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CITY OF OAKLAND



ONE FRANK OGAWA PLAZA • 2ND FLOOR • OAKLAND, CALIFORNIA 94612

Vice Mayor Jean Quan
Councilmember At-Large Rebecca Kaplan

(510) 238-7004
(510) 238-7008

Re: **Discussion and Action Regarding a Procedure to Clarify the Process for Determining When Expenditure Ceilings (Spending Caps) Under the Campaign Finance Reform Act (Oakland Municipal Code Section 3.12.220) Are Lifted**

Dear Members of the City Council:

Current Oakland law -- Section 3.12.220, specifies certain situations in which the expenditure ceiling for candidates for public office in Oakland shall be lifted.

The intent of this section as noted in the comments of the Public Ethics Commission Analysis of the Oakland Campaign Reform Act conducted by staff several years ago (<http://www2.oaklandnet.com/Government/o/CityAdministration/d/PublicEthics/DOWD005781> - pages 28 -31) is "to address the potentially unfair situation in which a candidate who chooses to bind himself or herself to voluntary expenditure limits is opposed by a candidate who does not agree to limit his or her spending or is (presumably) benefitted by independent expenditures."

The Public Ethics Commission Analysis goes on to point out that the primary issue with this section is that it does not specify a practical or timely way for a candidate or the Public Ethics Commission to learn when these spending or contribution thresholds have been reached. . . . it is unclear how other candidates or the Public Ethics commission are supposed to know when a candidate reaches or exceeds these threshold amounts.

The paramount issue raised under this section is the language that states, "if an independent expenditure committee in the aggregate spends more than [The specified amounts], the applicable expenditure ceiling shall no longer be binding on *any* candidate running for the same office, *and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions* at the amounts set for such candidates in Sections 3.12.050C and 3.12.060C of this Act. " (emphasis added)

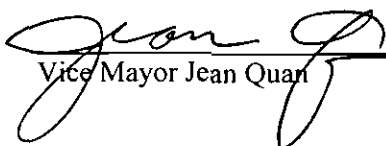
Rules Committee
September 30, 2010
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Recognizing there maybe a need for further longterm changes, which the Public Ethics Commission will eventually address, in the interim, in order to avoid the unintended consequences arising from the ambiguity in the current, code we propose the following guidelines be implemented to the existing code:

Any candidate who believes they should be exempt from the expenditure limit, due to the triggering of the conditions specified in Section 3.12.220 shall:

- Provide a declaration prior to exceeding expenditure limits, signed under penalty of perjury, declaring that neither the candidate nor the candidate's campaign staff have engaged in any coordination with the "independent expenditure committee" including specifically that neither the candidate nor their campaign staff have engaged in any fundraising activities on behalf of said committee.
- The chair of the independent expenditure committee shall provide a declaration setting forth the sources of the committee's funds, the nature and details of the expenditures, and attesting to the lack of coordination with the candidate or fund raising by the candidate.
- Both the candidate and the head of the committee should submit to questioning on these issues by Public Ethic Commission staff.
- This clarification will take effect as of the date of council approval and the city clerk will be directed to immediately notify all candidates that they have been put on notice.

Respectfully submitted,


Vice Mayor Jean Quan


Councilmember Rebecca Kaplan

Rules Committee
September 30, 2010
ITEM: _____