

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Bill Braun,
Complainant,

**ORDER FINDING NO
PRIMA FACIE VIOLATION
AND DISMISSING COMPLAINT**

v.

Matt Novak, Code Enforcement Officer for
the City of Woodbury,

Respondent.

On August 15, 2016, Bill Braun, a candidate for election to the Woodbury City Council, filed a campaign complaint with the Office of Administrative Hearings.

The Complaint alleges that City officials violated Minn. Stat. § 211B.10, subd. 1 (2016), with respect to his candidacy for election to the city council.

The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge pursuant to Minn. Stat. § 211B.33 (2016).

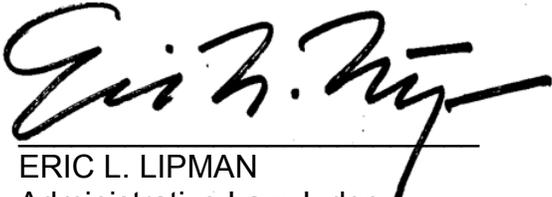
After reviewing the Complaint and the attached documents, and for the reasons set out in the attached Memorandum, the Administrative Law Judge finds that the Complaint fails to set forth a prima facie violation of the Fair Campaign Practices Act.

ORDER

IT IS ORDERED THAT:

The Complaint filed by Bill Braun against Mr. Novak and the City of Woodbury is **DISMISSED**.

Dated: August 17, 2016


ERIC L. LIPMAN
Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 (2016), this Order is the final decision in this matter. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-69 (2016).

MEMORANDUM

To assert a prima facie violation of the Fair Campaign Practices Act, the Complainant must allege sufficient facts to show that a violation of law has occurred.¹

To set forth a prima facie case that entitles a party to a later hearing, the party must either submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minnesota Statutes chapters 211A or 211B (2016).²

For purposes of a prima facie determination, the tribunal must accept the facts that are alleged in the Complaint as true without further proof.³

A complaint must be dismissed if it does not include evidence or allege facts that, if they were accepted as true, would prove a violation of Minnesota Statutes chapters 211A or 211B.⁴

Factual Background

The Complainant, Mr. Braun, is self-employed in the real estate business and an educational trainer on fire safety.⁵ Until recently, he was employed as a Paid-on-Call Firefighter and Emergency Medical Technician with the City of Woodbury.⁶

Mr. Braun asserts that Mr. Novak, on behalf of the City of Woodbury, is enforcing the local sign ordinance more harshly against him (and his business advertising), than others, in an effort to pressure him to withdraw his candidacy for election to the Woodbury City Council.⁷

In the autumn of 2014, Mr. Braun made similar allegations – namely, that written warnings regarding insubordination and misuse of government property, issued to him by the City in August and September of 2014, were efforts to pressure him to withdraw his 2014 candidacy for election to the city council.⁸ He asserted that the reprimands

¹ Minn. Stat. § 211B.32, subd. 3 (2016).

² *Barry, et al., v. St. Anthony-New Brighton Indep. Sch. Dist., et al.*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

³ *Id.*

⁴ *Id.*

⁵ See COMPLAINT at 2, 20.

⁶ *Id.*

⁷ *Id.* at 7, 16.

⁸ *Braun v. City of Woodbury*, OAH Docket No. 8-0325-31959, 2014 WL 6709864 (October 31, 2014).

violated Minn. Stat. § 211B.10, subd. 1. This claim was dismissed for failure to state a *prima facie* violation of the law.⁹

The Administrative Law Judge addresses Mr. Braun's new claim below.

Inducing or Refraining from Candidacy (Minn. Stat. § 211B.10)

Minn. Stat. § 211B.10, subd. 1, prohibits conferring a reward, or the promise of a future reward, as an inducement to cease being a candidate for public office. The Complaint does not allege that any city official gave Mr. Braun items of value, or promised to do so, in return for his withdrawal as a candidate for city council.

Like his claim in 2014, Mr. Braun's assertion that he has been treated unfairly by city officials does not give him a reward today, or promise him a future reward, in violation of Minn. Stat. § 211B.10, subd. 1.

This case is thus different than the one presented in *Naumann v. Stai*.¹⁰ In that case, the Complaint alleged that the Respondent withdrew as a candidate for Mayor of Harris, Minnesota, after two city residents offered him \$400 in cash, favorable zoning treatment for his business, and appointment to another city office.¹¹

For all of these reasons, Mr. Braun has failed to allege a *prima facie* violation of the Fair Campaign Practices Act. Accordingly, the Complaint is dismissed in its entirety.

E. L. L.

⁹ *Id.* at *3.

¹⁰ OAH Docket No. 8-6312-17565-CV, 2006 WL 2952733 (October 9, 2006) (Order on *Prima Facie* Review).

¹¹ *Id.*