

September 13, 2019

Mr. Phillip Tate  
San Diegans for Jobs and Sustainable Communities  
3611 Valley Centre Drive, Suite 250  
San Diego, CA 92130

Re: San Diegans for Jobs and Sustainable Communities, Sponsored and Funded by  
Kilroy Realty, LP (ID # 1376230)

Dear Mr. Tate:

The Ethics Commission audit of the above-referenced committee is now concluded, and the Final Audit Report is enclosed. This report was delivered to the Ethics Commission at its regularly-scheduled meeting held on September 12, 2019. Although the report reflects one material finding, the Commission does not believe that the finding warrants an additional administrative remedy. In summary, the Commission determined that education was more appropriate than enforcement in this situation. As a result, the Commission voted to accept the report and take no further action.

Sincerely,

[REDACTED]

Rosalba Gomez  
Audit Program Manager

Enclosure

cc: Cary Davidson, Treasurer  
Reed & Davidson, LLP  
515 South Figueroa Street, Suite 1110  
Los Angeles, CA 90071

## FINAL AUDIT REPORT

July 26, 2019

Mr. Phillip Tate  
San Diegans for Jobs and Sustainable Communities  
3611 Valley Centre Drive, Suite 250  
San Diego, CA 92130

Treasurer: Cary Davidson  
515 South Figueroa Street, Suite 1110  
Los Angeles, CA 90071

### SAN DIEGO ETHICS COMMISSION AUDIT REPORT:

*San Diegans for Jobs and Sustainable Communities, Sponsored and Funded by Kilroy Realty, LP*

#### I. Introduction

This Audit Report contains information pertaining to the audit of the committee, San Diegans for Jobs and Sustainable Communities, Sponsored and Funded by Kilroy Realty, LP, Identification Number 1376230 (“the Committee”) for the period from March 19, 2015, through June 30, 2015. The Committee was selected for audit by a designee of the City Clerk in a random drawing conducted at a public meeting of the Ethics Commission held on September 14, 2017. The audit was conducted to determine whether the Committee materially complied with the requirements and prohibitions imposed by the City of San Diego’s Election Campaign Control Ordinance (San Diego Municipal Code Chapter 2, Article 7, Division 29). The Election Campaign Control Ordinance (ECCO) has been amended on several occasions; all Municipal Code references in this report relate to the provisions of ECCO that were in effect at the time of the actions described herein.

During the period covered by the audit, the Committee reported total contributions of \$2,051,026.07 (inclusive of \$134,412.59 in non-monetary contributions) and total expenditures of \$1,916,613.48.

**The audit revealed one material finding: the committee failed to include a “paid for by” disclosure in one mass telephone communication in violation of San Diego Municipal Code section 27.2971.**

#### II. Committee Information

On March 19, 2015, the Committee filed a Statement of Organization with the San Diego City Clerk indicating that it qualified as a committee. The Committee was formed to oppose a referendum seeking

to overturn the City Council's decision to approve the One Paseo development project in February of 2015. On August 3, 2015, the Committee filed a Statement of Termination indicating that its filing obligations were completed on June 30, 2015. The Committee's treasurer was Cary Davidson of Reed & Davidson, LLP and the Principal Officer was Phillip Tate.

### **III. Audit Authority**

The Commission is mandated by San Diego Municipal Code section 26.0414 to audit campaign statements and other relevant documents to determine whether campaign committees comply with applicable requirements and prohibitions imposed by local law.

### **IV. Audit Scope and Procedures**

This audit was performed in accordance with generally accepted auditing standards. The audit involved a thorough review of the Committee's records for the time period covered by the audit. This review was conducted to determine:

1. Compliance with all disclosure requirements, pertaining to contributions, expenditures, accrued expenditures, and loans, including itemization when required;
2. Compliance with applicable filing deadlines;
3. Compliance with restrictions on contributions, loans and expenditures;
4. Accuracy of total reported receipts, disbursements and cash balances as compared to bank records; and
5. Compliance with all record-keeping requirements.

### **V. Summary of Applicable Law**

#### **San Diego Municipal Code Section 27.2903 - Definitions**

Mass telephone communications means live or recorded telephone calls that are substantially similar in nature to 500 or more individuals or households for the purpose of (a) supporting or opposing a clearly identified candidate or a clearly identified measure; or (b) conducting a poll that mentions or refers to a clearly identified candidate or a clearly identified measure.

#### **Section 27.2971 – Telephone Communications**

- (a) It is unlawful for any candidate or committee to engage or hire other to engage in mass telephone communications unless the communications include a statement that the communications are “paid for by,” or are otherwise being made “on behalf of” immediately followed by the name of each candidate or committee that is paying for any of the resources used for the communications or that is otherwise authorizing the communication. For purposes of this subsection, “resources” include the purchase of a contact list, the development of a script, overhead expenses, and telephone charges. The type of disclosure required by this section shall be determined as follows:

- (1) A call is “paid for by” a candidate or committee when the candidate or committee pays directly for the call or pays another person to make the call on its behalf.

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## VI. Material Findings

### Section 27.2971: Failure to Include “Paid for By” Disclosure in Mass Telephone Communication

SDMC Section 27.2971 requires committees that pay for mass telephone communications to include the words “paid for by” immediately followed by the name of the committee that paid for it. The audit revealed that the Committee paid Competitive Edge Research and Communication to conduct a telephone survey of 600 households in April of 2015 that referred to the referendum related to the One Paseo project that did not include the requisite “paid for by” disclosure.

At the post audit conference held on July 24, 2019, the Committee representatives asserted that the disclosure omission was unintentional and pointed out that all other communications disseminated by the Committee contained the requisite disclosure.

## VII. Conclusion

Through the examination of the Committee’s records and campaign disclosure statements, the Auditor verified that the Committee timely disclosed all contributions received and all expenditures made, and that the Committee maintained the necessary documentation regarding contributions and expenditures. **However, the audit revealed the following material finding: the committee failed to include a “paid for by” disclosure in a mass telephone communication in violation of San Diego Municipal Code section 27.2971.**

[REDACTED]

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Rosalba Gomez  
Audit Program Manager

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Date

[REDACTED]

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Stacey Fulhorst  
Executive Director

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Date