



## TRANSPORTATION BOARD CONFLICT OF INTEREST AND ETHICS TRAINING

City Attorney's Office

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# CONFLICTS OF INTEREST



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## THE BASIC RULE (POLITICAL REFORM ACT)

- No public official at any level of state or local government shall make, participate in making or in any way attempt to influence a governmental decision in which he or she knows or has any reason to know that he or she has a financial interest.



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## WHAT IS A FINANCIAL INTEREST?

- A public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any "economic interest."



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## THE EIGHT STEP TEST

- **Step One:** Are you a public official?
  - Board and Commission members are public officials.
- **Step Two:** Are you making, participating or influencing a governmental decision?
  - Examples include voting, either at a Council meeting or at a board, presenting a report which requires the exercise of judgment and is meant to influence a decision, or by contacting staff or other public officials regarding a decision.



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## THE EIGHT STEP TEST

- **Step Three:** Do you have an economic interest in the decision? Such interests include:
  - Personal finances of you or your family.
  - A business in which you or your family have invested \$2,000 or more.
  - A business in which you are a director, officer, partner, manager, etc.
  - An interest in real property worth more than \$2,000.
  - Sources of income of \$500 (or more) made, received or promised to you within 12 months prior to making decision.
  - Gifts valued at \$460 or more received by or promised to you within 12 months prior to making of decision.



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## THE EIGHT STEP TEST

- **Step Four:** Is your economic interest directly or indirectly affected by the decision?
  - Examples of direct:
    - the source of income files an application for a permit which you must decide on.
    - Or, your property is located within 500 feet of property which is the subject of a proposed decision.
  - If there is no direct involvement, then your interest is “indirectly” involved, and still must be analyzed under this test to determine materiality.



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## THE EIGHT STEP TEST

- **Step Five:** Is the effect on your economic interest material?
  - If the involvement is direct, then the effect is almost always material.
  - “Indirectly” involved interests require further analysis. There are different tests for business entities, real property interests, sources of income, leaseholds and gifts.
  - The best thing to do is to consult with the City Attorney’s Office at the earliest possible point to determine if there is a conflict.



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## THE EIGHT STEP TEST

- **Step Six:** Is it reasonably foreseeable that your economic interest will be affected?
  - Whether there is a financial consequence to your decision must be examined on an individual basis.
  - An effect is considered to be reasonably foreseeable if there is a substantial likelihood that it will occur.
  - Certainty is not required.



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## THE EIGHT STEP TEST

- **Step Seven:** Will the financial effect on you be the same as the effect on the general public?
  - Even if your economic interest will be materially effected by a decision, you do not have a conflict of interest if the effect of the decision on your interest is substantially the same as its effect on most other people in your jurisdiction.
  - Example, a decision to impose a city sales tax will affect you no differently than other residents of the City. However, the City acquiring or improving land close to your business or residence may effect you differently than a member of the general public. You may financially benefit from that transaction.



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## THE EIGHT STEP TEST

- **Step Eight:** Even if you have a disqualifying conflict of interest, is your participation legally required?
  - “legally required participation” rule applies only in certain circumstances in which the government agency would be unable to act.



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## COMMON LAW BIAS

- This test is commonly known as the “smell” test.
- As a member of the Commission, you should avoid all appearances of impropriety.
- Common Law Bias
  - Strong personal interest
  - Public perception
  - Contact by developers or applicants



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## DISQUALIFICATION AND DISCLOSURE

- A Board member who has a disqualifying conflict of interest is not counted towards achieving a quorum on a particular vote.
- In addition, the member with a conflict must, immediately prior to consideration of the decision:
  - Publicly identify the financial interest in detail sufficient to be understood by the public except that disclosure of the exact street address of a residence is not required.



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## DISQUALIFICATION AND DISCLOSURE

- The member with a conflict must, immediately prior to consideration of the decision:
  1. Publicly identify the financial interest in detail sufficient to be understood by the public
    - disclosure of the exact street address of a residence is not required
    - Non-financial conflicts of interest do not require a detailed disclosure by the member. (e.g., a parent of member owns property as their sole and separate property and applies for a rezoning).
  2. Recuse himself or herself from discussing and voting on the matter.
  3. Leave the room until after the decision has been made, unless the matter is on the consent agenda.



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## DISQUALIFICATION AND DISCLOSURE

- The only exception is that the member with the financial conflict of interest may speak on the matter as a member of the general public.



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## CODE OF ETHICS AND CONDUCT



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## CODE OF ETHICS AND CONDUCT

- In 2004, new adopted City Charter section created the requirement that the City adopt a Code of Ethics.
  - In 2005, City Council adopted a Resolution establishing the Code of Ethics and Conduct.
- On April 5, 2016, City Council created a new Code of Ethics in the Riverside Municipal Code, Chapter 2.78.010.



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## WHO DOES IT APPLY TO?

- It applies to the Mayor, members of the City Council, and to all members of the boards, commissions, and committees appointed by the City Council, the Mayor, or the Mayor and City Council, including any *ad hoc* committees.
- Also applies to the Mayor and members of the City Council at all times during their term of office as elected officials of the City.
- It applies to all members of the boards, commissions, and committees only while they are acting in their official capacities or affecting the discharge of their duties.



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## PURPOSE

- To achieve fair, ethical, and accountable local government for the City.
- Public officials are expected to comply with the provisions of the Code of Ethics and Conduct established pursuant to the expressed will of the people.



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## PURPOSE

- Divided into two areas:
  - Core Values and Prohibited Conduct
- The Core Values are
  - intended to provide a set of principles from which public officials in the City can draw upon to assist them in conducting the public's business.
  - directory in nature and are not subject to the complaint procedures.
- The Prohibited Conduct are
  - actions that public officials of the City shall not engage in, and, as such, are subject to the complaint procedures.



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## CORE VALUES

- To strive to create a government that is trusted by everyone.
- To strive to make decisions that are unbiased, fair, and honest.
- To strive to ensure that everyone is treated with respect and in a just and fair manner.
- To strive to create a community that affirms the value of diversity.
- To strive to ensure that all public decisions are well informed, independent, and in the best interests of the City.
- To strive to maintain a nonpartisan and civic minded local government.
- To strive to ensure that all public officials are adequately prepared for the duties of their office.
- To strive to ensure that appointed members of boards, commissions and committees attend regularly scheduled meetings.



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## PROHIBITED CONDUCT

- Use of official title or position for personal gain.
- Use or divulgence of confidential or privileged information.
- Use of City resources for non-city purposes.
- Advocacy of private interest of third parties in certain circumstances.
- Endorsements for compensation.
- Violation of Government Code sections 87100 *et. seq.*
- Certain political activity.
- Display of campaign materials in or on City vehicles.
- Knowingly assisting another public official in violating Code of Ethics and Conduct.
- Negotiation for employment with any party having a matter pending.
- Ex parte contact in quasi-judicial matters.
- Attempts to coerce official duties.
- Violations of federal, state, or local law.



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## COMPLAINT PROCEDURES

- Only Prohibited Conduct violations shall be grounds for a complaint against any public official.
- Complaints are submitted on forms available from the City Clerk alleging the specific conduct.
- Complaints and all required information and tangible evidence shall be filed with the City Clerk.
- Complaints acted on by the Board of Ethics.



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## APPEAL PROCEDURES

- A decision by the hearing panel finding a violation of the Prohibited Conduct section shall be automatically appealed to the City Council for final resolution.
- A decision of no violation may be appealed by either party.



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## SANCTIONS

- The City Council may impose any of the following sanctions:
  - A. Elected Officials.
    - 1. Public censure.
  - B. Appointed officials of Boards, Commissions and Committees.
    - 1. Referral to the Board, Commission or Committee of which the appointed official is a member for public censure;
    - 2. Public Censure by the Mayor and City Council; or
    - 3. Removal from office by a majority of the Mayor and City Council.



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## CONCLUSION

- Thank you!
- Any questions, please call me at 826-5567

Ruthann M. Elder  
Deputy City Attorney



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