

CITY OF OAKLAND



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Public Ethics Commission
Enforcement Unit

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July 27, 2022

Cesar Anglobaldo

[REDACTED]
[REDACTED]

Re: PEC Complaint No. 22-02; Dismissal Letter Regarding City of Oakland Marijuana Dispensary, Director/Assistant to the City Administrator.

Dear Mr. Anglobaldo:

On January 18, 2022, the City of Oakland Public Ethics Commission (PEC) received your complaint (Complaint No. 22-02) that Assistant City Administrator and Director of Oakland’s Cannabis Program, Greg Minor violated the Oakland Sunshine Act, Government Ethics Act, California Brown Act and the Public Records Act and 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. After a close review of your complaint, facts, relevant law and my telephone conversations with you, we found that there are insufficient facts to establish a violation of the Oakland Sunshine Act, Government Ethics Act or any other provision within the jurisdiction of the PEC and we must dismiss your complaint pursuant to our Complaint Procedures.

The complaint alleged that in February 2020 you submitted an application for a dispensary permit to the City of Oakland Cannabis Program. Once received applications were submitted to a committee that scored each application. The application with the best scores were selected as dispensary recipients. On May 19, 2020, the City announced it had selected the eight permit recipients. On May 21, the City posted the scoring results of the applicants. On May 22, 2020, around 12:30 PM, the Respondent emailed all applicants and informed them of the selected applicants and provided details of the scoring process.

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Your application for “Jingletown Enterprises” was not granted a general dispensary permit nor an Equity permit¹.

On May 22, 2020, around 9:20 PM, you emailed the Respondent thanked him for the notice, and told him that that you believed question 12 of your application was scored incorrectly. On May 23, 2020, around 4:30 PM, the Respondent emailed you and acknowledged that there may have been a mistake on scoring question 12 on your application. The Respondent requested one week to determine if there were scoring errors. On June 4, 2020, the Respondent emailed you and reported that a review was conducted over the scores, and it was determined that if there were any discrepancies in the scoring it was minor and did not change the final rankings of applicants. Further, you were informed that your application received the score it did because the application you submitted was not clearly identified an Equity application. Nonetheless, the Respondent informed you that even if the score was changed for question 12 your application would not be one of the top four applicants.

After receiving this information, you eventually filed an appeal, made a complaint to the City auditor and initiated a lawsuit against the Respondent and the Dispensary Program.

Under O.M.C. 2.25.060, Perks of Office and Misuse of resources the Oakland ordinance provides, “a public servant may not use or permit others to use public resources for a campaign activity or for personal or non-City purposes not authorized by law.”

The complaint alleged that The Respondent exhibited a gross mismanagement of his office and asserted that The Respondent’s administrative assistant’s failure to follow supervision or direction regarding the application scoring process was an example of his misuse. To establish a violation of O.M.C. 2.25.060, the ordinance requires proof that a public servant “used” or allowed another to use a “resource” for a campaign activity, personal or non-City purposes.

Under O.M.C. 2.25.060 (A) (ii & iii) “Public Use” is defined as , “any property or asset owned by the City, including but not limited to land, building, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and City-compensated time.” “Use” is defined as “use of a public resource 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.”

Here, there are no facts in the complaint to establish that the Respondent used or allowed another person to use public resources for private gain or advantage, for which a monetary value may be estimated.

The complaint also alleged that the Respondent disclosed confidential information when he

¹ The City of Oakland Dispensary Program only issued eight new Dispensary Permits for 2019-2020 (four permits were reserved for Equity applicants that were chosen through lottery and four General Permits selected by scored applications.

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forwarded an email communication explaining that the ranking would not change and that your application score, even if adjusted, would not rank your application among the top four, to a different applicant in the dispensary permit process that was one of the top four award recipients.

The O.M.C. 2.25.040 (D) Confidential Information, “A public Servant shall not willfully and knowingly disclose for pecuniary gain, personal advantage or private interest, to any other person, confidential information acquired by him or her in the course of his or her official duties.” To establish a violation of O.M.C. 2.25.040 (D) the ordinance requires proof that a public servant willfully and knowingly disclosed “confidential” information for pecuniary gain, personal advantage or private interest to another person. The complaint lacks any facts that establish the Respondent willfully disclosed confidential information for pecuniary gain, personal advantage or private interest of his own or of another. The email communication was not identified as “confidential.” The Respondent never made any representations to you that your communications were “confidential.” Further, all applications or any other agreements the Dispensary Program generated were subject to public disclosure under the Oakland Sunshine Act and provisions of the Public Records Act (subject to redactions or exclusions under the Act). Assuming that the disclosure of the email to other individuals was confidential, the complaint also lacks any facts that establish the Respondent disclosed the email for pecuniary gain, personal advantage or private interest.

As to the remaining allegations in the complaint that allege dissatisfaction with the policies or practices of the Dispensary Program, such as : (1). the Dispensary Program lacked sufficient policies and procedures on selection of applicants; (2). that the Respondent failed to have an established policy regarding communication with applicants; (3). that the selection process lacked due process; (4). that the Respondent did not provide due process or mislead Oakland residents with biased information; (5). that the decision to grant a fifth dispensary permit was in violation of unidentified open meeting laws; (6). that the Respondent appeared bias toward certain candidates; and (7). that the Respondent allegedly engaged in cronyism. The PEC does not generally have authority over department policies. Even if the allegations regarding the policies or practices are all true, the Oakland Municipal Code does not have an ordinance under the Government Ethics Act, or any other provision that authorizes the Public Ethics Commission jurisdiction over complaints that allege such activity.

Because Greg Minor’s alleged conduct does not constitute a violation of the Sunshine Act, Government Ethics Act, Brown Act, or any other provision within the jurisdiction of the PEC, we are dismissing the allegations against the Respondent pursuant to the PEC’s Complaint Procedures. The PEC’s Complaint Procedures document is available on the PEC’s website and enclosed in this letter for your review.

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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 August 10, 2022, 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,

A handwritten signature in blue ink that reads "Kellie Johnson". The signature is written in a cursive, flowing style.

Kellie Johnson,
Enforcement Chief