



103-0112017-002

Agenda Item **No. 5(d)**
Meeting of November 7, 2017

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Nadia Sesay, Executive Director

SUBJECT: Consenting to Former Successor Agency Employee Thor Kaslofsky's request for waivers from the Successor Agency's post-employment restrictions related to work on housing projects at the Candlestick Point-Hunters Point Shipyard and on the artist community at the Hunters Point Shipyard

EXECUTIVE SUMMARY

Thor Kaslofsky, a former project manager for the Hunters Point Shipyard/ Candlestick Point areas, has requested a waiver from the Office of Community Investment and Infrastructure ("OCII") policy prohibiting former employees from working for persons or entities other than OCII on particular matters that they worked on during their OCII employment. The purpose of OCII's post-employment restrictions is to protect the integrity of government decision-making by limiting the potential for, and the appearance of, undue influence, unfair advantage, favoritism, and preferential treatment that may occur if former employees use information and contacts that they gained during OCII employment for other parties currently doing business with OCII. Mr. Kaslofsky currently works as a principal for Common Ground Urban Development, a local real estate developer. See <https://www.commongroundurbandevelopment.com/>. He seeks a waiver from OCII's post-employment restrictions to work on two particular matters: 1) as a subconsultant for the general contractor LendLease to provide construction management, small business/local hire program management, and community engagement advice on housing projects at Candlestick Point/ Hunters Point Shipyard; and 2) as a member of the board of directors of the Shipyard Trust for the Arts ("STAR") to provide real estate and programming advice to STAR in its role of supporting the artists community at the Hunters Point Shipyard ("HPS"). In support of his request for a waiver, Mr. Kaslofsky explains that, although he worked on HPS housing projects and its artist studios, he does not have any confidential information or "special unknowable knowledge" that he gained from his OCII employment and that therefore he would not have undue influence or an unfair advantage in working on these matters for parties other than OCII. OCII policy and practice permits a waiver from the post-employment restriction if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage.

Edwin M. Lee
MAYOR

Nadia Sesay
EXECUTIVE DIRECTOR

Marily Mondejar
CHAIR

Miguel Bustos
Mara Rosales
Darshan Singh
COMMISSIONERS

One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

415 749 2400

www.sfocii.org

Staff recommends consent, under OCII policy, to Thor Kaslofsky's work on housing projects at the Candlestick Point/Hunters Point Shipyard and on the artist development at the Hunters Point Shipyard

DISCUSSION

In 1982, the Redevelopment Agency Commission adopted Resolution No. 200-82 (June 22, 1982) to prohibit present and former employees, commissioners and consultants from engaging in certain activities after they leave Agency service. This resolution amended the Agency's Personnel Policy to incorporate these post-service restrictions. Under the restrictions, all Agency commissioners, employees, and consultants are permanently barred from essentially switching sides on a particular matter that they were personally and substantially involved in while in Agency service. In addition, for two years after leaving Agency service, commissioners and employees may not appear before the Agency Commission for any purpose except to represent himself or herself.

The current version of the post-employment restrictions appears in Section IX.H of OCII's Personnel Policy:

Unless approved in advance in writing by the Agency, no present or former employee, Commissioner or consultant of the Agency shall knowingly act for anyone other than the Agency in connection with any particular matter in which the Agency is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an Agency employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant to California Health and Safety Code § 33115.

Notably, this ban on post-service activities only applies to "particular matters:" 1) that the person worked on personally and substantially as an employee, commissioner, or consultant, 2) that OCII has a direct and substantial interest in, and 3) that the person now wishes to work on for another person or entity. The OCII policy prohibits former employees, commissioners, and consultants from working on the "particular matters" unless the former employee receives OCII consent.

Although OCII Policy does not establish a standard for considering a waiver request, OCII and the former Redevelopment Agency established a practice of considering certain factors in reviewing a waiver request. These factors include: 1) the length of time since the person worked for OCII; 2) the similarity between the work of the former employee, commissioner, or consultant and his or her proposed work for another party; 3) the benefit or detriment to OCII in having the former employee, commissioner, or consultant work for someone else on the OCII-related matter.

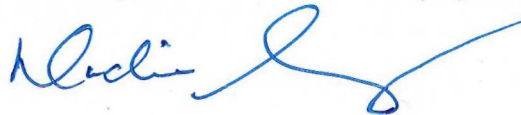
On October 6, 2017, Thor Kaslofsky, a former OCII project manager, submitted a request for a waiver of OCII's post-employment restrictions so that he may work on two particular matters for his current employer, Common Ground Urban Development. Mr. Kaslofsky worked at OCII from 2005 until 2015 and became a project manager for the Hunters Point Shipyard in 2008. In the attached letter, he described the matters for which he is seeking a waiver in the following way:

- 1) As a subconsultant for the general contractor LendLease, provide construction management, small business/local hire program management, and community engagement advice on housing projects in CP/HPS [Candlestick Point/Hunters Point Shipyard].
- 2) As a member of the Board of the Shipyard Trust for the Arts (STAR) giving real estate and programming advice to STAR as they try to create a commercial artists community at HPS.

In his letter, Mr. Kaslofsky described his work on Candlestick Point as focusing on aspects of the Alice Griffith housing project and the land transfers involving the State Lands Commission, State Parks, and the master developer. For the Hunters Point Shipyard project, he described his work as: reviewing and recommending various building, infrastructure, and landscape designs and transactions proposed by the master developer; coordination of environmental, design, regulatory and real estate transactions related to the land under Navy control; certain property management functions; and review of the new artist studio building design.

Applying the above-mentioned factors for reviewing a waiver request suggests that the waiver requests be granted for the two particular matters. Over two years have passed since Mr. Kaslofsky's employment at OCII. His proposed work as a consultant for LendLease on housing projects would involve elements of Agency policy and practice that he oversaw as project manager, e.g. contract compliance, community liaison. His proposed work in advising STAR on artist related matters involves a subject matter on which he worked directly. Nonetheless, other staff (in addition to Mr. Kaslofsky), including several levels of supervisory staff, participated in these matters and would have made final decisions. Mr. Kaslofsky asserts that his work for LendLease and STAR would not be detrimental to OCII. He states that he is not in possession of "any confidential information or special unknowable knowledge," that information about the particular matters on which he worked are publicly available, and that he does not have any relationship that would give him "the ability to have undue influence or an unfair advantage for STAR or LendLease." Letter, T. Koslofsky to N. Sesay (Oct. 6, 2017). In general, OCII staff agrees with this assessment, but the Commission may wish to consider any additional information that Mr. Kaslofsky may provide at the hearing on this matter.

(Originated by James B. Morales, General Counsel and Deputy Director)



Nadia Sesay
Executive Director

Attachment 1: Thor Kaslofsky's Commission Waiver Request

Thor Kaslofsky
1401 Lake Street, San Francisco, CA 94118

ThorWorld@gmail.com
917-528-7119

October 6, 2017

Nadia Sesay, Executive Director
Office of Community Investment and Infrastructure ("OCII")
1 South Van Ness Ave
San Francisco, CA 94103

Dear Ms. Sesay

I am writing to you to seek a waiver from the Commission of the "permanent ban" on certain types of post-service activities outlined under the Office of Community Investment and Infrastructure's ("OCII") Personnel Policy ("Personnel Policy"). As you probably know the Commission may waive this permanent ban but the waiver must be approved in advance of the activity.

Under Section IX.H. of OCII's Personnel Policy:

"Commissioners, employees, and consultants are permanently banned from acting as an agent or attorney, or otherwise representing any other person -- other than OCII - in connection with a "particular matter" if:

- 1) *OCII is a party or has a "**direct and substantial interest**" in the same "matter;" and*
- 2) *the Commissioner, employee, or consultant "**participated personally and substantially**" as an Agency Commissioner, employee, or consultant in the matter.*

The Personnel Policy defines "participation" as including, but not limited to, involvement in "decisions, recommendations, advice, and investigations."

Role as OCII Employee

I began my employment at the San Francisco Redevelopment Agency (now OCII) in November 2005. I worked on both the Hunters Point Shipyard and Bayview Hunters Point Project Areas (which includes Candlestick Point as a sub-area) as an Assistant Project Manager. In August 2008 I began working as the Project Manager for the Candlestick Point/Hunters Point Shipyard Project Areas ("CP/HPS").

My work on CP/HPS included:

1. My role for CP was focused on the below projects:
 - a. Assisting finding new space for a child care facility located in CP/Alice Griffith.
 - b. Supporting Shute, Mihaly & Weinberger to facilitate land transfers for development between State Lands, State Parks, and Lennar.
 - c. Working to obtain permits from the school district for Lennar to relocate a community garden from CP/Alice Griffith to school grounds.

- d. Facilitated with OCII Contract Compliance, a multi-agency working group to facilitate successful CP/Alice Griffith development workforce goals.
2. For HPS I led the design and development review process required of OCII under the various legal agreements governing the first phase of HPS.
 - a. I recommended to senior management, the Executive Director, and the Commission the approval of Lennar's various building, infrastructure, and landscape designs and transaction documents.
 - b. I assisted with the coordination of the review of various environmental, design, regulatory, and real estate documents related to the still Navy owned portion of HPS land.
 - c. I coordinated property management functions such as leases, security, and related activities.
 - d. I also helped facilitate (along with other OCII staff) Lennar's design of a new artist studio building being built for relocating/consolidating the approximately 150 artists located on HPS.

I resigned my position as Project Manager at OCII in April 2015 to work in the private sector in community and real estate development for the Parkmerced project. In April 2016, I started a small socially responsible community and real estate development company called Common Ground Urban Development (www.commongroundurbandevlopment.com). We specialize in mission-driven catalytic-development to spur neighborhood and community revitalization in urban areas with high need. The skill base that enables me to do this work today, is a direct result of my many years working at OCII helping neighborhoods grow in smart and positive ways.

Activities Requiring a Waiver

However, it takes community participation and a collaborative effort to make long-term public private projects successful. I would like to continue that collaboration through two projects that I have been asked to potentially work on, see below. They present amazing opportunities for me to continue to help the communities thrive that OCII is working in:

- 1) As a subconsultant for the general contractor LendLease, provide construction management, small business/local hire program management, and community engagement advice on housing projects in CP/HPS.
- 2) As a member of the Board of the Shipyard Trust for the Arts (STAR) giving real estate and programming advice to STAR as they try to create a commercial artists community at HPS.

Basis for Waiver

The Commission granting a waiver for me for the above two areas of activities would not create the potential for undue influence or unfair advantage for STAR or LendLease.

1. I am not in possession of any confidential information or special unknowable knowledge. Everything that I learned and the people I met at OCII were knowable and available to anyone who wanted to participate in community and Commission meetings (which were all public) and

took the time to read the various documents associated with the CP/HPS project such as the project's disposition and development agreement which are all public as well.

2. I do not believe that I have any relationship or are in possession of any information more than any member of the public might have, that would give me the ability to have undue influence or an unfair advantage for STAR or LendLease.

Therefore, I am asking for any necessary authorizations/waivers of the "permanent ban" under the Personnel Policy so that I may work on various neighborhood and community revitalization efforts in CP/HPS.

Please feel free to contact me if you have any questions or would like to discuss this request further.

Best Regards



Thor Kaslofsky