

# CITY OF OAKLAND



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Public Ethics Commission

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July 5, 2016

Honorable Morris D. Jacobson, Presiding Judge  
Alameda County Superior Court  
1225 Fallon Street, Department One  
Oakland, CA 94612

Dear Judge Jacobson,

Thank you for the opportunity to respond to the 2015-2016 Alameda County Grand Jury Final Report, released on June 21, 2016, which includes a review regarding Political Interference with Oakland Townhouse Project. We appreciate the Grand Jury's review of the actions of an Oakland City councilmember and City staff and its recommendations 16-1 and 16-2, relating to the Public Ethics Commission, which are as follows:

*Recommendation 16-1: The city of Oakland Public Ethics Commission must conduct its own investigation of the facts surrounding the townhouse project and take appropriate enforcement actions.*

*Recommendation 16-2: The city of Oakland Public Ethics Commission must reinforce its ethics training for elected officials and city employees regarding conflicts of interest, misuse of city resources or position, and professional conduct, including reporting council interference.*

The Public Ethics Commission is currently implementing both recommendations as detailed below.

## **Recommendation 16-1**

As we informed the Grand Jury staff prior to issuance of the Grand Jury report, Commission staff initiated a pro-active investigation last year to review the allegations that are described in the report. That investigation was opened by staff on February 18, 2015. The Commission later received two additional complaints – one from City Councilmember Noel Gallo and another from a citizen. As we also indicated, Commission staff opened this investigation two months after the Commission acquired its new enforcement authority over ethics laws pursuant to the Government Ethics Act, which was drafted by the Commission and passed by City Council in December 2014.

The investigation is still pending, due in part to the Commission's backlog of cases as well as the lack of an investigator until March 28, 2016. Commission staff estimates completion of this investigation by the end of 2016.

### **Recommendation 16-2**

Regarding *Recommendation 16-2*, the Commission has already instituted a number of ethics training activities and is in the midst of creating additional comprehensive ethics training tools as follows:

1. **Ethics Introduction Video** – Following the passage of the new Government Ethics Act in 2014, the Commission created a short introductory video that was distributed to all City staff and made available online in September 2015. This video covers the main provisions of the Government Ethics Act, including sections on conflicts of interest, misuse of public funds, and City Councilmember non-interference in City Administrative affairs (City Charter Section 218). The video also will be distributed Citywide through the City's online training platform in July 2016.
2. **New Employee Orientation** – As of March 2016, the Ethics Introduction Video and an introduction to the role of the Public Ethics Commission have been incorporated into every new employee orientation, which occurs during each new hire's first month of City employment.
3. **AB 1234 Ethics Training** – Commission staff has continued to ensure that AB 1234 Ethics Training has been completed by all of Oakland's elected officials every two years as required by state law. This state-provided online training covers laws and regulations regarding state ethics laws, including conflicts of interest and misuse of public funds that are now codified locally in our new ordinance. All Oakland elected officials are currently in compliance with this biennial training requirement.
4. **Council Interference Education and Policy** – Prior to acquiring enforcement authority for City Charter Section 218 (City Council Non-Interference in Administrative Affairs), Commission staff assisted the City Administrator in 2013 and 2014 in conducting training for Executive Staff (City department heads and City Administrative executives) and drafting the City's Administrative Instruction 597, which provides the implementing policy for how staff and officials should adhere to City Charter Section 218 and how and where to report instances of Councilmember interference. The Administrative Instruction was initially developed by City Administrator Deanna Santana and was signed and issued by Interim City Administrator Henry Gardner on July 14, 2014. Training on Section 218 has been incorporated into all Government Ethics Act education materials to ensure that public servants are aware of this provision.
5. **Comprehensive Citywide Ethics Training** – Commission staff are currently working to create a comprehensive online ethics training to cover the entire Government Ethics Act in detail, as well as additional state and local ethics-related provisions, with a target completion date of November 2016.


As these actions demonstrate, the Public Ethics Commission has pro-actively initiated and significantly augmented education activities to improve City staff and officials' awareness of and

compliance with ethics laws and policies in recent years. In addition, the Commission has prioritized the establishment of ongoing and sustainable ethics education programs and materials by hiring a full-time Ethics Analyst/Educator as of February 2016.

The Commission strongly advocated for the expanded enforcement authority it obtained by City Charter amendment, effective January 2015, as well as the additional resources that followed in July 2015. The Commission's growth is historically significant and has taken time to implement fully amid the broad range of Commission responsibilities; we continue to hire employees, establish a new office, and solidify operations, while implementing our new legal authority, expanding education programs, building better tools to enhance disclosure of ethics-related data, and imposing more frequent and higher fines for ethics violations. The infrastructure we have been building will enable us to respond more quickly on enforcement cases such as these, with the goal of investigating and resolving all Commission cases in a timely manner.

Again, we thank the Alameda County Grand Jury for its review and recommendations for the Public Ethics Commission and the City of Oakland. We appreciate the work of the Grand Jury and its staff, as well as its continued support of the Commission's efforts to expand its capacity, enforcement, and education on government ethics in the City of Oakland.

Sincerely,



Sonya Smith, Chair  
Public Ethics Commission

On behalf of the Commission

*(This letter was approved by the Public Ethics Commission at its meeting on July 5, 2016.)*

c:

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Alameda County Grand Jury  
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