



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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October 23, 2018

Eric S. Casher
Attorney at Law
Meyers Nave
555 12th Street, Suite 1500
Oakland, CA 94607

Re: Your Request for Advice
Our File No. A-18-187(a)

Dear Mr. Casher:

This letter supplements our recent advice letter to you dated September 26, 2018 regarding the campaign provisions of the Political Reform Act (the "Act").¹ To reiterate, our advice is based on the facts presented; the Fair Political Practices Commission (the "Commission") does not act as a finder of fact when it renders assistance. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

In our previous letter, we examined the issue of whether the City of Pinole could televise video recorded arguments regarding a proposed ballot measure on Pinole TV for which the recording and broadcast costs would be paid for by the City. We advised that the Act does not prohibit the City from televising video recorded arguments regarding a proposed ballot measure so long as the proponent of a ballot measure and at least one opponent, or their respective representative, are invited to participate in equal numbers. (*Casher* Advice Letter, No. A-18-187.)

We wanted to further emphasize that an invitation to both the proponent and opponent alone is not sufficient. To the extent that the City is broadcasting proponent and opponent arguments related to an initiative or ballot measure, the City must ensure a fair and balanced approach for each side, otherwise the broadcast could potentially become a reportable campaign expenditure. (See *Stanson v. Mott* (1976) 17 Cal.3d. 206 and Regulation 18420.1).

Accordingly, the City must take adequate measures to ensure that both sides of a ballot measure are provided. At a minimum, the City must consult both supporters and opponents of a measure and provide both pros and cons in a manner that provides a fair and balanced summary of both viewpoints. Ultimately, it will be the City's responsibility to develop a procedure to ensure broadcasts are fair and balanced. However, an example of an appropriate approach, if arguments have been submitted for both sides of a ballot measurement for publication in the county voter information guide, would be to provide both sides of a ballot argument as provided in the guide. If

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

the City needs additional assistance regarding any specific broadcast involving a ballot measure, the City should seek further advice fully describing the planned broadcast.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel



By: Sukhi Brar
Senior Counsel, Legal Division

SKB:jgl