



State of New Jersey

ELECTION LAW ENFORCEMENT COMMISSION

NATIONAL STATE BANK BLDG , 12th FLOOR
28 W STATE STREET, CN 185
TRENTON, NEW JERSEY 08625-0185
(609) 292-8700

OWEN V. McNANY, III
CHAIRMAN

STANLEY G. BEDFORD
COMMISSIONER

DAVID LINETT
COMMISSIONER

FREDERICK M. HERRMANN, PH.D.
EXECUTIVE DIRECTOR

JEFFREY M. BRINDLE
DEPUTY DIRECTOR

GREGORY E. NAGY
LEGAL DIRECTOR

EDWARD J. FARRELL
COUNSEL

June 19, 1991

Ms. Georgene Granholme, President
Berkeley Heights Republican Club
49 Shadow Lane
Berkeley Heights, New Jersey 07922

Advisory Opinion No. 04-1991

Dear Ms. Granholme:

The Commission has directed me to issue this advisory opinion in response to your correspondence dated May 7, 1991. You have asked whether the Berkeley Heights Republican Club must file campaign reports as a "political committee" as that term is defined in the Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq. (hereafter, "the Act"), by virtue of the fact that one of the Club's newsletters listed the names of the Republican Party municipal candidates in that election. For the reasons set forth below, kindly be advised that the Club did not acquire reporting obligations in the 1991 primary election on the basis of the facts that you have submitted.

You write that the Berkeley Heights Republican Club publishes a monthly newsletter which is generally circulated to Republicans and Independents in Berkeley Heights. The April, 1991 newsletter, which is a double-sided, one-page flyer, contained an article on the approaching primary election, which article identified the four Republican candidates for nomination for municipal office in the 1991 primary election. The four candidates were seeking the party nomination for two open municipal seats. Nothing contained in the article endorsed any of the four candidates, and their names were listed in alphabetical order. Two of the candidates who were incumbents were identified as such, and the occupation of each candidate was given. Information concerning the length of residency of one candidate was noted. Other than the names, incumbency status, occupations and residency information, no other commentary was made concerning any of the individual candidates. (A copy of the April, 1991 newsletter is attached and incorporated in this advisory opinion).

The Commission notes that the Berkeley Heights Republican Club was established two years ago, but does not file quarterly reports as the political party committee of the municipality or as a continuing political committee; see N.J.S.A. 19:44A-3(b). Another entity, the Republican Municipal Committee of Berkeley Heights, is filing reports as the duly constituted municipal political party committee.

The issue presented by this request is whether any portion of the costs incurred by the Club to publish and circulate its April, 1991 newsletter was a reportable campaign "expenditure" as that term is defined in the Act and in the Commission's regulations.

The Commission's regulations define the term "expenditure" at N.J.A.C. 19:25-1.7. (A copy of the text is attached). The facts that you have submitted support the conclusion that the April, 1991 newsletter was not an "expenditure" as that term is defined by the Commission's regulations, and was not subject to campaign reporting.

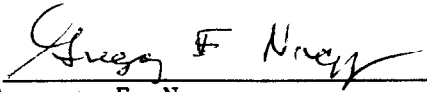
As has been noted, the Berkeley Heights Republican Club, contrary to its name which may give the impression that it is an official political party organization, is not the Republican party municipal committee in Berkeley Heights. Therefore, the newsletter is not a "facility" owned or controlled by a continuing political committee as set forth in the regulation. Furthermore, the April, 1991 newsletter did not contain any express advocacy language for the election of any single candidate. The newsletter generally encouraged its readers to participate and vote in the 1991 primary election, but it expressed no preference among the four candidates for the two open seats. Your characterization of the listing as "informational" appears correct because the listing gives reasonably equal coverage to all of the opposing candidates in the 1991 Republican Party municipal primary election. In this sense, the article is subject to the exclusion as a "news story" of interest to the Club's membership and the electorate-at-large as provided in the regulation, and therefore costs incurred to produce and circulate it are not campaign "expenditures."

The Commission notes that there are circumstances under which the publication of the name of a candidate even without express advocacy language can constitute a reportable "political communication;" see N.J.A.C. 19:25-11.10. However, because all of the candidates in the Republican Party primary election were extended equal publicity without any apparent expression of preference, the newsletter does not fall within the "political communication" regulations.

Thank you for your inquiry.

Very truly yours,

ELECTION LAW ENFORCEMENT COMMISSION

By: 
Gregory E. Nagy

/jah
attachment