



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

April 17, 2026

Heather Baker
City Attorney
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232

Re: Your Request for Advice
Our File No. A-26-023

Dear Ms. Baker:

This letter responds to your request for advice on behalf of City of Culver City (“City”) Council Member Dan O’Brien regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice. Further, the Commission is not authorized and does not provide advice concerning past conduct. (Regulation 18329(b)(6)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to future actions.

QUESTIONS

May Council Member O’Brien take part in the following City Council decisions while serving as President and Chief Executive Officer (“CEO”) for the Culver City Chamber of Commerce (“Chamber”):

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

1. Development plans for digital kiosks, specifically the siting plans (i.e., potential locations) under existing IKE Smart City, LLC (“IKE”) Digital Kiosk Agreement and Program;
2. Minimum Wage Ordinance; and
3. Short-Term Rental (“STR”) Ordinance?²

CONCLUSIONS

1. No, Council Member O’Brien is disqualified from taking part in City Council decisions relating to the development plans for digital kiosks under the existing IKE Digital Kiosk Agreement and Program. Under the nexus test, it is reasonably foreseeable that the decisions will have a material financial effect on the Chamber because the decisions will achieve, defeat, aid, or hinder a purpose or goal of the Chamber, and Council Member O’Brien receives or is promised income as the President and CEO of the Chamber for achieving the purpose or goal.
2. No, Council Member O’Brien is also disqualified from taking part in City Council decisions relating to a minimum wage ordinance under the nexus test. Additionally, it is reasonably foreseeable that the decisions will have a material financial effect on Council Member O’Brien’s personal finances, as analyzed below.
3. Yes, Council Member O’Brien may take part in City Council decisions relating to the STR ordinance because it is not reasonably foreseeable that the decisions would have a material financial effect on the Chamber or his personal finances.

FACTS AS PRESENTED BY REQUESTER

Council Member O’Brien began his first term as a City Council Member on December 12, 2022, served as Mayor from December 9, 2024, to December 8, 2025, and continues to serve as a City Council Member to date. Beginning January 1, 2026, Council Member O’Brien accepted a position to serve as President and CEO on an independent contractor basis for the Chamber.

² Note that the Commission does not provide advice relating to past conduct. Thus, we express no opinion on Council Member O’Brien’s involvement in any previous decisions, including the decision to enter into the IKE Digital Kiosk Agreement and Program, as well as previous decisions regarding the minimum wage or STR ordinances. We also express no opinion regarding Section 87407, which prohibits a public official from taking part in any governmental decision directly relating to any person with whom the public official is negotiating, or has any arrangement concerning, prospective employment.

Per the contract, as President and CEO of the Chamber, Council Member O'Brien will provide executive leadership and management services customarily associated with the role, including: strategic planning; operational oversight; staff and vendor supervision including to assist in the recruitment, hiring, and compensation of Chamber staff; member relations; community and governmental engagement; and support of the Chamber's Board of Directors.

As President and CEO of the Chamber, Council Member O'Brien will receive a designated monthly compensation under the contract. You confirmed Council Member O'Brien will receive, or is promised to receive, income from the Chamber totaling \$500 or more prior to any of the relevant governmental decisions. The contract states the Chamber currently lacks resources and cash flow to pay Council Member O'Brien's compensation and, as such, a substantial part of the role initially will be to focus on efforts to increase the Chamber's revenues so there are adequate funds available to pay his compensation. Any unpaid portion of his compensation would accrue to the following month.

The Chamber is a 501(c)(6) nonprofit organization that supports the business community by assisting its members in achieving their full business potential. The Chamber is a voluntary, action-oriented organization of businesses and professionals working together to promote the commercial and economic vitality of Culver City, and to foster civic improvements that benefit the general welfare of those who live, work and visit the City. The Chamber advocates on behalf of approximately 420 investor businesses and 70,000 employees and is entirely funded by membership investments, Chamber advertising media opportunities, and special events. The Chamber does not have an interest in any real property.

Decisions Related to the Interactive Digital Kiosk Program

In October 2024, the City Council selected IKE, a member of the Chamber since 2023, to implement an interactive digital kiosk program in the City. Following such approval, City staff and the Ad Hoc Digital Kiosk Subcommittee (which includes Council Member O'Brien) met to negotiate the agreement terms and a siting process. On October 22, 2025, the City Council approved an Agreement with IKE for the implementation of an interactive digital kiosk program, including commercial advertising, along City sidewalks and in the public right-of-way. The kiosks will provide and display services including, but not limited to, wayfinding (multimodal mapping to destinations, businesses and other points of interest; sorted into freestanding apps like Eat, Play, Shop, Stay). Most recent City statistics state there are approximately 4,500 businesses citywide.

The City Council will review and approve the proposed development plans for the kiosks, specifically the siting plans (i.e., potential locations). This item will return to the City Council as needed.

Decisions Related to a Minimum Wage Ordinance

In July 2023, the City Council authorized staff to prepare and issue a request for proposals to conduct an economic impact study of a potential minimum wage ordinance. There was also a consensus among Council Members to bring back an agenda item to have a discussion to potentially tie a City minimum wage ordinance to the City of Los Angeles' minimum wage ordinance.

In October 2023, the City Council voted to approve entering into a professional service agreement to conduct an economic impact study for a potential minimum wage ordinance. The minimum wage ordinance item has not yet returned to the City Council for further action. If the City continues to pursue a minimum wage ordinance, all or a majority of employers within the City will be required to pay their employees any minimum wage set by the City Council, which will exceed the state-mandated minimum wage.

Decisions Related to a Potential STR Ordinance

Currently, STRs are prohibited in residential zones within the City under the City's permissive Zoning Code. In April 2017, the City Council created a STR Subcommittee which has since met with City staff to further discuss and refine policy recommendations.

In February 2019, the City Council received and discussed policy recommendations from the STR Subcommittee. During the discussion, consensus was achieved regarding eventually allowing STRs under certain conditions. This was the last time an item related to a potential STR Ordinance went before the City Council, but it is anticipated to eventually come before the City Council soon. The STR Subcommittee last convened in 2025 and currently includes Council Member O'Brien.

ANALYSIS

Section 87100 prohibits a public official from making, participating in making, or in any way attempting to use the official's position to influence a government decision in which the official has a financial interest. A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on an interest specified in Section 87103, including:

- An interest in a business entity³ in which the official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- An interest in a source of income to the official, including promised income,⁴ which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)
- The official's interest in their personal finances and those of their immediate family members. (Section 87103.)

Based on the facts, as President and CEO of the Chamber, Council Member O'Brien will receive, or is promised to receive, income from the Chamber totaling \$500 or more prior to any of the governmental decisions at issue here. Thus, the Chamber is a source of income to Council Member O'Brien.⁵ Additionally, an official always has an interest in their personal finances. (See Section 87103.)

For a conflict of interest to exist, it must be reasonably foreseeable that the governmental decision would have a material financial effect⁶ on the public official's financial interests. (Regulation 18700(d)(1)-(2).)

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on a financial interest explicitly involved in a governmental decision. It states:

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

³ "Business entity" means any organization or enterprise operated for profit. (Section 82005.)

⁴ Income is "promised to" the public official if the official has a legally enforceable right to the promised income. (Regulation 18700(c)(6)(C).)

⁵ Council Member O'Brien will not have a business interest in the Chamber because, as a nonprofit organization, it is not a "business entity" as defined by the Act. (See Section 82005.)

⁶ "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value. (Regulation 18700(c)(5).)

Where an official's financial interest is not explicitly involved in a decision the applicable standard for determining the foreseeability of a financial effect on a financial interest is found in Regulation 18701(b) which provides:

A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable.

Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest.

Source of Income

The reasonably foreseeable financial effect of a governmental decision on Council Member O'Brien's interest in the Chamber as a source of income will be material if the Chamber "is a named party in, or the subject of, the decision including a claimant, applicant, respondent, or contracting party." (Regulation 18702.3(a)(1).) There are no facts to suggest the Chamber itself will be a named party in, or the subject of, any of the decisions at issue here.

Regulation 18702.3(a)(3) provides the materiality standard for a nonprofit source of income that is not a named party in, or the subject of the decision. Applicable to the facts presented here, this standard provides that the reasonably foreseeable financial effect will be material when a decision may: 1) result in an increase or decrease of the Chamber's annual gross receipts, or the value of its assets or liabilities, in an amount equal to or greater than \$1,000,000, or five percent of its annual gross receipts and the increase or decrease is equal to or greater than \$10,000 (Regulation 18702.3(a)(3)(A)); or 2) cause the Chamber to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than \$250,000, or one percent of its annual gross receipts and the change in expenses is equal to or greater than \$2,500 (Regulation 18702.3(a)(3)(B)).

In addition to the materiality standards for a source of income as described above, there is a special rule for materiality that applies in cases where there is a "nexus" between duties owed to a source of income and to the official's public agency. When another entity pays a public official to accomplish some action that is within the official's public decision-making authority, any financial effect on the source of income is presumed material. Regulation 18702.3(b) sets forth the "nexus test" which provides:

Any reasonably foreseeable financial effect on a source of income to a public official is material if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official receives or is promised the income for achieving the purpose or goal.

The rationale for the nexus test is that when an employee earns a salary to accomplish a purpose that may be advanced by what they do as a public official, we presume that the private employer is benefiting from the actions of the employee in their official capacity. (*Garza* Advice Letter, No. A-17-207; *Tran* Advice Letter, No. A-16-024; *Maltbie* Advice Letter, No. A-15-243.) Typically, a “nexus” is found in situations where the official is also a high-level employee with direct influence and control over their employer’s management or policy decisions. (*Tran* Advice Letter, supra; *Moser* Advice Letter, No. A-03-147; *Low* Advice Letter, No. A-99-305.)

Personal Finances

Regulation 18702.5(a) provides the materiality standard for a personal financial effect. It states:

A governmental decision’s reasonably foreseeable financial effect on a public official’s financial interest in personal finances or those of immediate family, also referred to as a “personal financial effect,” is material if the decision may result in the official or the official’s immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

1. Decisions Related to the Interactive Digital Kiosk Program.

Based on facts provided, as President and CEO of the Chamber, Council Member O’Brien has or will receive income to provide executive leadership and management services customarily associated with the role, including: member relations; community and governmental engagement; assisting in the recruitment, hiring, and compensation of Chamber staff; and generally to further the Chamber’s purpose of assisting the 420 member businesses, including IKE, in achieving their full business potential and to advocate on behalf of its member businesses.

Considering the Chamber’s purpose to support the business community by assisting its members in achieving their full business potential and to advocate on behalf of its member businesses, it is unnecessary to consider whether the effects of these decisions on the Chamber’s gross receipts, assets or liabilities, or expenses will meet the thresholds provided above in Regulation 18702.3(a)(3), as the determinative issue is the application of the nexus test as provided above in Regulation 18702.3(b).

As described, the upcoming City Council decisions related to IKE's interactive digital kiosk program include approving the development plans and location of the kiosks in the City in which there are currently none. The proposed kiosks will provide "wayfinding" services to assist the user in navigating the City, including mapping to businesses within the City. Given the nature of the kiosks, a primary goal of IKE's interactive digital kiosk program is to encourage consumers to "Eat, Play, Shop, Stay" within the City. IKE's interactive digital kiosk program will provide general support of the City's business community and the vitality of the community, including the Chamber's members, which correlates to the Chamber's ability to retain and attract paying members. Thus, it is reasonably foreseeable the decisions related to IKE's interactive digital kiosk program, including the installation of the kiosks, may have a financial effect on the Chamber.

As President and CEO of the Chamber, Council Member O'Brien is specifically paid, to further the Chamber's purpose of assisting the 420 member businesses, including IKE, in achieving their full business potential and to advocate on behalf of its member businesses. Collectively, IKE's interactive digital kiosk program helps achieve these purposes and goals by supporting and promoting the City's general business community, thereby increasing the customer base for participating businesses.

Pursuant to the nexus test, it is reasonably foreseeable that the decisions related to IKE's interactive digital kiosk program will have a material financial effect on the Chamber because the decisions will achieve, defeat, aid, or hinder a purpose or goal of the Chamber, and Council Member O'Brien receives or is promised income as the President and CEO of the Chamber for achieving the purpose or goal. Accordingly, Council Member O'Brien may not take part in the decisions.

2. Decisions Related to the Minimum Wage Ordinance.

The upcoming City Council decisions related to a minimum wage ordinance includes discussions to potentially pursue a City ordinance and tie it to the City of Los Angeles' minimum wage ordinance. The City's potential ordinance would require all or a majority of employers within the City, including the Chamber and its member businesses, to pay their employees any minimum wage set by the City Council, which would exceed the state-mandated minimum wage.

Even more so than the IKE's interactive digital kiosk program, the minimum wage ordinance has a direct and substantial impact on the business community and the vitality of the community, including the Chamber's member businesses. Considering the ordinance's significance to the business community, its success or failure also correlates with the Chamber's ability to retain and attract paying members, especially if the ordinance does not align with the goals of Chamber members or potential members. Thus, it is reasonably foreseeable the decisions related to a minimum wage ordinance may have a financial effect on the Chamber.

Considering the purposes and goals of the Chamber stated above, including supporting the business community and its members, it is reasonably foreseeable that the decisions related to a minimum wage ordinance will have a material financial effect on the Chamber because the decisions will achieve, defeat, aid, or hinder a purpose or goal of the Chamber, and, as President and CEO of the Chamber, Council Member O'Brien receives or is promised income for achieving the purpose or goal. Accordingly, Council Member O'Brien may not take part in the decisions pursuant to the nexus test.

Additionally, we note that the significance of the ordinance also indicates a potential financial effect on Council Member O'Brien's personal finances. Based on facts provided, as President and CEO of the Chamber, Council Member O'Brien is currently accumulating promised income as the Chamber does not have sufficient funds to support the Council Member's full salary absent further revenue sources. Considering Council Member O'Brien's employment agreement and deferred compensation based on the ability to source additional revenue, as well as the substantial impact on the business community, it is reasonably foreseeable that the success or failure of the minimum wage ordinance may affect the Chamber's ability to retain or attract paying members, which will increase or decrease the likelihood of the receipt of accumulated income of \$500 or more in any 12-month period due to the decisions. Accordingly, Council Member O'Brien is also disqualified from the decisions related to a minimum wage ordinance based on the material financial effect on his personal finances.

3. Decisions Related to the STR Ordinance.

As for decisions related to the STR ordinance, Council Member O'Brien may have a disqualifying conflict of interest in the decisions to the extent that it is reasonably foreseeable that the decisions would have a material financial effect on the Chamber or his personal finances under the applicable materiality standards provided above in Regulations 18702.3 and 18702.5.

However, based on facts provided, the STR ordinance is limited to the rental of residential properties. While the short-term rental of residential properties may theoretically increase business activity in the vicinity of the properties, the ordinance itself does not broadly implicate the members of the Chamber or their respective business activities. Thus, it is not reasonably foreseeable that the financial effect of the decisions on the Chamber will meet the materiality standards provided in Regulation 18702.3(a)(3) for a nonprofit entity.

Moreover, regarding the nexus test, the STR ordinance implicates the use of residential property and does not necessarily correlate to the purposes or goals of the Chamber or its members. Based on the facts provided, there is no nexus between the decisions related to the STR ordinance and the income received or promised to Council Member O'Brien as President and CEO of the Chamber.

Lastly, in light of the fact that the STR ordinance is limited to residential properties and only theoretically implicates the general business community, it is unlikely the STR ordinance will affect the ability of the Chamber to retain or attract members, or affect the likelihood of Council Member O'Brien receiving his promised accumulated salary from the Chamber. Thus, it is not reasonably foreseeable that the decisions related to the STR ordinance will have a material financial effect on Council Member O'Brien's personal finances.

Accordingly, barring any other economic interest, the Act does not prohibit Council Member O'Brien from taking part in the decisions related to the STR ordinance.

Public Generally Exception

A public official who has a disqualifying financial interest in a decision may still participate if the official demonstrates that the financial effect is (1) not unique to the official and (2) shared by a significant segment of the jurisdiction. (Section 87103, Regulation 18703). Regulation 18703(a) sets forth the public generally exception, which states:

A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on the official's financial interest is not unique compared to the effect on the significant segment.

A significant segment of the public is at least 25 percent of all businesses or non-profit entities within the official's jurisdiction. (Regulation 18703(b)(1)(A).) A unique effect on a public official's financial interest relevant to these facts includes a disproportionate effect on the official's personal finances or those of the official's immediate family. (Regulation 18703(c)(6).)

Based on the facts provided, it appears the decisions related to IKE's interactive digital kiosk program and the minimum wage ordinance would affect all or a majority of businesses within the City, or certainly enough to satisfy the 25 percent threshold. However, we must distinguish the financial effects on the individual businesses from the potential financial effects on the Chamber and on Council Member O'Brien's income and personal finances.

In the case of the Chamber, its interests are aligned with the collective interests of its members, and its vitality is tied to furthering those interests and advocating on behalf of its members. Thus, the financial effect on the Chamber is unique in comparison to the individual businesses affected by the decisions. In addition to the collective interests of Chamber members, Council Member O'Brien also has an interest in the Chamber's ability to pay promised accumulated income and his continued employment with the Chamber. For these reasons, the financial effect on Council Member O'Brien's interests is also unique in comparison to the individual businesses affected by the decision. As such, the public generally exception does not

apply to decisions relating to IKE's interactive digital kiosk program or the minimum wage ordinance, and Council Member O'Brien is disqualified from taking part in those decisions as analyzed above.

If you have other questions on this matter, please contact me at JRinehart@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

JennaRinehart

By: Jenna C. Rinehart
Senior Counsel, Legal Division

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