



STATE OF WASHINGTON  
**PUBLIC DISCLOSURE COMMISSION**

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August 9, 2016

The Honorable Robert Ferguson  
Attorney General  
1125 Washington St SE  
PO Box 40100  
Olympia, WA 98504-0100

RE: Washington State Public Disclosure Commission Recommendation Regarding Citizen Action Notice re: Port of Tacoma Officials (John Wolfe, CEO) & Port of Tacoma (PDC Case 6626), Economic Development Board for Tacoma-Pierce County (PDC Case 6627), and Tacoma-Pierce County Chamber (PDC Case 6628)

Dear Attorney General Ferguson:

This letter concerns the matter that your office referred to the Public Disclosure Commission for review and possible investigation on July 13, 2016 in response to a 45-day Citizen Action Notice Complaint (Complaint) filed with the Attorney General on June 16, 2016 by Arthur West. The Complaint alleged that Port of Tacoma Officials violated RCW 42.17A.555 by using or authorizing the use of public facilities to oppose Tacoma Code Initiative 6 and Tacoma Charter Initiative 5. The complaint also alleged that the Port of Tacoma, the Economic Development Board for Tacoma-Pierce County (EDB), and the Tacoma-Pierce County Chamber (the Chamber) violated RCW 42.17A.205, RCW 42.17A.235, and RCW 42.17A.240 individually, and as a group, by failing to register and report their expenditures for legal services to oppose Initiatives 5 and 6 as political committees.

In reviewing the alleged violations of RCW 42.17A.555 by Port of Tacoma officials, PDC staff identified port CEO John Wolfe as the respondent. Staff reviewed the complaint and prepared a Report of Investigation, Executive Summary, and Staff Analysis concerning the alleged violations by Mr. Wolfe, the Port of Tacoma, the EDB, and the Chamber. The Commission considered the results of staff's investigation at a special Commission meeting held August 8, 2016. At that meeting, PDC Compliance Officers Phil Stutzman and Tony Perkins presented staff's Executive Summary and Analysis which included a recommendation regarding the allegations<sup>1</sup>. Copies of the Report of Investigation, exhibits to the report, Executive Summary and Staff Analysis are enclosed with this letter.

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<sup>1</sup> On July 22, 2016, PDC Executive Director Evelyn Lopez notified counsel to the Port of Tacoma that she would absent herself from consideration of the Complaint, and would not review PDC staff's findings or recommendation to the Commission. Ms. Lopez was not present at and did not participate in the August 8, 2016 special meeting.

### **Staff Conclusion and Recommendation**

As noted in the attached Executive Summary and Staff Analysis, staff concluded that:

- Port of Tacoma CEO John Wolfe did not violate RCW 42.17A.555 by authorizing expenditures for legal services in seeking declaratory judgement that Tacoma Code Initiative 6 and Tacoma Charter Initiative 5 exceeded the scope of local initiative power;
- The Port of Tacoma did not violate RCW 42.17A.205, RCW 42.17A.235, and RCW 42.17A.240 by failing to register as a political committee and disclose the port's expenses for legal services as political committee expenses;
- The Economic Development Board for Tacoma-Pierce County did not violate RCW 42.17A.205, RCW 42.17A.235, and RCW 42.17A.240 by failing to register as a political committee and disclose the EDB's expenses for legal services as political committee expenses;
- The Tacoma-Pierce County Chamber did not violate RCW 42.17A.205, RCW 42.17A.235, and RCW 42.17A.240 by failing to register as a political committee and disclose the Chamber's expenses for legal services as political committee expenses; and
- The Port of Tacoma, the Economic Development Board for Tacoma-Pierce County, and the Tacoma-Pierce County Chamber did not violate RCW 42.17A.205, RCW 42.17A.235, and RCW 42.17A.240 by failing to register collectively as a political committee and report their legal services expenses as political committee activity.

Staff recommended that the Commission recommend to the Attorney General that that office take no further action with respect to the allegations in the Complaint.

Although not alleged in the Citizen Action Notice, staff concluded that the Economic Development Board for Tacoma-Pierce County and the Tacoma-Pierce County Chamber's legal expenses incurred in challenging Tacoma Code Initiative 6 and Tacoma Charter Initiative 5 were reportable under RCW 42.17A.255 as independent expenditure activity opposing a ballot proposition. Staff recommended that the Commission recommend to the Attorney General that that office take appropriate action concerning the EDB and the Chamber's apparent failure to disclose those expenses on C-6 reports of independent expenditure activity.

### **Commission Recommendation**

Having received staff's report and recommendation, the Commission unanimously adopted a motion to return this matter to the Attorney General with no recommendation for legal action, both concerning the two alleged violations that were set out in the Complaint, and the separate additional potential violation that was raised in the staff report.

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In adopting this motion, Commission members stated that the Commission has noted the issues raised by the petitioner and the respondents in this matter, and discussed the need for rule making to provide clearer guidance to the regulated community and the public regarding what actions constitute activity reportable under RCW 42.17A for ballot propositions, as they are being considered for placement on the ballot and at each stage thereafter. The Commission expressed its intention to work with PDC staff to pursue such rule making, and asked that all parties to this matter plan to participate and offer input.

If you have questions, please contact me at (360) 586-1042. Thank you.

Sincerely,



Tony Perkins  
PDC Compliance Officer

cc: Commissioners  
Linda Dalton, Sr. Assistant Attorney General  
Carolyn Lake, counsel for Respondents John Wolfe and Port of Tacoma  
Jason Whalen, counsel for Respondent Economic Development Board for Tacoma-Pierce  
County  
Valarie Zeeck, counsel for Respondent Tacoma-Pierce County Chamber  
Arthur West