

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000 FOURTEENTH STREET, N.W., SUITE 433
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF:

The Gertrude Stein Democratic Club
and The Democratic State Committee

Docket No.: PI-2012-102

ORDER

I. Introduction

This matter arises from a complaint filed by Robert Kabel, Chairman of the District of Columbia Republican Committee, alleging that the Democratic State Committee (DCDSC) and the Gertrude Stein Democratic Club held partisan meetings in the John A. Wilson Building (Wilson Building) in violation of the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Act of 2012” (Act) Subtitle E. Sec. 235 (a) which prohibits the use of District government resources for campaign related activities.

Specifically, Mr. Kabel alleged that the DCDSC held a meeting on Thursday, January 5, 2012, and the Gertrude Stein Democratic Club held a meeting on January 9, 2012 in the Wilson Building. Mr. Kabel further alleged that both Democratic organizations endorse candidates, and raise and spend campaign funds. Thus, according to Mr. Kabel, it is counter to the purpose of the Wilson Building for these organizations to use the facilities to promote partisan meetings and activities.

Pursuant to Mr. Kabel’s complaint, OCF requested responses from the DCDSC and the Gertrude Stein Democratic Club. On March 2, 2012, Donald R. Dinan, General Counsel for the DCDSC submitted a statement denying the allegation that the Wilson Building was used in violation of Subtitle E. Sec. 235 (a) of the Act. In addition, Mr. Dinan provided an Affidavit from William R. O’Field, Jr., Treasurer of the DCDSC in which Mr. O’Field stated that meeting in question was a general business meeting of the DCDSC executive Committee which was scheduled, approved and conducted in accordance with the procedures for the use of the Wilson Building.

On March 7, 2012 Barrie R. Danneker, Treasurer of the Gertrude Stein Democratic Club submitted an Affidavit in which he stated that the organization’s January 9, 2012 meeting, , was a general membership meeting which was scheduled, approved and conducted in accordance with the procedures of

the DC Council for the use of the Wilson Building. Mr. Danneker additionally stated that the topics covered during the meeting included a presentation by a former gay “gang” members group and announcement of their upcoming fundraiser and fashion show. Mr. Danneker attached a copy of a Media Release announcing the meeting and the program.

II. Findings of Fact

Chapter 1-14 of Title 1, “Mayor and Executive Agencies”, of the D.C. Municipal Regulations, establishes the procedures which permit the use of public buildings and grounds or any room designated for occasional public use under the direct control of the Office of Property Management. Moreover, the Council of the District of Columbia has exclusive authority over the John A. Wilson Building, by virtue of D.C. Official Code, §§ 10-1301 (a) and (b) (2) (C) , which provides in pertinent part:

“(a) Notwithstanding the provisions of Chapter 8 of this title, or any other law, the building and all property located in Square 255, located at 1350 Pennsylvania Avenue, N.W., popularly referred to as the ‘District Building’ (‘Property’), is hereby designated under the exclusive authority of the Council to determine the use, management, maintenance, operation, repair, renovation, security, lease, sale, or other disposition of the Property.

(b) (2) The Secretary of the Council is authorized to:

(C) Enter into lease or other agreements, with or without monetary consideration, with entities of the District government and with private entities for the use of space within the Property.

When a similar complaint was filed by Mr. Kabel in 2011, OCF consulted then General Counsel of the Council of the District of Columbia, Brian Flowers, Esq., Mr. Flowers confirmed that the Secretary to the Council has implemented the referenced policy by adopting an Administrative and Operational Procedures Manual (Manual) January 2010. Section 3.1.2 of the Manual expressly permits the use of rooms to non-governmental groups for non-Council activities, and provides that “any building cost caused by the non-Council related activity is the responsibility of the user”. Section 1806.1 (c) of the District of Columbia Personnel Manual also provides that the “use of government facilities or equipment under circumstances which do not increase the maintenance cost of such resources, for example, the use of existing library materials or government-purchased books, is not prohibited”.

Mr. Flowers further advised that the Council permits its facilities to be used on a non-discriminatory first come, first served basis...that “in addition to the Democratic State Committee, other District organizations that have used the facilities include the Statehood Green Party, Gertrude Stein Democratic Club, women’s groups, and ex-offender organizations”....and, that “this policy is consistent with the District laws and regulations that prohibit discrimination on the basis of political affiliation. See District of Columbia Human Rights Act; and 1 DCMR § 1406.1 (e), Rules and Procedures for the Occasional Use of Public Buildings and Grounds, and Conduct While on Public Property and Grounds

under the Control of the Department of Administrative Services (permittee shall not discriminate on the basis of ... political affiliation). It also ensures that the use of the building is permitted in a manner that does not unlawfully restrict free speech”.

Pursuant to this complaint, OCF consulted David Zvenyach, Esq., current General Counsel to the Council of the District of Columbia. Mr. Zvenyach confirmed that the Rules and Procedures previously cited by Mr. Flowers continue to govern the use of the Wilson Building

III. Conclusions of Law

Subtitle E. Sec. 235 (a) of the “Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Act of 2012” states that “[n]o resources of the District of Columbia government, including, the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, shall be used to support or oppose any candidate for elected office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with section 303 of the Home Rule Act.”

In the instant case, the use of the Wilson Building by the DCDSC and The Gertrude Stein Democratic Club appears to be consistent with the use prescribed by District of Columbia law and regulation. Moreover, the organizations did not use the facilities to engage in any activity to support or oppose any candidate for elected office, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment.

IV. Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director dismiss this matter.

Date

William O. SanFord
General Counsel

V. Order

Based upon the foregoing findings of fact and conclusions of law, it is this 17th day of April, 2012:

ORDERED, that this matter be hereby dismissed.

Dated: April 17, 2012

Cecily Collier-Montgomery
Director
Office of Campaign Finance

This Order may be appealed to the Board of Elections within 15 days from the date of issuance.

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order by first-class mail on April 17, 2012 on the following:

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Donald R. Dinan, Esq.
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NOTICE

Pursuant to 3DCMR §3711.5 (March 2010), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this Order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 433, 2000 Fourteenth Street, N.W., Washington, D.C. 20009.