



# City Attorney

## M E M O R A N D U M

### CITY ATTORNEY'S OFFICE

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**DATE:** JANUARY 26, 2026

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** CITY ATTORNEY'S OFFICE – ETHICS DIVISION

**RE:** Gift Reporting Requirements for Section 87200 Filers (Form 700) and Analysis of Resort Stay Provided by a Donor

This memorandum summarizes the gift reporting and conflict-of-interest rules under the Political Reform Act (PRA) and Fair Political Practices Commission (FPPC) regulations applicable to city officials who file Form 700's as Government Code section 87200 filers.<sup>1</sup>

#### I. EXECUTIVE SUMMARY

Based on information that is available, a donor (Anaheim Chamber of Commerce) furnished a resort rental (at the Havasu Landing Resort, in Lake Havasu, Arizona) between September 24 and 29, 2020, possibly valued at \$1,900 for a five-night stay, including possible food and beverages and use of boat to the city manager and his spouse. The official and spouse stayed two nights and shared the unit with two additional guests. Under FPPC rules, the value of shared lodging must be allocated proportionally by nights stayed and number of occupants, and gifts to an official's spouse are generally attributed to the official under these circumstances.

The lodging that was presumably paid for by the Anaheim Chamber of Commerce would be attributable to the official (including the spouse's share) and would total \$380 (if the documents that exist are accurate and represent payment for only a single unit and not also other rental units not used by the official). Food and beverage and boat value (we have no exact knowledge as to the cost of these items, or if the donor would also be the Anaheim Chamber of Commerce or just simply private individuals who paid those costs) could also potentially be attributed to the official and his spouse under a pro-rata share formula to equally attribute the value.

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<sup>1</sup> This memorandum is not an investigation. The events took place over 5 years ago. Additionally, the FPPC may conduct their own investigation and reach different conclusions based on their ability to do a full investigation. The City Attorney's Office may only offer informal advice. Additionally, no advice was sought at the actual time of the events taking place.

Actual food and beverages provided by the official to the donor could potentially offset the value of the donor's provided gift as consideration for the gift, if documented and of equal or greater value. The city official has indicated that he provided considerable food and beverages to the attendees. There is documentation that the official did make considerable food and beverage purchases at or around the time of attending the event from food grocery stores, possibly as much as nearly \$400.

The gift limit for an official during 2020 was \$500 from a single source.<sup>2</sup> If the official accepted \$500 or more in gifts from the donor (the limit at that time), a financial conflict of interest may have also existed under Government Code sections 87100 and 87103, requiring disqualification from participating in governmental decisions involving the donor. The donor and the city finalized and executed an agreement on October 1, 2020. Additionally, there would be an excess gift accepted for that calendar year. Whether or not the resort stay was related to city business has no bearing on gift valuation.

If the value of the weekend, considering any offsets paid for by the official, exceeded \$50, then the official was required to report the gift on his Form 700. FPPC regulations encourage voluntary amendment of Form 700 filings. Prompt disclosure promotes transparency, mitigates enforcement risk, and reinforces public trust. Whether a gift needs to be reported or not is ultimately the responsibility of the city official.

## II. APPLICABLE LAW

The Political Reform Act defines a "gift" as anything of value received by a public official for which the official does not provide consideration of equal or greater value in return.<sup>3</sup> Gifts include lodging, travel, meals, and entertainment unless a specific exception applies. The basic gift rule under FPPC Regulations is further defined to mean a "payment made by any person of anything of value, whether tangible or intangible, real or personal property, a good or service that provides a personal benefit to an official when the official does not provide full consideration for the value of the benefit received."<sup>4</sup>

Certain high-level city officials are designated Section 87200 filers, subject to the most comprehensive disclosure requirements under the PRA.<sup>5</sup> Such officials must disclose gifts from any source, regardless of jurisdictional nexus, and if a source (donor) provides a gift of \$50 or more during a calendar year, then it must be reported, absent an express exception or reimbursement within 30 days of the gift being provided.<sup>6</sup> For calendar year 2020, public officials were prohibited from accepting gifts totaling more than \$500 from a single source.<sup>7</sup> Gifts exceeding this amount are unlawful even if disclosed.

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<sup>2</sup> Gift limits are adjusted bi-annually pursuant to the CPI. During 2020 the limit was \$500.

<sup>3</sup> Gov. Code § 82028.

<sup>4</sup> FPPC Regulation 18940.

<sup>5</sup> Gov. Code § 87200.

<sup>6</sup> Gov. Code § 87207 and FPPC Regulation 18940(d).

<sup>7</sup> Gov. Code § 89503 and FPPC Regulation 18940.2.

Furthermore, FPPC regulations and Form 700 instructions require that lodging provided by a third party is reported at its fair market value.<sup>8</sup> When lodging is shared, the value must be proportionally allocated based on the number of nights stayed by the official, and the number of individuals sharing the accommodation.<sup>9</sup> Any food and beverages or other entertainment would also be apportioned to the attendees under a pro-rata (proportional) share formula.<sup>10</sup> The FPPC regulations allow for a home hospitality exception for an official and their spouse if the official has a relationship, connection or association unrelated to the official's position.<sup>11</sup>

Under FPPC regulations, gifts to an official's spouse or registered domestic partner are attributed to the official for reporting, gift-limit, and conflict-of-interest purposes when there is no separate nexus between the spouse or registered domestic partner and the donor of the gift outside of the official.<sup>12</sup> A donor's gift provided may be reduced only if the official provides documented consideration of equal or greater value in return.<sup>13</sup>

Finally, pursuant to Government Code section 87100, a public official may not make or participate in making or use their official position to influence a governmental decision in which the official has a financial interest.<sup>14</sup> An official has a financial interest (amongst several ways) if, within the prior 12 months, the official has received \$500 or more in gifts from a single source.<sup>15</sup> This limit adjusts over time with the CPI and tracks the gift limit in place at the time.

### III. FACTUAL INFORMATION (AS CURRENTLY AVAILABLE)

- The Anaheim Chamber of Commerce provided a resort rental (gift of lodging) for a 5-night stay that was possibly valued at \$1,900, per a copy of a check dated August 8, 2020, with a memo section indicating "Rent for Space #27, Sep. 24-29, 2020".
- The official and spouse stayed two of the five nights (according to the official) and were assigned to Space #27 (per information from the Anaheim Chamber of Commerce).
- Two additional guests shared the rental unit.
- There is no indication that the official paid for the lodging for himself and his spouse or provided a reimbursement payment for it. The official says he was told the unit belonged to the neighbor of Todd Ament and they used each other's places.
- A communication from Laura Cunningham, who was affiliated with the Anaheim Chamber of Commerce but sent an email from her Pacific Strategies address, indicates that food and beverages and use of a boat may have also been provided in part for the stay, and that the Aments may have provided at least part of the food and drink and may have been the owner of the boat. Whether any costs were billed back to the Chamber or provided as a private individual is not known. Thus, the Aments could be a separate provider of a gift as well.

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<sup>8</sup> FPPC Regulation 18946.

<sup>9</sup> There are various FPPC Advice Letters regarding shared lodging valuation.

<sup>10</sup> FPPC Regulation 18946.2.

<sup>11</sup> FPPC Regulation 18942.2.

<sup>12</sup> FPPC Regulation 18943.

<sup>13</sup> Gov. Code § 82028(a) and FPPC Regulation 18940.

<sup>14</sup> Gov. Code § 87100.

<sup>15</sup> Gov. Code § 87103(e). This was the limit during 2020.

- The official states and has documentation that he provided food and drinks to the attendees (which included the donor) during the days for which the official and his spouse stayed. The value of the food and drinks is unknown but could be as high as nearly \$400 per records provided by the official.
- Any gift potential gift provided by the donor is not currently disclosed on the original Form 700 for 2020.
- The donor of the lodging (Anaheim Chamber of Commerce) was involved in a contract with the city, which was executed on October 1, 2020, by the city, and on September 29, 2020, by the Chamber.

#### IV. POTENTIAL GIFT VALUATIONS AND REPORTING

Because gifts to an official's spouse are attributed to the official, both the official's and spouse's use of the lodging must be included, and the following is a potential proportional calculation as to the value of the lodging provided by the donor to the official based upon a copy of a check dated August 8, 2020 from the Chamber to a private family trust that indicates in its memo space "Rent for Space #27, Sept 24-29, 2020". Documents suggest that Space #27 was intended for the city official and his spouse, as well as another couple:

1. Nightly rental value:  $\$1,900 \div 5 \text{ nights} = \$380 \text{ per night}$
2. Value attributable to the two-night stay<sup>16</sup>:  $\$380 \times 2 \text{ nights} = \$760$
3. Allocation among occupants: Assuming four occupants total (official, spouse, and two other guests):  $\$760 \div 4 = \$190 \text{ per person}$
4. Attribution to the official (official + spouse):  $\$190 \times 2 = \$380 \text{ attributable to the official}$

Food and beverages provided by the donor, if any, constitute separate gifts and would be added into the total gift value unless a specific exception applies. There do not appear to be any exceptions under the facts presented and available.<sup>17</sup> When provided in connection with the proportionate lodging cost as discussed above, the value of food and drink, using a pro rata share, must be included in determining the overall potential cost of the gift. There may also be a reasonable value to use of a boat on Lake Havasu. The owner of the boat is not certain (the city official indicated it likely belonged to the Aments), and therefore the donor cannot be definitively determined (again, since this is from 5 years ago). If the official's food and beverage expenditures provided in return to the donor and intended to be in exchange for the donor's gifts, were of equal or greater value, and documented, they would offset the value of the donor-provided gifts. Thus, while there is evidence of a \$380 gift to the official (lodging), the value could be higher, or it could be lower. The official has documentation that he made considerable purchases at grocery stores on September 23, 24 and 25 for the purpose of furnishing food and drinks to the attendees at the event. Whether that is sufficient to offset any gift provided to him is not entirely clear.

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<sup>16</sup> The official has indicated that he stayed only 2 of the 5 nights.

<sup>17</sup> Laura Cunningham may have provided some food, and the city manager has stated that he had a pre-existing and personal relationship with her, so a gift exception may apply here for some of the food provided.

## V. CONFLICT OF INTEREST COMPONENT

The donor (Anaheim Chamber of Commerce) was a party to, or foreseeably affected by, a City decision during the 12-month period after a gift was provided. The Chamber entered into an agreement with the city on September 29, 2020. On that date, the city manager signed this agreement on behalf of the city, which was part of the Shop Dine Local program approved by the city council on August 11, 2020, and a component of a \$4 million item. There is no information as to the extent of involvement by the city manager, other than a signature, and whether it was purely ministerial. However, whether a gift that was provided by the Chamber was \$500 or more in value cannot be determined with certainty with the information that is available. If food and drinks and use of a boat (if that also presents a value) placed the presumptive \$380 lodging gift over \$500, and if there was no equal or greater consideration provided by the official, then there may have been a conflict of interest when the official also participated.

## VI. CONCLUSIONS

Based on the facts presented:

1. If the copy of the check that exists is accurate and does not constitute payment for multiple rental units (and only for Space #27), then the proportionate resort stay valuation would be \$380 for the official (and his spouse) and a reportable gift.
2. Food and drinks and use of a boat, and the exact donor (whether the Chamber or Ament personally or Cunninghams) provided to the official are not clear based on the information that is available. Similarly, food and drinks provided by the official are not clear, but documents indicate considerable purchases made by him at the time of his attendance. If this was in real time, there would be an accurate assessment of whether these were additional gifts, and whether the official provided equal consideration. Any food or drinks furnished by either the donor or the official would need to be assessed on a pro-rata share formula (again, pro-rata share is determined by taking the cost of all food, catering services, entertainment, and any specific item presented to all attendees as part of the event, divided by the number of attendees).
3. If the total gift value provided exceeded \$500 (based on lodging, food, drinks or boat use), there could be a potential financial conflict of interest, as well as the gift limit for that applicable year being exceeded.
4. If the value of the gift is at least \$50 after factoring in all appropriate offsets, an amendment to the official's Form 700 for the reporting year of 2020 is an available option because the FPPC does not impose a time limit on filings of amendments.

An official should err on the side of disclosure and promptly amend his 2020 Form 700 to disclose any gift if he believes that a gift of \$50 or over was provided to him and his spouse and there is no proper documentation to properly offset. The FPPC encourages voluntary amendment of Form 700 filings to correct an omission or error. Prompt amendment is a mitigating factor to the FPPC and demonstrates good-faith compliance. If this fact pattern were presented to the City Attorney's Office at the time, the recommendation would be to ensure that officials have detailed records to support any claim relying on the provision of equal or greater consideration for any possible gift provided. We would also at the time recommend seeking advice from the FPPC if

there were any questions. The FPPC does not provide advice on past actions, so that is not an option at this time.

Respectfully submitted,  
Robert Fabela, City Attorney

By: |S| *Artin Berjikly*

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Artin Berjikly  
Assistant City Attorney – Ethics Officer