



CITY OF SACRAMENTO

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June 17, 1980
CITY MANAGER'S OFFICE
RECEIVED
JUN 16 1980

Honorable City Council
City of Sacramento
City Hall
Sacramento, California

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

APPROVED
BY THE CITY COUNCIL

Members in Session:

JUN 24 1980

SUMMARY

The attached supplemental conflict of interest Code would prohibit designated City employees 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.

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DISCUSSION

Attached is a supplemental conflict of interest code for City employees who are designated employees under existing City departmental conflict of interest codes. It would preclude such employees from making or participating in decisions on matters before the City in instances where the employee has 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 participation by the employee 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 employee's ownership of a financial interest with an applicant might preclude his or her exercise of unbiased judgment on the application.

This code was reviewed by the Personnel and Public Employees Committee. The Committee asked that it be circulated to all affected employees. If there was a substantial number of questions, comments

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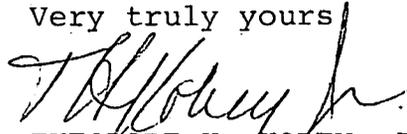
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or objections, the Committee instructed that the codes be returned to it for hearings. The Personnel Department has sent this code to all affected employees and only one comment has been received. Hence, this code is being forwarded to the City Council.

RECOMMENDATION

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

Very truly yours



THEODORE H. KOBAY, JR.
Assistant City Attorney

THK:kn

Attachment

RECOMMENDATION APPROVED:



CITY MANAGER

AN ORDINANCE ENACTING A SUPPLEMENTAL CONFLICT
OF INTEREST CODE FOR DESIGNATED CITY EMPLOYEES

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

Section 1.

Secs. 2.126-16 through 2.126-22 are hereby added to the Sacramento City Code to read as follows:

Sec. 2.126-16 Applicability.

The provisions of Secs. 2.126-16 through 2.126-22 shall apply to each designated employee required to file a statement disclosing financial interests pursuant to the Conflict of Interest Code adopted by the City Council for his or her department pursuant to the provisions of the Political Reform Act of 1974 (Government Code Sections 81000 et. seq.).

Sec. 2.126-17 Disqualification.

(a) Each City employee 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 employee 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 department in which the City employee is employed, or the City Council or any board or commission of the City. No such City employee 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 employee shall make or participate in making a decision on a matter for which disqualification is required under subsection (a).

Sec. 2.126-18 Manner of Disqualification.

A City employee required to disqualify himself or herself shall give written notice of disqualification to the City Clerk, to his or her immediate supervisor and to his or her division head or department head if there is no division head. The notice of disqualification shall include the name of the applicant or person principally involved in the matter before the department and whether the City employee has an interest in real property or an investment in a business entity with such person. Such notice shall be given as soon as is reasonably possible after said employee learns, or, in the exercise of reasonable diligence should have learned of the facts requiring disqualification and shall be made part of the official records of the City Clerk. The City employee 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.

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Sec. 2.126-19 Opinions of City Attorney

Upon request, any City employee 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. 2.126-20 Definition of Terms.

a. "Board." For purposes of this code, the term "board" shall include the City Council and the boards and commissions listed below:

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

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 employee." For purposes of this code, the term "City employee" shall mean any employee identified in Sec. 2.126-16 of this code.

d. "Investment in business entity." For purpose 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 employee, if the employee and the person who is an applicant or is principally involved in the matter before such City employee's department, the City Council or any 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 employee and the person who is an applicant or is principally involved in the matter before such City employee's department, the City Council or any 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 City employee's department, the City Council or any board which will exceed \$5,000.

Sec. 2.126-21

The provisions of Secs. 2.126-16 through 2.126-22 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 various departments of the City of Sacramento.

Sec. 2.126-22 Effective Date.

This Code shall become effective on _____.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

ATTEST:

MAYOR

CITY CLERK