



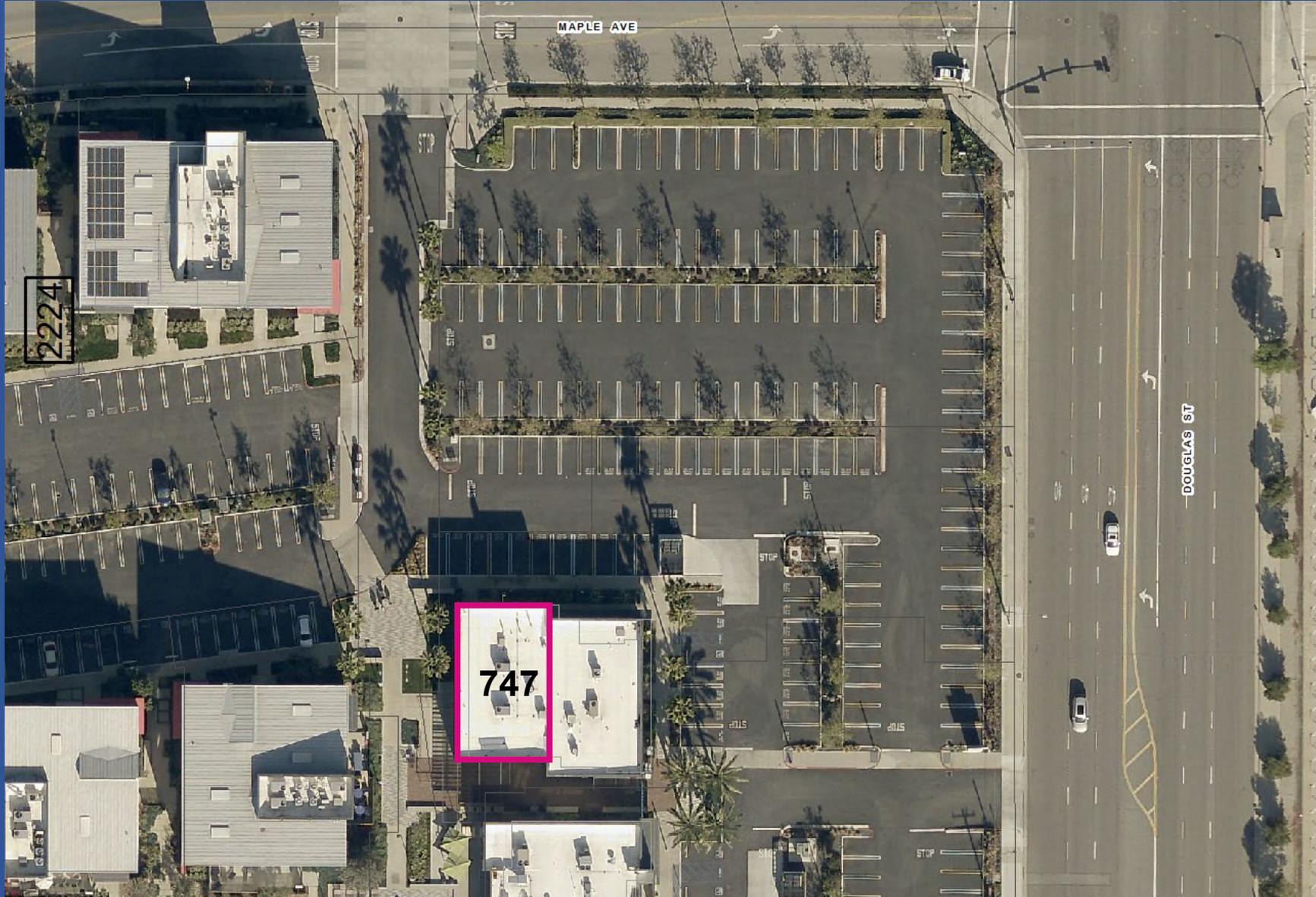
EA-1383 and AUP 25-01

New Alcohol Service for:

“Second Wind Restaurant.”

747 N. Douglas Street

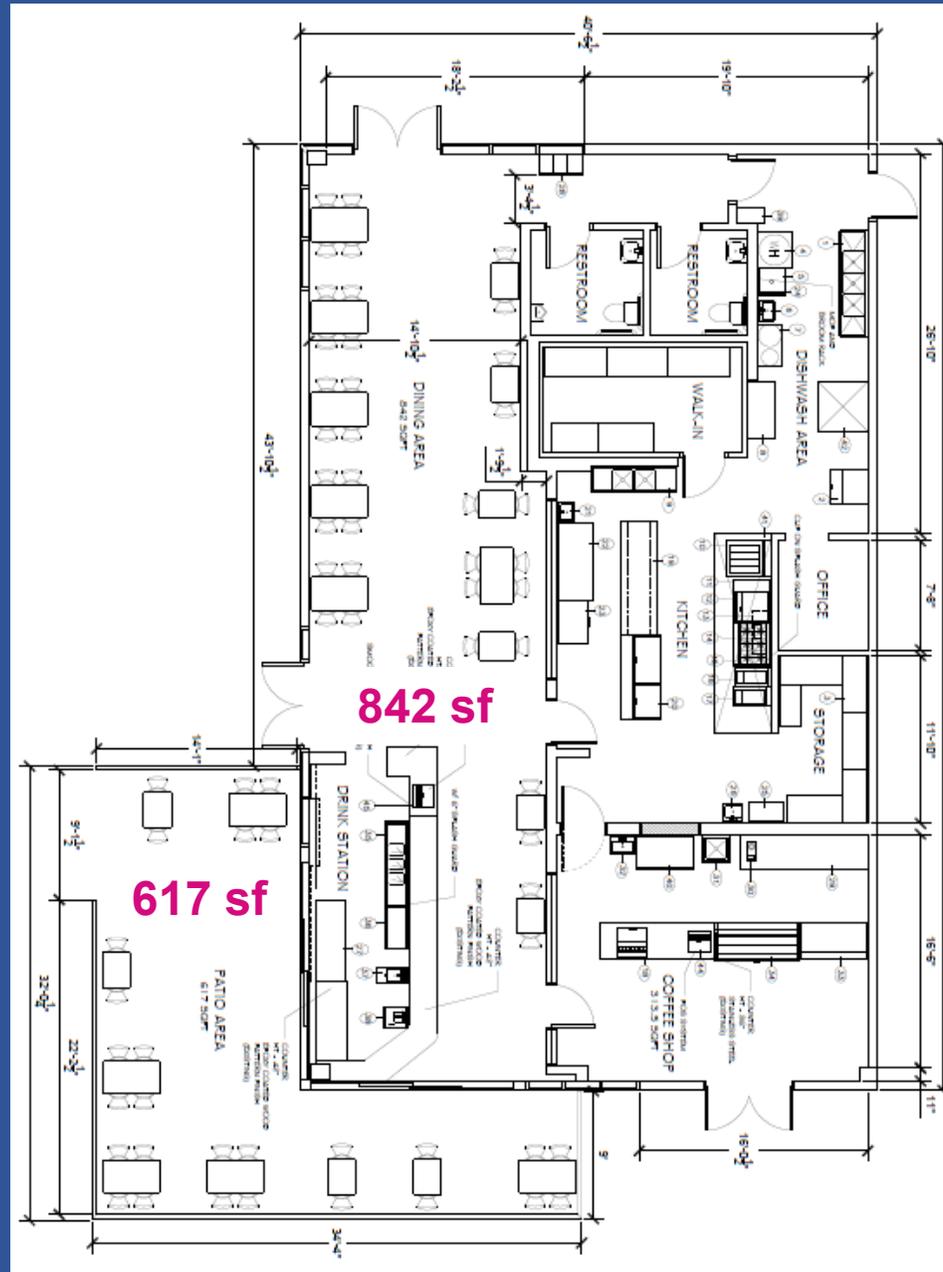
Aerial View of Site



Project Description:

1. An AUP to allow alcohol sales for on-site consumption through a (Type 41 ABC License) to both the indoor and outdoor dining areas of the Restaurant.
2. Food service will be available when alcohol is sold at the restaurant.

Floor Plan



The Second Wind Outdoor Dining Area



Outdoor Dining Area at Night



Required Findings for an AUP:

1. There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
2. The proposed use is consistent and compatible with the purpose of the zone in which the site is located.
3. The proposed location and use and the conditions under which the use would be operated or maintained to not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. Potential impacts that could be generated by the proposed use, such as noise, smoke, dust, fumes, vibration, odors, traffic and hazards have been recognized and compensated for.
5. The applicant will apply for a Type 41 ABC License.

Recommendation:

Receive and File the Director's decision conditionally approving Environmental Assessment No. EA-1383, and Administrative Use Permit No. AUP 25-01.

EL SEGUNDO PLANNING COMMISSION

Open Meeting & Ethics Primer

April 24, 2025



Presented by Joaquin Vazquez,
Assistant City Attorney

Roadmap

- I. General Ethical Principles**
- II. The Brown Act**
- III. Personal Financial Gain by Public Servants**

I. General Ethics Principles

Community First

- Make impartial decisions, free of narrow political interest and your financial and other personal interests that might impair your independent judgment or action.
- Comply with the spirit and letter of the law (Constitution, state law, municipal code, city policies).
- Do not use City resources or your position for personal gain.

Fairness

- Focus on merits and not personalities.
- Promote public involvement.
- Provide more process than required.
- Consider all sides.
- Apply policies consistently.

II. The Brown Act – Government Transparency

The Brown Act – Government Transparency

- ***Legislative Declaration***

“The people do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”

“The people insist on remaining informed so they may retain control over the instruments they have created.” Gov. Code, § 54950

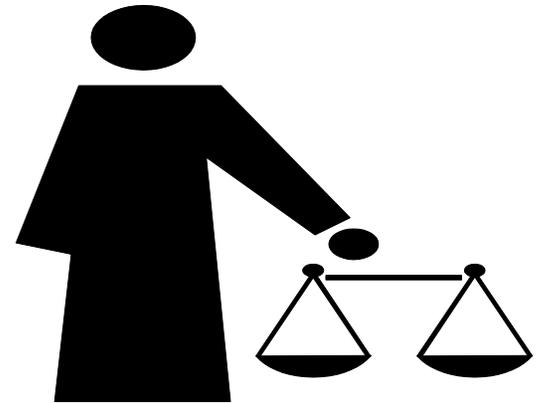
Ralph M. Brown Act, Government Code
Section 54950, et. seq.



Ralph M. Brown 1959
Photo courtesy
The Modesto Bee

Conducting Business at Open Meetings

- Ralph M. Brown Act: Government Code Section 54950 *et. seq.*
- Ensures public's right of access.
- Open meetings: All meetings of a **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.



What is a Legislative Body?

- **Governing bodies** of local agencies (e.g. City Council, school boards).
- **Appointed bodies** whether permanent or temporary, decision-making or advisory (e.g. Planning Commission, CCBs).
- **Standing committees** that have (1) *continuing subject matter jurisdiction*; OR (2) a *meeting schedule fixed* by charter, ordinance, resolution, or formal action of a legislative body.

What is a Meeting?

- A “meeting” occurs whenever a ***majority*** of the members of a legislative body ***congregate*** at the ***same time and place*** ***to hear, discuss, deliberate, or take action on any item within the subject matter jurisdiction of the legislative body.***



Types of Brown Act Meetings

- Regular Meetings
- Special Meetings
- Emergency Meetings
- Adjourned Meetings



Exceptions to Meeting Definition

1. Individual Contacts
2. Conferences
3. Community Meetings
4. Other Legislative Bodies
5. Standing Committees (provided members not on the standing committee attend only as observers)
6. Social or Ceremonial Events

Beware of Serial Meetings

- The Brown Act ***prohibits*** a majority of the members of a legislative body from using a ***series of communications of any kind***, directly or through intermediaries, ***to discuss, deliberate, or take action on any item within the subject matter jurisdiction of the legislative body.***
- ***Example:*** Member A contacts Member B, Member B contacts Member C, and so on until a quorum and collective concurrence is established.
- ***Example:*** Staff member contacts each member of a legislative body one-on-one for a decision on a proposed action revealing each member's decisions to the other.
- Such meetings deprive the public of an opportunity for meaningful participation in legislative body decision-making.

Some Individual Meetings OK

You may:

- Engage in separate communications or communications with a person outside of a meeting
- In order to answer questions or provide information
- So long as that person does not communicate a member's comments or positions to any other legislative body member.



Practical Tip

- Before communicating with another Commissioner on a matter within the subject matter of the Commission, first proactively **ask** whether that member has had any other communications with other members, so you can avoid a serial meeting.
- This is another reason texting and emailing between each other is not recommended for legislative body members because when you reach out by email/text, you cannot know whether that other member has already discussed an item.

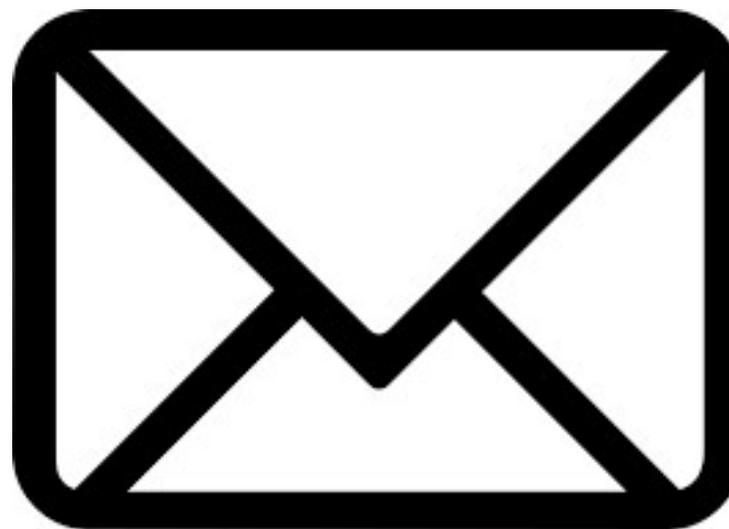
Informal Gatherings

- Use caution when socializing with other legislative body members when outside of an open and noticed meeting.
- Example: After a meeting, a majority of Commissioners decide to have dinner together → Planning Commission business may not be discussed.



Watch out for E-mails!

- Avoid sending e-mails to the whole legislative body
 - If necessary, provide information only and do not seek a response.
- Be careful replying
 - Don't communicate your position on any matter in your jurisdiction.
 - Don't directly reply to a majority of the legislative body.
- Be cautious before hitting "send"
 - Your e-mail could be forwarded to other legislative body members and could even end up in the newspaper!



Social Media

- **Majority** of legislative body cannot discuss business in its purview on public social media apps (e.g., Facebook, Twitter, Instagram, TikTok, etc.).
- **Even one member** of legislative body cannot respond direction to another member's social media post regarding business in its purview. Prohibited responses include:
 - Commenting
 - Reposting
 - Liking
 - Responding with emojis
- OK to use social media strictly to answer questions or provide information to the public or seek information from the public regarding business within the legislative body's jurisdiction.
- City business within the Commission's jurisdiction that you discuss on social media is subject to public disclosure via the Public Records Act.

QUESTION

What should a Commissioner do when receiving (or making) an email, text, or social media post on private device regarding something that is within the subject matter jurisdiction the Commission?

- The communication is a public record, and you have an obligation to keep pursuant to the City's records retention policy.
 - If it is requested as part of a Public Records Act request it will need to be produced to the Clerk's Office and will be disclosed if not confidential.
 - If the message relates to an agenda item then it must be provided to staff and made part of the public agenda.
 - **Best practice** – forward all such communications to your City email!
-

Agendas - Overview

- Effective notice is essential for open and public meetings.
- Public must be provided the ***times and dates*** of all meetings and an agenda with ***brief general descriptions*** of ***all matters to be discussed or considered*** must be made available before the meeting.
- Discussions that stray from the agenda description's parameters almost always violate the Brown Act!



Agendas for Regular & Special Meetings

- **Regular Meetings:**
 - Agenda posted 72 hours in advance of meeting.
 - Must be held in City limits.
- **Special Meetings:**
 - Agenda posted 24 hours in advance of meeting.
 - May be called by a majority of the legislative body OR presiding officer of legislative body.

Materials Distributed after Agenda Posting

- Any document provided to a majority of Commissioners regarding an agenda item after the posting of the agenda, but before the meeting, must be simultaneously made available to the public.
- This includes written public comments and supplements to staff reports.
- Such additional documents should be posted on the City's website, provided to the City Clerk for public inspection, and made available at the meeting

Non-Agenda Items

- General Rule: a legislative body ***may not discuss or take action on any item that is not on the agenda.***



- But as always, there are exceptions...

No Action/No Discussion - Exceptions

- Respond *briefly* to statements/questions from the public.
- Ask *clarifying questions*.
- Make *brief announcements or reports on personal activities*.
- Ask staff to *place a matter on a future agenda* or request a *report back*.
- When a majority decides that an *emergency exists*.
- When 2/3 of the members present (all members if less than 2/3 present) determine *immediate action* is required.
- When an item appeared on the agenda of a meeting that was continued (not more than 5 days earlier).

Public Participation

- All meetings must be open and public and all persons must be permitted to attend.
- **Public Comment:** Must provide an opportunity to address the legislative body with regard *to any matter within the body's jurisdiction* and on any item on the agenda before or during its consideration.
 - Special meeting: Comment limited to items on the agenda.
- Not an opportunity for Q&A!



Brown Act Violations

- **Criminal sanctions**: Violation of Brown Act by any member of a legislative body with **intent** to deprive public of information is a *misdemeanor*.
- **Civil remedies**: District Attorney or any interested person can sue to prevent a pending or future violation or **to invalidate actions take in violation of the Brown Act**.
- Upon written demand legislative body has:
 - 30 days to cure alleged open session violations; and
 - 90 days to cure any other alleged violations.
- **Penalties**: Court costs and reasonable attorneys' fees.

Brown Act Bottom Line



The Brown Act requires:

Openness
Transparency
Public access to
information



Any gathering of a majority of the public body that involves any aspect of the decision-making process triggers Brown Act open meeting requirements.

III. Laws Relating to Personal Financial Gain by Public Servants

Personal Financial Gain Issues

Principles:

- From Political Reform Act of 1974.
- Public's interest should be sole motivation.
- Public officials should not benefit financially from their positions.



Who is a “public official” under the Political Reform Act?

A public official is every:

- member;
- officer;
- designated employee; and
- certain type of consultant
of a state or local agency.

Personal Financial Interests *Political Reform Act of 1974*

Officials should perform duties solely in the public's interest, not for their own financial interests.

How is this done?

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graph TD; A[How is this done?] --> B[Disclosure (Form 700)]; A --> C[Disqualification];
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**Disclosure
(Form 700)**

Disqualification

Disclosure: Form 700/ Statement of Economic Interests

CALIFORNIA FORM 700
ONE POLITICAL PRACTICES COMMISSION
A PUBLIC DOCUMENT

STATEMENT OF ECONOMIC INTERESTS
COVER PAGE

File this form at the time you are elected or appointed to office.

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

1. Office, Agency, or Court
 Agency Name: _____
 (Division, Board, Department, District, if applicable) _____ Your Position: _____
 * If filing for multiple positions, list below or on an attachment.
 Agency: _____ Position: _____

2. Jurisdiction of Office (check at least one box)
 State Judge or Govt. 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, 2012, through December 31, 2012.
or The period covered is _____ through December 31, 2012.
 Assuming Office: Date assumed _____ The period covered is _____ through the date of leaving office.
 Leaving Office: Date left _____ (Last day)
 The period covered is January 1, 2012, through the date of leaving office.
 Candidate: Election year _____ and office sought, if different than Part 1: _____

4. Schedule Summary
 Check applicable schedules or "None."
 Schedule A-1 - Investments - schedule attached Schedule C - Income, Loans, & Business Positions - schedule attached
 Schedule A-2 - Investments - schedule attached Schedule D - Income - Gifts - schedule attached
 Schedule B - Real Property - schedule attached Schedule E - Income - Gifts - Travel Payments - schedule attached
 None - No reportable activity on any schedule
 or None - No reportable activity on any schedule
 Total number of pages including this cover page: _____

5. Verification
 MAILING ADDRESS: STREET CITY STATE ZIP CODE
(Business or Agency Address Recommended - Public Document)
 PHONE NUMBER: () _____ EMAIL ADDRESS (OPTIONAL): _____
 I have used all reasonable diligence in preparing 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 _____ (month day year) Signature _____ (Print or digitally sign consistent with your filing office.)

Clear Page **Print Form**

FFPC Form 700 (09/12/09) E
 FFPC Advice Email: adv@ffpc.ca.gov
 FFPC Toll-Free Helpline: 888/276-3772 www.ffpc.ca.gov

Who must file?:

Govt. Code 87200 Filers:

- Councilmembers
- Planning Commissioners
- City Manager
- City Attorney
- City Treasurer
- City public officials (includes employees) who manager public investments.

Code Filers (Resolution 9685)

- Most department heads
- Certain mid-management supervisors and employees.

How?

- Use Form 700

When?

Assuming Office

Leaving Office

Annually, by April 1st

Signed Under Penalty of Perjury

Form 700

	Common Reportable Interests	Non-Reportable Interests
Schedule A-1	Stocks, including those held in an IRA or a 401K	Insurance policies, government bonds, diversified mutual funds and certain other funds and investments held in certain retirement accounts
Schedule A-2	Business entities such as sole proprietorships, partnerships, LLCs, corporations, and trust	Savings and checking accounts and annuities
Schedule B	Rental property in the jurisdiction	Residence used exclusively as a personal residence such as a home or vacation cabin
Schedule C	Non-governmental salaries of public official and spouse/registered domestic partner	Governmental salary
Schedule D	Gifts from businesses (such as tickets to sporting or entertainment events)	Gifts from family members
Schedule E	Travel payments from third parties	Travel paid by your government agency

Form 700

Public records
subject to
disclosure.

Filed with City
Clerk.

Subject to
penalties for
late filing.

Types of Financial Interests	Minimum Threshold for Establishing Financial Interest
Business entity - Employment	Director, officer, partner, trustee, employee, management position.
Business Entity - Investment	A business entity in which the official, official's spouse, registered domestic partner, or dependent children or an agent has invested \$2,000 or more.
Real property	Official, official's spouse, registered domestic partner, or dependent children has an interest of \$2,000 or more, including leaseholds (except month-to-month leases).
Source of Income	An individual or entity from whom the official has received income or promises income aggregating to \$500 or more in 12 months preceding a decision. (Includes community property interests)
Donor of Gift	Currently \$590 and up within the prior 12 months.
Personal Finances	Any measurable benefit or loss to official's personal finances including his or her expenses, income, assets, or liabilities, as well as those of his or her immediate family.

Conflicts of Interest

The FPPC Four-Part Test

1. Is it “*reasonably foreseeable*” that the decision will have a financial effect on the official’s economic interests?



2. Is the financial effect *material*?



3. Is the financial effect *indistinguishable* from its effects on the public generally?



4. Is the official “making, participating in making or attempting to” influence a *governmental decision*?

Disqualification: When Disclosure Is Not Enough

Personal Financial Interests *Political Reform Act of 1974*

Officials should perform duties solely in the public's interest, not for their own financial interests.

How is this done?

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graph TD; A[How is this done?] --> B[Disclosure (Form 700)]; A --> C[Disqualification]
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**Disclosure
(Form 700)**

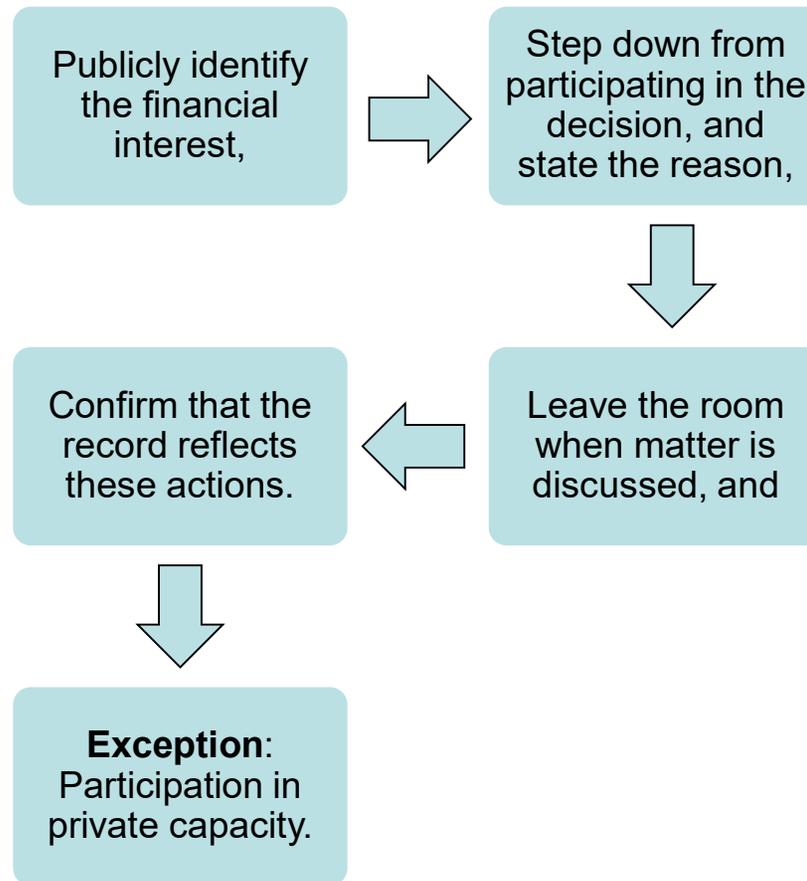
Disqualification

What Happens if I have a Disqualifying Financial Interest in a Governmental Decision?

A public official who has a disqualifying financial interest in a governmental decision, shall, upon identifying the conflict or potential conflict and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest in “detail sufficient to be understood by the public” (disclosure of residence address not required).
2. Recusal – Leave the room until after discussion or disposition of the matter. (Abstaining is not the same as recusal).
3. Do not participate – do not exert influence.

What Happens if I have a Disqualifying Financial Interest in a Governmental Decision?



What Happens if I have a Disqualifying Financial Interest in a Governmental Decision?

Limited Exceptions to “Leave the Room” Requirement:

- Official may speak on a matter as a member of the general public during the period for public comment about a matter related to his or her personal interests.
- Consent agenda items.
- Official must still disclose conflict.

Exception to Disqualification

-“Legally Required” Exception-

- Allows a public official that would otherwise be disqualified from participating in a decision if his or her participation is “**legally required**” for the action.
- Applies only if there is no reasonable alternative manner of decision-making and the otherwise disqualified official must act in order for the decision to be made (FPPC Reg 18705).

Exception to Disqualification

-“Legally Required” Exception-

CAUTION:

The “**legally required**” exception to disqualification cannot be used to break a tie or to create a quorum to act if another member without a conflict is absent.

Exception to Disqualification -Segmentation of Decision-

In some instances, a multi-part governmental decision can be broken up (i.e., segmented) to allow an otherwise disqualified official to vote on those segments of the decision which present no conflict.

- Segments cannot be “inextricably interrelated”;
- Segment presenting conflict is considered first without the conflicted official;
- Participation in other segments cannot result in reopening of first segment or financially affect the sub-decision made in the first segment.

Failure to Step Aside: Penalties

- Invalidation of decision;
- Misdemeanor (could result in loss of office);
- Fines;
- Legal fees; and
- Embarrassment.





Live/Work Preference Policy

El Segundo Planning Commission
Thursday, April 24, 2025



Background

- The City's Affordable Housing Strategic Plan prioritizes a Live/Work Preference Policy with the following goals:
 - Codify that part of an affordable housing agreement (incl. a DDA, density bonus agreement, etc.) include a local priority preference for people who live or work in El Segundo when applying for new affordable housing rental and for sale units
 - Remedy or mitigate the displacement and gentrification impacts that may result from development activities



Progress to Date

- The City retained RSG in July 2024 to assist with the implementation of the City's Affordable Housing Strategic Plan
 - November 2024: Initial discussions regarding Live/Work policy began
 - November-December 2024: Comparable policy research conducted by RSG
 - January 2025: RSG provided overview of policy components to Planning Commission
 - February-March 2025: RSG drafted policy based on direction from Planning Commission and City staff



Planning Commission Comments

- To recap, the Planning Commission asked RSG and City staff to implement the following components at the January 23rd Commission meeting:
 - Establish a 15% affordable unit set-aside requirement
 - Consider whether the policy can be implemented on an ongoing basis, in addition to during initial lease-up of an affordable housing project
 - Create additional preference for public safety personnel, school employees, and City employees



Key Policy Principles

- RSG, in collaboration with City staff, has drafted a Live/Work Preference Policy with the following key principles in mind:
 - Mitigate the effects of displacement on low and moderate-income individuals who live or work in El Segundo by ensuring they receive preference for a portion of new affordable housing opportunities in the City
 - Provide additional preference to critical public service employees, including public safety personnel, school employees, and City employees
 - Reduce the administrative burden on City staff by assigning policy implementation to the Owner of a City-assisted Affordable Housing Project



Proposed Policy

- Preferences shall apply to 15% of deed-restricted units at new City-assisted affordable housing projects
- Owners shall give preference the following applicant households:
 - Applicants with at least one household member whose primary place of residence is in El Segundo.
 - Applicants with at least one household member who works or who has received and accepted a bona fide offer of employment within El Segundo.
 - Applicants with at least one household member who participates in an education or job training program located within the City of El Segundo.



Proposed Policy (cont.)

- The Owner of a City-Assisted Affordable Housing Project shall be responsible for the initial and continuous implementation of the Policy throughout the term of the affordability restriction
 - This includes inclusion of Policy information in project marketing materials and determining household eligibility for the Policy.
- This Policy shall be applied only if and to the extent that other funding sources do not prohibit the preference and to the extent that the program does not violate federal and state fair housing law.



Additional Considerations

The Commission should also consider the following:

- Whether the Policy should apply to both City-assisted affordable ownership and rental units
- Whether the Policy should specify types of public safety personnel (police, fire, EMTs, paramedics, etc.) in the Policy itself
- Whether the school employee preference should apply to any employee employed by a school district (teacher aids, janitors, etc.) or only teachers
- Consider whether City employee preference should be implemented



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