

Calif Fair Political Practices Commission (FPPC)

Text for complaint www.fppc.ca.gov/enforcement/electronic-complaint-system.html

Explanation of violation:

I am the executive director of Checks and Balances Project (C&BP), an eight-year-old investigative watchdog that focuses on government officials and others who block growth of the sustainable economy. Since May 2016, we have been investigating attempts by lobbyists to kill Property Assessed Clean Energy (PACE) — a popular program for homeowners that offers up-front financing for energy efficiency, water conservation, renewable energy and seismic improvements that are paid back through property tax assessments.

In August 2016, [C&BP filed twin lawsuits](#) against the Kern County Board of Supervisors and the Bakersfield City Council to get to the bottom of questions about how lobbyists got local officials to kill PACE in both jurisdictions.

We are filing this complaint due to a possible financial conflict of interest by Ridgecrest CA Mayor Peggy Breeden. On October 4, 2017, she [voted in favor of a successful resolution](#) to withdraw the city's participation in the residential PACE.

We recently received a tip from a citizen that asserted Mayor Breeden has a connection to the local real estate industry that may have influenced her vote.

The realtor lobby has been conducting an aggressive campaign in California to end homeowner access to PACE, starting in Kern County. Our investigation indicates that the mortgage industry enlisted the realtor lobby in this effort. Ridgecrest is located in Kern County.

Our tipster told us that Mayor Breeden is an officer and director of Ridgecrest's local advertising newspaper, [The Swap Sheet, Inc.](#) The reader added that this company is recognized as an associate member of the Ridgecrest Area Association of Realtors. The Swap Sheet, Inc. appears to receive a major portion of its funding through realtor advertising.

[Reporting by the Daily Independent](#) on this vote confirmed many of the points our reader made to us. Our own investigation into the Swap Sheet indicates it features a large quantity of real estate advertising and that it is an [Affiliate Member](#) of the Ridgecrest Area Association of Realtors.

On October 26, 2017, C&BP sent a letter to Ridgecrest City Attorney Keith Lemieux inquiring about possible financial conflict of interest by Mayor Breeden. We learned that Mr. Lemieux is a partner in the firm of Olivarez Madruga Lemieux O'Neill and appears to be under contract to the City of Ridgecrest. A call to the city's human resources department confirmed there is no staff city attorney.

Our letter to Mr. Lemieux included the following questions:

1. Is Mayor Breeden an officer and director with The Swap Sheet, Inc.?
2. If so, to what extent does Mayor Breeden benefit financially from advertising revenue generated by The Swap Sheet, Inc.?
3. Is this newspaper an associate member of the Ridgecrest Area Association of Realtors?
4. What portion of its revenue does The Swap Sheet, Inc. receive from realtors and mortgage lenders?
5. Are there local, county or state standards on financial conflicts that would demand the recusal of Mayor Breeden from policy decisions with such a direct impact on their family's financial situation?

6. If so, did Mayor Breeden seek and receive a waiver to these conflict of interest standards?
7. Did Mayor Breeden work with realtor lobbyists to influence the votes of other city council members who banned homeowner access to PACE financing in Ridgecrest?

Mr. Lemieux apparently assigned the task of responding to our letter of inquiry to his associate attorney Lloyd Pilchen, who, on Oct. 30 emailed us the following: “The conflict of interest rules involve considerations which the City Attorney’s Office may analyze and advise the City on. But such analysis is protected from disclosure from the attorney-client privilege. In this case, we find nothing that rises to the level of a conflict of interest. C&BP is free to seek its own legal advice on this issue, and we thank you for bringing this to our attention.”

If we understand the response correctly, the City of Ridgecrest though its attorneys are declaring that its officials aren’t conflicted, but they don’t have to tell citizens why that’s so. This is patently ridiculous and in opposition to open government.

Acting as city’s attorney, Mr. Pilchen [told a local reporter](#) that “the issue of conflict of interest was not raised prior to the vote because he and Lemieux thought there was no merit to the accusation.

According to Calif. Government Code Section 87200, all elected and appointed officials must file a Form 700 “Statement of Economic Interest.” However, a search of the FPPC database appears to show that Mayor Breeden did not file a Form 700, as required by law.

Mayor Breeden may be guilty of a conflict of interest due to her vote to kill the PACE program in Ridgecrest and benefit herself financially. We request an investigation by the FPPC.

Witnesses (not required)

Information a witness can provide

Evidence

- Checks and Balances Project inquiry to Ridgecrest City Attorney 10.26.17
- Pilchen email to Peterson 10.30.16
- PDF of Swap Sheet real estate ads
- PDF of Swap Sheet Facebook cover
- PDF of Ridgecrest Area Realtors Assoc affiliate members page
- Daily Independent article 10.6.17