



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

To: Chair Miadich and Commissioners Baker, Cardenas, Wilson, and Wood
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report and Commission Review
Date: May 28, 2021

The following advice letters have been issued since the April 30, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the June 2021 Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Christopher Diaz

[A-21-057](#)

City councilmember may not take part in the City's decisions regarding the potential sale and sale price of a townhouse located only 40 feet from the Councilmember's townhouse where there is no clear and convincing evidence the sale of the property would not affect the market value of his property.

Colin Burns

[A-21-060](#)

The Act's conflict of interest provisions do not prohibit City Councilmember from taking part in decisions relating to the interior remodel of a police department building within 500 feet of the Councilmember's residence because there is clear and convincing evidence that the remodel will not have any measurable impact on the property.

Elizabeth Klotz

[A-21-056](#)

City Councilmember has a conflict in decisions related to a proposed precise plan that would change the development plan or criteria for real property owned by spouse's employer, who is a source of income to the official, because it is reasonably foreseeable the decision will have a material effect on the employer as the owner of the real property.

Erik Neandross

[A-21-039](#)

The Act's conflict of interest provisions apply to "public officials." Members of advisory bodies are excluded from the definition of "public official" and the city Task Force on the Environment meets the definition of an advisory body. (Regulation 18701(c)(2).) Therefore, a member of the Task Force is not subject to the conflict of interest requirements and prohibitions so long as the body remains advisory.

Heather L. Stroud[A-21-059](#)

City Councilmember may not take part in decisions pertaining to the development of a 56-acre project within 500-1,000 feet of his residence, where, due to the magnitude of the development involving new amenities, civic services, and recreational spaces, it is reasonably foreseeable the project will have a material financial effect on the market value of the Councilmember's home.

Jeffrey Ballinger[A-21-040](#)

City Councilmember is precluded under Section 87100 from participating in decisions related to the development of two vacant properties within 500 to 1,000 feet of his residence, as it is reasonably foreseeable the projects will have a material financial effect on the market value of the Councilmember's home. Additionally, the Councilmember will be prohibited from taking part in decisions relating to the Golf Resort located within 500 to 1,000 feet of his residence if the decisions will change his parcel's development or income producing potential, highest and best use, character or market value. He may, however, be able to participate in decisions relating to specific renovations or the general operations of the golf course so long as they are not inextricably interrelated to decisions that relate to the course as a whole.

Jeffrey Ballinger[A-21-058](#)

Barring any indication that the pricing strategy decisions are necessary or intended to ensure the solvency or continued operation of the City's Golf Resort, City Councilmember may take part in decisions involving the pricing strategies, despite living within 500 feet of the resort. Based on the facts provided, the decisions are of a minor operational nature and physical obstacles separate the resort and residence. Accordingly, it is not reasonably foreseeable that the decisions will have a material financial effect on the Councilmember's property.

Jose Sanchez[A-21-048](#)

City Planning Commissioner with a residence located within 970 feet of a major civic center re-design and development project is prohibited under the Act from taking part in decisions relating to the development, as it is reasonably foreseeable that the project will have a material financial effect on the market value of his residence. He may, however, take part in decisions to permit improvements to three other existing sites located within 770 to 998 feet from his property, as there are no facts to indicate these projects would have a material financial effect on the Commissioner's parcel.

Kimberly Hood[A-21-070](#)

Vice Mayor may take part in decisions involving the Corridor Plan, despite living approximately 300 feet from the project site, where the project would have minimal effects and physical distance and barriers separate the official's residence from the site, such that the effect on the official's residence is not distinguishable from the effect on the public generally.

Nicole C. Wright[A-21-047](#)

The Act's conflict of interest provisions do not prohibit three city councilmembers from taking part in decisions relating to the City's inchoate downtown parking strategy, despite those councilmembers' respective primary residences being located within the downtown parking strategy area, because the public generally exception for decisions with limited neighborhood

effects applies. The decisions' effects are limited to a specific location, there is sufficient evidence supporting the public purpose of the action, and there is no indication of a unique effect on any of the councilmembers' respective primary residences.

Revolving Door

Matt Wetter

[I-21-038](#)

Under the Act's revolving door provisions, a former state employee is not prohibited from interacting with that employee's former state agency in meetings, telephone calls, and through written correspondence related to federal clean-up projects where the state is neither the lead regulator nor the lead agency with decision making authority over the project.

Section 1090

Adam J. Bass

[A-20-118](#)

State official, who also owns 30-percent of a communications firm, has potentially disqualifying financial interest in the firm, as well as any source of income to the firm if her pro rata share of income received from the source is \$500 or more in the 12 months prior to the decision. Accordingly, the official may not take part in any decision if it is reasonably foreseeable that the decision may have a material effect on these interests. However, further advice under the Act and Section 1090 cannot be provided without identifying a specific governmental decision.

Christian L. Bettenhausen

[A-21-021](#)

The Act requires an independent contractor, who would be a "consultant" under a potential contract to serve as the project manager for a project to redevelop the City's civic center, to file statements of economic interests if that contract is executed. The contractor, however, would not be required to report salary paid by the City pursuant to the contract because salary from a local government agency is not "income." The Act's conflict of interest provisions would not prohibit the contractor from taking part in a decision because of the income from the City, and Section 1090 would not prohibit the independent contractor from analyzing and making recommendations, relating to the project's scope pursuant to the executed contract.

David M. Snow

[A-21-064](#)

The Act does not prohibit City Councilmember from participating in recommendations by an ad hoc committee or decisions by the City Council relating to law enforcement matters even though his government employer provides law enforcement services to the City. However, pursuant to Section 1090, the councilmember has a remote interest in any amendment to the existing contract between the two entities. Nonetheless, the City Council may approve the contract provided that councilmember discloses his interest in the contract to the City Council, the interest is noted in the City Council's official records, and he abstains from any participation in making or approving the contract.

Randy J. Risner

[A-21-065](#)

Section 1090 prohibits City Councilmember from representing buyers in a potential purchase of property from the City even where the Councilmember does so without compensation and recuses from the City's decision-making process. Section 1090 exceptions applicable to real

estate brokers and agent under Sections 1091(b)(6) and 1091.5(a)(10) do not apply where the official is representing a private party in the contract at issue.

Richard D. Pio Roda

[A-21-054](#)

Under the Act, a member of a fire district's board of director does not have a disqualifying financial interest in decisions concerning the potential consolidation of the district with another local fire district that employs him, as long as consolidation would not materially affect his personal finances. However, while not disqualified under the Act, his status as an employee of one of the governmental entities party to the consolidation contract(s) constitutes a "remote" interest under Section 1091 and the director may not participate in the decision.

William Roetzheim

[A-21-029](#)

Section 1090 does not prohibit an independent contractor that provides independent cost analysis and related services related to a large and complex project to overhaul a state agency's business technologies from serving as a subcontractor on a subsequent contract to provide cost oversight on that project because the independent contractor at issue is not subject to Section 1090 due to its work on the previous cost-analysis contracts based on the facts presented.