



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: June 28, 2024

The following advice letters have been issued since the May 30, 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](#).

Conflict of Interest

Ales Tomaier [I-24-044](#)

The Act generally prohibits a fire chief for a fire protection district from taking part in governmental decisions concerning the development of land where the official's spouse's employer, a source of income to the official, is the landowner and subject of the decisions.

Kristopher J. Kokotaylo [A-24-046](#)

Two councilmembers have potentially disqualifying conflicts of interest under the Act prohibiting them from participating in the decision concerning the adoption of a ballot measure that would modify the city's business license tax ordinance, where the officials each own businesses subject to the modified fees. However, the public generally exception would apply to allow them to participate in the decision to approve the ballot measure because the current proposal will implicate business tax assessments for all businesses located in the city, and the percentage-based tax rate applicable to the official's interests and approximately 80 percent of all licensed businesses in the city would be substantially similar.

James Lance [A-24-055](#)

It is reasonably foreseeable that infrastructure and street beautification decisions within a plan area that includes a mayor's commercial real properties will have a material financial effect on the properties. It is also reasonably foreseeable that decisions regarding a proposed trail project, providing public access to 231 miles of trail in three counties with a proposed trailhead and amenities within 300 feet of the mayor's properties, will have a material financial effect on the properties. Similarly, an official with residential real property within 300 feet of a proposed trail project's access point is disqualified from taking part in the trail project decision because it is reasonably foreseeable that decisions regarding the project will have a material financial effect on the property absent additional facts.

Erin Weesner-McKinley[A-24-058](#)

Councilmember, who owns real property located within 500 feet of a city facility that will be considered as a possible venue for the 2028 Summer Olympics, is precluded from taking part in the decisions concerning the aquatic facility as an Olympic venue. Under applicable regulations, it is reasonably foreseeable that the financial effect of the decisions will be material because the property is located within 500 feet of the aquatic facility. Further, the councilmember may not contact city staff for the purpose of influencing any decision involving the aquatic facility as an Olympic venue.

Brian E. Washington[A-24-072](#)

Under the Act, supervisor may not take part in governmental decisions converting existing commercially zoned properties to residential and expanding small 215-square-foot convenience store to 1901 square feet, where the development is located less than 500 feet from real property in which the supervisor has a financial interest, and there is no clear and convincing evidence the project would have no measurable impact on the property.

Gifts**Daniel Adomian**[I-24-052](#)

A one-day pass offered to alumni of an organization to attend a ticketed conference does not generally meet the definition of a gift to the extent that the events and materials provided are related to the performance of the official's "official duties" under the informational materials exception. Any meals provided, events attended, or material provided that are not related to the official's duties will be a reportable gift subject to the Act's gift limitations and disqualification rules.

Jeffrey Nibert[I-24-053](#)

Under the Act, donations to pay for medical services for a public official's pet are considered gifts, and the public official will generally be subject to the Act's reporting requirements, annual limits, and conflict provisions relating to gifts and sources of gifts. However, several exceptions to the general gift provisions may be applicable to certain donations, particularly those coming from friends and other individuals with whom the public official has pre-existing relationships. If the official is uncertain regarding whether an exception applies to a specific donation, the official should seek additional advice.

Paola Maldonado[I-24-065](#)

The "Acts of Human Compassion" exception may apply to an official using an online fundraiser to raise funds for her husband's cancer treatments the family otherwise could not afford. Consequently, the donations the official's spouse receives do not qualify as "gifts" to the official under the Act and are not subject to the \$50 reporting requirement, \$590 annual limit, or conflict of interest provisions pertaining to sources of gifts, to the extent that the source of the donation: (1) has a prior relationship with the official, or the payment is made without regard to the official's status under circumstances where it would be common to receive community outreach; and (2) is not specifically excluded in Regulation 18942(D)(i)-(iii).

Section 1090**James J. Atencio**[A-24-033](#)

Under Section 1090, councilmember is prohibited from participating in contracts between her employer, a 501(c)(3) nonprofit organization, and the city because her employment creates a financial interest in the contracts. However, if the councilmember discloses her interest to the city council, the interest is noted in the council's official records, and the councilmember abstains from the contracting process in both her governmental and professional capacities, the city may still enter contracts with the company as the councilmember's interest would qualify as a remote interest under Section 1091(b)(1).

Derek McDonald[A-24-061](#)

Under Section 1091(b)(13), a sanitation district may contract to provide wastewater to a recycled water joint powers authority (JPA), even where a member of the sanitation district's board of directors is also an employee of one of the member agencies that formed the JPA and would perform work on behalf of the JPA. However, the interested board member must disclose her interest to the sanitation district, have her interest noted in the district's official records, and completely abstain from taking part in the contracting process both in her capacity as a sanitation district board member and as an employee of the JPA-member agency.

Section 84308**Amber Maltbie**[A-24-063](#)

The restrictions of Section 84308 would not prohibit an officer from participating in the decision that will come before the officer's agency when more than 12 months have passed from the date of receipt of the contribution, provided the officer had no knowledge of the project or the contributor's representation of the applicant as an agent at the time the contribution was accepted.