



Lakewood
Colorado

City of Lakewood

Office of the City Clerk
Michele Millard

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March 24, 2020

Francis Milhollin
868 S. Alkire St.
Lakewood CO 80228

**Re: *Dismissal of campaign finance complaint
City of Lakewood***

Dear Mr. Milhollin:

This office has received your Campaign Finance Complaint dated February 27, 2020, alleging that the City of Lakewood violated Sections 2.54.020, 2.54.071(1), and 2.54.070(3) of the Lakewood Municipal Code.

Your complaint was specific to the publication, Looking at Lakewood, and alleged that the publication was an electioneering communication as defined by Section 2.54.020 of the Lakewood Municipal Code. Your complaint specifically referred to the article in Looking at Lakewood titled "Letter from the Mayor" on page two. The complaint stated that the article met the definition of an electioneering communication because the Letter unambiguously refers to Adam Paul, candidate for mayor, was mailed within sixty days (60) of an election, and was mailed to an audience that included members of the electorate.

Pursuant to Section 2.54.050(B)(1) of the Lakewood Municipal Code, it is the City Clerk's function at this stage to determine whether the complaint is frivolous or groundless. In determining whether this complaint is frivolous or groundless, it seems apparent that the fundamental question is whether Looking at Lakewood and the Letter from the Mayor contained therein constitutes an electioneering communication. This is an issue that has been considered by the Colorado Court of Appeals. The Court used an intent-based approach when looking at the content of the communication, and concluded that the intent of the document must be express advocacy for or against a specific candidate.

The Letter in question did not provide positive or negative information about the Mayor, nor did it urge the electorate receiving the Letter to vote for or against any candidate. Further, the Letter is not considered express advocacy that would seek to influence the

outcome of the upcoming election. As such, the statements expressed by the Mayor in this article do not constitute electioneering communications.

Additionally, it appears that the "Letter from the Mayor" has been a regularly recurring article in Looking at Lakewood from every Mayor since at least 2003. As such, it could hardly be said that the intent is for the Letter from the Mayor to expressly advocate for any candidate or urge voters to take certain action in the election. Indeed, nowhere in the article did the Mayor mention the election or even identify himself as a candidate in the upcoming election. By all appearances, the Mayor was acting in his capacity as an elected official by updating Lakewood residents on what projects and agenda items City staff and City Council are working on for the upcoming year. This Letter was not taking any position on the issues in the upcoming election or furthering his campaign as a candidate for Mayor.

Having found no grounds supporting the allegation of a campaign finance violation by the City of Lakewood, the City Clerk hereby determines the complaint to be groundless pursuant to Section 2.54.050(B)(1). This matter is hereby dismissed.

Sincerely,



Michele Millard
City Clerk