



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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July 15, 2025

Rebecca L. Moon
City of Sunnyvale
City Attorney
456 West Olive Avenue
Sunnyvale, CA 94088-3707

Re: Your Request for Formal Advice
Our File No. A-25-101

Dear Ms. Moon:

This letter responds to your request for advice on behalf of Sunnyvale City Councilmember Eileen Le regarding the 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.

QUESTION

Under the Act, may Councilmember Eileen Le take part in City Council decisions related to vehicle lane closures and bicycle and pedestrian path improvements located between 500 and 1,000 feet from her residence?

CONCLUSION

Yes, the Act permits Councilmember Le to take part in the decisions because it does not appear they would change the development potential, income-producing potential, highest and best use, character, or market value of her real 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

On July 29, 2025, the Sunnyvale City Council will consider a proposed project to construct bicycle and pedestrian improvements on a segment of Tasman Drive between Fair Oaks Avenue and Lawrence Expressway. This segment of Tasman has two traffic lanes in each direction, with no bike lanes and large sidewalk gaps, and a light rail line running down the center of the roadway. The posted speed limit is 40 mph. Although Tasman Drive is classified as a commercial/industrial corridor, the primary uses along the project segment are mobile home parks.

In September 2020, during the COVID-19 pandemic, the City temporarily closed one lane of eastbound Tasman Drive between Tasman Court and Vienna Drive to provide mobile home park residents with additional space to walk and bike. This lane has remained closed since that time (nearly 5 years) while the City studies ways to implement permanent bicycle and pedestrian improvements.

The proposals that will be considered by City Council on July 29, 2025, would involve permanent removal of one vehicle travel lane in each direction on Tasman between Fair Oaks Avenue and Lawrence Expressway to accommodate either a multiuse path, or sidewalks and buffered bike lanes. There would also be improvements at the intersection of Tasman and Fair Oaks such as crosswalks and re-striping.

Councilmember Le owns a townhome in a common interest development located northwest of the project area. Her building is more than 500 feet, but less than 1,000 feet from the closest point of the project area at the corner of Tasman and Fair Oaks.

A traffic study was prepared to determine how the project bicycle and pedestrian improvements would affect traffic. The key findings of the traffic study are summarized as follows:

The traffic analysis completed for the Project found that reduction in a vehicle lane from both sides of Tasman Drive does not result in substantial additional congestion on the local network. While delay may increase by a few seconds and queueing may increase by up to a few vehicles, City and VTA CMP thresholds for intersection operations are not exceeded. Implementation of new dedicated bicycle and pedestrian infrastructure would significantly enhance the safety and mobility for those modes while having marginal effects on auto circulation.

Your request for advice also included a map of the proposed area of street improvements in relation to Councilmember Le's real property. The map indicates her real property is separated from the street improvements by several obstacles, including roads and buildings.

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.) Among those specified economic interests is "[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(b).)

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 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."

Under Regulation 18702.2(a)(6), the reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision involves construction of, or improvements to, streets, water, sewer, storm drainage or similar facilities, and the parcel will receive new or improved services that provide a benefit or detriment disproportionate to other properties receiving the services. Here, however, there is no indication that the anticipated street improvements would have a disproportionate benefit or detriment to Councilmember Le's real property.

The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is also material whenever the governmental decision involves property located more than 500 feet but less than 1,000 feet from the property line of the parcel, and the decision would change the parcel's:

- (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.

(Regulation 18702.2(a)(8).)

As noted above, the street closure and improvement proposals would include permanent removal of one vehicle travel lane in each direction on Tasman between Fair Oaks Avenue and Lawrence Expressway to accommodate either a multiuse path, or sidewalks and buffered bike lanes.

There would also be improvements at the intersection of Tasman and Fair Oaks, such as crosswalks and re-striping. These anticipated improvements would not change the development potential of Councilmember Le's real property, nor would they change the property's highest and best use. Additionally, there are no facts suggesting the decisions would impact the income-producing potential or market value of Councilmember Le's real property, particularly given that a portion of one vehicle lanes proposed for permanent closure has already been closed, albeit "temporarily," since September 2020. There is also no indication that the street closures improvements would change the character of Councilmember Le's real property by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality.

Based on the facts provided, it is not reasonably foreseeable the proposed street closures and improvement-related decisions would not have a material financial effect on Councilmember Le's real property. Consequently, the Act does not prohibit Councilmember Le from taking part in the decisions.

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

Sincerely,

Dave Bainbridge
General Counsel

By:



Kevin Cornwall
Senior Counsel, Legal Division

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