



**FAIR POLITICAL PRACTICES COMMISSION**  
1102 Q Street • Suite 3000 • Sacramento, CA 95811

February 28, 2018

Gary Geuss  
Riverside City Attorney's Office  
3750 University, Suite 250  
Riverside, CA 92501

**Via email ONLY:**  
GGeuss@riversideca.gov

**RE: Advisory Letter: City of Riverside; FPPC No. 16/19842**

Dear Mr. Geuss:

The Enforcement Division of the Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act").<sup>1</sup> This letter is in response to a sworn complaint alleging that the City of Riverside (the "City"), sent brochures regarding Measure Z at public expense, in violation of Section 89001, prior to the November 8, 2016 election. An official voter information guide was included in the complaint, but the Commission does not regulate voter guides and will not address concerns related to it. The complaint also alleged that the City used public moneys for a special web page dedicated to Measure Z on its website. The Enforcement Division completed its investigation and has decided to close its file on this matter without prosecution.

The Act prohibits sending a newsletter or other mass mailing at public expense.<sup>2</sup> Specifically, mass mailing is prohibited if (1) the item is a tangible item; (2) the item expressly advocates the qualification, passage, or defeat of a clearly identified measure, or unambiguously urges a particular result in an election; (3) public moneys are paid to distribute the item, or to prepare the item, for more than \$50, with the intent of sending the item; and (4) more than 200 substantially similar items are sent during the course of an election.<sup>3</sup> This prohibition limits the public subsidy of political campaigns, which would grant an unfair advantage to governmental bodies that desire to use public resources in pursuit of favorable election results.

A mailing unambiguously urges a particular result in two ways: (1) when it clearly is campaign material or campaign activity, such as bumper stickers, billboards, door-to-door canvassing, posters, advertising "floats," or mass media advertising;<sup>4</sup> or (2) when the style, tenor,

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<sup>1</sup> The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of Title 2 of the California Code of Regulations.

<sup>2</sup> Section 89001.

<sup>3</sup> Regulation 18901.1, subd. (a).

<sup>4</sup> Regulation 18901.1, subd. (c)(1).

and timing of the communication can be reasonably characterized as campaign material and not a fair presentation of facts serving only an informational purpose.<sup>5</sup> Some factors to consider when assessing style, tenor, and timing include, but are not limited to whether the communication is (1) funded from a special appropriation related to the measure as opposed to a general appropriation; (2) consistent with the normal communication pattern for the agency; (3) consistent with the style of other communications issued by the agency; and (4) using inflammatory or argumentative language.<sup>6</sup>

Our investigation found that the mass mailing concerning Measure Z did not contain express advocacy and was not clearly campaign material. The mailing was funded by the City's general fund, not a special appropriation. Further, the mailing was informational and not argumentative, except for the few instances when it described services as "critical." Given the above, the Enforcement Division cannot conclude that the mailer in question violated the Act's prohibition against campaign mailers at public expense. As for the special web page created for Measure Z, the City engaged in permissible activity by making information available to members of the public who chose to visit that page. Therefore, we are closing this matter with this advisory letter.

Although we are closing our file, please be advised of the provisions in the Act and regulations regarding campaign related communications. Should you have any questions regarding this letter, please feel free to contact me at (916) 322-7771 or ryang@fppc.ca.gov.

Sincerely,



Ruth Yang  
Commission Counsel  
Enforcement Division

Cc: Bob Buster

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<sup>5</sup> Regulation 18901.1, subd. (c)(2).

<sup>6</sup> Regulation 18901.1, subd. (e).