

Response of North Kitsap Fire & Rescue to PDC Complaint No. 40302.

North Kitsap Fire & Rescue denies the allegation in the Complaint and believes its use of the referenced Newsletter to educate its citizens is in full compliance with RCW 42.17A.555 and the PDC Guidelines for Local Government Agencies in Election Campaigns. In support of our position we note the following:

1. RCW 42.17A.555 does not prevent a public office or agency from ... (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

The Newsletter that is the subject of the complaint presents an objective and fair presentation of the facts related to the financial needs of North Kitsap Fire & Rescue and the reasons why North Kitsap Fire & Rescue is running a tax levy. In the staff guidance issued by the PDC to assist local governments with drafting fair and objective publications the PDC prohibits the following types of information:

- (a). Overtly promotional or oppositional content (including inflammatory or emotionally-driven language; check marks and other indications of support; and gratuitous photos that tend to provoke an emotional reaction—e.g. an image of a body on an EMT stretcher, or a house exploding in flames);
- (b). Statements that speculate about possible secondary or tertiary impacts of a ballot proposition;
- (c). Statements seeking to minimize the cost of a ballot proposition, e.g., through comparisons to small-ticket items such as coffee, pizza, or a magazine subscription;
- (d). Statements purporting to describe the sponsoring agency's responsible fiscal management;
- (e). Detailed information about property tax exemptions; and
- (f). Detailed information about the conduct of elections (e.g. ballot drop-off locations), unless it is the normal and regular conduct of the agency to provide such information in the manner of the proposed publication.

The Newsletter does not contain any of the prohibited statements or information referenced in sections b-f above. We believe the photo on the front page is factual and objective although recognize it could be construed as an "emotional" type of photo. However, the subjective nature of the prohibition outlined in section (a) is difficult in practice to identify. While we recognize that the photo could be construed differently, since the caption is factually correct, and the photo is consistent with the mission and purpose of North Kitsap Fire & Rescue, we believe the use of the photo was appropriate.

Based on the above, we believe the Newsletter complies with the factual and objective statutory and regulatory requirements and is compliance with RCW 42.17A.555.

2. WAC 390-05-273 defines normal and regular conduct as "conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner."
3. The PDC Guidelines establish the following specific guidelines for Agency Publications:

- a. Agencies may include all or part of the information regarding agency needs and the anticipated impacts of a ballot measure in the agency's regular publications, such as agency and department newsletters. (For example, a department newsletter may specifically describe the projects and/or programs planned for that department.)

North Kitsap Fire & Rescue has, since 2013, regularly and consistently provided information about North Kitsap Fire & Rescue through newsletters distributed on a jurisdiction wide basis. The following link documents all prior newsletters: <http://www.nkfr.org/the-pulse-newsletter/>

As North Kitsap Fire & Rescue has the legal authority and obligation to keep its citizens informed about fire protection and life safety issues and as the newsletters are distributed on a jurisdiction wide basis, the publication and distribution of the newsletters meet the definition of normal and regular conduct.

4. The PDC enumerates the following "Basic Principles:"

- a. The Public Disclosure Commission holds that it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. This includes informing the community of the needs of the agency that the community may not realize exist. Local governments may expend funds for this purpose provided that the preparation and distribution of information is not for the purpose of influencing the outcome of an election.

North Kitsap Fire & Rescue takes its responsibility to keep the public informed about operation and maintenance issues affecting North Kitsap Fire & Rescue seriously. We regularly use our Newsletters to meet this obligation. The Newsletter that is the subject of the complaint is simply a continuation of North Kitsap Fire & Rescue's efforts to educate the citizens of North Kitsap Fire & Rescue by notifying the public of the facts that resulted in the tax levy being placed on the ballot. North Kitsap Fire & Rescue's actions were guided by PDC rules and guidelines, our intent is to fully comply with the law and the PDC rules and guidelines and we will work cooperatively to maintain our compliance in the future. We believe the Summer 2018 Newsletter complies with RCW 42.17A.555 and respectfully request that the complaint be dismissed.

Submitted October 15, 2018

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