



FAIR POLITICAL PRACTICES COMMISSION

1102 Q Street • Suite 3000 • Sacramento, CA 95811

December 18, 2017

Randell Iwasaki, Executive Director
Contra Costa Transportation Authority
2999 Oak Road, Suite 100
Walnut Creek, CA 94597

RE: Advisory Letter
FPPC Case No. 2017-00289; Contra Costa Transportation Authority, Randall Iwasaki, Ross Chittenden, Amy Worth, Doug Linney, and Alex Evans

To Mr. Iwasaki:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the "Act").¹ This letter is in response to a sworn complaint against Randell Iwasaki, Ross Chittenden, Amy Worth, Doug Linney, Alex Evans, and Contra Costa Transportation Authority. The Enforcement Division opened a case to investigate the question of whether the Contra Costa Transportation Authority had spent public funds on campaign related communications. After investigating the matter, the Enforcement Division has decided to close its file on this matter without prosecution.

Regulation 18420.1 provides that payments by a local agency for a communication to the public that expressly advocates for the passage of a clearly identified measure or, when taken as a whole and in context, unambiguously urges a particular result in an election is either a contribution or an independent expenditure. The regulation provides criteria to determine whether a communication "unambiguously urges a particular result." The criteria include: clear campaign material or activity, such as bumper stickers, billboards, or other mass media advertising, or communication that, when considering the style, tenor, and timing, is not a fair presentation of facts serving only an informational purpose.

Our investigation found that the Contra Costa Transportation Authority ("CCTA") did not produce material expressly advocating for the passage of Measure X, a ballot measure considered in the November 2016 General Election. Measure X was placed on the ballot by the CCTA and passage would have authorized an increase to the county sales tax to fund transportation projects. CCTA paid for communications related to a Transportation Expenditure Plan ("TEP.") This was

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 18109 through 18997 of Title 2 of the California Code of Regulations.

an informational campaign to promote and educate the public about the adopted 30-year transportation plan for the county, including projects that incorporated the funding from Measure X. In some documents, Measure X was referenced either in the context of providing dedicated funds for transportation or in explaining how the funds would be managed.

In conclusion, the materials related to TEP are not campaign materials because they do not specifically encourage voters to pass Measure X. The materials do not mention the election in November or that the Measure is up for a vote. The tone of the advertisements, website, flyers, and handouts was informational and the language was not inflammatory or argumentative. The style and tenor of the materials appears consistent with other communications issued by the agency, such as a current information related to cycling and pedestrian infrastructure projects. Given the above, the Enforcement Division cannot conclude that the CCTA has paid for a contribution or independent expenditure in support of Measure X. Therefore, we are closing this matter with this advisory letter.

Although we are closing our file on this matter, please be advised of the provisions in the Act and regulations regarding campaign related communications paid for by local agencies. Should you have any questions regarding this letter, please feel free to contact me at (916) 323-6421 or tgilbertson@fppc.ca.gov.

Sincerely,

A large black rectangular redaction box covers the signature area.

Theresa Gilbertson
Commission Counsel
Enforcement Division

CC via email: Ross Chittenden, Alex Evans, Doug Linney, Amy Worth, and Wendy Lack