

To: Bainbridge Island City Council
From: City Council member Rasham Nassar

July 16, 2019

Re: In response to Ethics Board Opinion 2019-02, issued May 21, 2019, I submit the following statement:

The Ethics Board conclusion that I violated Article I of the City Ethics Program is without merit. The Board's process that found me in violation of the City's Core Values of transparency and honesty is a misrepresentation of facts and holds no evidence. In addition, it demonstrates a clear lack of due process, as shown in the following statement:

Due Process 2019-02. I was never notified by the Ethics Board that **Complaint 2019-02** was filed against me on January 10, 2019. Nor was I notified at any point during the Board's consideration and deliberations regarding this Complaint that a Complaint had been filed and that "charges" were being considered against me. I was subsequently denied the opportunity to provide any response, either verbal or written, to the initial complaint. Next, the Board proceeded to repeat that process, by initiating yet a new Complaint of their own that included "charges". They not only processed the first Complaint against me without due process, they followed by concluding my "guilt" for their own second Complaint without due process. Most importantly, my lack of allowed due process* resulted in its flawed charges against me, because they were made without all the evidence. *Appearance of Fairness Doctrine. 42.36 RCW.

The Ethics Board states: "*From documents obtained through a public records request, it became apparent to the Ethics Board that Councilmember Nassar was aware of multiple land use questions relating to the property dating back to at least 2018.*"

No Public Records investigation in new potential violation. After finding no violation of Article II of the Ethics Program in the initial Complaint, the Ethics Board proceeded to 'investigate' a new, potential Article I violation of the City's Core Values. The Board's statement of evidence relies on information from a public records request, implying this was their own "investigation." In fact, the Ethics Board did not do an investigation by filing their own public records request. Instead, their evidentiary material was chosen from information gleaned from a private citizen's public records request on a separate matter, which they had come by through hear-say. This made their "evidence" unreliable, because it was incomplete.

Two voluntary public statements. On **January 8, 2019**, at a City Council meeting, I voluntarily made a public response to clarify press statements regarding my personal property. At the time, the city and my family were continuing to determine the full situation. Ongoing site meetings were being planned. On **January 22, 2019**, I personally chose to publicly inform the City Council a second time with detailed and new information about my family's property; all in an effort to correct the misrepresentation in the press and social media.

By relying on incomplete "evidence" it had not developed on its own, the Ethics Board failed to consider in addition to the statement issued at the January 8, 2019 City Council meeting, I again publicly addressed the issue a second time at the January 22, 2019 City Council meeting. The January 22 statement also provides further details and clarification of certain facts pertaining to my private property and is publicly available.

Additional public information via email. Days following that second statement, I posted an even more detailed statement to the public record via email. Additionally, both the January 8 and January 22

statements were neither final nor required statements. Instead, they were voluntarily offered by my desire to publicly clarify any misinformation and misrepresentation on social media or local press of my family's farm and home. We continue to work cooperatively and progressively with the city to complete all code requirements.

Incorrect legal conclusions of Advisory Opinion 2018-06. April 17, 2019, the City Attorney issued a Statement to correct the "incorrect legal conclusions" and "potentially misleading portion of the factual description" contained in the Ethics Board Advisory Opinion 2018-06. The City Attorney provided the following clarification:

"As a factual matter, the City's code enforcement action related to Councilmember Nassar's property is an ongoing matter for which the City is in the process of determining the extent of any violations and is working with the property owners to achieve compliance, consistent with the City's code enforcement process more generally. At this point, a final determination has not been reached related to what will constitute full compliance."

The date of publication of the Ethics Board Advisory Opinion 2019-02, was May 21, 2019, weeks after the City Attorney's Statement to Correct. As the City Attorney states above on April 17, 2019, my family's process with the City to determine any violations was still ongoing; hence the City Attorney's clarification is also applicable to 2019-02. The Ethics Board 2019-02 violation, due to being incomplete, disregards the City Attorney's Statement to Correct.

City Procedure for enforcement of Code of Ethics. Finally, the Ethics Board Opinion contains vague, ambiguous, and misleading language related to my personal property matter. This reflects the Ethics Board's lack of knowledge of the extensive and complex nature of the City's own code/permit process, and the timeline of vital cooperation between my family and the City, most typical of the regular code compliance process. There does not appear to be even a general understanding of the City's code compliance process. Instead, against the City's own procedure for enforcement of the Code of Ethics, the Ethics Board Opinion appears to respond more heavily to the press and social media than to facts, where my family's code compliance matter has been wildly exaggerated and heavily mischaracterized. Enforcement process cautions against this practice.

Core Values meant to guide conduct in Ethics Principles. The Ethics Program does not contain a prescriptive process for the handling of Article 1 Complaints and Advisory Opinions. Without a clear, well-defined process to guide the Board in its issuance of charges against elected officials, there is a fundamental flaw in the Ethics Program. The City's Core Values are meant to *guide* conduct in the Ethics Principles and established standards of ethical conduct in the Code of Ethics. Values are not expected to be laws unto themselves. If the City wants to make them laws, then it must develop implementation for enforcement that includes proof based on evidence. These charges are not supported by evidence.

These charges against me should be dismissed for all the reasons stated above.

Rasham Nassar
Councilmember, Central Ward

Attached is my signed Declaration that all contained in this statement is true to the best of my knowledge.

“Modern Democracies do not legislate that we treat each other with respect. They can only point the way and legislate regarding the minimum “legal” requirements.” James Viscount Bryce

Declaration

“I certify/declare that under penalty of perjury under
the laws of the State of Washington, that the foregoing
Statement is true and correct.”

Signature:  _____

Date: 7/16/19 _____

Place: Bainbridge Island, WA