

Item 14a - Enforcement Report



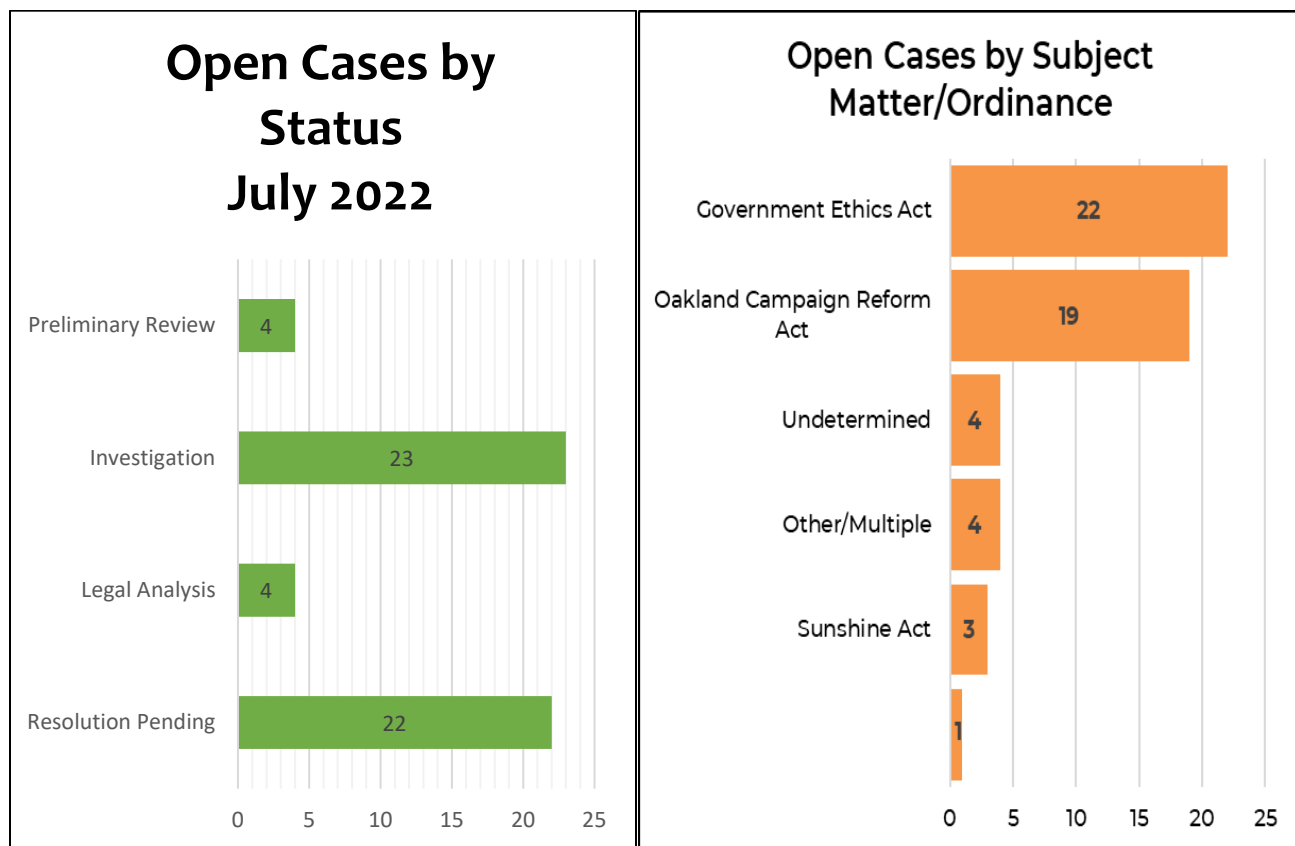
Arvon Perteet, Chair
Charlotte Hill
Ryan Micik
Joseph Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Enforcement Chief
DATE: July 27, 2022
RE: Enforcement Program Update for the August 10, 2022, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Program Update on June 8, 2022, Commission staff received 3 new complaint(s). This brings the total Enforcement caseload to 53 open cases: 16 matters in the intake or preliminary review stage, 23 matters under active investigation, 4 matters under post-investigation analysis, and 22 matters in settlement negotiations or awaiting an administrative hearing.



Since the last Enforcement Program Update in June 2022, the following status change(s) have occurred:

- 1. In the Matter of Justin Berton (Case No. 18-45).** On November 5, 2018, the City of Oakland Public Ethics Commission (PEC) received a formal complaint that alleged the Respondent, Justin Berton, the Director of Communications for Oakland Mayor Libby Schaaf, violated a provision of the Government Ethics Act (GEA), Misuse of City Resources OMC 2.25.060 (a)(1), when he posted four links to newspaper editorials that endorsed the mayor in 2018 to the mayor's official Nextdoor public agencies/elected officials' account. After careful consideration of all the facts and the law, and the reasons explained in the attached memorandum, Staff recommends that the Commission approve a stipulation that Justin Berton violated the Government Ethics Act and impose a financial penalty in the amount of \$1,000. (See Action Item)
- 2. In the Matter of Assistant City Administrator, Gregory Minor (Case No. 22-02).** On January 18, 2022, the City of Oakland Public Ethics Commission (PEC) received a complaint that alleged that Assistant City Administrator and Director of Oakland's Cannabis Program, Gregory Minor violated the Oakland Sunshine Act, Government Ethics Act, California Brown Act and the Public Records Act and specifically, Misuse of City Resources, when he allegedly did the following eight things: 1. Forwarded a "private" email; 2. Failed to disclose public records; 3. Misused city resources; 4. Exercised bias in the selection process; 5. Had improper communication with an applicant; 6. Engaged in cronyism; 7. Violated open meeting laws by awarding a 5th Cannabis permit; and 8. Violated "due process." Staff completed its review of the matter and after careful review of the facts alleged, relevant law and Enforcement Procedures, the Staff found that the allegations failed to establish that a violation of the Oakland Sunshine Act, Government Ethics Act, or any other provision within the jurisdiction of the PEC had occurred. Pursuant to Enforcement Procedures the complaint was dismissed. (See Attachments)
- 3. In the Matter of Planning and Building, and Tim Low (Case No. 22-06).** On or about February 22, 2022, the City of Oakland Public Ethics Commission (PEC) received a complaint which alleged that the Planning and Building Department and Tim Low failed to enforce a City ordinance, O.M.C. 17.103.080 "Conversion of Existing Detached Accessory Structure," that requires, among other things, that any renovations/conversions of an accessory property must be enveloped (fit within) the height of the pre-existing structure. It is further alleged that since the adoption of OMC 17.103.080 in 2020, the City has failed to inspect buildings for or enforce a provision of this ordinance that governs renovations to Existing Detached Accessory Structures (ADU). It is alleged the failure to conduct these inspections, violated the Oakland City Ordinance O.M.C. 2.25.060 (A)(2) Misuse of Position/Authority. Staff completed its review of the matter and after a close review of the facts alleged, relevant law, department regulations and Enforcement Procedures. The Staff found that the alleged facts do not constitute a violation of the Government Ethics Act or any other provision within the jurisdiction of the PEC. Pursuant to Enforcement Procedures the complaint was dismissed. (See Attachments)
- 4. In the Matter of Councilmember Sheng Tao's candidate campaign and Julie Caskey, campaign Treasurer (Case No. 22-04).** On February 7, 2022, the PEC received a complaint that alleged that Councilmember Sheng Thao's campaign committee and its campaign manager Julie Caskey, received/accepted six (6) donations that were over the \$900 limit for individual contributions, in violation of the Oakland Campaign Reform Act. Staff completed its review of the matter and after a close review of the facts alleged, relevant law, department regulations and Enforcement Procedures, the Staff found that the campaign did receive two "overlimit" contributions but promptly returned the contributions to the donors. Thus, the alleged facts do not constitute a violation of the Oakland

Campaign Reform Act or any other provision within the jurisdiction of the PEC. Pursuant to Enforcement Procedures the complaint was dismissed. (See Attachments)

5. **In the Matter of Councilmember Loren Taylor (Case No. 22-05).** On February 10, 2022, the PEC received an email complaint that alleged that City of Oakland Councilmember Loren Taylor violated the Government Ethics Act when he approached an Oakland Redistricting Commissioner at a Saturday Market/Open Air Market and advocated that the Redistricting Commission expand his district to include the Oakland Coliseum. The complaint alleged that the Respondent's advocacy to the Commissioner was a violation of the Government Ethics Act O.M.C. 2.25.060 (A) (2) Misuse of Position and 2.25.070, and 2.25.070 (E) Non-Interference in Administrative Affairs. Staff completed its review of the matter and after review of the facts alleged, relevant law, and Enforcement Procedures. The Staff found that the alleged facts do not constitute a violation of the Government Ethics Act or any other provision within the jurisdiction of the PEC. Pursuant to Enforcement Procedures the complaint was dismissed. (See Attachments)

6. **In the Matter of Vince Sugrue (Case No. 22-03).** On February 1, 2022, the Public Ethics Commission (PEC) received a complaint that alleged that Vince Sugrue a City of Oakland Planning Commissioner, committed three violations of the Oakland Municipal Code. First it is alleged that Sugrue violated the Conflict of Financial Interest provision of the Government Ethics Act (GEA), when on January 19, 2022, he participated in a vote to approve the recommendation for certification of the Environmental Impact Report for Howard Terminal Ballpark project. The complaint also alleged that since his appointment to the City Planning Commission in May 2021, the Respondent failed to file a Statement of Economic Interest for his position on the Planning Commission. Lastly, the complaint further alleged that although he had previously filed a Statement of Economic Interest for his position on the Landmarks Advisory Board, the Respondent failed to disclose that he is a "Political and Public Relations Representative" for the Sheet Metal Local 104 on his Statement of Economic Interest (Form 700). Moreover, the complainant alleged that the Respondent also misrepresented his position at the organization in the text of the 700 forms he had filed for the Landmarks Preservation Board. Staff completed its review of the matter and after review of the facts alleged, relevant law, department regulations and Enforcement Procedures. The Staff found that the alleged facts did not establish a violation of the Government Ethics Act or any other provision within the jurisdiction of the PEC. Pursuant to Enforcement Procedures the complaint was dismissed. (See Attachments)

PEC Case No. 21-06 (disclosure of open investigation). On July 13, 2022, Commission staff became aware of the potential for a conflict of interest under OMC 2.25.040. To avoid a conflict of interest, Chief Johnson recused herself from pending PEC Case 21-06. Safeguard procedures were implemented immediately to avoid a conflict of interest or the appearance of a conflict of interest.