

City of Lakewood

Office of the City Clerk

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October 23, 2025

Kiplund Kolkmeier
3933 Inca St.
Denver, CO 80211

Re: City Clerk's Determination of Potential Validity of Complaint against John Frogge and Karen Miller and Decision to Refer the Matter to an Independent Hearing Officer to Avoid Any Appearance of a Conflict of Interest

Mr. Kolkmeier,

This office received your Campaign and Political Finance in Municipal Elections Complaint dated October 20, 2025, alleging that John Frogge and Karen Miller, and "other organized groups" (hereinafter referred to as "Petitioners") violated Section 2.54.030(B)(1) of the Municipal Code (the "Code") by failing to register as an issue committee within ten calendar days of having expended more than \$200.00 and circulating a petition for signature. You provide numerous exhibits to prove that Petitioners have created and distributed lawn signs, have an on-line website presence, have acquired office space, and have hosted "public meetings" to solicit support for their petition efforts. Ultimately, your Complaint is focused on the argument that, because Petitioners are a "petition circulating group" they must comply with the registration requirements of 2.54.030(B)(1).

As the City Clerk, per Code section 2.54.050(B)(1), it is my responsibility at this stage to determine whether the Complaint is valid. In this case, the determination of validity depends, pursuant to Code section 2.54.050(B)(1)(a-c) on whether the Complaint you filed: (a) was timely filed under this code; (b) specifically identifies one or more violations of this Code; and (c) alleges/contains sufficient facts to support a factual and legal basis for the finding of violations of law as alleged. I have determined that your Complaint satisfies Code section 2.54.050(B)(1)(a/b). Further, I have determined that there is a possibility that the Complaint satisfies Code section 2.54.050(B)(1)(c), and am therefore referring the Complaint to an independent hearing officer to obtain an independent interpretation of the Code section at issue, as discussed in detail below.

Analysis of Code section 2.54.050(B)(1)(a): This section of Code provides: "A complaint is valid if it: (a) Was timely filed under this code;". Under number 1 of the section of the Complaint titled: "Requirements of the Code for a Valid Complaint" you argue that the Complaint was filed within 120 days of the alleged violations, and that:

An alleged and continuing violation occurred on October 10th, 2025, ten days after petition circulation began to repeal Ordinance 2025-27. A second alleged and continuing violation occurred ten days after petition proponents exceeded the \$200 expenditure threshold.

As such, you urge the Clerk to find that Code section 2.54.030(B)(1) is violated by: 1) the mere circulation of a petition without registration as an issue committee; and 2) Petitioners accepting or making contributions or expenditures in excess of \$200.00 to circulate said petition without registering as an issue committee. Regarding the first contention, the Clerk approved the referendum packets for

the ordinances in question less than 120 days ago, and therefore, if it is indeed a violation to circulate a petition without registering as an issue committee, the Complaint is timely filed. The Complaint supports the second contention by arguing that the “organized electioneering effort through websites, community meetings, and yard signs demonstrate that an amount exceeding \$200 was expended in September and continues.” Thus, assuming *arguendo* Petitioners actions were sufficient to support a violation, the Complaint is timely filed, and satisfies Code section 2.54.050(B)(1)(a).

Analysis of Code section 2.54.050(B)(1)(b): This section of Code provides: “A complaint is valid if it: (b) Specifically identifies one or more violations of this code;”. Under number 2 of the section of the Complaint titled: “Requirements of the Code for a Valid Complaint” you argue that the Complaint does indeed allege specific identified violations because:

Under 2.54.030(B)(1) it is a violation to circulate petitions without registering within 10 days. It is also a violation to spend in excess of \$200 without registering in 10 days.

Thus, the Complaint identifies two alleged violations of section 2.54.030(B)(1), thereby satisfying the requirements of section 2.54.030(B)(1)(b).

Analysis of Code section 2.54.050(B)(1)(c): This section of Code provides: “A complaint is valid if it: (c) Alleges/contains sufficient facts to support a factual and legal basis for the finding of violations of law as alleged. Under number 3 of the section of the Complaint titled: “Requirements of the Code for a Valid Complaint” you argue that that “the complaint alleges sufficient facts that could support a basis for a violation” and that the Code does not permit the City Clerk to come to factual conclusions at this stage of the proceeding and therefore, “the mere allegation of sufficient facts requires the Clerk to deem the complaint valid...”

At this stage, the Complaint alleges that Petitioners have expended more than \$200.00 for the circulation of a petition. It additionally alleges that Petitioners have circulated a petition without registering as an issue committee. The Complaint further provides: “Every group that is advocating for or against a ballot issue or questioned is governed by (B)(2), but the petition circulating groups must comply with (B)(1).” Assuming that 2.54.030(B)(1) applies to referendum petitioners, as the Complaint alleges, then the Complaint alleges sufficient facts to support a factual and legal basis for the finding of violations of law. Thus, if 2.54.030(B)(1) applies to both initiative and referendum petitions, whether for collection and expenditure of funds in excess of \$200.00 or for the mere circulation of a referendum petition, then the Complaint satisfies the requirements of Code section 2.54.050(B)(1)(c).

The Clerk’s Determination and Decision to submit the Complaint for Review by and Independent Hearing Officer: The Clerk notes that transparency in campaign finance matters is a concern of the highest order. The Clerk further notes that Petitioners previously reached out to his office desiring to register as an issue committee prior to circulating their referendum petitions for signature. However, the City, as it is authorized to do, interpreted Code section 2.54.030(B)(1) as only applying to those accepting or making contributions or expenditures in excess of \$200.00 to circulate initiative petition for signature. Under this interpretation, there is no requirement to register if a person or group accepts or makes contributions or expenditures in excess of \$200.00 to circulate a *referendum* petition. As such, the City’s campaign finance registration software would require modifications made via manual changes to allow Petitioners to register before the ordinances they seek referendum upon become ballot issues or ballot questions as determined by section 2.54.030(B)(2). The filing of this Complaint, along with the previous request by Petitioners to register as an issue committee highlight the fact that the Code may be unclear and open to multiple interpretations, that deviate from the City’s. Again, the Clerk notes the fact that transparency in campaign finance matters is a concern of the highest order.

Therefore, to remove any potential for bias and any potential conflict of interest, the Clerk will refer the following legal questions to an independent hearing officer: 1) Whether the registration requirements of section 2.54.030(B)(1) apply to the mere circulation of petitions as the Complaint alleges or whether it applies only when a person or group has accepted or made contributions or expenditures in excess of \$200.00 to circulate petition for signature; and 2) Whether the registration requirements of section 2.54.030(B)(1) are applicable to referendum petitions at all, or only apply to initiative petitions.

Further, the Clerk will instruct the hearing officer that their role is limited only to the legal questions presented, and that the Clerk does not believe the matter necessitates a hearing or prosecution by the City. However, if the hearing officer determines that a hearing is necessary, the Clerk will defer to such a decision. Submitting this to the hearing officer in a limited capacity comports with the Complaint, which provides that "[t]his is clear legal determination that a hearing officer must consider."

Finally, if the hearing officer determines that Petitioners, as circulators of referendum petitions, were required to register pursuant to Code section 2.54.030(B)(1), the City will not be seeking any penalty for such failure to register because: 1) the City did not interpret its code in a manner requiring registration; and 2) if Code section 2.54.030(B)(1) does indeed require the circulators of referendum petitions to register either for the mere act of circulating a referendum petition or for accepting/making contributions or expenditures in excess of \$200.00 to circulate a referendum petition for signature, then the Code lacks clarity and is thus open to multiple interpretations, thereby proving that a violation should not be punished.

As required by Code section 2.54.050(2)(b), the Clerk will submit the Complaint to an independent hearing officer within three days of this determination. However, as stated above, the Clerk does not anticipate setting the matter for a hearing within five days of the determination as is also contemplated by Code section 2.54.030(B)(2)(b). Instead, the Clerk will request the hearing officer provide an order, within thirty days of the date of this decision, relating solely to the legal questions discussed above. If the hearing officer determines that a hearing is necessary, the Clerk will notify the parties forthwith to facilitate the scheduling of such a hearing as soon as is feasibly possible.

Sincerely,



Jay Robb
City Clerk