



September 25, 2020

Via Email: plevy@citizen.org

Mr. Paul Levy, Esq.
Public Citizen Litigation Group
1600 20th Street NW
Washington DC 20009

Dear Mr. Levy,

Thank you for your letter of September 24, 2020 regarding Victoria Fierce's use of the AC Transit logo on her campaign website. Although you do not state that you represent Ms. Fierce as her attorney, I will assume that you are writing in that capacity, and I will address my letter only to you.

It is important to put this issue in context. In 2014, the District passed Ordinance No. 16, which prohibits unauthorized use of the District's logo in a variety of contexts, including that of an election campaign. The application of the ordinance to election campaigns is particularly important given the potential that use of the District's logo might confuse or mislead voters into thinking that a candidate or issue has been endorsed by the District. The California Elections Code specifically authorizes such a prohibition:

- (a) Any person who uses or allows to be used any reproduction or facsimile of the seal of the county or the seal of a local government agency in any campaign literature or mass mailing, as defined in Section 82041.5 of the Government Code, with intent to deceive the voters, is guilty of a misdemeanor.
- (b) For purposes of this section, the use of a reproduction or facsimile of a seal in a manner that creates a misleading, erroneous, or false impression that the document is authorized by a public official is evidence of intent to deceive.
- (c) For purposes of this section, the term "local government agency" means a school district, special or other district, or any other board, commission, or agency of local jurisdiction.

Cal. Elections Code, § 18304.


While we do not suggest that Ms. Fierce's incorporation of our logo on her campaign site was done with the intent to deceive voters, we do believe that the result could be the same. It is for that reason that we have consistently requested that candidates and ballot committees remove any reference to the District logo in their campaign materials when it comes to our attention.

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Your suggestion that we singled out Ms. Fierce because she is running against a sitting director could not be further from the truth. We have sent similar requests to three other candidates running in this election alone, and in the six years that Ordinance No. 16 has been in effect, the District has consistently sent such requests, including to sitting directors. Until now, every candidate has complied, presumably because they wished to preserve the integrity of the election process.

We hope that once you and Ms. Fierce understand the reasoning behind our request, your view will change. If you or Ms. Fierce have further questions or concerns, please do not hesitate to contact me.

Sincerely,



Jill A. Sprague
General Counsel