



January 3, 2020

BY E-MAIL ONLY

Re: Case No. 19-1-1022-1

Dear M*****:

On October 22, 2019, you filed a complaint alleging that Councilmembers Lorena González and Teresa Mosqueda were using their City positions for personal gain in violation of the Ethics Code. You allege that Councilmember Mosqueda has proposed “a budget item asking for \$4,200,000 for a day care facility to be placed within city hall.” You say that doing so while she is (and Councilmember González is about to be) a new parent violates the law. For the following reasons, I am dismissing your complaint.

Facts

On November 16, 2015 – prior to the election of either Councilmember González or Mosqueda – the City Council by a vote of 8-0 adopted a Statement of Legislative Intent asking the Department of Finance and Administrative Services (FAS) to study placing a childcare facility in City Hall or the Seattle Municipal Tower. Among the questions they wanted studied was: “Should a childcare center on City property be available to the public or just City employees?” And “[s]hould there be income requirements and for what portion of the childcare slots?”

On June 30, 2016, FAS sent a memorandum to the Council President outlining its conclusions and recommendations. Among the conclusions it made was that a facility available only to City employees faced legal hurdles and that a childcare facility that included a preference for City employees “would likely need to charge market rate to client families.”

On November 15, 2018, the City Council voted 9-0 to add \$100,000 to the budget to “plan and begin modifications required for a childcare center” in City Hall or another viable site in the downtown area. That new center would “prioritize serving City employees and make any unfilled additional slots available to the general public.”

On September 24, 2019, the Mayor’s Office transmitted a memorandum to the City Council from the Department of Education and Early Learning detailing the costs of establishing and operating a childcare facility in either City Hall or the Seattle Municipal Tower. That memorandum projected monthly tuition costs for families with infants to be

between \$2,343 and \$3,400. A cover memorandum from Senior Deputy Mayor Mike Fong concluded that the Executive would not include funding in her 2020 budget to construct and operate a child care center in City Hall or the Seattle Municipal Tower, but would include \$2.1 million in funding to expand the supply of child care facilities.

On November 19, 2019, the City Council voted 8-0 (with Councilmember González absent that day) to add \$100,000 to the budget to create an infant and parent room in City Hall. The infant and parent room, according to the Budget Action, “would provide a quiet place for employees to feed and comfort their infants.”

I did not find any evidence of a \$4.2 million budget request from Councilmember Mosqueda for a childcare facility.

Analysis

SMC 4.16.070.B.1 says that no person subject to the City’s Ethics Code may “[u]se or attempt to use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the covered individual or any other person, rather than primarily for the benefit of the City.”

I have uncovered no evidence that either of the Councilmembers have attempted to use their positions primarily for their private benefit. First, there is no evidence that Councilmembers were ever to receive any preferential treatment in securing slots in any childcare center under consideration. Even the question of granting preference to City employees was a subject of study. And many City employees are either parents or guardians of young children, or potential parents and guardians of young children. (In 2016, the Seattle Department of Human Resources estimated that City employees had at least 1,617 infant and preschool-age children, and that number did not include firefighters.) None of the on-site childcare options discussed in the last four years would have covered more than 10 percent of those children.

Similarly, there is no evidence to suggest that parents or guardians using a childcare facility in City Hall would have received any financial benefit. The city worked with a consultant to develop an analysis of market rates for the childcare center.

Conclusion

An on-site childcare facility was a priority for the City Council before Councilmembers González and Mosqueda ever joined the City Council. Such a facility was never contemplated to provide any preferential treatment for elected officials, nor were those families who secured spots in the center contemplated to pay less than market rate for childcare. And as of this writing, plans for a childcare facility at either City Hall or the Seattle Municipal Tower have been shelved, with the City budgeting \$100,000 to fund work on a room where employees can feed and comfort their infants.

Because I find no evidence that Councilmembers have used their positions primarily for their own benefit, I am dismissing your complaint. You may appeal this decision by submitting to this office a written request for appeal, pursuant to the Commission's Administrative Rule 4.¹

Very truly yours,



Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission (*Complainant's name and address redacted*)
Councilmember Lorena González (*Complainant's name and address redacted*)
Councilmember Teresa Mosqueda (*Complainant's name and address redacted*)

¹ Rule 4 APPEALS

A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.

B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.

C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.

D. A request for review shall state the grounds therefor, 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 12 characters per inch.