

DATE: June 7, 1988

TO: Councilmember Judy McCarty
FROM: City Attorney
SUBJECT: Potential Conflict of Interest/Church
Affiliation as Potential Disqualifying Factor

Your memorandum of May 5, 1988 to John Witt has been referred to me for response. In your memorandum, you ask whether your membership in the San Carlos Methodist Church will require you to disqualify yourself from voting on the proposed negative declaration (resulting from environmental review) relating to that church's application for a conditional use permit (CUP) to expand existing administrative facilities at the church site.

The Political Reform Act (Cal. Gov't Code . 87100 et seq.) prohibits a public official from making or participating in making a governmental decision in which he or she knows or has reason to believe he or she has a financial interest. An official has a financial interest within the meaning of California Government Code Section 87100:

If it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the public generally, ...
on

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income ... aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision was made.

....

There are no facts given to indicate that you have an investment of \$1,000 in the San Carlos Methodist Church, or that you have a real property interest in the church, or that you have received income of \$250 or more in the past twelve months from the church. Absent facts to the contrary, therefore, you do not have a financial interest in the church that would require you, under the Political Reform Act, to disqualify yourself from

voting on matters relating to the church's CUP, including the negative declaration.

You should be aware, however, of the terms of Council Policy 000-4, which is broader than the Political Reform Act in that it covers personal as well as financial interests. A copy of this policy is attached for your reference. Under this policy, if you believe your membership in the San Carlos Methodist Church will impair your independence or judgment in voting on matters relating to the church's CUP application, including the proposed negative declaration, then you should refrain from voting on them.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:mb:048:(632):(x043.2)

Attachment

ML-88-55