



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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October 14, 2015

CHRIS VAN DYK
223 INLAND WAY NE
BAINBRIDGE ISLAND WA 98110

Subject: Complaint filed against Officials of the City of Bainbridge Island, PDC Complaint No. 15-088

Dear Mr. Van Dyk:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on September 24, 2015, alleging that Officials of the City of Bainbridge Island may have violated RCW 42.17A.555 by using city facilities to promote Proposition 1, a public safety facility bond in the November 3, 2015 general election.

PDC staff reviewed your allegations in light of the following statute to determine whether a formal investigation or enforcement action is warranted.

RCW 42.17A.555 prohibits local government officials and employees from using or authorizing the use of public facilities for the purpose of assisting a candidate's campaign, or to promote or oppose a ballot proposition. The prohibition does not apply to the normal and regular conduct of the office or agency.

Per **WAC 390-05-271**, RCW 42.17A.555 does not prevent a public office or agency from making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

PDC Interpretation 04-02, Guidelines for Local Government Agencies in Election Campaigns, states that *"Historically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate...In addition, if an agency has also customarily distributed this information through means other than a jurisdiction-wide mailing (e.g. regularly scheduled newsletter, website, bilingual documents, or other format), that conduct has also been permitted under RCW 42.17A.555 so long as the activity has been normal and regular for the government agency."*

PDC staff reviewed your complaint, and the enclosed materials. As a result of staff's review, we found the following:

- In your complaint, you allege that city officials violate RCW 42.17A.555 by describing the election as a "vote to approve" the bond measure. However, this language is technically

correct, since Proposition 1 seeks voter approval to issue bonds and incur indebtedness. Such language is acceptable as part of an objective and fair presentation of the facts concerning a ballot proposition, and is not prohibited by RCW 42.17A.555.

- Although you personally feel that information about the parcels being considered for purchase should have been included in the city's communications, including information about property and sales tax support generated for other taxing districts, we found no evidence that such information is an essential part of an objective and fair presentation of the facts concerning Proposition 1. Per PDC Interpretation 04-02, "*the clause 'objective and fair presentation of the facts' means that in addition to presenting the facts, the materials should present accurately the costs and other anticipated impacts of a ballot measure.*" PDC staff has historically advised agencies that such a presentation need not include the anticipated impacts of a ballot proposition on *other* government agencies, unless the proposition concerns a merger or other interagency agreement. Similarly, a statement by a city-retained consultant concerning his past work on combined city/court/police buildings need not be reflected in the city's official communications on Proposition 1, if that work history is not an essential fact about the ballot proposition.
- You allege that supporters of Proposition 1 have failed to timely register and report as a political committee, however you provided no specific evidence of reportable activity. We note that Islanders for a Secure Bainbridge filed a C-1pc Political Committee Registration on September 14, 2015, registering their campaign to support Proposition 1, and that with the exception of a single \$100 contribution, all of the committee's activity occurred after registering.
- Finally, you allege violations of the Open Public Meetings Act in connection with a September 16, 2015 letter to the editor signed by city officials. PDC staff has no jurisdiction over open meetings laws. To the extent that your complaint alleges failure by city officials to comply with the notice requirements of RCW 42.17A.555(1) when taking official action to support a ballot proposition, your complaint contained no evidence of any official action subject to this requirement.

Based on these initial findings, I have determined that there is no reason to believe a material violation of any law under the Commission's jurisdiction has occurred. For this reason, the PDC will not be conducting a more formal investigation into your complaint or pursuing enforcement action in this case.

Thank you for bringing this matter to our attention. The process relies on citizens monitoring campaign activity to promote full compliance with the law. Your actions will contribute to better awareness of the campaign finance and disclosure laws.

If you have questions, please contact me at (360) 586-1042, toll-free at 1-877-601-2828, or by e-mail at tony.perkins@pdc.wa.gov.

Sincerely,

Tony Perkins
PDC Director of Compliance

Endorsed by:

Evelyn Fielding Lopez
Executive Director

cc: Doug Schulze, City Manager, City of Bainbridge Island