



*City of Arts & Innovation*

# Charter Review Committee Memorandum

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**TO: CHARTER REVIEW COMMITTEE**

**DATE: JUNE 10, 2019**

**FROM: CITY ATTORNEY'S OFFICE**

**WARDS: ALL**

**SUBJECT: ENFORCEMENT OF CHARTER VIOLATIONS**

**ISSUE:**

Members of the public have expressed concern about the inability to compel the City to enforce violations of and impose penalties for violations of the Charter; information is provided outlining various methods for an individual to enforce a Charter violation. Staff is requesting that the Committee review the information provided and determine if the Committee wishes to propose any amendments to the Charter for further enforcement.

**RECOMMENDATION:**

That the Charter Review Committee:

1. Review the information provided as to the various methods for enforcing a Charter violation; and
2. Determine if the Committee wishes to propose any amendments to the Charter for further enforcement.

**BACKGROUND:**

At multiple meetings of the Charter Review Committee, members of the public expressed concern about the inability to compel the City to enforce violations and impose penalties for violations of the Charter. For reference, please see "Charter Review Ideas Log, Members of the Public", numbers 1, 7, 9, 10 and 25.

Committee member Maria Reimer noted that a taxpayer lawsuit could be brought under California Code of Civil Procedure 526a. At the direction of the Committee chair and vice-chair, staff has prepared a short summary of various laws that would provide an individual with the ability to enforce a violation of the City Charter.

Here is the summary:

Code of Civil Procedure 526a provides that taxpayer may file a lawsuit "to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a local agency". This type of lawsuit is referred to by some courts as a "taxpayer's suit."

Code of Civil Procedure section 1021.5 provides that a court may award attorney's fees to a party who successfully files a lawsuit "which has resulted in the enforcement of an important

right affecting the public interest if: (a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons. . .” This statute is generally referred to as the “private attorney general statute.”

Code of Civil procedure sections 1084-1097 generally allow an individual to bring a lawsuit seeking a court order to prohibit a public entity from taking certain action or to compel a public entity to take certain action.

Government Code sections 871 et seq. sets forth the State’s financial conflict of interest laws and limits the receipt of specified gifts and honoraria. The Fair Political Practices Commission is tasked with enforcement of these laws and individuals may file complaints with the FPPC. Here is a link to the Fair Political Practices Commission’s website on how to file a complaint: <http://www.fppc.ca.gov/enforcement/file-a-complaint.html>.

City Charter section 202 requires the City to adopt a Code of Ethics. In response, City adopted Riverside Municipal Code Chapter 2.78, “Code of Ethics and Conduct,” which is applicable to all elected and appointed officials. Section 2.78.060 sets forth a list of prohibited conduct. There are no restrictions on who may file a complaint against such official. Section 2.78.080(P) specifically provides that at the hearing, no party shall be represented by an attorney.

City Charter section 1401, “Violations and Penalty,” provides that any violation of the Charter “shall be deemed a misdemeanor and be punishable upon conviction by a fine of not exceeding one thousand dollars or by imprisonment for a period not exceeding six months or by both such fine and imprisonment.”

Copies of any or all of these statutes or code will be provided upon request.

**FISCAL IMPACT:**

None.

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