

May 24, 2017

Milad Dalju
Deputy Director and Chief of Enforcement
City of Oakland Public Ethics Commission

Re: Response to Dismissal Letter PEC Complaint No. 17-01
Oakland Government Ethics Act(GEA) Section 2.25.070(E)

Dear Mr.Dalju:

Your dismissal letter of May 18, 2017 of my complaint filed with your office on January 12, 2017 where I alleged that Mayor Libby Schaaf exceeded her jurisdictional authority pursuant to section 305(e) and 503 of the Oakland City Charter in the firing and hiring of the Police Chief in 2016-2017 was disconcerting.

You stated in your letter of May 18, 2017 that my complaint alleged, "that Mayor Schaaf violated City Charter section 604(b)(10) by appointing a new Chief of Police without consulting with the City's Police Commission. After a review of both your allegations and the relevant laws, we have determined that the alleged conduct does not violate any laws within the PEC enforcement jurisdiction, and are therefore dismissing your complaint."

Your reference to Mayor Schaaf has not "violated any laws" within the PEC enforcement jurisdiction is misleading; a review however of the Oakland City Charter section 305(e) Functions, Powers, and Duties and 503 Powers of Appointment and Removal establishes the limited administrative jurisdictional authority of the Mayor.

Thus, the basis of my complaint is found in the provisions of the Oakland City Charter Section 305(e) and 503 where the Mayor has violated her administrative and jurisdictional authority as it relates to the firing and hiring of the Oakland Police Chief.

Section 305(e) MAYOR Functions, Power, Duties, states, "Appoint the City Administrator subject confirmation by the City Council. Remove the City Administrator and give direction to the City Administrator. The Mayor shall advise the Council before removing the City Administrator.

This section of the Charter does not give the Mayor any jurisdictional authority over any City personnel beyond that of the City Administrator clearly supports my complaint, that Mayor Schaaf has violated 305(e) of the Oakland City Charter.

Section 503 POWERS OF APPOINTMENT AND REMOVAL states,
"The City Administrator shall be responsible to the City Council for the proper and efficient administration of ALL affairs of the City under his jurisdiction, and shall, subject to the provisions of the power to appoint, assign, reassign, discipline and remove ALL directors or heads of departments, and

ALL employees under his jurisdiction. He may delegate to directors or other department heads responsible to him/her the authority to appoint, discipline and remove subordinate employees..."

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Again, Section 503 of the Oakland City Charter does not give any authority to Mayor Schaaf in the hiring or firing of any city employee including the Police Chief. Mayor Schaaf has violated section 503 of the Oakland City Charter.

Your reference to the establishment of the "City's Police Commission" that was approved by the voters in November 2016 as a result of ballot measure LL has yet to be fully implemented neither has your cited reference of 604(b)(10) been codified into the Oakland City Charter as of May 23, 2017, gives the function of the hiring and firing of the Police Chief to both the Mayor and the seven member Civilian Commission. In fact, is in conflict with section 305(e) and 503 of the City Charter. Measure LL requires the "Mayor to appoint any new Chief of Police from a list of candidates provided by the Commission, and having the authority to terminate the Chief of Police ..."

The impartial analysis of Measure LL prepared by the office of the Oakland City Attorney states, Under the current provisions of the Oakland City Charter, "the City Administrator supervises the Oakland Police Department..., the City Administrator must approve all suspensions of five or more days,, fines, demotions or discharges(. One could see how Measure LL presents a conflict with 305(e) and 503 of the Oakland City Charter. These provisions cannot co-exist as it relates to the hiring and firing of the Police Chief

There is clearly a conflict between the ballot Measure LL and the Oakland City Charter sections 305(e) and 593.

I am requesting a reconsideration/and an appeal of your decision to dismiss my complaint No. 17-01 where I have alleged the Mayor Schaaf has violated the Oakland City Charter sections 305(e) and 503 in the hiring and firing of the Police Chief.

Respectfully,

Gene Hazzard