



August 8, 2022

Ms. Jennifer Hansen, Compliance Officer
Public Disclosure Commission
PO Box 40908
Olympia, Washington 98504
PDC@pdc.wa.gov
via e-mail only

RE: City of Normandy Park – Response to PDC Complaint
Public Disclosure Commission Case No. 110946

Dear Ms. Hansen:

Thank you for giving the City of Normandy Park ("City") the opportunity to respond to the complaint filed in PDC Case Number 110946, which alleges that the City violated RCW 42.17A.555 by improperly using public facilities to support a ballot proposition. Specifically, the complaint asserts that the City's article in the Summer 2022 edition of the City Scene magazine ("Article") unlawfully advocated for the approval of Proposition 1. The City respectfully denies that the Article violated RCW 42.17A.555.

According to PDC Interpretation No. 04-02, "[h]istorically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate." *Id.* Thus, an article, addressing a ballot measure, is permissible if it is: (1) a jurisdiction wide publication and (2) an objective and fair presentation of the facts.

The Article was part of the 2022 Summer Edition of the City Scene magazine, which was a one-time, jurisdiction-wide objective informational article regarding Proposition No. 1. Since 2012, the City has published the City Scene magazine quarterly to provide the public with information about important City topics. In the 2022 summer edition, the City included a variety of different articles on topics such as the Fourth of July Celebration, the Music in the Park series, preschool enrollment, stormwater education, and many more informational articles. This publication goes to every household in Normandy Park and is an effective way to communicate with the residents.

The Article was also an objective and fair presentation of the facts concerning the ballot measure. The Article, entitled "Proposition 1 Supporting a New Civic Center," begins by stating the basic nature of the ballot measure, as follows:

On August 2nd, Normandy Park voters will have the opportunity to vote on a proposition that will support a new city civic center. If approved, Proposition No. 1 will authorize the city to issue a general obligation bond to

fund the construction of a new Civic Center at City Hall park. The proposed Civic Center will replace the buildings located at City Hall park, built initially as an elementary school in 1956 and converted to the City Hall, Police Department, and community recreation center in 1989.”

(Bolded emphasis in original). The Article is divided into several sections, providing for the project description, project cost, project funding, and annual cost of the bond. The Article then concludes by providing a copy of the ballot language and ends with the simple words: “Vote August 2.”

The Article does not contain any kind of language that favors or disfavors Proposition No. 1. The published article avoided overtly promotional or oppositional content (e.g., no check marks or other indications of support) and did not minimize the cost of a ballot proposition. Furthermore, the Article made no statements purporting to describe the City’s responsible fiscal management, no detailed information about property tax exemptions was included, and no detailed information about the conduct of elections was included. The Article lacks any language whatsoever that requests the reader to approve or deny the ballot proposition or characterizes the ballot as positive or negative.

Significantly, the complaint also fails to cite specific language in the Article that allegedly promotes the approval of Proposition No. 1. The complainant simply asserts that “I believe that their efforts are biased and not purely information. Positive opinions are expressed in an official publication.” Thus, in absence of any other clear argument or evidence to the contrary, the Article must be interpreted as an objective and fair presentation of the facts.

Additionally, PDC Interpretation No. 04-02 provides that, even if the Article is not “one jurisdiction-wide objective and fair presentation of the fact,” the Article may also be permissible under RCW 42.17A.555 if it provides “...an objective and fair presentation of facts to the public of ballot measures that directly impacts a jurisdiction’s maintenance and operation, even though the measure is not offered by the jurisdiction, may be considered part of the normal and regular conduct of the local agency.” However, “[t]he agency must be able to demonstrate that for other major policy issues facing the jurisdiction, the agency has customarily communicated with its residents in a manner similar to that undertaken for the ballot measure.” Id.

As previously discussed, the Article is an “objective and fair presentation of facts to the public of ballot measures.” To reiterate, the Article does not contain any language that asks voters to approve or deny the measure, and the Article does not otherwise characterize one position as more favorable.

The ballot measure also clearly “directly impacts” the City’s “maintenance and operation,” as the approval of the ballot measure would result in funding for a new civic center for the use and benefit of the City of Normandy Park. And, the Article is in line with past practices since this publication has been used multiple times to educate the public on other ballot measures. For example, in 2015, 2016, and 2021, the City included informational articles about the ballot measure to lift the City’s levy rate for support of the City’s Police Department.

In sum, the Article did not violate RCW 42.17A.555 because it was written and published in a manner that is consistent with PDC Interpretation No. 04.02. The Article was “one jurisdiction-wide objective and fair

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presentation of the facts" concerning a ballot measure that directly impacts the City's maintenance and operation.

Open and transparent government is essential to the City of Normandy Park, so we appreciate that the Public Disclosure Commission holds that it is not only the right but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. And the City took advantage of the opportunity to expend funds, as part of our normal conduct, not for the purpose of influencing the outcome of an election but rather to educate the public.

If you have any questions or need information, please don't hesitate to reach out to me.

Sincerely,



Amy Arrington
City Manager
City of Normandy Park

CC: Kari L. Sand, City Attorney (ksand@omwlaw.com)