



October 21, 2019

BY E-MAIL ONLY

Re: Case Nos. 19-2-1014-1 and 19-2-1016-1

Dear M***** and M*****:

The Seattle Ethics and Elections Commission (SEEC) received your complaints on October 14 and October 16, respectively. Both allege that Shayna Daitch, a staff member for Councilmember Debora Juarez, prohibited you from passing out informational cards for Councilmember Juarez's opponent, Ann Davison Sattler, at "Live in D5" on September 28, 2019.

Background

This was the fourth annual "Live at D5" event hosted by Councilmember Juarez. The event was initially scheduled for August 10, but was canceled due to rain. After some discussion of canceling the event, the Councilmember ultimately rescheduled the event for September 28, from 1:00 to 4:00 pm. The location chosen for the event was Hubbard Homestead Park, one block north of the Northgate Mall. Approximately 200 people visited the park during the three-hour event.

With the election looming, Councilmember Juarez's office minimized advertising for the event. Signage for the event was reworked from years past to avoid using the same color scheme as the Juarez campaign was using. The Councilmember declined to make remarks about what she had accomplished in the last year, as she had done at the first three events. Campaign workers for Councilmember Juarez were told not to conduct any campaigning at the event.

Ms. Daitch acknowledges asking you to stop campaigning at the event, but states that she never attempted to prohibit you from campaigning. The event was at a City park, and Ms. Daitch told us she knew that she could not bar you from a public park. She said she asked you to campaign elsewhere because, after talking with you, residents were approaching City staff asking them why they should vote for Councilmember Juarez. Ms. Daitch said it was placing City staff in an uncomfortable position, reiterating to residents that they could not discuss the Councilmember's reelection campaign at the event.

Ms. Daitch also told us that you all discussed the fact that the program was supported by private funds raised in past years by Councilmember Juarez and managed

by the Seattle Parks Foundation. She denies your claim that she ever said that the event was “private.”

Analysis

Your complaints raise issues under SMC 2.04.300, which states that “[n]o elected official nor any employee of his or her office...may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.” (To the extent you are claiming that Ms. Daitch abridged your First Amendment free speech rights, the Commission is not empowered to adjudicate such a claim. You should seek legal advice if you wish to pursue such a claim.)

There are two competing versions of what transpired on September 28. In your version, Ms. Daitch told you, with the intention to benefit Councilmember Juarez’s reelection campaign, that you could not distribute her opponent’s campaign literature. As a result, you left the park. In Ms. Daitch’s version, she asked you to stop handing out campaign literature because it was putting City employees in an awkward position.

Both versions are plausible, and I find no evidence to credit one version over another. You both told me that there is no recording of your interaction with Ms. Daitch, and additional accounts from people supporting one candidate or the other are unlikely to add any clarity to the story.

Conclusion

For the foregoing reasons, I am dismissing your complaint. As with similar allegations made in 2007 against an incumbent by supporters of their challenger, I will not initiate a case here based solely on a first-person account of conversations because I do not see any way for the Commission to find a violation by a preponderance of the evidence. If you wish to appeal this dismissal, here is the Commission rule governing appeals.¹

¹ Rule 4 APPEALS

- A. Upon the written request of a party aggrieved by the Executive Director's decision to dismiss a complaint, or to impose late-filing penalties under SMC 2.04.330, the action may be reviewed by the Commission.
- B. An appeal of a dismissal shall be served at the Commission's office no later than 21 days after the date of mailing the decision of which review is sought.
- C. An appeal of late-filing penalties shall be served at the Commission's office no later than 14 days after the date of mailing the decision of which review is sought.
- D. A request for review shall state the grounds therefor, and shall be no longer than twelve 8-1/2" x 11" double-spaced pages in length with margins of at least 1" on every side, and no more than 12 characters per inch.

If you have any questions, please do not hesitate to contact us at (206) 684-8500.

Very truly yours,



Wayne Barnett
Executive Director

cc: Seattle Ethics and Elections Commission (*Complainant's name and address redacted*)
Councilmember Debora Juarez (*Complainant's name and address redacted*)
Shayna Daitch (*Complainant's name and address redacted*)

E. When an appeal is filed, the Executive Director's decision shall not be final until the Commission has acted on the appeal.

F. The Commission shall act on the request at the next meeting at which it may be practicable by:

1. deciding whether to review the Executive Director's decision; and
2. if it decides to do so, either affirming, reversing, or amending the decision.

G. In reviewing the Executive Director's decision, the Commission shall base its review on whether the Executive Director had a rational basis for the decision, and shall only reverse or amend a decision to the extent that a rational basis is lacking.