



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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July 17, 2025

Michael Sparks
Senior Deputy City Attorney
915 I Street, 4th Floor
Sacramento, CA 95814

Re: Your Request for Advice
Our File No. A-25-099

Dear Mr. Sparks:

This letter responds to your request for advice regarding conflict of interest provisions of the Political Reform Act (the "Act").¹ 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.

QUESTIONS

Under the Act, may Councilmember Dickinson take part in governmental decisions related to a development project that would construct 88 new dwelling units approximately 800 feet from his residential real property?

CONCLUSION

No. Under the Act, Councilmember Dickinson is prohibited from making, participating in making, or in any way using or attempting to use his official position to influence any governmental decisions related to a development project that would construct 88 new dwelling units less than 1,000 feet from his residential real property because it is reasonably foreseeable that the Project will have a material financial effect on his residential real property by changing the market value and character of the property.

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.

FACTS AS PRESENTED BY REQUESTER

Councilmember Dickinson and his spouse own and reside in a two-story, 1,722 square foot, single-family residence on an approximately 0.22-acre parcel on Southgate Road in the city of Sacramento. Councilmember Dickinson's direct financial interest in this real property is at least \$2,000. Southgate Road is in the Woodlake neighborhood, an established, predominantly residential, neighborhood that consists of single-family residences (including accessory dwelling units) and multi-family residences, with some commercial uses, a public school, a park, a mobile home park, and a few vacant parcels.

A developer has submitted applications to the city for planning entitlements for the Creekside at Woodlake development project at 1976 Edgewater Road (the "Project"). The Project site is a vacant, approximately seven-acre, parcel that is zoned R-1. Councilmember Dickinson's property is located approximately 800 feet east of the Project site, as measured property line to property line, and approximately 860 feet to the east along Southgate Road (on the opposite side of the street). The area between Councilmember Dickinson's property and the Project site is developed with residential uses and includes trees, two public streets (Oxford Street and Canterbury Road), and a City-owned vacant parcel, which provides a buffer between the Councilmember's property and the Project site.

The Project applications request: 1) a tentative subdivision map to subdivide a 7-acre lot into 29 residential lots and 5 additional lots for private roads and alleys, water quality basins, and common open space and landscaping; 2) a tentative map design deviation for nonstandard residential street section and required public street frontage; 3) site plan and design review for review of the tentative subdivision map and the construction of 31 residential units in the R-1 zone; 4) a tree permit for the removal of 29 private protected trees; and 5) ministerial review of 57 accessory dwelling units ("ADUs") (31 attached and 26 detached). In total, the Project would construct 88 two-story dwelling units consisting of 27 single-family residences, 2 duplex buildings, and 57 ADUs. The Project would require approval of a mitigated negative declaration to comply with the California Environmental Quality Act ("CEQA").

The Project's planning entitlements, including CEQA approval, are subject to director-level review under the Sacramento City Code, except for the ministerial review of the ADUs, which is done at a staff level. The director-level decision may be appealed to the City's planning and design commission. The planning and design commission's decision is final and may not be appealed, except for the decisions relating to the tentative map and an approval of a mitigated negative declaration, which may be appealed to the City Council. Also, approval from the California Department of Transportation and California Transportation Commission is required to allow the alley, or "A Road" if the Project were reconfigured, to connect to the on-ramp to State Route 160.

A traffic study was conducted, and it is projected that 658 daily vehicle trips will be generated as a result of the Project. The segment of Southgate Road in front of Councilmember Dickinson's residence was not evaluated in the study. The closest road segment to the Councilmember's residence that was evaluated in the study is projected to see an increase of 32 daily vehicle trips. The current baseline for that strip of road is 1,492 daily trips.

Attachments provided with your request for advice include architectural drawings of the Project. We note that the 57 ADUs that are proposed alongside the 27 single-family residences are fully contained units that are visually indistinguishable from a typical complex of townhomes.

ANALYSIS

Under Section 87100 of the Act, “[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official’s position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest.” “A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official’s immediate family,” or on certain specified economic interests. (Section 87103). Certain specified economic interests include any real property which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more. (Section 87103(b)). Here, Councilmember Dickinson has a financial interest because he has a direct interest worth more than two thousand dollars (\$2,000) in his residence.

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, as here, an official’s financial interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect is found in Regulation 18701(b). That regulation 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.” (Regulation 18701(b)).

Under FPPC Regulation 18702.2(8), the financial interest in real property is material when the governmental decision involves property located more than 500 feet but less than 1,000 feet from the property line of the official’s parcel, and the decision would change any of the following aspects of the parcel:

- (A) Development potential;
- (B) Income producing potential;
- (C) Highest and best use;
- (D) Character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or
- (E) Market value.

Since the Councilmember's property is located approximately 800 feet from the parcel subject to the government decision, the financial effect will be material if the decision would change the development potential; income producing potential; highest and best use; character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality; or market value of the Councilmember's parcel.

Generally, the size of the project and number of units are relevant factors in considering the potential effect on an official's nearby property interest including the character and market value. For instance, in the *Marroquin* Advice Letter, No. A-22-103, we advised the effects of constructing 90 units, consisting of 89 affordable senior housing units and one manager's unit, on a vacant parcel would likely result in significant change to the character of the neighborhood and the market value of nearby residences.

In similar circumstances, we have also advised that residential development projects on vacant or previously undeveloped land would have a material financial impact on the market value of existing properties in the neighborhood. (See *Marroquin, supra* ["The fact that the 3.73 acre site is currently vacant and undeveloped is also significant."]; *Roberto* Advice Letter, No. A-21-043 [interim city manager prohibited from taking part in decisions relating to a proposed 130-unit residential development project located on 16 acres of vacant land about 600 feet from her residence based on its potential to protect or increase the market value of neighboring property]; *Diaz* Advice Letter, No. A-20-113 [councilmember disqualified from taking part in decisions to eliminate 45.17 acres of vacant property between 500 and 1000 feet from his residence in favor of 103 high-end and low-density single-family homes]; *Wisinski* Advice Letter, No. A-20-085 [councilmember disqualified from decisions relating to proposed residential project consisting of 510 units on undeveloped real property located 703 feet from councilmember's residential real property interest]; *Chopra* Advice Letter, No. A-18-098 [reasonably foreseeable that construction of 118 new residential dwellings on land utilized as a public park located about 930 feet from residences of two City of Mountain View councilmembers would have a material financial effect on the market value of their homes].)

Under the facts provided in these circumstances, the Project consists of the replacement of a seven-acre vacant lot with 88 new residential dwelling units. While the proposal references 27-single-family residences, the Project consists of a total of 88 two-story fully contained units, including in addition to the 27 single-family residences, two duplex buildings and 57 ADUs that are visually indistinguishable from the single-family residences. We also emphasize that the units identified as ADU units will be constructed simultaneously with the residential units and are an integral part of the project.²

Similar to *Marroquin, supra*, it is reasonably foreseeable that the construction of 88 residential units on a currently undeveloped property will affect the market value and character of

² While you indicate approval of ADUs is ministerial, we express no opinion as to whether the general approval of ADUs is ministerial for purposes of the Act. However, in this instance, the 57 ADUs are proposed as an integral element of the Project. Thus, the approvals of the Project and the ADUs are inextricably interrelated and, for purposes of the Act, treated as the same decision. (See Regulation 18706 [Decisions are "inextricably interrelated" if the result of one decision will effectively determine, affirm, nullify, or alter the result of another. Inextricably interrelated decisions are treated as a single decision and cannot be considered separately from one another].) Thus, we note that this decision approving the ADUs is not ministerial.

the property. Not only would the introduction of 88 new dwelling units impact the housing supply in the immediate vicinity, but the decision to develop seven acres of currently vacant land is itself a decision regarding the potential future use of the vacant property that may have significant impacts on the surrounding area. The decision to develop the property would not only remove a vacant parcel from the area, but would also preclude it from being used in the future for another purpose that may be more or less favorable than the Project. Consequently, proceeding with the Project may result in significant changes to the character of the Woodlake neighborhood and may affect the market value of the councilmember's residence. Therefore, the Act prohibits Councilmember Dickinson from taking part in decisions related to the Project.

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

Sincerely,

Dave Bainbridge
General Counsel

Margaret L. Roeckl-Navazio

By: Margaret Roeckl-Navazio
Counsel, Legal Division

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