

## Sasha Linker

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**From:** david lerman <415justice@att.net>  
**Sent:** Wednesday, May 19, 2021 12:57 PM  
**To:** Sasha Linker  
**Cc:** CommAsst  
**Subject:** Tangible v. Intangible Communicaitons and FPPC Opinion 04-004

### EXTERNAL EMAIL

Dear FPPC:

Thank you for accepting my public comments.

I suggest that the email address I was sent for public comments (cc'd above) should actually be published on the public comments web page where people who are interested in making public comments can actually find it.

Regarding prohibited mass mailings the FPPC website states:

**Q.** A city would like to send a newsletter by email, which contains pictures of the mayor and city council members at a groundbreaking ceremony. Is this permissible?

**A.** Yes. Emails are not considered “tangible” and therefore, not subject to the Act’s mass mailing prohibitions even when sent within 60 days of an official’s election. However, there may be laws outside of the Political Reform Act that apply, such as the misuse of public funds.

### [Prohibited Mass Mailings](#)

**Prohibited Mass Mailings**

FPPC Opinion 04-004 found that it was illegal to send out mass mailings with a photo of a city council person at public expense. The concept seems to be that public funds should not be used for marketing purposes that provide too much support for incumbents. Everyday acts of government should not be part of a perpetual re-election campaign at public expense.

<https://docs.google.com/viewer?url=https%3A%2F%2Fwww.fppc.ca.gov%2Fcontent%2Fdam%2Ffppc%2Fdocuments%2Fadvice-letters%2F1995-2015%2F2004%2F04-004.pdf>

What logical reason supports treating tangible printed documents differently from emails if both are produced at public expense?

The message to elected officials is that they can use unlimited public funds to send out unlimited personal election material without limitations.

Why is a mass emailing at public expense OK when a mass mailing of the same material on paper is illegal? This is not logical. The regulations should be amended to equally apply to tangible and intangible and/or electronic communications. Opinion letter 04-004 should also apply to emails and other intangible methods of communication.

I suggest that the FPPC instead use the phrase like "writing" as defined by CA Evidence Code section 250.

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=EVID&ionNum=250](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EVID&ionNum=250)

Further, I note that while an email itself is electronic, it is actually displayed on a tangible physical thing, like a computer screen, tablet screen or cell phone. Also, an email is composed on a tangible physical thing like a keyboard, laptop, desktop, computer, cell phone etc.. The use of the word "tangible" in FPPC regulations is problematic.

The law needs to evolve with the times. Nobody is sending out VHS videotapes. Everyone is sending out emails. Regulating only paper and VHS tapes is absurd. Emails and "tangible" paper documents should be treated the same under the law and applicable regulations. Will the FPPC update this regulation?

P.S. How long has the public comment fax phone line at the FPPC been disconnected?

Best regards,

David Lerman

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On Wednesday, May 19, 2021, 12:10:02 PM PDT, Sasha Linker <[slinker@fppc.ca.gov](mailto:slinker@fppc.ca.gov)> wrote:

Mr. Lerman,

Thank you for providing public comment. I will include the comment for tomorrow's Commission hearing for item 1; public comment for items not on an agenda. We are incredible sorry the fax number on our website was not up to date. We have corrected the old number on our website with the correct one.

We do also accept public comment by submission to our Commission Assistant email at [commasst@fppc.ca.gov](mailto:commasst@fppc.ca.gov). During meetings, you can also comment by telephone at (877) 411-9748; access code 723284 and digitally at [mediasite.fppc.ca.gov](http://mediasite.fppc.ca.gov).

Please let me know if you have additional questions,

Sasha Linker

Commission Assistant

Fair Political Practices Commission

1102 Q Street, Suite 3000 | Sacramento, CA 95811

[slinker@fppc.ca.gov](mailto:slinker@fppc.ca.gov) | 916-327-8269

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**From:** david lerman <[415justice@att.net](mailto:415justice@att.net)>  
**Sent:** Wednesday, May 19, 2021 1:16 AM  
**To:** Alana Jeydel <[ajeydel@fppc.ca.gov](mailto:ajeydel@fppc.ca.gov)>  
**Subject:** public comment

**EXTERNAL EMAIL**

The fax number for public comments has been disconnected!

[Public Comment](#)

**Public Comment**

The fax number for comment letters is (916) 322 - 6440.

Please submit the attached letter as my public comment.

If the FPPC is really interested in receiving public comments, the fax number should not be disconnected, and there should be an easy method for sending public comments to the FPPC.

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