



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

December 28, 2023

Clelen Tanner
Individually and on behalf of Danville Open
Space Committee
[REDACTED]

Christopher Southard
Individually and on behalf of Save Open
Space Danville
[REDACTED]

Charles Waitman
[REDACTED]

Bob Nealis
190 Arends Drive
Danville, CA 94506

Chenoa Alltizer
53 Diablo Creek Place
Danville, CA 94506

Maryann Cella
PO Box 295
Diablo, CA 94528

**Re: Warning Letter: FPPC No. 2020-00025, In the Matter of Save Open Space Danville,
Danville Open Space Committee – No on Y, Clelen Tanner**

Dear All,

The Enforcement Division of the Fair Political Practices Commission (“FPPC”) enforces the provisions of the Political Reform Act (the “Act”).¹ As you are aware, the Commission received a sworn complaint alleging that the organization Save Open Space Danville and the committee Danville Open Space Committee had failed to properly disclose contributors to oppose a local ballot measure. Specifically, the complaint alleged that an \$18,000 contribution was reported as being from Save Open Space Danville but that the receiving committee should have disclosed individual contributors. The Enforcement Division has disproven this allegation but has determined that there were some reporting violations and will close this matter with a warning letter.

Under the Act, a committee means any person or combination of persons who directly or indirectly receives contributions totaling \$2,000 or more in a calendar year.² This type of committee is referred to as a recipient committee. In addition, when a person, including a corporation, makes contributions totaling \$10,000 or more in a calendar year, that person will qualify as a major donor committee.³ A committee that is primarily formed to support or oppose a ballot measure is required to file campaign statements. Specifically, a ballot measure committee is required to file quarterly statements, including semiannual statements, and is required to file pre-election statements in anticipation of the election in which the ballot measure will be voted on.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 18104 through 18998 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 82013, subdivision (a).

³ Section 82013, subdivision (c).

⁴ Section 84200, Section 84202.3, and Section 84200.5.

On or around July 18, 2019, the primarily formed ballot measure committee, “Danville Open Space Committee” received a contribution of \$18,000 from “SOS Danville” also known as “Save Our Space Danville.” The investigation determined that these funds were from a registered corporation formed to finance a lawsuit against the Town of Danville. As a result of this lawsuit, “Save Our Space Danville” received at least \$58,000 in awarded court fees. These funds were used to make the contribution to the ballot measure committee. The investigation found no evidence that this corporation solicited or received political contributions. Therefore, the allegation that the ballot measure committee or “Save Our Space Danville” was required to disclose individual contributors has been disproven.

The investigation did reveal that the ballot measure committee failed to timely file four campaign statements. Specifically, the committee was required to file two quarterly statements, due on April 30, 2019 and October 31, 2019. However, the committee only filed semi-annual statements. In addition, the committee was late to file the semiannual statement due July 31, 2019. This statement was filed on December 2, 2019. In addition, the committee failed to timely file a pre-election statement due on January 23, 2020 in anticipation of the March 3, 2020 election in which the ballot measure was considered.

In mitigation, all statements were filed prior to the election. The 1st pre-election statement had minimal activity, with approximately \$120 in contribution and \$73 in expenditures. In addition, the ballot measure committee was unsuccessful in opposing the ballot measure and the committee has since terminated. The Respondents were cooperative with the investigation, had limited experience with campaign finance rules, and had no prior enforcement history. Based on the foregoing, and in accordance with the Enforcement Division Policy Directives formally adopted by the Commission on January 26, 2023, which requires the Enforcement Division to take all appropriate actions within their discretion to decrease the Division’s annual carryover caseload, the Enforcement Division is closing this case with this warning letter.⁵ Discretion was used based upon mitigating or aggravating circumstances and the totality of the circumstances.⁶ This resolution may not be used as a comparable case for other enforcement matters.⁷

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. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. 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

⁵ <https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2023/january/15.0-Enforcement-directives.pdf>

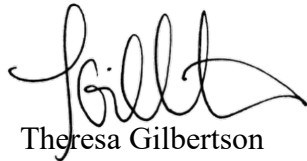
⁶ Regulations 18360.1 and 18360.3.

⁷ See Regulation 18361.5, subdivision (e)(3).

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 have any questions regarding this letter, please contact Theresa Gilbertson at tgilbertson@fppc.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gilbertson', with a stylized flourish at the end.

Theresa Gilbertson
Senior Commission Counsel
Enforcement Division

CC: Sworn Complainant, Robert Rowland