



December 2, 2022

The Coronado Neighborhood Council
Richmond Represented
Joseph Fisher
[REDACTED]

Advisory Letter: Case No. 2022-00584; Richmond Represented, The Coronado Neighborhood Council, and Joseph Fisher

Dear Richmond Represented, The Coronado Neighborhood Council, and Joseph Fisher:

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (the “Act”).¹ The FPPC’s Enforcement Division received multiple complaints alleging the Coronado Neighborhood Council and/or Richmond Represented participated in campaign activities by producing campaign materials opposing certain Richmond City Council members. Specifically, the complaints allege that you qualified as a committee under the Act and so were required to file campaign statements and include disclosures on your advertisements. After reviewing this matter, the Enforcement Division has decided to close its file without prosecution.

Pursuant to the Act, “committee” includes any person or combination of persons who directly or indirectly makes independent expenditures totaling \$1,000 or more in a calendar year.² “Independent expenditure” is defined as an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.³

A group of candidates is “clearly identified” if the communication makes unambiguous reference to some well-defined characteristic of the group, even if the communication does not name each candidate.⁴ A communication “expressly advocates” the nomination, election, or defeat of a candidate or the qualification, passage, or defeat of a measure if it contains express words of advocacy such as “vote for,” “elect,” “support,” “cast your ballot,” “vote against,” “defeat,” “reject,” “sign petitions for.”⁵ A communication, taken as a whole, “unambiguously urges a particular result in an election” if it is not susceptible of any reasonable interpretation other than as

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 82013, subd. (b).

³ Section 82031.

⁴ Section 82025, subd. (c)(1)(B).

⁵ Section 82025, subd. (c)(2).

an appeal to vote for or against a specific candidate.⁶ A communication is not susceptible of any reasonable interpretation other than as an appeal to vote for or against a specific candidate when, taken as a whole, it could only be interpreted by a reasonable person as containing an appeal to vote for or against a specific candidate because the electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning and reasonable minds could not differ as to whether it encourages a vote for or against a clearly identified candidate, or encourages some other kind of action on a legislative, executive, or judicial matter or issue.⁷

The Enforcement Division's review of this matter determined that the communications produced by the Coronado Neighborhood Council and/or Richmond Represented, including a website, two paper mailings, Facebook advertisements, and television commercials, did not clearly identify a group of candidates and did not contain express advocacy. Further, it was determined that the communications, which may have been disseminated within 60 days before an election, did not unambiguously urge a particular result in an election. Since the communications do not meet the definition of an independent expenditure, the Coronado Neighborhood Council and/or Richmond Represented did not qualify as a committee under the Act. Thus, the filing and disclosure requirements stated in the Act do not apply to the Coronado Neighborhood Council and/or Richmond Represented.

However, the communications were very close to meeting the definition of independent expenditure under the Act. Please be aware, if you engage in future campaign activity and you qualify as a committee under the Act, there will be certain disclosure requirements for any mailings or advertisements that are for a political purpose either supporting or opposing a ballot measure or candidate. Additionally, when a committee is formed there will be certain filing requirements the committee must complete until the committee has been terminated.

If you need guidance regarding the Act, you may contact the Commission's Advice team by sending an email to advice@fppc.ca.gov. More information is available on the FPPC's website, www.fppc.ca.gov. If you have any questions regarding this letter, please contact me at (916) 323-6302 (voicemail) or JRinehart@fppc.ca.gov.

Sincerely,

Jenna Rinehart

Jenna C. Rinehart
Commission Counsel
Enforcement Division

cc: Suzanne Wilson @ sue@suewilsonconsulting.com

⁶ Section 82025, subd. (c)(2)(A).

⁷ *Id.*