



## FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811

November 1, 2017

Monterey Peninsula Regional Park District  
c/o Gary Winuk  
Kaufman Legal Group  
1201 K Street, Suite 800  
Sacramento, CA 95814

Via email ONLY:  
gwinuk@kaufmanlegalgroup.com

**RE: Advisory Letter: Monterey Peninsula Regional Park District; FPPC No. 16/19853**

Dear Mr. Winuk:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").<sup>1</sup> This letter is in response to a complaint alleging that the Monterey Peninsula Regional Park District ("Park District") sent campaign related mailings regarding Measure E at public expense in July 2016, in violation of Section 89001 and Regulation 18901.1. An examination of that mailer and supporting documents led to the Enforcement Division's decision to close its file on this matter without prosecution.

The Act prohibits sending newsletter or other mass mailing at public expense if the mailings are campaign materials.<sup>2</sup> Specifically, newsletters and other mass mailing are prohibited if (1) the item is a tangible item; (2) the item expressly advocates the qualification, passage, or defeat of a clearly identified measure, or unambiguously urges a particular result in an election; (3) public moneys are paid to distribute the item, or to prepare the item, for more than \$50, with the intent of sending the item; and (4) more than 200 substantially similar items are sent during the course of an election.<sup>3</sup> This prohibition limits the public subsidy of political campaigns, which would grant an unfair advantage to governmental bodies that desire to use their vast resources in pursuit of favorable election results.

A mailer unambiguously urges a particular result in two ways: (1) when it clearly is campaign material or campaign activity, such as bumper stickers, billboards, door-to-door canvassing, posters, advertising "floats," or mass media advertising;<sup>4</sup> or (2) when the style, tenor,

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

<sup>2</sup> Section 89001.

<sup>3</sup> Regulation 18901.1, subd. (a).

<sup>4</sup> *Stanson v. Mott* (1976) 17 Cal.3d 206, 221.

and timing of the communication can be reasonably characterized as campaign material and not a fair presentation of facts serving only an informational purpose.<sup>5</sup> Some factors to consider when assessing style, tenor, and timing include, but are not limited to whether the communication is (1) funded from a special appropriation related to the measure as opposed to a general appropriation; (2) consistent with the normal communication pattern for the agency; (3) consistent with the style of other communications issued by the agency; and (4) using inflammatory or argumentative language.<sup>6</sup>

Our investigation found that your client used public moneys to mail more than 200 mailers to the residents of Monterey County. However, the mailers did not contain express advocacy nor were they clearly campaign material. Also, the mailers were paid with general fund money, not a special appropriation. Furthermore, the mailers did not contain inflammatory or argumentative language. Copies of the Park District's past communications showed that the mailers sent in July 2016 were consistent in style but not within the normal communication pattern for the agency. While this normally would be a cause for concern, we took into consideration that the Park District distributed these mailers approximately four months prior to the election date of November 8, 2016. Given the above, the Enforcement Division cannot conclude the mailers violated the Act's prohibition against campaign mailers at public expense. Therefore, we are closing this matter with this advisory letter.

Although we are closing our file on this matter, please be advised of the provisions in the Act and regulations regarding campaign related mailings sent at public expense. Should you have any questions regarding this letter, please feel free to contact me at (916) 322-7771 or [ryang@fppc.ca.gov](mailto:ryang@fppc.ca.gov).

Sincerely,



Ruth Yang  
Commission Counsel  
Enforcement Division

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<sup>5</sup> *Stanson* at p. 222; *Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 27.

<sup>6</sup> Regulation 18901.1, subd. (e).