



MICHAEL J. SULLIVAN
DIRECTOR

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CITY CLERK'S OFFICE
NEWBURYPORT
THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE
ONE ASHBURTON PLACE, ROOM 411
BOSTON, MASSACHUSETTS 02108
2020 JAN -2 AM 11:25

TEL: (617) 979-8300
(800) 462-OCPF
FAX: (617) 727-6549

December 27, 2019

Lynn Schow
Opt Out Newburyport
75 High Street
Newburyport, MA 01950

Re: CPF-19-146

Dear Ms. Schow:

This office has completed its review of complaints we received regarding Opt Out Newburyport Ballot Question Committee (the "Committee"). The Committee advocated for a vote supporting a ballot question on the ballot on November 5, 2019 banning the sale of marijuana in Newburyport. The complaints allege that the Committee did not organize or disclose financial activity in a timely manner with the Newburyport City Clerk. Specifically, the complainants cited the lack of disclosure for expenditures relating to postal costs, yard signs, flyers, advertisements, and a billboard.

Based on our review, we have determined that the Committee violated M.G.L. c. 55, the campaign finance law, because it did not organize or disclose its financial activity in a timely manner as required by the statute.

M.G.L. c. 55, § 1 defines a ballot question committee as "...a political committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter change, an initiative or referendum question or a constitutional amendment." Under the campaign finance law, if an individual or group solicits and receives money, or more than one person pools their resources (monetary or in-kind) to influence a ballot question, such persons are acting as a ballot question committee. *See* IB-90-02.

You have stated that Opt Out Newburyport did not raise any funds to support the passage of the question. You have stated that it was a group of Newburyport residents who supported the ballot question, and that members used their own funds to make expenditures. These expenditures, even if using members' pooled resources, however, are considered *in-kind contributions* to the Committee, which must be disclosed under the statute.

A ballot question committee must organize by filing a Form CPF M101 BQ: Statement of Organization with the City Clerk before it receives in-kind or other contributions or engages in any financial activity. *See* M.G.L. c. 55, § 5. Although the Committee received in-kind contributions starting in January 2019, it did not file its Form CPF M101 until November 4, 2019, the day before the election.

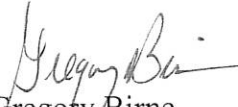


In addition to requiring timely organization of ballot question committees, the campaign finance law also requires ballot question committees to file timely disclosures of all contributions received, whether in money or in-kind, and also of all expenditures and liabilities. It specifies that a municipal ballot question committee must file a pre-election campaign finance report (Form CPF M102), complete through the 18th day prior to the election due eight days prior to the election. *See* M.G.L. c. 55, § 18 and IB-90-02. This report was due by October 28, 2019. The Committee did not, however, file the report until November 12, 2019, seven days after the election. The Committee's report disclosed approximately \$7,300 in in-kind contributions received, including postcards, door hangers, flyers, and advertisements paid for by supporters.¹

The Committee's late filing of the Statement of Organization and pre-election report did not comply with the campaign finance law. We expect, however, that the guidance provided in the course of this review will result in future compliance should the Committee's members be involved in ballot question activity again. You should be aware, however, that further instances of noncompliance may result in referral to the Attorney General in accordance with Section 3 of the campaign finance law.

In accordance with the opinion of the Supervisor of Public Records, this letter is a matter of public record. A copy is being provided to the person(s) who brought this matter to our attention.

Sincerely,


Gregory Birne
General Counsel

GB/mj

cc: Richard Jones, Newburyport City Clerk

¹ In addition to questioning the disclosure for these items, the complainants also alleged that there was no disclosure for a billboard ad. Children's Health Care, however, filed a timely disclosure report (CPF M22) with the Newburyport City Clerk on November 26, 2019. The report disclosed payments by Children's Health Care for a billboard, advertising, marketing/editing, and graphic design. Because each of these expenditures occurred after the 18th day prior to the election (October 18, 2019), disclosure for this activity was not required until after the election. *See* M.G.L. c. 55, § 22 and IB-90-02.