

TIMOTHY G. MARA
Attorney at Law
1600 Scripps Center
312 Walnut Street
Cincinnati, Ohio 45202-4038
(513) 762-7674
(513) 762-7675 fax
Tmara4570@AOL.com

October 13, 2015

HAND DELIVERED

Mr. Willie F. Carden, Jr., Director of Parks
Cincinnati Park Board
950 Eden Park Drive
Cincinnati, OH 45202

In re: \$200,000 campaign contribution by the Park Board

I have recently learned that the Cincinnati Park Board has made a \$200,000 contribution to the campaign committee which is actively promoting the proposed charter amendment on the November 3 ballot known as Issue 22. If passed, the charter amendment would establish a permanent tax increase that would annually generate millions of dollars in tax revenue for the Park Board. For the reasons which follow, such an expenditure by the Park Board is illegal. My purpose in writing is to demand that you take immediate action to recover these public funds.

It is well established that the authority for a public entity to act in financial transactions must be clearly granted by statute, and any doubt must be resolved against a proposed expenditure.¹ It has long been held that in the absence of an enabling statute, a public entity cannot use public dollars to promote its levy campaign.² “The public funds entrusted to the board belong equally to the proponents and opponents of the proposition, and the use of the

1 *State ex rel. Locher v. Menning*, 95 Ohio St. 97, 99, 115 NE 571, 572 (1916)

2 1937 Op. Att’y Gen. No. 1245, vol. 111, p. 2142 (finding that a board of county commissioners is without authority to expend public funds for advertisements showing voters the necessity of a tax levy); 1920 Op. Att’y Gen. No. 1532, vol. 11, p. 915 (board of education is without authority to expend public funds in printing and mailing to each taxpayer literature and advertising matter in favor of a proposition); 1994 Op. Att’y Gen. No. 92-029 (finding county children services board or county department of human services without authority to expend public funds to promote the approval of a tax levy for children services).

funds ... to persuade the voters that only one side has merit, gives the dissenters just cause for complaint.”³

The fact that the money may originally have come from an endowment or donation to the Park Board does not mean that the \$200,000 political campaign gift is legal. Once accepted by the Park Board, that money became “public funds” subject to the above-described prohibition against campaign expenditures by a public entity. If anything, the fact that the donated money came from an endowment raises additional legal issues. Who was the source of that money? Was it given to the Park Board with the intent of circumventing statutes and rules regarding the identity of campaign donors? If the money came from a charitable 501(c)(3) organization, did the person who gave the money to that charity take a charitable deduction which is generally not allowed for campaign contributions? Was the Park Board’s donation to the Yes on 22 campaign made with the consent of the person who made the contribution?

Given the facts as we know them, it is imperative that the Park Board act today to set this matter right by first securing the return of its \$200,000 campaign contribution and second by providing me with copies of the Board’s 2015 minutes as I requested in-person at the Park Board offices at approximately 8:35 AM on the 12th. Any further delay in releasing those records only adds to the cloud that is now over the Board’s actions.

Additionally, based on this new information, I now request a copy of the \$200,000 check to the campaign committee and any correspondence to or from the campaign committee regarding this contribution, including not only letters and memos, but also emails.

Sincerely,

Timothy G. Mara

3 *Citizens to Protect Public Funds v. Board of Educ.*, 13 NJ at 181, 98 A2d at 677