

Executive Summary and Staff Analysis
Port of Tacoma Officials (John Wolfe, CEO) & Port of Tacoma (6626)
Economic Development Board for Tacoma-Pierce County (6627)
Tacoma-Pierce County Chamber (6628)
(45-Day Citizen Action Complaint)

This summary highlights staff's findings, conclusions, and recommendations regarding the allegations contained in PDC Cases 6626, 6627, and 6628. These cases resulted from a 45-Day Citizen Action Complaint (Complaint) filed on June 16, 2016 by Arthur West with the Washington State Attorney General and the Pierce County Prosecutor. Mr. West alleged that Port of Tacoma Officials, the Port of Tacoma, the Economic Development Board for Tacoma-Pierce County (EDB), and the Tacoma-Pierce County Chamber (Chamber) may have violated RCW 42.17A.

Background

The Attorney General's Office referred the Complaint to the PDC on July 13, 2016, for investigation and possible action. On July 15, 2016, PDC staff sent a letter to the Port of Tacoma, the EDB, and the Chamber, informing the respondents that staff had opened a formal investigation, and requesting a written response. On July 21, 2016, counsel for all Respondents provided a response to the allegations. Carolyn Lake responded on behalf of Port of Tacoma officials and the Port of Tacoma (Case 6626), Jason Whalen responded on behalf of the EDB (Case 6627), and Valarie Zeek responded on behalf of the Chamber (Case 6628).

Allegations

The Complaint alleged that Port of Tacoma Officials may have violated RCW 42.17A.555 by using public facilities to oppose Tacoma Code Initiative 6 and Tacoma Charter Initiative 5. The complaint also alleged that the Port of Tacoma, the EDB, and the Chamber may have violated RCW 42.17A.205, .235, and .240 by failing to register and report their expenditures for legal services to oppose Initiatives 5 and 6, individually, and as a group, as political committees.

Investigative Findings and Conclusion

Based on the factors identified in the investigation, staff found and concluded as follows:

First Allegation: Port of Tacoma Officials (John Wolfe, CEO) did not use facilities of the Port of Tacoma to oppose Tacoma Code Initiative 6 and Tacoma Charter Initiative 5 in a manner prohibited by RCW 42.17A.555 because the Port's expenditures were "normal and regular" in that that they were lawful, and usual and customary.

Second Allegation: The Port of Tacoma, the EDB, and the Chamber did not violate RCW 42.17A.205, .235, and .240 because neither the Port of Tacoma, the EDB, nor the Chamber were a "receiver of contributions" in support of or in opposition to candidates or ballot propositions, and because making expenditures to support or oppose candidates or ballot propositions is not one of the primary purposes for these entities. The Port of Tacoma's primary purpose is to operate as a special purpose public port district under Title 53 of the Revised Code of Washington, the EDB's mission is to retain

and recruit existing primary businesses in Tacoma-Pierce County, and the Chamber's vision and goal is to secure the economic future of the local business community, and to become the go-to-organization when there are tough issues that need to be addressed locally, statewide, and nationally. The Port does not engage in electoral political activity. The EDB's and the Chamber's electoral political activity in this instance may have furthered their respective stated goals and mission, but the non-electoral activities of each entity are those most clearly designed to further each organization's stated goals and mission. No evidence was found that the EDB or the Chamber has, or could, substantially achieve its stated goals and mission through a favorable outcome of an election. The EDB and the Chamber clearly use means other than electoral political activity to achieve their respective stated goals. No evidence was found that the Port of Tacoma, the EDB, and the Chamber pooled funds to form a joint political committee.

The EDB's and the Chamber's expenditures, totaling \$9,994 and approximately \$10,000, respectively, appear to have been made for the purpose of opposing Tacoma Code Initiative 6 and Tacoma Charter Initiative 5 at a time when both initiatives were ballot propositions, even if an active campaign had not been started, and these expenditures were required to be reported as independent expenditures pursuant to RCW 42.17A.255.

Recommendation

For the reasons described above, staff recommends that:

For Port of Tacoma Officials (John Wolfe, CEO) the Commission find there is no apparent violation of RCW 42.17A.555, and recommend to the Washington Attorney General that that office take no further action with respect to this allegation in the Complaint.

For the Port of Tacoma, the Economic Development Board for Tacoma-Pierce County, and the Tacoma-Pierce County Chamber, the Commission find there is no apparent violation of RCW 42.17A.205, .235, and .240 by failing to register and report their respective expenditures for legal services to oppose Initiatives 5 and 6, individually, and as a group, as political committees, and recommend to the Washington Attorney General that that office take no further action with respect to these allegations in the Complaint.

For the Economic Development Board for Tacoma-Pierce County and the Tacoma-Pierce County Chamber, the Commission find there is an apparent violation of RCW 42.17A.255, and recommend to the Washington Attorney General that that office take appropriate action concerning the apparent failure of the EDB and the Chamber to report expenditures totaling \$9,994 and approximately \$10,000, respectively, as independent expenditures opposing Charter Initiative 5 and Code Initiative 6.