



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

June 11, 2003

Ginger Osborne
Village Laguna of Laguna Beach, Inc.
PO Box 1309
Laguna Beach, CA 92651

**Re: Your Request for Advice
Our File No. A-03-108**

Dear Ms. Osborne:

This is in response to your letter requesting advice on behalf of Village Laguna of Laguna Beach, Inc. ("Village Laguna") regarding the campaign provisions of the Political Reform Act (the "Act").¹

QUESTIONS

1. What income and expenditures must Village Laguna, a multi-purpose organization, report on its campaign statements?
2. Must funds raised and spent for political purposes be kept in a bank account that is separate from other funds?
3. Currently, the name "Village Laguna" is used for both the political committee and the nonprofit organization. Must the name of the committee be changed?

CONCLUSIONS

1. A general purpose recipient committee has only to report that portion of its receipts which is actually spent in connection with political activities in

¹ Government Code sections 81000 – 91014. Commission regulations appear at title 2, sections 18109 - 18997, of the California Code of Regulations.

California. The committee must also identify those persons from whom it receives contributions of \$100 or more in a calendar year.

2. The Act does not require maintaining separate bank accounts, one for the nonprofit organization and one for the committee.
3. The Act requires that sponsored committees include the name of the sponsoring organization in the name of the committee. Therefore, the only requirement concerning the name of the committee is that "Village Laguna of Laguna Beach, Inc." must be in the name of the committee.

FACTS

Village Laguna of Laguna Beach, Inc. has been in existence for thirty-two years. As a community-based, nonprofit organization, it participates in community and civic activities, such as holding an "annual charm house tour," awarding scholarships, and presenting community forums. In addition, Village Laguna has contributed to local candidates, made independent expenditures, and supported and opposed ballot measures. As a city general purpose recipient committee, Village Laguna has reported all of its income and expenditures on its campaign statements, not just those receipts and expenditures made for political purposes.

You state in your letter that the name of the organization and its general purpose committee are the same. However, it appears from the Secretary of State's records that the name of your committee is "Village Laguna," while the name of your organization is "Village Laguna of Laguna Beach, Inc."

ANALYSIS

Question 1

Under section 84211, a recipient committee must report all contributions received and expenditures made. A recipient committee is defined in section 82013 as:

"...any person or combination of persons who directly or indirectly ... receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year...."

A contribution is defined in section 82015, in part, as:

"... a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes."

Thus, when Village Laguna raises funds specifically for political purposes, those funds must be reported as contributions received. In addition, since Village Laguna is an existing committee, funds that are not specifically raised but nevertheless are used for political purposes must be reported as contributions received. However, funds raised and used for other purposes are not required to be reported.

A "political purpose" is defined by regulation 18215(a), in part, as:

- ...influencing or attempting to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any measure; or
- (2) Received by or made at the behest of the following or any agent thereof:
 - (A) A candidate;
 - (B) A controlled committee;
 - (C) An official committee of a political party, including a state central committee, county central committee, assembly district committee or any subcommittee of such committee; or
 - (D) An organization formed or existing primarily for political purposes, including, but not limited to, a political action committee established by any membership organization, labor union or corporation."

Section 82025 defines an expenditure, in part, as:

"... a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes."

Thus, when Village Laguna expends funds for political purposes, the expenditures must be reported. Funds raised and used for other purposes, however, are not required to be reported.

Section 84211(f) requires each recipient committee to report the name, street address, occupation, and employer of each person from whom contributions (including loans) of \$100 or more are received in a calendar year. Since not all the funds raised by Village Laguna are for political purposes, a pro rata amount of a person's donations may be used for reporting purposes, as provided for in regulation 18215(b)(1). This regulation defines the term "contribution," in part, as:

"Any payment made to a person or organization other than a candidate or committee, when, at the time of making the

payment, the donor knows or has reason to know that the payment, or funds with which the payment will be commingled, will be used to make contributions or expenditures. If the donor knows or has reason to know that only part of the payment will be used to make contributions or expenditures, the payment shall be apportioned on a reasonable basis in order to determine the amount of the contribution."

The following example illustrates Village Laguna's reporting obligations:

Village Laguna raises money from membership dues and by holding an annual fundraiser, the "Annual Charm House Tour." The tour is open to the public, but is not promoted as a political fundraiser. Money raised from the fundraiser and membership dues between January 1, 2003, and June 30, 2003, equals \$40,000. Village Laguna also contributes \$10,000 to candidates and committees during this time. Thus, one quarter of all receipts are used for political purposes. Any person who donates \$400 or more to Village Laguna during this time period must be itemized, as required in section 84211(f), since one quarter of their donations are deemed contributions to the committee. Since none of the funds are raised specifically for political purposes, when reporting on the committee's campaign statement, the receipts will equal the expenditures.

Question 2

There is nothing in the Act that requires a general purpose committee to establish a separate bank account. However, committee funds may not be commingled with any individual's personal funds. (Section 84307.) In addition, contact the Internal Revenue Service at (800) 829-1040 and the Franchise Tax Board at (800) 338-0505 to see if these federal and state agencies, respectively, have any regulations that may be applicable to your question.

Question 3

Section 84102(a) states, in part, that:

"In the case of a sponsored committee, the name of the committee shall include the name of its sponsor."

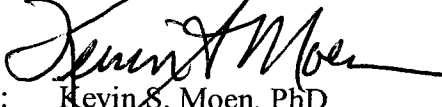
Therefore, as long as Village Laguna of Laguna Beach, Inc. is in the name of the committee, the requirements of the Act are met. A review of the Secretary of State's website appears to suggest that no such committee exists; there are two committees named Village Laguna, but none named Village Laguna of Laguna Beach, Inc. You stated in our phone conversation of June 2, 2003, that you understood the older committee was no longer active, and, thus, the newer committee was formed. You

should contact the Secretary of State's office to determine whether one committee needs to be officially terminated. Their phone number is (916) 653-6224.

If you have any further questions, please contact me, toll-free at (866) 275-3772.

Sincerely,

Luisa Menchaca
General Counsel


By: Kevin S. Moen, PhD
Political Reform Consultant II

KSM:jg