



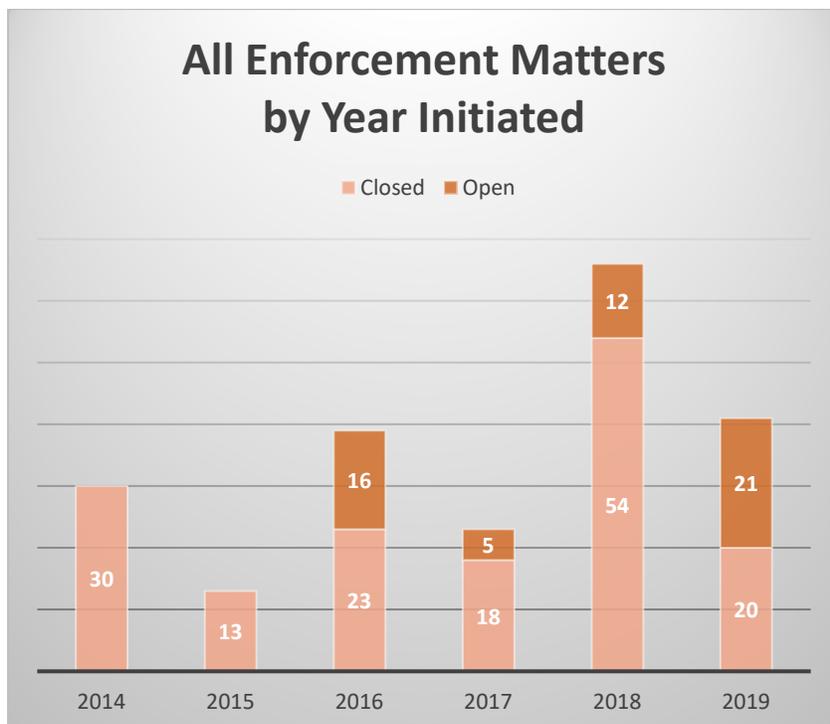
Jodie Smith, Chair
James E.T. Jackson, Vice-Chair
Jill M. Butler
Gail Kong
Nayeli Maxson Velázquez
Joseph Tuman
Jerett Yan

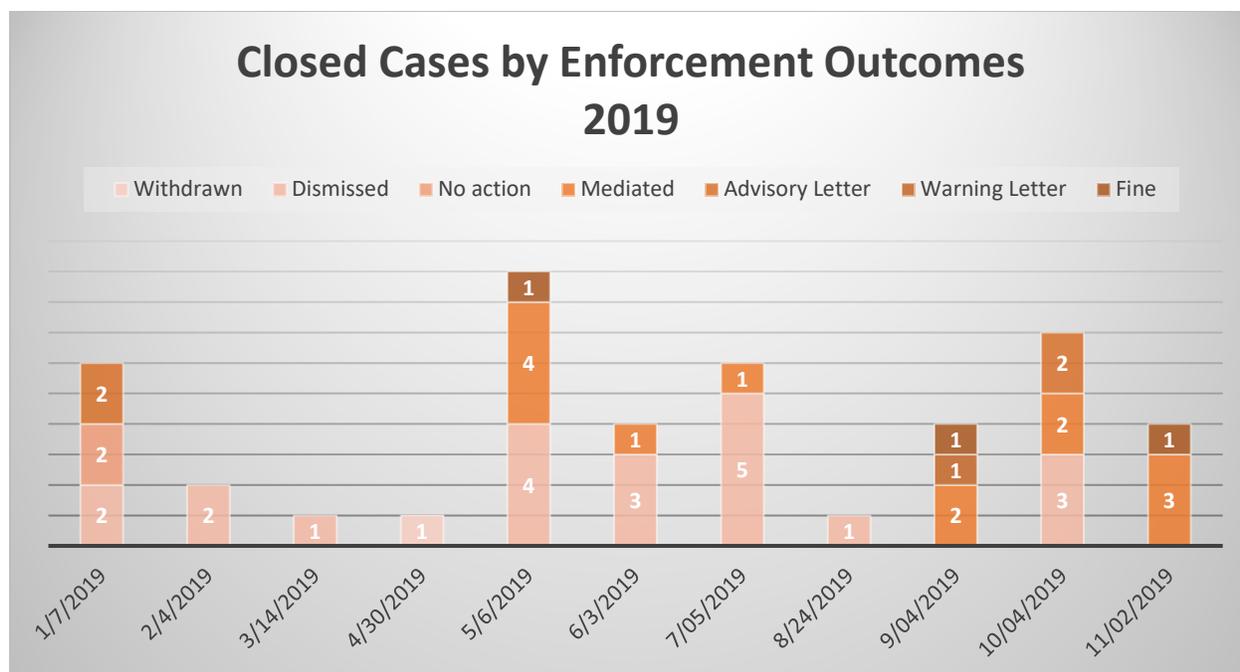
Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: December 23, 2019
RE: Enforcement Program Update

Current Enforcement Activities:

Since the last Enforcement Program Update on December 2, 2019, Commission staff received two formal complaints. This brings the total Enforcement caseload to 52 enforcement and mediation cases: 7 matters in the intake or preliminary review stage, 10 matters under active investigation, 10 matters under post-investigation analysis, 11 matters in settlement negotiations or awaiting an administrative hearing, and 6 ongoing public records request mediations.





Summary of Cases:

Since the last Enforcement Program Update in December 2019, the following status changes occurred:

1. *In the Matter of Colbruno (Complaint No. 16-01)*. On January 12, 2016, Commission Staff received a complaint alleging that Michael Colbruno failed to register as a lobbyist in 2012 and 2014., Commission Staff completed an investigation into the allegations and found that Mr. Colbruno, in fact, failed to timely file lobbyist registration forms and quarterly reports in 2012, 2013, 2014 and 2015 in violation of the Oakland Lobbyist Registration Act. Between 2016 and 2018 the parties attempted to settle the matter by a stipulated agreement with a penalty in the amount of \$2,500. The Public Ethic Commission rejected the penalty amount and instructed Staff to renegotiate the penalty or proceed to a hearing. The parties were unable to reach a stipulated settlement, therefore, on November 28, 2019, a hearing was held on the merits of the allegations. Staff has attached a written memorandum on the proposed decision and appropriate penalty, post hearing. (See Action Item)
2. *In the Matter of Harborside Health Center (Complaint No. 16-06)*. On June 1, 2016, Commission Staff opened a proactive inquiry to determine whether PMACC DBA Harborside Health Center violated Oakland Campaign Reform Act (OCRA) by failing to disclose itself as the source of an independent expenditure made in support of Kaplan for Oakland Mayor 2014 in or around October 2014 and by failing to report the independent expenditure to the City Clerk. After close review of the documentation,

Staff determined to not pursue further action. To the extent that there was any ambiguity in the previous ordinance, it was amended in November 2016, and makes it unequivocal that a campaign committee is required to identify the financial sponsor of its advertisements on or within the respective advertisement and the specified dollar amount of the sponsorship. We informed the Respondent of the applicable law and dismissed the proactive inquiry. (See Attachment)

3. *In the Matter of Oakland City Council (Complaint No. 19-19)*. On November 12, 2019, the City of Oakland Public Ethics Commission received a complaint alleging that each member of the Oakland City Council violated the Oakland Government Ethics Act (GEA) when they approved the grant of funding from the City Budget to Oakland Promise during the following budget cycles: 2016-2018, 2017-2018, 2018-2019 and 2019-2020. The complainant alleged that Oakland Promise was not a state-recognized non-profit organization and that it did not have the appropriate documentation/registration until 2019 with the state to merge with East Bay College Fund (EBCF), a state-recognized non-profit organization. In the absence of being certified, the allocation of City funds to the organization was unlawful. Staff dismissed the complaint because the complainant did not allege conduct that was a violation of the Government Ethics Act. (See Attachment)
4. *In the Matter of City of Oakland Public Works (Maintenance and Facilities) (Complaint No. 19-21)*. The Commission received a complaint on November 26, 2019, alleging that an Oakland City employee with the Public Works Department (maintenance and groundskeeping) violated the Oakland Government Ethics Act by engaging in harassing, profane and racially incendiary conduct against the complainant. Staff dismissed the complaint due to lack of PEC enforcement jurisdiction. (See Attachment)
5. *In the Matter Mike Rivera of the City of Oakland Planning and Building Department (Complaint No. 19-22)*. The Commission received a complaint on November 26, 2019, alleging that Mike Rivera with the Planning and Building Department violated the Oakland Public Meeting ordinance when he emailed Oakland citizens a notice of a “Public Hearing” for an appeal to the City Council scheduled to occur on December 10, 2019. The Complainant further alleged that the complaint was false and misleading because the appeal did not occur on that date and members of the Rules Committee represented that they were not aware of the scheduled hearing. After conducting a preliminary investigation and reviewing the law, Staff determined that the allegations set forth in the complaint did not constitute a violation of the Oakland Sunshine Act and dismissed the complaint. (See Attachment)

ATTACHMENT 16



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-5239
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

PMACC DBA Harborside Health Center
c/o Steve DeAngelo, Executive Director
1840 Embarcadero
Oakland, CA 94606

Re: PEC Complaint No. 16-06; Dismissal Letter

Dear Mr. DeAngelo:

On June 1, 2016, the City of Oakland Public Ethics Commission (PEC) opened a proactive inquiry to determine whether PMACC DBA Harborside Health Center, violated Oakland Campaign Reform Act (OCRA) by failing to disclose itself as the source of an independent expenditure made in support of Kaplan for Oakland Mayor 2014 in or around October of 2014 and by failing to report making the aforementioned independent expenditure to the City Clerk.

We have reviewed documentation of a \$10,000 contribution Harborside made to the Victory Fund in support of Rebecca Kaplan for Mayor 2014 and, although the evidence gathered in our review is enough to warrant an investigation to determine whether the facts resulted in a violation to the Oakland Campaign Reform Act, we will not pursue further action on this matter.

You should know that the Oakland ordinance regulating mass mailings and television advertisements was amended November 29, 2016, after we opened this investigation. OCRA now provides:

A committee must disclose the names of persons from whom the committee received its two (2) highest cumulative contributions of five thousand dollars (\$5,000.00) or more in the same manner as required by California Political Reform Act Section 84506 on all mass mailings and television advertisements

ATTACHMENT 16

PEC Complaint No. 16-06; Dismissal Letter

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that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City.

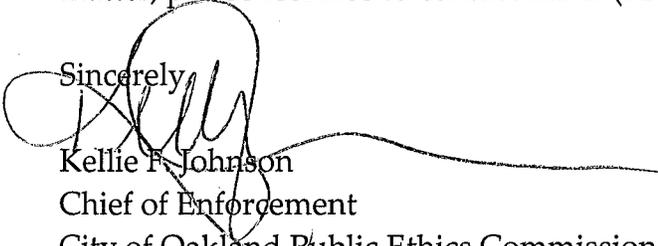
To the extent that there was any ambiguity in the previous ordinance, the 2016 amendment makes it unequivocal that a campaign committee is required to identify the financial sponsor of its advertisements on and within the respective advertisements at a specified dollar amount.

In addition, OCRA provisions incorporate by reference all California rules regarding required reporting of independent expenditures made in support or opposition to a candidate or ballot measure, and it specifically requires electronic reporting of all required forms for activities related to Oakland elections. Violations of OCRA, as well as the California Political Reform Act, are subject to penalties of \$5,000 or three times the amount illegally expended for each violation under each separate law.

We are dismissing this investigation at this time while informing you of the law in order to prevent any future potential violations on your part. We are confident that by bringing this to your attention, Harborside Health Center will ensure that all independent expenditures of \$1,000 or more in support or opposition to Oakland candidates or ballot measures will be properly reported to the City of Oakland, and expenditures of \$5,000 or more will be identified on or within the advertisement as required by law.

A copy of the dismissal letter is attached. If you have any questions regarding this matter, please feel free to contact me at (510) 238-4976 or Kjohnson3@oaklandca.gov.

Sincerely,



Kellie F. Johnson
Chief of Enforcement
City of Oakland Public Ethics Commission

Enclosure

if the definition of top contributor provided for in paragraph (1) is otherwise met.

(A) The primarily formed committee making the earmarked contribution shall provide the primarily formed committee receiving the earmarked contribution with the name and address of the contributor or contributors who earmarked their funds and the amount of the earmarked contribution from each contributor at the time the contribution is made. If the committee making the contribution received earmarked contributions that exceed the amount contributed or received contributions that were not earmarked, the committee making the contribution shall use a reasonable accounting method to determine which top contributors to identify pursuant to this subparagraph, but in no case shall the same contribution be disclosed more than one time to avoid disclosure of additional contributors who earmarked their funds.

(B) The committee receiving the earmarked contribution may rely on the information provided pursuant to subparagraph (A) for purposes of complying with the disclosure required by Section 84503 and shall be considered in compliance with Section 84503 if the information provided pursuant to subparagraph (A) is disclosed as otherwise required.

(C) For purposes of this paragraph, funds are considered "earmarked" if any of the circumstances described in subdivision (b) of Section 85704 apply.

(4) If an advertisement paid for by a committee supports or opposes a candidate, the determination of top contributors pursuant to paragraphs (1) and (2) shall not include any nonprofit organization exempt from federal income taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code or any person who has prohibited in writing the use of his or her contributions to support or oppose candidates if the committee does not use such contributions to support or oppose candidates.

History: Added by Proposition 208 of the November 1996 Statewide General Election; Amended by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch.777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18401, 18421.2, 18450.1, 18450.5, 18450.11

§ 84501.1. Prohibition on Commission Interpretation on Thresholds and Amounts.

The Commission shall not, by regulation, policy, opinion, or advice letter, construe or interpret any of Sections 82025, 84305, 84310, 84501 through 84511, inclusive, or Section 85704 as allowing the Commission to establish or maintain any thresholds in quantity or amount that are not specified in those sections. Unless otherwise specified in this title, those sections apply regardless of quantity or amount.

History: Added by Stats. 2018, Ch.777.

§ 84502. Disclaimer; Committee Name.

(a)(1) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "Ad paid for by" followed by

the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101.

(2) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013 that is a political party committee or a candidate controlled committee established for an elective office of the controlling candidate shall include the words "Ad paid for by" followed by the name of the committee as it appears on the most recent Statement of Organization filed pursuant to Section 84101 if the advertisement is any of the following:

(A) Paid for by an independent expenditure.

(B) An advertisement supporting or opposing a ballot measure.

(C) A radio or television advertisement.

(b) Any advertisement paid for by a committee pursuant to subdivision (b) or (c) of Section 82013 shall include the words "Ad paid for by" followed by the name that the filer is required to use on campaign statements pursuant to subdivision (o) of Section 84211.

(c) Notwithstanding subdivisions (a) and (b), if an advertisement is a printed letter, Internet Web site, or email message, the text described in subdivisions (a) and (b) may include the words "Paid for by" instead of "Ad paid for by."

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2004, Ch. 478, effective September 10, 2004, repealed and added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch.777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84503. Top Contributor Disclosure.

(a) Any advertisement paid for by a committee pursuant to subdivision (a) of Section 82013, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the words "committee major funding from" followed by the names of the top contributors to the committee paying for the advertisement. If fewer than three contributors qualify as top contributors, only those contributors that qualify shall be disclosed pursuant to this section. If there are no contributors that qualify as top contributors, this disclosure is not required.

(b) The disclosure of a top contributor pursuant to this section need not include terms such as "incorporated," "committee," "political action committee," or "corporation," or abbreviations of these terms, unless the term is part of the contributor's name in common usage or parlance.

(c) If this article requires the disclosure of the name of a top contributor that is a committee pursuant to subdivision (a) of Section 82013 and is a sponsored committee pursuant to Section 82048.7 with a single sponsor, only the name of the single sponsoring organization shall be disclosed.

(d) This section does not apply to a committee as defined by subdivision (b) or (c) of Section 82013.

History: Added by Proposition 208 of the November 1996 Statewide General Election; preliminarily enjoined January 6, 1998; permanently enjoined March 1, 2001, as applied to slate mailers only; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18402, 18421.2

§ 84504. Disclaimer; Radio and Telephone Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated over the radio or by telephonic means shall include the disclosures required by Sections 84502, 84503, and 84506.5 at the beginning or end of the advertisement, read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) Notwithstanding the definition of "top contributors" in paragraph (1) of subdivision (c) of Section 84501, radio and prerecorded telephonic advertisements shall disclose only the top two contributors of fifty thousand dollars (\$50,000) or more unless the advertisement lasts 15 seconds or less or the disclosure statement would last more than eight seconds, in which case only the single top contributor of fifty thousand dollars (\$50,000) or more shall be disclosed.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2

§ 84504.1. Disclaimer; Video and Television Ads.

(a) An advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, that is disseminated as a video, including advertisements on television and videos disseminated over the Internet, shall include the disclosures required by Sections 84502 and 84503 at the beginning or end of the advertisement.

(b) The disclosure required by subdivision (a) shall be written and displayed for at least five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(1) The written disclosure required by subdivision (a) shall appear on a solid black background on the entire bottom one-third of the television or video display screen, or bottom one-fourth of the screen if the committee does not have or is otherwise not required to list top contributors, and shall be in a contrasting color in Arial equivalent type, and the type size for the smallest letters in the written disclosure shall be 4 percent of the height of the television or video display screen. The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. All disclosure text shall be centered horizontally in the disclosure area. If there are any top contributors, the written disclosures shall be underlined in a manner clearly visible to the average viewer, except for the names of the top contributors, if any.

(2) The name of the top contributor shall not have its type condensed or have the spacing between characters reduced to be narrower than a normal non-condensed Arial equivalent type, unless doing so is necessary to keep the

name of the top contributor from exceeding the width of screen.

(c) An advertisement that is an independent expenditure supporting or opposing a candidate shall include the appropriate statement from Section 84506.5 in the solid black background described in paragraph (1) of subdivision (b) below all other text required to appear in that area in a contrasting color and in Arial equivalent type no less than 2.5 percent of the height of the television or video display screen. If including this statement causes the disclosures to exceed one-third of the television or video display screen, then it may instead be printed immediately above the background with sufficient contrast that is easily readable by the average viewer.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.2. Disclaimer; Print Ads.

(a) A print advertisement paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, displayed as follows:

(1) The disclosure area shall have a solid white background and shall be in a printed or drawn box on the bottom of at least one page that is set apart from any other printed matter. All text in the disclosure area shall be in contrasting color and centered horizontally in the disclosure area.

(2) The text shall be in an Arial equivalent type with a type size of at least 10 point for printed advertisements designed to be individually distributed, including, but not limited to, mailers, flyers, and door hangers.

(3) The top of the disclosure area shall include the disclosure required by Sections 84502 and 84503. The text of the disclosure shall be underlined if there are any top contributors.

(4) The top contributors, if any, shall each be disclosed on a separate horizontal line separate from any other text, in descending order, beginning with the top contributor who made the largest cumulative contributions on the first line. The name of each of the top contributors shall be centered horizontally in the disclosure area and shall not be underlined. The names of the top contributors shall not be printed in a type that is condensed to be narrower than a normal non-condensed Arial equivalent type.

(5) A committee subject to Section 84506.5 shall include the disclosure required by Section 84506.5, which shall be underlined and on a separate line below any of the top contributors.

(6) A committee subject to Section 84223 shall next include the text "Funding Details At [insert Commission Internet Web site]," which shall be underlined and printed on a line separate from any other text.

(b) Notwithstanding paragraphs (2) and (4) of subdivision (a), the disclosures required by Sections 84502, 84503, and 84506.5 on a printed advertisement that is larger than

those designed to be individually distributed, including, but not limited to, yard signs or billboards, shall be in Arial equivalent type with a total height of at least 5 percent of the height of the advertisement, and printed on a solid background with sufficient contrast that is easily readable by the average viewer. The text may be adjusted so it does not appear on separate horizontal lines, with the top contributors separated by a comma.

(c) Notwithstanding the definition of “top contributors” in paragraph (1) of subdivision (c) of Section 84501, newspaper, magazine, or other public print advertisements that are 20 square inches or less shall be required to disclose only the single top contributor of fifty thousand dollars (\$50,000) or more.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.3. Disclaimer; Electronic Media Ads.

(a) An electronic media advertisement, other than an email message or Internet Web site, paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall comply with both of the following:

(1) Include the text “Who funded this ad?” in a contrasting color and a font size that is easily readable by the average viewer.

(2) The text shall be a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font.

(b) Notwithstanding subdivision (a), the text required by paragraph (1) of subdivision (a) is not required if including the language would be impracticable. In such circumstances the advertisement need only include a hyperlink to an Internet Web site containing the disclosures required by Sections 84502, 84503, and 84506.5.

(c) Notwithstanding subdivisions (a) and (b), an email message or Internet Web site paid for by a committee, other than a political party committee or a candidate controlled committee established for an elective office of the controlling candidate, shall include the disclosures required by Sections 84502, 84503, and 84506.5, printed clearly and legibly in a contrasting color and in no less than 8-point font at the top or bottom of the email message and every publicly accessible page of the Internet Web site.

(d) An Internet Web site that is hyperlinked as provided for in paragraph (2) of subdivision (a) shall remain online and available to the public until 30 days after the date of the election in which the candidate or ballot measure supported or opposed by the advertisement was voted upon.

(e) An advertisement made via a form of electronic media that is audio only and therefore cannot include either of the disclaimers in subdivision (a) shall comply with the disclaimer requirements for radio advertisements in Section 84504.

(f) An advertisement made via a form of electronic media that allows users to engage in discourse and post content, or any other type of social media, shall only be required to include the disclosures required by Sections 84502, 84503, and 84506.5 in a contrasting color and in no less than 8-point font on the committee’s profile, landing page, or similar location and shall not be required to include the disclaimer required by subdivision (a) on each individual post, comment, or other similar communication.

(g) The disclaimer required by this section does not apply to advertisements made via social media for which the only expense or cost of the communication is compensated staff time unless the social media account where the content is posted was created only for the purpose of advertisements governed by this title.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777; amended by Stats. 2018, Ch. 92.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.4. Disclaimer; Radio and Television Ads; Political Parties and Candidates.

A radio or television advertisement that is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate, and that does not support or oppose a ballot measure and is not paid for by an independent expenditure, shall include the disclosure required by Section 84502 subject to the following requirements:

(a) In a radio advertisement, the words shall be included at the beginning or end of the advertisement and read in a clearly spoken manner and in a pitch and tone substantially similar to the rest of the advertisement.

(b) In a television advertisement, the words shall appear in writing for at least four seconds with letters in a type size that is greater than or equal to 4 percent of the height of the screen.

History: Added by Stats. 2017, Ch. 546

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84504.5. Disclaimer; Independent Expenditure Ads; Political Parties and Candidates.

An advertisement that is an independent expenditure and paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosures required by Sections 84502 and 84506.5. An advertisement that supports or opposes a ballot measure and is paid for by a political party or a candidate controlled committee established for an elective office of the controlling candidate shall include the disclosure required by Section 84502. A disclosure that is included in an advertisement pursuant to this section is subject to the following requirements:

(a) A radio or telephone advertisement shall include the required disclosures at the beginning or end of the advertisement and be read in a clearly spoken manner and in a

pitch and tone substantially similar to the rest of the advertisement, and shall last no less than three seconds.

(b) A video advertisement, including television and videos disseminated over the Internet, shall include the required disclosures in writing at the beginning or end of the advertisement in a text that is of sufficient size to be readily legible to an average viewer and in a color that has a reasonable degree of contrast with the background of the advertisement for at least four seconds. The required disclosure must also be spoken during the advertisement if the written disclosure appears for less than five seconds of a broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

(c)(1) A print advertisement shall include the required disclosures in no less than 10-point font and in a color that has a reasonable degree of contrast with the background of the advertisement.

(2) Notwithstanding paragraph (1), the required disclosures on a print advertisement that is larger than those designed to be individually distributed, such as a yard sign or billboard, shall in total constitute no less than 5 percent of the total height of the advertisement and shall appear in a color that has a reasonable degree of contrast with the background of the advertisement.

(d) An electronic media advertisement shall include the disclosures required by Section 84504.3.

History: Added by Stats. 2017, Ch. 546; amended by Stats. 2018, Ch. 777.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Section 18450.1

§ 84505. Avoidance of Disclosure.

(a) In addition to the requirements of Sections 84502, 84503, and 84506.5, the committee placing the advertisement or persons acting in concert with that committee shall be prohibited from creating or using a noncandidate-controlled committee or a nonsponsored committee to avoid, or that results in the avoidance of, the disclosure of any individual, industry, business entity, controlled committee, or sponsored committee as a top contributor.

(b) Written disclosures required by Sections 84503 and 84506.5 shall not appear in all capital letters, except that capital letters shall be permitted for the beginning of a sentence, the beginning of a proper name or location, or as otherwise required by conventions of the English language.

History: Added by Proposition 208 of the November 1996 Statewide General Election; amended by Stats. 2007, Ch. 495; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84506.5. Disclaimer; Independent Expenditure Ads; Not Authorized by Candidate.

An advertisement supporting or opposing a candidate that is paid for by an independent expenditure shall include a statement that it was not authorized by a candidate or a committee controlled by a candidate. If the advertisement was authorized or paid for by a candidate for another office, the expenditure shall instead include a statement that "This advertisement was not authorized or paid for by a candidate

for this office or a committee controlled by a candidate for this office."

History: Added by Stats. 2007, Ch. 495; amended by Stats. 2015, Ch. 747, effective October 10, 2015; amended by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1

§ 84509. Amended Disclaimers.

If the order of top contributors required to be disclosed pursuant to this article changes or a new contributor qualifies as a top contributor, the disclosure in the advertisement shall be updated as follows:

(a) A television, radio, telephone, electronic billboard, or other electronic media advertisement shall be updated to reflect the new top contributors within five business days. A committee shall be deemed to have complied with this subdivision if the amended advertisement is delivered, containing a request that the advertisement immediately be replaced, to all affected broadcast stations or other locations where the advertisement is placed no later than the fifth business day.

(b) A print media advertisement, including nonelectronic billboards, shall be updated to reflect the new top contributors before placing a new or modified order for additional printing of the advertisement.

History: Added by Proposition 208 of the November 1996 Statewide General Election; repealed and added by Stats. 2017, Ch. 546.

References at the time of publication (see page 2):

Regulations: 2 Cal. Code of Regs. Sections 18421.2, 18450.1, 18450.5

§ 84510. Remedies for Article Violations; Civil Action; Fines.

(a)(1) In addition to the remedies provided for in Chapter 11 (commencing with Section 91000) of this title, any person who violates Section 84503 or 84506.5 is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(2) Notwithstanding paragraph (1), any person who intentionally violates any provision of Sections 84504 to 84504.3, inclusive, or Section 84504.5, for the purpose of avoiding disclosure is liable in a civil or administrative action brought by the Commission or any person for a fine up to three times the cost of the advertisement, including placement costs.

(b) The remedies provided in subdivision (a) shall also apply to any person who purposely causes any other person to violate any of the sections described in paragraph (1) or (2) of subdivision (a) or who aids and abets any other person in a violation.

(c) If a judgment is entered against the defendant or defendants in an action brought under this section, the plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited in the General Fund of the state. In an action brought by a local civil prosecutor, 50 percent shall be deposited in the account of the agency bringing the action and 50 percent shall be paid to the General Fund of the state.



CITY OF OAKLAND

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Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

Gene Hazard

Re: PEC Complaint No. 19-19; Dismissal Letter

Dear Mr. Hazard:

On November 12, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (#19-19) alleging that each member of the Oakland City Council violated the Oakland Government Ethics Act (GEA) when they approved the grant of funding from the City Budget to Oakland Promise during the following budget cycles: 2016-17, 2017-18, 2018-19 and 2019-20. The complainant asserts that Oakland Promise was not a State recognized non-profit organization until 2019 and that Oakland Promise did not have the appropriate documentation/registration (Certificate of Agreement or Certificate of Merger) with the State to merge with East Bay College Fund (EBCF), a State recognized non-profit organization. In the absence of being a certified non-profit or merger with the EBCF, the complainant alleged that any and all allocations of funding were unlawful. After review of your complaint and the law, we have determined that the allegation you set forth does not constitute a violation of the Government Ethics Act and therefore are dismissing the complaint.

On November 19, 2019 the City of Oakland's Auditor's office released a report on its investigation into Oakland Promise. The investigation found the following:

“In 2014, Oakland Promise formed as a partnership between the Oakland Unified School District (OUSD) and the East Bay College Fund (EBCF) to improve educational and career prospects for Oakland youth and families. The East Bay College Fund (EBCF) was a nonprofit organization.

In 2015, the Mayor's Office joined OUSD and EBCF, and assumed a leadership role in collaborating with these organizations, including the Oakland Public Education Fund (Ed Fund). The Mayor's Office publicly launched the Oakland Promise multi-agency partnership in January 2016. The Oakland Public Education

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PEC Complaint No. 19-19; Dismissal Letter
Page 2

Fund (Ed Fund) is a tax-exempt nonprofit organization that raises money for Oakland public schools.

For several years, Oakland Promise existed as a partnership of organizations that individually and collaboratively developed programs toward the shared goal of tripling the number of low-income Oakland public school graduates who complete a post-secondary education. In 2016, the partnership gained more organizational capacity when one of the partner organizations – the Ed Fund – lent its status as an established nonprofit organization to set up a restricted account to receive donations and make payments on behalf of Oakland Promise, an unincorporated association. This fiscal sponsorship arrangement enabled Oakland Promise to obtain funding to staff and administer its programs. On June 27, 2019, the California Secretary of State filed articles of incorporation designating Oakland Promise as an independent nonprofit organization.”

The City Auditor’s investigation concluded that:

“The City’s financial contributions to Oakland Promise – though complex and hard to follow – were neither prohibited nor irregular. The City Council authorized \$1,518,054 of financial contributions to Oakland Promise through the Oakland Fund for Children and Youth (OFCY) for the ‘Brilliant Baby’ and ‘College and Career Access and Success’ programs. As of the date of this report (November 19, 2019), the City paid \$1,117,011 toward these Oakland Promise programs. • The City Council has authorized \$2,150,000 from the City’s General-Purpose Fund to Oakland Promise’s ‘K2College’ program. As of the date of this report, none of the authorized funding for Oakland Promise’s ‘K2College’ program has been paid.”

The Oakland Government Ethics Act section O.M.C. 2.25.060 (A) (1) prohibits a Public Servant from using, permitting others to use public resources for a campaign activity or for personal or non-city purpose not authorized by law. Further, section O.M.C. 2.25.060 (A)(2) prohibits a Public Servant from using his or her position or the power or authority of his/her office or position, in a manner intended to induce or coerce any person to provide any private advantage, benefit, or economic gain to the City Public Servant or candidate or any other person.

On these facts, even though the “Fiscal Sponsorship Agreement” between Oakland Promise and the Ed Fund was complicated, the complaint provides no information or evidence that members of the City Council, by approving funds to the Ed Fund for the purpose of assisting an Oakland Promise program, was for personal or non-city purposes. Further, the complainant provides no information that any particular councilmember used their position to coerce or induce a person to provide a private advantage, benefit or economic gain to the councilmember or any other person.

Because the allegations in your complaint, if true, do not constitute a violation of the Government Ethics Act, we are dismissing your complaint pursuant to our Complaint Procedures. The PEC’s Complaint Procedures are available on the PEC’s website, and a copy has been included with this

ATTACHMENT 16

PEC Complaint No. 19-19; Dismissal Letter
Page 2

letter for your reference. I am also including a complete copy of the Oakland City Auditor's Report on Oakland Promise, issued in November 2019. In the Auditor's Report, the City Auditor explains the complicated but lawful Fiscal Sponsorship Agreement.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

A large black rectangular redaction box covers the signature area. Above the box, there are faint, handwritten scribbles that appear to be the initials 'J.S.'.

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Rebecca Kaplan
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Kaplan,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 1 2019

Staff Initials: 19-19
Complaint #: 04

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
- Oakland Campaign Reform Act
- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
- Oakland Government Ethics Act
- Not sure which specific law, ordinance or regulations apply

ATTACHMENT 16

ATTACHMENT 16

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:
Past and Present Councilmembers since 2016 through the present

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.
While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government
Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov
Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612
Phone: (510) 238-3593
Fax: (510) 238-3315
Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Dan Kalb
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Kalb,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | **Public Ethics Commission**
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials:
Complaint #:

19-19
au

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
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- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
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Members of the Oakland City Council

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Past and Present Councilmembers since 2016 through the present

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While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Larry Reid
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Reid,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

A handwritten signature in black ink, appearing to be "Kellie Johnson". The signature is written over a horizontal line that extends across the page.

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, | Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19
Complaint #: *at*

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act
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Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

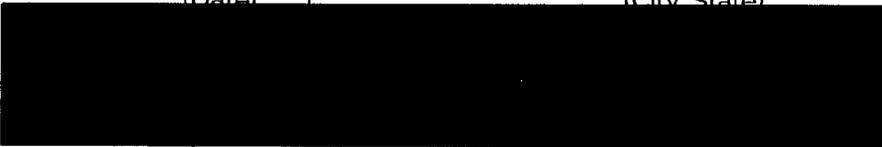
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Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government
Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov
Mail: Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612
Phone: (510) 238-3593
Fax: (510) 238-3315
Website: www.oaklandca.gov/pec

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NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Nikki Fortunato Bas
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Fortunato Bas,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall | Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials:
Complaint #:

19-19
AW

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

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Members of the Oakland City Council

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Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019

(Date)

at Oakland, California

(City, State)

Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Lynette Gibson McElhaney
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

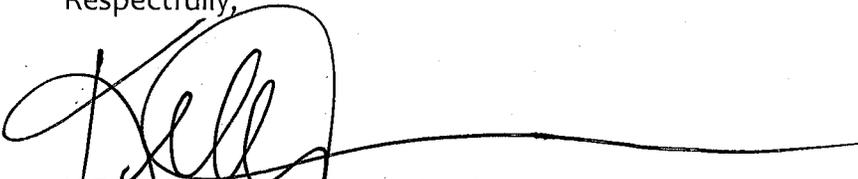
November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Gibson McElhaney,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

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For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials:
Complaint #:

19-19
au

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Name: Gene Hazzard Street Address: [REDACTED]
City: Oakland State: ca. Zip Code: 94610
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

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Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)

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Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Loren Taylor
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Taylor,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

ATTACHMENT 16

ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: la-19
Complaint #: 00

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

If you would like to submit a complaint that is within the Commission's jurisdiction, please complete this form, which becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this complaint will be made available to the persons identified in the allegations below. For more information about the Commission's complaint process, see the Commission's Complaint Procedures.

A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

An Informal Complaint is a complaint that does not meet all the requirements of a Formal Complaint. Informal Complaints, such as anonymous complaints and complaints without all of the information required above do not require action or notification to the complainant upon final action. Commission staff reviews informal complaints and can determine whether the complaint should move forward to investigation. Informal tips can be submitted to Commission staff by phone, email, or fax.

Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Gene Hazzard Street Address: [REDACTED]
City: Oakland State: ca. Zip Code: 94610
Email: [REDACTED] Phone: _____

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act.
- Oakland Campaign Reform Act.
- Oakland Limited Public Financing Act.
- Oakland Lobbyist Registration Act.
- Oakland False Endorsement in Campaign Literature Act.
- Oakland Government Ethics Act.
- Not sure which specific law, ordinance or regulations apply.

ATTACHMENT 16

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

- **Name of the person or persons you are alleging committed a violation.** Please include any known address, phone number, email address, title, employment address, etc.:
Members of the Oakland City Council

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

Members of the Oakland City Council has approved illegal budget amounts to OAKLAND PROMISE during the following

Budget Cycles for 16-17, 17-18, 18-19, and 19-20. OAKLAND PROMISE has not produced any documentation that

demonstrates tha OP is a 501(c)3, Public Benefit Corporation nor have OP provided any 990 Tax Forms/and no EIN.

- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:

Past and Present Councilmembers since 2016 through the present

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.

While Oakland Promise states they have merged with EAST BAY COLLEGE FUND there is no documentation of a

Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Sheng Thao
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

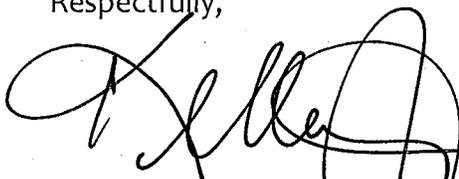
November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Thao,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

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ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: *19-19*
Complaint #: *02*

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Contact Information of Person Making Complaint (This information will be available to the public.)

Name: **Gene Hazzard** Street Address: [REDACTED]
City: ^{Oakland} State: **ca.** Zip Code: **94610**
Email: [REDACTED] Phone: _____

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- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

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Past and Present Councilmembers since 2016 through the present

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Certificate of Agreement/Merger required by the Office of the State Attorney Generals Office pursuant to Government

Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland, California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Noel Gallo
Councilmember
City Hall
1 Frank H Ogawa Plaza
2nd Floor
Oakland, CA 94612

November 14, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-19

Dear Councilmember Gallo,

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 12, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

A handwritten signature in black ink, appearing to read "Kellie Johnson". The signature is fluid and cursive, with a long horizontal line extending to the right.

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

Attachment: Copy of complaint

Ensuring fairness, openness, honesty, and integrity in City government.

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ATTACHMENT 16

For PEC Staff Use Only



City of Oakland
Public Ethics Commission **FILED**

NOV 19 2019

Staff Initials: 19-19

Complaint #: [Signature]

CITY OF OAKLAND PUBLIC ETHICS COMMISSION

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Email: [Redacted] Phone: _____

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Code 6011

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on 11-12-2019 at Oakland , California
(Date) (City, State)



Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

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Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec

FILED

NOV 12 2019

**CITY OF OAKLAND
PUBLIC ETHICS COMMISSION**



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 11, 2019

Raven Bays



Re: PEC Complaint No. 19-21; Dismissal Letter

Dear Ms. Bays:

On November 26, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (#19-21) alleging that an Oakland City employee with Public Works Department (maintenance/grounds keeping) violated the Oakland Government Ethics Act by engaging in harassing, profane and racially incendiary conduct against you. The alleged conduct does not fall within the PEC's enforcement jurisdiction, and we have therefore dismissed your complaint.

Since the alleged conduct concerns the failure of a City Public Servant to adhere to professional, nondiscriminatory conduct, you may want to contact the City of Oakland's Public Works Department to share your concerns. You can reach the Public Works Department at (510) 238-3961.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,

Kellie Johnson, Enforcement Chief
City of Oakland, Public Ethics Commission

ATTACHMENT 16

ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Will Sandman
Rubicon Point Partners
55 2nd Street, Suite 1900
San Francisco, CA 94105

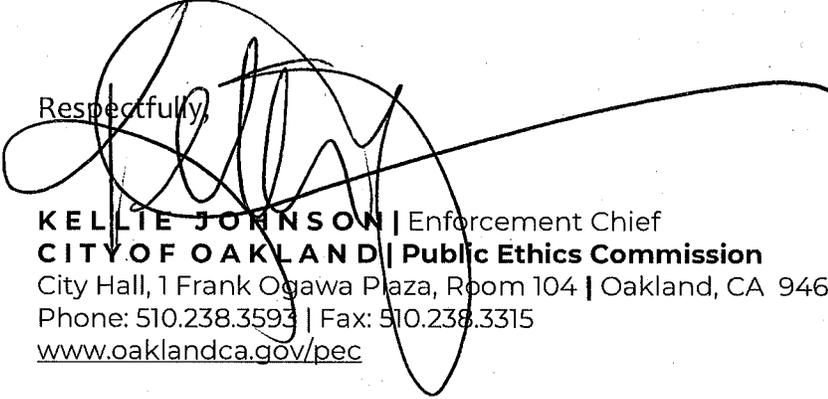
December 3, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-22

Dear Mr. Sandman :

The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 26, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

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ATTACHMENT 16



ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

Mike Rivera
City of Oakland Planning and Building
250 Frank H Ogawa Plaza,
2nd fl. Suite 2114
Oakland, CA 94612

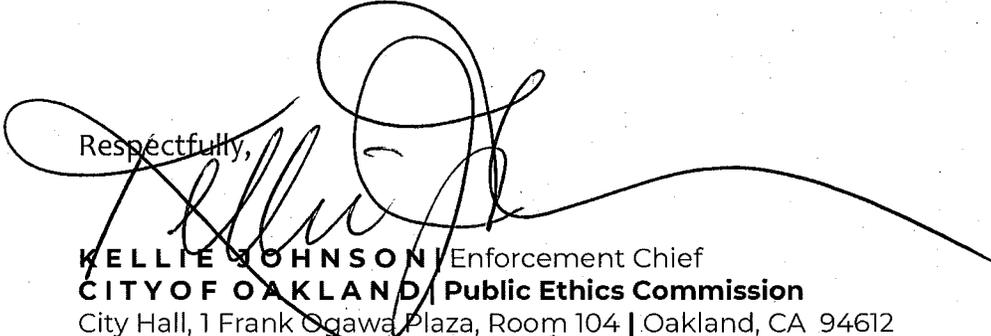
December 3, 2019

Re: City of Oakland Public Ethics Commission Complaint No. 19-22

Dear Mr. Rivera :

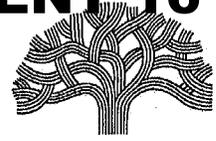
The City of Oakland Public Ethics Commission (PEC) received a complaint against you on November 26, 2019. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,



KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 | Oakland, CA 94612
Phone: 510.238.3593 | Fax: 510.238.3315
www.oaklandca.gov/pec

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CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 13, 2019

Joseph Hornof

Re: PEC Complaint No. 19-22; Dismissal Letter

Dear Mr. Hornof:

On November 26, 2019, the City of Oakland Public Ethics Commission (PEC) received your complaint (19-22) alleging that on November 22, 2019, Mike Rivera, a Public Servant with the City of Oakland Planning and Building Department violated an Oakland Public Meeting ordinance when he emailed you and others a notice of a “Public Hearing” for an appeal to the City Council scheduled to occur on December 10, 2019 at 5:30 p.m. The complaint further alleged that the Public Meeting notice was false and misleading because, in fact, the appeal was not scheduled on the City’s Rules and Legislative Committee Agenda. After reviewing your complaint and the law, we have determined that the allegation you set forth does not constitute a violation of the City of Oakland Sunshine Act or the Brown Act and therefore are dismissing the complaint.

The Oakland Planning Code provides, “the Oakland City Council, within 10 days after the date of a decision by the City Planning Commission on an application for approval of a preliminary or final development plan, or for modification or amendment of any such plan, an appeal from such decision may be taken to the City council by the applicant, or any other interested party. Upon receipt of such appeal, the Council shall set the date for consideration thereof.”¹

Our investigation found that the Planning Commission’s practice has been to post a tentative date or a date in which they anticipate the Rules and Legislation Committee would host an appeal on the agenda. In this case, the Planning Commission submitted a written request to the Rules Committee on November 18, 2019, for a hearing on December 10, 2019. The Rules Committee agenzied the consideration of the appeal on November 21, 2019. Subsequently, the Rules Committee cancelled that meeting.

A review of the pre-posted Rules Committee Agenda for November 21, 2019, did indicate that item number three (3) on the Rules Committee Agenda was a “Motion to direct staff to prepare a

¹ Oakland Planning Code 17.140.070

ATTACHMENT 16

PEC Complaint No. 19-22; Dismissal Letter
Page 2

resolution for future City consideration to uphold the appeal, on the December 10, 2019, Special City Council Agenda as a Public Hearing.” Unfortunately, since the Rules Committee was cancelled on that day, the hearing did not get approved for the December 10, 2019, City Council Agenda.

Although the Planning and Building Department could have done a better job at notifying you and any interested party that the date posted was an anticipated date and that it is subject to change by the Rules Committee, neither the department nor its employees have control over the Rules and Legislation Committee. In this case, the cancellation of the consideration of the motion for appeal occurred as a result of a decision of the Rules committee, not the Planning Department or Mr. Rivera.

Because your complaint failed to establish a violation to the Oakland Sunshine Ordinance, we must dismiss your complaint pursuant to our Complaint Procedures. The PEC’s Complaint Procedures are available on the PEC’s website, and a copy has been included with this letter for your reference. I am also including a copy of the “Request to Schedule Agenda Item” and the “pre-post agenda” that was made in this case, for your information.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on January 6, 2020, at 6:30 p.m. in Hearing Room 1 of Oakland City Hall (1 Frank Ogawa Plaza). The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to attend that meeting and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,


Kellie F. Johnson, Enforcement Chief

ATTACHMENT 16

CITY OF OAKLAND MEMORANDUM

DATE: November 18, 2019
TO: Rules & Legislation Committee
ATTN: City Administrator/Assistant City Administrator
FROM: Mike Rivera
PHONE NO.: (510) 238-6417
DEPT: Planning and Building Bureau
SUBJECT: REQUEST TO SCHEDULE AGENDA ITEM

(Times New Roman, Size 12, Capitalize Each Word, Do Not Use Abbreviations)

Subject: 1750 BROADWAY PROJECT (APPEAL BY RESIDENTS OF 1770 BROADWAY)

Recommendation: ADOPT ONE OF THE FOLLOWING THREE OPTIONS:

1) A RESOLUTION DENYING THE APPEAL BY THE RESIDENTS OF 1770 BROADWAY LED BY JOSEPH HORNOF (APL19010) AND UPHOLDING THE PLANNING COMMISSION'S ENVIRONMENTAL DETERMINATION AND APPROVAL OF A MAJOR CONDITIONAL USE PERMIT FOR BUILDING CONSTRUCTION OVER 200,000 SQUARE FEET AND REGULAR DESIGN REVIEW FOR THE PROJECT LOCATED AT 1750 BROAWAY, OAKLAND CA (PLN18369); OR

PROVIDED THE CITY COUNCIL CAN MAKE THE APPROPRIATE FINDINGS:

2) A MOTION TO DIRECT STAFF TO PREPARE A RESOLUTION FOR FUTURE CITY COUNCIL CONSIDERATION TO DENY THE APPEAL WITH ADDITIONAL CONDITIONS; OR
3) A MOTION TO DIRECT STAFF TO PREPARE A RESOLUTION FOR FUTURE CITY COUNCIL CONSIDERATION TO UPHOLD THE APPEAL

SCHEDULING RECOMMENDATION:

Meeting Body:

A. Committees:

Meeting Date:

Finance Public Works Community & Economic Development

Life Enrichment Public Safety Rules & Legislation

B. City Council:

Meeting Date: December 10, 2019

City Council Specify: Ceremonial Consent Non-Consent

Redevelopment Agency

PUBLIC HEARING REQUIRED: Yes No **Meeting Date:** December 10, 2019

(For City Employees Only)

ATTACHMENT 16

Presenter: Mike Rivera, Planner II PowerPoint Presentation: No PowerPoint Time Requested: _____

Is there a statutory, regulatory, financial or grant deadline? No Specify: _____

Is a staff report required/requested? Yes What is the fiscal impact on the City/Agency? None

If the ten-day (Sunshine Ordinance) agenda deadline cannot be met, please indicate reason:

Item is an **emergency**. To place item on Supplemental (72-hour) agenda requires majority vote of Rules Comm. that emergency exists, based on facts placed in the record related to crippling disaster, work stoppage or other activity which severely impacts public health and/or safety.

Item is **urgent**. To place item on Supplemental (72-hour) agenda requires 2/3 vote of Rules Comm. based on facts placed in the record that the need to take immediate action came to the attention of the local body after the 10-day agenda was posted **AND** that the immediate action:

is required to avoid a substantial adverse impact that would occur if action was deferred to a subsequent special or regular meeting;

relates to federal or state legislation;

relates to ceremonial or commendatory item.

ATTACHMENT 16

Johnson, Kellie

Subject: FW: 1750 Broadway appeal

Here is a snip from the Rules Committee agenda for November 21, 2019, demonstrating that the appeals were intended to be considered at that meeting for placement on the 12/10/19 City Council agenda:

Subject: 1750 Broadway, Appeal By East Bay Residents For Responsible Development

From: Planning And Building Department

Recommendation: Adopt One Of The Following Three Options:

1) A Resolution Denying The Appeal (APL 19013) By East Bay Residents For Responsible Development (EBRD) Led By Adams Broderick Joseph & Cardoso And Upholding The Planning Commission's Environmental Determination And Approval Of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland Ca (PLN18369); OR
18-2484

Provided The City Council Can Make The Appropriate Findings:

2) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Deny The Appeal With Additional Conditions; OR
18-2485

City of Oakland

Page 11

Revised on 11/20/2019 7:11:09PM

Rules & Legislation Committee

Meeting Agenda -
SUPPLEMENTAL

November 21, 2019

3) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Uphold The Appeal, On The December 10, 2019 Special City Council Agenda As A Public Hearing
18-2486

Subject: 1750 Broadway Project (Appeal By Residents Of 1770 Broadway)
From: Planning And Building Department
Recommendation: Adopt One Of The Following Three Options:

1) A Resolution Denying The Appeal By The Residents Of 1770 Broadway Led By Joseph Horroff (APL 19010) And Upholding The Planning Commission's Environmental Determination And Approval Of A Major Conditional Use Permit For Building Construction Over 200,000 Square Feet And Regular Design Review For The Project Located At 1750 Broadway, Oakland Ca (PLN18369); OR
18-2490

Provided The City Council Can Make The Appropriate Findings:

2) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Deny The Appeal With Additional Conditions; OR
18-2491

3) A Motion To Direct Staff To Prepare A Resolution For Future City Council Consideration To Uphold The Appeal, On The December 10, 2019 Special City Council Agenda As A Public Hearing
18-2492

Of course, the 11/21/19 Rules Committee meeting was cancelled (as noted on Legistar).