



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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June 20, 2025

Joseph H. McDougall
City Attorney
City of Burbank
275 East Olive Ave
Burbank, CA 91502

Re: Your Request for Informal Assistance
Our File No. I-25-063

Dear Mr. McDougall:

This letter is in response to your request for advice regarding conflict of interest provisions of the Political Reform Act (the “Act”).¹ Because your inquiry is general in nature, we are treating your request as one for informal assistance.² 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. Lastly, the Commission does not provide advice with respect to past conduct. (Regulation 18329(b)(6)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to prospective actions.

QUESTION

Does the Act prohibit City of Burbank (City) Mayor Perez or Councilmember Anthony from participating in governmental decisions relating to the City’s proposed budgetary and tenant protection items, given that they each have month-to-month leases for their respective primary residences within the City?

¹ 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.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSION

Even to the extent it is reasonably foreseeable that the tenant protection decisions may have a material financial effect on both official's personal finances, as lessee's of their primary residences with no other interests at issue, the public generally exception in Regulation 18703(e)(4) will permit Mayor Perez and Councilmember Anthony to take part in the decisions as long as the decisions are applicable to all residential rental properties in the jurisdiction, other than those excepted by the Costa-Hawkins Rental Housing Act.

We caution that you have stated that some of the specifics of the proposals have not yet been identified. Accordingly, the conclusions reached are general and will apply only to the extent that it is subsequently determined that the specific proposal applies to all residential rental properties in the jurisdiction, other than those exempted by the Costa-Hawkins Rental Housing Act. Prior to taking part in any of the proposals, the specific proposal and the rental units to which it applies must be identified and carefully considered.

FACTS AS PRESENTED BY REQUESTER

The City of Burbank (the City) Mayor Nicole Perez and Councilmember Konstantine Anthony (collectively the Officials) lease their respective primary residences within the City. They each rent one residential unit on a month-to-month basis. The City anticipates both budgetary and substantive tenant protection-related items for City Council consideration in the upcoming year.

On August 9, 2023, the City considered adopting local residential tenant protections more restrictive than the California Tenant Protection Act. After several study sessions, the City was directed to return an ordinance for City Council consideration and potential adoption.

On July 30th, 2024, the City Council adopted a tenant protection ordinance (the Ordinance) that increased relocation assistance for all no-fault just cause evictions, added anti-retaliation tenant protection provisions, and established a local enforcement mechanism by authorizing legal action and certain administrative remedies for violations of the Ordinance, which became effective on August 31, 2024.

On March 11, 2025, the City Council adopted amendments to the Ordinance including adding an exemption for small, non-commercial property owners related to increases in relocation assistance for certain specific no-fault, just cause evictions, and anti-harassment tenant protections (the Amended Ordinance).

Mayor Perez and Councilmember Anthony participated in the decisions related to the Ordinance and Amended Ordinance because you concluded they qualified under the "public generally" exception in Regulation 18703(e)(4), based on the following facts:

- The Ordinance and Amended Ordinance cover tenant protection measures;
- The Ordinance and Amended Ordinance are applicable to all residential rental properties within the City other than those excepted by the Costa-Hawkins Rental Housing Act;
- Neither of the Officials owns any residential rental units; and

- The only interest affected by the decision to adopt the Ordinance and the Amended Ordinance was rental of each Official's primary residence, as lessees of those properties.³

The City Council now anticipates additional discussion related to more narrowly tailored tenant protection or landlord-related regulations, which include the following topics of discussion:

- **Enforcement Funding** – Budgetary funding for the City's existing local tenant protection enforcement program. Funding will enforce violations of the City's existing just cause eviction, relocation assistance, and retaliation regulations in accordance with the Tenant Protection Act, which covers all residential rental units allowed to be regulated under state law. The City's existing regulations have no special exceptions and apply to the same units covered by the Tenant Protection Act, which are the same excepted by the Costa-Hawkins Rental Housing Act.
- **City Relocation Funding** – Budgetary funding for City-funded tenant relocation assistance for certain eligible tenants. Funding for relocation is to fund City assistance beyond the landlord requirement in the local ordinance for tenants; this may apply to specific classes of tenants based upon criteria yet to be determined or finalized, but it will be City-funded and cover all residential rental units allowed to be regulated under state law.
- **Registry Funding** – Budgetary funding for a potential rent registry program that may require owners or tenants to register their rental and provide certain information. Funding for the registry is intended to apply to all rentals, whether subject or not subject to rent control, but the specifics of any proposals are yet to be finalized.
- **Rent Registry** – Adopting a potential rent registry program for all rentals within the City. The new rental registry would likely apply to all rental properties as it is a data collection requirement, but the specifics of any proposals are yet to be finalized.
- **New Tenant Protection Regulations** – Additional local tenant protection regulations may include expanding just cause eviction to all rental properties within the City, but the specifics of any proposals are yet to be finalized.
- **City Rent Cap** – The new local rent cap would apply to all residential units allowed to be regulated under state law, which would also exclude the same units excepted by Costa-Hawkins Rental Housing Act, but the specifics of any proposals are yet to be finalized.

ANALYSIS

A. The Act.

Section 87100 prohibits any public official from making, participating in making, or otherwise using the official's position to influence a governmental decision in which the official has

³ As stated above, we do not provide advice relating to past conduct. Accordingly, we express no opinion on the application of the public generally exception to these decisions, or the Officials' involvement in these decisions.

a financial interest. 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. (Section 87103; Regulation 18700(a).)

Relevant to the facts presented, Section 87103 of the Act lists several types of financial interests that can give rise to a conflict of interest, including an economic interest in real property in which the official has a direct or indirect interest of \$2,000 or more (Section 87103(b); Regulation 18702.2.) and an interest in the official’s personal finances, including those of the official’s immediate family, also known as the “personal financial effects” rule. (Section 87103; Regulation 18702.5(a).)

The first question is whether either Mayor Perez or Councilmember Anthony has a real property financial interest under the Act. Section 82003 defines an “interest in real property” to include a leasehold if the market value is \$2,000 or more. Regulation 18233 specifically excludes the interest of a tenant in a month-to-month lease from the definition of an “interest in real property” and that of a “leasehold interest.” Therefore, a month-to-month tenancy does not constitute a real property interest for purposes of the Act, and neither Mayor Perez nor Councilmember Anthony has a “real property” interest under Section 87103.

Turning to the personal financial effects rule, we examine whether it is reasonably foreseeable that the tenant protection decisions will have a material financial effect on either of the Official’s personal finances.

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on an economic interest explicitly involved in the governmental decision. It states, “[a] financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official’s agency. 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).

Where an official’s economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is set forth in Regulation 18701(b), which provides:

A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official’s control, it is not reasonably foreseeable.

Regarding the personal financial effects rule, a governmental decision’s reasonably foreseeable financial effect on a public official’s financial interest or those of the official’s immediate family is material if the decision may result in the official or the official’s immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision. (Regulation 18702.5(a).) Here, the decisions may have a financial effect on each of the

Official's personal finances as tenants because the decisions would apply a rent cap to residential units, fund enforcement of the tenant protections, and fund tenant relocation assistance for eligible tenants. The decisions may also have a material financial effect on each Official's personal finances if the decisions alter the Official's rental costs by at least \$500 or if the decisions would permit the Official to avoid relocation costs of \$500 or more. However, in this instance, we need not further examine the personal financial effect of each decision on the Official's finances, due to our conclusion below.

B. Public Generally Exception.

Under the Act's conflict of interest provisions, a public official is only disqualified from taking part in a governmental decision if it would have a reasonably foreseeable, material financial effect on an economic interest *distinguishable from the effect on the public generally*. (Section 87103 [emphasis added].) The "public generally exception" allows an official, otherwise disqualified from taking part in a decision, to take part in some decisions.

Regulation 18703 sets forth the public generally exception and includes a provision specifically relating to rental properties, providing:

The financial effect on a public official's financial interest is deemed indistinguishable from that of the public generally where there is no unique effect on the official's interest if the official establishes ... [t]he decision is limited to establishing, eliminating, amending, or otherwise affecting the respective rights or liabilities of tenants and owners of residential rental property, including a decision regarding a rent control ordinance or tenant protection measures, provided all of the following criteria are met:

(A) The decision is applicable to all residential rental properties within the official's jurisdiction other than those excepted by the Costa-Hawkins Rental Housing Act (Civil Code Sections 1954.40, et seq.).

(B) The official owns three or fewer residential rental units. For purposes of this regulation, a residential rental unit is each individual unit consisting of a single-family household.

(C) The only interests affected by the decision are:

(i) Interests resulting from the official's lease of residential real property, as the lessor of the property.

(ii) An interest in the official's primary residence as either a lessee or owner of the property.

(Regulation 18703(e)(4).)

Both Mayor Perez and Councilmember Anthony are month-to-month lessees of their primary residences, and this is their only interest that may be affected by the decisions under the facts provided. Accordingly, Regulation 18703(e)(4) will permit Mayor Perez and Councilmember

Anthony to take part in the decisions as long as the decisions are applicable to all residential rental properties in the jurisdiction, other than those excepted by the Costa-Hawkins Rental Housing Act.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

/s/ John M. Feser Jr.

By: John M. Feser Jr.
Senior Counsel, Legal Division

JF:aja