



CITY OF OAKLAND

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Public Ethics Commission
Enforcement Unit

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July 27, 2022

Sheryl Walton



Re: City of Oakland Councilmember Loren Taylor, Case No. 22-05

Dear Ms. Walton:

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 Complainant asserts 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 (E) Non-Interference in Administrative Affairs. After careful consideration of the law, facts, relevant City regulations and our telephone discussion, 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 Oakland Municipal Code O.M.C. 2.25.060 (A)(2), provides that: No Public Servant or candidate for City Office "may use his or her position or prospective position, or the power or authority of his or her office or position, in any manner intended to induce or coerce any person to provide any private advantage, benefit, or economic gain to the City Public Servant or candidate or any other person." To prove that Respondent violated this ordinance would require facts that established that the Respondent used his position/power or authority to induce/persuade or coerce/force any person to provide a private advantage, benefit or economic gain for themselves or another person.

Here, the allegations are that the Respondent unlawfully contacted a member of the Redistricting Commission and misused his position when he either induced or coerced the Commissioner to redraw his district map to include the Coliseum. In December 2021, A Commissioner disclosed to the Redistricting Commission and the public at a Commission

meeting that she was at a farmers' market/open air market in the neighborhood and ran into the Respondent who expressed his opinion about re-mapping the Coliseum to be included in his district. They spoke briefly, moved on to another subject and then parted ways. A violation of this ordinance requires proof of "intent." Here, to violate Misuse of Position, the Respondent must have the intent to induce or coerce a person to provide them or another person with an advantage, benefit, or economic gain. There are no facts to establish that the Respondent intended to induce or coerce the Commissioner to provide a personal advantage, benefit or economic gain for himself or another person. Further, there are no facts that the Commissioner even believed that she was being induced or coerced to provide a benefit or advantage to the Respondent.

Assuming the allegations of the complaint are true, a Councilmember is allowed to express his or her opinions on a City decision or matter.

Pursuant to O.M.C. 2.20.170, Public Comment by Members of Local Body," Every member of a local body retains the rights of any citizen to comment publicly on the wisdom or propriety of government actions, including those of the local body of which he or she is a member. Local bodies shall not sanction, reprove or deprive members of their rights as elected or appointed officials to express their judgments or opinions, including those judgments or opinions pertaining to the disclosure or non-disclosure of discussions or actions taken in closed session. The release of specific factual information made confidential by state or federal law, including, but not limited to, privileged attorney-client communications, other than by the procedures set forth under state law or this ordinance, may constitute grounds for censure or for an action for injunctive or declaratory relief by the local body. Nothing in this section shall confer any privilege or protection for expression beyond that which is otherwise provided by law."

Mere sharing of an opinion or judgment, under Oakland ordinance is not a sanctionable action or a violation on OMC 2.25.060 (A) (2).

The complaint also alleged that the Respondent violated O.M.C. 2.25.070 Non-Interference in Administrative Affairs because the Commissioner is a subordinate to the Respondent, an elected official.

O.M.C. 2.25.070 (E) Non-Interference in Administrative Affairs. "As prohibited by City Charter Section 218, except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City Administrator, Mayor and other appointed or elected officers are responsible, solely through the City Administrator, Mayor or such other officers. Neither the Council nor any Council member shall give orders to any subordinate of the City under the jurisdiction of the City Administrator or such other officers,

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either publicly or privately; nor shall they attempt to coerce or influence the City Administrator or such other officers, in respect to any contract, purchase of any supplies or any other administrative action; non in any manner direct or request the appointment of any person to or his removal from office by the City Administrator or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. In addition to the penalties provided for in Charter Section 218, a member of the Council who violates the provisions of this Subsection E. shall be subject to all other penalties provided in this Act.”

The ordinance, “Non-interference in Administrative Affairs” does not apply to Councilmember’s communications with City Commissions or Commission members. The ordinance prohibits City Councilmembers from giving orders to a subordinate of the City under the jurisdiction of the City Administrator or such other officers. Redistricting Commission members are not officers or employees in the administrative service of the City nor are they subordinate officers or employees of the City Administrator.

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.

Thank you for bringing this matter to our attention. If you have other questions regarding this matter, please feel free to contact me.

Sincerely,



Kellie Johnson, Enforcement Chief
City of Oakland, Public Ethics Commission

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