

State of California



Fair Political Practices Commission

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Technical Assistance •• Administration •• Executive/Legal •• Enforcement
(916) 322-3662 322-5660 322-5901 322-6441

March 21, 1984

Cynthia Grace
West Hollywood Incorporation Committee
P.O. Box 691476
West Hollywood, CA 90069

Re: Advice Letter No. A-84-051²

Dear Ms. Grace:

Thank you for your request for advice on the campaign reporting provisions of the Political Reform Act.

FACTS

You are the Treasurer for the West Hollywood Incorporation Committee (WHIC). WHIC, in an effort to incorporate West Hollywood, has filed an application with the Local Agency Formation Commission (LAFCO). LAFCO will hold hearings and approve or disapprove the application. If it is approved, the issue will go before the Board of Supervisors which will decide whether to submit the matter to the voters. WHIC has filed its Statement of Organization and one campaign statement.

QUESTION PRESENTED

What are WHIC's campaign filing requirements?

DISCUSSION

Although WHIC has filed one campaign statement, it actually has no reporting responsibilities until the incorporation proposal becomes a "measure." This will occur when the Board of Supervisors orders the proposal placed on the ballot. (See the enclosed copy of the Fontana Opinion, No. 75-162, February 4, 1976.) In the meantime, you have properly filed WHIC's Statement of Organization and you should maintain records of receipts and expenditures for WHIC's future campaign reporting responsibilities.

Cynthia Grace
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Once the incorporation proposal becomes a "measure," WHIC will be a committee primarily formed to support the measure. WHIC's filing deadline will depend upon the date of the election. (See the "1984 Information Manual on the Campaign Disclosure Provisions of the Political Reform Act," pgs. 6-9, Sections B-D.) The first campaign statement filed will cover the period beginning with the day after the closing date of the last statement filed by your committee. It will include all contributions received, and expenditures made, for the purpose of influencing or attempting to influence the action of the voters for the passage of the measure, even if the contributions and expenditures occurred prior to the proposal becoming a "measure." (See the enclosed copies of 2 Cal. Adm. Code Sections 18215 and 18225.) You will not be required to report any receipts or payments that were made for the purpose of influencing the LAFCO or the Board of Supervisors.

If the Board of Supervisors disapproves the request for incorporation and WHIC decides to attempt to qualify the proposal as an initiative, please contact our office again, as WHIC will incur additional reporting responsibilities.

If you have any additional questions, please feel free to contact me at (916) 322-5901.

Very truly yours,

Janis Shank McLean
Janis Shank McLean
Counsel
Legal Division

JSM:plh
Enclosure

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West Hollywood

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March Fong Eu
Secretary of State
1230 J St.
Political Reform Division
Sacramento, Calif.,

March 1, 1984
ID # 840252

Dear Secretary of State,

I am writing on behalf of the West Hollywood Incorporation Committee, of which I am Treasurer, to request clarification with respect to the filing dates for campaign statements. Our statement of organization (form 410) was filed on Feb. 2, 1984. Our first campaign statement (form 420) was filed on Feb. 9; it covered the period from the first reportable transaction to the time of qualification.

The 1983 Information Manual, published by the FPPC, states, at page 9, Section E, that committees formed to qualify a measure for the ballot must file a campaign statement either 35 days after the deadline for filing petitions, or 35 days after the notice of qualification.

WHIC is seeking to incorporate West Hollywood under procedures set forth in the Municipal Organization Act. Our application to the Local Agency Formation Commission (LAFCC) includes a petition. (Govt. Code 35100) However, the petition alone, even if sufficient, does not automatically qualify the measure for the ballot.

There is no deadline for the submission of the petition, either in state statute, or in the administrative procedures of the local agency. Furthermore, we are not, by virtue of the application, automatically guaranteed an election date.

Lengthy hearings will be held before LAFCC and the Board of Supervisors. (Attached for your information is a synopsis of the statutory time frame for holding these proceedings.) LAFCC has broad powers with respect to whether to approve or deny the application. The Board of Supervisors has discretion as to whether to submit the question to the voters for confirmation. An election date, if any, will be determined by the sequence of hearing dates before LAFCC and the Board of Supervisors. There is no "notice of qualification." However, the order of confirmation by the Board of Supervisors (Govt. Code 35257) may be roughly analogous.

Since WHIC does not quite fall into the five categories of committees described in your manual, please advise me when I should file future campaign statements.

Yours truly,

(2/2) 222-1111
322-1111
Cynthia Grace
Attorney at Law

PETITION

Circulation period	6 mos. from date of first signature	G.C. 35116
Submittal to LAFCO	Within 60 days from date of last signature	G.C. 35116
Examination by LAFCO Issuance of certificate of sufficiency	Within 30 days from date petition is filed	G.C. 35118
If insufficient:	Have 15 days from date of certificate of insufficiency in which to file supplemental petition; and within 10 days after receiving supplemental petition, LAFCO must examine and certify results.	G.C. 35118

LAFCO PROCEEDINGS

Hearing	must be within 90 days from date "certificate of filing" is issued (LAFCO meets 2nd & 4th Weds. each month)	G.C. 54793
Notice	Must be published, posted and mailed at least 15 days prior to date of hearing	G.C. 54793
Continuance	Hearing can be continued up to 70 days from original date of hearing.	G.C. 54797
Determination	Within 35 days after conclusion of hearing, LAFCO must adopt resolution making its determination.	G.C. 54797

(If denied by LAFCO, proceedings go no further. No new proposal involving any of the same territory may be filed with LAFCO for at least one year from date of disapproval without the consent of the commission. G.C. 54799)

BOARD OF SUPERVISORS

Resolution	Within 35 days from date of LAFCO approval, Board must adopt resolution initiating proceedings & setting date for hearing	G.C. 35201
Hearing	Can't be less than 30 nor more than 45 days from date of resolution initiating proceedings	G.C. 35250
Notice	Must be mailed, published and posted at least 15 days prior to hearing	G. C. 35251-52
Continuance	Hearing can be continued up to 60 days from original hearing date	G.C. 35253
Determinations	Not more than 30 days after conclusion of hearing, Board must adopt resolution either terminating proceedings (if 50% or more voter protest) or calling election (if less than 50% voter protest).	G. C. 35257
Election	Resolution calling election must be adopted at least 88 days prior to date of election.	E.C. 23302

Regular election dates	2nd Tues., April of each even-numbered year; 1st Tues. after 1st Mon., March of each odd-numbered year; 1st Tues. after 1st Mon. June each year; and 1st Tues. after 1st Mon. November each year.	E. C. 2500
Election results	Registrar shall prepare certified statement of results of the election & submit it to the Board within 28 days of the election.	E.C. 17088
Final Resolution*	After canvass of election returns, Board must adopt resolution either terminating proceedings (if majority vote against) or confirming its order of incorporation (if majority favor).	G.C. 35261-63

COMPLETION

Certificate of Completion	If election successful, Board sends LAFCO certified copy of final resolution; LAFCO executes and records Certificate of Completion. Incorporation becomes effective on date of recordation.	G.C. 35354
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(If election fails, no new proposal of the same or substantially the same territory may be filed with LAFCO for at least two years from date of resolution terminating proceedings, unless such provisions are waived by LAFCO. G.C. 35264)

*No time specified in Code.