



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM Richard Doyle
City Attorney

SUBJECT: Conflicts Review - Senior Citizens'
Commission Applicants **DATE:** July 18, 2019

BACKGROUND

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

COMMISSION DUTIES

The Senior Citizens' Commission is responsible for studying, reviewing, evaluating and making recommendations to the Council on matters affecting elderly people in the City.

LEGAL CONFLICTS THAT MAY PRECLUDE VOTE OR PARTICIPATION

Certain positions may preclude a commissioner from participating in a commission discussion or from voting if a matter involving the entity comes before the commission. 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 commissioner within the 12 months preceding the start of the commission term, as defined under the Political Reform Act,
- An application shows sources of income to a Spouse or Domestic Partner of a potential commissioner within the 12 months preceding the start of the commission 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 commission.

APPEARANCE OF BIAS

There may be facts which would not amount to a legal conflict of interest requiring a commissioner to recuse him or herself from a commission vote or discussion, however the relationship could create an appearance of bias on the part of the commissioner. City Council policy requires commissions to be free from bias in their decision making, and may require a commissioner 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 APPLICANT

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 commission in some manner, as identified on the applications.

John Allen – Mr. Allen's application indicates that he is retired from Axiom Engineers. Mr. Allen's current application discloses neither incompatible offices nor apparent conflicts of interest.

Jelili Apalara – Mr. Apalara's application indicates that he is a Specialty Care Medical Director employed with the County of Santa Clara. If an item related to the County of Santa Clara comes before the Commission, our office will need to evaluate if there is a conflict of interest or an appearance of conflict of interest. Mr. Apalara's current application discloses neither incompatible offices nor apparent conflicts of interest.

Marcia Cohen-Zakai – Ms. Cohen-Zakai's application indicates that she is retired. Ms. Cohen-Zakai's current application discloses neither incompatible offices nor apparent conflicts of interest.

Nelly Khayat – Ms. Khayat's application indicates that she and her spouse are both employed as Patient Services Managers with Realoptions. Her application discloses neither incompatible offices nor apparent conflicts of interest.

CONCLUSION

The City Council may wish to consider the above comments in making its appointments to the Commission.

RICHARD DOYLE
City Attorney

By 

ELIZABETH KLOTZ
Senior Deputy City Attorney

cc: Dave Sykes, City Manager
Toni J. Taber, CMC, City Clerk