



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Campaign Finance Unit
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December 22, 2016

Opportunity for Olympia
c/o Knoll Lowney
Smith & Lowney, PLLC
2317 East John Street
Seattle, WA 98112

**RE: Citizen Action Notice filed September 8, 2016 against City of Olympia Council
Members – Notice of Results**

Dear Mr. Lowney:

I am writing to advise you of the outcome of the citizen action notice referenced above, which you filed with the Attorney General's Office (AGO) and the Thurston County Prosecuting Attorney's Office. Your notice alleged that Respondents, in their official capacities, violated the state prohibition against using public facilities to support or oppose a ballot proposition. Specifically, you alleged that their authorization of a pre-election legal challenge to the validity of a local initiative violated that prohibition contained in RCW 42.17A.555.

Following its receipt, the AGO requested a review and possible investigation by the Public Disclosure Commission (PDC). The PDC staff reviewed and determined that Respondents, acting in their official capacities, hired a law firm to bring a pre-election legal challenge to the validity of a local initiative set to appear on the ballot in the City of Olympia. The lawsuit alleged that the local ballot proposition was beyond the scope of the City's initiative power, and sought to enjoin it from appearing on the general election ballot in November 2016. Further, the PDC staff determined that if the local ballot proposition passed, Respondents would be responsible for enacting it and defending its validity in response to any legal challenge.

As a result of these obligations, Respondents brought the pre-election legal challenge funded by taxpayer dollars. The PDC staff examined the PDC's prior interpretation related to legal fees for such litigation, Interpretation No. 91-02. Based on that review and the facts here, the PDC staff determined that litigating the validity of the City's own legislation fell within the normal and regular conduct of the City of Olympia Council. *See* RCW 42.17A.555, WAC 390-05-273 (normal and regular conduct exception to prohibition on using public facilities for campaign purposes); Public Disclosure Commission Interpretation 91-02 ("Legal Fees Related to Placing, or Not Placing, a Proposition on the Ballot"). The Commission reviewed its staff report and recommendation and then

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voted to unanimously recommend the Attorney General not file an action concerning the allegations in your notice.

The AGO has now had the opportunity to review the allegations your client, Opportunity for Olympia, submitted against the members of the Olympia City Council, the PDC staff review and preliminary results, and PDC recommendation. At this time we are writing to inform you that we concur with the Commission's recommendation. As such, we believe insufficient evidence exists to initiate judicial enforcement proceedings in this instance. The AGO will not be taking any further action with regard to this matter. In the event you believe that additional information is available that we should consider, please advise.

Additionally, in the event that you decide to proceed with this matter, please ensure that you comply with the statutory filing requirements. Thank you.

Sincerely,



LINDA A. DALTON

Senior Assistant Attorney General

LAD:kj

cc: Darwin Roberts, Deputy Attorney General
City of Olympia & City Council members (Respondents)
Elizabeth Petrich, Thurston County Prosecuting Attorney's Office
Evelyn Fielding Lopez, Public Disclosure Commission