

CITY OF AUSTIN ETHICS REVIEW COMMISSION

GLORIA MORALES

Complainant

v.

MONICA A. GUZMÁN

Respondent.

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Complaint No. 20140829

ORDER ON PRELIMINARY HEARING

I. PROCEDURAL HISTORY

On August 29, 2014, Gloria Morales (“Complainant”) submitted to the Austin City Clerk (“City Clerk”) a Sworn Complaint (“the Complaint”) against Monica Guzmán (“Respondent”). On September 3, 2014, the City Clerk sent a copy of the Complaint and a notice of filing to the City Attorney, the Ethics Review Commission (“the Commission”), the Complainant, and the Respondent.

On September 11, 2014, Commission Staff Liaison and City of Austin Assistant City Attorney Cynthia Tom (“Tom”) issued a Notice of Preliminary Hearing, setting a Preliminary Hearing of the Commission for September 22, 2014 and advising the Respondent and Complainant of procedures for the Preliminary Hearing. On September 12, 2014, Tom issued a Revised Notice of Preliminary Hearing resetting the Preliminary Hearing to September 23, 2014.

On September 19, 2014, Tom posted a Notice of Special Called Meeting and Agenda for the Commission for a September 23 Preliminary Hearing.



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II. FINDINGS OF FACT

1. Respondent is a candidate for Austin City Council, District 4, in the City of Austin municipal election of November 4, 2014.
2. Complainant alleges that Respondent is not a resident of District 4, the City Council district for which Respondent is a candidate. Complainant further alleges that Respondent was “evicted from Pedernales Apartments for subleasing while on low income housing.”
3. In the Complaint, Complainant does not identify any specific section of the City Code or City Charter which she asserts Respondent has violated in connection with the residency or eviction allegations.

III. CONCLUSIONS OF LAW

1. The September 23 Meeting of the Commission and the Preliminary Hearing are properly noticed in accordance with Chapter 2-7 of the City Code, the Ethics and Financial Disclosure Ordinance (“Chapter 2-7”), and the Texas Open Meetings Act.
2. The Commission has jurisdiction over complaints alleging violations of Chapter 2-2 of the City Code (Campaign Finance); Chapter 4-8 of the City Code (Regulation of Lobbyists); Article III, Section 8 of the City Charter (Limits on Campaign Contributions and Expenditures); Chapter 2-7 of the City Code (Ethics and Financial Disclosure); and Section 2-1-24 of the City Code (Conflict of Interest and Recusal).



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3. The Commission does not have general jurisdiction over allegations of violations of other parts of the City Code and City Charter.
4. Under Section 2-7-44 of the City Code, the issue to be considered by the Commission at a Preliminary Hearing is the existence of reasonable grounds to believe that a violation of a provision within the jurisdiction of the Commission has occurred.
5. Under Section 2-7-44, at any time during a Preliminary Hearing, the Commission may dismiss a complaint if it does not allege conduct which would be a violation of a provision within the jurisdiction of the Commission.

IV. DETERMINATIONS OF THE ETHICS REVIEW COMMISSION

1. The Commission determines that reasonable grounds do not exist to believe that a violation of a provision within the jurisdiction of the Commission has occurred as a result of the actions or omissions alleged in the Complaint.
2. The Commission will not set the Complaint for final hearing.

V. ACTIONS OF THE ETHICS REVIEW COMMISSION

1. The Complaint is DISMISSED.
2. The Complainant shall be afforded an opportunity to revise and resubmit the Complaint, within ten business days of September 23, 2014.



ORDERED this 23rd day of September, 2014.



Austin Kaplan
Chair, Ethics Review Commission



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