



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
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July 23, 2025

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

Re: Your Request for Advice  
**Our File No. A-25-103**

Dear Ms. Moon:

This letter responds to your request for advice on behalf of City of Sunnyvale (“City”) Councilmember Charlise Chang 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

Does City Councilmember Charlise Chang have a disqualifying financial interest in decisions related to a proposed California Water Service Co. (“CalWater”) well and water tank drilling and construction project where the site is located approximately 915 feet from her leased single-family home and CalWater provides services to her home?

### CONCLUSION

No. The project will be separated from the official’s leased residence by several streets and housing developments, such that her use and enjoyment of the property will not be significantly impacted by the noise and vibrations related to the project. Additionally, there is no indication the

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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.

City's decisions on the project would impact the official's personal finances as a CalWater customer.

### **FACTS AS PRESENTED BY REQUESTER**

CalWater is a privately-owned water utility that provides water service to approximately 1,300 Sunnyvale households. CalWater owns a 0.77-acre parcel of land at 800 Carlisle Way in Sunnyvale, which the company has not actively used since 2016. The parcel currently has a decommissioned (capped) water well, an inactive booster pump, chemical storage buildings, and a separately owned cell tower. The parcel is on the south side of Carlisle Way with single family homes to the south, east, and across the street to the north. There is a City park to the west.

CalWater is proposing to demolish existing buildings and infrastructure on the site, drill a new well, and construct a new, 56,000 gallon water storage tank, three chemical storage enclosures, utility and right-of-way improvements, new discharge pipeline, and install emergency generators and emergency lighting. The project will require a use permit, a variance, and a California Environmental Quality Act ("CEQA") analysis.

Councilmember Chang rents a single-family home located approximately 915 feet east of the CalWater parcel at the nearest point. Her home is separated from the CalWater parcel by three streets, one of which is a 4-lane arterial (Wolfe Road), apartments, a large condominium development, and single-family homes. The City anticipates that this separation will insulate her home from project impacts such as noise and vibration during the well drilling and construction phase, as well as later operation of the well pump and emergency generators. Additionally, CalWater is the water provider for Councilmember Chang's rental home, which she is responsible for paying pursuant to the terms of her lease. The City has no information about how this project may affect the rates that CalWater charges its customers (if at all).

The City required an Environmental Impact Report (EIR) to evaluate the potential impacts of the project on the surrounding residential neighborhood. An initial environmental study determined that the project would result in no impacts or less than significant impacts in all CEQA categories except for noise and vibration. A focused EIR was prepared to further evaluate noise and vibration impacts. This EIR concludes that the project would cause a substantial temporary and permanent increase in ambient noise levels in the vicinity of the project in excess of applicable standards. These impacts are significant and unavoidable with mitigation incorporated. Due to the nature of the well drilling operations, drilling will occur without a stop for 24 hours per day, 7 days a week, in two phases: the first phase of drilling will last approximately 12 days, then pause for two weeks, then resume for 15 additional days. All other construction for the remaining project components, including demolition, grading, trenching, and tank construction would take place during the City of Sunnyvale's standard construction hours.

In order to mitigate the noise, CalWater will be required to install a temporary, 32-foot high acoustic barrier wall around the perimeter of the site, K-rail mounted sound barriers around the drilling site, and acoustical blankets on the drilling rig floor. The nearby residents will also experience a permanent, noticeable increase in ambient noise from the operation of the pump station of at least 5 decibels, as well as increased noise on rare occasions when the emergency generators are used. Although these impacts will be significant for the residents closest to the

CalWater parcel, the noise level declines with distance. Based on the analysis presented in the noise and vibration study, homes located on the east side of Wolfe Road, such as the Councilmember's home, will not experience significant impacts created by noise and vibration.

## ANALYSIS

The Act's conflict of interest provisions prohibit a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests, distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) The financial interests that may give rise to an official's disqualifying conflict of interest under the Act are set forth in Section 87103 and include: any real property in which the official has a direct or indirect interest worth more than \$ 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).)

Councilmember Chang has a leasehold interest in real property located 915 feet from the Project area, and is a CalWater customer. We consider whether it is reasonably foreseeable that the decisions would have a material financial effect on her leasehold interest or her personal finances.

### *Foreseeability and Materiality*

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. (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>2</sup>

Regarding financial interests not explicitly involved in a decision, 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).)

For a leasehold interest in real property, Regulation 18702.2(c) provides that the effect of a decision is material only if the 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 real property; or (4) impact the official's use and enjoyment of the real property.

Regarding the personal financial effects rule, Regulation 18702.5(a) provides that 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

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<sup>2</sup> Regulation 18702.2(a)(2)-(6) is not applicable to a leasehold interest.

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.

The facts provided do not indicate that the well and water tank project will change the termination date of Councilmember Chang's lease; increase or decrease the potential rental value of her property by changing the services available to the property; or change the official's actual or legally allowable use of the real property. Because her home is separated from the CalWater parcel (by three streets, one of which is a 4-lane arterial road, apartments, a large condominium development, and single-family homes) and the EIR indicates that the noise and vibration will not be significant at her distance from the project, the decisions will not impact the official's use and enjoyment of her real property.

As for potential increase in water rates, we note that for a decision with a reasonably foreseeable financial effect on the official's financial interest in real property, "any related effect on the official's personal finances is not considered separately," and the financial effect on the real property is analyzed only under the respective materiality standards in Regulation 18702.2. (Regulation 18702.5(c).) Considering the potential effect on Councilmember Chang's property interest, which we have determined will not be material, Councilmember Chang is generally not disqualified based upon a separate effect on her personal finances. Nonetheless, even to the extent we were to consider a potential rate change separately from the potential effect on the real property, there are no facts indicating that the City's decisions on the project will have a financial impact on her personal finances of at least \$500 in a 12-month period as a CalWater customer. The City decisions, as described, relate to the project, and not the private utility's rate decisions. Councilmember Chang does not have a disqualifying interest in the City's decisions on the project.

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

Sincerely,

Dave Bainbridge  
General Counsel

**L. Karen Harrison**

By: L. Karen Harrison  
Senior Counsel, Legal Division

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