City of Seattle

Ethics and Elections Commission

November 14, 2007

Re: Case No. 07-2-1030-1

Dear ******** and *******:

On October 19, 2007, you lodged a complaint with our office alleging a variety of improprieties relating to the City's dealings with Casa Latina. For the reasons discussed below, I am dismissing your complaint.

Jurisdiction

The Commission's jurisdiction is limited by ordinance. The Commission is empowered under SMC 3.70.100 to administer the City's Ethics Code, its Elections Code, and its Whistleblower Protection Code, insofar as violations of the Ethics or Elections Code may be involved. Under the Ethics Code, the Commission's jurisdiction extends to City officers and employees, a term which is defined to mean "every individual elected or appointed to an office or position of employment in any City agency, whether such individual is paid or unpaid." SMC 4.16.030.E. In brief, the Ethics Code bars City employees from acting when they have a conflict of interest, or even the appearance of a conflict of interest, and bars them from using their official positions or resources at their disposal for their private benefit, or the private benefit of others.

Analysis

To the extent that the first three issues in your complaint allege improper dealings by Dan Evans and Venus Velázquez, two individuals who are not City employees, my office has no jurisdiction. (My office does have jurisdiction over Ms. Velázquez's election campaign, but none of your allegations involve her actions as a candidate.)

Your fourth issue, that Casa Latina's pro forma financials were not properly scrutinized by City staff, also fails to allege any activity that would violate the City's Ethics Code, as does your sixth issue, that the City's interest in the $250,000 is inadequately protected, and your seventh issue, a request for an accounting of how Casa Latina spent public money provided to

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An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

the organization in 2005. These allegations are more properly directed to the City Auditor's office.

The one allegation that does raise issues under the Ethics Code is your fifth allegation, in which you allege that a $250,000 payment to Casa Latina constitutes "giv[ing] public money for a private purpose." SMC 4.16.070.2.b bars a City officer or employee from using or permitting the use "of any person, funds, or property under his or her official control, direction, or custody, or of any City funds or City property, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose."

The $250,000 expenditure, though, was authorized by Ordinance No. 122339, which passed the City Council by a vote of 8-0 on February 12, 2007, and was signed by the Mayor on February 21, 2007. The $250,000 purchased an easement in property purchased by Casa Latina. In AO 92-39, the Commission wrote that the "City Charter authorizes the City Council to identify what is the public's business and to determine how the City's funds and facilities are to be used....Therefore, if a use of a City facility is contained in an ordinance...the use would undoubtedly be for a City purpose." (Internal citation omitted.) The Commission reaffirmed this position as recently as last year. *See* AO 06-01. In accordance with this long line of Commission opinions, I will not disturb the City Council's decision that the $250,000 expenditure serves a City purpose, and therefore does not violate SMC 4.16.070.2.b.

Conclusion

Based on the forgoing, I am dismissing your complaint. You are entitled to appeal my dismissal under Seattle Ethics and Elections Commission Administrative Rule 2.6.[1] Please be advised that if you elect to file an appeal under Administrative Rule 2.6, we will no longer be able to preserve your anonymity.

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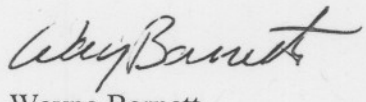
[1] 2.6 Appeal of Executive Director Dismissal Decisions
(1) Upon the written request of a party aggrieved by an Executive Director's decision to dismiss a complaint, the decision may be reviewed by the Commission.
(2) A request for review shall be served at the office of the Commission no later than twenty one (21) days after the date of mailing the decision of which review is sought.
(3) A request for review shall state the grounds therefore, and shall be no longer than twelve 8 1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than twelve characters per inch.
(4) When a request for review is served, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the Commission has acted on the request for review.
(5) The Commission shall act on the request at the next meeting at which it may be practicable by:
(a) deciding whether to review the Executive Director's decision; and
(b) if it decides to do so, either affirming, reversing, or amending the decision.
(6) In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.

Thank you for bringing this matter to our attention.

Very truly yours,



Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission *(complainant's name and address withheld)*
Susan Cohen, City Auditor *(complainant's name and address withheld)*
Mr. Dan Evans *(complainant's name and address withheld)*
Ms. Venus Velázquez *(complainant's name and address withheld)*