



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Gómez, Wilson, and Wood
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report
Date: October 28, 2022

The following advice letters have been issued since the October 3, 2022, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the November 17, 2022, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Campaign

Stephen Golub

[I-22-085](#)

An organization will not qualify as a committee under Section 82013(a) if it does not receive payments totaling \$2,000 or more in a calendar year for political purposes and will not qualify as a committee under Section 82013(b) if it does not expend \$1,000 or more on independent expenditures that expressly advocate the support or defeat of candidates or measures or unambiguously urge a particular result. In addition, whether members of the organization may engage in outside campaign activity, such as working directly with candidates, depends on the activities of the organization.

Conflict of Interest

Julian Miranda

[I-22-095](#)

The Act prohibits a housing authority executive director from taking part in decisions regarding the future development of a vacant 10-acre parcel of land located approximately 958 feet from his residence to the extent it is reasonably foreseeable those decisions will have a material financial effect on his real property interest. However, the determination cannot be made without facts identifying the specific nature of the decisions regarding the 10-acre parcel.

Nicole C. Wright

[A-22-105](#)

Official is not prohibited from taking part in decisions regarding project that will replace existing gas station and service center with a 62-unit, high density residential and mixed commercial use 5-story building. While the official leases an apartment approximately 593 feet from the project, it is not reasonably foreseeable the project decisions will have a material effect on his leasehold interest because the project is consistent with existing residential and commercial uses and developments in the immediate area and there are no other indications that the decisions may impact his use and enjoyment of his apartment or its potential rental value

Megan K. Garibaldi[A-22-107](#)

The Act does not prohibit two councilmembers from taking part in decisions regarding a biking and walking path located within 500 feet of their residences because there is clear and convincing evidence that the path, with no direct access or view from their residences, will have a measurable impact on their residences.

Gifts**Victoria Hester**[A-22-102](#)

A mayor will have a reportable gift for an invitation-only event attended by the mayor and a guest. The value of the gift is the official and the guest's pro-rata share of the costs of the event attributable to the two government entity hosts for the event. Any additional specific benefits provided, with the exception of items that meet the definition of "informational material," will be reportable at the item's fair market value.

Section 1090**Gary S. Winuk**[A-22-083](#)

Section 1090 prohibits individual councilmembers from using discretionary City budget funds to renew or modify existing contracts for computer software services with a company if the spouse of one of the councilmembers accepts employment with the company. However, automatically renewing subscriptions may be continued to the extent that any changes to the subscriptions are provided in terms of the existing contract and applicable to all similar subscribers. Nonetheless, the Act prohibits a councilmember from continuing any subscription with the company if the councilmember's spouse is employed by the company.

Mary L. Slocum[A-22-084](#)

Under Section 1090, a city council member has a financial interest in a waste service agreement overhaul decisions where the official is employed by a competitor waste service business that operates in the vicinity and there is the possibility that the negotiations could present an opportunity for the employer and set rates for services that may indirectly affect the employer.

Dean Derleth[A-22-099](#)

An initial contract to prepare an accident inspection report identifying the cause of an explosion and necessary repairs to equipment at a City sewage wastewater treatment facility did not require a contractor to engage in or advise on public contracting on behalf of a City. Therefore, the contractor is not subject to Section 1090 as an independent contractor for the City, and Section 1090 does not prohibit the City from entering a subsequent contract with the contractor for the repair of the equipment, based on the preliminary services it provided under the initial contract.

Jeffrey S. Ballinger[A-22-109](#)

Under the Act and Section 1090, a city councilmember is prohibited from taking part in governmental decisions brought to the city council by a developer that employs the councilmember's son, who is a source of income to the councilmember. However, under Section

1091, the councilmember's financial interest in a contract between the city and the developer is "remote," and the city may contract with the employer following the councilmember's recusal.