



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

September 24, 2026

John D. Lê
City Attorney
City of East Palo Alto
2415 University Avenue, 2nd Floor
East Palo Alto, CA 94303

**Re: Your Request for Advice
Our File No. A-26-104**

Dear Mr. Lê:

This letter responds to your request for advice on behalf of City of East Palo Alto (“City”) Mayor Webster Lincoln 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. Does the Act prohibit Mayor Lincoln from making, participating in making, or otherwise using his official position to influence the City Council’s consideration of an alternative compliance request under the City’s Inclusionary Housing Ordinance for the Woodland II Project (the “Project”), given that he owns real property located within 500 feet of a portion of the Project? Specifically, where the Project consists of multiple separate parcels and buildings, should the conflict of interest analysis apply the governing distance threshold to the

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.

individual parcels or units directly affected by the alternative compliance decision, rather than to the boundary of the Project taken as a whole?

2. If Mayor Lincoln is prohibited from taking part in the decision referred above, do the Act's segregation rules apply to enable him to take part in any decisions related to the Project?

CONCLUSIONS

1. Yes. Mayor Lincoln owns real property located within 500 feet of the Project, and there is no clear and convincing evidence that the decision would not have any measurable impact on his property. Accordingly, it is reasonably foreseeable that the financial effect of the decision on his real property interest will be material, and he is precluded from taking part in decisions involving the Project.

2. Based on the facts provided, the Act's segmentation rules would not apply.

FACTS AS PRESENTED BY REQUESTER

Mayor Lincoln is an elected member of the East Palo Alto City Council. The City Council will be asked to act on the Project. The Project proponent, Sand Hill Property Company, has submitted an application package for the O'Keefe-Manhattan Improvements at Woodland Park, a housing development project on a portion of the Woodland Park neighborhood, on the west side of Highway 101. The Project will involve updating or replacing aging, outdated structures. There are 565 existing rental units in approximately 37 buildings that would be affected by the Project. These existing rental units are in single-family homes, duplexes, and apartments.

The Project applicant proposes renovating and developing a total of 1,071 residential units. This includes the renovation of 221 existing units, along with the development of 392 net new mixed-income rental apartments and 114 new for-sale townhomes. The Project consists of one large site, bounded by E. O'Keefe Street, Donohoe Street, Euclid Avenue, Manhattan Avenue, and Woodland Avenue. However, it is comprised of multiple legally separate parcels, with different street addresses and assessor's parcel numbers ("APNs").

The Project applicant stated that renovated and new housing will be provided along E. O'Keefe Street and Manhattan Avenue, with additional improvements along Euclid Avenue, including frontage and streetscape improvements to the Euclid Improvements, to ensure a single, cohesive neighborhood feel and improved connectivity for all.

The City Council will consider the Project participant's alternative compliance request under the City's Inclusionary Housing Ordinance, which allows developers to propose an alternative to the standard requirement of setting aside 20 percent of residential units as on-site affordable housing. This could include some combination of paying in-lieu fees, constructing off-site units, or proposing a compliance path that would "otherwise provide greater public benefit."

Mayor Lincoln holds a financial interest in real property, a condominium unit located on E. O'Keefe Street. The parcel that includes Mayor Lincoln's E. O'Keefe Street property is not included in the Project. However, it is adjacent to and borders properties included in the Project on the east and west sides, as well as across E. O'Keefe Street on the south side. You note that the Project encompasses a number of separate parcels and buildings, and that a number of these are located more than 500 feet from Mayor Lincoln's property.

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 public official's official 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 makes a 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).) 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).) Under Regulation 18704(c), a public official uses their 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."

"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 financial interests. (Section 87103.) Specified financial interests include any real property in which the public official has a direct or indirect interest worth \$2,000 or more. (Section 87103(b).) Here, Mayor Lincoln has a financial interest in his residence.² Additionally, an official always has an interest in their personal finances.³

Foreseeability and Materiality

Foreseeability standards vary depending on whether an interest is explicitly involved in a governmental decision. A financial effect is presumed to be reasonably foreseeable when an interest is explicitly involved in a decision. Financial interests that are explicitly involved in a

² Per Regulation 18702.2(e)(4), any interest in the complex's common areas does not constitute a financial interest for purposes of the Act's conflict of interest provisions. Accordingly, we only need to consider whether the City Council's decision on the Project would have a reasonably foreseeable, material financial effect on Mayor Lincoln's real property interest in his individual condominium unit within the complex.

³ 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).)

decision include an interest that is a named party in, or subject of, a governmental decision. An interest in real property is the subject of, and explicitly involved in, the decision anytime the decision affects real property as described in Regulation 18702.2(a)(1)-(6). (Regulation 18701(a).)

Where, as here, an official's financial interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the financial interest is found in Regulation 18701(b). That regulation 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."

For a financial interest in real property not explicitly involved in the decision, the reasonably foreseeable financial effect of a governmental decision is material whenever the governmental decision 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).)⁴

As Mayor Lincoln's real property is within 500 feet of the Project, it is presumed under Regulation 18702.2(a)(7) that the financial effect on his real property interest is material unless there is clear and convincing evidence that the decision would not have any measurable impact on the property. However, there have been no facts provided to indicate that there would not be a measurable impact on Mayor Lincoln's property as a result of the decision. Furthermore, based on the facts provided, including the scope of the Project, which involves the renovation or replacement of aging, outdated existing housing and other general improvements to the surrounding neighborhood in which Mayor Lincoln's residence is located, it is evident that the proposed decision would likely impact traffic levels, intensity of use, parking, the market value, and the income-producing potential of Mayor Lincoln's property. Accordingly, Mayor Lincoln is prohibited from making, participating in making, or using his position to influence the alternative compliance request for the Project.

Segmentation

Regulation 18706 specifies how an agency may segment complex decisions into separate decisions so that an otherwise disqualified official may take part in decisions where no financial interest exists. Regulation 18706 provides that an agency may segment a decision in which a public official has a financial interest, to allow participation by the official, provided all of the following conditions apply:

⁴ In limited instances where the decision affects only a clearly defined, specific, and isolated site, such as a particular building on a large tract of land, we have advised that the parcel-to-parcel measurement would not be the appropriate distance to determine materiality. (See, e.g., *Leishman* Advice Letter, No. A-21-154; *Zaragoza* Advice Letter, No. A-19-078.) This is not the case with the decision presented here.

(1) The decision in which the official has a financial interest can be broken down into separate decisions that are not inextricably interrelated to the decision in which the official has a disqualifying financial interest;

(2) The decision in which the official has a financial interest is segmented from the other decisions;

(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

(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.

(Regulation 18706(a).) This regulation also explains that "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).)

Based on the facts provided, there is no evidence that segmentation would apply to the Project decision. Further, even assuming the City could in some way separate the Project submitted by a single private applicant, the resulting decisions would appear to be "inextricably interrelated," as they would all relate to, and would all be components of, the same larger project submitted by the applicant, and it is likely that decisions regarding any portions of the project will affect the feasibility of the project as a whole.

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

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

By: Zachary W. Norton
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