

January 26, 2012

Marguerite Lawry  
Vice President and Secretary  
Municipal Improvement District  
3085 Stone Road  
Bethel Island, CA 94511-0244

Re: Your Request for Advice  
**Our File No. I-11-240**

Dear Ms. Lawry:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").<sup>1</sup> Please note we base our advice solely on the provisions of the Act. Additionally, because your questions are general in nature, we are treating your request as one for informal assistance.<sup>2</sup>

### QUESTION

What restrictions does the Act put on citizens who are members of an ad-hoc committee associated with the local municipal board in their advocacy for a ballot measure?

### CONCLUSION

The Act does not restrict a citizen from participating in the democratic process as a private citizen. The citizens may not campaign for the ballot measure using public agency funds, and if they spend or receive \$1,000 or more in a calendar year, they may become a committee.

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114, Regulation 18329(c)(3).)

## FACTS

You are the Vice President and Secretary of the Bethel Island Municipal Improvement District Board (“BIMID”). The Board has authorized you to request advice on behalf of a citizen’s committee that works with the Board. The “ad hoc” committee consists of two Board members and six members of the public. The committee collects information regarding the finances and budget of BIMID and offers the information to the Board. BIMID used this information most recently to create an informative brochure regarding the state of the Bethel Island’s budget and what could be done to improve the situation. The citizen committee members are not designated employees or otherwise public officials by virtue of their involvement.

Several citizens, including those who are citizen members of the ad-hoc committee, believe the best way to improve Bethel Island’s budget situation and ability to protect the island from flooding is to pass an initiative regarding a tax increase. These citizens would like to go door to door to inform their neighbors (Bethel Island has 1,050 registered voters) of the need for a property tax increase and the dire consequences of a flood.

The Board and the ad-hoc committee would like to know whether the citizen members of the committee can freely participate in communications with their neighbors as private citizens with concerns about flooding dangers. The citizens would not use and funds from BIMID to accomplish their advocacy, they would not announce they are members of the ad-hoc committee while advocating their position, and they will not use any BIMID funds.

## ANALYSIS

Initially, please note there is no provision in the Act that prevents a private citizen from speaking with his or her community regarding issues that are of interest and import to the community. The Act steps in to regulate certain instances, to require the reporting of campaign funds spent to support or oppose a ballot measure. The Act and case law prohibit a state or local agency from spending public agency funds to campaign for or against a ballot measure.

Regulation 18420.1 states that a state or local government agency may not spend public agency money for a communication that expressly advocates the election or defeat of a clearly identified measure. (Regulation 18420.1(a), copy enclosed). Enclosed for your information are two fact sheets addressing the use of public resources on ballot measure-related activities.

You have explained that the members of the ad-hoc committee are not public officials and will not be spending public money on any of their advocacy for the tax initiative. To the extent that the citizen members are speaking with their community and advocating their position as Bethel Island citizens, the Act does not prohibit the advocacy.

Should these citizens spend or collect \$1,000 or more in a calendar year on the election or defeat of a particular measure, they may qualify as a committee under the Act and be responsible

for reporting and disclosure. (See Section 82013, copy enclosed). We do not have additional information regarding the specifics of the citizens' activities to inform further analysis. If you have further facts you would like to offer, please write in again.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini  
General Counsel

By: Heather M. Rowan  
Counsel, Legal Division

HMR:jgl

Enclosures