

August 17, 1998

John L. Jackley
2010 Carriage Way
West Linn, OR 97068

Dear Mr. Jackley:

This letter is in response to your correspondence dated August 11, 1998, concerning financial contributions to your campaign for a seat on the Metro Council from a developer who will come before the West Linn City Council with a request to vacate a platted street in the city.

OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION 98S-025

STATED FACTS: The developer, Matrix Development Corporation, has requested the City of West Linn to vacate a platted street in an area for which it has already received final land use approval, including exhaustion of appeals to the Land Use Board of Appeals. The street exists only on paper. The proposed vacation has the support of the city's engineer and planning department who have testified that it would be impossible to build on. The city council will deliberate and make a final decision on Matrix's request for the proposed street vacation.

A member of the city council is also a candidate for the Metro Council District Two seat. During the primary campaign in May 1998, Matrix Development Corporation made a \$500 direct contribution to the city councilor's campaign by check and a \$401.20 contribution toward expenses for a campaign luncheon. These contributions represent approximately 2.7% of the total contributions to the city councilor's campaign. Matrix has made no other contributions. The city councilor has no personal or familial involvement with Matrix or any other developer.

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RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(1): Actual conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated...

ORS 244.020(7): Potential conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated...

ORS 244.020(8): Gift means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, gift does not mean:

(a) Campaign contributions, as described in ORS chapter 260.

ORS 244.020(3): Business with which the person is associated means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

QUESTION: Based upon the stated facts, do Oregon Government Standards and Practices laws prohibit the public official from participating in the city council's deliberations and final decision on Matrix's request for a street vacation?

OPINION: No. Oregon Government Standards and Practices laws require a public official to declare a conflict of interest when an action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would or could be to the private pecuniary benefit or detriment of the person or

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relative or any business with which the person or a person s relative is associated. The stated facts give no indication that the city councilor has the requisite requirements necessary to be associated with Matrix Development Corporation under the definition of business with which the person is associated. Therefore, Matrix s request to vacate the street does not create a conflict of interest for the city councilor.

It is a long standing and common practice in the American political system for office holders at all levels of government to take official action on matters of importance to those who contribute to their election campaigns. Additionally, campaign contributions are specifically excluded from the definition of a gift and therefore cannot be considered relevant to ORS Chapter 244.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Do not hesitate to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

LPH:aip/jackley.so