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

July 20, 2026

Mark Vanni
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City of Palo Alto
250 Hamilton Aveune, 8th Floor
Palo Alto, CA 94301

Re: Your Request for Advice
Our File No. A-26-067

Dear Mr. Vanni:

This letter responds to your request for advice on behalf of the City of Palo Alto ("City") Councilmember Keith Reckdahl 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. Under the Act, may Councilmember Reckdahl take part in decisions related to an ordinance to adjust development standards for properties located within defined proximity zones surrounding certain transit stations subject to SB 79, given that Councilmember Reckdahl's primary residence is located within 500 feet of one of the zones?

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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.

2. If Councilmember Reckdahl has a disqualifying financial interest in the relevant decisions, may the decisions be segmented?

CONCLUSIONS

1. No, Councilmember Reckdahl has a disqualifying financial interest in the relevant decisions and the Act prohibits him from taking part in the decisions because his real property is within 500 feet of the zone area surrounding the San Antonio Station and the facts provided do not establish clear and convincing evidence that the decisions would have no measurable impact on his real property.

2. To the extent the relevant decisions can be segmented in a manner satisfying Regulation 18706(a), Councilmember Reckdahl may be permitted to take part in the remaining decisions not involving those zone areas within 1,000 feet of his real property, so long as the decisions are not inextricably interrelated to the decisions in which he has a disqualifying financial interest and there is no clear and convincing evidence that the decisions would have a substantial effect on his real property.

FACTS AS PRESENTED BY REQUESTER

SB 79 is a state transit-oriented development law that requires cities to permit increased residential and mixed-use density within defined proximity zones surrounding certain transit stations. SB 79 also affords cities discretion to allocate density among multiple transit zones within their jurisdictions. The City Council's anticipated action relates to both the ministerial implementation of SB 79 standards at the Caltrain station areas and, to the extent applicable, any exercise of this density-allocation discretion. The City Council's actions related to SB 79 do not involve approval of any specific development project, conditional use permit, variance, or similar discretionary land use entitlement. Instead, the City Council will consider an ordinance to adjust development standards for properties within defined proximity zones surrounding certain transit stations subject to SB 79.

The SB 79 upzoning applies exclusively to parcels within the defined station area zones and does not alter the zoning designation, permitted uses, development standards, or any other legal characteristic of properties located outside the zones. SB 79 does not approve any specific development project, rather it establishes a by-right permitting framework that a developer must independently elect to use, finance, obtain ministerial permits for, and construct – a multi-step chain of contingent future events. No development application has been filed for any parcel near Councilmember Reckdahl's property.

A substantial majority of the San Antonio Station zone area lies within the City of Mountain Vew, where proximity to the station itself creates the strongest development incentives

and where the highest allowable densities under SB 79 apply. The City encompasses only a segment of the zone, the greatest development pressure and associated impacts would be concentrated near the station core.

Caltrain Station Areas Subject to SB 79

The San Antonio Station is close to the boundary between the City of Mountain View and the City. Most of the SB 79 upzoning zone associated with the San Antonio Station area lies within Mountain View's jurisdiction. The City's portion of the San Antonio Station area zone encompasses several hundred parcels.

The University Avenue Station is located in the City's downtown core, and the California Avenue Station is located in a commercial corridor in a different part of the City. Both stations' zones are over 1,000 feet from the Councilmember's property. Both stations qualify as Tier 1 transit stops under SB 79 and are subject to the same by-right upzoning framework and density-allocation applicable to the San Antonio Station.

The City Council's SB 79 implementation process encompasses all three station area zones. The by-right upzoning established by SB 79 operates exclusively within those zone boundaries; it does not alter the permitted uses, zoning designations, or development potential of properties located outside the zone.

Councilmember Reckdahl's Real Property

Councilmember Reckdahl owns and resides in real property located between 450 and 500 feet from the San Antonio Station zone's boundaries. The precise distance is not known at this time because maps published by the Metropolitan Transportation Commission showing SB 79's boundaries are only preliminary drafts at this time. Of the parcels subject to upzoning within the City's portion of the zone, approximately two are within 500 feet of Councilmember Reckdahl's property and approximately twelve are within 500 feet and 1,000 feet of his property.

The parcels within the station area zone that may fall within 500 feet of Councilmember Reckdahl's property are primarily developed as single-family residential uses. These properties are among the least likely candidates for transit-oriented redevelopment under SB 79's upzoning framework. The theoretical availability of increased density does not necessarily translate to a reasonably foreseeable development impact for these properties.

ANALYSIS

Section 87100 of the Act 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 disqualified from a governmental decision based on a conflict of interest is not merely prohibited from voting on the item. The official is also prohibited from making, participating in making, or in any way attempting to use their official position to influence the governmental decision in which they know or have reason to know they have a financial interest. (Section 87100.) 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).)

Financial Interests

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, including:

- Any business entity[2] 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).)

- Any real property in which the public official has a direct or indirect interest worth $2,000 or more. (Section 87103(b).)

- Any source of 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).)

- Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating $630 or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. (Section 87103(e) and Regulation 18940.2.)

- An interest in the official's personal finances and those of the official's immediate family. (Section 87103.)

Based on the facts provided, Councilmember Reckdahl has a financial interest in his residential real property, assuming he has an interest worth $2,000 or more.[3] Additionally, an official always has an interest in their personal finances.[4]

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[2] The Act defines "business entity" to mean any organization or enterprise operated for profit. (Section 82005.)

[3] Regulation 18703 provides that 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 the official's interest is not unique compared to the effect on the significant segment. A significant segment of the public is at least 15 percent of residential real property within the official's jurisdiction if the only interest an official has in the governmental decisions is the official's primary residence. (Regulation 18703(b)(2).) No facts were provided to indicate the criteria in Regulation 18703 may be met; thus, we do not further examine this exception.

[4] If the decision would have a reasonably foreseeable financial effect on the official's financial interest in real property, any related effect on the official's personal finances is not considered separately. (Regulation 18702.5(c).)

Foreseeability

For a conflict of interest to exist, it must be reasonably foreseeable that the governmental decision would have a financial effect[5] on the public official's financial interests. (Regulation 18700(d)(1).)

Regulation 18701(a), which provides the applicable standard for determining the foreseeability of a financial effect on a financial interest explicitly involved in a governmental decision, 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, 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.

Materiality

For a conflict of interest to exist, the reasonably foreseeable financial effect must be material. (Regulation 18700(d)(2).) 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 18702.2 outlines when a financial effect of a governmental decision on real property is material. It provides, relevant to these facts, that the reasonably foreseeable financial effect of a governmental decision is material whenever the governmental decision:

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[5] "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value. (Regulation 18700(c)(5).)

- Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property (Regulation 18702.2(a)(7)); or

- Involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel's: development potential; income producing potential; highest and best use; character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or market value. (Regulation 18702.2(a)(8).)

Additionally, Regulation 18702.2(b) provides that the financial effect of a governmental decision on a parcel of real property in which an official has a financial interest involving property 1,000 feet or more from the property line of the official's property is presumed not to be material. (Regulation 18702.2(b).) This presumption may be rebutted with clear and convincing evidence the governmental decision would have a substantial effect on the official's property. (Regulation 18702.2(b).)

According to facts presented, Councilmember Reckdahl's real property financial interest is located within 500 feet of the zone area surrounding the San Antonio Station. Thus, the relevant decisions are presumed to have a reasonably foreseeable, material financial effect on his real property. This presumption may be rebutted by clear and convincing evidence that the decisions would have no measurable impact on Councilmember Reckdahl's real property.

You state that SB 79 requires cities to permit increased residential and mixed-use density within defined proximity zones surrounding certain transit stations and affords cities discretion to allocate density among multiple transit zones within their jurisdiction. Three transit zones within the City have been identified. While the facts provide that the greatest development pressure and associated impacts on the San Antonio Station zone would be concentrated in the area immediately surrounding the transit station, located in the City of Mountain View, the City Council will still be deciding whether or not to upzone the City's portion of the San Antonio Station zone which encompasses several hundred parcels, at least two of which are within 500 feet of Councilmember Reckdahl's real property and at least 12 of which are more than 500 feet but less than 1,000 feet from Councilmember Reckdahl's real property.

Upzoning increases the development potential and property values for parcels within a station's zone. Additionally, upzoning changes the character of the surrounding neighborhoods by potentially blocking views, and increasing foot traffic, noise, and parking demands. Further, upzoning may add amenities within a station's zone which may increase property values for parcels within walking distance of the amenities. Conversely, deciding not to upzone parcels would also have a measurable impact on the surrounding properties.

Accordingly, the facts provided do not establish clear and convincing evidence that the relevant decisions will not have any measurable impact on Councilmember Reckdahl's real property financial interest. As such, Councilmember Reckdahl has a disqualifying financial interest, and he may not take part in the relevant decisions, unless an exception applies. To the extent there are additional facts indicating that the public generally exception may apply, Councilmember Reckdahl should seek additional advice.

Segmentation

Additionally, you ask whether the relevant decisions may be segmented so that Councilmember Reckdahl may take part in those decisions in which he does not have a disqualifying financial interest. The segmentation rule in Regulation 18706 recognizes that the conflict of interest provisions of the Act are applied on a decision-by-decision basis. 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. (*Vanni* Advice Letter, No. A-23-022, *Fellows* Advice Letter, No. A-16-226, and Regulation 18706(a).) Regulation 18706(a) requires all of the following conditions to apply:

> (1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated[6] to the decision in which the official has a disqualifying financial interest;
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> (2) The decision in which the official has a financial interest is segmented from the other decisions;
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> (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
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> (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.

As discussed above, Regulation 18702.2 outlines when a financial effect of a governmental decision on real property is material. Since Councilmember Reckdahl's real property is over 1,000 feet from the zone areas surrounding the University Avenue Station and

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[6] 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).)

the California Avenue Station, the relevant decisions concerning these zone areas are presumed not to have material financial effect on his real property. (See Regulation 18702.2(b).)

The presumption provided in Regulation 18702.2(b) may be rebutted with clear and convincing evidence that the relevant decisions would have a *substantial* effect on Councilmember Reckdahl's property. Based on the facts provided here, this presumption has not been rebutted.

Accordingly, to the extent the relevant decisions can be segmented in a manner satisfying the above criteria and decisions regarding the San Antonio Station zone area are final, Councilmember Reckdahl may be permitted under Regulation 18706(a) to take part in the remaining decisions that do not involve parcels within 1,000 feet of his real property, so long as the decisions are not inextricably interrelated to the decisions in which he has a disqualifying financial interest and there is no clear and convincing evidence that the decisions would have a substantial effect on his real property financial interest. We caution that each decision must be reviewed on a case-by-case basis.

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

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