Rec'd 5/5/09

City of Oakland

For Official Use Only

Public Ethics Commission

Stamp Date/Time Received:

COMPLAINT FORM

Complaint Number: 09-05

Please Type or Print in Ink and Complete 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

ATTACHMENT 1

Item E-1
Date 9-3-09
Page 4 of 14

☒ Oakland Lobbyist Registration Act

☐ Oakland False Endorsement In Campaign Literature Act

☐ 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)

9-24-2008;
9-25-2008;
10-14-2008;
10-15-2008;
10-21-2008

The alleged violation occurred at the following place:

By e-mail.

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

Matt Novak communicated with Council member De la Fuente's office in order to influence pending and proposed legislation, entitlement extensions

The persons you allege to be responsible for the violation(s) are:

Matthew Novak, a salaried employee with Dogtown Development

Any witnesses who were involved and/or who can provide additional information are: (Please indicate names and phone numbers, if available.)

Carlos Plazola
Laura Blair
Ratna Amin
Council member De la Fuente

ATTACHMENT 1

Item E-1
Date 9-3-09
Page 5 of 14

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: John Klein PHONE NO.(Day):(510) [redacted]

ADDRESS: [redacted] Vermont PHONE NO.(Eve.):( )

CITY: OAKLAND STATE: ZIP: 94610

FAX NO.: ( )

E-MAIL: [redacted]@comcast.net

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

Submit by Email

Print Form

ATTACHMENT 1

Item E-1
Date 8-3-09
Page 6 of 14

May 6, 2009

Public Ethics Commission
City of Oakland
One City Hall Plaza, 6th Fl.
Oakland, CA 94612

Re Lobbyist Registration Act violations – Novak

Dear Commissioners,
Attached is the complaint regarding Matthew Novak, a salaried employee with Dogtown Development.[1] Mr. Novak communicated with council member De la Fuente's office on numerous occasions via e-mail in an effort to influence the proposed entitlement extension legislation.

The entitlement extension legislation was eventually passed into law and Mr. Novak's employer, Dogtown Development, received entitlement extensions for two separate projects.

Mr. Novak is a salaried employee as defined by the Act. Mr. Novak failed to register as a lobbyist prior to making the communications with local officials and then failed to disclose the communications, both of which are violations of the Lobbyist Registration Act.

Best wishes,

John Klein

[1] Dogtown Development is an LLC, an entity type which is not specifically identified in the Act. However, the Section 3.20.030 (D) of the Act provides that, "in the case of any ambiguity, the definition of a "local government lobbyist" shall be interpreted broadly." It is appropriate to broadly interpret the statute as to include LLCs because both the actions undertaken, i.e., attempts to influence pending and proposed legislation, and the outcome for Dogtown Development (the extension of entitlements) are identical as for any corporation, organization, or association.

ATTACHMENT 1

Amin, Ratna

From: Matthew Novak [matthew[redacted]k@yahoo.com]
Sent: Thursday, September 25, 2008 5:28 PM
To: Amin, Ratna; Carlos Plazola
Cc: Laura Blair
Subject: Re: Entitlements extension not on Oct 1st PC agenda
Follow Up Flag: Follow up
Flag Status: Red

Ratna:

I am not an attorney, but would like to disagree them. I believe the advisory agency (planning commission or council) can extend entitlements up to 6 years (per Calif. govt code/subdivision map act).

Maybe instead of a "blanket" extension (which indeed might draw lawsuits from some anti-development groups) we need to list all the projects affected and get them passed as one agenda item. The council would actually be approving the extension of each project.

Thanks,
Matt

----- Original Message ----
From: "Amin, Ratna" <RAmin@oaklandnet.com>
To: Carlos Plazola <cplazola@terralindaservices.com>; Matthew Novak <matthewjnovak@yahoo.com>
Cc: Laura Blair <lblair@terralindaservices.com>
Sent: Thursday, September 25, 2008 5:03:57 PM
Subject: RE: Entitlements extension not on Oct 1st PC agenda

Yes, it would. I'll see if I can get an answer. I've been calling other cities and most of them are 1-2 years and then extensions upon request.
SF... always the extreme.

Ratna Amin
Office of Oakland City Council President Ignacio De La Fuente
510-238-6126

From: Carlos Plazola [mailto:cplazola@t[redacted]services.com]
Sent: Thursday, September 25, 2008 4:19 PM
To: Amin, Ratna; 'Matthew Novak'
Cc: 'Laura Blair'
Subject: RE: Entitlements extension not on Oct 1st PC agenda

If this is the case, then why can San Francisco , legal challenges capital of the world, give much longer entitlement periods than Oakland ? This is the kind of question that would be fascinating to get answer to

ATTACHMENT 2

Item E-1
Date 9-3-09
Page 8 of 14

directly from staff.

From: Amin, Ratna [mailto:RAmin@oaklandnet.com]
Sent: Thursday, September 25, 2008 3:47 PM
To: 'Matthew Novak'
Cc: 'Carlos Plazola'; 'Laura Blair'
Subject: RE: Entitlements extension not on Oct 1st PC agenda

Hi Matt,

Our City Attorney and Eric feel that if we go beyond SB1185 we are opening ourselves up to legal challenges. I don't believe we are outright prohibited from going beyond this.

Thanks,
Ratna

Ratna Amin
Office of Oakland City Council President Ignacio De La Fuente
510-238-6126

From: Matthew Novak [mailto:[redacted]k@yahoo.com]
Sent: Wednesday, September 24, 2008 5:56 PM
To: Amin, Ratna
Cc: Carlos Plazola; Laura Blair
Subject: Entitlements extension not on Oct 1st PC agenda

Ratna:

This past July Gov. Schwarzenegger signed SB 1185 that extends expiring subdivision maps for one year. Do you know if Oakland is bound by this?

Thanks,
Matt

----- Original Message ----
From: Carlos Plazola <cplazola@[redacted]ices.com>
To: ronkriss@[redacted]; Roy Alper <[redacted]global.net>; Thomas Dolan [redacted]k.com>;
kathykuhner@[redacted]com; matt[redacted]@yahoo.com
Sent: Wednesday, September 24, 2008 4:28:46 PM
Subject: FW: Entitlements extension not on Oct 1st PC agenda

From: Amin, Ratna [mailto:RAmin@oaklandnet.com]
Sent: Wednesday, September 24, 2008 3:49 PM
To: 'Carlos Plazola'
Subject: RE: Entitlements extension not on Oct 1st PC agenda

ATTACHMENT 2

Item E-1
Date 9-3-09
Page 9 of 14

Hunt, Michael

From: Matthew Novak [matth[redacted]k@yahoo.com]
Sent: Tuesday, October 21, 2008 4:34 PM
To: DL - City Council
Subject: Entitlement Extensions Resolution

Dear Honored Councilmembers:

I am writing to ask for your support for the proposed resolution to extend all entitlements in the City of Oakland by one year.

The Oakland real estate market is in a serious recession.

- Oakland has over 6,000 homes is some state of foreclosure
- The median home price in Oakland is down 47% from last year – by far the largest decrease in Alameda County
- Housing starts are down over 65% from two years ago
- Oakland's Unemployment rate is 10.5% , twice that of San Francisco's and 3% higher than the state average

There are many entitled projects in Oakland that cannot be built now due to the current environment. It will be a long time before Oakland recovers from the real estate downturn and we need to make sure that the investment in Oakland that these projects represent isn't lost.

Not only do these entitled project represent significant investment in Oakland, but they also represent a tremendous amount of potential revenue (in the form in increased property tax, transfer tax and city fees) for the City in the future.

Extending the entitlements of the these projects will cost the city virtually nothing, but allowing these projects to risk losing their entitlements could cost the city thousands of dollars in revenue.

If one 24 unit townhome project is delayed 6 mo. it will cost the city over $32,000 in lost revenue (delayed fees and taxes). City staff estimates that there are approximately 700 units affected, which represents almost $1,000,000 in cost to the city if these projects are delayed and even more if they are not built.

Thank you,

Matthew Novak

Item E-1
Date 9-3-09
Page 10 of 14

ATTACHMENT 2

Item E-1
Date 9-3-09
Page 55 of 83

Hunt, Michael

From: Carlos Plazola [[redacted]ervices.com]
Sent: Wednesday, October 15, 2008 9:54 AM
To: Amin, Ratna; 'Matthew Novak'
Cc: De La Fuente, Ignacio; Schoenberger, Lupe (was Valdez)
Subject: RE: CED committee today - approval extensions

Ratna, our leadership is, once again, missing the forest for the trees, and generally, in the past, Ignacio has stepped up to put this kind of short-sighted thinking in its place. I am hoping he will start doing so on this issue soon.

In short, what the hell difference does $35K make in the grand scheme of things when we're talking about millions and millions of potentially lost revenues if the city allows entitlements to expire. I am having a really hard time watching this train wreck as Eric Angstadt is allowed, for purposes of his own desire to control things, to dictate the direction we go in, to the long-term detriment of Oakland. Read mine and Matt's posts on this blog: http://www.abetteroakland.com/delay-everything-a-year-and-hope-it-gets-better/2008-10-14#comment-12206.

We will send people the hearing next Tuesday, but at some point, Ignacio has to get in there and throw elbows on our behalf, but since we're not allowed to even meet with him on this issue, I won't hold my breath.

You all do your part, and we'll do ours.

Carlos

Item E-1
Date 9-3-09
Page 11 of 14

From: Amin, Ratna [mailto:RAmin@oaklandnet.com]
Sent: Wednesday, October 15, 2008 9:17 AM
To: 'Matthew Novak'
Cc: 'Carlos Plazola'
Subject: RE: CED committee today - approval extensions

Thanks Matt,

The speakers were very helpful yesterday – the anti-development strain/skepticism continues to exist and it was a key opportunity to get some information out about the current conditions for builders.

I was thinking about the lost revenue issue last night – and I think that the $35K possible revenue from the extension fee is not lost- its just delayed by one year. Also, the extension fee is a fee-for –service, not a way to generate "profit" for the City. John Klein has been raising these questions but I think at the end of the day, he has a totally different philosophy about development than most council members (I think he doesn't care if projects get built and sees developers as a source of revenue).

I think the idea of adding impact fees is absurd- if the projects don't pencil out now to build, how will they pencil out with fees? All the more reason to get your message out on an on-going proactive basis in my opinion. So, it would be wonderful to have speakers again on Tuesday to get the message out and any information on the lost benefits to the community and lost monetary benefits to the City would be great too.

ATTACHMENT 2

Item E-1
Date 5/10
Page 56 of 82

Best,
Ratna

Ratna Amin
Office of Oakland City Council President Ignacio De La Fuente
510-238-6126

From: Matthew Novak [mailto[redacted]
Sent: Tuesday, October 14, 2008 6:32 PM
To: Amin, Ratna
Cc: Carlos Plazola
Subject: Re: CED committee today - approval extensions

Ratna:

Please let me know if you need anymore help on this before Council and please let me know when it is going to be on the agenda. I am responsible for marshaling the troops (speakers) on this one and don't want to miss it.

Since Nadel and Brunner seemed to be concerned with the loss of "extension fees" I will be prepared to talk about the lost revenue if one of these projects doesn't go forward or is delayed 6 mo.

Thanks again for your help,
Matt

----- Original Message ----
From: "Amin, Ratna" <RAmin@oaklandnet.com>
To: Matthew Novak <matthe[redacted]@yahoo.com>; "kathykuhner@[redacted]"
<kathykuhner@[redacted]>
Sent: Tuesday, October 14, 2008 12:38:04 PM
Subject: CED committee today - approval extensions

Hi Matt and Kathy,

Are you coming to speak at CED committee today (4pm, Hearing Room 1)? I think it will be helpful if you are there - to get the one year extension, and then see if there is support or 2 or 3.

Thanks,

Ratna

Ratna Amin
Office of Oakland City Council President Ignacio De La Fuente
1 Frank Ogawa Plaza 2nd Floor
Oakland, CA 94612
510-238-6126
ramin@oaklandnet.com

Item E-1
Date 9-3-09
Page 12 of 14

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ATTACHMENT 2

Item [illegible]
Date 5[illegible]09
Page 57 of 83

List of Projects and Applicants – Extension Requests Pursuant to Resolution 81723

Project Case Number (s)	Project Location	Applicants Name & Address	Date of Extension
CMDV05-487	176-198 11th St., 1110 Jackson St.	Tom Peterson; 780 W. Grand Ave., Ste. 200; Oakland, CA 94612	12-16-08
REV07-0018; DR06-359; TPM9217	459 23rd Street	Gerry Hynes/Twenty Third & Valley LLC; 1201 Anderson Dr., #1; San Rafael, CA 94901	12-18-08
CMDV05-516	116 6th Street	Teresa Clarke; Affordable Housing Assoc.; 1250 Addison, Ste. G; Berkeley, CA 94702	12-19-08
CDV06-604	5253 College Avenue	Kirk Peterson; 5253 A College Ave.; Oakland, CA 94618	12-19-08
DV05-170	Balsam Way	Alan & Susan Mart; P.O. Box 841; Bolinas, CA 94924	12-19-08
DRC06-324	5612 La Salle Avenue	Jackson Mosher; 21 C Orinda Way #375; Orinda, CA 94563	12-23-08
DRC06-323	5614 La Salle Avenue	Jackson Mosher; 21 C Orinda Way #375; Orinda, CA 94563	12-23-08
DV06-464 TPM9663	514 7th Street	Stephen Antonaros; 2216 Market St. #324; San Francisco, CA 94114	12-23-08
CDV06-428 TPM9263	367-377 2nd Street; 370-380 Embarcadero	Marge Vincent; Vanguard Properties; 2501 Mission St.; San Francisco, CA 94110	1-14-09
VMD06-535 TPM9335	2303 Market Street	Matt Novak/Dogtown Development; 3294 Louise St.; Oakland, CA 94608	1-16-09
CMDV05-519 TPM8814	2315 Valdez St.; 320-326 23rd St.; 2330 Webster St.	Rick Garvin; Trimont Real Estate Advisors; Ste. 850 Jamboree Center 2 Park Plaza; Irvine, CA 92614	1-22-09

ATTACHMENT 3

Item E-1
Date 9-3-09
Page 13 of 14

CM06-266 TPM9093	3421 Hollis Street	Matt Novak/Dogtown Development; 3294 Louise St.; Oakland, CA 94608	2-3-09
CU06-243	1155 5th Street	Frank Flores/Madison Park Financial Corp., 409 13th St. 8th Floor; Oakland, CA 94612	2-6-09
REV06-35	6900 Broadway Terrace	Candace Simms; 6900 Broadway Terrace; Oakland, CA 94611	2-10-09
CU05-116	2400 Filbert Street	Tom Dolan; 173 Filbert St.; Oakland, CA 94607	2-20-09
DRC06-223	5837 Castle Drive	Al Masso; 6045 Shirley Dr.; Oakland, CA 94611	3-17-09
TPM8601	Campus Drive	Kiran Karnad; 4616 Rockingham Ct.; Oakland, CA 94619	3-17-09
DR05-347	6598 Exeter Drive	Dennis Baker; M-B Construction; 1117 Alvarado Rd.; Berkeley, CA 94705	3-17-09
DR04-234	6588 Exeter Drive	Dennis Baker; M-B Construction; 1117 Alvarado Rd.; Berkeley, CA 94705	3-17-09
DR06-323/A06-577	Redwood Road	David Seyranian; S.F. Partners, LLP; 4144 Redwood Rd.; Oakland, CA 94619	3-17-09
VDRC06-349	Mendoza Drive	Mr. Qing Ching Li; 1531 40th Avenue; Oakland, CA 94601	3-17-09
VDRC06-582	6200 Castle Drive	Robert Zimmerman; 6200 Castle Dr.; Oakland, CA 94610	3-23-09
CDV06-497	133 Vicente Road	David Setton; 3939 Centro Ave; Oakland, CA 94611	3-23-09
CU06-561; TPM7865	346 105th Avenue	Art Clark; 3361 Partridge Ave; Oakland, CA 94605	3-31-09
DV05-625	3550 Foothill Blvd.	Mohammad Saeed Khan; 3074 Paseo Granada; Pleasanton, CA 94566	3-31-09
V07-351; TPM7483	15835 Skyline Blvd.	Sarah Lawrence; 385 Grand Avenue, Ste. 200; Oakland, CA 94610	4-3-09

ATTACHMENT 3