OAH 65-0325-40679

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Stephan P. Forseth,

Complainant,

vs.

Grand Central Lofts
Phase 1 Condominiums Board,

Respondent.

NOTICE OF DETERMINATION OF PRIMA FACIE VIOLATION AND NOTICE OF AND ORDER FOR PREHEARING CONFERENCE

On February 27, 2025, Stephan P. Forseth (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings. The Complaint alleges that the Grand Central Lofts Phase 1 Condominiums Board (Respondent) violated a provision of the Fair Campaign Practices Act[1] with respect to the election held on November 5, 2024, for the Columbia Heights School Board.

Following a review of the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint establishes a prima facie violation of Minn. Stat. § 211B.20 and will proceed to a hearing before a panel of three administrative law judges. The Administrative Law Judge will hold a prehearing conference to set a date for such further proceedings and to discuss other preliminary matters.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS GIVEN that this matter is scheduled for a telephone prehearing conference to be held before the undersigned Judge at **9:30 a.m.** on **March 11, 2025**. At that time, the parties shall call **1-651-395-7448** and enter passcode **473 801 715#** to join the hearing.

At the prehearing conference, the Administrative Law Judge will address issues related to the hearing, including scheduling the hearing date, identifying the issues to be resolved, and discussing the number of potential witnesses and exhibits. The Administrative Law Judge will also address whether the matter may be disposed of on a written record without an evidentiary hearing.

Any party who needs an interpreter or accommodation for a disability to participate in this hearing process may request one. The parties shall notify the Office of Administrative Hearings **in writing as soon as possible** if an accommodation or

[1] Minn. Stat. §§ 211B.01–.37 (2024).

interpreter is needed. To request an accommodation pursuant to Title II of the Americans with Disabilities Act, the parties should electronically submit an accommodation request at: https://mn.gov/oah/lawyers-and-litigants/title-ii.jspTitle.

A failure by any party to appear and participate at the probable cause hearing may result in a finding of default, and the Complaint may be dismissed or the case disposed of pursuant to Minn. Stat. § 211B.35, subd. 2.

Dated: March 3, 2025

ANN C. O'REILLY
Administrative Law Judge

MEMORANDUM

Respondent is a Home Owner's Association (HOA) for a condominium property in Columbia Heights, MN, and Complainant is a resident of the property.[2] Complainant alleges that prior to the November 5, 2024 general election, Corenia Smith, a candidate for the Columbia Heights School Board (Candidate Smith), contacted Respondent and asked to be granted access to Complainant's residential building for door-knock canvassing.[3] The Complaint alleges that Respondent denied Candidate Smith's request for residential building access and suggested an alternative option for Candidate Smith to attend a "Meet & Greet" gathering at the property's clubhouse across the street from the residents' building, which Candidate Smith declined.[4] Candidate Smith then asked Complainant for access to Complainant's building for door-knocking, and Complainant agreed.[5] On November 2, 2024, Complainant helped Candidate Smith access the residential building, and Candidate Smith door-knocked for her campaign.[6]

On January 9, 2025, Respondent fined Complainant $50 for letting Candidate Smith into the residential building.[7] Complainant attached a letter from Respondent to the Complainant, which cites Respondent's Rules and Regulations and states "allowing access to others without a fob or garage door opener not known to live in the building is a security violation. (Politician was allowed into building by you just before election day)."[8]

[2] Complaint at 2, 9.
[3] *Id.* at 2.
[4] *Id.* at 2-3.
[5] *Id.* at 3.
[6] *Id.*
[7] *Id.* at 3, 9.
[8] *Id.* at 9

The Complaint alleges that Respondent informed Complainant that there would be additional fines if Complainant continued to let political candidates into the residential building.[9]

I. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Finance Act or the Fair Campaign Practices Act, a complaint must allege sufficient facts to show that a violation of law has occurred.[10] The complaint must "include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B."[11]

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in a complaint as true, without independent substantiation, provided that those facts are not patently false or inherently incredible.[12] In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the complainant.[13]

A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to establish a violation of law.[14]

II. Denial of Access by Political Candidates to Multiple Unit Dwellings (Minn. Stat. § 211B.20)

Minn. Stat. § 211B.20 prohibits denying political candidates access to multiple unit dwellings for campaign purposes. So long as the candidate has organized a campaign committee under federal or state law, filed a financial report as required under section 211A.02, or filed an affidavit of candidacy for elected office, the candidate must be granted access to the building and allowed to be accompanied by campaign volunteers.[15]

Access to the building is only required if it is located within the district or territory represented by the office sought.[16] The candidate must be seeking access only for the purpose of campaigning, and the candidate must be running for office in the next general or special election.[17] A candidate and any accompanying campaign volunteers granted access must be permitted to knock on doors of individual units to speak with residents and to leave campaign materials for residents at their doors.[18]

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[9] *Id.* at 3.
[10] Minn. Stat. § 211B.32, subd. 3.
[11] *Barry v. St. Anthony-New Brighton Indep. Sch. Dist. 282*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).
[12] *Id*.
[13] *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).
[14] *Barry,* 781 N.W.2d at 902.
[15] Minn. Stat. § 211B.20, subd. 1(a).
[16] *Id*., subd. 1(b).
[17] *Id*.
[18] *Id*., subd. 1(c) (a manager of a nursing home may direct that the materials be left at a central location within the facility).

Section 211B.20 does not prohibit denial of admittance into particular apartments or personal residential units.[19] Requiring proper identification and a prior appointment as necessary prerequisites to admission is allowed.[20] Limiting visits by candidates and their volunteers to a reasonable number of persons or reasonable hours is also permitted.[21] Admittance may, however, be denied for good cause.[22]

Accepting the facts alleged in the Complaint as true, which is required at this stage of review, the Administrative Law Judge finds Complainant has alleged sufficient facts to support finding a prima facie violation of Minn. Stat. § 211B.20. According to the Complaint, Candidate Smith was a candidate for office in the next general election, who was seeking to door-knock for campaign purposes in Complainant's residential building. Respondent denied Candidate Smith access to the multi-unit residential building. Whether an exemption to the building access requirement under Minn. Stat. § 211B.20 applies can be addressed at the prehearing conference and hearing.

Complainant's fine and dispute with his HOA is outside the jurisdiction of this tribunal. Rather, the only issue before this court is whether Respondent denied access to Candidate Smith in violation of Minn. Stat. § 211B.20

III. Conclusion

The Administrative Law Judge finds that the Complaint presents a prima facie violation of Minn. Stat. § 211B.20 by Respondent. Accordingly, the Complaint will proceed to a prehearing conference and hearing as indicated in this Order.

A. C. O.

[19] *Id*., subd. 2(1).
[20] *Id*., subd. 2(2), (5).
[21] *Id*., subd. 2(4).
[22] *Id*., subd. 2(6).