



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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April 27, 2017

MICHELE EARL-HUBBARD

BY ELECTRONIC MAIL ONLY TO:
michele@alliedlawgroup.com

Subject: Complaint filed against Officials of City of Shoreline, PDC Case 4477
Formal Written Warning Letter

Dear Ms. Earl-Hubbard:

PDC staff has completed its investigation of your complaint received on April 13, 2016, alleging that City of Shoreline officials violated RCW 42.17A.555 by sponsoring telephonic and print surveys for the purpose of promoting Proposition 1, a public safety, parks, and community services renewal levy in the November 8, 2016 general election.

Your complaint was considered in light of the following statute, rules, and Public Disclosure Commission Interpretation:

RCW 42.17A.555 states, in part:

“No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.

...[T]he foregoing provisions of this section shall not apply to the following activities:

...(3) Activities which are part of the normal and regular conduct of the office or agency.”

WAC 390-05-273 defines “normal and regular conduct” as conduct that is 1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and 2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. The rule states that no local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

PDC staff reviewed your complaint, and a supplement received from you on June 22, 2016. Staff reviewed preliminary and formal responses to the complaint submitted by City of Shoreline staff. Staff reviewed telephonic and print survey questions sponsored by the city in April and June of 2016, and the results of the city's telephone survey. Staff reviewed communications between city officials and public opinion vendor EMC Research regarding the telephone survey. Staff reviewed a ballot proposition "fact sheet" that the city proposed to sponsor for the 2016 Proposition 1 election. Finally, staff reviewed historic survey materials and election-related publications sponsored by the City of Shoreline. As a result of staff's investigation, we found the following:

- The City of Shoreline sponsored a telephone survey through EMC Research in early April 2016, at a contracted cost of \$22,700. The survey, which was fielded to a sample of 500 registered voters, included questions that tested support for a public safety and parks renewal levy, and also tested messages of support for a levy renewal.
- Targeting registered voters in an election-related survey, sponsoring questions to determine what taxation level the public would support, and using survey results in a manner designed to support or oppose a ballot measure all contravene guidance the Public Disclosure Commission has provided for compliance with RCW 42.17A.555 in PDC Interpretation 04-02, *Guidelines for Local Government in Election Campaigns*.
- However, no evidence was found that the results of the survey determined the levy amount that city officials proposed for the Proposition 1 public safety and parks renewal levy. Similarly, no evidence was found that the city used the messages tested in its telephone survey in a manner designed to promote Proposition 1. PDC staff reviewed the city's proposed "fact sheet" regarding the Proposition 1 election, and found it to be an objective and fair presentation of the facts regarding the ballot proposition.
- No evidence was found that the city's June 2016 "Year 2016 City of Shoreline Citizen Satisfaction Survey" included questions sponsored for the purpose of promoting a ballot proposition, or that the city used that survey in a manner designed to promote a ballot proposition.

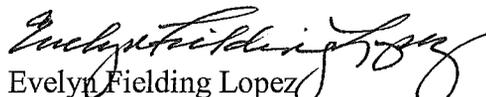
After a careful review of the alleged violations and relevant facts, PDC staff has determined that in this instance, although the City of Shoreline's sponsorship of the April 2016 telephone survey contravenes PDC guidance on survey research, the actions of City officials do not amount to a material violation; however, their actions do amount to alleged minor or technical violations, and in accordance with WAC 390-37-060(1)(b), PDC staff will issue a formal written warning to Shoreline City Manager Debbie Tarry regarding the prohibition in RCW 42.17A.555 against the use of public facilities (including publicly-sponsored survey research) to promote a ballot proposition. Staff's formal written warning will urge City of Shoreline officials to consult PDC resources when contemplating future election-related survey research and ballot proposition "fact sheets," to facilitate the city's compliance with RCW 42.17A.555. If there are future violations

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of PDC laws or rules found against City of Shoreline officials, the Commission will consider this formal written warning in deciding on further Commission action.

The PDC has closed this matter, and will not be conducting further investigation into your complaint or pursuing further enforcement action in this case. If you have questions, please contact me at (360) 664-2735 or toll-free at 1-877-601-2828 or by email at evelyn.lopez@pdc.wa.gov.

Sincerely,


Evelyn Fielding Lopez
Executive Director

cc: Debbie Tarry, City Manager, City of Shoreline
Margaret King, Shoreline City Attorney