

October 19, 1998

James A. Thompson
5545 Val View Dr. SE
Turner, OR 97392

Dear Mr. Thompson:

This letter is in response to your correspondence dated October 12, 1998, concerning political donations to elected officials and/or candidates.

OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF
OPINION 98S-032

STATED FACTS: A member of the board of county commissioners is campaigning for re-election. The commissioner and two other candidates for election to the board of county commissioners have each received campaign contributions from River Bend Sand & Gravel Company, a commercial business that operates a gravel pit within the county.

On September 16, 1998, the county commissioners, including the one commissioner who is running for re-election, voted 3-0 to approve River Bend's request to eventually mine gravel from its gravel pit.

RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(1): Actual conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated...

James A. Thompson

October 19, 1998

Page two

ORS 244.020(7): Potential conflict of interest means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated...

ORS 244.020(8): Gift means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, gift does not mean:

(a) Campaign contributions, as described in ORS chapter 260.

ORS 244.020(3): Business with which the person is associated means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

QUESTION: Do Oregon Government Standards and Practices laws prohibit a public official from participating in deliberations and decisions that may have a financial impact upon a campaign contributor's business?

OPINION: No. Oregon Government Standards and Practices laws require a public official to declare a conflict of interest when an action or any decision or recommendation by a person acting in a capacity as a public official would or could be to the private pecuniary benefit or detriment of the person or person's relative or any business with which the person or a person's relative is associated. The stated facts give no indication that the county commissioner or the candidates or their relatives are associated with River Bend. Therefore, any request by River Bend for approval to mine gravel from its gravel pit does not create a conflict of interest for the county commissioner or the two candidates.

It is a long standing and common practice in the American political system for office holders at all levels of government to take official action on matters of importance to

James A. Thompson
October 19, 1998
Page three

those who contribute to their election campaigns. Additionally, campaign contributions are specifically excluded from the definition of a gift and therefore cannot be considered relevant to ORS Chapter 244.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.

Do not hesitate to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director

LPH:aip/thompson.so