City of Oakland
Public Ethics Commission

For Official Use Only

Stamp Date/Time Received:

Complaint Number: _____

Date October 28, 2008

COMPLAINT FORM

Please Type or Print in Ink and Complete Both Sides of this Form.

This complaint concerns a possible violation of: (please check all that apply)

[ ] The Oakland Sunshine Ordinance, California Public Records Act or Brown Act (Access to public meetings or documents.)

[ ] Oakland Campaign Reform Act

[ ] Oakland City Council's Rules of Procedure/Code of Ethics

[ ] Oakland Limited Public Financing Act

[ ] Oakland Conflict of Interest regulations

[ ] Oakland Lobbyist Registration Act

[ ] Oakland False Endorsement In Campaign Literature Act

[x] I am/We are not sure which specific law, ordinance or regulations apply. However I am/We are requesting that the Ethics Commission determine if my/our complaint is within its jurisdiction.

The alleged violation occurred on or about the following date(s):

The months of September, October and early November.

The alleged violation occurred at the following place:

Throughout the City of Oakland - too many locations to list.

Please provide specific facts describing your complaint. (Or attach additional pages as necessary.)

Campaign signs improperly and or illegally posted throughout the City of Oakland promoting various measures and candidates.

ATTACHMENT 1

(Continued on Reverse Side)

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Please provide specific facts describing your complaint. (If additional space is needed.)

The City of Oakland did post, or cause to be posted by or through its agents, "campaign signs" throughout the City promoting **Measure NN** (a City Measure) at various City locations deemed to be City owned property and or "public property", in violation of the FPPC.

Additionally, the City of Oakland has willfully allowed and thereby promoted **Measure WW,** and or its sponsor (East Bay Regional Parks), **Ms. Kerry Hamill**, canidate for City Council, and **MR. Phil Daly,** candidate for Alameda County Superior Court Judge, in permitting their individual campaign signs to be posted on City owned, "public property". In particular, the light standards at various City owned parking lots operated by Douglas Parking, the City side of freeway fences, various medians and park strips throughout the City and at various locations on Broadway and San Pablo Avenue. If not on public property, on private property without the owners permission and in violation of the municipal code in posting or erecting signs and displays.

The City has allowed, condoned and willfully promoted particular candidates and misused public resources in and by not requesting, insisting, or demanding that the signs be immediately removed or that they be removed at all. Further, after numerous requests and complaints the City has either failed or has refused to remove the signs in question, thereby supporting that particular candidate and ballot measure with "public funds" - a blatant misuse of public

One would think a simple phone call by the City to the candidate would do the job but the City has failed to exert even that very minor effort.

PLEASE NOTE:

There may be other laws that apply to the violation(s) you are alleging. The time limit to commence a legal proceeding to enforce those laws may not be extended by filing this complaint. You should contact an attorney immediately to protect any rights available to you under the law.

By filing this complaint with the Public Ethics Commission it, and all other materials submitted with it, becomes a public record available for inspection and copying by the public.

NAME: David E. Mix

ADDRESS: 1133 Glencourt Drive

CITY: Oakland STATE: CA ZIP: 94611

PHONE NO. (Day) (510) 339 1519

PHONE NO. (Eve) ( )

FAX NO. ( ) as above

E-MAIL

PLEASE RETURN THIS FORM TO:

Public Ethics Commission
One Frank Ogawa Plaza, 4th Floor
Oakland, CA 94612

Phone: (510) 238-3593
FAX: (510) 238-3315

Note! Faxed complaint and U.S. Mail

ATTACHMENT 1

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City of Oakland
Public Works Agency
Department of Facilities & Environment
Keep Oakland Clean & Beautiful Division

Standard Operating Procedures (Draft)

SUBJECT: Removal of political signs/posters placed on the public & private property.

INTENT: Maintain compliance with the Oakland Municipal Code Chapter 5.06.020 Regulations Governing the Posting of Signs

RESPONSIBLE PERSON: Public Works Agency

CRITICAL TIMING: During Election Year

INVOLVED INDIVIDUALS: Supervisory/ field staff

PROCEDURES:

Definition of the public & private property

- Public property includes but is not limited to sidewalk, curb, street, path, median, City of Oakland owned property (improved and vacant). Structures considered public property include; public trees, litter containers, street light poles, electrical cabinets, utility poles, parking meters and fire hydrants
- Although the planter strip between the sidewalk and curb is in the public right of way, it is maintained by the adjacent property owner (public or private). Signs can be maintained there if the private property owner consents. It is assumed that the private property owner will remove any unauthorized sign from the planter strip adjacent to their property.

Definition of items

- "Political signs/posters" (signs) include all signs, banners, pennants, flyers, handbills, posters, billboards, or stickers

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Process for Removing Political Signs

- Signs are to be removed using caution not to damage sign or the area that it is placed in or on

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- Signs on private property , including vacant lots, other improved/developed property and perimeter fencing, shall be treated with the assumption that the private property owner has approved them. WE ARE NOT TO REMOVE SIGNS FROM PRIVATE PROPERTY, this is the responsibility of the private property owner
- If a vacant lot is suspected to be owned by the City (public property) then the supervisor will confirm through the "Win Data System" if the lot is owned by the City of Oakland prior to sign removal
- All signs removed shall be recorded on the "sign removal log" (Log) by location and sign type. The Log must be turned in to the supervisor at the end of each work shift
- Signs are to be taken to our Corporation Yard located at 5050 Coliseum Way where they will be stored
- The supervisor will notify campaigns via telephone, to retrieve their signs from the Corporation Yard, 5050 Coliseum Way, where signs will be stored. Signs are not to be delivered.

David Ferguson

David Ferguson, Operations Manager
Keep Oakland Clean & Beautiful Division
Department of Facilities & Environment

Date issued 5/24/06

Attachments
Sign Removal Form
Oakland Municipal Code 5.06.020

ATTACHMENT 2

December 2, 2008

City of Oakland
Public Ethics Commission
Executive Director, Daniel Purnell
One Frank Ogawa Plaza, 4th Floor
Oakland, CA 94612

Re: Addendum to Complaint of October 28, 2008 concerning the illegal posting of campaign signs.

Dear Mr. Purnell:

My apologies for taking so long to get back to you on your inquiry. Secondly, please add "No on Kids First", (Measure OO) to my complaint. The City Clerk does not have any record of, or any FPPC filings on this committee and I have not been able to locate any. The primary complaint of course is the lack of filing of the required reports.

As far as I know there were no other interested parties aside from the City of Oakland concerned with the passage of OO or who would have taken an active roll in attempting to defeat it. In this regard it parallels measure NN with the City as the sole benefactor or financier - directly or indirectly.

On the original complaint there is not much to add except that after many phone calls from myself and others to the City most the signs remained in place and were never removed. In particular, those on Broadway and San Pablo Ave remained in place throughout the entire election. Signs on Telegraph Ave are still there as of this writing, (Yes on OO and Yes on NN). Please note the photos enclosed indicating the date of November 16, 2008, long after the election

Please keep in mind the complaint is not limited to the City's failure to remove the signs but foremost, the illegal posting in the first instance. There is no question the City allowed and probably encouraged if not participated in this action. The City, as the sole benefactor, sole participant and sole financial contributor to the campaign (YES on NN) is hard pressed to deny it.

The campaign funds clearly came from close knit City connections. quid pro quos, pay backs and the likes. The list, as small as it is, reads like the who's who of City Hall with Phill Tagami, ($1,000); Shorenstein Realty,($2,500); the IBEW, Local Union 595 in Dublin, of whom, the recent Port Director appointee Victor Uno,is its business agent; S.K.SEYMOUR,LLC ($6,000); and lastly Kathleen Tuck Rogers ($5,000).

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The committee name "Citizens For A Safer Oakland", is an absolute hoax, a scam. There is no such committee or group of citizens behind this committee, the campaign contributions attest to that. Sadly, there isn't even a contribution from the Police league (their Union).

Be that as it may, my complaint nevertheless is with the posting of the signs. They didn't get there by themselves and they didn't suddenly appear by magic. The City hired a campaign manager, who in turn directed the signs be printed, distributed and posted. No matter which way you slice it, those parties were contracted by the City and or agents for or of the City.

As always, your attention to this matter is greatly appreciated.

David E. Mix

P.S. Photos ~~will follow by mail~~ enclosed

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76th & San Pablo

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36th & San Pablo

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Nov. 16, 2008 34th & Telegraph

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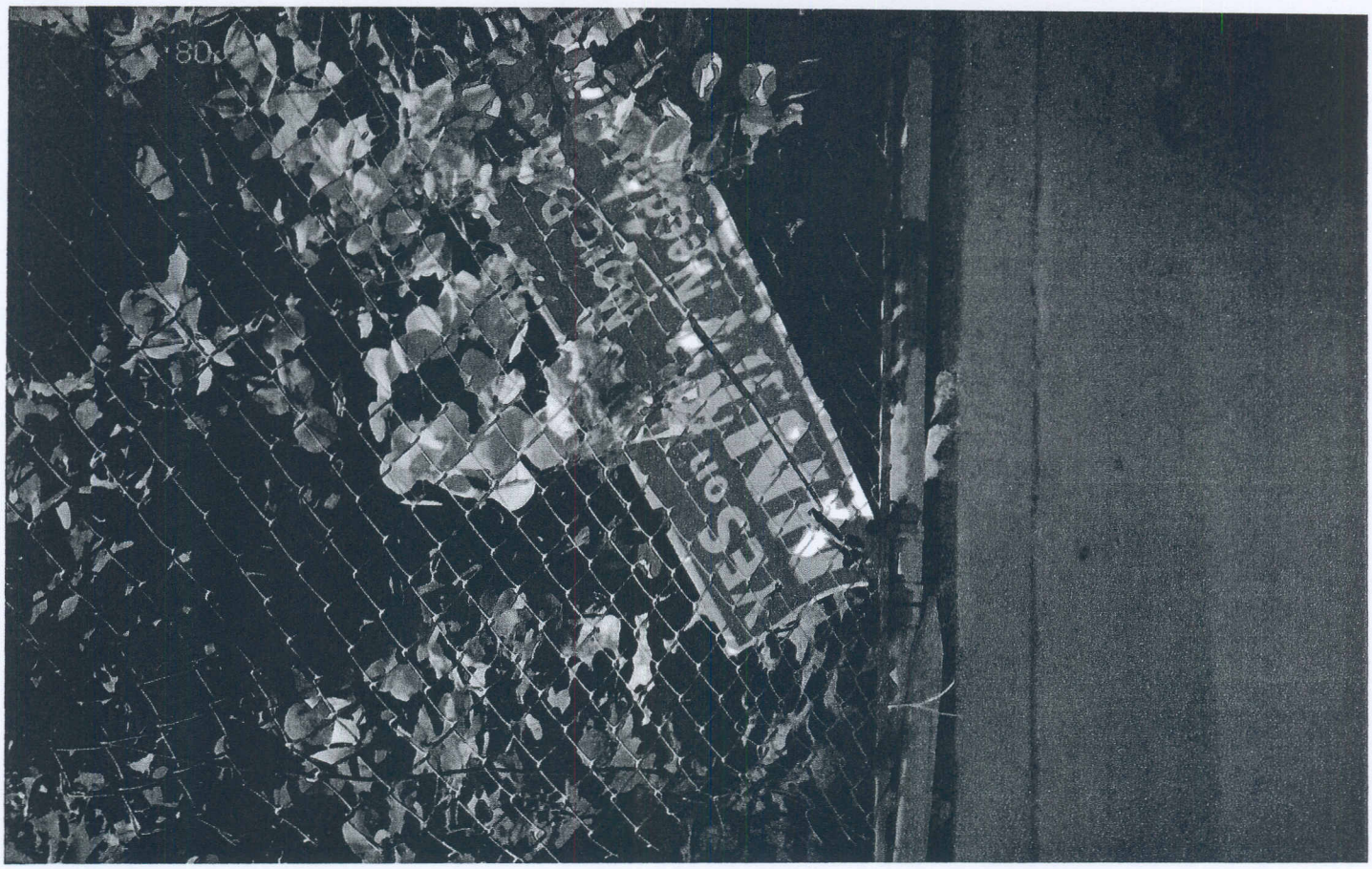
ATTACHMENT 3

34th & Telegraph



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ATTACHMENT 3

34th & Telegraph