

Memorandum

TO: Honorable Mayor
and City Council

SUBJECT: Conflicts Review - Housing
and Community Development
Commission

FROM: Richard Doyle
City Attorney

DATE: July 30, 2019

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 seat for District 2, District 4, District 6, District 7, District 8 and District 10. Also, there are currently no seated representatives of landlords or tenants subject to the Apartment Rent Ordinance. 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 REGULAR COMMISSIONER POSITIONS:

ANDREA WHEELER: Ms. Wheeler resides in Council District 6. Her application was submitted May 7, 2019. Her application indicates she works for Quantcast Corporation as a patent agent. The spouse employment sections on her application are listed as "N/A." She is seeking reappointment as a member of the Commission. The application discloses no incompatible offices, incompatible activities or conflicts of interest which appear likely to arise in the performance of Ms. Wheeler's duties as a Commission member.

HUY TRAN: Mr. Tran resides in District 4. His application was submitted May 8, 2019. Mr. Tran's application indicates he works for Justice at Work Law Group, LLP as a Partner. The spouse employer section of his application is marked "N/A". He is seeking reappointment as a member of the Commission. Mr. Tran is running for City Council, and that would be an incompatible office with the Commission membership, if he is elected. The application discloses no other incompatible offices, incompatible activities or conflicts of interest which appear likely to arise in the performance of Mr. Tran's duties as a Commission member.

ALEX SHOOR: Mr. Shoor resides in District 6. The application indicates he is employed by Katz and Associates as an Account Supervisor and that his spouse works for Impact Public Schools as Chief Financial & Operating Officer. That application also indicates that he is a community engagement consultant for the Valley Transportation Authority. According to the application he is a board member of the Catalyze SV, however, it appears he has subsequently been hired as the Executive Director. The fiscal agent for Catalyze SV, the Social Good Fund, has received a grant from the City. If Catalyze SV has received grants from the City through the Social Good Fund Mr. Shoor may be subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. He is seeking reappointment as a member of the Commission. The application discloses no other incompatible offices, incompatible activities or conflicts of interest which appear likely to arise in the performance of Mr. Shoor's duties as a Commission member.

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. Her application indicates that she is eligible for appointment to a seat that represents low income households. 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: According to the application, 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.

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 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. 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. If she is designated as the Apartment Rent Ordinance tenant representative, she can participate and vote on items related to the Apartment Rent Ordinance. Otherwise, she would need to recuse herself on these matters. 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.

THOMAS VO: Mr. Vo resides in Council District 7. This application was submitted on April 17, 2019. This Application lists his employer as Farmers Insurance Agency and his title as Agent. The spouse sections of this application are marked "Not Applicable". The application indicates he owns property subject to the Tenant Protection Ordinance. Mr. Vo also appears to be self employed as a realtor. As a realtor, he may need to recuse himself if the Commission is called to recommend changes in the City's Apartment Rent Ordinance, Ellis Act Ordinance and/or Mobilehome Rent Ordinance or their regulations. A more detailed conflicts analysis may be advisable if Mr. Vo 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. Vo's duties as a Commission member.

CLAUDINE SIPILI: Ms. Sipili resides in Council District 2. This application was submitted on April 12, 2019. This Application lists her employer as Cityteam Ministries, a nonprofit and her title as Program Manager. The spouse sections of this application are marked "Not Applicable". Ms. Sipili's employer has received grants from the City and thus Ms. Crawford may be subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. Her application indicates that she is eligible for appointment to a seat that represents low income households. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Sipili's duties as a Commission member.

ANDREW SINGLETERRY: Mr. Singleterry resides in Council District 3. This application was submitted on April 27, 2019. His employer is Servant Partners, a nonprofit ministry

agency and his title is Site Leader. His spouse also works for Servant Partners as a Site Leader. His application indicates that he is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Singleterry's duties as a Commission member.

BRIAN SCHULMAN: Mr. Schulman resides in Council District 5. This application was submitted on February 14, 2019. The application indicates he is self-employed as an IT Consultant. 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. Schulman's duties as a Commission member.

HASSAN SABBAGH: Mr. Sabbagh's application indicates he does not reside in the City of San José, although it also indicates he lives in District 4. This application was submitted on April 22, 2019. The application indicates he is a Realtor and Loan Officer and the Owner of Home Net 123. The spouse sections of this application are marked "N/A". The application indicates that Mr. Sabbagh is a member of the California Association of Realtors' Committees on Professional Standards, Consumer Protection and Home Ownership Housing. As a realtor, he may need to recuse himself if the Commission is called to recommend changes in the City's Apartment Rent Ordinance, Ellis Act Ordinance and/or Mobilehome Rent Ordinance or their regulations. A more detailed conflicts analysis may be advisable if Mr. Sabbagh is appointed. Although his application indicates that he is applying for appointment to a seat that represents low income households, it does not indicate that he meets the eligibility criteria. The applicant's City residency should be confirmed prior to appointment. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Sabbagh's duties as a Commission member.

JACKLYN ROMERO: Ms. Romero resides in Council District 5. This application was submitted on April 18, 2019. This application lists her employer as Equinix and her title as Customer Success Manager. The spouse sections of this application are marked "N/A". The application indicates that she is a tenant of a unit subject to the Apartment Rent Ordinance. If she is designated as the Apartment Rent Ordinance tenant representative, she can participate and vote on items related to the Apartment Rent Ordinance. Otherwise, she would need to recuse herself on these matters. Her application indicates that she is eligible for appointment to a seat that represents low income households. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Romero's duties as a Commission member.

ROBERTA MOORE: Ms. Moore's application indicates she lives in Council District 10. This application was submitted on April 25, 2019. This application indicates she is self-employed and affiliated with Compass as a Broker Associate. The spouse sections of this application are marked "N/A". The application indicates that she is the owner of units

subject to the Apartment Rent Ordinance. If she is designated as the Apartment Rent Ordinance landlord representative, she can participate and vote on items related to the Apartment Rent Ordinance. Otherwise, she would need to recuse herself on these matters. As a realtor, she may need to recuse herself if the Commission is called to recommend changes in the City's Apartment Rent Ordinance, Ellis Act Ordinance and/or Mobilehome Rent Ordinance or their regulations. A more detailed conflicts analysis may be advisable if Ms. Moore 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. Moore's duties as a Commission member.

FRANCIS MONACHELLO: Mr. Monachello resides in Council District 6. This application was submitted on March 2, 2019. The application indicates he and his spouse are retired. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Monachello's duties as a Commission member.

ALEX LEE: Mr. Lee resides in Council District 4. This application was submitted on April 10, 2019. This application indicates his employer is the Office of Assemblymember Evan Low and his title is Field Representative. The spouse sections of this application are marked "N/A". His application indicates that he is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Lee's duties as a Commission member.

DON GUNARATNE: Mr. Gunaratne resides in Council District 2. This application was submitted on February 14, 2019. This application lists his employer as Intel Corporation, his title as Engineer and his spouse's employer as Genista Biosciences with the title of Research Associate. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Gunaratne's duties as a Commission member.

ASHLEE GONZALES: Ms. Gonzales resides in Council District 2. This application was submitted on March 19, 2019. This application lists her employer as Brewer Offord Pedersen, her title as Real Estate Attorney - Junior Partner and her spouse's employer as Santa Clara County Sheriff's Department with the title of Research Associate. She is the co-chair of the Palo Alto Bar Association Real Estate Committee. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Gonzales' duties as a Commission member.

RICHARD GARRETT: Mr. Garrett resides in Council District 6. This application was submitted on June 19, 2018. This application indicates he is a retired Financial Institution Consultant and his spouse is self-employed as a Psychotherapist. The application discloses no incompatible offices, incompatible activities, or conflicts of

interest which appear likely to arise in the performance of Mr. Garrett's duties as a Commission member.

CHRISTINE FITZGERALD: Ms. Fitzgerald resides in Council District 1. This application was submitted on March 13, 2019. This application lists her employer as Silicon Valley Center for Independent Living and her title as Community Advocate. The spouse sections of this application are marked "N/A". She is Vice-Chair for the Valley Transportation Authority Committee for Transportation and Mobility Access. Her application indicates that she is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Fitzgerald's duties as a Commission member.

JOHN DUCKWORTH: Mr. Duckworth resides in Council District 2. This application was submitted on April 16, 2019. This application lists his employer as National Alliance on Mental Illness and his title as Community Peer Mentor. The spouse sections of this application are marked "N/A". The application indicates that he is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Duckworth's duties as a Commission member.

JENNIE BADER: The application indicates she resides in District 1, but the address listed on the application is in Saratoga. This application was submitted on April 18, 2019. This application lists her employer as Peninsula Healthcare Connection, a nonprofit low-income healthcare organization, and her title as Housing Specialist. It list her spouse's employer as Filice Insurance and her spouse's title as Senior Plans Director. The application indicates that she is eligible for appointment to a seat that represents low income households. The applicant's City residency should confirmed prior to appointment. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Bader's duties as a Commission member.

ELIZABETH ALVAREZ: Ms. Alvarez resides in Council District 3. This application was submitted on April 30, 2019. This application lists her employer as Catholic Charities of Santa Clara County, and her title as Program Director. The spouse sections of this application are marked "N/A". Ms. Alvarez's employer has received grants from the City and thus Ms. Alvarez may be subject to grant related recusal requirements pursuant to the Housing Department Grantee Policy. The application indicates that she is eligible for appointment to a seat that represents low income households. The application discloses no other incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Alvarez's duties as a Commission member. *Updated 8/2/2019*

GARRY CHENEY: Mr. Cheney resides in Council District 7. This application was submitted on June 29, 2019. This application lists his employer as Self and his title as

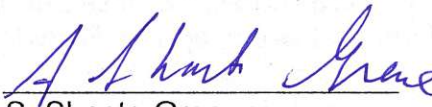
Independent Representative. The spouse sections of this application are marked "N/A none". The application indicates that he is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Mr. Cheney's duties as a Commission member.

VICTORIA PARTIDA: Ms. Partida resides in Council District 7. This application was submitted on June 3, 2019. This application lists her employer as Santa Clara County and her title as Health Education Specialist. It lists her spouse's employer as Marcus Henderson and her spouse's title as Manager. She is the President of the Tropicana-Lanai Neighborhood Association. The application indicates that she is eligible for appointment to a seat that represents low income households. The application discloses no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of Ms. Partida's duties as a Commission member.

CONCLUSION

Except as noted in the review of applicants Tran, Shoor, Crawford, Gray, LeDee, Vo, Sipili, Sabbagh, Romero, Alvarez and Moore, the applications disclose no incompatible offices, incompatible activities, or conflicts of interest which appear likely to arise in the performance of the applicants' duties as Commission members. 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
David Sykes, City Manager
Jacky Morales-Ferrand, Director of Housing