



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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May 8, 2025

Amy S. Ackerman  
Town Attorney  
Town of Corte Madera  
350 Sansome Street, Suite 300  
San Francisco, CA 94104

Re: Your Request for Advice  
**Our File No. A-25-054**

Dear Ms. Ackerman:

This letter responds to your request for advice on behalf of Corte Madera Councilmember Eli Beckman regarding the conflict of interest provisions of the Political Reform Act (the “Act”).<sup>1</sup>

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

### QUESTION

May Councilmember Beckman participate in governmental decisions related to a proposed affordable housing development project in light of his leasehold property interest and personal residence located within 500 feet of the project site?

### CONCLUSION

The Act prohibits Councilmember Beckman from taking part in decisions related to the proposed affordable housing development project. Based on the facts provided, it is reasonably foreseeable that decisions concerning the project will impact his use and enjoyment of his apartment, and the Act prohibits him from participating in these decisions.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

## FACTS AS PRESENTED BY REQUESTER

### *240 Tamal Vista Boulevard – Affordable Housing Project*

A developer has submitted a formal application to build a six-story residential development with 99 multi-family units, all of which would be 100 percent deed-restricted and affordable for lower-income families. The site is 1.57 acres and is currently developed with a vacant 25,071-square-foot two-story office building that will be demolished as part of the project. The proposed residential development is approximately 226,500 square feet and will contain a six-story building that is 72 feet in height. The building will have 163 parking spaces and 37 bicycle parking spaces.

The ground floor of the building includes a parking garage, two lobbies, a leasing office, fitness center, teen room, tech room, amenity space, mailroom, bike storage, and additional ancillary uses. The proposed residential units are a mix of 3-bedroom and 4-bedroom units that range in size from 1,080 square feet to 1,330 square feet.

The proposed project provides 15,685 square feet of open space/recreational space. This includes the amenity space, fitness center, teen room, and tech room on the first floor and the amenity space and landscape podium on the third floor. The landscape podium includes a game lounge with cornhole, ping pong, and seating areas; a garden area with citrus trees in pots and seating area; a lawn area with a tot lot, benches, movable seating, and shade trees; and a multi-purpose lounge with barbeques, movable seating, accent trees, and festival lighting. The proposed project has three street frontages. It will have 10-foot-wide sidewalks and will include a variety of street trees.

The project site has a General Plan Land Use Designation of Housing Element Mixed-Use Corridor and is within the Housing Element Overlay District HE-2 subarea, which allows a maximum of 35 dwelling units per acre and 40 units per acre for senior housing. The applicant is utilizing the State Density Bonus Law to increase allowable density beyond the base density. Pursuant to the State Density Bonus Law, the applicant has requested one concession (electronic vehicle parking requirements) and five development standard waivers (building height limit, setback requirements, stepback requirement, bicycle parking requirement, and retaining wall height).

The site has access to Highway 101 with multiple neighborhood serving uses nearby. Marin Transit provides local bus service with bus stops at the site, and Golden Gate Transit provides commuter bus service from Santa Rosa to San Francisco with bus stops along Highway 101 approximately one block away. The project site is adjacent to commercial land uses, including an office building and Fitness SF gym to the northeast (across Fifer Avenue). The project site is adjacent to public facilities to the south (Marin Water Corporation Yard) and west (Town of Corte Madera Corporation Yard). Additionally, residential uses, including a 180-unit apartment building, are located nearby.

A 2019 traffic study was conducted for the 180-unit apartment building (discussed below after full occupancy of that project). The key findings of that study were that the project's impact on local traffic was negligible. Under current law, agencies are required to evaluate a project's traffic

impact based on Vehicle Miles Traveled. The project is below the VMT threshold and considered a VMT reducer under California Air Pollution Control Officers Association guidance.

You have also explained that the U.S. Department of Housing and Urban Development (“HUD”) is required by law to set income limits that determine the eligibility of applicants for HUD’s assisted housing programs, which also form the income limits for other types of affordable housing. HUD calculates median family incomes for metropolitan areas and counties. According to HUD, “HUD uses median family income data (as opposed to median household income data) from the 2023 American Community Survey as calculated by the Census Bureau. HUD looks at the incomes for the entire county when setting the median family income.

#### *Councilmember Beckman’s Residence*

Councilmember Beckman recently leased an apartment, which is his primary residence. The nearest part of the parcel on which the apartment is located is approximately 375 feet from the affordable housing project site. Councilmember Beckman’s unit is located approximately 460 feet from the proposed affordable housing project site. The apartment building in which the Councilmember resides has four stories with 180 units, 18 of which are designated as affordable units, under an affordable housing agreement with the Town of Corte Madera. The rent for the affordable housing units is calculated according to percentages of the area median income.

Councilmember Beckman is leasing one of the designated affordable housing units. The apartment is rented for a long-term (12-month lease). Residents in affordable housing units must recertify their income annually to ensure they continue to be eligible for the units. If a tenant’s income increases and exceeds the qualifying income level for the affordable housing unit the tenant is renting, the property owner may terminate the lease and rent the affordable housing unit to a qualified tenant or raise the rent of the unit to market rate and designate the next vacant unit as an affordable unit. Councilmember Beckman’s unit is on the second floor, and he will have a view of the affordable housing project. Under his lease, he has a designated on-site parking space for his vehicle, and there is also some on-site guest parking for general use for residents.

His lease agreement sets the termination date, subject to the annual recertification process, and the conditions of use of the property. His apartment is designated as an affordable unit with a rent calculated according to the area median income. You also state that Councilmember Beckman was not on the Council when the apartment owner entered into the affordable housing agreement with the Town. The Agreement was entered into in November 2013. Councilmember Beckman was first elected to the Council in June 2018. He just recently moved into the building.

#### **ANALYSIS**

The Act’s conflict of interest provisions prohibit any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a “financial interest.” (Section 87100.)

A public official has a “financial interest” in a governmental decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on one or more of the public official’s

interests, including “[a]ny real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.” (Section 87103.) Section 82033 defines an “interest in real property” to include a leasehold if the market value is \$2,000 or more.<sup>2</sup> Councilmember Beckman has a real property interest in his leased residence.

### *Foreseeability and Materiality Standards*

Regulation 18701 provides the standard for determining the foreseeability of a financial effect on an economic interest depending on whether it is explicitly, or not explicitly, involved in the governmental decision. A financial interest is explicitly involved in a decision if it is a named party in, or the subject of, a governmental decision before the official or the official’s agency. (Regulation 18701(a).) A financial interest is the “subject of a proceeding” if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).<sup>3</sup> According to the facts provided, Councilmember Beckman’s interest in his leased residence is not a “named party or subject of” the proceeding and it is not explicitly involved in the decision.

Regulation 18701(b) provides the applicable standard for determining the foreseeability of a financial effect where an official’s economic interest is not explicitly involved in the governmental decision. This provision states, “[i]n general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable.” It further states, “[i]f the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.”

### *Materiality: Real Property Standards*

Regulation 18702.2 provides the standards for determining when a government decision’s reasonably foreseeable effect on an official’s real property interest is material. For a real property leasehold interest, Regulation 18702.2(c) provides that the financial effects of a decision on an official’s leasehold interest as the lessee of the property is material only if the governmental decision will:

- (1) Change the termination date of the lease;
- (2) Increase or decrease the potential rental value of the property;
- (3) Change the official’s actual or legally allowable use of the property; or
- (4) Impact the official’s use and enjoyment of the property.

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<sup>2</sup> Regulation 18233 specifies that the terms “interest in real property” and “leasehold interest” do not include the interest of a tenant in a periodic tenancy of one month or less. In the event that Councilmember Ramirez does not renew his one-year lease and becomes subject to a month-to-month lease, he will not have an “interest in real property” for the purposes of the Act.

<sup>3</sup> We note that Regulation 18702.2(a)(1)-(6) is not applicable to a leasehold interest.

The proposed affordable housing development project involves replacing a vacant, two-story office building with a 99-unit, six-story building that is 72 feet in height and located approximately 375 feet from the apartment building in which the Councilmember resides. Councilmember Beckman's unit is on the second floor, and he will have a view of the affordable housing project. Further, the project applicant is seeking to increase the allowable density beyond the base density, as well as five development standard waivers and there is no traffic study for the proposed project, only a 2019 traffic study for an earlier project. These facts suggest that the project will impact the use and enjoyment of his residence by altering the intensity of use, parking, view, privacy, and noise levels at Councilmember Beckman's residence.<sup>4</sup> As such, the Act prohibits Councilmember Beckman from participating in governmental decisions related to the proposed affordable housing development project.

If you have other questions on this matter, please contact me by email at [znorton@fppc.ca.gov](mailto:znorton@fppc.ca.gov).

Sincerely,

Dave Bainbridge  
General Counsel

**Zachary W. Norton**

By: Zachary W. Norton  
Senior Counsel, Legal Division

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<sup>4</sup> Due to the above determination, we need not separately consider whether the addition of 99 affordable units would impact the rental value of the property.