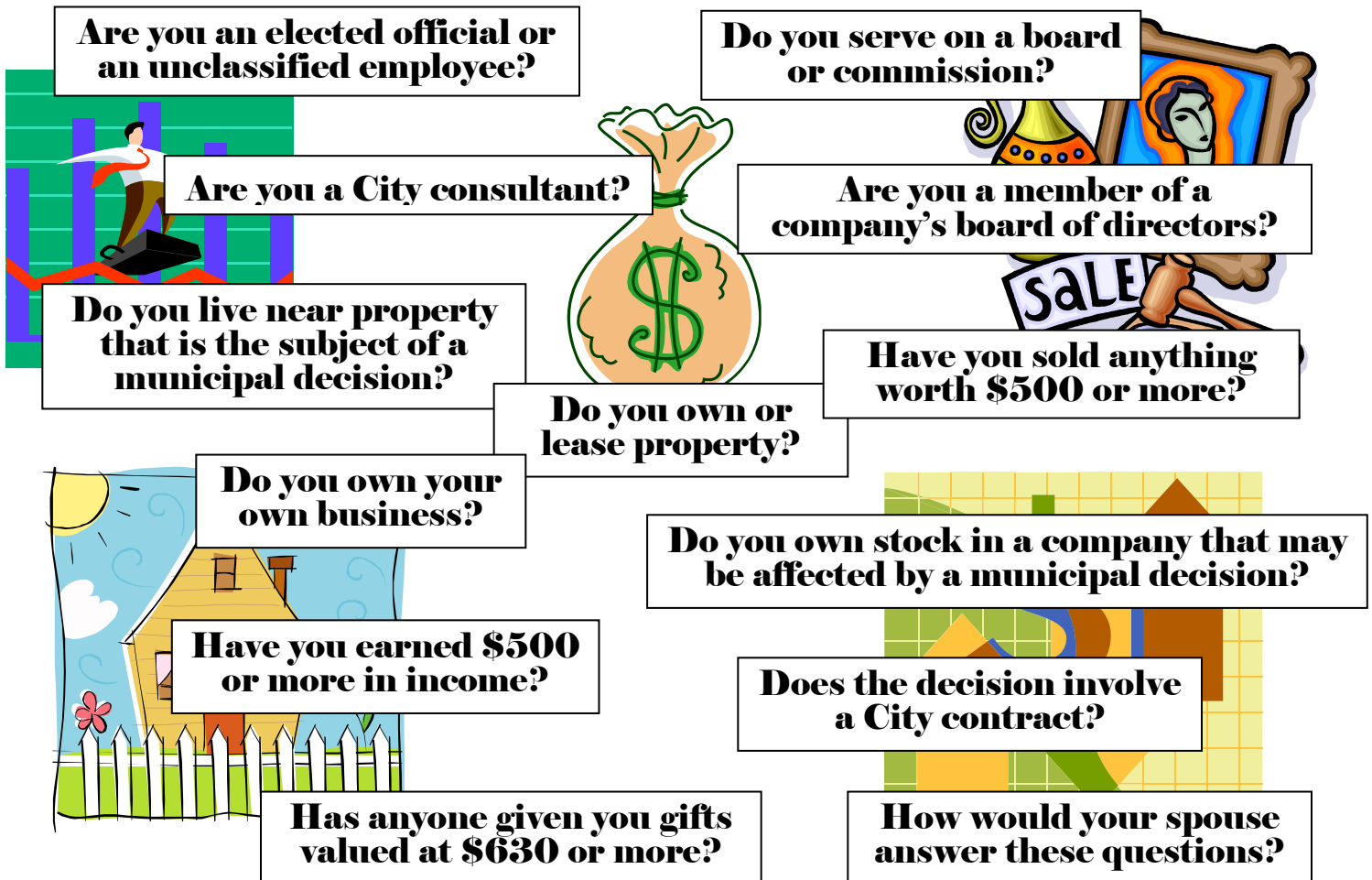


## INTRODUCTION TO FACT SHEETS ON DISQUALIFICATION FROM MUNICIPAL DECISIONS



- ❖ The ethics ordinance prohibits city officials from participating in a municipal decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's economic interests.
- ❖ This rule stems from the concept that city officials should perform their duties in an impartial manner, free from any bias caused by their own financial interests.
- ❖ The rule applies to officials who make municipal decisions (for example, voting, appointing, entering contract, or otherwise obligating the City), participate in municipal decisions (for example, negotiating, advising, or making recommendations), or influence municipal decisions (for example, providing information). In other words, conflict of interests rules apply to all city officials who are involved in municipal decisions, not just officials who vote on such matters.

- ❖ The term city official includes elected City officeholders, members of the City’s unclassified staff, employees of City agencies (Civic San Diego, Housing Commission, Convention Center Corporation), members of the City’s boards and commissions, and City consultants, to the extent that such individuals file an annual statement of economic interests.
- ❖ The fact sheets in this series are designed to give you general guidance in determining whether or not one of your economic interests disqualifies you from participating in a particular municipal decision. Your economic interests include:
  - ✓ a financial interest in a business entity;
  - ✓ serving on a business entity’s board of directors or in a position of management (even if not compensated);
  - ✓ real property that you own or lease;
  - ✓ a person or entity that has given you \$500 or more in income within the past twelve months;
  - ✓ a person or entity that has given you \$630 or more in gifts within the past 12 months; and,
  - ✓ your personal finances.
- ❖ In most cases, your economic interests also include interests of your spouse, registered domestic partner, and dependent children.
- ❖ A municipal decision is any City decision that is not a ministerial act. Any decision that requires an official to exercise discretion concerning an outcome or course of action is a municipal decision.
- ❖ Disqualification is generally required when it is reasonably foreseeable that the decision will have a material financial effect on your financial interest.
- ❖ A financial effect on an economic interest is considered material if the economic interest is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding. A financial effect may also be material if the economic interest will receive a measurable financial benefit or loss as a result of the decision.
- ❖ A financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility, and is more than hypothetical or theoretical, it is reasonably foreseeable. A financial effect is not reasonably foreseeable if it cannot be expected without extraordinary circumstances that are outside the official's control.
- ❖ Whether or not a financial effect is material can depend on many factors. Please consult the attached fact sheets for assistance in evaluating the materiality standards for each type of financial interest.
- ❖ Even if it is reasonably foreseeable that a decision will have a material financial effect on one or more of your economic interests, you will not be disqualified from participating in that decision if the decision will affect you in a manner that is no different from the manner it will affect the public generally. Refer to the individual fact sheets for more information on this subject.
- ❖ Note that in rare circumstances, despite having a financial interest in a municipal decision, you may be able to establish that you are legally required to participate in the decision. This exception to the general conflict of interest rules applies only if it is impossible for the decision to be made without you, and only in circumstances where the City is legally required to make a decision.

- ❖ If you are a high level filer and are disqualified from participating in a municipal decision, you must identify the disqualifying interest when the decision is being considered at any public meetings of the body on which you sit. You must then leave the room while the matter is discussed and voted upon. (High level filers include elected city officials, members of the Planning Commission, the Funds Commission, the Retirement Board, and the Defined Contribution Plan Board.)
- ❖ There are additional rules when the municipal decision involves a contract. For a discussion of these rules, please refer to Part 6 of the disqualification from municipal decisions fact sheets.

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