a real property interest. We said that the proprietary members had an equitable right of ownership to the club's real and personal property because they were entitled to a proportionate share of the club's assets upon dissolution. Conversely, in *Ghirelli*, the public official's social membership did not include an interest in the club's assets upon dissolution, and we therefore concluded that the official did not have a real property interest. (See *Ghirelli*, Advice Letter, No. A-25-114.)

In this case, Councilmembers Gee, Hoxie, and Riley have a stake in the Club's assets upon dissolution. As "regular group" members, Councilmembers Gee and Hoxie are entitled to one share of assets. As a "social group" member, Councilmember Riley is entitled to one-quarter of a share. Consequently, each Councilmember's membership constitutes a real property interest.

² If the decision would have a reasonably foreseeable financial effect on the official's financial interest in a business entity or real property, any related effect on the official's personal finances is not considered separately. The financial effect on the business entity or real property is analyzed only under the respective materiality standards in Regulations 18702.1 and 18702.2. (Regulation 18702.5(c).)

II. Investment in a Business Entity.

The Act defines “Investment” to mean:

[A]ny financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, indirectly, or beneficially by the public official, or other filer, or that person’s immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. An asset shall not be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000).

(Section 82034.)

The Commission has determined that club memberships can be an investment in a business entity. (*See Orr* Advice Letter, No. A-17-249 [where we previously concluded Councilmember Gee’s membership in the Club is a real property interest, and that the transferable membership is an investment in the Club as a business entity.]; *Hentschke* Advice Letter, No. I-91-445; *Strauss* Advice Letter, No. I-90-654.) The Act defines “business entity” as any organization or enterprise operated for profit. (Section 82005.)

Here, the “regular group” membership held by both Councilmembers Gee and Hoxie is transferable. The “proprietary interest” of a “regular group” member is transferred to the incoming member when a “regular group” member resigns from the Club, and the resigning member receives the new member’s “initiation fee” less the “transfer fee,” as set by the Board. Councilmember Riley’s “social group” membership is not transferable. Consequently, Councilmembers Gee and Hoxie have an interest in the Club as a business entity, but Councilmember Riley does not.

III. Foreseeability and Materiality.

Generally, a financial effect is presumed to be reasonably foreseeable if the interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. (Regulation 18701(a).) If the interest is “not explicitly involved” in the decision, a financial effect is reasonably foreseeable if the effect can be recognized as a realistic possibility, more than hypothetical or theoretical. A financial effect need not be likely to be considered reasonably foreseeable. (Regulation 18701(b).)

Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material, depending on the nature of the interest. (Regulation 18702.) An interest in real property, other than a leasehold interest, is material when the governmental decision involves “the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that

changes the permitted use of, or restrictions placed on, the property.” (Regulation 18702.1(a)(5).) The reasonably foreseeable financial effect on a public official’s interest in a business entity is material if the entity is explicitly involved in the decision, meaning the “entity is a named party in, or the subject of, the decision,” and the entity files “an application, claim, appeal, or other request for action concerning the entity with the official’s agency. (Regulation 18702.1(a)(1)(A).)

Nonetheless, under Regulation 18702(b), “the financial effect of a governmental decision is not material if it is nominal, inconsequential, or insignificant.”

The Club submitted a general use permit application to the City to implement the Project, which would formalize the Club’s existing practice of operating a part-time driving range and converting at least one tennis court to a pickleball court. These changes do not require additional landscaping or construction. Considering the limited nature of the permit requested, that the changes in use have already been implemented, and that the changes in use are minor and require no landscaping or construction, the financial effect of the Project on the Councilmembers’ memberships may fairly be characterized as nominal, inconsequential, or insignificant under Regulation 18702(b). Accordingly, the financial effect of a decision regarding the Club’s general use application for the Project on the Councilmembers’ respective interests is not material, and the Councilmembers are not prohibited from taking part in the decision.

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
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