

A New “500-Foot Rule” for Conflicts of Interest Involving Real Property Interests

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ATTORNEYS

A new standard governs whether public officials have a conflict of interest in government decisions affecting real property interests.

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Under the Political Reform Act, public officials may not make, participate in making, or attempt to use their official positions to influence a governmental decision in which they know or have reason to know that they have a disqualifying interest. A public official has a disqualifying interest if the governmental decision at issue will have a reasonably foreseeable, material effect on the official's financial interests. The Fair Political Practices Commission (FPPC) has amended the standard for determining whether a decision will have a **material** effect on a public official's interest in real property.

The most significant change amends the materiality standard for decisions that affect **ownership** interests in real property. There is now a presumption that a decision involving property **within 500 feet** of an official's property will have a material impact on the official's interest. In addition, there is now a presumption that a decision involving property **1,000 feet or more** from the official's property will not have a material impact on the official's interest. Both of these presumptions can be rebutted with clear and convincing evidence, however.

For decisions involving property located **between 500 and 1,000 feet** from the official's property, whether the decision creates a conflict now depends on a number of factors. Under the revised regulation, a decision will have a material impact on the official's property interest if it would change the parcel's development potential, income-producing potential, highest and best use, market value, or, if it would change the parcel's "character by substantially altering traffic levels, intensity of use, parking, view, privacy, noise levels, or air quality."

Public officials should become familiar with revised Regulation 18702.2 to ensure that they avoid participating in any decisions that will have a reasonably foreseeable, material financial effect on their real property interests. In addition, public agency staff may wish to create maps indicating both a 500 foot and a

1,000 foot radius around each parcel owned by a public official to help them identify when a public official might have a disqualifying conflict of interest.

Revised FPPC Regulation 18702.2 can be viewed [here](#).

If you have any questions about conflicts of interest under California law, or how these amendments may impact your jurisdiction, please contact **Diana Varat**.