



# Memorandum

**TO:** HONORABLE MAYOR AND CITY COUNCIL      **FROM:** RICHARD DOYLE  
City Attorney

**SUBJECT:** Appeals Hearing Board Applicants      **DATE:** October 26, 2017

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## **BACKGROUND**

This Office routinely reviews applications to City Boards, Commissions and Committees. The applications do not provide complete information; however, they do occasionally disclose potential conflicts of interest or incompatible offices. The purpose of this memorandum is to highlight major areas of potential conflict that are disclosed by the applications. To analyze potential conflict, it is necessary to consider the duties of the commission or committee to which the applicant is seeking appointment. This review is limited to the information provided on the application and is not intended to be comprehensive investigation of potential conflicts involving the applicants.

## **BOARD DUTIES**

The Appeals Hearing Board sits as a quasi-judicial Board which hears code enforcement appeals of blighted conditions; illegal building activity; unsafe and unsanitary living conditions; abandoned, dismantled and inoperative vehicles; neglected vacant houses; weed abatement liens; garbage liens; police permittee denials or revocations; sign removal fees; stop control devices or traffic sign appeals; and utility billing and graffiti abatement fees. The Board has the authority to impose certain penalties in lieu of criminal and civil judicial enforcement. At least one member of the Board must be an attorney licensed to practice law in the State of California.

## **APPLICANTS**

Applications from the applicants listed below were reviewed by our Office. Unless otherwise indicated, no application discloses incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Board.

## **LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION**

Certain positions may preclude a member from participating in the Board discussion or from voting if a matter involving the entity comes before the Board. While this list is not complete, these types of conflicts generally fall within one or more of the following situations:

- An application shows entities that are “sources of income” to a potential member within the 12 months preceding the start of the Board term, as defined under the Political Reform Act.
- An application shows sources of income to a Spouse or Domestic Partner of a potential member within the 12 months preceding the start of the Board term.
- An applicant or the Spouse or Domestic Partner of an applicant, is an Officer or Board Member of an entity and it is foreseeable that the entity could be involved in a matter coming before the Board.

### **APPEARANCE OF BIAS**

There may be facts which would not amount to a legal conflict of interest requiring a member to recuse him or herself from a Board vote or discussion, however the relationship could create an appearance of bias on the part of the member. City Council policy requires members to be free of bias in their decision making, and may require a member to recuse him or herself if the facts could reasonably lead one to conclude that the applicant would be biased for or against an entity or entities.

### **REVIEW OF APPLICANTS**

Set forth below are the applicants, and any apparent legal conflicts of interest and/or appearance of bias related to entities that are likely to come before the board in some manner, as identified in their applications.

#### **Incumbent**

**Cabanayan, Ronald** – Mr. Cabanayan is an Attorney with the Law Office of Ronald A. Cabanayan located in San Jose, California. He was admitted to practice in California in 2013. He is currently the Vice-Chair of the Appeals Hearing Board and has been a Member since 2013.

#### **New Applicant**

**Chien-Hale, Elizabeth** – Ms. Chien-Hale is the Director of the Institute for Intellectual Property in Asia located in San Jose, California. She is an Attorney, and was admitted to practice in California in 1998. She practiced intellectual property law in the United States and abroad prior to establishing the information-based non-profit organization and consulting.

**CONCLUSION**

None of the applicants appears to hold incompatible offices or to have pervasive conflicts of interest that would preclude them from serving on the Appeals Hearing Board. Each applicant states that he or she resides in San Jose. The Committee may wish to consider the above comments in making its recommendations regarding appointments to the Board.

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