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RICHARD H. AUSTIN • SECRETARY OF STATE

LANSING  
MICHIGAN 48918

STATE TREASURY BUILDING

August 9, 1977

Mr. Thomas C. Walsh, Chairman  
City of Lansing  
Charter Commission  
City Hall  
Lansing, Michigan

Dear Mr. Walsh:

This responds to your letter of April 27, 1977, regarding the legal status of the City of Lansing Charter Commission under P.A. 388 of 1976, commonly referred to as the Campaign Finance Act ("The Act").

Your letter asks two questions:

- (1) Are the City of Lansing Charter Commissioners "candidates" as defined in the Act?
- (2) Is the City of Lansing Charter Commission a "committee" under the Act?

Sec. 3(1) of the Act defines "candidate" as an individual who seeks "elective office". For purposes of this Act only, "candidate" includes an individual who is an "elected officeholder" of an "elective office."

"Elective Office" is defined in Section 5 as a public office filled by an "election" which "election" is a primary, general, special, or millage election.

The Home Rule Cities Act, P.A. 279 of 1909, as amended, authorizes the creation and structure of city charter commissions. In Section 18 (MCLA §117.18) it provides that all city charter commissioners must be elected. It further specifies in Section 26 (MCLA §117.26) that all elections conducted under the Home Rule Cities Act "shall be arranged for, held and conducted by the same officer and in the same manner as near as may be as general biennial fall elections." Factually, you state in your letter that the Lansing Charter Commission was elected in November, 1975.

Thus, Lansing City Charter Commissioners are "officeholders" of an "elective office" which is filled by an "election" as enumerated in the Act and, therefore, are also "candidates" subject to all the requirements and obligations of the Act.

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(Cont.)

The fact that under State law, the office of a charter commissioner is not permanent or that the office may terminate automatically is not material.

As to your second question, concerning whether the city charter commission is a "committee" as defined in the Act, Section 3(4) defines a "committee" as a "person" who receives money or spends money in the amount of \$200.00 or more in a calendar year for the purpose of influencing, or attempting to influence the action of voters at an election.

"Person" is defined in Section 11(1) as including "any group of persons acting jointly." While the Charter Commission is a "person" as defined in the Act, it is not a "committee" unless it spends \$200.00 or more in a calendar year to influence an election, which is not to imply that the Charter Commission may do so. Whether the Charter Commission in its official capacity may or may not spend private or public money to influence an election is a legal question which this Department is not authorized to answer.

Nonetheless, your letter states that the commission had not raised any funds and did not contemplate spending to influence the election on June 13. Therefore, under these circumstances, the commission is not a "committee."

In summary, each of the commissioners in the Lansing City Commission, in his or her own capacity, is a "candidate" under the terms of the Act because each commissioner is an "officeholder" of a public office filled by an election as delineated in the Act. However, with the above caveat, the commission or any other group is not a "committee" under the Act unless it should spend or receive \$200.00 or more in a calendar year to influence an election.

This response relates to your request for an "administrative determination" but may be regarded as informational only and not as a declaratory ruling.

Very truly yours,

Phillip T. Frangos, Director  
Office of Hearings and Legislation

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