



CITY OF SACRAMENTO

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June 17, 1980

CITY MANAGER'S OFFICE
RECEIVED
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Honorable City Council
City of Sacramento
City Hall
Sacramento, California

In re: Supplemental Conflict of Interest Code Applicable
to Council Members and City Board and Commission
Members - Investments and Interests in Real Property
Held With Persons Who Are Applicants to the City

Members in Session:

SUMMARY

The attached supplemental conflict of interest code would prohibit members of the City Council and City board and commissions from making or participating in decisions where they hold investments or interests in real property (inside or outside the City) with persons who are now applicants before the City.

DISCUSSION

Attached is a supplemental conflict of interest code for members of the City Council and City boards and commissions. It would preclude such persons from making or participating in decisions on matters before the City in instances where they have an interest in real property or an investment in a business entity with the person who is now an applicant before the City. The interest in real property or business entity held with the applicant which would preclude their participation in the matter now before the City could be in real property or a business entity located outside as well as inside the City.

The rationale behind such a prohibition is that the ownership of a financial interest with an applicant might preclude the exercise of unbiased judgment on the application.

This code was reviewed by the Personnel and Public Employees Committee.

APPROVED
BY THE CITY COUNCIL

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RECOMMENDATION

The Personnel and Public Employees Committee recommends that the attached code be adopted.

Very truly yours,

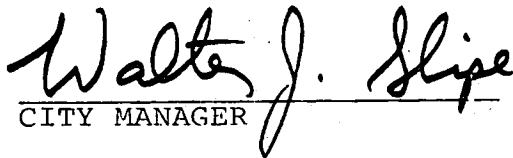


THEODORE H. KOBEY, JR.
Assistant City Attorney

THK:kn

Attachment

RECOMMENDATION APPROVED:


CITY MANAGER

ORDINANCE NO. 4378 FOURTH SERIES

AN ORDINANCE ENACTING A SUPPLEMENTAL
CONFLICT OF INTEREST CODE FOR THE CITY
COUNCIL AND MEMBERS OF THE CITY
BOARDS AND COMMISSIONS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO AS FOLLOWS:

Section 1.

Division 6 is hereby added to Article VI of Chapter 2 of the Sacramento City Code to read as follows:

Division 6. Supplemental Conflict of Interest Provisions Applicable to the City Council, City Boards and Commissions, and City Employees

Sec. 2.126-2 Applicability.

The provisions of Secs. 2.126-2 through 2.126-8 shall apply to members of the City Council and members of the following boards and commissions:

Administration, Investment and Fiscal
Management Board of the City
Retirement System;
Architectural Review Board;
Civil Service Board;
Construction Code Advisory and Appeals Board;
Housing Code Advisory and Appeals Board;
Old Sacramento Variance Appeals Board;
Planning Commission;
Preservation Board;
Retirement Hearing Commission

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Sec. 2.126-3 Disqualification.

(a) Each City official shall disqualify himself or herself from making or participating in the making of any decision when he or she knows or in the exercise of reasonable diligence should know that another person, with whom the City official has an ownership interest in real property or an investment in a business entity, is an applicant or is principally involved in a matter before the board of which the city official is a member. No such City official shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made.

(b) No City official shall make or participate in making a decision on a matter for which disqualification is required under subsection (a).

Sec. 2.126-4 Manner of Disqualification.

A City official required to disqualify himself or herself shall give notice of disqualification at the meeting during which consideration of the decision takes place. The notice of disqualification shall include the name of the applicant or person principally involved in the matter before the board, and whether the city official has an ownership interest in real property or an investment in a business entity with such person. Such notice shall be made part of the official record of the board. The City official shall refrain from participation and shall not attempt in any way to use his or her official position to influence any other person with respect to the matter.

Sec. 2.126-5 Opinions of City Attorney.

Upon request, any City official who is unsure of any right or obligation arising under this code may request a formal opinion or letter of advice from the City Attorney. If an opinion is rendered by the City Attorney stating in full the facts and the law upon which the opinion is based, compliance by the City official may be evidence of good faith in any civil or criminal proceeding brought pursuant to law.

Sec. 2.126-6 Definition of Terms.

a. "Board". For purposes of this code, the term "board" shall include the City Council and the boards and commissions listed in Section 2.126-2.

b. "Business entity." For purposes of this code, the term "business entity" shall mean any organization or enterprise operated for profit, including but not limited to a proprietorship, partnership, firm, business trust, joint venture, syndicate, corporation, or association.

c. "City official." For purposes of this code, the terms "City official" and "City officials" shall include the members of the City Council and the members of the boards and commissions listed in Section 2.126-2.

d. "Investment in business entity." For purposes of this code, the meaning of the term "has an investment in a business entity":

(1) Shall include any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, deed instruments and any partnership or other ownership interest; and

(2) Shall apply to any investment regardless of where such business entity is located or does business; and,

(3) Shall apply to a City official, if the official and the person who is an applicant or is principally involved in the matter before such City's official board, each have a \$25,000 or greater or ten percent (10%) or greater investment in such business entity.

e. "Ownership interest in real property." For purposes of this code, the term "has an ownership interest in real property" shall mean and include any leasehold beneficial or ownership interest or option to acquire such an interest in real property regardless of where such property is located, if the City official and the person who is an applicant or is principally involved in the matter before such City official's board, each have a \$25,000 or greater or ten percent (10%) or greater interest in such property.

f. "Principally involved." For purposes of this code, the term "principally involved" shall mean and include:

(1) A person who has a twenty-five percent (25%) or greater investment in the business entity or a twenty-five percent (25%) or greater ownership interest in the real property for which an application is made, or

(2) A person who is appealing a disciplinary action to the Civil Service Board, or

(3) A person who is appealing a decision of the Retirement System Manager to the Retirement Hearing Commission, or

(4) A person with a financial interest in the outcome of the decision of the board which will exceed \$5,000.

Sec. 2.126-7

The provisions of Secs. 2.126-2 through 2.126-8 are in addition to the conflict of interest provisions in the Political Reform Act of 1974 (Government Code Sections 87100, et seq.) and the conflict of interest codes for the City of Sacramento boards and commissions, and the Sacramento City Council.

Sec. 2.126-8 Effective Date.

This code shall become effective on _____.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

ATTEST:

MAYOR

CITY CLERK