

**CITY OF BOISE ETHICS COMMISSION**  
**DISMISSAL OF INQUIRIES 22-01, 22-02**

**PURPOSE OF THE ETHICS COMMISSION**

The Ethics Commission's purpose is to issue advisory opinions and to issue findings regarding alleged violations of Boise City Code, Title 1, Chapter 8 (Code of Ethics). Boise City Code, section 2-12-1(A).

**PURPOSE OF AN INQUIRY**

Any person may file an inquiry with the Ethics Commission asking whether a current officer, official, or employee has failed to comply with the Code of Ethics. Boise City Code, section 2-12-3.

**INQUIRIES AT ISSUE**

On or about March 7, 2022, the Hispanic Cultural Center of Idaho (HCCI) filed an inquiry form (#22-01), pursuant to Boise City Code section 2-12-3, seeking a determination that a City of Boise official, City Council Member Lisa Sanchez, violated the City's Code of Ethics, Title 1, Chapter 8 of the City Code, by refusing to return a painting HCCI loaned the official. On the same date, Alma Gomez, the artist who created the painting and donated it to HCCI, filed a separate inquiry form (#22-02) seeking the same relief as HCCI's Inquiry.

The Ethics Commission conducted a preliminary screening and review of the Inquiries at its regularly scheduled March 10, 2022 meeting and determined that it would take further action on the inquiries at its next regularly scheduled meeting, on May 12, 2022, pursuant to Ethics Commission Rule of Procedure VII(G).

**FACTS ALLEGED**

HCCI alleges the following facts in support of inquiry 22-01:

1. In June 2021, Ms. Gomez donated a portrait of Council Member Sanchez to HCCI.
2. Ms. Gomez valued the portrait at \$2,000.00.
3. In August 2021, Council Member Sanchez asked to borrow the portrait from HCCI for use in connection with a campaign fundraiser for Council Member Sanchez to be held on September 16, 2021.
4. HCCI agreed to loan the portrait to Council Member Sanchez on condition that it be returned by September 17, 2021.
5. Council Member Sanchez took possession of the portrait on or about September 14 or 15, 2021.

6. As of March 7, 2022, Council Member Sanchez had “refused to return the portrait because she has implied that since it is her image, she has a right to own it and felt HCCI does not deserve to have it in their possession.”
7. “The HCCI has ownership of this original portrait, as it was donated by the artist to the organization.”
8. “The HCCI believes that Ms. Sanchez is violating ethical guidelines **by keeping the portrait in her possession**. We hope that by sending this inquiry, Ms. Sanchez rethinks her decision and complies with behavior in line with the guidelines within the City of Boise” (emphasis added).

Ms. Alma Gomez alleges the following facts in support of inquiry 22-02:

1. In June 2021, Ms. Gomez donated a portrait of Lisa Sanchez, that Ms. Gomez painted in 2011, to HCCI.
2. In November 2021, Ms. Sanchez contacted Ms. Gomez “telling me that she had picked up the painting at the Hispanic Cultural Center to use for her fundraising campaign event. I reminded her the painting no longer belonged to me and that she would need permission from the Hispanic Cultural Center to keep it. . . I told her to write a letter to the Hispanic Cultural Center stating why she wanted to keep the painting and that I would cosign the letter with her. . . Since I never received that letter to cosign with Lisa, I assumed that she had decided to return the painting to the Hispanic Cultural Center.”
3. “Sometime in January of 2022 I found out that she had still not returned the painting to the Hispanic Cultural Center.”

### **DETERMINATION**

After reviewing the inquiries and the provisions of the Ethics Code, the Commission dismisses inquiries 22-01 and 22-02 because the Commission has no jurisdiction over the subject matter and the facts alleged, if true, would not constitute violations of the Ethics Code. *See*, Boise City Code section 2-12-4(F)(1) and (2); Ethics Commission Rules of Procedure VII(H)(i) and (ii).

### **ANALYSIS**

Pursuant to Boise City Code section 2-12-4(F) and the Commission’s Rules of Procedure VII(H), the Commission may dismiss an inquiry at any time if the Commission determines it has no jurisdiction of the subject matter of the inquiry or if the facts, if true, would not constitute a violation of the Ethics Code. All dismissals must be in writing, state the reasons for dismissal, and be available to the public. Boise City Code section 2-12-4(F); Boise City Ethics Commission Rules of Procedure section V(H).

In reaching this determination, the Commission considered the applicability of the following Ethics Code provisions to the facts alleged: 1-8-3(A) and (C) (Standard of Conduct) and 1-8-5 (Prohibited Influence and Conduct).

## **1. Section 1-8-3: Standard of Conduct**

Ethics Code section 1-8-3(A) prohibits any city official from knowingly using his or her official position or office to obtain financial gain for himself or herself. Neither inquiry alleges that Council Member Sanchez used her official position or office to obtain possession of the painting at issue. Both inquiries allege that HCCI voluntarily loaned the painting to Council Member Sanchez for use in connection with a campaign fundraising event.<sup>1</sup> The inquiries do not provide a sufficient basis to support the conclusion that Council Member Sanchez obtained possession of the painting by use of her official position or office or that Sanchez obtained any financial gain by virtue of the loan.

To the extent it is alleged that Sanchez obtained financial gain by retention of the painting past the original terms of the loan, again, there is no basis to conclude that Sanchez used her official position or office to retain possession of the painting. Instead, both inquiries allege that Sanchez asserted a right to obtain possession independent of her status as a city official. It is not within the Commission's purview to determine the right to possession of non-city property.

Section 1-8-3(C) contains two prohibitions on the conduct of city officials. First, a city official may not knowingly accept any valuable gift from any person or business with an interest in a business dealing with the City, if that city official has any discretionary function related to the business dealing. There is a specific exception to this prohibition which permits a city official who is a candidate for public office to accept contributions and services in connection with such campaign. Again, the inquiries do not appear to question the original loan of the painting to Sanchez. However, to the extent the inquiries assert that the loan constituted a valuable gift, the loan comes within the express campaign exception to the prohibition on valuable gifts to city officials. In addition, even if the above exception did not apply, the inquiries provide no basis for the Commission to conclude that HCCI is interested in any business dealing with the City so as to trigger the prohibition on acceptance of valuable gifts set forth in section 1-8-3(C).

Section 1-8-3(C) also prohibits a city official from knowingly accepting a gift of any kind "where there exists a substantial risk that the gift would undermine official impartiality." Again, to the extent that HCCI's loan of the painting can be considered a "gift," the inquiries provide no basis for the Commission to conclude that the loan would undermine Council Member Sanchez's official impartiality.

Based on the foregoing, the Commission concludes that the facts alleged in the inquiries, even if taken as true, do not support a conclusion that Sanchez violated Ethics Code section 1-8-3.

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1. In fact, neither inquiry appears to object to HCCI's initial loan of the painting to Council Member Sanchez.

## **2. Section 1-8-5(A): Prohibited Influence and Conduct**

Ethics Code section 1-8-5(A) prohibits a city official from soliciting or receiving any valuable gift, or anything of value, based on any understanding that such official's vote, official action, or judgment would be influenced thereby, or where it reasonably could be inferred that the thing of value would influence the city official in the discharge of his or her duties or as a reward for the discharge of his or her duties. Again, both inquiries assert that HCCI loaned the painting to Sanchez for purposes of a campaign fundraising event. Neither inquiry has alleged facts sufficient to support the conclusion that HCCI loaned the painting to Council Member Sanchez with the understanding that the loan would influence Sanchez's vote, official action, or judgment, or otherwise influence Sanchez in the performance of her official duties. Also, again, given the fact that the inquiries are directed at Sanchez's retention of the painting, rather than the original loan of the painting, there is no basis for the Commission to find that Sanchez violated section 1-8-5(A).

### **CONCLUSION**

Based on the foregoing, inquiry 22-01 and inquiry 22-02 are dismissed.