

# Memorandum

**TO:** Honorable Mayor  
and City Council

**FROM:** Richard Doyle  
City Attorney

**SUBJECT:** Conflicts Review - Housing  
and Community Development  
Commission

**DATE:** July 24, 2018

## **BACKGROUND**

This Office routinely reviews applications to City boards and commissions. Although the applications do not provide complete information, 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 applications.

## **COMMISSION DUTIES**

The Housing and Community Development Commission ("HCDC" or "Commission") was formed in July 2013 when the Housing and Community Development Advisory Commission was merged with the Advisory Commission on Rents ("ACR") and the Mobilehome Advisory Commission ("MAC"). It serves as the successor to ACR and MAC fulfilling their duties under the Mobilehome Rent Ordinance, Chapter 17.22 of the Municipal Code and the Rental Dispute Mediation and Arbitration Ordinance ("Apartment Rent Ordinance"), Chapter 17.23 of the Municipal Code. These duties include review of the fees imposed under those ordinances. HCDC also reviews potential amendments to provisions of the Zoning Code that apply to mobilehomes including the City's Mobilehome Park Conversion Ordinance. HCDC serves as the lead citizen participation group in the planning and programming of the Community Development Block Grant. HCDC also makes recommendations on new and existing Housing Department programs and policies. Additionally, HCDC holds public hearings and makes recommendations in conjunction with the City's Consolidated Plan and Annual Action Plans. The decisions made by the members of HCDC, particularly those related to the Consolidated Plan, may impact the spending of City funds.

## **COMMISSION MEMBERSHIP**

The Commission is a 13 member body with the following special eligibility requirements: (a) one member must be recommended by an organization of owners of San José mobilehome parks; (b) one member must be recommended by an organization of residents of San José mobilehome parks; (c) one member shall be an owner or manager of San José rent stabilized apartments; (d) one member shall be a tenant of a

San José rent stabilized apartment, and (e) At least five members shall represent low income households. The members appointed by the Mayor, District 3, District 5, and District 7 are the seats that are intended to be filled by persons representing low income households. Additionally, the mobilehome park resident representative is deemed to be a representative of low income households.

### **CURRENT VACANCIES**

The current vacancies for which these applications are being considered are a seat appointed by District 1 (no special requirements) and a seat for the Mobilehome Park Owner Representative. There are no vacancies for other Commission seats. Seats appointed by the Mayor, District 3, District 5, and District 7 should represent low income households consistent with the criteria in Part 28 of Chapter 2.08.

### **APPLICANTS**

The applications from the applicants eligible for the current vacancies were reviewed by our office and are listed below. Unless otherwise indicated, the applications reviewed do not disclose incompatible offices or apparent conflicts of interest that would substantially impair the functioning of the Commission.

### **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 or affecting an entity comes before the commission, including a potential grant or contract, or action under the Mobilehome Rent Ordinance, or the Apartment Rent Ordinance. 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 entities that are 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.

Additionally, a conflict may arise when the Commission takes action on a matter related to the Mobilehome Rent Ordinance, the Apartment Rent Ordinance or the Mobilehome related provisions of Title 20, if applicant resides in or owns a property subject to these ordinances and the potential commission action may impact the personal finances of the applicant.

Section 2.08.2820 provides that: (a) one member of the Commission shall be a person recommended by an organization of residents of San José mobilehome parks, (b) one member of the Commission shall be a person recommended by an organization of owners of the San José mobilehome parks, and these members have designated seats on the Commission pursuant to Section 2.08.2830.A. Section 2.08.2820 also provides that: (c) one member shall be an owner or manager of a residential rent stabilized property, (d) one member shall be a tenant of rent stabilized unit, however, there are no designated seats for these representatives. San José Municipal Code Section 2.08.2850 contains findings and declarations which provide that: (a) for the purposes of the mobilehome park owner who serves on the commission, the San José mobilehome park industry is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103; and (b) for purposes of the mobilehome park resident who serves on the commission, the San José mobilehome park residential community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the mobilehome rent ordinance or other mobilehome related matters without violation of the general conflict of interest provisions of state and local law. Municipal Code Section 2.08.2850 also contains findings and declarations which provide that: (c) for the purposes of the owner or manager of residential rent stabilized rental unit(s) who serves on the commission in San José, the residential rent stabilized rental property owners is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103; and for purposes of the tenant of a residential rent stabilized rental unit who serves on the commission, the San José residential rent stabilized rental unit tenants community is tantamount to and constitutes the public generally within the meaning of California Government Code Section 87103. Together, these provisions allow the persons appointed to these representative positions to take action on issues related to the apartment rent ordinance or other rent stabilized apartment related matters without violation of the general conflict of interest provisions of state and local law.

### **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.

### **HOUSING DEPARTMENT GRANTEE POLICY**

In addition to the conflicts listed above, it is Housing Department Policy that in order to avoid a perceived conflict of interest, no person who is a member of the board of directors of, or is employed by, an agency that applies for or receives CDBG, ESG, HOME or other funding will be eligible to vote on funding decisions involving that agency regarding that funding source. Where an applicant is connected with a specific agency that has previously applied for grants or funding, this policy will be mentioned below.

### **REVIEW OF APPLICANTS**

#### ***Applicants for the seat appointed by District 1:***

**SHAVELL K. CRAWFORD:** Ms. Crawford resides in Council District 3. This application was submitted on July 4, 2018. She is an Executive Assistant for Destination: Home. The spouse and spouse employer sections of this application are marked "N/A". Ms. Crawford's employer has received grants from the City either under its own name or as a program of the Health Trust and thus Ms. Crawford may be subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Crawford's duties as a Commission member.

**SERGIO LOPEZ:** Mr. Lopez resides in Council District 10. This application was submitted on July 3, 2018. He is the Political Director for Renteria for Governor. The spouse and spouse employer sections of this application are marked "N/A". The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Lopez's duties as a Commission member.

**BARBARA ATAK:** Ms. Atak resides in Council District 9. This application was submitted on July 1, 2018. She works in accounting for Akins Auto Repair. Ms. Atak's spouse is the owner of Akin's Auto Repair. She serves as president of the Tatra Community Association. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Atak's duties as a Commission member.

**LAURA BARRERAS:** Ms. Barreras resides in Council District 5. This application was submitted on June 30, 2018. She is a Grant Committee member for the Morgan Hill Community Foundation. The spouse and spouse employer sections of this application are marked "N/A". The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Barreras' duties as a Commission member.

**SANDRA PETERS:** Ms. Peters resides in Council District 6. This application was submitted on June 22, 2018. She is retired. Her spouse is a Director for Silicon Valley Bank. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Peters' duties as a Commission member.

**JUSTIN LARDINOIS:** Mr. Lardinois resides in Council District 1. This application was submitted on June 20, 2018. He is a Software Engineer at Course Hero. The spouse and spouse employer sections of this application are marked "not married". The application discloses that Mr. Lardinois is a tenant of a unit subject to the Apartment Rent Ordinance. There is already a representative for Apartment Rent Ordinance tenants on the Commission. Thus a conflict under the Political Reform Act likely would arise when the Commission is called on to approve Apartment Rent Ordinance fees and also if the Commission is called on to recommend changes in the Apartment Rent Ordinance or regulations. A more detailed conflicts analysis may be advisable if Mr. Lardinois is appointed. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Lardinois' duties as a Commission member.

**ANNA GRAY:** Ms. Gray resides in Council District 3. This application was submitted on June 20, 2018. She is a Social Worker for New Directions. Her spouse is a columnist for the Wall Street Journal. Ms. Gray's employer has received funds for case management from the County (using City granted funds) and thus Ms. Gray may subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Gray's duties as a Commission member.

**RICHARD GARRET:** Mr. Garret resides in Council District 6. This application was submitted on June 19, 2018. He is a retired financial institution consultant. His spouse is self employed as a psychotherapist. He is a member of the governing body of St John of Jerusalem, St Johns Commandery. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Garret's duties as a Commission member.

**JULINDA LEDEE:** Ms. LeDee resides in Council District 6. This application was submitted on June 20, 2018. She is an Articulation Specialist at San Jose City College. The spouse and spouse employer sections of this application are marked "N/A". The application discloses that Ms. LeDee is a tenant of a unit subject to the Apartment Rent Ordinance. There is already a representative for Apartment Rent Ordinance tenants on the Commission. Thus, a conflict under the Political Reform Act likely would arise when the Commission is called on to approve Apartment Rent Ordinance fees and also if the Commission is called on to recommend changes in the Apartment Rent Ordinance or regulations. A more detailed conflicts analysis may be advisable if Ms. LeDee is

appointed. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. LeDee's duties as a Commission member.

**DANIEL FINN:** Mr. Finn resides in Council District 4. This application was submitted on April 2, 2018. Mr. Finn's employer is Able Engineering Services and his title is Facilities Engineer. He is retired from the City of San José. The spouse employment section of his application is marked "unemployed". He was an OE3 union steward. He was President of the Oakcrest Estates Mobilehome Park HOA. He resides in Oakcrest Estates Mobilehome Park, a park subject to the City's Mobilehome Rent Ordinance. There is already a representative for Mobilehome Park residents on the Commission. Thus a conflict under the Political Reform Act likely would arise when the Commission is called on to approve Mobilehome Rent Ordinance fees and also if the Commission is called on to recommend changes in the Mobilehome Rent Ordinance or regulations. A more detailed conflicts analysis may be advisable if Mr. Finn is appointed. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest unrelated to his status as mobilehome park resident which appear likely to arise in the performance of Mr. Finn's duties as a Commission member.

**THERESA LYNN WILSON:** Ms. Wilson resides in Council District 6. This application was submitted on March 26, 2018. This application has blank fields for Employer and Title, but the attached resume indicates she is a Social Studies and English Teacher at Presentation High School. Ms. Wilson's spouse is a Criminalist for the County of Santa Clara Crime Laboratory. Ms. Wilson serves on the Board for the Girl Scouts of Northern California Giving Circle. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Wilson's duties as a Commission member.

**DONALD SKIPWITH:** Mr. Skipwith resides in Council District 9. This application was submitted on March 7, 2018. He is a Sales Executive for Surfaceink. The spouse sections of this application are marked "none". Mr. Skipwith serves as a Board Member for the Stone Church of Willow Glen. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Skipwith's duties as a Commission member.

**MARIO BURNIAS:** Mr. Burnias resides in Council District 8. This application was submitted on November 19, 2017. He is a Marketing Director for Ihome Properties Inc, a real estate firm located in San Jose and a partner in Lift360. The spouse sections of this application are marked "single". Mr. Burnias is also a Board Member for Christmas in the Park. Mr. Burnias is a licensed broker who works for a non-governmental employer in real estate, a field that could be impacted by the recommendations of the Commission. He may also receive commissions from various parties that could also be impacted by the recommendations of the Commission. A more detailed analysis would be needed to determine whether actual conflicts under the Political Reform Act are present due to Mr. Burnias' employment; such an analysis is advisable if Mr. Burnias is appointed. The

application discloses no incompatible offices, incompatible activities, and no other conflicts of interest which appear likely to arise in the performance of Mr. Burnias' duties as a Commission member.

**SUNAYANNA BEDI:** Ms. Bedi resides in Council District 6. This application was submitted on November 7, 2017. She is an Executive for SAIR, LLC. The spouse employer sections of this application are marked "N/A". The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Bedi's duties as a Commission member.

**JOSEPH HERRITY:** Mr. Herrity resides in Council District 6. This application was submitted on October 5, 2017. His title is Associate Director, Opportunity Youth Partnership and his employer is Planned Parenthood Mar Monte. Mr. Herrity's spouse is Director of Leasing for ATC Partners, a commercial real estate and development firm. Mr. Herrity serves as on the Board Member of Soulciety. Mr. Herrity's spouse works for a non-governmental employer in commercial real estate, a field that could be impacted by the recommendations of the Commission. A more detailed analysis would be needed to determine whether actual conflicts under the Political Reform Act are present due to Mr. Burnias' employment; such an analysis is advisable if Mr. Herrity is appointed. The application discloses no incompatible offices, incompatible activities, or other conflicts of interest which appear likely to arise in the performance of Mr. Herrity's duties as a Commission member.

**ROBERT GILL:** Mr. Gill resides in Council District 8. This application was submitted on October 2, 2017. His employer is the County of Santa Clara and his title is IHS counselor. The spouse sections of this application are marked "N/A". The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Gill's duties as a Commission member.

**OLIVER ZHU:** Mr. Zhu resides in Council District 1. This application was submitted on April 22, 2018. This Application lists his employer as San José State University and his title as Student. The spouse sections of this application are marked N/A. Mr. Zhu attends meetings of several community groups including the Silicon Valley Renter's Rights Coalition. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Zhu's duties as a Commission member.

***Applicants for the Mobilehome Park Owner Representative seat:***

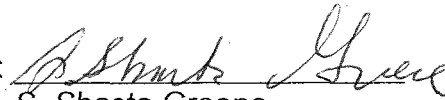
**RYAN JASINSKY:** Mr. Jasinsky resides in Council District 1. His application indicates he is applying for the Mobilehome Park Owner Representative position on the Commission. He works as the Assistant Director of Property Management for Brandenburg, Staedler & Moore, a firm that owns mobilehome parks. He is also a licensed real estate broker, but there is no indication in the application that he is employed or self employed as a real estate broker. Mr. Jasinsky's spouse works for Jazz Pharmaceuticals as an

Executive Assistant to CEO. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Jasinsky's duties as a Commission member.

**CONCLUSION**

Except as noted for Ms. Crawford, Ms. Gray, Mr. Lardinois, Ms. LeDee, Mr. Finn, Mr. Burnias, and Mr. Herrity, the applications disclose no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicant's duties as a Commission member. You may wish to consider the above comments in making your recommendations on appointments to the Commission.

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By:   
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cc: Toni Taber, City Clerk  
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