

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

TONY KNOWLES, GOVERNOR

REPLY TO:

☒ 2221 E. NORTHERN LIGHTS, ROOM 128
ANCHORAGE, ALASKA 99508-3598
PHONE: (907) 276-4176

☐ P.O. BOX 110222
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864

March 11, 1996

Judy Moerlin, President
Home and Landowners Organization, Inc. (HALO)
P.O. Box 110096
Anchorage, Alaska 99511-0096

Re: Advisory Opinion Request

Dear Ms. Moerlin:

Thank you for your advisory opinion request. You ask whether the Home and Landowners Organization, Inc. (HALO):

1. may place newspaper ads seeking donations to fund a lawsuit whose goal is to remove a ballot measure from the April 1996 Anchorage election; and
2. will have campaign disclosure reporting requirements if it files a lawsuit to remove a ballot measure from the April 1996 Anchorage election and also engages in activity whose goal is to influence the defeat of the ballot measure at the polls.

Short Answer

No law which the commission administers prohibits HALO from placing newspaper ads seeking donations to fund a lawsuit whose goal is to remove a ballot measure from the April 1996 Anchorage election. Likewise, HALO will have no campaign disclosure reporting requirements if it files a lawsuit to remove a ballot measure from the April 1996 Anchorage election.

However, HALO must register and report as a group because it plans to make campaign expenditures from a segregated fund rather than its general day to day operating account; to make expenditures with money which it raises from a fundraising drive conducted among its members and others; and to decide how collected money is spent to influence the outcome of an election.

Facts

HALO is a non-profit corporation, created in 1974, for the purpose of safeguarding the rights and lifestyle of residents outside the former City of Anchorage within the Municipality of Anchorage. Recently, the Anchorage Assembly recently passed an ordinance, AO 96-30(S) which places a measure on the April 1994 Municipality of Anchorage ballot calling for the modification of a Police Service Area.

HALO intends to raise and spend money to file a lawsuit against the Municipality in an effort to remove the measure from the ballot. HALO plans to segregate these funds in an account called The Halo Voting Rights Fund (HVRF). In the event the lawsuit is unsuccessful, HALO would like to use any money remaining in the HVRF to campaign against the ballot measure.

HALO has prepared a letter which it plans to use in soliciting funds for the lawsuit; a copy of the letter is attached.

Relevant Law and Commission Precedent

AS 15.13.130(3) defines an expenditure as "a purchase or transfer of money...made for the purpose of influencing the outcome of an election..."

AS 15.13.130(4) defines group as "any combination of two or more persons acting jointly who take action the major purpose of which is to influence the outcome of an election..."

2 AAC 50.314(b) allows a corporation to report as an individual on an APOC Form 15-6 if all expenditures are made from its general day to day operating account; it does not conduct a fundraising drive among its members for the purpose of influencing an election; and it does not decide which group or candidate receives contributions or how any collected money is spent to influence the outcome of an election.

In 1988, Representative Curt Menard was a defendant in a lawsuit which sought to have his name removed from the Primary ballot. He asked the Commission if his legal fees were subject to the campaign disclosure law. The Commission advised Menard that the funds were not intended to influence the outcome of the election and thus were not reportable.

In 1988, the Community College Coalition of Alaska concluded a successful state initiative petition drive with surplus funds. Although campaign disclosure law addresses initiative sponsors, the group was not required to disclose the amounts it raised and spent to gather signatures. The group asked staff if it could use its surplus to campaign for passage of the ballot measure. Staff informally advised the group it could do so, but would need to account for the source of the surplus. Staff's informal advice also stated that an acceptable method of accounting for the source of the surplus which was passed

on and used for campaign purposes would be to report its more recent income and spending if, by so doing, it could account for the entire amount of the surplus which was passed on and used for campaign purposes.

Basis of Staff's Opinion

1. Although a legal action may alter the subject matter or scope of an election by removing a ballot measure, a lawsuit itself does not influence the outcome of an election. A lawsuit seeking to remove a measure from the ballot attempts to influence the very existence of an election itself rather than the behavior of the electorate at the polls. Accordingly, money received and spent in connection with a legal defense fund to try to remove a ballot question is not reportable under AS 15.13. HALO would not violate any law the Commission administers by placing newspaper ads seeking donations to its voting rights fund or by using that money to fund a lawsuit.

2. HALO must register and report as a group before it makes a campaign expenditure because it plans to make campaign expenditures from money in a segregated fund obtained from a fundraising drive and help decide how to spend any surplus funds for campaign purposes.

a. HALO does not plan to make all campaign expenditures from its general day to day operating account.

If its efforts to enjoin the ballot measure are unsuccessful, HALO contemplates spending surplus in the HVRF to attempt to influence the outcome of the election. The HVRF is a separate account from HALO's day to day operating account, and HALO's making campaign expenditures from its voting rights fund would require it to register and report as a group.

b. HALO plans to conduct a fundraising drive among its members for the purpose of influencing an election.

HALO plans to solicit funds from its members and others for the HVRF and use any surplus money to try to influence the outcome of the ballot question. This solicitation has two purposes; the primary one is to pay for a lawsuit and a secondary contingent one is to influence voters' behavior at the polls. If money from this fundraising drive is used to influence an election HALO must register and report as a group.

c. HALO will most likely help decide how any collected money is spent to influence the outcome of an election.

If HALO helps to decide how the surplus in its voting rights fund is spent to influence the outcome of the ballot question it must register and report as a group before making a campaign expenditure.

IF HVRF uses any of its surplus funds to influence the outcome of an election, it must disclose its surplus in accordance with the reporting requirements of AS 15.13. HVRF must maintain records of those who give it money to provide an accounting of its activity if it wishes to use any of its surplus funds for campaign expenditures. Reporting its most recent income (on Schedule C, D or E) and spending (on Schedule F or G) on its first required campaign disclosure report to account for the entire surplus would satisfy the requirements of the Campaign Disclosure Law. For example, if it has a surplus of \$1000 which it uses for campaign expenditures it must report its most recent \$1000 of income as contributions on the Schedule C of its first group report.

As required by 2 AAC 50.905 (copy attached) the Commission will rule on staff's proposed advice at its next meeting, tentatively scheduled to be held in Anchorage on April 24 - 26, 1996. The Commission will approve, disapprove or modify the proposed advice. An advisory opinion must be approved by affirmative vote of at least four members or it will be considered disapproved. Both staff's proposed advice and the Commission's final advisory opinion apply only to the specific activity for which the advice was requested.

If you rely on staff's proposed advisory opinion in good faith, and the Commission subsequently rejects the proposed advice, staff will take no enforcement action on activities up to that point if you acted under the specific facts described. If you would like to appear before the Commission when this matter is considered, either in person or telephonically, please contact me before April 15, 1996, so that we can arrange a mutually convenient time.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Greg Granquist
Group Coordinator

cc: Karen Boorman, Executive Director
Nancy Gordon, Asst AG
Commission Members

doc\halo.ao jk



Home
And
Landowners
Organization, Inc.

P.O. Box 110096
Anchorage, AK 99511-0096

February 16, 1996

HALO ALERT: PROTECT YOUR RIGHT TO VOTE!

YOUR MUNICIPAL CHARTER GUARANTEED RIGHT TO A SEPARATE VOTE ON APPROVING MORE CITY SERVICES IN YOUR COMMUNITY (I.E.: POLICE, FIRE, ROAD MAINTENANCE, WATER, SEWER, PARKS AND RECREATION) IS UNDER DIRECT ASSAULT BY MAYOR RICK MYSTROM AND A THIN MAJORITY OF THE ASSEMBLY.

The Assembly has voted to place Assembly Ordinance (AO) 96-30 on the April Ballot. They have proposed to abolish the existing Police Service Area only to create an even larger Police Service Area to include southeast Anchorage, thereby diluting the vote of this community by more than a 10 to 1 ratio and denying this community their right to an independent, separate vote on the issue. This is gerrymandering. If successful, six votes of the Assembly could force ANY CITY SERVICE on any municipal community. HALO strongly believes this is illegal and in violation of both the spirit and letter of the Municipal Charter, your immediate support is necessary to legally counter this action.

HALO was created in 1974 for the purpose of safeguarding the rights and lifestyle of residents outside the City of Anchorage in the new Municipality. It continues to exist solely for that purpose. The groundwork has been laid and the wheels are moving to institute legal action. This effort will quickly deplete HALO's legal fund. More money is needed. If your family can support this endeavor, please send the amount your conscience dictates. (Your cancelled check is your receipt). Thank you.

Sincerely,

Judy Moerlein, HALO President (346-3784)

HALO meetings are scheduled the first Thursday of the month at 7:00 pm in the Unity Church on O'Malley Road.
(detach here and return)

NAME: _____ PHONE: _____ (H) _____ (W)

MAILING ADDRESS: _____

LEGAL ADDRESS: _____

APPROXIMATE ACREAGE: _____

DUES ENCLOSED: _____ (\$6/Person or \$10/Family)

HALO VOTING RIGHTS FUND: \$ _____ RETURN IF POSSIBLE: _____

(\$10, \$50, \$100, \$500, \$1000, or other contributions of time/service will be gratefully accepted. Please note if you would like a pro-rata percentage of your fund contribution returned if/when Legal Costs are recovered.)

FEB 19 1996

Please send your contribution to HALO Voting Rights Fund, P.O. Box 110096, Anchorage, Alaska 99511-0096

OUR MUNICIPAL CHARTER

In 1975, "the People of Anchorage, in order to eliminate waste and duplication in government, to achieve common goals; to support individual rights; to form a more responsive government; and to secure maximum local control of local affairs" established the Charter.

Among rights guaranteed by this Charter are:

- 1) The right of initiative, . . . referendum, . . . recall of public officers.
- 2) The right of immunity from the creation or alteration of a service area, except upon a vote within the area affected.
- 3) The right to establish local community councils to assure maximum community self determination.

PROTECT YOUR RIGHT TO AN INDEPENDENT VOTE ON EXPANDING CITY GOVERNMENT SERVICES!

PLEASE RESPOND BY THURSDAY, FEBRUARY 22!

THANK YOU **ARRIVED**



Area-G
Home
And
Landowners
Organization, Inc.

FEB 21 1996

APOC-ANCH
PM HC
2/20

Bulk Rate
U.S. Postage Paid
Anchorage, AK
PERMIT NO. 49

CAR-RT PRESORT **CR C001

P.O. Box 110096
Anchorage, AK 99511-0096

FOR YOUR IMMEDIATE ATTENTION



Area-G
Home
And
Landowners
Organization, Inc.

ARRIVED

FEB 21 1996

P.O. Box 110096
Anchorage, AK 99511-0096

APOC-ANCH
PM HC

2/20

February 16, 1996

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(\$10, \$50, \$100, \$500, \$1000, or other contributions of time/service will be gratefully accepted. Please note if you would like a pro-rata percentage of your fund contribution returned if/when Legal Costs are recovered)

Please send your contributions to HALO Voting Rights Fund, P.O. Box 110096, Anchorage, Alaska 99511-0096

ARTICLE 6. GENERAL PROVISIONS.**Section****905. Advisory opinions****910. Availability of reports filed with the commission****920. Definitions**

2 AAC 50.905. ADVISORY OPINIONS. (a) A person or group may request from the commission an advisory opinion concerning AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50 or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a member who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration must not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, 2 AAC 50.507(i), or 2 AAC 50.810. (Eff. 1/4/86, Register 97; am 7/20/95, Register 135)

Authority: AS 15.13.030

(2) a verbatim transcript of the proceedings before the commission; and

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.540. A request for reconsideration must be filed within 10 days after the vote under (o) of this section has been taken, and must state specific grounds upon which reconsideration is requested. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member feels, and states on the public record, that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business, or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively significant; and

(2) the interest held by the member or the member's family, business, or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84. Register 90: am 1/4/86. Register 97)

Authority: AS 15.13.030
AS 24.45.021(b)
AS 15.13.045
AS 24.45.131
AS 15.13.120(d)
AS 39.50.050(b)

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

ALASKA PUBLIC OFFICES COMMISSION

April 23, 1996

TONY KNOWLES, GOVERNOR

2221 E. NORTHERN LIGHTS, ROOM 128
ANCHORAGE, ALASKA 99508-4149
PHONE: (907) 276-4176
FAX: (907) 276-7018
e-mail: First Name_Last Name@admin.state.ak.us

P.O. BOX 110222
JUNEAU, ALASKA 99811-0222
PHONE: (907) 465-4864
FAX: (907) 465-4832

Judy Moerlin, President
Home and Landowners Organization, Inc. (HALO)
P.O. Box 110096
Anchorage, Alaska 99511-0096

Re: Advisory Opinion Request - HALO

Dear Ms. Moerlin:

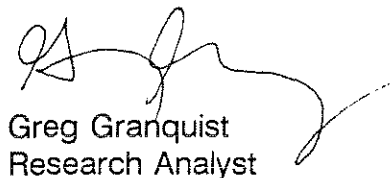
At its meeting on April 17, 1996 the Alaska Public Offices Commission (Commission) considered staff's proposed advisory opinion of March 11, 1996. The Commission adopted staff's proposed advisory opinion by a vote of 5-0.

If you require another copy of that opinion, please contact me. Please be aware that different facts, or a change in the facts, could lead to a different Commission position. Further, you or another person cannot rely on the advisory opinion unless the specific transaction is indistinguishable in all its material aspects from the facts as set forth in the March 11, 1996 letter.

Please contact us if you have any questions.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION


Greg Granquist
Research Analyst

Enclosure

cc: Karen Boorman, Executive Director



Area-G

Home
And
Landowners
Organization, Inc.

ARRIVED

APR 8 1996

APOC-ANCH
PM HC

P.O. Box 110096
Anchorage, AK 99511-0096

April 8, 1996

Mr. Greg Granquist
Group Coordinator
Alaska Public Offices Commission
2221 E. Northern Lights, Room 128
Anchorage, AK 99508-3598

Dear Mr. Granquist:

I wish to introduce to you the HALO-APOC Chairman, Mr. Dave Cottrell, and the HALO-APOC Deputy Chairman. These gentlemen are prepared to work with you in any way necessary to fulfill requirements deemed necessary.

The status of the Home And Landowners Organization lawsuit is this. Superior Court Judge Karen Hunt ruled March 29 that AO 96-30(S) would remain on the April 16 election ballot. Our attorneys are requesting a further ruling on the "merits" of the issue and will then appeal to the Alaska Supreme Court. We still have no plans to place newspaper ads or to lobby against the issue. Our representatives do intend, however, to participate in public radio and TV shows during the pre-election days...to explain the 1975 Home Rule Charter intent.

Thank you for assisting us in our endeavors.

Yours very truly,

Judy Moerlein
Judy Moerlein, HALO
President

Sent via Fax to: 276-7018

[8]



Area-G
Home
And
Landowners
Organization, Inc.

P.O. Box 110096
Anchorage, AK 99511-0096

April 8, 1996

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Alaska Public Offices Commission
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Thank you for assisting us in our endeavors.

Yours very truly,

Judy Moerlein, HALO
President

Sent via Fax to: 276-7018



Area-G
Home
And
Landowners
Organization, Inc.

P.O. Box 110096
Anchorage, AK 99511-0096

11-13

APC-111 FAXED
11-13

March 19, 1996

Mr. Greg Granquist
Group Coordinator
Alaska Public Offices Commission
2221 E. Northern Lights, Room 128
Anchorage, AK 99508-3598

Dear Mr. Granquist:

Thank you for responding to HALO with your advisory opinion, as provided in your March 11, 1996 letter. At this time, HALO is not filing a group registration or APOC report for the following reasons:

- 1) HALO is seeking donations to fund a lawsuit whose goal is to remove a ballot measure from the April 16, 1996 Anchorage election.
- 2) Those donations have been deposited into HALO's general account and expenditures are made from the general account.

HALO anticipates no surplus funds from this lawsuit.

In the event HALO's lawsuit is unsuccessful and the group decides to campaign against the ballot issue, then HALO will register as a group and comply with all necessary reports.

Yours very truly,

Judy Moerlein, HALO
President

REPLY TO:

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ALASKA PUBLIC OFFICES COMMISSION

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Short Answer

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However, HALO must register and report as a group because it plans to make campaign expenditures from a segregated fund rather than its general day to day operating account; to make expenditures with money which it raises from a fundraising drive conducted among its members and others; and to decide how collected money is spent to influence the outcome of an election.

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Basis of Staff's Opinion

1. Although a legal action may alter the subject matter or scope of an election by removing a ballot measure, a lawsuit itself does not influence the outcome of an election. A lawsuit seeking to remove a measure from the ballot attempts to influence the very existence of an election itself rather than the behavior of the electorate at the polls. Accordingly, money received and spent in connection with a legal defense fund to try to remove a ballot question is not reportable under AS 15.13. HALO would not violate any law the Commission administers by placing newspaper ads seeking donations to its voting rights fund or by using that money to fund a lawsuit.

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In 1975, "the People of Anchorage, in order to eliminate waste and duplication in government, to achieve common goals; to support individual rights; to form a more responsive government; and to secure maximum local control of local affairs" established the Charter.

Among rights guaranteed by this Charter are:

- 1) The right of initiative, . . . referendum, . . . recall of public officers.
- 2) The right of immunity from the creation or alteration of a service area, except upon a vote within the area affected.
- 3) The right to establish local community councils to assure maximum community self determination.

**PROTECT YOUR RIGHT TO AN
INDEPENDENT VOTE ON EXPANDING
CITY GOVERNMENT SERVICES!**

**PLEASE RESPOND BY THURSDAY,
FEBRUARY 22!**

THANK YOU **ARRIVED**



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Landowners
Organization, Inc.

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February 16, 1996

HALO ALERT: PROTECT YOUR RIGHT TO VOTE!

YOUR MUNICIPAL CHARTER GUARANTEED RIGHT TO A SEPARATE VOTE ON APPROVING MORE CITY SERVICES IN YOUR COMMUNITY (I.E. POLICE, FIRE, ROAD MAINTENANCE, WATER, SEWER, PARKS AND RECREATION) IS UNDER DIRECT ASSAULT BY MAYOR RICK MYSTROM AND A THIN MAJORITY OF THE ASSEMBLY.

The Assembly has voted to place Assembly Ordinance (AO) 96-30 on the April Ballot. They have proposed to abolish the existing Police Service Area only to create an even larger Police Service Area to include southeast Anchorage, thereby diluting the vote of this community by more than a 10 to 1 ratio and denying this community their right to an independent, separate vote on the issue. This is gerrymandering. If successful, six votes of the Assembly could force ANY CITY SERVICE on any municipal community. HALO strongly believes this is illegal and in violation of both the spirit and letter of the Municipal Charter, your immediate support is necessary to legally counter this action.

HALO was created in 1974 for the purpose of safeguarding the rights and lifestyle of residents outside the City of Anchorage in the new Municipality. It continues to exist solely for that purpose. The groundwork has been laid and the wheels are moving to institute legal action. This effort will quickly deplete HALO's legal fund. More money is needed. If your family can support this endeavor, please send the amount your conscience dictates. (Your cancelled check is your receipt). Thank you.

Sincerely,

Judy Moerlein, HALO President (346-3784)

HALO meetings are scheduled the first Thursday of the month at 7:00 pm in the Unity Church on O'Malley Road.
(detach here and return)

NAME: _____ PHONE: _____ (H) _____ (W)

MAILING ADDRESS: _____

LEGAL ADDRESS: _____

APPROXIMATE ACREAGE: _____

DUES ENCLOSED: _____ (\$6/Person or \$10/Family)

HALO VOTING RIGHTS FUND: \$ _____ RETURN IF POSSIBLE: _____

(\$10, \$50, \$100, \$500, \$1000, or other contributions of time/service will be gratefully accepted. Please note if you would like a pro-rata percentage of your fund contribution returned if/when Legal Costs are recovered.)

Please send your contributions to HALO Voting Rights Fund, P.O. Box 110096, Anchorage, Alaska 99511-0096



Home
And
Landowners
Organization, Inc.

P.O. Box 110096
Anchorage, AK 99511-0096

February 16, 1996

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FEB 17 1996

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ARTICLE 6. GENERAL PROVISIONS.**Section****905. Advisory opinions****910. Availability of reports filed with the commission****920. Definitions**

2 AAC 50.905. ADVISORY OPINIONS. (a) A person or group may request from the commission an advisory opinion concerning AS 15.13, AS 24.45, AS 24.60.200 - 24.60.260, AS 39.50 or this chapter.

(b) Each advisory opinion request must describe a specific transaction or activity that the requesting person or group is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the commission staff.

(c) The commission staff shall review all requests for advisory opinions submitted under this section. If the staff determines a request is incomplete or does not qualify for consideration under (a) and (b) of this section, it shall notify the requesting person or group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The commission staff shall issue a proposed advisory opinion approving or disapproving of the activity, and may make other recommendations to the commission.

(f) The commission will review the proposed advisory opinion and will, in its discretion, review written or oral comments by any person, or any other relevant evidence. The commission will approve, disapprove, or modify the proposed advisory opinion. The commission will approve an advisory opinion by the affirmative vote of at least four members, or else the advisory opinion will be considered disapproved.

(g) An advisory opinion rendered by the commission may be relied upon to the extent that commission staff may not commence a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, or 2 AAC 50.507(i) of

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion approving of the activity was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which an advisory opinion was rendered.

(h) The commission will, in its discretion, reconsider an advisory opinion at any time upon the motion of a member who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of reconsideration must not be the subject of a preliminary investigation under 2 AAC 50.390(i), 2 AAC 50.460, 2 AAC 50.507(i), or 2 AAC 50.810. (Eff. 1/4/86, Register 97; am 7/20/95, Register 135)

Authority: AS 15.13.030

(2) a verbatim transcript of the proceedings before the commission; and

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.540. A request for reconsideration must be filed within 10 days after the vote under (o) of this section has been taken, and must state specific grounds upon which reconsideration is requested. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member feels, and states on the public record, that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business, or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively significant; and

(2) the interest held by the member or the member's family, business, or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84. Register 90: am 1/4/86. Register 97)

Authority:

AS 15.13.030
AS 24.45.021(b)
AS 15.13.045
AS 24.45.131
AS 15.13.120(d)
AS 39.50.050(b)