

Understanding Public Service Ethics Laws (ab 1234)

League of California Cities
Mayors and Council Members Academy

Friday, January 23, 2026 | 10:15 am



HOUSEKEEPING & REMINDERS

You MUST scan IN
AND OUT to receive
credit

You must be present
for the full two-hour
training

Certificate will be
emailed to attendees
to scan in and out

To receive MCLE credit
your bar number must
be attached to your Cal
Cities profile – you can
add that anytime!

Contact Kristy Bivens
(kbivens@ca-ilg.org)
with questions or
concerns

HOUSEKEEPING & REMINDERS

The League of California Cities is committed to providing a safe and respectful environment for all participants and staff at Cal Cities events. We expect participants and staff to:

- Be considerate and respectful in your speech and actions.
- Refrain from behavior and speech that is threatening, abusive, discriminatory, or harassing.
- Be mindful of your surroundings and your fellow participants.

If you experience or witness threats, unlawful discrimination or harassment during a Cal Cities event, or have any other concerns, please contact a member of Cal Cities staff immediately.

NON-PROFIT, NON-PARTISAN & COMMITTED TO SUPPORTING & IMPROVING LOCAL GOVERNMENT

- The Institute for Local Government is the non-profit training and education affiliate of the League of California Cities
- We were founded in 1955, 70 years ago, and our mission is to serve and support local government
- Our target population is the 2,500 cities, counties and special districts in California
- We provide practical and easy-to-use resources so local agencies can effectively implement policies on the ground



OUR PROGRAMS AND SERVICES



Our mission is to help local government leaders **navigate complexity**,
increase capacity & build trust in their communities



Understanding Public Service Ethics, Laws & Principles

AB 1234 Ethics Training

Mayors and Councilmembers Academy

League of California Cities

January 23, 2026

Presented by: David G. Lim

AB 1234 Training: Principles of Ethics and the Law in Public Service

- § FPPC requires two hours of ethics training every two years for all local agency officials (Gov't Code 53235(b))
- § “Local Agency Officials” includes any member of a local agency legislative body or any elected local agency official who receives any type of compensation or salary, or any other employee designated by the local agency legislative body to receive the training

Ethics Training: Principles of Ethics and the Law in Public Service

§ The desire for ethical conduct in government dates back to the beginning of democracy

§ Oath of Office in ancient Athens taken by public officials:

- Promised to not engage in any act of dishonesty and to obey the City's laws
- Pledged to make the City greater, better and more beautiful than it was when they took office
- Reflected not only a commitment to not do bad acts, but also a promise to do good

The Relationship Between Ethics and the Law

- § The law is the starting point for most ethical analyses
- § The law is the floor for ethical conduct, not the ceiling
- § Just because it's legal, doesn't mean the public will see it as being right
- § Legal nuances are political losers

Conduct of Individual Public Officials Affects the Public Trust and Confidence in the City

§ The conduct of individual public officials is directly related to the trust and confidence that the public will have in the city as an institution and vice-versa



Why Are We Here?

§ Ethics laws consistently born from scandal

§ AB 1234

§ Enacted after investigative report by Sacramento Bee

- Water District officials misusing public resources
- Use of agency credit card for personal purposes
- Misreporting of income
- Double-dipping on expense reimbursements



Principles of Ethics



§ “Make decisions on the merits, free from partiality, prejudice or conflicts of interest.”

- Bias rules
- Conflict of interest rules
 - Due process requirements

Principles of Ethics

§ “Public office is a trust; use it only to advance public interests, not personal gain.”

- Conflict of interest laws
- Anti-bribery laws

Principles of Ethics

§ **“Conduct government openly, efficiently, equitably, and honorably so the public can make informed judgments and hold public officials accountable.”**

- The Brown Act
- Disclosure Requirements
- Public Records Act

Principles of Ethics



§ “Honor and respect democratic principles; observe the letter and the spirit of the law.”

- Due process requirements
- Public bidding laws

Principles of Ethics

§ “Safeguard public confidence in the integrity of government by avoiding appearances of impropriety and conduct unbecoming a public official.”

- Source: Josephson Institute of Ethics

Foundations of Good Government

Transparency is easier

Process is important

There is such a thing as bad publicity

Such as....

Mark Ridley-Thomas sentenced to 42 months in prison



Former L.A. City Councilman Mark Ridley-Thomas, center, shown in March, was sentenced Monday to 42 months in federal prison on corruption charges. (Dania Maxwell / Los Angeles Times)

Legal Nuances are Political Losers

MARK RIDLEY-THOMAS ALLOCUTION STATEMENT

Good morning, Your Honor, I would like to thank you for the opportunity to address the Court. I've had a full and intense twenty months, to reflect on the circumstance in which I find myself. It is true that I have chosen to exercise my constitutional rights as a citizen to offer the best possible defense for myself.

But I feel that it's important, Your Honor, to make it clear to you that I in no way want to convey anything but respect for you, and for this Court. Further, I want to assure you that when this is completed I will accept the outcome of this judicial process and give full and respectful compliance in accordance with the law.

Your Honor, I believe it's fair to say that this case exists somewhere between what is clearly legal conduct on one end, and clearly illegal conduct on the other. In between there is a line that distinguishes actions that are illegal — and actions that may be ill-advised, but NOT illegal.

While I definitely disagree as to whether I crossed that line into illegal conduct, I acknowledge with clarity where I belonged was at the end of the spectrum where there would be little, if any, question of even the appearance of unlawfulness. The very perception that I deviated from proper conduct in this matter is truly distressing as well as harmful, and I deeply regret it.

My actions — and the fallout from those actions — have hurt my family, beginning with my wife of 44 years who should never have had to go through and ordeal like this. I apologize to her with every breath and with my whole heart. And I apologize to my sons, daughter-in-law and grandchildren, as well as other family members whose lives have been disrupted and traumatically impacted.

Additionally, the anguish that I feel causes me to say I'm so sorry to all of my constituents, colleagues and employees who have believed in me for many years, but who may now have doubts. I sincerely apologize to them not only for playing a role in bringing about those doubts — but also for no longer being able to be there for them in service. I can only trust and believe that the future will afford me the opportunities to continue to find ways to serve them and their families, to remove doubt and to restore faith.

Your Honor I give you, and my former constituents, on all those here today and all those here today my pledge that I will find a way to continue to learn from this devastating experience, to emerge from it as a more conscientious person, and to go forward once this is behind us with humility, with renewed commitment to service and with undaunted hope for a purposeful life dedicated to the communities who rightfully expect and deserve the very best of me.

Your Honor, I thank you.

Four Groups of Ethics Laws



1. Personal financial gain
2. Governmental transparency
3. Personal advantages and perks
4. Fair processes

Group 1: Personal Financial Gain

Group 1: Personal Financial Gain

Political Reform Act

- Disclosure Requirements – Form 700
- Recusal (Abstention) Requirements – Conflicts of Interest
- Conflicts arising from Prospective Employment
- New Conflict of Interest Rules on Campaign Contributions

Government Code Section 1090

- Conflicts of interest in decisions involving contracts

The Political Reform Act (PRA)

§ Enacted in 1974

§ Created the Fair Political Practices Commission (FPPC)



The Political Reform Act: Disclosure of Economic Interests

§ Form 700 Statement of Economic Interests

- As a candidate for office, upon assuming office and annually
- Purpose – helps prevent conflicts by letting the public know your interests
- Disclose your economic interests:
 - Sources of income
 - Real property interests
 - Investments
 - Business entities that you own
 - Sources of gifts

CALIFORNIA FORM 700
STATE OF CALIFORNIA
A PUBLIC DOCUMENT

STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

Date Initial Filing Received: _____

Please type or print in ink.

NAME OF FILER (LAST) _____ (FIRST) _____ (MIDDLE) _____

1. Office, Agency, or Court
Agency Name (Do not use acronym): _____
Division, Board, Department, District, if applicable: _____ Your Position: _____
► If filing for multiple positions, list below or on an attachment. (Do not use acronym)
Agency: _____ Position: _____

2. Jurisdiction of Office (Check at least one box)
☐ State ☐ Judge or Court Commissioner (Statewide Jurisdiction)
☐ Multi-County ☐ County of: _____
☐ City of: _____ ☐ Other: _____

3. Type of Statement (Check at least one box)
☐ Annual: The period covered is January 1, 2016, through December 31, 2016.
-Or- The period covered is _____ through _____
☐ Assuming Office: Date assumed _____
-Or- The period covered is _____ through the date of leaving office.
☐ Candidate: Election year _____ and office sought, if different than Part 1: _____

4. Schedule Summary (must complete) ► Total number of pages including this cover page: _____
Schedules attached
☐ Schedule A-1 - Investments - schedule attached
☐ Schedule A-2 - Investments - schedule attached
☐ Schedule B - Real Property - schedule attached
☐ Schedule C - Income, Loans, & Business Payments - schedule attached
☐ Schedule D - Income - Gifts - schedule attached
☐ Schedule E - Income - Gifts - Travel Payments - schedule attached
-Or-
☐ None - No reportable interests on any schedule

5. Verification
MAILING ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____
(Business or Agency Address Recommended - Public Document)
DAYTIME TELEPHONE NUMBER: _____ E-MAIL ADDRESS: _____
I have read all instructions regarding the preparation of this statement. I have reviewed this statement and to the best of my knowledge the information contained herein and in any attached schedules is true and complete. I acknowledge this is a public document.
I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date Signed: _____ Signature: _____
(Must be signed and dated within your filing office)

PPPC Form 700 (2016/2017)
PPPC Advisor Email: adviser@pppc.ca.gov
PPPC Toll-free Helpline: 866/775-3772 www.pppc.ca.gov

The Political Reform Act: Disclosure of Economic Interests

Form 700 Statement of Economic Interests

- Report Your Interests Accurately
- Penalties for late filing / failure to file
- Accurate reporting prevents conflicts & increases public confidence
- Failure to report an interest will almost always make the FPPC, public, and press more suspicious

The Political Reform Act: Disclosure of Economic Interests

Form 700 Statement of Economic Interests

- Only need to report financial and property interests in the City or within 2 miles of the boundaries of the City
- Exclude: Vacation homes out of the City not subject to disclosure
- Individual stocks should be disclosed (even if held in a 401(k) or IRA)
- Shares in diversified mutual funds or ETFs need not be disclosed

City Conflict of Interest Code – Disclosure categories

§ Check for reporting obligations based on classification

RESOLUTION NO. 2020-87

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JURUPA VALLEY, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED APPENDIX TO THE CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

The Political Reform Act: Disclosure of Economic Interests

Form 700 Statement of Economic Interests?
Disclosure Requirements?

- ***If in doubt: Call the City Clerk***

The Political Reform Act: Disclosure of Economic Interests

§ Other types of disclosures:

- **As a candidate, report campaign contributions**
 - Various FPPC Reporting Forms (Form 410 and others)
- **As an elected officeholder, report “Behested contributions”**
 - Contributions by a third party to a nonprofit at your request equaling or exceeding \$5,000 in a calendar year
 - Applies only when a single source contributes the \$5,000 (not multiple sources) to the nonprofit
 - FPPC Reporting Form 803
- If in doubt, consult your campaign consultant or treasurer

Intent of Conflict of Interest Laws

- § The law is aimed not just at actual misconduct, but at the perception of misconduct and temptation
- § The PRA and the FPPC have had to draw lines as to what is and is not a conflict of interest
- § Lines are not always intuitive or obvious
- § Actions that seem “right” may still be illegal

The Political Reform Act: Recusal (Abstention) Requirements

§ “No public official . . . shall make, participate in making or in any way attempt to use [the official’s] position to influence a governmental decision in which [the official] knows or has reason to know [the official] has a financial interest.”

- Political Reform Act, Government Code § 87100

The Test

§ FPPC Basic Test for Conflicts:

- Is it reasonably foreseeable
 - that a governmental decision
 - will have a material financial effect
 - on any of your financial interests
 - distinguishable from the public generally?

Is a Governmental Decision Involved?

- § Is the public official making, participating in the making, or using or attempting to use his or her official position to influence a governmental decision?
- § “Making” a governmental decision means:
- Voting on a motion, resolution, or ordinance
 - Deliberating on a item of business that comes before you
 - Making an appointment of a person to a position
 - Committing the City to a course of action
 - Entering into a contract
 - Determining not to take an action on a pending matter

Is a Governmental Decision Involved?

§ “Participates in making” a decision

- Acts within authority of their office or position and advises or makes recommendations to decision-maker
- Negotiates, without significant substantive review, with third party regarding governmental decision

§ “Attempts to use an official position to influence a decision”

- Contacts or appears before or otherwise attempts to influence any member, officer, employee or consultant of the agency, or
- Advocates on behalf of their agency to another governmental agency

What are your Economic Interests?



- § Real property interests worth at least \$2,000
- § Sources of income of \$500 or more in the last 12 months
 - Includes non-profit entities
- § Investments worth \$2,000 or more
- § Business interests
- § Gifts of \$630 from a single source over the last 12 months

What are your Economic Interests?



§ Real property interests worth at least \$2,000

- Owned by you
- Owned by you and your spouse together
- Owned by your spouse separately
- Your dependent child's property
- Your interest as a tenant in real property (except month-to-month)

Your Sources of Income

§ Sources of income of \$500 or more in the last 12 months

- Your own income such as salary from a private employer
- Promised income
- Dependent child's income
- Loans
- Spouse's income
- Persons and entities that pay you commissions



Investments and Business Interests

§ Investments

- Investments worth \$2,000 or more
- But not investments in a Diversified Mutual Fund or ETF



§ Business Interests

- Businesses you manage or that employ you
- “Related” business entities
- Also have to consider property interests of those businesses

Sources of Gifts



§ Donors of Gifts

- Aggregating \$630 from a single source in a 12-month period
- Cash, presents
- Meals, food and drink
- Entertainment
- Travel and lodging

Much more about gifts coming up...

You have an economic interest in your "personal finances"

§ Personal Finances

- Your personal expenses, assets or liabilities
- Will the decision cause you, your spouse or your dependent children to receive a measurable financial benefit or loss?



Materiality Standards for Impacts on Real Property that You Own

§ Direct Decisions

- Property is subject of a general plan amendment, zoning/rezoning, or permit decision

§ Indirect Decisions

- The decision could change the development potential, the character, or the use of the property, and the official's property is near the affected property



Materiality Standards for Impacts on Real Property that you Own

§ New Rules – 3 standards based on 0 to 500 feet, 501 - 1,000 feet, and 1001 feet and beyond:

- Would affect the real property value of property within 500 feet of the official's property
- Property between 500 and 1000 feet of the official's property that changes: See next slide
- Property 1,000 feet or more from official's property, rebuttable presumption of no interest



Your property is between 0 and 500 feet from the boundaries of the project

§ “The reasonably foreseeable financial effect of a governmental decision on a parcel of real property in which an official has a financial interest, other than a leasehold interest, is material whenever the governmental decision:

. . .

§ (7) Involves property located 500 feet or less from the property line of the parcel unless there is clear and convincing evidence that the decision will not have any measurable impact on the official's property”

Property Between 501 and 1,000 Feet From a Proposed Decision

§ An official has a conflict if the decision materially affects the following aspects of the official's property:

- Development potential
- Income producing potential
- Highest and best use
- Market value
- Character, by “substantially” altering:
 - Traffic level and parking
 - Intensity of use
 - Privacy
 - View
 - Noise
 - Air quality

Your property is more than 1,000 feet from the boundaries of the project

§ “(b) The financial effect of a governmental decision on a parcel of real property in which an official has a financial interest involving property 1,000 feet or more from the property line of the official's property is presumed not to be material. This presumption may be rebutted with clear and convincing evidence the governmental decision would have a substantial effect on the official's property.”

Examples

City action on
pedestrian path that
passed within 500 feet of
Mayor's residence

NO CONFLICT



Very large residential
development more
than 1,000 feet from
Councilmember's residence

CONFLICT



Materiality Standards for Impacts on Real Property Interests: Ownership

§ Exceptions

1. There is no material financial effect if a decision solely concerns **repairs, replacement or maintenance of existing streets, water, sewer, storm drainage** or similar facilities
2. There is no material financial effect if a decision solely concerns **general plan *policy* decisions (not a land use designation change)**, unless the decision is initiated by the public official
3. **Common areas in common interest developments** are now **excluded from the definition of “real property”** for the purpose of conducting a conflict of interest analysis

Materiality Standards for Impacts on Real Property Interests: Exceptions

§ Public Generally Exception

- A significant segment of the public will be affected in the same manner

§ Rule of Legally Required Participation Exception

- Not enough members to participate because of conflicts of interest
- Random selection process
- Explanation in minutes as to why exception must be used

The Test

§ FPPC Basic Test for Conflicts:

- Is it reasonably foreseeable
 - that a governmental decision
 - will have a material financial effect
 - on any of your financial interests
 - distinguishable from the public generally?

Test Applied to Guide Conflict of Interest Determination

§ Reasonably Foreseeable = Realistic Possibility

- Presumption if financial interest explicitly involved in decision

§ Apply “materiality” thresholds for each financial interest

- For example, for interests in business entities:
 - Direct involvement
 - Indirect involvement – impact is to reach certain dollar thresholds of impact on the business

§ Financial effect is not material if it is “nominal, inconsequential, or insignificant”

Materiality Standards for Impacts on Business Interests

§ **A presumption of materiality if the business is directly involved in the decision**

- For example, your business is applying for a CUP

§ **Otherwise**, the financial effect is material if the decision may result in an increase or decrease of:

- assets or liabilities (at least \$1,000,000)
- 5% of gross revenues (at least \$10,000)
- Expenses (\$250,000 or more OR 1% of the entity's revenue, at least \$2,500)

§ **Exception:** If official's interest in business entity is \$25,000 or less and the official owns less than 1%, only direct involvement is material

Identifying a Conflict

4-Step Test for Conflicts of Interest:

Will the governmental decision result in a “reasonably foreseeable” financial effect on one of your financial interests?

If yes, is the effect on that interest “material”?

If the effect is material, is the effect the same as effects on the “public generally”?

If the effect is material and no exceptions apply, then you may not make, participate in, or use your official position to influence that governmental decision

Identifying a Conflict

Bottom line:



If you are considering a “materiality” question, it is time to ask for legal assistance



If You Are Disqualified

- 1. Don't discuss with or influence staff or colleagues**
- 2. Identify the nature of your conflict at the meeting**
- 3. Leave chambers after stating abstention (except for items on consent calendar)**

Note: You cannot avoid disclosure by leaving chambers



Participation as a Member of the Public

- § Recuse yourself from participating in your official capacity
- § May only speak as a member of the public to represent your “Personal” interests
 - Owned property
 - Owned / controlled business



Conflicts in Decisions Affecting Prospective Employer

§ This preclusion commences when either:

- you have an interview with an entity for an employment position; or
- you get an offer or employment from an entity

§ **Exception:** does not apply if you are seeking employment with a local, state or federal governmental entity



Conflict of Interests - Campaign Contributions (Gov. Code § 84308)

- § Local elected and appointed officials are subject to being disqualified from decisions in which a party or participant in a proceeding is a contributor to the official's campaign
- § Decisions on licenses, permits, or other entitlements
- § Only applies if the party or participant is a contributor of \$500 or more to the official's campaign in the prior 12 months (effective 1/1/25, previously \$250)

Disclosure of Contributions (Gov. Code § 84308)

§ Local appointed & elected officials must:

- Disclose campaign contribution greater than \$500
- Received from a party or participant in a proceeding involving a license, permit, or other entitlement
- In the 12 months before a final decision in the proceeding

Prohibited Contributions (Gov. Code § 84308)

§ Local appointed & elected officials must not:

- Accept, solicit, or direct a contribution greater than \$500
- On behalf of themselves or another official, candidate, or committee
- During a proceeding involving a license, permit, or other entitlement and for 12 months thereafter
- From a party, a participant, or their agents
- Who the official knows, or has reason to know, has a financial interest in the proceeding

§ Opportunity to Cure

- Return the contribution within 30 days from the latter of: (i) the time the officer makes any decision, or (ii) knows, or should have known, about the contribution and the proceeding.

Getting Help

**Talk to Staff and
the City Attorney**

**Seek advice from
the FPPC**

- 1-866-ASK-FPPC
- Request a formal advice letter, if time permits

**“If in doubt, sit it
out.”**

PRA Penalties



§ Invalidation of decision

§ Misdemeanor

- could result in loss of office

§ Fines

- \$5,000 to \$10,000 per violation
- Personal liability of the public official/employee!

§ Attorney's fees

- yours and others

§ Embarrassment

- Personal / political

Government Code, Section 1090

Government Code Section 1090

A public official
may not
“make” a
contract in
which they are
“financially
interested”



Government Code Section 1090

§ Officer or employee of a public agency

§ Financial interest or that of your spouse in a contract

- Direct contractual interest
- Indirect benefit from the making of a contract

§ Contract made by the official or body of which you are a member

- Broadly interpreted to include negotiations, discussions, design, planning, etc.

Government Code Section 1090

- § If you have or may have a financial interest in contract, contact the City Manager and our Office immediately
- § Cannot “un-ring the bell” if you participate in the contract making process
- § In many cases, abstention doesn’t help.
- § There are a variety of exceptions that are complicated and often very limited.

Section 1090 Exceptions

§ “Remote Interests” – Abstention and disclosure required

- *Examples include:*
 - A person receiving salary, per diem, or reimbursement for expenses from another government entity that is the contracting party
 - a supplier of goods or services when those goods or services have been supplied to the contracting party by the official for at least five years prior to their appointment or election to office

Section 1090 Exceptions

§ “Non-interests” – No abstention required, but disclosure sometimes required

- *Examples include:*
 - A recipient of public services generally provided by the public body or board of which they are a member, on the same terms and conditions as if they were not a member of the body or board
 - An officer is being reimbursed for his or her actual and necessary expenses incurred in the performance of official duties

Section 1090 and Non-profit Entities

§ Remote Interest - Abstain

- Officer or employee of non-profit entity

§ Non-interest

- Non-salaried member of non-profit entity
- Non-compensated officer of non-profit entity that, as one of its primary purposes, “supports the functions of the City or which the City has a legal obligation to give particular consideration.”

Section 1090 Penalties

§ Severe Penalties

- Contracts are not just “voidable,” but void
- Contractor may have to refund money
- Willful violation is a felony
- Fines (up to \$10,000) or imprisonment (personal liability!)
- Prohibition against holding public office
- Usual tool of the DA to prosecute for corruption



Group 2: Governmental Transparency

The Public Records Act



- § PRA affords any “person” the right to inspect and be provided a copy of any identifiable public record
- § “Person” includes an individual or corporation and elected members of local agencies
- § “Public record” is defined broadly

What is a Public Record?



§ “Public record” defined as

- Any writing
- with information relating to the conduct of the public’s business
- prepared, owned, used or retained by a state or local agency
- regardless of physical form or characteristics

What is a Public Record?



§ “Writing” includes

- Handwritten or printed documents
- Photos and videos
- Voicemails
- Drawings, plans, maps
- **Emails, text messages, tweets, etc.**

Avoid Combining Public & Private



§ Personal or political business?

- Don't tack it onto an email about public agency's business

§ Email Threads

- Changing Topics? Create new email

What is a Public Record?

§ Must be:

1. Related to the conduct of the public's business *and*
2. Prepared, owned, used, or retained by the public agency

***** Does NOT include every piece of paper in the public agency's offices**

Common Statutory Exemptions

- § Preliminary drafts, notes or interagency or intra-agency memoranda not kept in ordinary course of business (balancing test)
- § Personnel, medical or similar records
- § Documents created in anticipation of, or during, litigation
- § Personal information like SS#s, home address and telephone #
- § Salary information **/S** subject to disclosure

Catch-All Exemption – Balancing Test



§ “[O]n the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record”

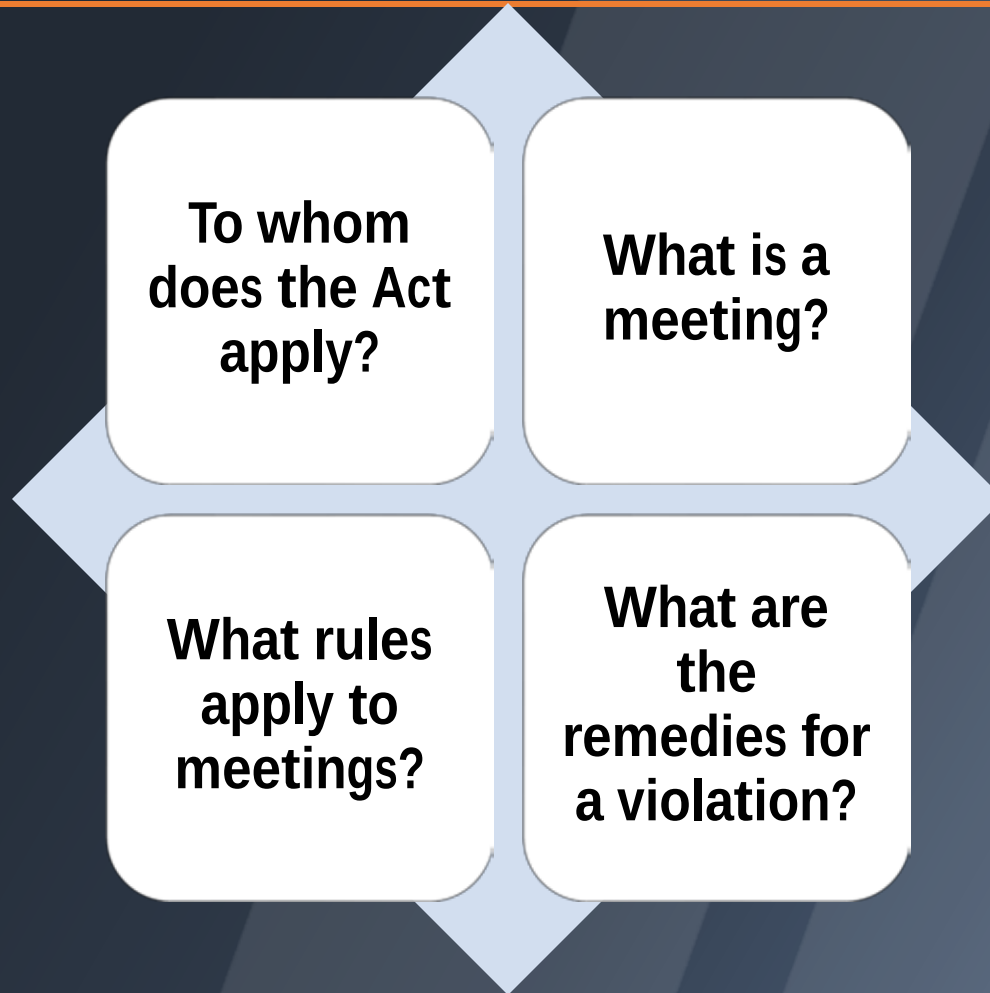
- Government Code Section
7922.000

Ralph M. Brown Act



§ "All **meetings** of the **legislative body** of a local agency shall be **open and public**, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter."

Topics

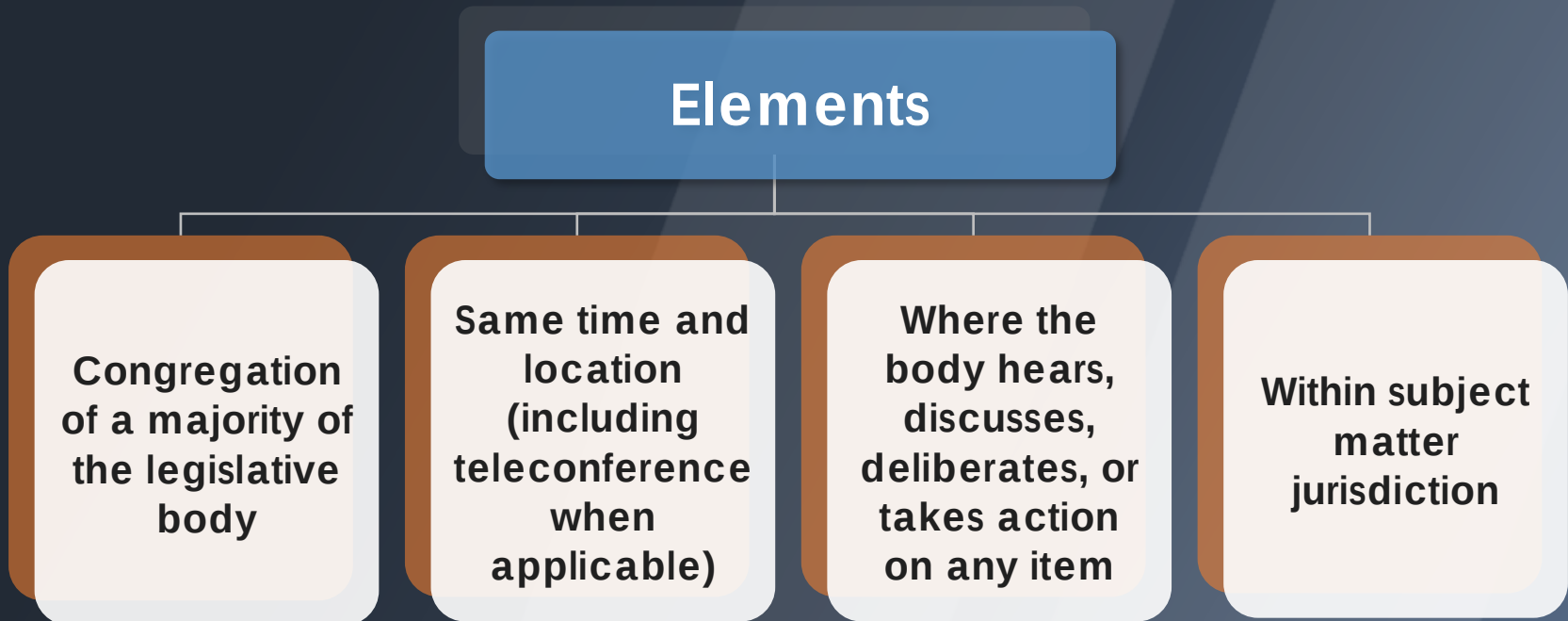


Act Applies to “Legislative Bodies”

§ What is a “legislative body?”

- Governing body of the local agency
- Subordinate boards & commissions created by formal action of the governing body
- Standing committees with a regular meeting schedule and continuing subject matter jurisdiction

What is a “Meeting”?



Meeting Exceptions

When is a meeting not a “meeting”?

Examples include:

- Conferences and seminars open to the public
- Community meetings open to the public
- Another City body when it is an open and noticed meeting of that body
- Social or ceremonial events

For these exceptions, a majority cannot discuss among themselves items of legislative body business, other than as part of the scheduled program

Serial Meetings Are Illegal

§ What is an illegal serial meeting?

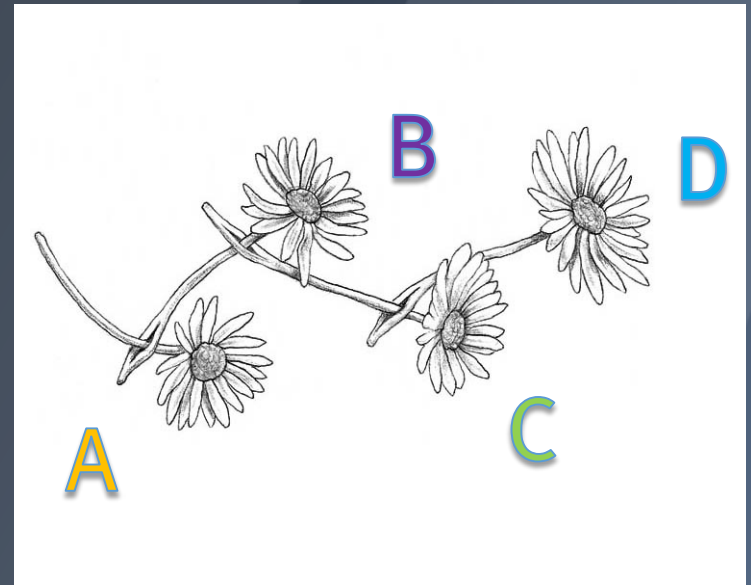
- Series of direct or indirect communications (intermediaries/technology)
- By a majority of the body
- To discuss, deliberate, or take action on any item of business or potential business

2 Types of Illegal Serial Meetings

Hub & Spoke



Chain



Tips for Electronic Communication



§ DO NOT:

- Communicate your position on a pending matter to a majority of members
- Solicit responses from other members when forwarding information you receive
- **REPLY ALL**

Tips for Electronic Communication



§ DO:

- Use caution (“bcc”!) when emailing other members.

§ *Deliberations must occur publicly in a meeting. Not by text or on social media!*

Internet-Based Social Media Platforms (Gov't Code 54952.2)

§ DO NOT:

- Respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.
- **Applies to TWO members – majority not required.**



Internet-Based Social Media Platforms (Gov't Code 54952.2)

§ OKAY TO:

- Answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body.



Regular Meeting



§ Day, time, and location is set by resolution or ordinance

- Agenda must be posted 72 hours in advance
- General, brief description of items of business

Special Meeting

§ Called by presiding officer or majority of Council

- Notice must be posted 24 hours in advance, stating the time, place, and agenda
- Notice must be received by each member and press unless waived
- Consider only items on the agenda



Emergency Meeting

- § An “emergency” meeting may be called to address certain emergencies, such as a terrorist act or crippling disaster, without complying with the 24-hour notice/posting requirement.
- § Certain requirements apply for notifying the press and for conducting closed sessions as part of the emergency meeting.

Adjourned Meeting

- § Regular or special meetings may be adjourned to specific time and place
- § If no time stated, meeting is continued to the hour for regular meetings
- § Less than a quorum may adjourn
- § Secretary or Clerk may adjourn to stated time and place



Attendance by Teleconference – the Traditional Rule

Traditional Brown Act Remote Teleconference Rule

- Quorum participates from the regular meeting location
- Remote teleconference location is identified on the agenda
- Notice is posted on the door of the remote teleconference site
- Teleconference location provides for public accessibility and public participation
- Roll Call votes on each motion

New Rules – Attendance by Teleconference under AB 2449

- § At least a quorum of the members of the legislative body are participating in person from a singular location within the jurisdiction of the agency.
- § Either (i) Just Cause Circumstances or (ii) Emergency Circumstances apply
- § Disclosure Statement
- § Limit on number of times used
- § Agenda posting requirements

New Rules – Attendance by Teleconference for “Just Cause”

The new “just cause”
remote attendance option – AB 2449

- A member can attend remotely, if they have “just cause” to do so
- “Just cause” means:
 - Ø The member has a need to provide childcare or caregiving for a family member;
 - Ø The member has a contagious illness;
 - Ø The member has a physical or mental disability that cannot be otherwise accommodated; or
 - Ø The member is traveling while on official business of the legislative body or another public agency.

New Rules – Attendance by Teleconference for “Emergency Circumstances” of Member

The new “emergency circumstances” remote attendance option – AB 2449

- The term “emergency circumstances” means a physical or family medical emergency that prevents a member from attending in person.
- The member must notify the legislative body at the earliest opportunity possible, including at the start of a regular meeting, of the need to participate remotely because of “emergency circumstances.”
- The legislative body must take action to approve the request by majority vote, either through a listed item on the agenda or pursuant to the exception to items not listed on the agenda.

Attendance by Teleconference during Proclaimed Emergency (AB 361)

§ The legislative body may meet by teleconference without following the standard Brown Act teleconference procedures when:

- the meeting is during a state of emergency; and
- as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Agenda Requirements

Agendas must be publicly accessible and distributed in advance to those who request copies

Agenda must be posted on Agency's website



Agenda Requirements

No discussion or action on items not on the posted agenda

- Absolute rule for special meetings
- Exceptions for regular meetings

Agenda Requirements – Exceptions

§ Items not on the posted regular meeting agenda can be discussed and acted upon if:

- Item came to the agency's attention after the agenda was posted and
- There's an emergency or immediate need to take action before the next meeting
- Two-thirds vote required



Agenda Requirements

Other Exceptions Allowing Limited Discussion of Non-agenda Items:

Brief
response to
public
comments

Questions
for
clarification
/ refer to
staff

Brief
announce
ment or
report on
activities

Request for
future report

Agree to
place item
on future
agenda

Emergency
situation
exists
requiring
immediate
action

Public Participation



The public has a right to speak on:

- § Any item within the subject matter jurisdiction of the body (regular meetings only)
- § A specific item of business on the agenda (any meeting, including special and emergency meetings)

Public Participation



- § Not required to “register”
- § Rules of decorum permitted
- § Time limits okay
- § Public agencies may not prohibit public criticism of the agency or the legislative body
- § Actual disruption of proceedings may warrant removal

Closed Sessions

§ Most common topics:

- Personnel matters
- Labor negotiations
- Real property matters
- Pending, threatened, or contemplated litigation



Enforcement & Consequences

Civil Action to Invalidate a Decision or Action

- District attorney or any interested person
- Notice and opportunity to cure, with commitment to refrain from alleged violation
- If not cured and there is subsequent court action, challenger can recover *attorneys' fees and costs*

Enforcement & Consequences

Criminal Prosecution

- Brought by the district attorney
- There must have been an **action taken at a meeting** in violation of the Brown Act, **with intent** to deprive the public of information
- Misdemeanor

Group 3: Gifts, Perks & Misuse of Public Funds

Gifts & Perks

§ Principles:

- Don't use your office for personal gain
- Be mindful of perks given because of your office or role
- Perks can create appearance of bias



The Obvious: Do Not Take Bribes

§ Do not solicit or accept contributions, things of value or payments in exchange for votes or other official action



The Obvious: Do Not Take Bribes

L.A. NOW

SOUTHERN CALIFORNIA — THIS JUST IN

[« Previous Post](#) | [L.A. NOW Home](#) | [Next Post »](#)

Former Upland mayor pleads guilty to federal bribery charges

April 26, 2012 | 11:09 am



This post has been corrected. Please see the note below.

Former Upland Mayor John Pomierski pleaded guilty Thursday to bribery involving a scheme to extort money and campaign contributions from businesses seeking permits and other city services.

The Obvious: Do Not Take Bribes

L.A. NOW

SOUTHERN CALIFORNIA -- THIS JUST IN

[« Previous Post](#) | [L.A. NOW Home](#) | [Next Post »](#)

Santa Fe Springs official took bribes while lying to FBI

June 28, 2012 | 3:08 pm



Santa Fe Springs Councilman Joseph Serrano Sr. repeatedly shook down a medical marijuana dispensary owner who was working as an FBI informant, taking a total of \$11,500 in payments in 2010 and 2011, according to a plea agreement released Thursday by the U.S. attorney's office.

Serrano has agreed to plead guilty to one federal count of felony bribery.

The 28-page agreement is the latest example of corruption in a small Los Angeles County town -- and shows the brazen extent to which the [Santa Fe](#)

[Springs](#) official negotiated the cash bribes even after he had been interviewed by FBI agents probing allegations of corruption in the city.

What is a gift?

- A gift is anything of **value** for which the recipient **did not** provide payment or services of **equal or greater value** to the donor

Gifts Don't Always Have Bows

- § **Meals, food and drink**
(including receptions)
- § **Entertainment** (tickets to
concert and sporting
events)
- § **Certain Raffle Prizes**
- § **Free Travel and lodging**



Gift Reporting and Gift Limit

§ Report:

- All gifts worth \$50 or more
- Can be several gifts from same source given within one calendar year

§ Do not accept:

- Gifts from a single person or entity worth more \$630 or more
- Several gifts given in same calendar year count

§ This limit is raised every odd-numbered year to account for inflation

Gift Rules Apply to...

- § Elected officers of the City – Mayor and Councilmembers
- § City Manager, City Attorney, and other officials who manages public investments
- § Candidates for City Council
- § Commissioners and anyone else listed in the City's conflict of interest code
- § Consultants who act in a staff capacity or have the ability to make certain city decisions

Gift Exceptions: Relationships



- § Existing personal or business relationships
- § Long term relationships (BFFs)
- § Bona fide dating relationships

Gift Exceptions: Families

- § Spouse
- § Minor child
- § Parent (& Parent-in-law)
- § Sibling (& Sibling-in-law)
- § Grandparent
- § Grandchild
- § Niece / Nephew
- § Aunt / Uncle
- § First cousin
- § Spouse of any of these



Holiday Exception to Gift Rules



- § Gifts exchanged between Form 700 Filers and another individual, other than a lobbyist, on holidays, birthdays, or similar occasions
- § Gifts exchanged must not be substantially disproportionate in value

Gift Exceptions: to and from the Public Agency

- § Payments made to the public agency
- § Public agency-provided tickets or passes
- § Employee raffle or gift exchange
- § Gifts from public agencies to agency officials
- § Group gifts



Other Exceptions to Gift Rules

- § Home hospitality
- § Contest prizes
- § Awards or trophies
- § Wedding reception food, drink, favors
- § Disaster assistance
- § Emergency leave credits
- § Bereavement offerings
- § Inheritance
- § Acts of neighborliness or human compassion
- § Informational materials at conferences, etc.
- § Free admission to conferences
- § Unused tickets or passes
- § Tickets to non-profit or political fundraiser

Watch Out!

§ Quirky valuation and reporting rules:

- Wedding gifts
- Invitation-only events

§ Gifts in disguise:

- Gifts to your family that benefit you
- Events honoring you
- Official or ceremonial functions

§ Ask if a question comes up!



Returned or Donated Gifts

§ A gift is not deemed “accepted” or “received” if, within 30 days after receipt:

- the gift is not used and is returned to donor;
- the donor is reimbursed; or
- the gift is donated to charitable organization or government agency without claiming a tax deduction

Disclose or Refuse

Disclose

- \$50 or more
- Track
- Fair market value

Refuse

- Refuse (must if > \$630)
- Return
- Donate

Honoraria

§ **Honorarium = a payment made in consideration for...**

- giving a speech,
- publishing an article, or
- attending a conference, meeting, event, etc.

§ **As a public official, you cannot accept honoraria**

§ **Limited exceptions apply**



Loans



- § You cannot borrow **more than \$250** from other agency officials, employees, consultants or contractors
- § Loans of **\$500 or more** from anyone else must be in writing
- § Unpaid loans may become a gift

Loan Exceptions

§ You usually don't need to worry about:

- Your mortgage (or other loans obtained from banks or financial institutions)
- Your credit cards
- Loans from family members



No Free or Discounted Transportation

- § No free travel from transportation companies
 - Cal. Const. art. XII § 7
- § Only applies to public officers
- § Exclusion for frequent flyer mileage and discounts given unrelated to your official position



Do Not Use Public Resources for Political or Personal Purposes

**No Mass
Mailings**

**No Personal
Use of Staff**

**No Personal
Purposes**

**No
Campaign Use**

Mass Mailing Rule

§ Newsletters or other mass mailings cannot be sent at public expense

- A mass mailing is: (a) the delivery of a tangible item, (b) that “features” an elected official, (c) at public expense, (d) in a quantity of 200 or more, (e) in a calendar month. (Government Code §§ 89001- 89003)

§ *Do not single out an elected official by photograph or signature*

§ Websites are NOT a mass mailing because they are not a “tangible item”

No Campaign Use of Public Agency Resources or Staff

§ Cannot use public agency staff or resources to help a campaign for a ballot measure or a candidate

- Equipment – no use of copying machines, phones, computers, etc.
- Office space – no free use of office space or meeting rooms to meet and plan campaign events
- Staff assistance – no use of secretaries to, for example, prepare and send out letters supporting a candidate or ballot measure

Prohibition on Gifts of Public Funds

§ A public agency cannot give away public funds or anything of value for free

- There must be consideration (i.e., a contract)

OR

- The grant must serve a “public purpose” of the donating agency



Penalties for the Misuse of Public Funds

- § No reimbursement
- § Restitution to the agency
- § Up to \$5,000 per violation
- § Own attorneys' fees (\$3,000-\$30,000)
- § Others' attorneys' fees (for private actions to enforce law)
- § Up to four years in jail
- § Permanent disqualification from office



Group 4: Fair Process Laws

Group 4: Fair Process Laws

**Due Process and
“Common Law”
Conflicts of Interest**

**Qualifications
for Office and
Incompatible
Offices**

**Competitive
Bidding**

The Due Process Clause

§ “No person shall be ... deprived of life, liberty, or property, without due process of law”

U.S. Constitution amendment V

Due Process in Local Government

§ **The Due Process Clause is implicated whenever a city conducts a public hearing:**

- Land use permits – CUP, Variance, Tentative Subdivision Map
- Annexation requests
- License revocations
- Terminating or disciplining employees

What does “Due Process” Mean?

- § Reasonable **notice** &
- § A reasonable **opportunity to be heard**
- § Before an **impartial decisionmaker**



An Impartial Decisionmaker

§ Pre-existing views on the general policy issues related to a matter do not create disqualifying bias

§ Due process does not require that the decisionmaker be an “intellectual eunuch” – someone with no views or opinions at all

- **Andrews v. Agricultural Labor Relations Board (1981)**

An Impartial Decisionmaker

§ Disqualifying bias requires:

1. Concrete proof of a specific prejudice against a person affected by the decision
2. Bias which is sufficient to impair the decisionmaker's ability to decide the matter on appropriate grounds
3. The bias matters to the decision.

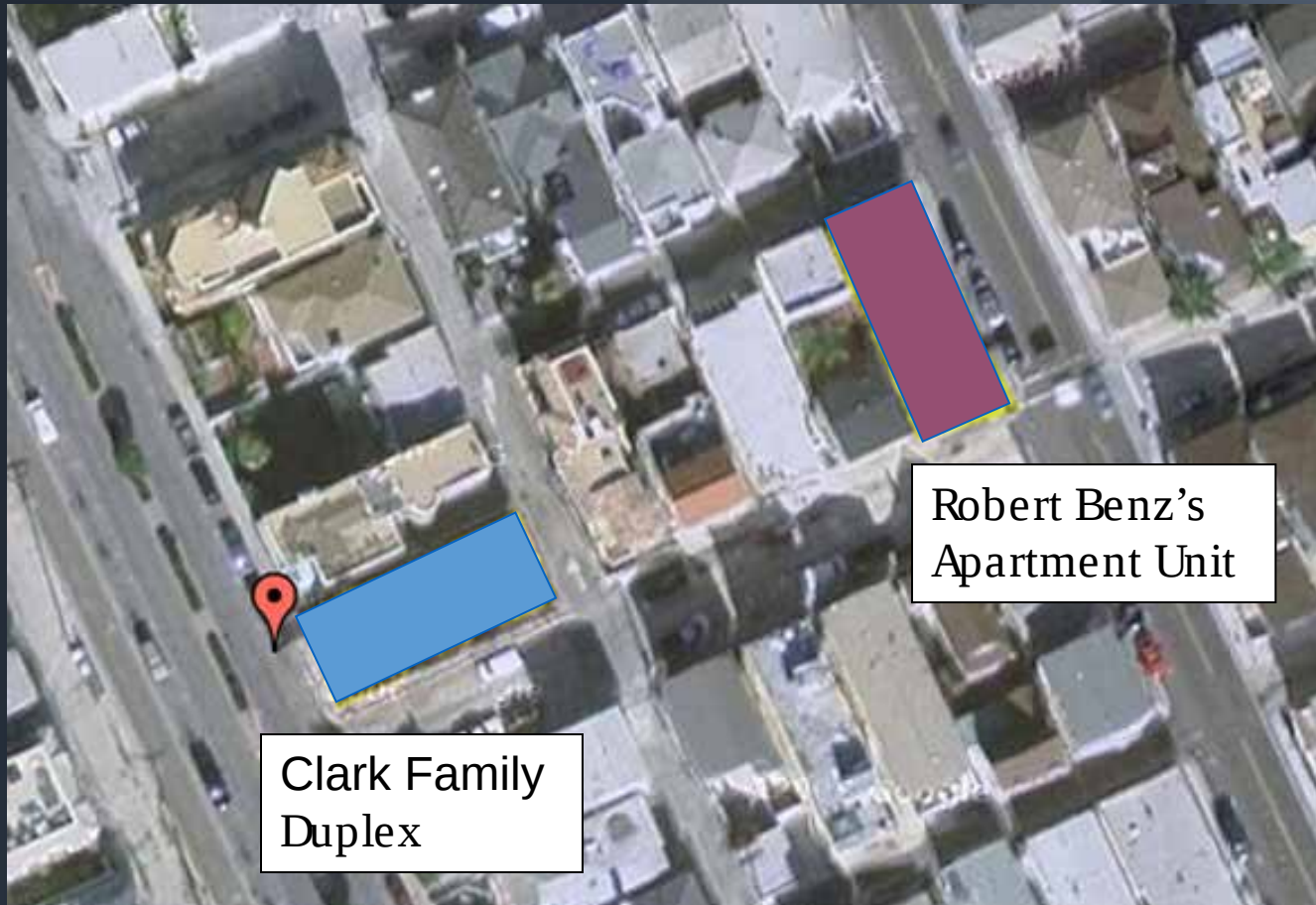
Common Law Doctrine Against Conflicts of Interests

**Law made by
court decisions**

**Applies when
public official is
tempted by
personal interests**

**Reduced
application of the
doctrine but
it is not dead**

Common Law Conflict Case Study: *Clark v. Hermosa Beach*



Lessons from the *Clark* case

Why no violation of the Political Reform Act?

Month-to-month tenancy is not an interest in real property under Political Reform Act

Public officials should not participate in decisions that affect their personal interests

Requirement for objective & unbiased decisionmakers

Bias: *Nasha v. City of Los Angeles*

- § Planning commissioner wrote an article in a homeowners' association newsletter, calling a proposed project a "threat to a wildlife corridor"
- § Court found "unacceptable probability of actual bias"
- § Because three votes were required to sustain the appeal, the commissioner's tainted vote was decisive



Bias: Fairfield v. Superior Court

- § Campaign statements do not disqualify a councilmember from voting
- § The courts expect local elected officials to express their views to their constituents on issues of policy and public controversy



Tips for Decisionmakers



- § If you think you cannot be fair, don't participate
- § Avoid statements before the close of a hearing that suggest your mind is made up
- § Make your decision based on the evidence presented at the hearing – from staff, the parties, and the public – not beforehand

Tips for Decisionmakers



- § If you make private site visits, don't make any commitments to applicants or neighbors
- § Disclose at the hearing any "off-the-record" information you have obtained
- § Fair hearing procedures prohibit receipt of information or comments via email or text during a meeting

Anti-nepotism

§ **Disqualification from participating in decisions affecting family members**

§ **Anti-nepotism policies such as:**

- Limitation on appointment or promotion into a department in which a relative already holds a position if:
 - Supervisor-subordinate relationship
 - Performance of shared duties on same or related work assignments
 - Same immediate supervisor
- No employment of a public officials immediate family during public official's term of office

§ **City's adopted personnel rules preclude personal relationship with a subordinate employee that might interfere with the exercise of impartial judgment in decisions affecting the City or any employees of the City.**

Conditions to Holding Office: Residency within Jurisdiction

- § An elected official must be an “elector” of the local agency
- § An “elector” must be a U.S. citizen & resident of an election precinct
- § Registered to vote in the city/district
- § Maintain principal residence (domicile) in city/district

Residency within Jurisdiction

- § If during your term of office, you move your domicile to somewhere outside the public agency's limits, you cease to be an elector
- § If you cease to be an elector, your office becomes vacant (Gov. Code Section 36502)



"Incompatible" Offices



- § Cannot hold two incompatible offices!
- § Applies to public offices, not employment
- § Loss of first office upon acceptance of incompatible office

“Incompatible Offices”

§ Examples:

- City councilmember & school board member
- District Board member & fire chief
- Public utility district member & board of supervisors member
- Water replenishment district board member & and city councilmember

Competitive Bidding

§ Required by State Law

§ Principles:

- Everyone has right to compete for agency's business
- Competition produces the best price for taxpayers
- Prevents favoritism, extravagance, fraud



Competitive Bidding



§ Contract goes to lowest responsive, responsible bidder

§ Exceptions

- Emergencies
- Small contracts
- Financial, engineering, legal services
- Professional services

Questions to Ask

- § What would the reasonable person think?
- § Are you comfortable with how your action will be reported in the press?
- § Is this how you want to be remembered?





Thank you!

David G. Lim
dlim@rwglaw.com