



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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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: November 24, 2021

The following advice letters have been issued since the October 29, 2021, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the December 2021 Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Conflict of Interest

Heather L. Stroud

[I-21-140](#)

Officials with real property within 500 feet of an Area Plan site are generally prohibited from taking part in decisions related to the Area Plan in the absence of sufficient details to demonstrate either (1) clear and convincing evidence of no measurable financial impact on the officials' economic interests or (2) the effect would be indistinguishable from the effect on the public generally.

Jeffrey Ballinger

[A-21-141](#)

Where an official's residential real property is located within 500 feet of an undeveloped parcel owned by the city, the official may not participate in city decisions to sell, rezone, or establish a restrictive open space covenant over the property absent facts that establish there will not be a material impact on the official's property. Where an official's residential real property is located within 1,000 feet of an additional undeveloped parcel owned by the city with a potential for 45 single family homes, the official may not participate in city decisions to sell, rezone or establish a restrictive open space covenant over that property where the decisions would change the character (in terms of increased traffic, noise and intensity of use) and market value of the official's property.

Richard F. Anthony

[A-21-142](#)

The Act prohibits City Councilmember from taking part in decisions involving the potential six-million-dollar renovation of the City's Convention Center because it is reasonably foreseeable the decisions will have a material effect on the Councilmember's real property interests located less than 500 feet from the Convention Center.

Yolanda M. Summerhill[A-21-125](#)

A Planning Commissioner may not generally take part in actions regarding building permit applications submitted by his employer, including interacting with City Staff. The Planning Commissioner also may not take part in recommending a proposed Housing Element to the City Council where there is a nexus between the Housing Element, which would establish proposed residential zoning sites creating potential for future projects for his employer, and the official's role with his company, including a bonus pay structure based on company performance.

Personal Use**Julie Sauls**[A-21-145](#)

A State Senator who serves on the Senate Agriculture and Judiciary Committees, as well as the Select Committee on Cybersecurity and Identity Theft Protection, may use campaign funds to pay the fee to attend a two-week Harvard University continuing education program on national and international security, as this is directly related to a legislative purpose.

Section 1090**Greg Gillott**[A-21-139](#)

Section 1090 does not prohibit County from entering into a contract with a nonprofit corporation concerning federal COVID-19 relief funding where a Supervisor is a member who receives services from the nonprofit and currently serves as a board member of the nonprofit for which he receives an annual monetary benefit of \$650. Although the Supervisor has a prohibitory financial interest in any contracts between the County and the nonprofit corporation, two separate remote interest exceptions under Section 1091(b)(1) and Section 1091(b)(7) apply to allow the County to enter such contracts as long as his interest is disclosed to the board of supervisors, noted in its official records, and he does not take part in the contracting process.

Karl H. Berger[A-21-127](#)

Section 1090 does not prohibit Councilmember from taking part in City contracts involving donors of the Councilmember's nonprofit employer that he solicits where the donors have not conditioned contributions on approval of the contract. Under the Act, the Councilmember may take part in decisions related to donors to the nonprofit, including those who made previous donations of \$500 or less, to the extent his employment position and income would be unaffected by the donation because they would not have a reasonably foreseeable, material financial effect on his personal finances. However, the Councilmember should seek additional advice where the contributions to the nonprofit are larger or when there is a pending solicitation for a contribution at the same time as the proceeding. The Councilmember also has a prohibitory financial interest under Section 1090 in decisions involving contracts between the City and his nonprofit employer. However, his interest in any contracts is deemed "remote" under Section 1091(b)(1) and the City may enter into such contracts as long as he properly recuses himself.

Matthew Zucca[A-21-107](#)

Section 1090 would prohibit City Officer from making any contract between the City and his former employer where he holds a promissory note as part of a stock repurchase agreement and

has a stock ownership in the former employer. However, as long as the City Officer disqualifies himself from all participation and plays no role whatsoever in the contracting process, the City may contract with the former employer.

Randy J. Risner

[A-21-092](#)

Section 1090 does not prohibit City from entering into a grant agreement with a nonprofit organization, or Councilmember and Mayor from taking part in decisions involving the agreement, despite the Councilmember and the Mayor's spouse being members of the organization because the noninterest exception of Section 1091.5(a)(7) applies. The Act does not prohibit the Councilmember or Mayor from taking part in decisions relating to the grant agreement because neither has a financial interest in those decisions.