



City of San Antonio, Texas

Ethics Advisory Opinion No. 2013-03

November 18, 2013

Issued By: City Attorney's Office

I. Issue:

May a zoning applicant make a contribution to a City Councilmember during the thirty day "blackout" period contained in Section 2-309 of the City's Municipal Campaign Finance Code? May a lobbyist representing a zoning applicant make such a contribution during this time frame?

II. Inquiry

A city employee has inquired if a zoning applicant may make a contribution to a City Councilmember during the 30-day "blackout" period contained in the City's Municipal Campaign Finance Code. If the answer is no, could the applicant's lobbyist make such a contribution?

III. Prohibited Contributions

Section 2-309(d) of the City's Municipal Campaign Finance Code sets forth the time frame during which a zoning applicant may make a contribution to a City Councilmember. Sections 2-309(e) and (f) further detail the actions required to be taken in the event an unlawful contribution has been made.

Sec. 2-309. Contribution prohibitions.

(d) When an individual or entity applies for a zoning change, the following shall not make a political contribution to any councilmember or candidate or political action committee that supports or opposes a City Councilmember or candidate from the time the zoning application is submitted

to the City until thirty (30) calendar days after final action on the application by the Zoning Commission or City Council:

- (1) Any individual applying for a zoning change;
- (2) Any owner or officer of an entity applying for a zoning change; or
- (3) The spouse of an individual listed in items (1) or (2) of this subsection.

(e) If any individual listed in subsection (d) of this section has made a contribution in violation of this section, the City may not approve the requested change in the zoning district boundary. Any zoning change granted in violation of this provision shall be voidable at the discretion of the City Council.

(f) In the event that a candidate or officeholder unknowingly accepts a contribution in contravention of the provisions of this section, then it shall be the duty of the candidate or officeholder to return the contribution within five (5) business days after he or she has received notification from City staff that a contribution in violation of this section has been discovered. Candidates and Councilmembers who return contributions within the five (5) business days cannot be held liable for violation of this section.

While a zoning applicant is prohibited from making a contribution to a City Councilmember from the time the zoning application is submitted to the City until thirty calendar days after final action on the application by the Zoning Commission or City Council, an agent or representative of the applicant, so long as they are not the spouse of the applicant, an owner or officer of the entity applying for the zoning change, is not prohibited from making such a contribution.

IV. Conclusion

An applicant for a zoning change may not contribute to a City Councilmember from the time a zoning application is submitted to the City until thirty calendar days after final action on the application by the Zoning Commission or the City Council. A representative of the applicant, so long as they are not the spouse of the applicant, or an owner or officer of the entity applying for the zoning change, may make a contribution during this time frame to a City Councilmember.

Any contributions made in violation of Section 2-309 must be returned within five business days after receiving notification of the unlawful contribution. Further, any approval of a zoning request associated with an unlawful contribution is voidable at the discretion of the City Council.