

1 STACEY FULHORST, Executive Director
City of San Diego Ethics Commission
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5 Petitioner

6
7 **BEFORE THE CITY OF SAN DIEGO**
8 **ETHICS COMMISSION**

9
10 In re the Matter of:) Case No.: 2009-04
11)
COMMUNITY HOUSINGWORKS) **STIPULATION, DECISION, AND**
12) **ORDER**
Respondent.)
13)

14 **STIPULATION**

15 **THE PARTIES STIPULATE AS FOLLOWS:**

16 1. Petitioner Stacey Fulhorst is the Executive Director of the City of San Diego Ethics
17 Commission [Ethics Commission]. The Ethics Commission is charged with a duty to administer,
18 implement, and enforce local governmental ethics laws contained in the San Diego Municipal
19 Code [SDMC] relating to, among other things, the provisions of the City's Lobbying Ordinance.

20 2. Community HousingWorks is referred to herein as "Respondent."

21 3. This Stipulation will be submitted for consideration by the Ethics Commission at its
22 next scheduled meeting, and the agreements contained herein are contingent upon the approval
23 of the Stipulation and the accompanying Decision and Order by the Ethics Commission.

24 4. This Stipulation resolves all factual and legal issues raised in this matter by the
25 Ethics Commission without the necessity of holding an administrative hearing to determine
26 Respondent's liability.

27 5. Respondent understands and knowingly and voluntarily waives any and all
28 procedural rights under the SDMC, including, but not limited to, a determination of probable

1 cause, the issuance and receipt of an administrative complaint, the right to appear personally in
2 any administrative hearing held in this matter, the right to confront and cross-examine witnesses
3 testifying at the hearing, the right to subpoena witnesses to testify at the hearing, and the right to
4 have the Ethics Commission or an impartial hearing officer hear this matter. Respondent agrees
5 to hold the City of San Diego harmless from any and all claims or damages resulting from the
6 Commission’s investigation or this stipulated agreement, or any matter reasonably related
7 thereto. Respondent further agrees that the terms of this Stipulation constitute compliance with
8 the provisions of SDMC section 26.0450 in that the Stipulation includes a recitation of facts, a
9 reference to each violation, and an order.

10 6. Respondent acknowledges that this Stipulation is not binding upon any other law
11 enforcement or government agency and does not preclude the Ethics Commission from referring
12 this matter to, cooperating with, or assisting any other law enforcement or government agency
13 with regard to this or any other related matter.

14 7. The parties agree that in the event the Ethics Commission refuses to accept this
15 Stipulation, it shall become null and void. Respondent further agrees that in the event the Ethics
16 Commission rejects the Stipulation and a full evidentiary hearing before the Ethics Commission
17 becomes necessary, no member of the Ethics Commission or its staff shall be disqualified
18 because of prior consideration of this Stipulation.

19 **Summary of Law and Facts**

20 8. Respondent is an organization that conducts business in the City of San Diego.
21 Respondent develops and owns apartment complexes, the majority of which are available to low-
22 income residents, and provides financing to first-time homebuyers. In addition Respondent
23 provides trainings and support services to community residents, including the operation of a
24 “HomeOwnership Center” and foreclosure prevention clinics. As discussed in greater detail
25 below, Respondent frequently obtains funding from government agencies, including the City of
26 San Diego, to support its endeavors.

27 9. During the second quarter of 2008, Respondent’s representatives had numerous
28 contacts with City Officials for the purpose of influencing municipal decisions. Many of these

1 lobbying contacts were with members of the City Council for the purpose of influencing
2 decisions related to the allocation of Community Development Block Grant [CDBG] funding in
3 the upcoming fiscal year. Respondent was ultimately awarded a total of \$189,000 in CDBG
4 funds by City Council Districts 1, 3, 4, 5, and 7, in support of Respondent's HomeOwnership
5 Center and foreclosure prevention clinics.

6 10. During the third quarter of 2008, Respondent's representatives had numerous
7 lobbying contacts with City Officials, the majority of which were made for the purpose of
8 securing funding from the Redevelopment Agency and the San Diego Housing Commission for
9 the development of 82 affordable housing units at the Arbor Crest North project. Respondent
10 was ultimately successful in obtaining a loan from the San Diego Housing Commission in the
11 amount of \$4.9 million for acquisition of the Arbor Crest North site.

12 11. The City's Municipal Lobbying Ordinance requires organizations to register as
13 Organization Lobbyists if their compensated employees have a total of 10 or more lobbying
14 contacts with City Officials within 60 consecutive calendar days. Organization Lobbyists are
15 required to file a registration form within 10 days of reaching this qualification threshold.
16 SDMC § 27.4007. In addition, the Lobbying Ordinance requires Organization Lobbyists to file
17 quarterly disclosure reports no later than the last day of the months of April, July, October, and
18 January, covering the preceding calendar quarter. SDMC § 27.4015.

19 12. Respondent's representatives began contacting City Councilmembers regarding
20 CDBG allocations in late March, 2008, and engaged in a total of 10 lobbying contacts with these
21 City Officials by early April, 2008. Respondent was required to register as an Organization
22 Lobbyist by filing a registration form with the City Clerk within 10 days of reaching the 10-
23 contacts threshold. Respondent did not file this registration form until December 16, 2008,
24 approximately eight months late. In addition, Respondent was required to file a quarterly
25 disclosure report covering the second quarter of 2008 on or before July 31, 2008. Respondent
26 did not file this disclosure report until December 23, 2008, approximately five months late.
27 Finally, Respondent was required to file a quarterly disclosure report covering the third quarter

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1 of 2008 on or before October 31, 2008. Respondent did not file this disclosure report until
2 December 23, 2008, approximately two months late.

3 **Counts**

4 **Count 1 - Violation of SDMC section 27.4007**

5 13. Respondent failed to timely register as an Organization Lobbyist as required by
6 SDMC section 27.4007. Respondent qualified as an Organization Lobbyist in early April, 2008,
7 but did not register until December 16, 2008, approximately eight months late.

8 **Counts 2 and 3 - Violation of SDMC section 27.4015**

9 14. Respondent failed to timely file quarterly disclosure reports as required by SDMC
10 section 27.4015. The disclosure report for the second quarter of 2008 was due on July 31, 2008,
11 but Respondent did not file it until December 23, 2008, approximately five months late. The
12 disclosure report for the third quarter of 2008 was due on October 31, 2008, but Respondent did
13 not file it until December 23, 2008, approximately two months late.

14 **Factors in Aggravation**

15 15. As part of the Ethics Commission's education and outreach programs,
16 Respondent was aware of the City's new lobbying laws that went into effect on January 1, 2008.
17 In particular, Respondent learned in November of 2007 that the new laws included a 10-contacts
18 registration threshold for organizations. Although Respondent was on notice that it was required
19 to register as an Organization Lobbyist in April of 2008 after its employees had made a total of
20 10 lobbying contacts with City Officials, Respondent failed to meet its obligations under City
21 law for approximately eight months.

22 16. Although Respondent was aware that the new lobbying laws required the
23 disclosure of specific information regarding the number of lobbying contacts and the identity of
24 City Officials lobbied, Respondent did not direct its lobbyists to track or maintain this
25 information. Therefore, when Respondent finally registered and filed its later quarterly
26 disclosure reports in December of 2008, the information it disclosed on its registration and
27 disclosure forms was based on a substantial amount of estimates and recollections.

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1 17. The primary purpose of the City’s lobbying laws is to ensure that the public has
2 information about persons who are compensated to influence decisions of City government. As
3 a result of Respondent’s late registration and late filing of quarterly disclosure reports, the public
4 did not receive timely information about Respondent’s efforts to obtain \$189,000 in CDBG
5 funds from City Council offices and \$4.9 million in loan funding from the Housing Commission.
6 In addition, the public did not receive timely information about campaign contributions made by
7 Respondent’s owners, officers, and lobbyists to City candidates, as well as a campaign fundraiser
8 hosted by Respondent’s lobbyists for a City candidate. Finally, the public did not receive timely
9 information about two contracts between the City and Respondent pursuant to which the City
10 paid Respondent a total of \$160,000.

11 **Factors in Mitigation**

12 18. Respondent registered as an Organization Lobbyist and filed quarterly disclosure
13 reports for the second, third, and fourth quarters of 2008, on its own initiative, not in response to
14 a request from the Ethics Commission.

15 19. Respondent has developed a tracking system for its lobbyists to ensure that it will
16 report accurate and verifiable information in a timely manner in the future.

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1 **Conclusion**

2 20. Respondent agrees to take necessary and prudent precautions to ensure
3 compliance with all provisions of the Municipal Lobbying Ordinance in the future.

4 21. Respondent agrees to pay a fine in the amount of \$1,500 for violating SDMC
5 sections 27.4007 and 27.4015. This amount must be paid no later than July 2, 2009, by certified
6 check made payable to the City Treasurer. The submitted payment will be held pending
7 Commission approval of this Stipulation and execution of the Decision and Order portion set
8 forth below.

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10 DATED: _____

11 STACEY FULHORST, Executive Director
12 ETHICS COMMISSION, Petitioner

13 DATED: _____

14 SUSAN REYNOLDS, President and CEO
15 COMMUNITY HOUSINGWORKS, Respondent

16 **DECISION AND ORDER**

17 The Ethics Commission considered the above Stipulation at its meeting on July 9, 2009.
18 The Ethics Commission hereby approves the Stipulation and orders that, in accordance with the
19 Stipulation, Respondent pay a fine in the amount of \$1,500.
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21 DATED: _____

22 RICHARD VALDEZ , Chair
23 SAN DIEGO ETHICS COMMISSION