

RESOLUTION No. 222262 (R. 79-436)

Adopted on NOV 20 1978

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That the Conflict of Interest Code of the Board of Noise Abatement and Control of The City of San Diego submitted pursuant to the Political Reform Act of 1974, (as amended), is hereby authorized.

APPROVED: JOHN W. WITT, City Attorney

By 
John K. Riess, Deputy

JKR:lco:48.7.1
9/6/78
Or.Dept.:Bldg.Insp.

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Jim Decker
from J. Rizzo

CONFLICT OF INTEREST CODE
OF THE
BOARD OF NOISE ABATEMENT AND CONTROL
OF THE CITY OF SAN DIEGO

I. GENERAL STANDARDS

SECTION 100 PURPOSE AND SCOPE

A. The maintenance of the highest standards of honesty, integrity, impartiality and conduct by participants is essential to assure the proper performance of City business and maintenance of confidence by citizens in their government. The avoidance of conflicts of interest on the part of City Board of Noise Abatement and Control members (hereinafter "member") through informed judgment is indispensable to the maintenance of these standards.

B. Pursuant to the provisions of Government Code Section 87300 et seq., the Board of Noise Abatement and Control of The City of San Diego hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000 et seq.). The provisions of this Code are additional to Title 9, Chapter 7 of the Government Code (Section 87100 et seq.) and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

C. This Code reflects accepted standards imposed by the criminal and civil law of the State of California. However

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informational these regulations are, they are not a complete enumeration of all restrictions imposed by statutes. The omission of a reference to such statute in no way affects its validity or applicability to a member's conduct. In addition, professionals employed by the City are subject to their additional canons as established by their particular professional society.

SECTION 101 DEFINITIONS

The definitions set forth in Title 9, Chapter 2 of the Government Code (Section 82000 et seq.) shall govern the interpretation of this Code.

SECTION 102 REMEDIAL ACTION

A. In addition to civil and criminal penalties set forth in Title 9, Chapter 2 of the Government Code (Section 90000 et seq.), a violation of this Code by a member of the Board of Noise Abatement and Control may be the cause for remedial action which may include, but is not limited to:

1. Termination from membership of the position.
2. Divestment by the member of the conflicting interest.
3. Disqualification for a particular assignment.

B. Remedial action shall be effected in accordance with all applicable laws for notice, hearing and review.

II. CONDUCT AND RESPONSIBILITIES OF MEMBERS

SECTION 200 PROSCRIBED ACTIONS

A. A member shall avoid any action, whether or not specifically prohibited by law, which may tend to affect his or her position performance creating the appearance of:

1. Using public office for private gain.

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2. Giving preferential treatment to any person.
3. Losing complete independence or impartiality.

SECTION 201 GIFTS, ENTERTAINMENT AND FAVORS

A. A member shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of more than nominal monetary value, from a person with whom he or she has dealings in the course of membership who:

1. Has, or is seeking to obtain, contractual or other business or financial relations with The City of San Diego.
2. Conducts operations or activities that are regulated by The City of San Diego.
3. Has interests that may be substantially affected by the performance or nonperformance of City governmental duties.

B. None of the foregoing shall be deemed to prohibit the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of members, or unsolicited promotional materials of nominal value, or the defrayal by others of a legitimate business expense.

C. A gift or gratuity, the receipt of which is prohibited by this section, shall be returned to the donor when feasible. If no return is feasible, the gift or gratuity shall be conveyed through the member's board to a public charity.

D. As defined in Section 82028 "gift" means any payment to the extent that consideration of equal or greater value is not received. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the

consideration received is of equal or greater value. The term "gift" does not include informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material."

SECTION 202 FINANCIAL INTERESTS

A member shall not:

A. Have a financial interest that conflicts with the member's duties and responsibilities; or

B. Engage in a financial transaction as a result of or primarily relying on information obtained through City duties and responsibilities.

SECTION 203 USE OF CITY PROPERTY

A member shall not use, or allow the use of City property of any kind for other than official duties.

SECTION 204 CONFLICTS OF INTEREST

A. A conflict of interest may exist whenever a member has a substantial personal or private interest in a matter which involves duties and responsibilities as a member. The trust of the citizenry demands that a member take no action which would constitute the use of City membership to advance personal or private interests. Each member should avoid situations which present the possibility that official position might be used to private advantage.

B. Neither the provisions of the California Penal Code, California Government Code, nor the standards of conduct prescribed in this Code, are to be regarded as comprehensive. Each member

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must, in each instance involving a personal or private interest in a matter which also involves duties and responsibilities as a member, make certain that actions taken do not have the effect or the appearance of the use of the official position for the furtherance of personal interests or those of family or business associates.

C. The statutory provisions of conflict of interest are contained in Title 9, Chapter 7 of the Government Code (Section 87100 et seq.). The violation of these sections is more specifically outlined in Chapter 11 thereof (Section 91000 et seq.).

SECTION 205 DISQUALIFICATION BECAUSE OF FINANCIAL INTERESTS

Designated employees must disqualify themselves from making or participating in the making of any decisions in which they have a reportable financial interest when it is reasonably foreseeable that such interest may be materially affected by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not be legally acted upon or decided without his or her participation.

When any person holding a designated position has reason to be disqualified, the person shall immediately report the nature of the matter and the existence of a conflict to his or her board and absent himself or herself from further consideration of the matter.

III. STATEMENTS OF FINANCIAL INTERESTS

SECTION 300 DESIGNATED POSITIONS

The positions listed on EXHIBIT A are designated positions. Officers and members holding those positions are designated employees and are deemed to make, or participate in the making of,

decisions which may foreseeably have a material effect on a financial interest.

SECTION 301 DISCLOSURE STATEMENTS

Designated positions shall be assigned to one or more of the disclosure categories set forth on EXHIBIT B. Each designated employee shall file an annual statement disclosing that member's interest in investments, real property, and income, designated as reportable under the category to which the member's position is assigned on EXHIBIT B.

SECTION 302 PLACE AND TIME OF FILING

A. All designated employees required to submit a statement of financial interests shall file the original with the secretary of the agency.

B. The secretary of the agency which receives the statement of financial interest shall make and retain a copy and forward the original to the City Clerk.

C. A designated employee required to submit an initial statement of financial interest shall submit the statement within 30 days after the effective date of this Code, which for these purposes shall be the date upon which the City Council of The City of San Diego approves this Code by appropriate resolution.

D. All new members appointed, promoted or transferred to designated positions shall file statements not less than ten days before assuming office (or if subject to confirmation, ten days before being confirmed), unless an earlier assumption of office is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter.

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E. Annual statements shall be filed during the month of February by all designated employees. Such statements shall cover the period of the preceding calendar year.

F. A designated employee required to file a statement of financial interest with any other agency which is within the same territorial jurisdiction may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency in lieu of an entirely separate statement.

G. All members holding designated positions who leave office and do not assume another designated position shall file a statement within 30 days after leaving said position. A member who leaves a designated position and immediately assumes another such position in the same agency shall not be deemed to leave or assume a designated position.

SECTION 303 CONTENTS OF DISCLOSURE STATEMENTS

Disclosure statements shall be made on forms supplied by the City Clerk and shall contain the following information:

A. Contents of Investment and Real Property Reports

When an investment, or an interest in real property, is required to be reported, the statement shall contain:

1. A statement of the nature of the investment or interest.
2. The name of the business entity in which each investment is held and a general description of the business activity in which the business entity is engaged.
3. The address or other precise location of the real property.

4. A statement whether the fair market value of the investment or interest in real property exceeds ten thousand dollars (\$10,000) and whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

B. Contents of Personal Income Reports .

When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

2. A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000) and whether it was greater than ten thousand dollars (\$10,000).

3. A description of the consideration, if any, for which the income was received.

4. In the case of a gift, the amount and the date on which the gift was received.

C. Contents of Business Entity Income Reports

When income of a business entity, including income of a sole proprietorship, is required to be reported under this section, the statement shall contain:

1. The name, address and a general description of the business activity of the business entity.

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2. In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000).

3. In the case of a business entity not covered by paragraph 2 above, the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

D. Contents of Management Positions Reports

When management positions are required to be reported, designated employees shall list the name of each business entity not specified above in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management.

E. Initial Statements

The initial statement filed by a member appointed to a designated position shall disclose any reportable income, investments and interests in real property.

F. Acquisition During Reporting Period

In the case of a statement filed under Section 302(E), if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal shall be reported.

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The foregoing Conflict of Interest Code has been adopted by the Noise Abatement and Control Board after a fair opportunity for the members of the board to present their views had been offered. The Code is submitted to the City Council this 13th day of JULY, 1977.

J. Allompton
Chairperson, Board of
Noise Abatement and Control

* * * * *

The above Conflict of Interest Code was approved by the Council of The City of San Diego, acting as the code reviewing body pursuant to the Political Reform Act of 1974, as amended, by Resolution No. 222262, on the 20th day of NOVEMBER, 1978.

Charles G. Abdelyon
City Clerk

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EXHIBIT A

DESIGNATED POSITIONS, DUTIES AND CATEGORIES

<u>Position</u>	<u>Duties</u>	<u>Category</u>
Chairperson and Members	Hearing and determining appeals from the rulings and determinations of the Noise Abatement and Control Administrator; consulting with and advising the Administrator in the performance of his duties and responsibilities for regulating and controlling the emission of all excessive or offensive noises within the City of San Diego.	1

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EXHIBIT B

DISCLOSURE CATEGORY

Category 1: Report all real property; report all interests, income, investments in, or management of any business entity or corporation within the jurisdiction of the City of San Diego.

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Passed and adopted by the Council of The City of San Diego on NOV 20 1978,
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jesse D. Hare Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By E. J. Cook, Deputy.

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Office of the City Clerk, San Diego, California	
Resolution Number 222262	Adopted NOV 20 1978

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