



FAIR POLITICAL PRACTICES COMMISSION

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October 20, 2016

Ryan Sundberg
Humboldt County Board of Supervisors
rsundberg@co.humboldt.ca.us

Re: Advisory Letter –FPPC No. 16/224

Dear Mr. Sundberg:

The Enforcement Division of the Fair Political Practices Commission investigated allegations in a sworn complaint that you violated the conflict of interest prohibitions of the Political Reform Act (the “Act”)¹. The allegation centered on your position on the Humboldt County Board of Supervisor and your membership in the Cher Ae Heights Indian Community of the Trinidad Rancheria (the “Tribe”) due to the Tribe’s ownership of residential real property in Humboldt County.

Under the Act, no public official may make, or participate in making, a governmental decision in which he knows or has reason to know he has a financial interest.² A public official has a financial interest in a governmental decision if it is reasonably foreseeable that decision will have a material financial effect on an interest of the official.³ But in order to have a conflict of interest, the financial effect of the decision on the officials’ interest must be distinguishable from the effect the decision would have on the public in general⁴. This is commonly referred to as the “public generally” exception. If a decision similarly effects at least 25% of all residential property in the official’s jurisdiction, the effect on the official’s interest is not considered unique, the public generally exception applies, and there is no conflict of interest.

Our investigation found that at a Board of Supervisors meeting on February 9, 2016, you voted in favor of a resolution to accept a petition to amend zoning codes to allow homes zoned for single family residences within the county to be used as vacation rentals. The vote did not approve of the zoning change but rather allowed the petition to move on to the planning commission for additional analysis and consideration. The proposed zoning changes

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

² Section 87100.

³ Section 87103, subd. (c).

⁴ Section 87103

would apply to all properties within the county zoned for single family residences or one-family dwellings.

We also found the Tribe owns and rents out two residential properties that would be impacted by the proposed zoning change. You do not receive any proceeds from the rental property owned by the Tribe but, as member of the Tribe, you do receive proceeds from the Tribe's casino and restaurant operations.

Despite the income you received from the Tribe, the Enforcement Division concluded there is insufficient evidence to conclude you committed a conflict of interest violation in voting in favor of the resolution to consider a zoning change. This is because the proposed zoning change would impact all properties within the county zoned for single family residences or one-family dwellings so the "public generally" exception would apply under these circumstances. That being the case, we are closing this matter with this advisory letter.

Even though we are closing this matter, be advised of the conflict of interest provisions of the Act in any future actions you may take involving the Tribe. If you need advice regarding the Act's conflict of interest provisions, please visit our website at <http://www.fppc.ca.gov/advice.html>. If you have questions regarding this matter, please contact me at dbainbridge@fppc.ca.gov.

Sincerely,



Dave Bainbridge
Assistant Chief
Enforcement Division

cc: Mara Parker, complainant