



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Silver and Commissioners Baker, Ortiz, Wilson, and Wood
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report
Date: July 26, 2024

The following advice letters have been issued since the June 28, 2024, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the August 15, 2024, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Campaign

Marissa Russell

[A-24-056](#)

A transfer of a candidate's campaign funds from his campaign bank account to purchase Treasury bills from the U.S. Department of Treasury, through a TreasuryDirect account, as an investment is not permissible under Regulation 18524, because Treasury bills are a type of security, TreasuryDirect is not a financial institution located in the state, and the transfer may interfere with the audit trail.

Elaine Tran

[A-24-082](#)

In connection with a July 23, 2024, special recall election in the City of Millbrae, committees may use a filing schedule that combines the semi-annual campaign statement with the second pre-election statement. The combined statement will be due on July 11, 2024, covering the period June 9, 2024, through July 6, 2024.

Conflict of Interest

Kristin M. Horrell

[A-24-047](#)

A county supervisor has a disqualifying financial interest in her real property located within 500 feet of a proposed pedestrian and bike path, and she may not make, participate in making, or use her position to influence decisions related to the bike and pedestrian path. This restriction includes any attempt to communicate with county officials and employees for the purpose of influencing the decision, including but not limited to directing members of her staff to make any such communications. However, she may appear as a member of the public, not in her official capacity, if she appears on matters related solely to her personal interest in her real property.

Benjamin L. Stock[A-24-074](#)

Three councilmembers may participate in a decision concerning the adoption of the ballot measure that would modify the city's business license tax ordinance, where the officials each have interests in businesses subject to the modified taxes because the increase in expenses on each of the interests will be less than \$2,500 and the businesses are not explicitly involved in the decision regarding a generally applicable business tax. Accordingly, the financial effect on those interests would not be material under any of the standards articulated in Regulation 18702.1.

Gregory M. Murphy[I-24-077](#)

An official is not generally disqualified from taking part in decisions relating to a development project 1,000 feet or more from the official's property interest unless there is clear and convincing evidence of a substantial effect on the official's property. For an official with a residence within a common interest development, the measurement from the development site to the official's property interest is the distance to the property line of the official's residential unit, not the distance to the common area owned by the homeowners association. However, we cannot reach a conclusion regarding the councilmember's involvement in any specific decision before the city without a full description of the decision.

Gary B. Bell[I-24-079](#)

Given that approximately 20 percent of the residential properties within the town are located within a similar or closer distance than the officials' properties from the parcel subject to decisions concerning its redevelopment, the public generally exception will apply so long as the decision will similarly affect these residential properties with no unique effect on the officials' property interests in comparison to the other properties. However, with no specific decision currently before the town, we can only generally advise that the facts provided at this time do not suggest a unique effect on the officials. Moreover, considering the parcel's central location with the town and the fact that the officials' residences are separated from the parcel by existing residential and commercial development, it appears unlikely that any effect on these property interests would be unique.

Section 1090**Elizabeth Wagner Hull**[A-24-026](#)

Notwithstanding leases of airport property, including commercial property subleased to various businesses and a personal hangar, Section 1090 does not prohibit a mayor from participating in the decisions regarding a contract with an airport operator. Because his only interest in the decision for purposes of Section 1090 is that of a recipient of public services generally provided by the public body of which he is a member on the same terms and conditions as if he were not a member of the body, the noninterest exception under Section 1091.5(a)(3) applies. Under the Act, it is not reasonably foreseeable the decisions regarding the contract may have a material effect on the mayor's various interests.

Kevin Phelps[A-24-067](#)

A firm that entered into an agreement to assist a city in conducting an optimization analysis of its office space for hybrid work did not engage in or advise on public contracting on behalf of the city such that it is considered an “officer” under Government Code Section 1097.6. Accordingly, Section 1090 does not prohibit the city from entering into a lease of space in an unrelated project to relocate a city agency where a brokerage firm that is a subsidiary of the firm’s parent company, is representing the property’s owner.

Nicholaus Norvell[A-24-050](#)

As an independent contractor employed by gas service provider for over 10 years, a local agency board member has a financial interest in the provider and interests in the provider’s parent company and the parent company’s subsidiary electrical service provider. However, while the board member may not take part in the decisions, the rule of necessity applies to permit the local agency to enter a contract involving the subsidiary electrical service provider where the decision regards essential government duties of the agency (procuring cost-efficient and carbon-neutral energy services for the agency) that can only be obtained with the provider, and the agency is the only entity authorized to enter the contract.