



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

July 15, 2026

Andrew Morris  
Town Attorney  
Town of Truckee  
10183 Truckee Airport Road  
Truckee, CA 96161-3306

**Re: Your Request for Advice  
Our File No. A-26-070**

Dear Mr. Morris:

This letter responds to your request for advice on behalf of Truckee Town Councilmember David Polivy regarding the conflict of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup> Please note that we are only providing advice under this statutory scheme. We do not provide advice on other general conflict of interest prohibitions, such as common law conflicts of interest. Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71). Our advice is based on the information you provide and assumes that all material facts are truthfully disclosed. (See Section 83114(b).) Please notify us if any information is incomplete, inaccurate, or has changed, as this may affect our advice and any reliance on our advice as a defense in any enforcement proceedings initiated by the Commission. (See *ibid.*) Finally, the Commission is not authorized to, 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 prospective actions.

### QUESTION

Under the Act, may Town Councilmember Polivy participate in the mixed-use development decisions for the Residences at Jibboom project (“Project”) which may include requests for further deviation from the submitted plans, as well as future litigation, where his sporting goods business, Tahoe Mountain Sports Inc., has a leasehold interest in a retail store, Tahoe Mountain Life, located in close proximity to the 1.67-acre Project site?<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> The initial request you submitted involved the Town Council’s review of an appeal of the Planning Commission’s conditional approval of the Project. However, the Town Council rejected the appeal and upheld the Planning Commission’s approval on June 23, 2026. Councilmember Polivy did not participate in the decision. You

## CONCLUSION

Based on the general description of future Project-related decisions, Councilmember Polivy may not participate in decisions regarding the Project, including litigation decisions or changes to the approved Project, as it is reasonably foreseeable that the decisions will have a material financial effect on Councilmember Polivy's leasehold interest under Regulation 18702.2(c)(2) and (4) in that the decisions will likely increase or decrease the potential value of the leased property and impact his use and enjoyment of the property. Because of this, we do not further analyze whether he is also disqualified based on his business entity and source of income interests. Please seek further advice, as needed, when specific decisions are available for analysis.

## FACTS AS PRESENTED BY REQUESTER

Councilmember Polivy and his wife own a privately-held corporation called Tahoe Mountain Sports Inc., which operates two retail shops in Truckee, selling a variety of clothing and equipment suitable for the various recreational pursuits available around Truckee, and the mountain lifestyle in general. One of Tahoe Mountain Sport Inc.'s shops, known as Tahoe Mountain Life ("TML shop"), is located in a small, leased space at 10102 Jibboom Street, Suite 102, in Downtown Truckee.<sup>3</sup> The lease has a remaining value in excess of \$2,000.<sup>4</sup> The TML shop shares a small off-street parking lot with an adjacent business. Other parking is available on Jibboom Street and on nearby streets. The annual gross revenue of Tahoe Mountain Sports Inc. is approximately \$2.4 million. Of that total, the TML shop accounts for approximately 20 percent of the company's gross revenue, with the remainder generated by Councilmember Polivy's larger store located on the other side of town.

The Town Council recently considered the appeal of the Planning Commission's approval of an amendment to the Project application, a 1.67-acre mixed-use project, consisting of 62 multi-family residential units (10 affordable rental units and 52 units for sale at market rates) and 3,497 square feet of ground-floor commercial space located on eight parcels, consisting of 10090 Jibboom Street (which is comprised of six parcels), 10012 Jibboom Street, and a parcel that currently lacks an address, all of which are currently undeveloped.<sup>5</sup> The nearest undeveloped

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are now seeking advice in regard to future decisions that you anticipate will relate to the approval of further deviations from the submitted Project plans and possible litigation.

<sup>3</sup> Tahoe Mountain Sports Inc.'s second shop is called Tahoe Mountain Sports, located at 11200 Donner Pass Road, Unit SE, in Truckee. That location is approximately 1.3 miles from the Project by road or one mile as the crow flies. This store is considerably larger than the TML shop.

<sup>4</sup> We assume the lease is not a month-to-month lease based on your statement that it has a remaining value in excess of \$2,000.

<sup>5</sup> According to the Town's Staff Report dated June 23, 2026, the Planning Commission approved a previous version of the Project on September 17, 2024 (Town of Truckee Application #2024-00000014, Commission Resolution 2024-12). Although the previous entitlements are still valid, the applicant submitted a Project Amendment application to amend features of the Project, which was the subject of the appeal.

portion of the Project site is located approximately 54 feet from the TML shop, and the nearest developed portion will be 123 feet from the TML shop.

According to the Town's Staff Report, dated June 23, 2026, the Project is comprised of a four-building design, described as Building A, Building B-C, and Building D, each of which has distinct architectural styles. The total floor area of the Project is 95,264 square feet, of which 3,497 square feet is dedicated to commercial uses that front Jibboom Street. Parking is located on the street level, behind lobbies and commercial spaces, with residential uses located above the street-level parking. The Project includes 60 parking spaces, 11 of which are parallel parking spaces on Jibboom Street. The Project would not reduce the number of parallel parking spaces currently existing on Jibboom Street and proposes landscaping in bulb-outs separating parallel parking spaces and along the eastern Project frontage. The Project includes dedicated long-term bicycle parking for 62 spaces, distributed throughout each building.

Although the Town Council denied the appeal of the Planning Commission's decision and upheld its approval of the land use entitlements for the Project, you anticipate that there will be future decisions involving the Project, including litigation by the applicant, the nature of which was not disclosed, and possible requests to approve further deviations from the submitted plans.

## ANALYSIS

The Act's conflict of interest provisions prohibit a public official from making, participating in making, or in any way attempting to influence a governmental decision<sup>6</sup> if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally.

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<sup>6</sup> Regulation 18704 defines these terms as follows:

(a) 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.

(b) 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.

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

(1) 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

(2) 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.

(Sections 87100 and 87103.) 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 business entity in which the public official has a direct or indirect investment worth \$2,000 or more. (Section 87103(a).)
- 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<sup>7</sup> worth \$2,000 or more. (Sections 82033<sup>8</sup> and 87103(b).)
- Any source of income<sup>9</sup> aggregating \$500 or more in value provided or promised to, or received by the public official, within 12 months prior to the time when the decision is made. (Section 87103(c).)

Councilmember Polivy has identified that he and his spouse have business entity and source of income interests in Tahoe Mountain Sports Inc., and a real property leasehold interest in the property leased for the TML shop on Jibboom Street. At issue is whether future governmental decisions pertaining to the Project will have a reasonably foreseeable, material financial effect on their business, income from the business, and real property leasehold interest.

### *Foreseeability & Materiality*

Regulation 18701(a) states that the “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 economic interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).<sup>10</sup> Where a public official’s financial interest is not explicitly involved in the decision, a different standard for determining the reasonable foreseeability of a

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<sup>7</sup> For purposes of Section 87103, an indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official’s agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.

<sup>8</sup> Section 82033 provides that an individual’s interest in real property includes a leasehold interest of the official or the official’s immediate family with a fair market value of \$2,000 or more. The real property interest 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.” The facts indicate that Councilmember Polivy and his spouse own Tahoe Mountain Sports Inc. Accordingly, Councilmember Polivy has a property interest in the space leased to Tahoe Mountain Sports, Inc. for the TML shop, as tenants under the lease.

<sup>9</sup> “Income” includes any community property interest in the income of a spouse. (Section 82030(a).)

<sup>10</sup> Regulation 18702.2(a)(1)-(6) does not apply to leasehold interests.

financial effect is applicable. Under Regulation 18701(b), 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. (*Ibid.*) If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable. (*Ibid.*)

Here, the Project decisions, as generally described at this time, do not appear to explicitly involve Councilmember Polivy's financial interests as a named party or the subject of the decisions.

### *Real Property Interests*

Regulation 18702.2(c),<sup>11</sup> sets forth the materiality standard applicable to a decision's reasonably foreseeable effect on an official's real property interest in a leasehold, and provides that the decision's effect is material if the decision will: (1) change the termination date of the lease; (2) increase or decrease the potential rental value of the property; (3) change the official's actual or legally allowable use of the property; or (4) impact the official's use and enjoyment of the property.

The facts do not indicate that the Project would change the termination date of the lease of the property at 10102 Jibboom Street, Suite 102 (for the TML shop) or the actual or legally allowed use of the property. At issue then is whether the decisions related to the Project may increase or decrease the potential rental value of the property or impact the official's use and enjoyment of the property. (Regulation 18702.2(c)(2) and (4).) It appears from the facts presented that both of these standards are met.

Decisions related to the Project, including litigation or changes to the approved Project, will likely increase or decrease the property's potential rental value at 10102 Jibboom Street, Suite 102. The Project will create 62 multi-family units and commercial spaces, in close proximity to the TML shop. The Project will likely increase the desirability of commercial space and the potential rental value of the leased space in the long term by introducing new customers or businesses to the area. During Project construction, increased traffic and noise will likely negatively affect the desirability and potential rental value of the leased space. Post-construction, there will likely be increased traffic and demand for parking on Jibboom Street. Therefore, we advise that it is reasonably foreseeable that the decisions relating to the Project would have a material financial effect on Councilmember Polivy's leasehold interest under Regulation 18702.2(c)(2) and (4) and he may not take part in the future Project decisions. Councilmember Polivy must recuse himself from the decisions related to the Project in accordance with Regulation 18707. Because we have determined the Act prohibits Councilmember Polivy from taking part in decisions related to the Project based on his leasehold interest under Regulation 18702.2(c), we do not need to further analyze whether he is also prohibited based on his business

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<sup>11</sup> The materiality standard for an individual's financial interests in real property under Regulation 18702.2 applies instead of the materiality standard for financial interests in business entities (which include a business entity's real property interests) due to Councilmember Polivy's and his spouse's ownership interests in Tahoe Mountain Sports Inc. (See Section 82033 and *supra*, fn. 8; see also *Cruse* Advice Letter, No. A-19-179.)

entity and source of income interests in Tahoe Mountain Sports Inc. We note that the Project decisions and their impact are not fully provided at this time. Please seek further advice, as needed, for particular, specific decisions related to the Project so that we may provide a full analysis.

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

Sincerely,

Dave Bainbridge  
General Counsel

Joanna Gin

By: Joanna Gin  
Senior Counsel, Legal Division

JG:aja