



CITY OF OAKLAND

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Public Ethics Commission
Enforcement Unit

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July 27, 2022

Tom Baker



Re: Dismissal Letter: City of Oakland Planning and Building Department: Case No. 22-03

Dear Mr. Baker:

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. Next, the complaint 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. After careful review of the facts, interviews with witnesses, the law, and our telephone discussion on June 6, 2022, the facts alleged do not constitute a violation of law within the Commission’s jurisdiction, and we must dismiss your complaint pursuant to our Complaint Procedures

The O.M.C. 2.25.040 (A) Financial Conflict of Interests, provides that, “ a Public Servant shall not make, participate in making, or seek to influence a decision of the City in which the Public Servant has a financial interest within the meaning of the California Political Reform Act, Government Code Section 87100 et seq. and pursuant to City Charter Section 1200. All provisions of California Government Code Section § 87100 - 87505 and City Charter Section 1200, as they relate to Public Servants, are incorporated by reference into this Act.”

The California Code § 87103, provides that “ A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have

a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family...”

The complaint asserts that the Respondent, a paid Public Relations Representative of the Sheet Metal Workers Local 104, had a financial conflict of interest when he voted on the Howard Terminal Project on January 19, 2022, because his boss/supervisor, the Director of Political and Public Relations for Sheet Metal Workers Local 104 Rob Stoker, also served as the President of the Alameda County Building and Construction Trades Council (ACBCTC) and had engaged in a public information and influencing campaign on various aspects of the Howard Terminal project, including urging the City Council to approve agreements and contracts related to the project. The complainant submits that the supervisory relationship of Stoker to the Respondent creates a financial conflict of interest, because the Respondent would have a financial interest in the outcome of any votes on Howard Terminal project due to his position as a subordinate of Mr. Stoker at Sheet Metal Local 104.

Assuming the allegations of the complaint are true, a violation of this ordinance requires proof that the public official had a financial interest in a decision within the meaning of Section 87100, if it is “reasonably foreseeable” that the decision will have a “material financial effect, distinguishable from its effect on the public generally, on the official, or a member of his or her immediate family” financial interests. The complaint provides no facts to support the allegation that when the Respondent voted on the Certification of the Environmental Impact Report for the Howard Terminal Project that it was reasonably foreseeable that the vote would have a material financial effect on his immediate financial interests. The California Code imputes a conflict to the public official if it is reasonably foreseeable that the decision, he, or she participates in has a material impact on a spouse, dependent child, agent of, business entity of, or trust of the public official. The statute does not include a public official’s “job supervisor.”

The complaint also lacks facts to establish that the ACBCTC had a contract or agreement with the City of any financial value. Even if ACBCTC had a contract of financial value, there are no facts alleged in the complaint the President/Supervisor received compensation or some other financial value from ACBCTC. Even if the President/Supervisor received some compensation from his role as the President of ACBCTC, there are no facts to establish that his financial interests provided a financial benefit to the Respondent or the Sheet Metal workers union that employees the Respondent. Assuming every fact alleged, is true, the relationship between the Respondent and his Supervisor is too remote and attenuated to attribute a reasonably foreseeable financial interest to the Respondent that could have a material effect on the Respondent’s decision making on the Planning Commission in general or specifically regarding his January 19, 2022, vote on the Certification of the Environmental Impact Report for the Howard Terminal Project.

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The O.M.C. 2.25.040 (B) Statement of Economic Interests (Form 700) Disclosure: provides that “The Mayor, City Council Members, City Administrator, City Attorney, City Auditor, any City board or commission member, any candidate for City Office, and any employee or consultant designated in the City Conflict of Interest Code shall file statements of economic interests and shall disclose all required information pursuant to the California Political Reform Act and the City Conflict of Interest Code.”

Here, the respondent failed to timely file his Form 700, however, the PEC’s preliminary investigation determined that when the Respondent was appointed to the Planning Commission, he was not informed that he had to be sworn in, entered into the City’s database/electronic filing system as a new member of the Planning Commission before he could file a Form 700 for the Planning Commission. Once the Respondent received notice that he was required to file a Form 700 for the Planning Commission, he contacted City Staff for assistance, and was subsequently sworn in February 2022, and filed a Form 700 on February 22, 2022, for the Planning Commission.

As to the allegation that the Respondent may have misrepresented his position with the Sheet Metal Local 104 on his Form 700, when he disclosed his title as a “Business Development Representative” for the Sheet Metal Workers Local 104 instead of “Political and Public Relations Representative” on his Form 700 for the Landmarks Preservation Board, the complaint provides no facts upon which we can conclude that the Respondent intentionally misrepresented his title. There are no facts provided in the complaint to conclude that the Respondent is not currently the Political Representative for the local 104 or that the Political Relations Representative is not one in the same as the Business Development Representative or that the position is materially different than the Business Development Representative. Furthermore, the Respondent’s previous and present Form 700 adequately notified the City of the Respondent’s employer and financial interest in the local 104, which is the primary purpose of the Economic Disclosure Form.

Thank you for expressing your concerns about this matter. We understand and take each of the concerns you raised with earnest consideration. For your reference, the PEC Complaint Procedures can be found on our website and a copy is enclosed.

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.

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Thank you for bringing this matter to our attention. If you have other 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 style with a large, stylized initial "K".

Kellie Johnson, Enforcement Chief
City of Oakland, Public Ethics Commission
KJohnson3@oaklandca.gov