



FAIR POLITICAL PRACTICES COMMISSION

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

(916) 322-5660 • Fax (916) 322-0886

July 30, 2009

Ms. Eleanor Avila
6405 Brookdale Dr.
Carmel, California 93923

Re: Your Request for Informal Assistance
Our File No. I-09-177

Dear Ms. Avila:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the "Act").¹ We are authorized to provide advice to requestors about their own duties under the Act, not about the duties of others. (Regulation 18329(b)(8)(B).) However, we can provide you with informal assistance and answer your general legal question.²

QUESTION

A proposal to incorporate the town of Carmel Valley is pending. You received a letter sent to all homes in your subdivision. The letter opposes the incorporation of Carmel Valley into a city. The letter details objections to Carmel Valley's becoming a city and asks residents to send checks to fight cityhood. You ask whether it is legally permissible to collect money from neighbors to oppose incorporation.

DISCUSSION

The Act does not restrict individuals from raising funds to express their views concerning incorporation as a city. New legislation was added to the Act in 2008 which

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; regulation 18329(c).)

expands the public disclosure of funds raised to support or oppose local area formation commission ("LAFCO") proposals.³

Under the Act, a person or combination of persons who receives contributions totaling \$1,000 in a calendar year qualifies as a committee. (Section 82013(a).) The Act defines a "contribution" as a payment made for a political purpose. (Section 82015.)

Addressing disclosure of funds supporting or opposing LAFCO proposals, new Sections 82035.5 and 84250-84252 provide as follows:

"Section 82035.5. LAFCO Proposal.

"'LAFCO proposal' means a proposal, as defined in Section 56069, that is initiated as a petition for filing with a local agency formation commission."

Section 84250. Applicability of LAFCO Proposals.

"All requirements of this title applicable to a measure, as defined in Section 82043, also apply to a LAFCO proposal, as defined in Section 82035.5, except as set forth in Section 84252."

"Section 84251. Payment for Political Purposes.

"A payment made for 'political purposes,' as that term is used in Sections 82015 and 82025 [defining contribution and expenditure], includes a payment made for the purpose of influencing or attempting to influence the actions of voters or a local agency formation commission for or against the qualification, adoption, or passage of a LAFCO proposal."

"Section 84252. Campaign Reporting.

"(a) A committee primarily formed to support or oppose a LAFCO proposal shall file all statements required under this chapter except that, in lieu of the statements required by Sections 84200 [semiannual statements] and 84202.3 [quarterly ballot measure statements], the committee shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Section 84214. The committee shall file an original and one copy of each statement on the 15th day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure may be voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by this chapter.

³ This legislation was AB 1998 sponsored by Assembly Member Silva and added to the Act by Stats. 2008, Ch. 192.

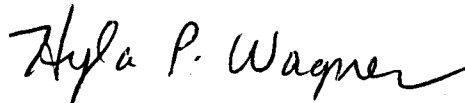
(b) In addition to any other statements required by this chapter, a committee that makes independent expenditures in connection with a LAFCO proposal shall file statements pursuant to Section 84203.5 [supplemental independent expenditure reports].”

Under the new LAFCO provisions, if persons collecting funds to support or oppose a LAFCO proposal raise \$1,000 and thereby qualify as a committee, the committee is required to file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot.⁴ An original and one copy of the campaign statements must be filed with the county clerk’s office by the 15th day of each calendar month, covering the prior calendar month. Once a measure is placed on the ballot the committee must file periodic disclosure statements required by the Act. The campaign reports are available to the public.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Scott Hallabrin
General Counsel



By: Hyla P. Wagner
Senior Counsel, Legal Division

HPW:jgl

⁴ A committee must file a Statement of Organization, Form 410, with the Secretary of State and the County and will use Campaign Disclosure Statement, Form 460, for its reporting obligations. These forms for filing may be obtained from the FPPC’s website.