

Memorandum



CITY OF DALLAS

DATE April 28, 2011

TO The Honorable Mayor and Members of the City Council

SUBJECT Campaign Contributions by Applicants in Designated Zoning Cases and Designated Public Subsidy Matters and by Bidders and Proposers on City Contracts

Attached is a summary of the amendments to Chapter 15A of the Dallas City Code, "Campaign Contributions by Applicants in Designated Zoning Cases and Designated Public Subsidy Matters and by Bidders and Proposers on City Contracts," recently enacted by the City Council. Also attached is a copy of the Ordinance No. 28169.

A handwritten signature in blue ink, appearing to read 'Tom Perkins, Jr.', with a stylized flourish.

THOMAS P. PERKINS, JR.
City Attorney

Attachment

Amendments to Campaign Contribution Restriction Ordinance

Dallas City Code Chapter 15A restricts persons from making campaign contributions to members of the City Council during specified time periods relating to designated zoning cases, designated public subsidy matters, and city contracts. Ordinance No. 28169, passed April 13, 2011, made the following changes:

I. Definition of Applicant

Removes from the definition of "applicant" any person who is an employee of the applicant, except as provided below.

Removes from the definition of "applicant" any person who represents or is a representative of the applicant.

Applicant is redefined to focus on principals of the applicant, including for instance chief executive or chief financial officers, members of the board of directors, partners, etc.

II. City Contracts

Defines a "person" responding to a request for bids or proposals on a city contract similarly as the applicant above, to focus on principals of the bidder or responder, not a representative.

III. Contributions to Candidates

Expands the contribution restrictions to include candidates who have filed for a place on the official ballot in an impending city council election.

Clarifies that the contribution restrictions apply to a specific-purpose political committee for a specified council member or candidate, but not to a general purpose political committee, or a corporation or labor organization political committee.

IV. Contribution Restriction Time Period

Reduces the campaign contribution restriction time period from a designated start date to a date 30 days after an action instead of 60 days after an action.

V. Citizens United v. Federal Election Commission, 130 S. Ct. 876 (2010).

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ORDINANCE NO. 28169

An ordinance amending Section 15A-4.1 of CHAPTER 15A, "ELECTIONS," of the Dallas City Code, as amended; defining terms; clarifying which persons are restricted from making campaign contributions to city council members during specified time periods relating to designated zoning cases, designated public subsidy matters, and city contracts; subjecting city council candidates to the same campaign contribution restrictions that apply to city council members; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Section 15A-4.1, "Campaign Contributions by Applicants in Designated Zoning Cases and Designated Public Subsidy Matters and by Bidders and Proposers on City Contracts," of Article I, "Campaign Contributions," of CHAPTER 15A, "ELECTIONS," of the Dallas City Code, as amended, is amended to read as follows:

"SEC. 15A-4.1. CAMPAIGN CONTRIBUTIONS BY APPLICANTS IN DESIGNATED ZONING CASES AND DESIGNATED PUBLIC SUBSIDY MATTERS AND BY BIDDERS AND PROPOSERS ON CITY CONTRACTS.

(a) In this section:

(1) **AFFILIATED** means the relationship created when one business entity is the parent or subsidiary of another business entity or when multiple business entities are subsidiaries of the same parent business entity [~~has the meaning given that term in Section 12A-2 of the Dallas City Code~~].

(2) **APPLICANT** means any person who:

(A) owns all or part of the property that is the subject of a designated zoning case or designated public subsidy matter;

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(B) is a parent, child, spouse, or other family member [~~of the property owner~~] within the first degree of consanguinity or affinity, or the domestic partner, of:

(i) the property owner; or

(ii) any individual described in Paragraph (2)(D) of this subsection;

(C) [~~represents the property owner in connection with the designated zoning case or designated public subsidy matter;~~

~~(D)~~ is affiliated with the property owner [~~or the representative of the property owner~~]; or

(D) if the property owner is an entity, is an individual who holds any of the following positions with the entity or with any affiliated business entity:

(i) the chief executive officer, chief financial officer, or chief operating officer, or any person with equivalent duties, powers, and functions;

(ii) a member of the board of directors of a corporation;

(iii) a general partner of a general partnership or limited partnership;

(iv) a manager of a limited liability company that is managed by managers;

(v) a member of a limited liability company that is managed by members entitled to manage the company;

(vi) a member of the board of directors of a cooperative association; or

(vii) a trust manager of a real estate investment trust

~~[(E) is an employee of the property owner or the representative of the property owner].~~

(3) CANDIDATE means a person who has filed an application with the city secretary for a place on the official ballot in an impending election for one or more members of the Dallas city council.

(4) DESIGNATED PUBLIC SUBSIDY MATTER means any of the following:

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- (A) A tax abatement.
- (B) A housing tax credit.
- (C) An historic development tax abatement.
- (D) Federal grant money administered by the city.
- (E) Tax increment financing.
- (F) An economic development grant or loan.

(5) [(4)] DESIGNATED ZONING CASE means a change of zoning on a specific property where:

- (A) the property is 25 acres or more;
- (B) the proposed floor area for retail or personal service uses is 200,000 square feet or more;
- (C) the proposed floor area for industrial uses is one million square feet or more;
- (D) the proposed zoning change is to a multifamily district of 10 acres or more;
- (E) the proposed zoning change allows 60 dwelling units or more per acre; or
- (F) the city staff recommendation and the city plan commission recommendation regarding the proposed change of zoning do not agree.

(b) An applicant in a designated zoning case shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city council member or candidate during the period between the date the first notices of a public hearing to consider the designated zoning case by the city plan commission are mailed and the later of:

- (1) 30 [~~60~~] days after the designated zoning case is withdrawn pursuant to Section 51A-4.701(f) of the Dallas City Code;
- (2) 30 [~~60~~] days after the date a decision of the city plan commission on the designated zoning case becomes final and all opportunities for appeal are exhausted; or
- (3) 30 [~~60~~] days after the date a final decision on the designated zoning case is made by the city council either granting or denying the request.

(c) Subsection (b) does not apply to a change of zoning for historic districts, conservation districts, or neighborhood stabilization overlays.

(d) An applicant in a designated public subsidy matter shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city council member or candidate from the time the matter is posted on a council committee agenda or a council agenda, whichever occurs first, until 30 [60] days after the date the city council votes on the designated public subsidy matter or the application for the designated public subsidy matter is withdrawn by the applicant.

(e) A person responding to a request for bids or request for proposals on a city contract shall not (either personally or through a representative, employee, or agent) knowingly make a campaign contribution to a city council member or candidate from the time the advertisement or public notification of the request for bids or request for proposals is made until 30 [60] days after the date the contract is awarded by the city council. For purposes of this subsection, "person" includes:

(1) any individual responding to the request for bids or proposals;

(2) any entity responding to the request for bids or proposals and its affiliated business entities;

(3) if the person responding to the request for bids or proposals is an entity, any individual who holds with the entity (or with any affiliated business entity) any position described in Subsection (a)(2)(D)(i) through (vii) of this section; and

(4) the parent, child, spouse, or other family member within the first degree of consanguinity or affinity, or the domestic partner, of any individual described in Paragraph (1) or (3) of this subsection.

(f) This section applies to a campaign contribution made to any specific-purpose political committee that will ultimately contribute to an identified city council member or candidate, and any campaign contribution made to the specific-purpose political committee during the time restrictions imposed by this section will be considered to have been made to that city council member or candidate. The time restrictions imposed by this section do not apply to when the specific-purpose political committee makes a campaign contribution to the identified city council member or candidate.

(g) This section does not apply to a campaign contribution made to or by:

(1) any general-purpose political committee; or

(2) any political committee established, administered, financially supported, or assisted by a corporation or labor organization pursuant to state or federal law."

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SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

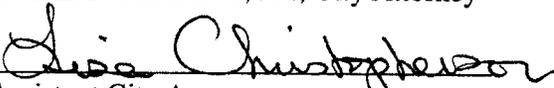
SECTION 3. That CHAPTER 15A of the Dallas City Code, as amended, will remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of CHAPTER 1 of the Dallas City Code, as amended.

SECTION 5. That this ordinance will take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

By 
Assistant City Attorney

Passed APR 13 2011

LC/DCC/00490A