



FAIR POLITICAL PRACTICES COMMISSION

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August 18, 2015

Sergio Calderon, Maywood City Clerk
Members of the Maywood City Council
C/O Richard Adams, City Attorney
Jones & Mayer



Warning Letter Re: FPPC No. 14/254, City of Maywood

Dear City Clerk and Members of the City Council:

The Enforcement Division of the Fair Political Practices Commission (the "Commission") enforces the provisions of the Political Reform Act (the "Act").¹ The Enforcement Division has completed a self-initiated investigation into the Office of the City Clerk's ("City Clerk") retention of campaign statements for City of Maywood ("Maywood") elections.

Candidates for elected city offices are required to file campaign statements with the city clerk.² The Act requires city clerks to maintain copies of all campaign statements and reports for at least five years for unsuccessful city candidates, and seven years for winning candidates.³ As the filing officer for a city, city clerks are also required to promptly notify all persons and committees who have failed to file a report or statement, report apparent violations of this title to the Commission, and compile and maintain a list of all reports and statements filed with the clerk.⁴

¹ 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 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 84215, subdivision (d).

³ Section 81009, subdivisions (b) and (c).

⁴ Section 81010, subdivisions (c), (d), and (e).

A central purpose of the Act is the full and truthful disclosure of receipts and expenditures in campaigns so that voters can be fully informed and improper practices can be inhibited. In city elections, the city clerk is the only source for the public to obtain campaign filings. When city clerks fail in their duty to maintain campaign records they deny the public access to important information about who is contributing to a candidate and how that candidate is spending the contributors' money. City clerks also play a central role in ensuring compliance with the Act's filing requirements by notifying candidates of their obligation to file and referring candidates who refuse to file to the Commission for administrative action.

The Enforcement Division found that for the 2011 Maywood general elections the City Clerk had only approximately 20% of the campaign statements on file that the Enforcement Division could verify it should have received during that election. Despite this lack of campaign statements on file, there is no evidence that the City Clerk sent any notices to candidates regarding failure to file statements, or made any non-filer referrals to the Enforcement Division.

Regardless of whether the Maywood City Clerk received a campaign statement and failed to keep it, or a statement was not filed and the City Clerk made no effort to compel the candidate to file, the City Clerk did not fulfill its duties under the Act. This denied the people of Maywood vital information to which they have a legal right. These omissions are violations of the Act for which the City Clerk and Maywood could be liable under the Act for a fine of up to \$5,000 per violation.

Despite the violations detailed above, the Enforcement Division has decided not to seek an administrative fine and is closing this matter with this warning letter. The current City Clerk was not in office in 2011 and the Enforcement Division did not uncover any evidence indicating that he was responsible for missing campaign documents. Also, most of the current city council members and executive staff of Maywood have changed since 2011, when most of the violations occurred. Given the change in leadership, the Enforcement Division has decided that seeking an administrative fine would unnecessarily punish the citizens of Maywood, who were not responsible for the violations and in fact suffered harm as a result of the violations.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the

Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter.

If you need guidance regarding your obligations, please contact the Commission's Technical Assistance Division at 1-866-275-3772 or visit our website at www.fppc.ca.gov. Please contact me at [REDACTED] with any questions you may have regarding this letter.

Sincerely,

[REDACTED]

Dave Bainbridge
Senior Commission Counsel
Enforcement Division