



City of Santa Clara

The Center of What's Possible

City Attorney's Office Memorandum

Date: June 22, 2018

To: Honorable Mayor and Council Members

From: City Attorney

Subject: 575 Benton Street - Conflict of Interest

On the agenda for Tuesday, June 26, 2018, is a mixed use project located at 575 Benton Street proposed by Prometheus Real Estate Group (Prometheus). The approvals required for the project include an Addendum to the 2016 Final Environmental Impact Report (certified for the previous approved project proposed by Irvine Company), General Plan Amendment, Rezone, Development Agreement, and street vacations of portions of Fremont and Sherman Streets. This memorandum is intended to advise Mayor Gillmor and Council Member Mahan of disqualifying conflicts of interest with respect to consideration of this project Tuesday evening.

As way of background, community groups have expressed interest in revitalizing Downtown Santa Clara, one of the key elements of which is restoration of the street grid system, which would require restoration of a portion of Franklin Street that used to be located where Park Central Apartments, a Prometheus development project is currently located, and that portion is owned by Park Central Apartments L.P. (Franklin St. Property). The FPPC sets forth regulations to determine when a disqualifying conflict of interest exists. 2 California Code of Regulations (CCR) § 18702.2(a)(11) states that a public official has a reasonably foreseeable financial interest in a governmental decision when he or she considers "any decision affecting real property value located within 500 feet of the property line of the official's real property." Both the Mayor and Council Member Mahan own property within 500 feet of the Franklin St. Property:

Lisa	Gillmor	Gillmor Properties LLC	1251 Franklin Mall	Santa Clara	95050 269-22-113
Lisa	Gillmor	Gillmor Properties LLC	1241 - 1243 Franklin Mall	Santa Clara	95050 269-22-114
Lisa	Gillmor	Gillmor Properties LLC	1201 - 1231 Franklin Mall	Santa Clara	95050 269-22-115
Patricia	Mahan	Home and Office	1116 Washington St & 1045 Benton St	Santa Clara	95050 269-15-046


On June 12, 2018, the four Council members who did not have conflicts unanimously approved an option agreement with Park Central Apartments L.P. in which the City has a 10-year option to purchase a right-of-way easement over the portion of Franklin Street. The Option Agreement has not yet been executed by Prometheus and the City.

Although staff has been processing the option agreement and the 575 Benton Street project as two separate matters, during the hearing on 575 Benton Street project at the June 13, 2018, Planning Commission meeting, Prometheus's representative told the Commission that if the 575 Benton Street project is not approved, Prometheus would not enter into the option agreement with the City.

For this reason, the approval of the 575 Benton Street project is likely to have an effect on the Franklin Street option. Although Mayor Gillmor and Council Member Mahan do not live or own property within 500 feet of 575 Benton Street, their financial conflict with respect to Franklin Street becomes material to their participation with respect to the 575 Benton Street project

Therefore, we are advising Mayor Gillmor and Council Member Mahan to not participate in the decision.

Please let me know if you have any questions.



Brian Doyle
City Attorney

cc: City Manager Deanna Santana
Acting City Clerk Jennifer Yamaguma

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