



Testimony of Benjamin Dulchin, Executive Director of the Association for Neighborhood and Housing Development (ANHD), Before Campaign Finance Board Concerning Proposed Rules Requiring the Disclosure of Independent Expenditures by Individuals and Groups

October 27, 2011

Thank you for the opportunity to offer comments about proposed independent expenditure regulations.

My name is Benjamin Dulchin and I'm the Executive Director of the Association for Neighborhood and Housing Development (ANHD). ANHD is a not-for-profit membership organization of over 100 neighborhood-based housing groups across the five boroughs. Our members represent the full range of not-for-profit housing organizations – Community Development Corporations (CDCs), affordable homeownership groups, supportive housing providers and community organizers. ANHD works with our members to advocate for comprehensive, progressive housing polices and programs to support affordable, flourishing neighborhoods for all New Yorkers, especially our lower income residents.

Advocacy is one of our most effective tools to achieve our organization's goals. It's critical for nonprofits like ours to take part in the democratic process - alongside business and other private interests. This is not only our First Amendment right - it is our responsibility to the individuals and communities we serve and represent.

Through our advocacy work we help ensure the public interest is represented in critical debates that determine public policy and help shape the kind of City we live in. Our advocacy leads to more livable, affordable communities, especially for the poorest New Yorkers. We are in the best position to provide guidance to City leaders because we have close relationships with our members and other direct service agencies. We are able to translate this "on the ground" knowledge into cost effective programmatic and policy recommendations.

We strongly believe these new rules will decimate non-profit, grassroots and member-to-member legislative advocacy programs that have kept tenants in place, prevented homeowners from losing their homes, led to the construction and preservation of thousands of units of affordable housing, and helped seed important community development initiatives.

The rules you've presented go well beyond the mandate of the Charter amendment and run counter to your mission of increasing citizen participation in the political process. Instead of simply regulating speech intended to sway the public and directly affect an election, you are regulating speech intended to educate the public on the decisions and policies of elected officials and communication by organizations with their own members.

The rule can't be defended as simply requiring "more disclosure" – it would also limit or prohibit ANHD, our local membership and the public from engaging in public education and advocacy, and affect our everyday engagement with public officials, by treating it as a so-called "in-kind contribution" to a "candidate."

Advocacy allows organizations to serve their constituencies and promote their causes through educating the public and policymakers, conducting research, litigating, organizing, lobbying, and more. City Council members depend on nonprofits (often experts in their fields) to surface the impacts of proposed legislation, policies and budgeting on New York City communities.

For example, ANHD works with our members to publish materials that document the impact of their neighborhood stabilizations efforts on individual residents and the affordable housing stock in communities across the city. These reports are shared with Council Members to ensure they are aware of the issues and threats to affordable housing in their districts and support the public programs during budget negotiations to ensure this important work can continue. While this is not a substantial part of our organization's work, we believe that we would surpass the very low \$1,000 threshold.

Moving forward with these regulations threatens our ability to communicate with the public about legislative issues and participating effectively in policy debates. That is surely not the result City residents intended when they voted for the Charter amendment.

We are not political campaigns and shouldn't be required to file campaign disclosures – as these rules would require if we spend as little as \$1,000 communicating with the public about an elected official's stand on legislative issues.

There can be little question that given the high costs -- both in the complexity of CFB filing and the need to retain legal counsel – and the risks of erroneous reporting, that many groups would respond to the CFB's proposed rules by limiting their own speech – an outcome at odds with the CFB's broad goal of increasing participation in the democratic process.

Strict rules and meaningful punishments are entirely appropriate for the independent PACs and expressly political groups whose spending the Charter amendment was meant to shine a light on. But the same regulation becomes onerous when applied to groups whose clear intention is public education, advocacy, or member service and representation.

Reporting is not a simple process small nonprofit staff can add to current responsibilities. We're looking at as many as 12 scheduled reports, plus up to 14 more just before the primary or general election. Failure to report, or reporting incorrectly, could lead to lengthy investigations, \$10,000 fines and even criminal prosecution, which in practice would mean nearly all groups subject to the new rules that are willing to take these risks would need to pay for legal counsel to ensure proper filing. We can't afford to damage our reputation by subjecting ourselves to a potential CFB investigation.

Another concern is the requirement that organizations spending more than \$5,000 would have to report and make public almost all of their sources of funding, including foundation grants, previously anonymous charitable giving, investment earnings and even membership dues as campaign "contributions." This would make fundraising in an already very difficult environment even harder.

And we already disclose money we spend to influence policy decisions through lobbying disclosure reports (though such reports are far less complex and difficult to file than the proposed filing system). This is the proper place for nonprofits to disclose lobbying expenditures – not through the campaign finance board.

One especially troubling requirement that we would have to contend with in complying with these regulations is the requirement to declare our advocacy spending as "supporting" or "opposing" particular candidates. Again, we are not political campaigns or committees – we do not make such endorsements.

In fact, 501c(3) organizations are barred from making endorsements by the IRS, which would mean we would be in the difficult position of either having to violate City law, violate Federal law or stop informing the public about important issues if the issue happens to be discussed by the City Council within three months of an election.

In summary, nonprofit organizations like ANHD have a unique and essential role to play in the policy process. The CFB should not interfere with our right to participate in legislative and issue advocacy. The consequences of these actions run counter to the CFB's broad goal of increasing participation in the democratic process.

Thank you again for the opportunity to submit testimony.

A handwritten signature in blue ink, appearing to read "Dulchin".

Benjamin Dulchin
Executive Director