



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

August 24, 2026

John Kennedy
City Attorney
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517

Re: Your Request for Advice
Our File No. A-26-085

Dear Mr. Kennedy:

This letter responds to your request for advice on behalf of Emeryville Mayor Sukhdeep Kaur 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

Does the Mayor of Emeryville have a conflict of interest in a series of decisions relating to public safety improvements on a roadway within 500 feet of her condominium residence?

CONCLUSION

No. The mayor does not have a conflict of interest in a series of decisions relating to public safety improvements on a roadway within 500 feet of her condominium residence because the Limited Neighborhood Effects Exception applies.

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.

FACTS AS PRESENTED BY REQUESTER

The Powell Street Redesign Project (“Project”) focuses on improving safety of all users of Powell Street serving the Emeryville peninsula, which extends from Frontage Road to the East, to Marina Park in the West, which is approximately 6,864 feet or 1.3 miles. The Project aims to reduce and manage vehicle speeds while maintaining access for all modes, including active transportation users, police and emergency services, and boat trailer access to the Emeryville Marina.

Background information on the Powell Street Redesign Project

The Emeryville peninsula is located within the City of Emeryville. Powell Street is the main public street on the Emeryville peninsula and the only east-west access point to the marina and shoreline on the west side of I-80. Powell Street provides access to public open spaces on the peninsula including McLaughlin Eastshore State Park, Davenport Park, and the Emeryville Marina, as well as a pedestrian path spur of the Bay Trail.

Adjacent major land uses on Powell Street include mixed-use non-residential and medium-high density residential (the Watergate complex), as well as public and open park space. Specific uses include a small shopping center inclusive of grocery, large office towers and business park, restaurants, bank, hotel, gas station, and surface level parking lots. The marina includes both the public Emeryville Marina and the private Emery Cove Yacht Harbor, both of which include some liveaboard residents. The Emeryville Police Station and Alameda County Fire Station 34 are both located on Powell Street.

The proposed Project design applies the U.S. Department of Transportation’s Safe System Approach to reduce the severity and likelihood of vehicle crashes along the corridor. The proposed Project design plan further incorporates concepts from a comprehensive memorandum prepared by traffic engineering firm Fehr & Peers. The Project includes the following components:

- Narrowing lane widths to promote slower driving speeds;
- Lane removal to further reduce vehicle speeds and reduce crossing distances for people walking and rolling;
- Conversion of existing parallel parking to angled parking to further narrow the roadway;
- Addition of curb extensions at crosswalks to reduce vehicle speeds and increasing visibility of people walking and rolling; and
- Reduction of posted vehicle speeds by 5-10 miles per hour along the corridor.

The Project also proposes improvements at controlled crosswalks at three locations: the traffic signals at Frontage Road and Access Road, and the all-way stop at Commodore Drive.

New cycle tracks or “separated bikeways” containing a physical barrier, such as a concrete curb or flex posts, are proposed along the corridor as well as conversion of existing striped bike lanes on the eastern portion of the corridor to form a continuous, separated two-way cycle track on the south/west side of Powell Street.

Project approval path

The Project may require multiple approvals by the City Council. It is anticipated that the City Council will be asked to approve the “Powell Street Redesign Concept” (the “Project Concept”) sometime in the fall of 2026. The Project Concept includes initial design plans for the aforementioned project components.

Following approval of the Project Concept, the Project may return to the City Council for approval of various additional Project items, including but not limited to (1) approval and/or acceptance of grant funding for the Project, (2) approval of the Project’s safety improvements, (3) approval of professional and construction management agreements, and (4) project acceptance and closeout. (Collectively, the approval of the Project Concept the approval of the additional Project items are referred to hereafter as the “Project decisions.”)

Background information related to the Mayor and Watergate

Mayor Kaur maintains her primary residence in a residential condominium unit located in the Watergate complex on the Emeryville peninsula. The Watergate is a residential condominium development that contains 1,249 total residential units in multiple four-story multifamily buildings spread over approximately 25 acres. Watergate also contains gym facilities, a pool, a sauna, and tennis/racquetball courts.

The Mayor’s residence is located approximately 220 feet from Powell Street and is located approximately 240 feet from the nearest location on Powell Street that will undergo construction improvements as part of the Project. You have stated that Mayor Kaur’s direct or indirect investment in her unit is worth two thousand dollars or more.

The 1,249 units in Watergate comprise 15 percent of the total 8,497 residential units in the City. Of the 1,249 units in Watergate, approximately 60 percent of the units (i.e. 749-750 units) are within 500 feet of Powell Street and the Project site, comprising 8-9 percent of the residential units in the City. 15 percent of the units in the Watergate development (i.e. 187-188 units) are adjacent to the Project site.

ANALYSIS

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know 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 the official, a member of the official's immediate family," or on certain specified economic interests. (Section 87103.)

Financial interests

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, including "[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more." (Section 87103.)

Here, you have stated that the Mayor has a direct or indirect investment in her condominium worth two thousand dollars or more. Therefore, Mayor Kaur has a real property financial interest in her condominium for purposes of the conflict of interest provisions of the Act.

Foreseeability and Materiality Standards

Regulation 18701 provides the standard for determining the foreseeability of a financial effect on an economic interest depending on whether it is explicitly, or not explicitly, involved in the governmental decision. A financial interest is explicitly involved in a decision if it is a named party in, or the subject of, a governmental decision before the official or the official's agency. (Regulation 18701(a).) 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). (*Ibid.*) According to the facts provided, Mayor Kaur's real property interest is not located on Powell Street and does not meet the standard of a "named party or subject of" the proceeding. Therefore, her financial interest is not explicitly involved in the Project decisions.

Where, as here, an official's economic interest is not explicitly involved in the governmental decision, Regulation 18701(b) provides the applicable standard for determining the foreseeability of a financial effect. This provision states, "[i]n general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable." (Regulation 18701(b).) It further states, "[i]f the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable." (*Ibid.*)

Real Property Standards

Regulation 18702.2 provides the standards for determining when a government decision's reasonably foreseeable effect on an official's real property interest is material considering factors such as the proximity of the property subject to the decision and its impacts on the official's parcel. Applicable to these facts, Regulation 18702.2(a) states that the reasonably foreseeable financial effect is material whenever the decision involves property located 500 feet or less from the property line of the official's 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).)

Under the facts provided, it is unnecessary to determine whether it is foreseeable that the Project decisions will have a material effect on Mayor Kaur's property. Even assuming for purposes of this analysis that the Project decisions will have a material financial effect on her property because her unit is located less than 500 feet from the Project, Mayor Kaur may take part in the Project decisions under the Limited Neighborhood Effects Rule as analyzed further below.

Public Generally Exception

A public official who has a financial interest in a decision may still participate if the official demonstrates that the financial effect is: (1) shared by a significant segment of the jurisdiction, and (2) not unique to the official's financial interest. (Section 87103; Regulation 18703.) When the only interest an official has in the governmental decision is the official's primary residence, as indicated by the facts here, a "significant segment of the public" is at least 15 percent of residential real property within the official's jurisdiction. (Regulation 18703(b).) However, it is unnecessary to determine if the decision will affect 15 percent of the residential real property in the official's jurisdiction because Regulation 18703 provides special rules for the application of the "public generally" exception in specific circumstances, including a rule for decisions with "limited neighborhood effects." Regulation 18703(e)(3) states:

(e) Specific Rules for Special Circumstances. The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally where there is no unique effect on the official's interest if the official establishes: ...

(3) Limited Neighborhood Effects. The decision affects residential real property limited to a specific location, encompassing more than 50, or five percent of the residential real properties in the official's jurisdiction, and the decision establishes, amends, or eliminates ordinances² that restrict on-street parking, impose traffic controls, deter vagrancy, reduce nuisance or improve public safety, provided the body making the decision gathers sufficient evidence to support the need for the action at the specific location.

Thus, under the Limited Neighborhood Effects Rule, an otherwise disqualified official may take part in a decision as a matter of public policy where the action applies to a specific location encompassing the requisite number of residential properties, there is sufficient evidence

² See the *Garibaldi* Advice Letter, No. A-15-0 83, where we concluded that the public generally exception for limited neighborhood effects does not require a formal ordinance where the same result can be implemented by a less formal action, and the use of the word "ordinance" in the regulation was not intended to require a formally adopted ordinance but was intended to encompass any city rule or ordinance meeting the other requirements of the regulation. The scope of the exception also encompasses the approval of development projects that are meant to improve public safety; see e.g. the *Nuricumbo* Advice Letter, No. A-25-151, where we advised that the exception applied to a decision to construct an entrance to a residential subdivision.

supporting the public purpose for the action, and there is no unique effect on the official. (*Yu* Advice Letter, No. A-20-073; *Gibson* Advice Letter, No. A-17-188.)

Here, the Project decisions will affect property in a specific location encompassing more than fifty, or five percent, of the residential real properties in the Mayor's jurisdiction, namely the Emeryville peninsula and, more specifically, the Watergate complex. Based on the facts provided, the public purpose of the Project is to reduce and manage vehicle speeds in order to reduce the severity and likelihood of vehicle crashes along the peninsula's Powell Street corridor. Evidence for this public purpose came from a comprehensive memorandum prepared by traffic engineering firm Fehr & Peers. Thus, the first two requirements of the limited neighborhood effects exception are met.

A "unique effect" on an official's financial interest relevant to these facts includes a disproportionate effect on the development potential or use of the official's real property; or on the official's property due to the proximity of the project. (Regulation 18703(c)(1) and (2).) It appears that Mayor Kaur's condominium is similarly situated to other condominiums in the Watergate complex and is not adjacent to Powell Street where the temporary construction impacts and permanent infrastructure improvements will be immediately felt. Accordingly, Mayor Kaur's residence would be similarly affected as any other residential interests within a similar proximity to the Project. Based upon these facts, Mayor Kaur has demonstrated that there will not be a unique effect on her real property interest compared to the effect on the significant segment. Therefore, under the limited neighborhood effects exception found in Regulation 18703(e)(3) the financial effect is deemed indistinguishable from that on the public generally and Mayor Kaur may participate in the Project decisions.

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

Sincerely,

Dave Bainbridge
General Counsel



By: Simon Russell
Counsel, Legal Division

SR:aja