



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

July 17, 2025

Ingrid Anderson
Principal Architect
Anderson Architecture & Planning
4752 Stonehedge Dr.
Santa Rosa, CA 95405

Re: Your Request for Informal Assistance
Our File No. I-25-082

Dear Ms. Anderson:

This letter responds to your request for advice regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹ Given that your questions are general in nature and based on limited facts, we treat 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.

QUESTION

Under the Act, may you, an architect and a member of the City of Santa Rosa Design Review and Preservation Board (“DRPB”), appear as a representative of your firm’s projects on behalf of clients in other types of meetings including meetings with City staff and noticed public meetings of the Planning Commission and City Council?

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

Because the Planning Commission and City Council are separate commissions or boards not “appointed by or subject to the budgetary control of” the DRPB, you may appear at public meetings before the Planning Commission and City Council so long as you do not act or purport to act as a representative of, or on behalf of the DRPB. However, in regard to meetings with City staff outside of public meetings before the Planning Commission and City Council, you are prohibited from taking part in any decisions relating to your firm’s projects to the extent that this involves contacting DRPB staff. You are also prohibited from taking part in the decisions by appearing before or communicating with staff shared by the City with DRPB regarding any decisions involving the firm’s projects that may come before the DRPB for a future decision unless the exception for architectural documents applies.³

FACTS AS PRESENTED BY REQUESTER

You were recently appointed to the Architectural Historian seat on the DRPB by the Santa Rosa City Council. The DRPB reviews both public and private development proposals and provides discretionary comments and recommendations to the project designers and owners based on the consistency of the projects with the City’s General Plan goals, Design Guidelines, and the State Secretary of the Interior’s Standards for the Treatment of Historic Properties. They assess the location, design, site plan configuration, and the potential impact and overall aesthetic and other effects of projects on the surrounding area.

The City’s website states that the DRPB is a seven-member body that serves as the City’s design and historic/cultural preservation review authority. You note that each member of the DRPB is required to file a Statement of Economic Interests with the City.⁴ The purpose of the DRPB is to review the design and site plan configuration of proposed projects on surrounding properties and the City in general, as well as reviewing proposed alterations to properties within the City’s Preservation Districts and local landmarks. Review is conducted by comparing the proposed project to the General Plan, any applicable specific plan, applicable Zoning Code standards and requirements, and consistency with the City’s Design Guidelines, and the State Secretary of the Interior’s Standards for the Treatment of Historic Properties.

For projects that are reviewed in Final Design Review meetings, the DRPB members may take a vote to approve projects as designed, or to give direction on changes recommended or directed to the developer to make to the design of the project in order to make it consistent with the City’s General Plan and Municipal Code. The recommendations are included in the Conditions of Approval should the project be granted a planning entitlement. On larger policy documents, the

³ We note that our advice is limited to the Act and the application of conflict of interest rules to decisions involving the application of ordinances and development standards. Should any future decisions involve development agreements or any other contract to which a client may be a party, you should seek additional advice concerning the application of Section 1090.

⁴ You provided follow-up information indicating that, as a newly created body, the DRPB is designated in Form 804, which is used by agencies to identify new positions that will make or participate in making governmental decisions on behalf of the agency. DRPB members will be included in the Conflict of Interest Code for the City when it is next updated in 2026.

DRPB may be asked to provide comments, but there is typically no formal recommendation from the Board. The only exception would be any updates to the City's Design Guidelines. If an update to that document is proposed, the DRPB would be tasked with making a formal recommendation to the Council.

You are currently an employee and co-owner of an architectural practice in the City whose work includes multifamily housing, commercial and renovation, as well as planned residential and planned unit developments within the City limits, which are required to be reviewed by the DRPB. You are a planner and designer in your small firm, which includes one other employee and co-owner/architect who principally provides construction documentation and administration services.

Specifically, you seek clarification as to whether you may represent your firm's projects on behalf of clients in other types of meetings, to city staff only, and also in noticed public meetings other than to the DRPB. These include:

- Pre-Application Development Review Meetings (staff only)
- Neighborhood Meetings
- Zoning Administrator Meetings
- City Council Meetings (for appeals of project approvals)
- Planning Commission Meetings (special licenses, subdivisions)

In follow-up emails, you stated that the Pre-Application Development meetings are facilitated by a Senior Planner or the Deputy Director of the Planning Department. There are no DRPB members present at these meetings. Pre-application development meetings are in front of staff only, including Planning, Engineering, Fire, Utilities, Parks, and Housing. They are informal and non-binding, a chance to get feedback for developers from the City Staff for larger projects before any formal planning or DRPB submittals are made.

Neighborhood meetings are facilitated by Planning Department staff for residents in the project neighborhood to give feedback to developers. The DRPB is not involved at all with Neighborhood Meetings. The comments generated in Neighborhood Meetings are non-binding. The purpose of Neighborhood Meetings is to provide residents with a chance to voice their concerns or observations about the project prior to the developer making a formal DRPB and planning application to the City.

Zoning Administrator meetings occur only when final approval is recommended by the planning department for projects that do not require DRPB Final Review or a Major Design Review Application. These are projects which are eligible for a reduced level of review authority, by City Staff only, or otherwise are eligible for a Minor Design Review application, as described in the City's Municipal Code.

You have also clarified that a project that is seen by the Planning Commission can be referred to the DRPB for additional review or approval. The Planning Commission makes decisions on the consistency of projects with land use, as for example in the case of a multifamily project that also requires a lot merger or subdivision. In that case, the project would also be subsequently reviewed by the DRPB for consistency of the building design aspects of the project with the City's General Plan, Design Standards, and Zoning Code.

ANALYSIS

The Act's conflict of interest provisions ensure that public officials will perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).) Specifically, Section 87100 prohibits any public official from making, participating in making, or otherwise using an official position to influence a governmental decision in which the official has a financial interest.

Section 87103 defines interest from which a conflict of interest may arise and includes any business entity interest, where the public official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)); and any source of income aggregating \$500 or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made (Section 87103(c)). You have identified interests in your firm as both a business entity and source of income. Moreover, you have identified potential sources of income in clients who have retained your firm for planning and design services. To the extent that you have received, or been promised, \$500 or more from any clients within the preceding 12 months, you will have a financial interest in those clients as sources of income.

Foreseeability and Materiality

A financial effect on a public official's economic interest is reasonably foreseeable if the economic interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. (Regulation 18701(a).) An economic 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 economic interest, and includes any governmental decision affecting a real property economic interest as described in Regulation 18702.2(a)(1)-(6). (Regulation 18701(a).) The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a source of income is also material if the source is a named party in, or the subject of, the decision, including a claimant, applicant, respondent, or contracting party (18702.3(a)(1).)

Whenever your client's project is the subject of any decision involving permits, approvals, or other entitlements, your interest in the client as a source of income will be explicitly involved in the decision, and it is reasonably foreseeable that the financial effect of the decision on your interest will be foreseeable and material. Based on the facts provided, you are a planner and designer principally providing construction documentation and administration services to clients pursuing various development projects. While you have not identified a specific decision before the DRPB or the City, you are generally assisting your firm's clients with their projects, which would involve the clients' permits, approvals, and entitlements. Accordingly, your interest in a client as a source of income is explicitly involved in any decision involving the client's project. Pursuant to Regulations 18701(a) and 18702.3(a)(1), it is reasonably foreseeable that a decision regarding a client's project would have a material financial effect on your source of income interest in the client. Therefore, you must not make, participate in making, or use your official position to influence decisions on

behalf of your firm's clients, including planning review, design review, zoning, lot mergers or subdivisions.⁵

Notwithstanding your disqualification from decisions involving clients of your firm, you seek assistance regarding the permissibility of appearances as a representative of your firm's projects on behalf of clients in other types of meetings, including meetings with City staff only and public meetings of the Planning Commission or City Council.

In examining the permissibility of an appearance before other City staff and public meetings of the Planning Commission or City Council despite a potentially disqualifying interest, the determinative issue is whether the appearance constitutes making, participating in making, or influencing a governmental decision. The Act's conflict of interest provisions apply only when a public official "make[s], participate[s] in making, or in any way attempts to use the public official's official position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest." (Section 87100; Regulation 18700(b)(2).) The Commission has defined "making," "participating in making," and "influencing" a governmental decision in Regulation 18704 as follows:

Making a Governmental Decision: A public official "makes a governmental decision" when the official "authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency." (Section 87100; Regulation 18704(a).)

Participating in Making a Governmental Decision: A public official "participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review." (Section 87100; Regulation 18704(b).)

Influencing a Governmental Decision: Two rules address whether a public official is using or attempting to use an official position to influence a governmental decision. (Section 87100; Regulation 18704(c).)

Under Regulation 18704(c), the first rule applies when the governmental decision is within or before the public official's own agency or an agency subject to the authority or budgetary control of the official's agency. In these cases, if the official "contacts or appears before" or otherwise attempts to influence, any member, officer, employee or consultant of the agency, then the official is attempting to influence a governmental decision. (Regulation 18704(c)(1).)

⁵ We note that you may also be prohibited from taking part in decisions regarding your firm's clients if it is reasonably foreseeable that the decision would have a material effect on your interests in your firm as a business entity and source of income. However, as we have determined that you are generally disqualified from the decisions based upon the financial effect on your interest in your clients, it is unnecessary to further consider your interests in your firm because the restrictions on making, participating in making, or influencing the decisions apply regardless of the reason for which you are disqualified. Moreover, to the extent you are not making, participating in making, or attempting to influence a decision, as analyzed herein, you may take part in the decision regardless of your otherwise disqualifying interests.

The second rule applies when the governmental decision is within or before an agency *other* than the public official's own agency, or an agency appointed by or subject to the budgetary control of the public official's agency. (Regulation 18704(c)(2).) Under this rule, the official cannot act or purport "to act within the official's authority or on behalf of the official's agency in making the contact" to influence a decision that will have a material financial effect on the official's economic interests.

You state that you intend to represent clients' projects before other City agencies or staff in your private capacity. As applied to these appearances, we must determine whether you are attempting to influence a decision under Regulation 18704(c) and, more specifically, whether the appearance is before your own agency. In making this determination, we must distinguish between public meetings of the Planning Commission and City Council, and meetings outside of these public meetings with City staff.

In regard to public meetings of the Planning Commission and City Council, we do not typically treat different public bodies within a city as the same agency unless the body is subject to the appointive or budgetary control of the other body. In this case, neither the Planning Commission nor the City Council is appointed by, or subject to, the budgetary control of the DRPB. Thus, for purposes of the conflict of interest provisions, neither is considered your agency. (See *Farrell* Advice Letter, No. I-03-121.) Even to the extent you have a potentially disqualifying financial interest in the government decision, you are not prohibited from appearing at public meetings before the Planning Commission or City Council so long as you do not purport to be acting in an official capacity.

Turning to a meeting or any other discussion with City staff outside of a public meeting of the Planning Commission or City Council, we must determine whether you are participating in making or attempting to influence a decision if you appear before City staff to discuss your firm's projects. For purposes of City staff, we must distinguish the actual staff of the DRPB from City staff not under the authority of the DRPB. Moreover, while you have not indicated whether the DRPB has staff under its authority, to the extent that it does, you are generally prohibited from any appearance before or communication with the staff in an attempt to influence a decision regarding one of your firm's projects.

For purposes of City staff not under the authority of the DRPB, we must examine the extent staff is shared by the City with the DRPB. Previously, we have advised in the *Farrell* Advice Letter, *supra*:

[I]t is important to realize that staff does not exist in a vacuum; it is not a generic entity with its own identity. Rather, staff is a component of the agency to which it is assigned. An "agency" includes the staff assigned exclusively to a public official's agency (*Larmore* Advice Letter, No. A-00-275; *Martello* Advice Letter, No. A-85-190) as well as staff that are shared between that and another agency (*West* Advice Letter, No. A-88-413).

Accordingly, we advised that a member of a design review board could not meet or communicate with a staff member of another city department on behalf of a client if: (1) the staff member is assigned or involved in a project, analysis, presentation, or other matter that is or will be brought before the design review board; and (2) it is reasonably foreseeable that the design review

board's decision regarding the item in which the staff member is involved will have a material financial effect on one or more of the member's economic interests. In short, when staff is shared for a project which is, or will be, before the official's agency, *meeting or otherwise communicating with the shared staff* regarding the project is an appearance or communication with the official's own agency. (See *Farrell* Advice Letter, *supra*.)

Applied to your facts, as a DRPB board member with a disqualifying financial interest in decisions regarding your firm's project, you may not appear before or communicate with a staff member of any City department, on behalf a client, if the staff member is assigned or involved in that project and the project may potentially be brought before the DRPB, including but not limited to a staff member who advises or provides analysis to the DRPB regarding the project.

Regulation 18704(d): Exception for Submission of Architectural and Engineering Documents

We note the conclusions above do not apply to the submission of architectural documents that meet the exception provided in Regulation 18704(d)(6)(A). Under this exception, "making, participating in, or influencing a governmental decision" does not include the submission of architectural documents on a client's behalf before the official's agency, so long as the official does not make contact with the agency other than contacts with staff concerning the process or evaluation of the documents the official prepared.

The exception in 18704(d)(6)(A) states:

"(A) Drawings or submissions of an architectural, engineering, or similar nature prepared by a public official for a client to submit in a proceeding before the official's agency if:

"(i) The work is performed pursuant to the official's profession; and

"(ii) The official does not make any contact with the agency other than contact with agency staff concerning the process or evaluation of the documents prepared by the official."

Commission staff has narrowly construed this exception, finding that it is limited to the preparation of technical documents and necessary contact with agency staff concerning the processing or evaluation of the drawings or submissions prepared by the official. (*Rumansoff* Advice Letter, No. I-94-045.) "Necessary contact" has been narrowly construed to only allow an official to respond to questions from agency staff regarding the evaluation of drawings and submissions prepared by the official or relating to their movement through the approval process. (*Woody* Advice Letter, No. I-99-061 and *Holbert* Advice Letter, No. I-90-080.)

Our advice solely pertains to the Act, and this letter does not address other areas of law, such as common law conflicts of interest or any restrictions on incompatible activities which may be imposed by your agency.

If you have other questions on this matter, please contact me at znorton@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

By: Zachary W. Norton
Senior Counsel, Legal Division

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