

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Monday, February 1, 2021
6:30 p.m.



Commissioners: Michael MacDonald (Chair), Jerett Yan (Vice-Chair), Avi Klein, Arvon Perteet, Janani Ramachandran, and Joseph Tuman

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING

NOTE: Pursuant to the Governor's Executive Order N-29-20 and City of Oakland Emergency Order dated March 23, 2020, suspending the Sunshine Ordinance, all members of the Commission and participating PEC staff will join the meeting via phone/internet audio conference, and the following options for public viewing and participation are available:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland's KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on "View"
- **Online video teleconference:** Click on the link below to join the webinar: <https://us02web.zoom.us/j/88171471481?pwd=ODIQVFFUeVRsZUtHdFU3YU5XcHVadz09>
Password: 674732
 - To comment by online video conference, click the "Raise Your Hand" button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to "Raise Your Hand" is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.
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US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592
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 - To comment by phone, please call on one of the above listed phone numbers. You will be prompted to "Raise Your Hand" by pressing *9 to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions of how to raise your hand

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by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663>
- Joining-a-meeting-by-phone.

Members of the public may submit written comments to ethicscommission@oaklandca.gov. If you have any questions about how to participate in the meeting, please email ethicscommission@oaklandca.gov before or during the meeting.

PEC MEETING AGENDA

1. Roll Call and Determination of Quorum.
2. Staff and Commission Announcements.
3. Open Forum.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.
 - a. January 4, 2021 Regular Meeting Minutes ([Meeting Minutes](#))
5. ***In the Matter of Thomas Espinosa (Case No. 16-14).*** In October 2016, Commission staff opened a pro-active investigation into allegations referred by employees in the City Administrator's Office and the Department of Planning and Building about potential Government Ethics Act violations by Thomas Espinosa, a building inspector in the City's Planning and Building Department until 2017. Commission staff's investigation found probable cause that Mr. Espinosa committed 47 violations of the Oakland Government Ethics Act, including the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant loans and income from individuals with matters before him as a City building inspector. In 2018, Commission staff presented this matter to the Commission, and the Commission authorized the scheduling of an administrative hearing before the Office of Administrative Hearings (OAH). Given the City's fiscal condition, which has changed dramatically since the Commission's initial review of this matter, Commission staff brings this matter to the Commission again to request that this matter be scheduled before a volunteer hearing officer instead of the OAH. ([Staff Memorandum](#); [Staff Report from 2018](#))

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DISCUSSION ITEMS

6. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission's last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission's work. Current or recent subcommittees include the following:
 - a. **Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020)
– Michael MacDonald (Chair) and Joe Tuman

INFORMATION ITEMS

7. **Oakland Campaign Reform Act Contribution Limit and Expenditure Ceiling Annual Adjustment for 2021.** Commission staff provides an updated list of Oakland's campaign contribution limits and expenditure ceiling amounts, as adjusted per the increase in the Consumer Price Index as required by the Oakland Campaign Reform Act. Staff has made the required adjustments and publishes the 2021 limits for the public. ([Staff Memorandum](#))
8. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a report of recent education, outreach, disclosure and data illumination activities. ([Disclosure Report](#))
9. **Enforcement Program.** Enforcement Chief Kellie Johnson reports on the Commission's enforcement work since the last regular Commission meeting. ([Enforcement Report](#))
10. **Executive Director's Report.** Executive Director Whitney Barazoto reports on overall projects, priorities, and significant activities since the Commission's last meeting. ([Executive Director's Report](#))

The meeting will adjourn upon the completion of the Commission's business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

CITY OF OAKLAND
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1/22/2021

Approved for Distribution

Date



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CITY OF OAKLAND
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6:30 p.m.



DRAFT

Commissioners: James E.T. Jackson (Chair), Jill M. Butler (Vice-Chair), Avi Klein, Michael MacDonald, Janani Ramachandran, Joseph Tuman and Jerett Yan

Commission Staff to attend: Whitney Barazoto, Executive Director; Suzanne Doran, Lead Analyst – Civic Technology and Engagement; Kellie Johnson, Enforcement Chief; Simon Russell, Investigator

PEC MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was held via teleconference.

The meeting was called to order at 6:31 p.m.

Members present: Jackson, Butler, Klein, MacDonald, Ramachandran, and Yan.
Tuman was absent.

Staff present: Whitney Barazoto, Kellie Johnson, Ana Lara-Franco and Simon Russell.

City Attorney Staff: Trish Shafie

2. Staff and Commission Announcements.

There were no announcements.

3. Open Forum.

There were no public speakers.

ACTION ITEMS

4. Approval of Commission Meeting Draft Minutes.

- a. December 7, 2020 Regular Meeting Minutes

There were no public speakers.

Klein moved, and Butler seconded to adopt the December 7, 2020, meeting minutes.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
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6:30 p.m.



DRAFT

Ayes: Jackson, Butler, Klein, MacDonald, Ramachandran, Yan

Noes: None

Vote: Passed 6-0

5. Election of Officers (Chair and Vice-Chair) of the Commission.

Jackson moved to nominate MacDonald for Chair. Butler seconded the nomination.

There were no public speakers.

Ayes: Jackson, Butler, Klein, Ramachandran, Yan

Noes: None

Abstain: MacDonald

Vote: Passed 5-0

MacDonald moved to nominate Yan for Vice-Chair. Ramachandran seconded the nomination.

There were no public speakers.

Ayes: Jackson, Butler, Klein, MacDonald, Ramachandran

Noes: None

Abstain: Yan

Vote: Passed 5-0.

6. In the Matter of Anthony Harbaugh (Case No. 18-11).

Kellie Johnson, Enforcement Chief, had 10 minutes to present the hearing officer's recommendation in the matter of Anthony Harbaugh (PEC #18-11).

The respondent, Anthony Harbaugh, did not present himself.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
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DRAFT

Commissioners discussed and asked questions regarding what options they had to accept the findings and impose different fines for each count.

Ramachandran suggested for members to go count by count and discuss each. Yan suggested that first they confirm the factual findings and then to make legal conclusions.

There were no public speakers.

Commission members accepted the factual findings as presented by Chief Johnson and proceeded to discuss count by count.

Count 1: Commissioners agreed to the fine of \$5,000.

Count 2: Commissioners agreed to the fine of \$5,000.

Count 3: Commissioners agreed to increase this fine to \$5,000.

Count 4: Commissioners agreed to increase this fine to \$5,000.

Count 5: Commissioners agreed to increase this fine to \$5,000.

Count 6: Commissioners agreed to increase this fine to \$5,000.

Counts 7: Commissioners agreed to impose a violation and a fine of \$5,000.

Count 8: Commissioners agreed to impose a violation and a fine of \$5,000.

Count 9: Commissioners agreed to increase this fine to \$5,000

Count 10: Commissioners agreed to increase this fine to \$5,000

Count 11: Commissioners agreed to increase this fine to \$5,000

Count 12: Commissioners agreed to increase this fine to \$5,000

Count 13: Commissioners agreed to increase this fine to \$5,000

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DRAFT

Ramachandran moved, and MacDonald seconded to accept the finding of facts, change the legal conclusions on counts 7 and 8, and impose a total fine of \$55,000 for all counts.

Ayes: Jackson, Butler, Klein, MacDonald, Ramachandran, and Yan.

Noes: None

Vote: Passed 6-0.

DISCUSSION ITEMS

7. Reports on Subcommittees and Commissioner Assignments.

- a. Sunshine Review Subcommittee** (*ad hoc*/temporary, created on May 8, 2020)
 - Michael MacDonald (Chair), Jill Butler and Joe Tuman

MacDonald shared that the subcommittee work continues and offers that new members may join the subcommittee if they are interested.

There was one public speaker.

INFORMATION ITEMS

8. Disclosure and Engagement.

Whitney Barazoto, Executive Director, presented the report. The report was a recap of entire year of 2020.

MacDonald thanked the staff for their dedication during the pandemic.

There were no public speakers.

9. Enforcement Program.

Ms. Johnson shared the report and thanked Simon Russell, Investigator, for all of his hard work. Yan asked for clarification on penalties collected.

There was one public speaker.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
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DRAFT



10. Executive Director's Report.

Ms. Barazoto shared the report. She also thanked the Enforcement team for their good work and shared that, despite many cases closed this past year, there are currently 74 pending cases, the highest ever.

Ms. Barazoto thanked outgoing commissioners, Jackson and Butler, for their service to the PEC and the City of Oakland.

There were two public speakers.

The meeting adjourned at 9:07 p.m.



Michael McDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Janani Ramachandran
Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Kellie F. Johnson, Enforcement Chief
Simon Russell, Investigator
DATE: January 16, 2021
RE: Case No. 16-14; *In the Matter of Thomas Espinosa* -Request for a volunteer Hearing Officer to Conduct Administrative Hearing, prepared for the February 1, 2021, Public Ethics Commission meeting

INTRODUCTION

In 2016, the City of Oakland Public Ethics Commission (Commission) opened a proactive investigation into allegations that Thomas Espinosa (Respondent) was violating the Oakland Government Ethics Act by, among other things, engaging in a bribery or *quid pro quo* scheme. The Commission's investigation found that between January 1, 2015, and September 15, 2016, Respondent committed 17 violations of the Oakland Government Ethics Act, including the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant income from individuals with matters before him as a City building inspector.

In November 2018, the Public Ethics Commission found probable cause that Espinosa violated the Government Ethics Act and referred the matter for a hearing before an Administrative Law Judge. At that time, staff had verbally recommended that the matter be heard by an Administrative Law Judge with the Office of Administrative Hearings due to the anticipated length of time the case will require (2-4 days).

Since that time, the City's financial situation has changed significantly due to COVID-19 implications and the Commission and many departments have been required to reduce current and future spending. In light of budget reductions and PEC resources, Staff returns to the Commission to request authority to select a volunteer hearing officer to conduct the administrative hearing.

PROCEDURAL HISTORY

In 2016, at the time Staff opened a pro-active investigation into the conduct of the Respondent, Espinosa was employed by the City. On or About August 16, 2016, Espinosa retired from the City of Oakland.

In July 2018, Commission Staff completed its investigation and found probable cause that Respondent committed, in his capacity as a City building inspector, 47 violations of the Oakland Government Ethics Act, including the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant loans and income from individuals with matters before him as a City building inspector.

In late July 2018, at the conclusion of the PEC's investigation, Espinosa was represented by legal counsel. The remainder of 2018, the Respondent's counsel and PEC Staff attempted to negotiate a stipulated resolution to some or all the alleged violations. After July 2018, Espinosa moved from the Oakland area and ceased responding to the PEC. The PEC attempted to contact the Respondent to either resolve the matter or bring the matter before the Commission and request a hearing.

On or around November 2018, Staff submitted a Case Analysis with the recommendation that the Commission find probable cause that the Respondent violated the Government Ethics Act and refer the matter for an administrative hearing before an Administrative Law Judge. The Commission found probable cause and referred the matter for a hearing.

Between November 2018 and January 2021, Staff has attempted to contact the Respondent, including seeking the assistance of legal counsel to determine the Commission's civil and administrative legal options, as well as amending and revising relevant provisions of the PEC's Complaint Procedures and Oakland Municipal Codes.

REQUEST FOR AUTHORIZATION

The city of Oakland has a projected \$62 million deficit and over the next weeks will cut more than \$29 million in personnel, law enforcement and public safety spending in an effort to close its projected \$62 million deficit. The city will cut \$9 million in general spending by enacting a hiring freeze, reducing the use of temporary staff, freezing discretionary spending, cutting pay for senior staff members who are not unionized and using unspent funds from the last fiscal year, which ended June 30. Every City department, including the PEC, is finding ways to minimize costs and conserve

spending.

State and local agencies throughout California can retain Administrative Law Judge services through the Office of Administrative Hearings (OAH). The services include contracting the services of Administrative Law Judges to conduct administrative hearings. The general contract agreement costs of an OAH Administrative law Judge can range up to \$48,000.¹ The costs can increase by the number and length of days necessary to conduct a hearing. In this case, Staff estimates that the hearing in the matter of Thomas Espinosa may require two to four days to present evidence.

As a result of limited PEC resources, the current budget deficits of the City and challenges under the City's Emergency Covid-19 guidelines, in an effort to defer costs and avoid logistical challenges due to Covid-19 restrictions, Staff requests that the Commission grant permission to hold the administrative hearing before a volunteer hearing officer instead of an Administrative Law Judge.

RECCOMENDATION

Public Ethics Commission Staff requests that the Commission authorize the scheduling of an administrative hearing before a volunteer hearing officer in this matter.

Attachment: In the Matter of Thomas Espinosa (PEC No. 16-14); Investigation Summary and Recommendation, Reviewed at the PEC's October 26, 2018, meeting

¹ OAH, Standard Agreement. www.dgs.ca.gov/OAH/Services/Page-Content/Office-of-Administrative-Hearings-Services-List-Folder/Retaining-OAH

CITY OF OAKLAND

Public Ethics Commission

Jonathan Stein, Chair
Jodie Smith, Vice-Chair
Lisa Crowfoot
James E.T. Jackson
Gail Kong
Krisida Nishioka



Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Milad Dalju, Chief of Enforcement
Simon Russell, Investigator
DATE: October 26, 2018
RE: *In the Matter of Thomas Espinosa (PEC No. 16-14)*; Investigation Summary and Recommendation

I. INTRODUCTION AND OVERVIEW

In October 2016, Commission Staff opened a pro-active investigation to determine whether Thomas Espinosa (Respondent), in his capacity as a City building inspector, made governmental decisions in which he had disqualifying financial interests, disclosed confidential City information, misused City resources, misused his City position, and failed to disclose financial interests on his statement of economic interests, in violation of the Oakland Governmental Ethics Act. The investigation was prompted by concerns that employees of the City Administrator's Office and the City's Planning and Building Department brought to Commission Staff's attention.

In July 2018, Commission Staff completed its investigation and found probable cause that Respondent committed, in his capacity as a City building inspector, 47 violations of the Oakland Government Ethics Act, including the following: soliciting and receiving bribes; making, and seeking to use his official position to influence, governmental decisions in which he had a disqualifying financial interest; misusing City resources for personal financial gain; misusing his City position to induce/coerce others to provide him with economic gain, and; failing to report significant loans and income from individuals with matters before him as a City building inspector.

This report summarizes Commission Staff's investigation and recommendation to refer this matter for an administrative hearing. If the Commission finds that Respondent committed each of the 47 violations described herein, it has the authority to impose on Respondent administrative penalties totaling up to \$1,151,737.

II. SUMMARY OF LAW

All statutory references and discussions of law pertain to the referenced statutes and laws as they existed at the time of the violations.

A. Jurisdiction

The Oakland Government Ethics Act was adopted by City Council on December 9, 2014, and it authorizes the Commission to impose an administrative penalty of up to \$5,000 per violation, or three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater, on any person who commits a violation of the Oakland Government Ethics Act.¹ The enforcement authority established by the Oakland Government Ethics Act does not apply to violations that occurred prior to December 9, 2014.²

B. Investigation Summary

At the conclusion of an investigation of alleged violations of the Oakland Government Ethics Act, Commission Staff must prepare a written report that includes a summary of the evidence gathered and a recommendation of whether there is probable cause to believe that a violation occurred.³ Upon review of the written report, the Commission may decide to dismiss, close, request further investigation, request that Commission Staff seek a settlement, or refer the matter to an administrative hearing.⁴

If the Commission decides to refer the matter to an administrative hearing, it shall decide at that time whether to sit as a hearing panel or to delegate its authority to gather and hear evidence to one or more of its members or to an independent hearing examiner.⁵

C. Economic Interest Disclosure Requirement

Every City of Oakland (City) employee designated in the City's Conflict of Interest Code is required to file statements of economic interests and disclose all required information pursuant to the California Political Reform Act and the City's Conflict of Interest Code.⁶

The City's Conflict of Interest Code incorporates Fair Political Practices Commission (FPPC) Regulation 18730 and requires every Specialty Combination Inspector in the City's Planning and Building Department (Building Department) to report, on his or her statement of economic interests, investments and business positions in business entities, sources of income, and interests in real property.⁷ The City's Conflict of Interest Code requires designated employees file their statement of economic interests with the City Clerk's Office.⁸

A Specialty Combination Inspector is required to report by April 1 all reportable investments and business positions in business entities, sources of income and interests in real property, held or received during the previous calendar year.⁹ He or she is also required to report within

¹ Oakland Municipal Code (O.M.C.) § 2.25.080(C)(3).

² O.M.C. § 2.25.020(D).)

³ Commission's Complaint Procedures § III(C).

⁴ Commission's Complaint Procedures § IV(A).

⁵ Commission's Complaint Procedures § V(A).

⁶ O.M.C. § 2.25.040(B).

⁷ O.M.C. § 3.16.010.

⁸ O.M.C. § 3.161.020.

⁹ FPPC Regulation 18730, subds. (b)(5)(C) and (b)(6)(C).

30 days after leaving office all reportable investments and business positions in business entities, sources of income and interests in real property, received or held during the period between the closing date of the last statement filed and the date his or her employment with the City is terminated.¹⁰

Reportable income is any payment received by the Specialty Combination Inspector and includes loans other than those received from a commercial lending institution.¹¹ The Specialty Combination Inspector is required to report the name and address of every source of income aggregating \$500 or more in value during the period that is covered by the statement of economic interests, the amount of income received, and a description of the consideration for which the income was received.¹²

A business position must be reported when the filer is a director, officer, partner, trustee, or employee of, or hold any position of management in, a business entity that has an interest in real property in the jurisdiction, or does business or plan to do business in the jurisdiction or has done business in the jurisdiction at any time during the two years prior to the date the statement is required to be filed.¹³

D. Conflict of Interest

A City employee may not make, participate in making, or seek to influence a decision of the City in which the City employee has a disqualifying financial interest.¹⁴ A City employee has a disqualifying financial interest in a governmental decision if the decision will have a reasonably foreseeable material financial effect on any his or her qualifying financial interests.¹⁵

A City employee makes a governmental decision if he or she authorizes, directs, obligates, or commits his or her agency to any course of action.¹⁶

A City employee attempts to use his or her official position to influence a decision when he or she contacts or appears before any official in his or her agency for the purpose of affecting the decision.¹⁷

A City employee has a disqualifying financial interest in any individual or business entity from whom he or she has been provided or promised income aggregating \$500 or more within 12 months prior to the time when the relevant government decision is made.¹⁸

¹⁰ FPPC Regulation 18730(b)(5)(D).

¹¹ Government Code (G.C.) § 82030.

¹² G.C. § 87207.

¹³ G.C. § 87209.

¹⁴ O.M.C. § 2.25.040(A); GC 87100.

¹⁵ FPPC Regulation 18700(a).

¹⁶ FPPC Regulation 18704(a).

¹⁷ FPPC Regulation 18704(c)(1).

¹⁸ G.C. § 87103(c).

The financial effect of a decision on a disqualifying financial interest is presumed to be reasonably foreseeable if the disqualifying financial interest is a named party in, or the subject of, the decision before the City employee or the City employee's agency.¹⁹

For income received by the official, the reasonably foreseeable financial effect of the decision on the City employee's disqualifying financial interest is material if the source of the income is a claimant, applicant, respondent, contracting party, or is otherwise identified as the subject of the proceeding.²⁰

E. Bribery

A City employee may not solicit or accept anything of value in exchange for the performance of any official act.²¹

F. Using Authority as a City Official to Induce or Coerce a Private Advantage

A City employee may not use his or her position, or the power or authority of his or her position, in any manner intended to induce or coerce any person to provide any private advantage, benefit, or economic gain to the City employee or any other person.²²

G. Misuse of Public Resources

A City employee may not use public resources for personal purposes.²³ Personal purposes means activities for personal enjoyment, private gain or advantage, or an outside endeavor not related to City business.²⁴ Public resources means any property or asset owned by the City, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and City compensated time.²⁵ Use means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the City for which a monetary value may be estimated.²⁶

III. SUMMARY OF EVIDENCE

Respondent was a City employee from May 23, 2005, until August 16, 2016. At all relevant times, Respondent was a Specialty Combination Inspector in the Building Department's Code Enforcement Division.

Respondent filed Annual Statements of Economic Interests with the City Clerk's Office for 2010, 2011, 2012, 2013, and 2014. To date, Respondent has not filed an Annual Statement of

¹⁹ FPPC Regulation 18701.

²⁰ FPPC Regulation 18702.3(a)(1).

²¹ O.M.C. § 2.25.070.

²² O.M.C. § 2.25.060(A)(2).

²³ O.M.C. § 2.25.060(A)(1).

²⁴ O.M.C. § 2.25.060(A)(1)(a)(i).

²⁵ O.M.C. § 2.25.060(A)(1)(a)(iii).

²⁶ O.M.C. § 2.25.060(A)(1)(a)(iv).

Economic Interests for 2015, or a Leaving Office Statement of Economic Interests for the January 1 through August 16, 2016, period, with the City Clerk's Office.

Income from Elizabeth Williams

Elizabeth Williams owned, at all relevant times, approximately 15 residential rental properties in Oakland.

In 2009, the City and Ms. Williams entered into a stipulated final judgment and permanent injunction that prohibited Ms. Williams and her agents from maintaining any of her properties in substandard, dangerous, uninhabitable, unhealthy, or unsanitary condition, and failing to correct code violations in a timely manner when directed to make repairs by City code compliance inspectors. Respondent, in his official capacity, was assigned to inspect Ms. Williams' residential properties in Oakland and determine whether they were in compliance with the stipulated final judgement and permanent injunction. By 2015, Respondent was no longer assigned to the stipulated final judgment and permanent injunction between the City and Ms. Williams.

Between June 26 and September 18, 2015, Respondent received checks totaling \$100,000 from Ms. Williams and deposited each check into his personal bank account. According to Ms. Williams, the \$100,000 was a loan to Respondent and she and Respondent agreed that Respondent would repay the loan to Ms. Williams and pay her \$30,000 as consideration for the loan. To date, Respondent has not repaid any part of the loan or the agreed upon consideration, and Ms. Williams has not attempted to recover any part of the loan or the agreed upon consideration.

In 2015, Respondent also received payments from Ms. Williams totaling \$76,179 for contracting work and consulting he performed for her in his personal capacity, as follows:

Date Received	Amount	Date Received	Amount
September 24, 2015	\$12,000	November 27, 2015	\$7,840
October 16, 2015	\$11,570	December 4, 2015	\$6,365
November 6, 2015	\$6,108	December 10, 2015	\$6,264
November 13, 2015	\$6,000	December 18, 2015	\$6,404
November 20, 2015	\$5,763	December 28, 2015	\$7,865

On March 3, 2016, Respondent received a payment of \$850 from Ms. Williams for contracting work and/or consulting he performed for her in his personal capacity.

Respondent has not, to date, reported receiving any income from Ms. Williams in 2015 or 2016. (Counts 1 and 2.)

Elizabeth Williams and 915 24th Street

915 24th Street was, at all relevant times, part of a four-plex that included 907, 909, and 911 24th Street, located in the Oakland and owned by Ms. Williams.

On September 20, 2013, a City building inspector verified building code violations at 915 24th Street and in response opened a code enforcement case against Ms. Williams.

In 2014, a City building inspector met several times with Ms. Williams' agents regarding her attempts to bring 915 24th Street into compliance with the building code and found that Ms. Williams needed to apply for the appropriate permits for the work she was doing at 915 24th Street.

Between June 26 and September 24, 2015, Respondent received payments totaling \$112,000 from Ms. Williams, as described above.

On October 1, 2015, Respondent, in his official capacity as a City building inspector, closed the code enforcement case against Ms. Williams for 915 24th Street. (Count 3.)

Elizabeth Williams and 857 Mead Avenue

857 Mead Ave. was, at all relevant times, a duplex in Oakland and owned by Ms. Williams. On December 9, 2014, Respondent inspected the property and issued a "stop-work order" for unapproved remodeling throughout the house on the property. He noted in City records that Ms. Williams needed to also supply records and permits for a second building in the back of 857 Mead Ave.

On December 10, 2014, Ms. Williams applied for a building permit to remodel the kitchen and bathroom of Unit B at 857 Mead Ave. In response to her application, Respondent completed, signed, and submitted a Code Enforcement Routing Slip with Ms. Williams' application that waived the requirement that building code violation fees be applied to Ms. Williams' application, that waived the requirement that a field check be conducted to confirm facts stated in Ms. Williams' application, and that the permit could be approved over-the-counter.

On December 12, 2014, a City building inspector conducted a field check in response Ms. Williams' application for a building permit and rejected her application because the work was beyond the scope of the application.

On June 24, 2015, Ms. Williams submitted an application to expand the scope of the building permit she applied for on December 10, 2014, to include a new electric subpanel, construction of partition walls to enclose a water heater in the kitchen, converting the living room into a new bedroom with a closet, and remodeling of the kitchen and bathroom in Unit A. On the same day, the Building Department issued her a building permit, electrical permit, and plumbing permit.

Between June 26 and December 28, 2015, Respondent received payment from Ms. Williams totaling \$176,179, as described above. During that entire period Respondent was still assigned, in his official capacity as a City building inspector, to the code enforcement case against Ms. Williams that he initiated on December 12, 2014.

On September 21, 2015, Respondent met, on behalf of Ms. Williams, with a PG&E Engineering Estimator at 857 Mead Ave. to discuss electric and gas service installation at 857 Mead Ave.

On October 21, 2015, a City building inspector conducted the final inspection for the electrical permit, issued a “no pass,” and noted eight issues that had to be addressed before the electrical permit could be finalized.

On October 22, 2015, Ms. Williams applied for an electrical permit for a service upgrade to 857 Mead Ave.

On October 27, 2015, Ms. Williams filed a Letter of Agency for Property Owners with the Building Department that authorized Respondent to act as her agent/representative in obtaining permits for 857 Mead Ave., 2735 Market Street, 877/879 27th Street, and other properties she owned in Oakland.

On October 29, 2015, a City building inspector conducted another inspection on the electrical permit that Ms. Williams applied for on June 24, 2015, issued a “no pass,” and noted four issues that would have to be addressed before the electrical permit could be finalized. No further inspections were conducted on that electrical permit and it expired on December 23, 2015.²⁷

On October 30, 2015, a City building inspector conducted an inspection on the electrical permit that Ms. Williams applied for on October 22, 2015, issued a “no pass,” and noted three issues that had to be addressed before the electrical permit could be finalized.

On November 25, 2015, Respondent billed Ms. Williams for electrical work he did for her at 857 Mead Ave.

On December 8, 2015, Ms. Williams and Respondent discussed her outstanding electrical permit.

On December 10, 2015, a City building inspector performed another inspection on the electrical permit that Ms. Williams applied for on October 22, 2015, again issued a “no pass,” and noted six issues that had to be addressed before the electrical permit could be finalized.

On December 14, 2015, Ms. Williams again discussed with Respondent her concerns regarding the electrical permit that had failed inspection twice.

On January 12, 2016, Ms. Williams again discussed with Respondent her concerns regarding the electrical permit that had failed inspection twice. In response, Respondent told her that he would talk to Anthony Harbaugh about it. Mr. Harbaugh is and was, at all relevant times, a City building inspector.

²⁷ Permits are “issued” as soon as the applicant submits all the required paperwork, including the application, and pays all the associated fees. Then inspections are conducted and the permit is “finalized” after a property passes a “frame” inspection and a “final” inspection.

On January 13, 2016, Mr. Harbaugh conducted a final inspection for the electrical permit, issued it a “pass,” and attached Green Tags on the electrical meters at 857 Mead Ave.²⁸

On January 22, 2016, Respondent solicited \$300 from Ms. Williams for the final inspection and the issuance of the Green Tags on the electrical meters at 857 Mead Ave. that took place on January 13, 2016. (Count 4.)

On March 1, 2016, Respondent submitted an application to the Building Department for an electrical permit for 857 Mead Ave. on behalf Ms. Williams. (Count 5.) This application eventually expired without the permit being finalized.

Also on March 1, 2016, Respondent submitted an application to the Building Department for a plumbing permit for 857 Mead Ave. on behalf Ms. Williams. (Count 6.) This application eventually expired without the permit being finalized.

Elizabeth Williams and 2735 Market Street

2735 Market Street was, at all relevant times, a complex of residential buildings in Oakland and owned by Ms. Williams.

On July 8, 2014, a City building inspector issued a “stop-work order” on 2735 Market Street for remodeling being done without the required plumbing, electrical, and building permits. The following day, the Building Department opened an enforcement case against Ms. Williams for the unpermitted work at 2735 Market Street.

On July 16, 2014, Ms. Williams applied for a building permit for the remodeling being done at 2735 Market Street.

On August 4, 2014, a City building inspector conducted an inspection of 2735 Market Street, and concluded that there was a life safety issue that required Ms. Williams to remove sheet rock from the walls and ceiling, that she needed to apply for electrical, plumbing, and mechanical permits for the work being done, and that the building permit that Ms. Williams applied for on July 16, 2014, needed to be broadened.

On August 6, August 8, and September 18, October 14, 2014, January 20, February 20, March 20, March 30, May 7, June 8, July 8, August 7, and September 17, 2015, City building inspectors inspected 2735 Market Street and each time concluded that it was still in violation of the building code. During this time, the building permit that Ms. Williams applied for on July 16, 2014, expired without being finalized.

Between June 26 and September 18, 2015, Respondent received \$100,000 from Ms. Williams, as described above.

²⁸ Green Tags are placed on new electrical meters by City building inspectors only after an electrical permit for a new meter has been finalized by the Building Department. PG&E will not release electricity to a new electrical meter on a property in Oakland until a PG&E technician has personally verified that the Building Department has placed a Green Tag on the new electrical meter.

On September 22, 2015, Ms. Williams applied for a building permit to remodel 2735 Market Street. On the same day, Respondent completed, signed, and submitted a Code Enforcement Routing Slip for Ms. Williams' application that waived the requirement that Ms. Williams submit an architectural plan approved by the City's Zoning Department, confirmed that the monetary valuation on Ms. Williams' application was correct, allowed Ms. Williams' permit to be issued over-the-counter, and waived the requirement that Ms. Williams submit photos of the proposed project with her application. (Count 7.)

On October 15, 2015, a City building inspector conducted an inspection of 2735 Market Street for the building permit that Ms. Williams applied for on September 22, 2015, and found that an inspection could not be conducted because the remodeling had already been done and covered up with sheet rock. The City building inspector issued Ms. Williams a correction notice that required her to remove the sheet rock on the walls and the ceiling so that he could properly inspect the work.

On October 22, 2015, Ms. Williams applied for an electrical and a plumbing permit for 2735 Market Street.

On October 27, 2015, Respondent submitted a Letter of Agency for Property Owners form to the Building Department that gave him the authority to act as Ms. Williams' agent in regards to any permits for 2735 Market Street. On the same day, Building Department issued Ms. Williams the electrical, building, and plumbing permits for 2735 Market Street. (Counts 8, 9, and 10.)

On November 4, 2015, Mr. Harbaugh conducted inspections on the building, electrical, and plumbing permits, passed each, and scheduled himself to conduct the final inspection for each permit.

On November 5, 2015, Respondent solicited \$300 from Ms. Williams for passing the three inspections at 2735 Market Street. (Count 11.)

On November 20, 2015, Mr. Harbaugh conducted the final inspection for Ms. Williams' building, electric, and plumbing permits, gave each a pass, and finalized each.

Elizabeth Williams and 877/879 27th Street

877/879 27th Street was, at all relevant times, a duplex in Oakland and owned by Ms. Williams.

Between June 26 and September 18, 2015, Respondent received \$100,000 from Ms. Williams, as described above.

On November 10, 2015, Respondent, acting as an agent for Ms. Williams, applied to the Building Department for a building permit, an electrical permit, a mechanical permit, and a plumbing permit, for kitchen and bathroom remodels to 877 27th Street. (Counts 12, 13, 14, and 15.)

On November 23, 2015, a City building inspector conducted a rough inspection for the electrical and plumbing permits that Respondent applied for and did not pass either.

On December 11, 2015, Mr. Harbaugh, in his official capacity as a City building inspector, conducted inspections for the building, mechanical, electrical, and plumbing permits that Respondent applied for on behalf of Ms. Williams, and issued a pass for each.

On December 16, 2015, Mr. Harbaugh again conducted inspections for the building, mechanical, electrical, and plumbing permits that Respondent applied for on behalf of Ms. Williams, and again issued a pass for each.

On March 1, 2016, Respondent solicited \$300 from Ms. Williams for the building, mechanical, electrical, and plumbing permits for 877/879 27th Street passing rough inspection on December 11, 2015. (Count 16.)

Also on March 1, 2016, Respondent solicited \$300 from Ms. Williams for the building, mechanical, electrical, and plumbing permits passing final inspection on December 16, 2015. (Count 17.)

On March 14, 2016, Respondent, on behalf of Ms. Williams, submitted applications for a building permit, electrical permit, and plumbing permit, to remodel the kitchen and bathroom of 879 27th Street. (Counts 18, 19, and 20.)

Bill Charman and 4163 Rifle Lane

4163 Rifle Lane was, at all relevant times, a single-family home in Oakland. On November 14, 2013, and again on January 21, 2014, Respondent conducted an inspection of 4163 Rifle Lane, verified building code violations at 4163 Rifle Lane, and opened an enforcement case for building code violations at 4163 Rifle Lane.

On October 29, 2015, 4163 Rifle Lane was listed for sale, and Gimme Shelter, Inc., was, at all relevant times, the brokerage representing the owner of 4163 Rifle Lane. On February 1, 2016, a potential buyer entered into escrow for 4163 Rifle Lane. On the same day, the potential buyer called Respondent to inquire about the enforcement case related to 4163 Rifle Lane. On February 2, 2016, Respondent conducted a follow-up inspection of 4163 Rifle Lane and warned the potential buyer of significant potential fines as a result of unpermitted work on the property and the potential of having to conduct major inspections that would possibly require opening up the walls of the building. In response to Respondent's warning, the potential buyer retracted his offer for 4163 Rifle Lane.

On February 8 and 9, 2016, Bill Charman, in his capacity as a broker at Gimme Shelter, Inc., representing the owner of 4163 Rifle Lane, and Respondent discussed the outstanding building code violations at 4163 Rifle Lane over the phone and via email. Mr. Charman, at Respondents' request, agreed to meet Respondent outside Oakland City Hall to further discuss the outstanding code violations at 4163 Rifle Lane.

On February 9, 2016, Mr. Charman and Respondent met outside Oakland City Hall. During their meeting, Respondent told Mr. Charman that Mr. Charman would need to pay \$1,500 for the inspections needed to resolve the outstanding permit issues for 4163 Rifle Lane. Mr. Charman agreed to pay the \$1,500, and Respondent directed him to make the payment to Respondent personally, rather than to the City. In response, Mr. Charman issued Respondent a \$1,500 check, which Respondent deposited into his personal bank account on the same day. (Count 21.)

After the meeting and on the same day, Mr. Charman applied, on behalf of the owner of 4163 Rifle Lane, for building, electrical, and plumbing permits for 4163 Rifle Lane. Respondent completed, signed, and submitted a Code Enforcement Routing Slip for Mr. Charman's application that waived the building code violation fees, verified that the unpermitted work had not commenced, waived the requirement that a field check be conducted, and allowed the permit to be approved over-the-counter. The Building Department issued Mr. Charman the permits without submission of architectural plans for the projects, without conducting a field check, and without collecting fees for the outstanding building code violations, due to Respondent's decision to waive each of those requirements.

Due to Respondent's decision to waive the fees for to the building code violations, Mr. Charman was only required to pay the regular fees for the three permits, totaling \$1,099.09, which he paid to the City on February 9, 2016, as part of his application for the three permits.

On February 10, 2016, Respondent scheduled himself to inspect 4163 Rifle Lane regarding the outstanding building code violations. Two minutes later, Respondent changed the status of the outstanding building code violations to "abated," even though he never conducted an inspection of 4163 Rifle Lane and the permits regarding the unpermitted addition to 4163 Rifle Lane had not been finalized by the Building Department.

Also on February 10, 2016, Respondent asked Mr. Harbaugh to finalize the building, electrical, and plumbing permits that Mr. Charman applied for the day before. (Counts 22, 23, and 24.) In response, Mr. Harbaugh scheduled himself to conduct the frame inspections on the same day and the final inspections on February 16, 2016, and signed off on the frame inspections and the final inspections without actually conducting any inspections.

On February 24, 2016, a new buyer went into escrow to buy 4163 Rifle Lane, and on March 25, 2016, the title passed to a new owner.

Respondent has not, to date, reported receiving \$1,500 from Mr. Charman. (Count 25.)

Alexandre Machado and 6220 Valley View

In October 2015, Alexandre Machado purchased 6220 Valley View Road, a single-family home in Oakland, as an investment. His intention was to remodel it and sell it.

On November 12, 2015, Mr. Machado applied for, and was issued, a building permit for rot repair at 6220 Valley View Road.

On January 20, 2016, a City building inspector found that the work being done at 6220 Valley View Road was outside the scope of the building permit issued to Mr. Machado and opened an enforcement case against him.

On February 27, 2016, Respondent received \$1,700 from Mr. Machado.

On February 29, 2016, Mr. Harbaugh conducted an inspection of 6220 Valley View Road and finalized Mr. Machado's building permit.

On March 1, 2016, Mr. Machado applied for a building permit to replace the roof at 6220 Valley View Road.

On March 13, 2016, Respondent received \$200 from Mr. Machado.

On March 31, 2016, Respondent posted an official "stop-work order" from the Building Department on 6220 Valley View Road that stated that Mr. Machado was required to stop all work being done to 6220 Valley View Road until the work was approved by Respondent. (Count 27.) Respondent did not follow any of the policies and procedures of the Building Department in issuing the "stop-work order," and never recorded issuing the "stop-work order" into the Building Department's records. Respondent used the "stop-work order" to coerce Mr. Machado into providing Respondent with more payments. (Count 28.)

On April 11, April 13, and April 27, 2016, Respondent received \$1,000, \$4,500, and \$5,000, respectively, from Mr. Machado.

On May 10, 2016, Mr. Machado applied for a building permit to legalize 1322 square feet on the lower floor, remodel the upper floor, and abate the building code violation that the City verified on January 20, 2016.

On May 13, 2016, Mr. Harbaugh conducted a field check and finalized the building permit Mr. Machado applied for on May 10, 2016.

On May 20, 2016, Respondent received \$450 from Mr. Machado.

Respondent has not, to date, reported receiving \$12,850 from Mr. Machado. (Count 26.)

Vivian Tang and 8925 Lawlor Street

8925 Lawlor Street was, at all relevant times, owned by Vivian Tang and located in Oakland. On February 14, 2014, Respondent verified building code violations at 8925 Lawlor Street, issued a "stop-work order" for unpermitted conversions of the basement and the attic, and opened an enforcement case against Ms. Tang.

On December 10, 2014, Ms. Tang applied for building, electrical, and plumbing permits to return the attic to its original use to abate the building code violations. Respondent reviewed

Ms. Tang's permit applications and waived the required approval from the Zoning Department and the required field check to issue the permits.

On January 15, 2015, Ms. Tang hired Respondent to convert the attic and basement of 8925 Lawlor Street for \$21,500.

On January 21, 2015, Respondent passed inspections for Ms. Tang's building, electrical, and plumbing permits, and closed the enforcement case against her. (Counts 30, 31, 32, and 33.)

On January 22, 2015, Ms. Tang applied for building, mechanical, electrical, and plumbing permits to convert the basement of 8925 Lawlor Street.

On January 29, 2015, Respondent received \$10,000 from Ms. Tang pursuant to their agreement. On February 6, 2015, Respondent received the remaining \$11,500 from Ms. Tang pursuant to their agreement.

On February 19, 2015, Respondent passed inspections for Ms. Tang's building, mechanical, electrical, and plumbing permits. (Counts 34, 35, 36, and 37.)

On April 28, 2015, a City building inspector finalized Ms. Tang's building, mechanical, electrical, and plumbing permits.

On May 20, 2015, Respondent received an additional \$3,100 from Ms. Tang for work he did, in his personal capacity, at 8925 Lawlor Street.

Respondent has not, to date, reported receiving \$24,600 from Ms. Tang. (Count 29.)

Ana Siu and 5135 Manila Avenue

5135 Manila Ave. was, at all relevant times, a single-family home in Oakland. On August 13, 2013, Ana Siu bought 5135 Manila Ave.

On December 11, 2013, a City building inspector opened an enforcement case against Ms. Siu for building code violations at 5135 Manila Ave.

On December 24, 2013, Ms. Siu applied for a building permit for 5135 Manila Ave.

On February 21, 2014, Respondent issued a "stop-work order" on 5135 Manila Ave.

On May 1, 2014, Ms. Siu applied for a building permit, mechanical permit, electrical permit, plumbing permit, and obstruction permit, to convert and remodel 5135 Manila Ave.

On May 16, 2014, May 24, 2014, January 16, 2015, and January 26, 2015, Respondent inspected 5135 Manila Ave. for the enforcement case against Ms. Siu and Ms. Siu's permits.

Between February 12 and April 30, 2015, Respondent received payments totaling \$66,277 from Ms. Siu for real estate services and general contracting work at 5135 Manila Ave. and another property Ms. Siu owned.

In March and April 2015, City building inspectors inspected 5135 Manila Ave. for the enforcement case and Ms. Siu's permits.

Between October 21 and October 28, 2015, City building inspectors inspected 5135 Manila Ave. for the permits Ms. Siu had applied for and finalized each of the permits.

On December 24, 2015, Ms. Siu sold 5135 Manila Ave. as a residential duplex.

Respondent has not, to date, reported receiving \$66,277 from Ms. Siu. (Count 38.)

Income from One Development and Investment Corporation

One Development and Investment Corporation (ODIC) was, at all relevant times, a corporation conducting real estate business in Oakland through Ms. Siu, its owner, and Respondent, its president.

Between May 27 and June 25, 2015, Respondent received income totaling \$19,770 from ODIC for real estate and general contracting work.

Respondent has not, to date, reported receiving \$19,770 from ODIC or that he was its president in 2015. (Counts 39 and 40.)

Other Reportable Sources of Income

On March 15, 2015, Respondent received \$1,000 from Pat Viswanathan, a person doing business in Oakland, for consulting services. Respondent has not, to date, reported Mr. Viswanathan as a source of income. (Count 41.)

On April 3, 2015, Respondent received \$3,000 from Apex Construction, a business entity doing business in Oakland, for consulting services. Respondent has not, to date, reported Apex Construction as a source of income. (Count 42.)

On April 8, 2015, Respondent received \$3,000 from Zati Uysal, a person doing business in Oakland, for consulting services. Respondent has not, to date, reported Mr. Uysal as a source of income. (Count 43.)

On August 15, 2016, Respondent received \$3,500 from Jerry Tran, a person doing business in Oakland, for consulting services. Respondent has not, to date, reported Mr. Tran as a source of income. (Count 44.)

Misuse of Public Resources

On several occasions in June and July of 2015, Respondent drove a City-owned vehicle to Orinda to conduct personal business. (Count 45.)

In July and August 2015, Respondent used a City-owned computer and a City-owned printer to print hundreds of pages of personal materials. (Count 46.)

In October 2015, Respondent, while on vacation, used a City-owned cell phone to make personal phone calls totaling 587 minutes. (Count 47.)

IV. VIOLATIONS

Based on the aforementioned evidence, there is probable cause that Respondent committed the following violations of the Oakland Government Ethics Act.

Count 1: Economic Interest Disclosure Violation: Failing to Report the Source of Income

Respondent was a Specialty Combination Inspector in the Building Department in 2015, and as such was required to report all sources from whom he received income, including loans other than those received from a commercial lending institution, totaling \$500 or more during the January 1 through December 31, 2015, period, by April 1, 2016.

In 2015, Respondent received income totaling \$176,179 from Ms. Williams, a person doing business in Oakland. Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Ms. Williams as a source of income by April 1, 2016.

Count 2: Economic Interest Disclosure Violation: Failing to Report the Source of Income

Respondent was a Specialty Combination Inspector in the Building Department until August 16, 2016, and as such was required to report all sources from whom he received income totaling \$500 or more during the January 1 through August 16, 2016, period, by September 15, 2016.

On March 3, 2016, Respondent received income totaling \$850 from Ms. Williams. Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Ms. Williams as a source of income by September 15, 2016.

Count 3: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

As a City employee, Respondent was prohibited from making, participating in making, or attempting to use his official position to influence a governmental decision in which he had a disqualifying financial interest.

An official has a disqualifying financial interest in any governmental decision that involves an individual from whom the official was promised or provided income totaling \$500 or more within 12 months prior to the time when the governmental decision is made.

On October 1, 2015, Respondent had a disqualifying financial interest in any governmental decision involving Ms. Williams because he had received income totaling \$112,000 from her within the prior 12 months. On October 1, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by closing a code enforcement case against Ms. Williams for 915 24th Street.

Count 4: Bribery Violation: Soliciting Money in Exchange for Performance of an Official Act

As a City employee, Respondent was prohibited from soliciting or accepting anything of value in exchange for the performance of any official act.

On January 22, 2016, Respondent violated Section 2.25.070(A) of the Oakland Government Ethics Act by soliciting \$300 from Ms. Williams in exchange for the Building Department passing inspections for her permits, and issuing Green Tags, for 857 Mead Avenue.

Count 5: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

A City employee attempts to use his or her official position to influence a decision when he or she contacts or appears before any official in his or her agency for the purpose of affecting the decision.

On March 1, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by submitted an application to the Building Department on behalf of Ms. Williams. for an electrical permit for 857 Mead Ave.

Count 6: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On March 1, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by submitted an application to the Building Department on behalf of Ms. Williams. for a plumbing permit for 857 Mead Ave.

Count 7: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On September 22, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by waiving the requirement that Elizabeth Williams submit an architectural plan approved by the City's Zoning Department with her building permit application for 2735 Market Street, confirming that the monetary valuation on her building permit application was correct, allowing her building permit to be issued over-the-counter, and waiving the

requirement that she submit photos of the proposed project with her building permit application.

Count 8: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On October 27, 2015, Respondent violated Section 2.25.040(A) by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams an electrical permit for 2735 Market Street.

Count 9: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On October 27, 2015, Respondent violated Section 2.25.040(A) by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a building permit for 2735 Market Street.

Count 10: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On October 27, 2015, Respondent violated Section 2.25.040(A) by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a plumbing permit for 2735 Market Street.

Count 11: Bribery Violation: Soliciting Money in Exchange for Performance of an Official Act

On November 5, 2015, Respondent violated Section 2.25.070(A) of the Oakland Government Ethics Act by soliciting \$300 from Ms. Williams in exchange for her permits for 2735 Market Street passing inspections.

Count 12: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On November 10, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a building permit for 877/879 27th Street.

Count 13: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On November 10, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams an electrical permit for 877/879 27th Street.

Count 14: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On November 10, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a mechanical permit for 877/879 27th Street.

Count 15: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On November 10, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a plumbing permit for 877/879 27th Street.

Count 16: Bribery Violation: Soliciting Money in Exchange for Performance of an Official Act

On March 1, 2016, Respondent violated Section 2.25.070(A) of the Oakland Government Ethics Act by solicited \$300 from Ms. Williams in exchange for building, mechanical, electrical, and plumbing permits for 877/879 27th Street passing rough inspections.

Count 17: Bribery Violation: Soliciting Money in Exchange for Performance of an Official Act

On March 1, 2016, Respondent violated Section 2.25.070(A) of the Oakland Government Ethics by solicited \$300 from Ms. Williams in exchange for building, mechanical, electrical, and plumbing permits for 877/879 27th Street passing final inspections.

Count 18: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On March 14, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a building permit for 877/879 27th Street.

Count 19: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On March 14, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams an electrical permit for 877/879 27th Street.

Count 20: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On March 14, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Ms. Williams a plumbing permit for 877/879 27th Street.

Count 21: Bribery Violation: Soliciting Money in Exchange for Performance of an Official Act

On February 9, 2016, Respondent violated Section 2.25.070(A) of the Oakland Government Ethics Act by soliciting and accepting \$1,500 from Bill Charman in exchange for resolving outstanding permit issues for 4163 Rifle Lane.

Count 22: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On February 9, 2016, Respondent violated of Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Mr. Charman a building permit for 4163 Rifle Lane.

Count 23: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On February 9, 2016, Respondent violated of Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Mr. Charman electrical permit for 4163 Rifle Lane.

Count 24: Conflict of Interest Violation: Attempting to Influence a Governmental Decision Involving a Source of Income

On February 9, 2016, Respondent violated of Section 2.25.040(A) of the Oakland Government Ethics Act by attempting to use his official position to influence the Building Department's decision to issue Mr. Charman a plumbing permit for 4163 Rifle Lane.

Count 25: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On February 9, 2016, Respondent received income totaling \$1,500 from Mr. Charman and was therefore was required to report him as a source of income by September 15, 2016.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Mr. Charman as a source of income by September 15, 2016.

Count 26: Economic Interest Disclosure Violation: Failing to Report a Source of Income

Between February 27 and May 20, 2016, Respondent received income totaling \$12,850 from Alex Machado, who was doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Mr. Machado as a source of income by September 15, 2016.

Count 27: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On March 31, 2016, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by issuing a “work-stop order” on 6220 Valley View, a property owned and being remodeled by Mr. Machado.

Count 28: Misuse of City Authority: Using One’s City Authority to Induce or Coerce a Person to Provide an Economic Gain

On March 31, 2016, Respondent issued a “work-stop order” on 6220 Valley View, a property owned and being remodeled by Mr. Machado, for the purpose of inducing or coercing Mr. Machado into providing Respondent with payments.

By attempting to use his authority as a City official to induce or coerce a person to provide him with an economic gain, Respondent violated Section 2.25.060(A)(2) of the Oakland Government Ethics Act.

Count 29: Economic Interest Disclosure Violation: Failing to Report a Source of Income

Between January 29 and May 20, 2015, Respondent received income totaling \$24,600 from Vivian Tang, a person doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Ms. Tang as a source of income by April 1, 2016,

Count 30: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On January 21, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by closing a code enforcement case against Ms. Tang for 8925 Lawlor Street.

Count 31: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On January 21, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing an inspection for Ms. Tang’s building permit for 8925 Lawlor Street.

Count 32: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On January 21, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing an inspection for Ms. Tang’s electrical permit for 8925 Lawlor Street.

Count 33: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On January 21, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing an inspection for Ms. Tang's plumbing permit for 8925 Lawlor Street.

Count 34: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On February 19, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing an another inspection for Ms. Tang's building permit for 8925 Lawlor Street.

Count 35: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On February 19, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing another inspection for Ms. Tang's electrical permit for 8925 Lawlor Street.

Count 36: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On February 19, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing another inspection for Ms. Tang's plumbing permit for 8925 Lawlor Street.

Count 37: Conflict of Interest Violation: Making a Governmental Decision Involving a Source of Income

On February 19, 2015, Respondent violated Section 2.25.040(A) of the Oakland Government Ethics Act by passing inspection for Ms. Tang's mechanical permit for 8925 Lawlor Street.

Count 38: Economic Interest Disclosure Violation: Failing to Report a Source of Income

In 2015, Respondent received income totaling \$66,277 from Ana Siu, a person doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Ms. Siu as a source of income by April 1, 2016.

Count 39: Economic Interest Disclosure Violation: Failing to Report a Source of Income

In 2015, Respondent received income totaling \$19,770 from One Development and Investment Corporation, a business entity doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report One Development and Investment Corporation as a source of income by April 1, 2016.

Count 40: Economic Interest Disclosure Violation: Failing to Report a Business Position

In 2015, Respondent was the president of One Development and Investment Corporation, a business entity doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report his business position with One Development and Investment Corporation by April 1, 2016.

Count 41: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On August 15, 2016, Respondent received income totaling \$3,500 from Jerry Tran, a person doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Mr. Tran as a source of income by September 15, 2016.

Count 42: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On March 15, 2015, Respondent received income totaling \$1,000 from Pat Viswanathan, a person doing business in Oakland. Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Mr. Viswanathan as a source of income by September 15, 2016.

Count 43: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On April 8, 2015, Respondent received income totaling \$3,000 from Zati Uysal, a person doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Mr. Uysal as a source of income by April 1, 2016.

Count 44: Economic Interest Disclosure Violation: Failing to Report a Source of Income

On April 3, 2015, Respondent received income totaling \$3,000 from Apex Construction, a business entity doing business in Oakland.

Respondent violated Section 2.25.040(B) of the Oakland Government Ethics Act by failing to report Apex Construction as a source of income by April 1, 2016.

Count 45: Misuse of Public Resources Violation: Using City Resources for Personal Matters

In 2015, Respondent violated Section 2.25.060(A)(1) of the Oakland Government Ethics Act by using a City-owned vehicle for personal matters unrelated to any City business.

Count 46: Misuse of Public Resources Violation: Using City Resources for Personal Matters

In 2015, Respondent violated Section 2.25.060(A)(1) of the Oakland Government Ethics Act by using a City-owned computer and printer for personal matters unrelated to any City business.

Count 47: Misuse of Public Resources Violation: Using City Resources for Personal Matters

In 2015, Respondent violated Section 2.25.060(A)(1) of the Oakland Government Ethics Act by using a City-owned cell phone for personal matters unrelated to any City business.

V. RECOMMENDATION

Because there is probable cause that Respondent committed 47 violations of the Oakland Government Ethics Act, as described above, Commission Staff recommends that the Commission refer this matter for an administrative hearing. If the Commission decides to refer this matter for an administrative hearing, Commission Staff recommends that the administrative hearing be held before a panel of three members of the Commission.



Michael MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Janani Ramachandran
Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: January 22, 2021
RE: Mandated Campaign Contribution and Expenditure Limit Adjustment

The Public Ethics Commission (PEC or Commission) is responsible for adjusting Oakland's Campaign Contribution and Expenditure Limits annually according to the increase in the Consumer Price Index (CPI) for the preceding year pursuant to the Oakland Campaign Reform Act.

This memorandum provides background information about the annual adjustment and memorializes publication of the updated contribution and expenditure limits for 2021.

Background

The Oakland Campaign Reform Act (OCRA) imposes limits on campaign spending and seeks to reduce the influence of large contributions on election outcomes. OCRA tasks the Commission with annually adjusting the Contribution and Expenditure Limits for campaigns in Oakland. Below are the applicable sections of the Oakland Campaign Reform Act (attached):

- Limitations on Contributions from Persons (O.M.C. Sec. 3.12.050)
- Limitations on Contributions from Broad-Based Political Committees (O.M.C. Sec. 3.12.060)
- Expenditure Ceilings for candidates who voluntarily agree to expenditure ceilings (O.M.C. Sec. 3.12.200)
- Amount of Independent Expenditures that lift the Expenditure Ceilings (O.M.C. Sec. 3.12.220)

The above sections establish a framework by which contributions to a candidate are limited to \$100 per contributor, unless the candidate voluntarily agrees to limit their overall spending for the entirety of their campaign (expenditure ceiling) to a set amount provided by OCRA. By accepting the expenditure ceiling, the candidate can then receive up to \$500 in contributions from an individual. The same is true for contributions from a broad-based political committee, as defined in OCRA, for which the statutory contribution limits are \$250 and \$1,000, respectively.¹

In addition to these limits, OCRA provides a mechanism by which the candidate expenditure ceiling is lifted if and when a person reaches a certain threshold of spending on independent expenditures on a particular race. The threshold amounts are as follows:

¹ These statutory amounts of \$100, \$500, \$250, and \$1,000 are adjusted each year as described on the next page.

Item #7 - Staff Memorandum

Candidate	Independent Expenditure Threshold
District City Council or School Board	\$15,000
City Attorney, Auditor, Councilmember-at-Large, or Mayor	\$70,000

All of these contribution limit and expenditure ceiling amounts are adjusted each year according to the increase in the Consumer Price Index (CPI), as provided in each of the above OCRA sections. Now, for example, the prior statutory \$100 limit for candidates who do not accept the expenditure ceiling is \$200 in practice, and for those who accept the expenditure ceiling, the statutory \$500 limit is \$900 as a result of annual CPI increases over time.

Annual Adjustment

OCRA specifies the timing and nature of the annual increase, providing that the amounts listed in each of the above sections must be increased annually according to the CPI “for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics.” The increase of the contribution limitation amounts “shall not exceed the CPI increase,” and the adjustment “shall be rounded to the nearest one hundred (100).” The calculations shall be based on 1999 as the index year for contribution limits, and 1998 as the index year for expenditure ceilings and the independent expenditure threshold.²

OCRA also requires that the expenditure ceiling amounts be published no later than February 1st of each year.³

Conclusion

The CPI data for 2020 was released by the U.S. Department of Labor, Bureau of Labor Statistics, on January 13, 2021. Commission staff used this data to calculate the increase for the 2021 contribution and expenditure limits and independent expenditure thresholds as required by the Oakland Campaign Reform Act and is publishing the 2021 limits here. Commission staff will distribute the new information widely.

Attached is the Commission’s published spreadsheet for 2021. Also attached is the format that Commission staff used to insert the data point for the annual average CPI increase for all urban consumers in 2020 and make the corresponding calculations for 2021. No further Commission action is necessary.

Attachments:

1. Oakland Campaign Reform Act
2. Campaign Contribution and Expenditure Limits 2021
3. Spreadsheet for Calculating Campaign Contribution and Expenditure Limits 2021
4. U.S. Department of Labor, Bureau of Labor Statistics, CPI All Items, All Urban Consumers (CPI-U) 2010-2020 ⁴

² O.M.C. Sections 3.12.050(G), 3.12.060(G), 3.12.200, and 3.12.220, referring to sec. 3.12.200.

³ O.M.C. 3.12.200.

⁴ https://data.bls.gov/pdq/SurveyOutputServlet?data_tool=dropmap&series_id=CUURS49BSAo,CUUSS49BSAo

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT¹¹

Footnotes:

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Editor's note— Ord. No. 13399, § 1, adopted November 29, 2016, amended Chapter 3.12 in its entirety to read as herein set out. Formerly, Chapter 3.12, Article I—IX, pertained to similar subject matter and derived from Ord. No. 12158, adopted in 1999; Ord. No. 12197, adopted in 1999; Ord. No. 12207, § 2, adopted in 2000; Ord. No. 12260, § 1, adopted in 2000; Ord. No. 12998, § 1, adopted March 2, 2010; Ord. No. 13156, §§ 3—5, adopted March 19, 2013, and Ord. No. 13262, § 1, adopted October 21, 2014.

Article I. - Findings and Purpose

3.12.010 - Title.

This Chapter shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. No. 13399, § 1, 11-29-2016)

3.12.020 - Findings and declarations.

The Oakland City Council finds and declares each of the following:

- A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by City government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.
- C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.
- D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.
- E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.
- F. Disclosure of donors who have financial interests with the City of Oakland and also of City Officials who solicit contributions safeguards against potential conflicts of interest.
- G. For transparency, and to protect our democracy, including from the risk of secretive big money, it is important that the public have a right to know who is paying for, and who is sending, advocacy and campaign communications.
- H. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.
- I. This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

(Ord. of 13545, 6-18-2019; Ord. No. 13399, § 1, 11-29-2016)

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

- A. To ensure that all individuals and interest groups in our City have a fair and equal opportunity to participate in elective and governmental processes.
- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To reduce the advantage of incumbents and thus encourage competition for elective office.
- E. To allow candidates and elected City Officials to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- G. To help restore public trust in governmental and electoral institutions.

(Ord. No. 13399, § 1, 11-29-2016)

Article II. - Definitions

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in the California Political Reform Act (California Government Code Sections 81000 through 91014), as amended, shall govern the interpretation of this Act.

- A. "Broad-based political committee" means a committee of persons which has been in existence for more than six (6) months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five (5) or more candidates.
- B. "Candidate" means any candidate, as defined by the California Political Reform Act, for City Office.
- C. "City" means the City of Oakland.
- D. "City Office" includes, but is not limited to, City of Oakland Mayor (Mayor), City of Oakland City Attorney (City Attorney), City of Oakland City Auditor (City Auditor), City of Oakland City Councilmembers (Councilmembers), and Oakland School Board Directors (School Board Directors).
- E. "City Official" means any person holding a City Office, any member of a City board or commission, and any City employee.
- F. "Election" means any election for City Office.
- G. "Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.

- H. "Entity" means any person, other than an individual.
- I. "Local committee" means any committee, as defined in the California Political Reform Act, that is required by the California Political Reform Act to file campaign statements with the City.
- J. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.
- K. "Qualified campaign expenditure" for candidates means and includes all of the following:
 - 1. Any expenditure made by a candidate, elected City Official or committee controlled by the candidate or elected City Official, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate.
 - 2. A nonmonetary contribution provided at the request of or with the approval of the candidate, elected City Official or committee controlled by the candidate or elected City Official.

"Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

(Ord. No. 13399, § 1, 11-29-2016)

Article III. - Contribution Limitations

3.12.050 - Limitations on contributions from persons.

- A. No person shall make to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall receive from any such person, a contribution or contributions totaling more than one hundred dollars (\$100.00), adjusted annually pursuant to Subsection F., for each election except as stated in Subsection B. of this Section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no person shall make to a candidate and the controlled committee of such candidate, and no such candidate and the controlled committee of such candidate shall receive contributions totaling more than five hundred dollars (\$500.00), adjusted annually pursuant to Subsection F., from any person for each election.
- C. Any person who makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City Office in excess of the amounts stated in Subsection A.
- D. This Section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than City offices.
- E. Persons making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a person has separately accounted for such contributions and expenditures for such elections for City office, contributors to that person may contribute more than the amount set forth in Subsection A. of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.060 - Limitations on contributions from broad-based political committees.

- A. No broad-based political committee shall make to any candidate and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than two hundred fifty dollars (\$250.00), adjusted annually pursuant to Subsection F., for each election except as stated in Subsection B. of this Section.
- B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand dollars (\$1,000.00), adjusted annually pursuant to Subsection F., for each election.
- C. Any broad-based political committee that makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City office in excess of the amounts stated in Subsection A. of this Section.
- D. This Section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than City offices.
- E. A broad-based political committee making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a broad-based political committee has separately accounted for such contributions and expenditures for such elections for City office, contributors to that broad-based political committee may contribute more than the amounts set forth in Subsection A. of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.
- F. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.065 - Contributions made under legal name.

No contributions shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.070 - Return of contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor no later than five (5) business days after the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.080 - Aggregation of contributions.

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

- A. Two (2) or more entities' contributions shall be aggregated when any of the following circumstances apply:
 - 1. The entities share the majority of members of their boards of directors.
 - 2. The entities share three (3) or more, or a majority of, officers.
 - 3. The entities are owned or controlled by the same majority shareholder or shareholders.
 - 4. The entities are in a parent-subsidary relationship.
 - 5. One entity finances, maintains, or controls the other entity's contributions or expenditures.
- B. Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decision to make contributions.
- C. The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by that same person.
- D. If two (2) or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.
- E. No committee and no broad-based political committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad-based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.090 - Loans.

- A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.
- B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.
- C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.
- D. Other than loans pursuant to Subsection C. of this Section, extensions of credit in excess of one thousand five hundred dollars (\$1,500.00) for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.100 - Family contributions.

- A. Contributions by two (2) individuals married to each other shall be treated as separate contributions and shall not be aggregated.
- B. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half (½) to each parent or the total amount to a single custodial parent).

(Ord. No. 13399, § 1, 11-29-2016)

3.12.110 - One campaign committee and one checking account per candidate.

A candidate shall have no more than one campaign committee and one checking account for the City office being sought, out of which all expenditures for that office shall be made. This Section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.115 - Ballot measure committees controlled by candidates or elected City Officials.

A candidate or elected City Official who controls a ballot measure committee may not directly or indirectly use or influence the use of ballot measure committee funds to support the candidate's or elected City Official's election or to support or oppose other candidates, and may not transfer such funds to another committee supporting the candidate's or elected City Official's election, or supporting or opposing other candidates. The foregoing notwithstanding, the prohibitions of this Section shall not apply to a committee created to oppose or support the qualification of a recall measure and/or the recall election of the controlling candidate or controlling elected City Official.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.116 - Disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees.

All non-candidate controlled recipient committees, including ballot measure committees and general purpose committees, required to file campaign statements in the City of Oakland, must disclose the principal officers of the committee. Such disclosure must include the full name, street address, and telephone number of at least one (1) principal officer, as well as all principal officers up to a total of three (3). This disclosure shall be made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. Such information shall be filed with the Public Ethics Commission and made available to the public.

(Ord. of 13545, 6-18-2019)

3.12.117 - Reporting by City Officials who solicit campaign contributions from persons contracting or proposing to contract with the City.

- A. Any public servant, as defined by Section 2.25.030(D), who is required to file a statement of economic interests (Form 700) and who successfully solicits a contribution of five thousand dollars (\$5,000.00) or more per calendar year to any committee from any person who contracts or proposes

to contract with the official's department during the contractor prohibition time period specified in Section 3.12.140, must disclose such solicitation within thirty (30) days of the solicitation to the Public Ethics Commission using a process provided by the Public Ethics Commission.

1. Mayor, Members of the Council, and their Senior Staff Members. For purposes of this section, the "department" of the Mayor, member of the Council, or Senior Staff Member to either the Mayor or member of Council shall be the City, and the disclosure requirement shall apply when the solicitation is made to a person contracting or proposing to contract with the City.
 - a. For purposes of this section, a "senior staff member" to either the Mayor or a member of the Council means an individual employed in any of the following positions: Chief of Staff, Deputy Chief of Staff, Communications or other Director, Legislative or Policy Aide, or any other position in the Mayor's or Council Member's office who is required to file a Form 700.

(Ord. of 13545, 6-18-2019)

3.12.120 - Money received by elected City Officials and candidates treated as contributions, income or gifts.

Any funds received by any elected City Official, candidate, or committee controlled by an elected City Official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the California Political Reform Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.130 - Contributor identification and restriction on use of cash.

- A. No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate or local committee unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.
- B. No person shall make, and no candidate or local committee shall receive, a contribution of one hundred dollars (\$100.00) or more in cash.
- C. No candidate or local committee shall make an expenditure of one hundred dollars (\$100.00) or more in cash.
- D. No person shall make a contribution of one hundred dollars (\$100.00) or more other than an in-kind contribution unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code Section 84302.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.140 - Contractors doing business with the City or the Oakland Unified School District prohibited from making contributions.

- A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, for selling or leasing any land or building to the City, or for purchasing or leasing any land or building from the City, whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City

Item #7 - Staff Memorandum

Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or the termination of negotiations for such contract.

- B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District, for selling or leasing any land or building to the School District, or for purchasing or leasing any land or building from the School District, whenever the value of such transaction would require approval by the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or termination of negotiations for such contract.
- C. If a person is an entity, the restrictions of Subsections A. and B. also apply to all of the entity's principals, including, but not limited to, the following:
 - 1. The entity's board chair, president, chief executive officer, chief operating officer, chief financial officer, and any individual who serves in the functional equivalent of one or more of those positions;
 - 2. Any individual who owns an ownership interest in the entity of twenty (20) percent or more; and
 - 3. An individual employee, independent contractor, or agent of the entity, that represents or is authorized to represent the entity before the City in regards to the contract or proposal contract.
- D. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.
- E. For contributions to elected City Officials other than School Board Directors, transactions that require approval by the City Council include but are not limited to:
 - 1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).
 - 2. Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.
 - 3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).
 - 4. Contracts for the sale or lease of any building or land to or from the City.
 - 5. Amendments to contracts described in Subsections E.1., 2., 3., and 4. of this Section.
- F. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:
 - 1. Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.
 - 2. Contracts requiring School Board approval under Public Contract Code Section 20111.
 - 3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
 - 4. Contracts for the sale or lease of any building or land to or from the School District.
 - 5. Amendments to contracts described in Subsections F.1., 2., 3., and 4. of this Section.
- G. "Commencement of negotiations" for City contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any City Official or when a City Official formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

H. Reserved.

- I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- J. "Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.
- K. "Completion of negotiations" occurs when the City or the School District executes the contract or amendment.
- L. "Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by a City Official or an appointed or elected School District officer or employee.
- M. The Oakland City Administrator shall be responsible for implementing procedures for City contracts to ensure contractor compliance with this Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed by the City Clerk at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The City Clerk shall keep an updated list of current contractors available for inspection.

- N. The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

- O. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District or for purchasing any land or building from the City or the School District, or for leasing any land to or from the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates Subsection A. of this Section, shall be subject to the enforcement provisions of Article IX of this Act.
- P. Candidates and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland or the Oakland Unified School District (OMC § 3.12.140).

(Ord. No. 13399, § 1, 11-29-2016)

3.12.150 - Officeholder fund.

- A. Every elected City Official shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected City Official. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.
- B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in Subsection C.1. through 5. of this Section. Such allowable expenditures shall include, but are not limited to the following categories:
 - 1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;
 - 2. Expenditures for office equipment, furnishings and office supplies;
 - 3. Expenditures for office rent;
 - 4. Expenditures for salaries of part-time or full-time staff employed by the elected City Official for officeholder activities;
 - 5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;
 - 6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the elected City Official; (2) a member of the elected City Official's staff; or (3) such other person designated by the elected City Official who is authorized to perform such government duties;

Item #7 - Staff Memorandum

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the elected City Official, (2) a member of the elected City Official's staff, (3) such other person designated by the elected City Official who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;
 8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;
 9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;
 10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;
 11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the elected City Official or a member of the elected City Official's staff in the performance of his or her governmental responsibilities;
 12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;
 13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;
 14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the elected City Official communicates in his or her official capacity;
 15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;
 16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
 17. Expenditures for ballot measures.
- C. Officeholder expense funds shall not be used for the following:
1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;
 2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;
 3. Membership in any athletic, social, fraternal, veteran or religious organization;
 4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City Official;
 5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.
- D. No funds may be transferred from the officeholder fund of an elected City Official to any other candidate committee.
- E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.
- F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.160 - Allowance for donation of office space.

- A. Donation of office space for use by elected City Officials in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:
 - 1. The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
 - 2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the City Clerk.
- B. Use of office space donated pursuant to this Section by an elected City Official shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.170 - Legal expense funds.

- A. An elected City Official or candidate may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or elected City Official's legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or elected City Official's governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an elected City Official or candidate for legal expense fund must be deposited into the elected City Official's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.
- B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.
- C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.180 - Volunteer services exemption.

Volunteer personal services, and payments made by an individual for his or her own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to him or her, are not contributions or expenditures subject to this Act.

(Ord. No. 13399, § 1, 11-29-2016)

Article IV. - Expenditure Ceilings

3.12.190 - Expenditure ceilings.

Item #7 - Staff Memorandum

All candidates who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Subsections 3.12.050.B. and 3.12.060.B. of this Act. Before receiving any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the Public Ethics Commission on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$0.70) per resident for each election in which the candidate is seeking elective office. A candidate for other Citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$0.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning on January 1, 2017, the Public Ethics Commission shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.210 - Reserved.

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if any person makes one or more independent expenditures totaling more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) in a City Attorney, Auditor, Councilmember-at-Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Subsections 3.12.050.B. and 3.12.060.B. of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.200 of this Chapter.

(Ord. No. 13399, § 1, 11-29-2016)

Article V. - Independent Expenditures

3.12.230 - Independent expenditures for mass mailings, slate mailings or other campaign materials.

- A. Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate shall place the following statement on the mailing in typeface of no smaller than fourteen (14) points:

Notice to Voters

(Required by the City of Oakland)

This mailing is not authorized or approved by any City candidate or election official.

It is paid for

by (name) _____

_____(address, city, state)

Total cost of this mailing is: (amount)

- B. A committee must disclose the names of persons from whom the committee received its two (2) highest cumulative contributions of five thousand dollars (\$5,000.00) or more in the same manner as required by California Political Reform Act Section 84506 on all mass mailings and television advertisements that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City.

(Ord. No. 13399, § 1, 11-29-2016)

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

- A. **Electronic Filing of Campaign Statements.** Any person required by State or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission provided that the Public Ethics Commission has prescribed the format at least sixty (60) days before the statement or report is due to be filed.
- B. **Continuous Filing of Electronic Statements.** Once a committee is subject to the electronic filing requirements imposed by this Section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Act and the California Political Reform Act.
- C. **Late Filing Fees.** If any person files an original statement or report after the deadline imposed by State or local law, he or she shall, in addition to any other penalties or remedies established by this Act or State law, be liable in the amount of ten dollars (\$10.00) per day after the deadline until the statement or report is filed, to the Public Ethics Commission. No liability under this Subsection shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100.00), whichever is greater. The Public Ethics Commission shall deposit any funds received under this Section into the City's general fund.
- D. **Adoption of General Law.** Except as otherwise provided in, or inconsistent with, this Act or other provisions of local law, the provisions of the California Political Reform Act relating to local elections including any subsequent amendments are hereby incorporated as part of this article.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.245 - Recordkeeping requirements.

Every person required by State or local law to file a campaign statement or report with the City shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four (4) years following the date the campaign statement or report was filed with the Public Ethics Commission.

(Ord. No. 13399, § 1, 11-29-2016)

Article VII. - Violations Related to Enforcement

3.12.250 - Violations Related to Enforcement.

False Charges and Information. A person shall not knowingly furnish false, fraudulent, or misleading complaints, evidence, documents, or information to the Public Ethics Commission, or District Attorney, or knowingly misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Public Ethics Commission or District Attorney of an alleged violation of this Act.

(Ord. No. 13399, § 1, 11-29-2016)

Article VIII. - Agency Responsibility and Authority

3.12.260 - Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

- A. Oversee compliance with the Act.
- B. Serve as the local filing officer for campaign statements and reports pursuant to the California Political Reform Act.
- C. Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this Act, subject to Section 2.24.070 of the Oakland Municipal Code.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.265 - Duties of the City Clerk.

The City Clerk shall, at a minimum, provide with the nomination packets given to candidates an advisory sheet directing candidates to the Public Ethics Commission for information about campaign reporting requirements.

(Ord. No. 13399, § 1, 11-29-2016)

Article IX. - Enforcement

3.12.270 - Penalties.

Any person who violates this Act is subject to criminal, civil, administrative, and other penalties provided for in this Section. In the event criminal violations of this Act come to the attention of the Public Ethics Commission, it may forward the information to the appropriate law enforcement agency.

- A. **Criminal Penalties.** Any person who knowingly or willfully violates any provision of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to

violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Act.

1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless a court, at the time of sentencing, specifically determines that this provision shall not be applicable.
 2. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.
- B. Civil Penalties. Any person who violates any provision of this Act shall be liable in a civil action for an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed expended, gave or received, whichever is greater. A decision by the Public Ethics Commission to bring a civil action requires an affirmative vote of at least five (5) of its members.
1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
 2. In determining the amount of liability, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.
- C. Administrative Penalties. Any person who violates any provision of this Act, who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable in an administrative proceeding before the Public Ethics Commission held pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. In addition to administrative penalties, the Public Ethics Commission may issue warnings or require other remedial measures.
1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.280 - Injunctive relief.

- A. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, VI, and VII of this Act.
- B. Any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, and VI of this Act.
- C. Any individual, other than the Public Ethics Commission, before filing a civil action pursuant to this Section, shall first file with the Public Ethics Commission a written request for the Public Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Public Ethics Commission shall respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an administrative or civil action. If the Public Ethics Commission indicates in the affirmative and brings an administrative or civil action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Public Ethics Commission is dismissed without prejudice.
- D. If the Public Ethics Commission needs additional time to determine whether to bring an action or needs additional time to bring an action, it may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety (90) day time period by another sixty (60) days. If the Public Ethics Commission indicates they will not pursue the matter, or if it does not pursue an administrative or civil action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit pursuant to this Section. No resident may bring an action

pursuant to this Section if the Public Ethics Commission has commenced an administrative action or a law enforcement agency has commenced criminal action arising out of the same facts.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.290 - Forfeiture.

Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's general fund up to the amount of the financial benefit received as a result of the violation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.300 - Costs of litigation.

The court may award to a party, other than the City or any of its commissions, boards, departments or agencies, who prevails in any civil action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.310 - Limitation of actions.

- A. A criminal action alleging a violation of this Act may only be commenced by the Alameda County District Attorney or the California Attorney General and no more than four (4) years after the date of the violation.
- B. A civil action alleging a violation of this Act may only be commenced by the Public Ethics Commission or an individual residing in the City and no more than five (5) years after the date of the violation.
- C. An administrative action alleging a violation of this Act may only be commenced by the Public Ethics Commission and no more than five (5) years after the date of the violation.
- D. Commencement of an administrative action is the date the Public Ethics Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.
- E. Unless otherwise prescribed by applicable law, the date of the violation means the earliest date when the complainant, the Public Ethics Commission, or other prosecuting authority has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant, the Public Ethics Commission, or other prosecuting authority to know or suspect under the facts of the situation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.320 - Liability.

- A. In addition to a committee itself, persons who qualify under the California Political Reform Act as principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers.

- B. In addition to a person whose conduct is required or prohibited under this Act, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:
1. A current or former officer of the committee;
 2. An employee of the committee;
 3. A person who has received compensation or reimbursement from the committee; and
 4. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.
- C. This Section does not limit potential liability for persons who cause another person to violate this Act or who aids and abets another person in a violation.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.330 - Disqualification.

In addition to any other penalties prescribed by law, if a candidate receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et seq. and the regulations of the Fair Political Practices Commission shall apply to interpretations of this Section.

(Ord. No. 13399, § 1, 11-29-2016)

Article X. - Miscellaneous Provisions

3.12.340 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this State or jurisdiction.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.350 - Reference to other laws.

All references in this Act to other laws refer to those laws as amended.

(Ord. No. 13399, § 1, 11-29-2016)

3.12.360 - Severability.

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

(Ord. No. 13399, § 1, 11-29-2016)

**CITY OF OAKLAND
CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN
REFORM ACT
2021**

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)

For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$200
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$900

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$400
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,700

**EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY AGREE TOP
EXPENDITURE CEILINGS (§3.12.200)**

Mayor	\$496,000
City Auditor	\$354,000
City Attorney	\$354,000
Council Member At-Large	\$354,000
District 1 Council Member	\$156,000
District 2 Council Member	\$155,000
District 3 Council Member	\$156,000
District 4 Council Member	\$149,000
District 5 Council Member	\$149,000
District 6 Council Member	\$148,000
District 7 Council Member	\$150,000
District 1 School Board Director	\$104,000
District 2 School Board Director	\$104,000
District 3 School Board Director	\$104,000
District 4 School Board Director	\$99,000
District 5 School Board Director	\$99,000
District 6 School Board Director	\$99,000
District 7 School Board Director	\$100,000

INDEPENDENT EXPENDITURE COMMITTEE THRESHOLD/EXPENDITURE CEILINGS LIFTED (§3.12.220)

Citywide offices	\$127,000
District offices	\$27,000

CITY OF OAKLAND CAMPAIGN CONTRIBUTION AND EXPENDITURE LIMITS PER THE OAKLAND CAMPAIGN REFORM ACT 2021

LIMITATIONS ON CONTRIBUTIONS FROM PERSONS (§3.12.050)

Consumer Price Index (CPI) Values*

1999 (index year)	172.5	Annual Avg CPI
2020	300.084	Annual Avg CPI
Adjustment Factor	173.96%	

Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Persons				
For candidates who do not adopt the expenditure ceilings (3.12.050(A))	\$100	173.96%	\$174	\$200
For candidates who adopt the expenditure ceilings (3.12.050(B))	\$500	173.96%	\$870	\$900

* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value

** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).

LIMITATIONS ON CONTRIBUTIONS FROM BROAD-BASED POLITICAL COMMITTEES (§3.12.060)

Consumer Price Index (CPI) Values*

1999 (index year)	172.5	Annual Avg CPI
2020	300.084	Annual Avg CPI
Adjustment Factor	173.96%	

Position	Codified Limit	CPI Adjustment Factor	CPI Adjusted Expenditures	New Limit After Rounding**
Contributions from Broad-Based Political Committees				
For candidates who do not adopt the expenditure ceilings (3.12.060(A))	\$250	173.96%	\$435	\$400
For candidates who adopt the expenditure ceilings (3.12.060(B))	\$1,000	173.96%	\$1,740	\$1,700

* CPI is the Consumer Price Index - All Urban Consumers, Not Seasonally Adjusted, San Francisco-Oakland-San Jose, CA, All Items, Annual Value

** Per Municipal Code the CPI Adjusted Contribution amount must be rounded to the nearest one hundred (100).

EXPENDITURE CEILINGS FOR MAYOR AND OTHER CITYWIDE OFFICES WHO VOLUNTARILY AGREE TOP EXPENDITURE CEILINGS (§3.12.200)

Consumer Price Index (CPI) Values*

1998 (index year)	165.5	Annual Avg CPI
2020	300.084	Annual Avg CPI
Adjustment Factor	181.32%	

Position	Codified Limit	2010 Census Population**	Total Expenditures	CPI Adjustment Factor	CPI Adjusted Expenditures
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Data extracted on: January 13, 2021 (12:48:57 PM)

CPI for All Urban Consumers (CPI-U)

Series Id: CUURS49BSA0,CUUSS49BSA0

Not Seasonally Adjusted

Series Title: All items in San Francisco-Oakland-Hayward, CA, all urban consumers, not seasonally adjusted

Area: San Francisco-Oakland-Hayward, CA

Item: All items

Base Period: 1982-84=100

Download: [XLS](#) [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2010		226.145		227.697		228.110		227.954		228.107		227.658	227.469	226.994	227.944
2011		229.981		234.121		233.646		234.608		235.331		234.327	233.390	232.082	234.698
2012		236.880		238.985		239.806		241.170		242.834		239.533	239.650	238.099	241.201
2013		242.677		244.675		245.935		246.072		246.617		245.711	245.023	243.894	246.152
2014		248.615		251.495		253.317		253.354		254.503		252.273	251.985	250.507	253.463
2015		254.910		257.622		259.117		259.917		261.019		260.289	258.572	256.723	260.421
2016		262.600		264.565		266.041		267.853		270.306		269.483	266.344	263.911	268.777
2017		271.626		274.589		275.304		275.893		277.570		277.414	274.924	273.306	276.542
2018		281.308		283.422		286.062		287.664		289.673		289.896	285.550	282.666	288.435
2019		291.227		294.801		295.259		295.490		298.443		297.007	295.004	293.150	296.859
2020		299.690		298.074		300.032		300.182		301.736		302.948	300.084	299.109	301.059

Item #8 - Disclosure Report



Michael B. MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Janani Ramachandran
Joe Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
Jelani Killings, Ethics Analyst
Whitney Barazoto, Executive Director
DATE: January 22, 2021
RE: Disclosure and Engagement Report for the February 1, 2021, PEC Meeting

This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities since the last monthly meeting. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as needed. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunities for dialogue between the Commission and community members.

Filing Officer - Compliance

Contribution and Voluntary Expenditure Limits Adjustment – On January 13, the US Bureau of Labor Statistics released the 2020 CPI data used for the annual contribution and expenditure limit adjustments pursuant to the Oakland Campaign Reform Act (OCRA). Staff calculated the annual adjustment and published the new limits for 2021 as required by OCRA. The annual calculation resulted in increases in expenditure limits for Oakland offices, but the contribution limits for individuals and broad-based committees remained the same.

Campaign Finance Disclosure – In a non-election year, campaign committees must file two semi-annual campaign statements ([FPPC Form 460](#)). January 31 is the filing deadline for semi-annual campaign statements covering the period from July 1 through December 31, 2020. All active campaign committees registered with the City of Oakland must file. In addition, any individuals or entities that do not qualify as recipient committees but made political contributions or independent expenditures totaling \$10,000 or more in 2020 (major donors) must also file a campaign statement ([FPPC Form 461](#)). Outreach to campaign filers this month included email notices of the upcoming deadline and reminders via our social media accounts.

Campaign statements are available to view and download at the PEC's [Public Portal for Campaign Finance Disclosure](#).

Lobbyist Registration and Reporting Program – The Oakland Lobbyist Registration Act (LRA) requires any person that qualifies as a lobbyist to register annually with the Public Ethics Commission before conducting any lobbying activity. It also requires lobbyists to submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions. January 31

Item #8 - Disclosure Report

is the deadline for annual lobbyist registration renewal and January 30 is the deadline for quarterly lobbyist activity reports covering the period from October 1 through December 31, 2020. Outreach to lobbyists this month included email notices of the upcoming deadline and reminders via our social media accounts.

An up-to-date list of registered lobbyists and lobbyist activity reports with links to view and download individual reports is available at the PEC's [Lobbyist Dashboard and Data](#) webpage.

Behested Payments (FPPC Form 803) – California law requires Oakland elected officials to file an FPPC Form 803 report any time they fundraise or otherwise solicit payments for a legislative, governmental or charitable purpose that total \$5,000 or more in a calendar year from a single source (one individual or organization) to be given to another individual or organization.

In January, the Commission received a single filing from the Mayor's Office reporting a solicited contribution of \$20,053 to Bay Area Community Services (BACS). The stated purpose was ongoing COVID-19 relief and homelessness prevention for Oakland residents.

Illuminating Disclosure Data

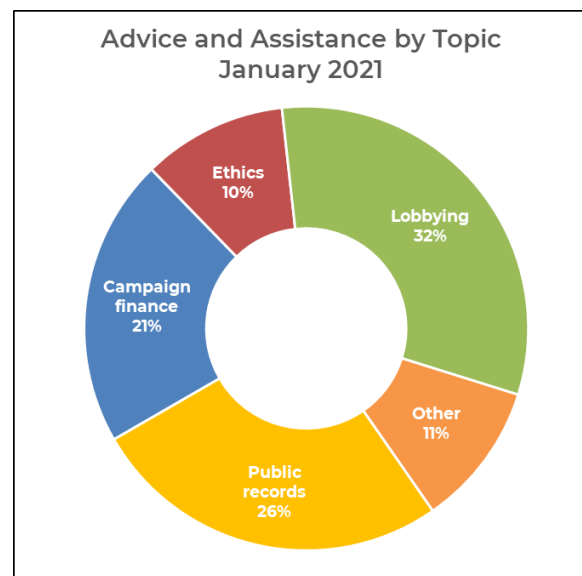
Lobbyist Disclosure – Commission staff is working with the IT Department to publish the data collected through the lobbyist reporting app to [OakData](#), the City's open data portal. New datasets will be published incrementally throughout 2021 including a client directory, contacts with public officials by subject, and political contributions to Oakland candidates and elected officials solicited by lobbyists.

Show Me the Money App – In October 2020, Commission staff released the [Show Me the Money](#) campaign finance app on OakData, Oakland's open data platform. New features allowing users to explore campaign expenditures info along with contributions to learn how candidates and committees spend their campaign money were released by the developers in December. Commission staff is collaborating with the IT Department to make expenditure data from the campaign finance database available through the app so residents can use this interactive tool to more easily view candidates' contribution and expenditure activity.

Advice and Engagement

Advice and Technical Assistance – In January, Commission staff responded to 19 requests for information, advice or assistance regarding campaign finance, ethics, lobbyist registration or public records issues.

New Employee Orientation – Staff continues to make presentations at the City's monthly New Employee Orientation (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). On December 15, staff trained a total of 38 new employees on GEA provisions. On January 8, Staff attended the Department of Human Resources Management's (DHRM) New Employee Orientation



Item #8 - Disclosure Report

(NEO) overview and yearly recap. Staff along with other department representatives discussed the continued virtual format for 2021 and best practices to engage participants during presentations.

Boards and Commissions – On January 7, staff made an ethics presentation at the request of the City's Cannabis Regulatory Commission. Staff provided board members with information about the Commission and its services and gave an overview of the Government Ethics Act including Form 700 filing requirements, conflicts of interests, and misuse of City resources/position.

On January 9, staff attended the Community Policing Review Board's annual retreat and provided an ethics presentation and introduction to the Commission and its services.

Online Engagement

Social Media – Each month Commission staff post social media content to highlight specific PEC policy areas, activities or client-groups. In January, our posts focused on campaign finance disclosure deadlines, lobbyist registration and disclosure deadlines, and introducing the new Commission chair, vice chair, and new members.

Item #9 - Enforcement Report



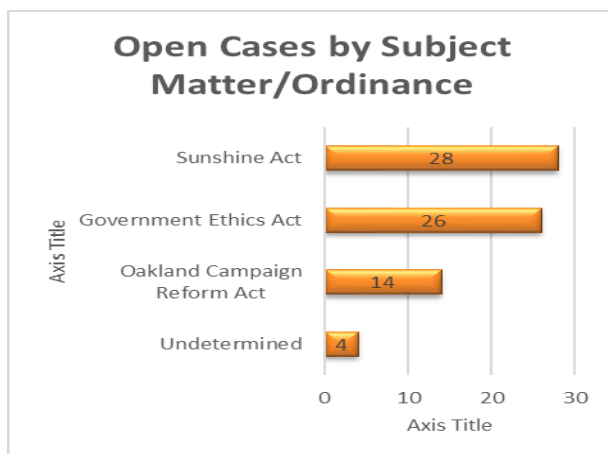
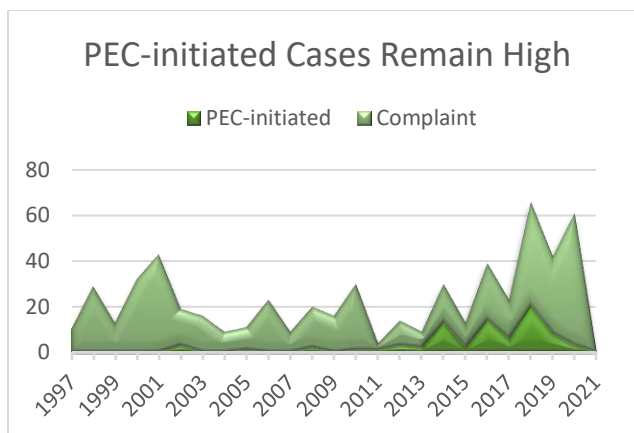
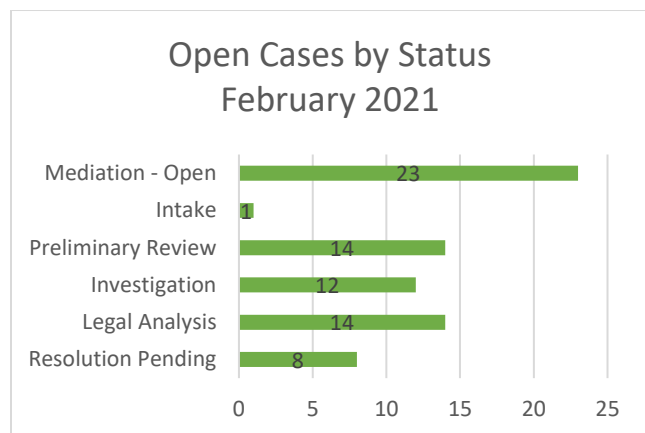
Michael McDonald, Chair
 Jerett Yan, Vice-Chair
 Avi Klein
 Arvon Perteet
 Janani Ramachandran
 Joseph Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
 FROM: Kellie Johnson, Enforcement Chief
 DATE: January 17, 2021
 RE: Enforcement Program Update for the February 1, 2021, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on January 4, 2021, Commission staff received 3 complaints. This brings the total Enforcement caseload to 72 open cases: 15 matter(s) in the intake or preliminary review stage, 12 matters under active investigation, 14 matters under post-investigation analysis, 8 matters in settlement negotiations or awaiting an administrative hearing, and 23 ongoing public records request mediations.



Summary of Current Cases:

Since the last Enforcement Program Update in January 2021, the following status changes have occurred.

1. ***In the Matter of Thomas Espinosa (Case No. 16-14)*** In 2016, the City of Oakland Public Ethics Commission (Commission) opened a proactive investigation into allegations that Thomas Espinosa violated the Oakland Government Ethics Act by, among other things, engaging in a bribery or *quid pro quo* scheme. The Commission's investigation found that between January 1, 2015, and September 15, 2016, Respondent committed 47 violations of the Oakland Government Ethics Act. In November 2018, the Public Ethics Commission found probable cause that Espinosa violated the Government Ethics Act and referred the matter for an Administrative Hearing before an Administrative Law Judge. Significant financial considerations necessitate that Staff return to the Commission to request authority to select a volunteer hearing officer to conduct the hearing. (See Action Item)
2. ***In the Matter of Roma Groves-Waters (Case No. 20-36) Dismissal***, On September 24, 2020, the City of Oakland Public Ethics Commission (PEC) received this complaint that alleged that Roma Groves-Waters, the Principal for Oakland Unified School District (OUSD), Martin Luther King Jr. Elementary School, violated the Government Ethics Act when she used an OUSD email listserv to forward re-election campaign material for Lynette McElhaney to OUSD staff and faculty. After a thorough review of the complaint, the facts and the law, Staff concluded that the allegations raised in the complaint do not provide sufficient facts to establish a violation of any law within the PEC's jurisdiction; the complaint was dismissed. (See attachments)
3. ***In the Matter of The City of Oakland Rent Board (Case No. 20-42) Dismissal***, On December 11, 2020, the City of Oakland Public Ethics Commission (PEC) received a complaint that alleged that on January 9, 2014, the City of Oakland Rent Board held a public meeting in which they published an agenda that contained the complainant's name as a party in a lawsuit. The complaint asserted that the Rent Board was in violation of City ethics rules because the complainants name was published on a City agenda without their expressed permission. After reviewing the law and the allegation, the complaint was dismissed because the City's notation of a lawsuit filed in an Alameda County Court does not establish facts of any violation within the jurisdiction of the Public Ethics Commission. (See attachments)

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-5239
FAX (510) 238-3315
TDD (510) 238-3254

January 22, 2021

Ishmael Armendariz



Re: PEC Complaint No. 20-36; Dismissal Letter

Dear Mr. Armendariz :

On September 24, 2020, the City of Oakland Public Ethics Commission (PEC) received your email (Complaint No. 20-36) that alleged that Roma Groves-Waters, the Principal for Oakland Unified School District (OUSD), Martin Luther King Jr. Elementary School, violated the Government Ethics Act when she used an OUSD email listserv to forward re-election campaign material for Lynette McElhaney to OUSD staff and faculty. Both the City of Oakland and OUSD prohibit the use of a work email listserv to send campaign material. However, under the City Charter, the Public Ethics Commission does not have authority to regulate OUSD employees, including school principals.

The Public Ethics Commission has jurisdiction over specified conduct of City “Public Servants.” The City of Oakland Municipal Code (OMC) 2.25.030 (D) provides a definition of Public Servant, and school principals are not included under the definition of “Public Servants.” The OMC provides the PEC with limited jurisdiction over candidates running for the office of Oakland School Board Director as it relates to gifts and conflicts of interest disclosure, but even school board directors are specifically excluded from the definition of “Public Servant.” Moreover, “School Principal” is not considered a City office.

According to the District website, the OUSD has published a Guideline for Political Activities and disseminated the guidelines throughout the district. The Guideline provides the general rules on political activities including examples of allowable and non-allowed materials that can be shared on the District email listserv.

Our preliminary investigation into the facts that you alleged confirmed that the OUSD was made aware of the email transmitted by Ms. Groves-Waters. On September 30, 2020, Ms. Groves-Waters wrote a letter of apology explaining that she forwarded Agenda Packet Pg. 18

Item #9 - Enforcement Report

it was an informational newsletter from a Councilmember. That letter was forwarded to the OUSD listserv along with a retraction.

Because the allegations, if true, do not constitute a violation of law within the PEC's jurisdiction, we must dismiss your complaint pursuant to our Complaint Procedures. The PEC's Complaint Procedures are available on the PEC's website, and a copy has been included with this letter for your reference.

If you had questions or wanted more information from the Oakland Unified School District on its Guidelines for Political Activities, you can reach them by email at: ousdlegal@ousd.org.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That meeting will take place on February 1, at 6:30 p.m. by teleconference as will be posted on the Commission's website in advance of the meeting. The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to call-in to that meeting to listen and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials. Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Kellie Johnson,
Enforcement Chief

CITY OF OAKLAND



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Public Ethics Commission
Enforcement Unit

(510) 238-5239
FAX (510) 238-3315
TDD (510) 238-3254

January 22, 2021

Gerald Rax
[REDACTED]

Re: PEC Complaint No. 20-42; Dismissal Letter

Dear Mr. Rax :

On December 11, 2020, the City of Oakland Public Ethics Commission (PEC) received your email (Complaint No. 20-42) that alleged that on January 9, 2014, the City of Oakland Rent Board held a public meeting in which they published an agenda that contained your name as a party in a lawsuit. The complaint asserted that the Rent Board was in violation of City ethics rules because your name was published on a City agenda without your expressed permission. After reviewing the law and the allegation, your complaint is dismissed because the City's notation of a lawsuit filed in an Alameda County Court does not establish facts of any violation within the jurisdiction of the Public Ethics Commission.

Generally, public trial details are a matter of public record, including the names of the parties in the lawsuit, unless an exception applies.¹ Further, the Rent board is required to give notice and a description under the California Brown Act of any matter for discussion or consideration at a Rent Board meeting, and thus can do so by referring to it by the litigation title. In this case, in 2014, the Rent Board put "Rax v. Eng" on its Agenda as required by public meeting regulations.

Because the allegations, if true, do not constitute a violation of law within the PEC's jurisdiction, we must dismiss your complaint pursuant to our Complaint Procedures. The PEC's Complaint Procedures are available on the PEC's website and upon your request via email to EthicsCommission@oaklandca.gov.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting, as part of our regular monthly update on Enforcement actions. That

¹ Nixon v. Warner Communications, Inc., 435 U.S. 589 (1978).

Item #9 - Enforcement Report

meeting will take place on February 1, at 6:30 p.m. by teleconference as will be posted on the Commission's website in advance of the meeting. The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to call-in to that meeting to listen and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials. Thank you for bringing this matter to our attention. If you have any questions regarding this matter, please feel free to contact me.

Sincerely,



Kellie Johnson,
Enforcement Chief

Item #10 - Executive Director's Report



Michael B. MacDonald, Chair
Jerett Yan, Vice-Chair
Avi Klein
Arvon Perteet
Janani Ramachandran
Joe Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: January 21, 2021
RE: Executive Director's Report for the February 1, 2021, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities this past month that are not otherwise covered by other program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2020-21 for each program area.

Commissioner Transition

Welcome to new Commissioner Arvon Perteet, whose term begins on January 22, 2021, filling the seat previously held by James Jackson until January 21, 2021. City Attorney appointee Jill Butler's term also expired on January 21, and that Commissioner position is anticipated to be filled by the City Attorney in the coming weeks.

Collections

In response to the PEC's final order in the matter of Anthony Harbaugh (PEC #18-11), the respondent reached out immediately to request a payment plan to begin making payments on the \$55,000 fine imposed by the Commission on January 4, 2021. Staff coordinated with the City's Finance department to set up the repayment process for the respondent and will continue to monitor fine payments going forward.

Budget and Staffing

With the \$62 million shortfall for the current fiscal year, the City Administrator in December imposed hiring freezes on vacant positions, furloughs and deferrals of salary increases for department heads, and a moratorium on temporary employees, among other immediate reductions. As a result, Commission staff was required to make reductions of 10-20% and had to forego the hiring of a part-time analyst in the current fiscal year. PEC staff now is conducting a review of ongoing operations to both determine how to make required reductions to 2021-22 spending and conduct PEC business more efficiently. This review will continue over the course of the coming months.

Attachments:
Commission Programs and Priorities

Item #10 - Executive Director's Report

PUBLIC ETHICS COMMISSION
Programs and Priorities 2021

Program	Goal	Desired Outcome	Key Projects for 2021
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. Oakland Sunshine Report Card, ongoing compliance 2. Campaign Finance Redesign
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ol style="list-style-type: none"> 1. Ethics training and advice: a) elected officials, b) City employees (1000), b) board/commission members, and c) consultants 2. Sunshine training 3. New trainings as needed for diversion
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Sunshine mediations 2. Communications/outreach to client groups 3. PEC social media outreach
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ol style="list-style-type: none"> 1. Filing Officer/Compliance – assess, follow-up, and refer 2. Government Integrity E-Data Project – Lobbyist Registration, Form 700, Form 803 3. Open Disclosure, Show Me the Money App – continue coordination and development
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-	Public servants, candidates, lobbyists, and City contractors are motivated to comply with	<ol style="list-style-type: none"> 1. Investigations 2. Add part-time investigator to assist 3. Collaborate with other government law enforcement agencies

Item #10 - Executive Director's Report

	compliance with laws within the PEC's jurisdiction.	the laws within the PEC's jurisdiction.	
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ol style="list-style-type: none"> 1. Conduct legal analyses, assess penalty options, negotiate settlements, make recommendations to PEC 2. Case priority: 1) the extent of Commission authority to issue penalties, 2) the impact of a Commission decision, 3) public interest, timing, and relevancy, and 4) Commission resources. 3. Resolve all 2016 cases
Administration/Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ol style="list-style-type: none"> 1. Annual Report 2. Enforcement database upgrade 3. Review data to adjust activities throughout the year 4. Ongoing: professional development and staff reviews