



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of
LOIS TARKANIAN,
Member, Las Vegas City Council,
State of Nevada,

Request for Opinion No.: 09-18C

Subject. /

INVESTIGATOR'S REPORT (Tab A):

Introduction:

Request for Opinion No. 09-18C (Ethics Complaint). (Tab B):

On March 18, 2009, complainant Jon Jackson (Jackson) filed an Ethics Complaint against public officer Lois Tarkanian (Tarkanian), a member of the City of Las Vegas Council (City Council), alleging that she violated NRS 281A.420(4), when she failed to fully disclose her commitment in a private capacity to her daughter Jodie Diamant (Jodie), (Complaint, pages 1 and 3), on March 19, 2008 and June 4, 2008, and violated NRS 281A.420(2) when she failed to abstain from voting during the March 19, 2008 City Council Meeting. (Exhibit 6, page 11, line 6).

Jurisdiction:

As the member of the City of Las Vegas Council, no dispute exists that Tarkanian is a public officer as defined in NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to investigate and take appropriate action in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2
3 The issues are whether Tarkanian violated:

- 4
- 5 1. NRS 281A.420(4), when she failed to disclose sufficient information regarding her
 - 6 relationship to her daughter during the City Council meeting on the March 19, 2009.
 - 7 2. NRS 281A.420(4), when she failed to disclose sufficient information regarding her
 - 8 relationship to her daughter during the City Council meeting on the June 4, 2009.
 - 9 3. NRS 281A.420(2), when she failed to abstain from voting on a wall variance application
 - 10 during the City Council meeting on March 19, 2009.

11
12 **Response to Ethics Complaint. (Tab C):**

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14 A response to the Ethics Complaint was received from Tarkanian and her legal counsel Jim
15 Lewis, Esq., on April 24, 2009. Tarkanian stated that she did not violate any provisions of NRS
16 281A, because she made disclosures when appropriate and always asked for advice from the City
17 attorneys. Tarkanian added that Jackson is attempting to punish her for her motion to deny his
18 request to build an eight foot tall wall when the city code restricts the wall to five feet.

19
20 **Investigation Summary:**

21
22 I interviewed the following individuals and reviewed their responses:

23
24 **Witnesses interviews and responses (Tab D):**

- 25
- 26 • Dana Wiesner, resident of Rancho Circle, via e-mail, on June 9, 2009. (Exhibit 1).
 - 27 • Jim Lewis, Esq., via e-mail, on June 9, 2009. (Exhibit 2).
 - 28 • Elizabeth Bongiovi, resident of Rancho Circle, via e-mail, on June 5, 2009.
(Exhibit 3).

- 1 • City of Las Vegas Council Members Oscar Goodman, Gary Reese, Ricky Barlow,
2 Steve Ross, Steve Wolfson, and David Steinman, via e-mail, on June 3, 2009.
3 (Exhibit 4).
- 4 • Jodie Diamant, Lois Tarkanian's daughter, via e-mail, on June 1, 2009. (Exhibit
5 5).
- 6 • Lois Tarkanian, in person, on May 28, 2009. (Exhibit 6, pages 1 to 79).
- 7 • Vicky Darling, chief deputy city clerk, in person, on May 28, 2009. (Exhibit 6,
8 pages 79 to 88).
- 9 • Jon Jackson, complainant, in person, on April 16, 2009. (Exhibit 7).

10
11 **Documents. (Tab E):**

12
13 I obtained and reviewed the following documents and materials relevant to the investigation:

- 14
15 • E-mail from Vicky Darling, dated June 8, 2009. (Exhibit 8).
- 16 • List of Lois Tarkanian's City Council appeals, list of residents of Rancho Circle
17 who contacted Lois Tarkanian regarding the variance on 1500 Rancho Circle, and
18 pictures of 1500 Rancho Circle after the denial of the variance. (Received from
19 Lois Tarkanian on May 28, 2009). (Exhibit 9).
- 20 • E-mail from Jon Jackson, dated May 28, 2009. (Exhibit 10).
- 21 • Letter from the City of Las Vegas Neighborhood Services Department to Jon
22 Jackson, dated June 11, 2008. (Exhibit 11).
- 23 • Agenda Summary Page and Agenda Memo from the City Council meeting on
24 June 4, 2008. (Exhibit 12).
- 25 • Verbatim transcripts from the City Council meeting on June 4, 2009. (Exhibit 13).
- 26 • Agenda Summary Page from May 21, 2008 City Council meeting. (Exhibit 14).
- 27 • Letter from the City of Las Vegas Department of Neighborhood Services to Jon
28 Jackson, dated May 21, 2008. (Exhibit 15).

- 1 • City from the City of Las Vegas Neighborhood Services, Notice of Hearing sent
2 to Jon Jackson, dated May 8, 2008. (Exhibit 16).
- 3 • Letter from Jon Jackson to the City of Las Vegas City Clerk, dated April 23,
4 2008. (Exhibit 17).
- 5 • Notice and Order issued by the City of Las Vegas Neighborhood Services
6 Department to Allen Teles Revocable Trust, dated April 9, 2008. (Exhibit 18).
- 7 • Agenda Summary Page from the City Council meeting on March 19, 2008.
8 (Exhibit 19).
- 9 • Verbatim transcripts from the City Council meeting on March 19, 2009. (Exhibit
10 20).
- 11 • E-mail from Assistant City Attorney Brian K. Scott, Esq., to Lois Tarkanian dated
12 March 18, 2008. (Exhibit 21).
- 13 • Letter from Cheryl Keeter to Mayor Oscar Goodman, dated March 3, 2008.
14 (Exhibit 22).
- 15 • Inter-office memo (Tarkanian's request to bring the variance 26243 for a review
16 by the City Council), dated February 20, 2008. (Complaint, page 14).
- 17 • Agenda Summary Page and Agenda Memo from the City of Las Vegas Planning
18 and Development Department meeting on February 14, 2008. (Exhibit 23).
- 19 • Application for Variance for block wall submitted by Joseph Miller, dated
20 December 28, 2007. (Complaint, page 7).
- 21 • Letter from Jon Jackson to City of Las Vegas Planning and Development
22 Department, dated December 7, 2007. (Complaint, page 36).
- 23 • Map of Rancho Circle (Resident's names added by the investigator for
24 clarification purposes). (Exhibit 24).

25
26 **Relevant Statutes and Commission's Opinions (Tab F):**

- 27
- 28 • NRS 281A.420(2), (4) and (8).
- NRS 278.020.

- City of Las Vegas Municipal Code §19.12.075 and §19.18.070.
- Nevada Commission on Ethics Opinions, In re Woodbury, No. 99-56A, and In re Kubichek, No.97-07A.

Investigative findings:

The following are my investigative findings:

Background:

Tarkanian was sworn into office as the City Council member representing Ward 1 on February 2, 2005. She was reelected in 2007 and her current term expires in 2011. (Exhibit 6, page 2, lines 32-33).

Jackson is a trustee of Allen Teles Revocable Trust, which he owns along with his partner, Joseph Miller (Miller). In February 2007, Jackson and Miller purchased the property on 1500 Rancho Circle in Las Vegas, NV with the intent to demolish the current house and build a new one. According to Jackson, he and Miller decided to build a wall around the property primarily due to its location near the entrance to the community. (Complaint, page 36).

On December 7, 2007 Jackson sent a letter to the City of Las Vegas Planning and Development Department requesting a wall height variance on a wall on the property on 1500 Rancho Circle in Las Vegas. (Complaint, page 36). The City Las Vegas Municipal Code §19.12.075 allows a maximum wall height of five feet; therefore, an approval of higher wall was required. (Tab F). Subsequently, Miller filed an Application for Variance on wall height on December 28, 2007. The application for variance was received by the City Planning and Development Department and assigned number VAR 26243. (Complaint, page 7).

1 Finally, I questioned all members of the City Council on June 3, 2008 and learned that they did
2 not discuss the issues regarding 1500 Rancho Circle with Tarkanian prior to March 19, 2008 or
3 the June 4, 2008 meetings.

4
5 **Investigation:**

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7 The City Planning and Development Department staff recommended denial of the application
8 (Complaint, pages 103 to 108). However, the City Planning Commission approved the
9 application at the February 14, 2008 hearing. (Exhibit 23). Following the approval, Tarkanian
10 requested that the approval be brought before the City Council for review. (Complaint, page 14),
11 (Exhibit 2 and 8). Tarkanian stated that her request was based on complaints she received from
12 the Rancho Circle residents. (Exhibit 6 page 4, line 82), (Exhibit 1 and 2). In addition, Tarkanian
13 stated that her request was not unusual as she requested reviews on several different occasions.
14 (Exhibit 9).

15
16 On March 19, 2009, during item #92 (wall variance), the City Council reviewed Jackson and
17 Miller's application for the wall variance. The presentation was made by Miller. During the
18 opening statement on this matter, Mayor Oscar Goodman (Goodman) disclosed that his son owns
19 a property in Rancho Circle. (Exhibit 20, page 4, lines 92 to 97). Subsequent to that, Tarkanian
20 disclosed that her daughter Jodie owns property on Rancho Circle. (Exhibit 20, page 5, lines 121-
21 130). After hearing both disclosures, applicant Miller did not have any objections (Exhibit 20,
22 page 4, lines 112 to 114) to Goodman and Tarkanian's participation in this matter. After
23 extensive discussion on this matter that included several comments from Rancho Circle
24 residents, the City Council unanimously denied Jackson and Miller's application. (Exhibit 19).

25
26 Allegedly, few hours after the denial of the wall variance, the owners placed a large trailer in the
27 front of the property and the property became gradually unkempt, viewed by some residents as a
28 retribution for denial of their application. (Tab C, page 70, line 2040), (Exhibit 9). On April 9,
2008, the City Neighborhood Services Department issued a Notice and Order regarding

1 vacant/dangerous building, notifying Jackson and Miller of a nuisance. (Exhibit 18). Jackson
2 answered the Notice on April 23, 2008, informing the City Clerk that he was filing a Notice of
3 Appeal. (Exhibit 17). On May 8, 2008, the City notified Jackson that a hearing on the nuisance
4 issue was scheduled for May 21, 2008. (Exhibit 16). However, the meeting was rescheduled for
5 June 4, 2008. (Exhibit 14 and 15).

6
7 On June 4, 2008, Jackson appeared in the front of the City Council during the item #28
8 (nuisance). (Exhibit 12 and 13). During opening statements, Goodman disclosed that his son
9 owns a property in Rancho Circle (Exhibit 13, page 2, line 31 to 35).

10
11 Following Goodman's disclosure, Tarkanian disclosed that her daughter Jodie owns property on
12 Rancho Circle, and is "now on the board." (Exhibit 13, page 2, line 37 to 44). Tarkanian added
13 that she did not think her objectivity would be affected since there are no financial implications
14 and the board according to her information meets perhaps once a year. When questioned by the
15 Chief Deputy City Attorney Val Steed "what do you mean a board?" (Exhibit 13, page 2, line
16 47), Tarkanian clarified that she was referring to a Homeowner's Association Board.

17
18 Jackson began by objection to Tarkanian and Goodman's participation in the matter. (Exhibit 13,
19 page 4, lines 85 to 92). After Jackson's explanation of his objection, Goodman stated that he will
20 abstain. (Exhibit 13, page 4, line 101). Tarkanian stated that she will abstain from the item.
21 (Exhibit 13, page 8, line 200 to 203). The June 4, 2008 City Council meeting adjourned after the
22 motion that allowed Jackson until June 18, 2008, to submit a plan of bringing the property in
23 compliance with the City Code. A letter from the Neighborhood Services Department informing
24 Jackson of the resolution based on June 4, 2008 meeting was sent to him on June 11, 2008.
25 (Exhibit 11).

1 **Allegation one: Tarkanian failed to disclose her conflict of interest when she took action by**
2 **appealing decision of the Las Vegas Planning Commission to the City Council.**

3
4 Jackson alleges that Tarkanian failed to disclose her conflict of interest when she took action by
5 appealing decision of the Las Vegas Planning and Development Department. (Complaint, page
6 1). NRS 281A.420.4 states that “[A] disclosure must be made at the time the matter is
7 considered. If the officer or employee is a member of a body which makes decisions, he shall
8 make the disclosure in public to the Chairman and other members of the body.” (Tab F).

9
10 Tarkanian explained that she is a member of the “body which makes decision” and her obligation
11 to disclose certain relationships “in public to the Chairman and other members of the body” only
12 applies on actions taken upon a matter at a public hearing of the “body which makes the
13 decision,” in this case the City Council. However, the wall variance was not a type of action
14 considered by the City Council, and the law does not require her to make any disclosure
15 accompany that action. (Tab C, pages 6 to 7).

16
17 **Allegation two: At the March 19, 2008, City Council meeting, before the vote on the wall**
18 **variance, Tarkanian failed to disclose that she was the person who filed the appeal from the**
19 **Planning Commission.**

20
21 Upon Tarkanian’s request, wall variance 26243 was reviewed by the City Council at the March
22 19, 2008 City Council meeting. (Complaint, page 14). (Exhibit 2 and 8). Jackson alleges that at
23 that meeting, Tarkanian should disclose that she requested the appeal. As noted in her response
24 on allegation one, Tarkanian did not disclose her involvement in the review of the application.
25 She believes that she had no legal duty to make any disclosure at the time she made the request
26 to the City Clerk for a full City Council review because this was not a matter of a public hearing.
27 Therefore, she had no obligation to make a disclosure of such request when the City Council
28 heard the item. (Tab C, page 7).

1 **Allegation three: At the March 19, 2008 City Council meeting, before the vote on wall**
2 **variance, Tarkanian failed to fully disclose her conflict of interest that her daughter Jodie**
3 **is a member of the Rancho Circle Homeowner's Association Board of Directors.**

4
5 Before the vote on wall variance at the March 19, 2008 City Council hearing, Tarkanian
6 consulted with the Assistant City Attorney Brian Scott (Exhibit 21), and made a disclosure
7 regarding her daughter Jodie. (Exhibit 20, page 5, line 122). Tarkanian was not advised to
8 abstain from the vote. In addition, Tarkanian stated that at that time of the hearing on the wall
9 height variance, she had no knowledge that her daughter Jodie was on the Rancho Circle Board
10 of Directors. (Tab C, page 7), (Exhibit 6, page 42, line 1209). Furthermore, Tarkanian stated that
11 she did not believe there was a need for abstention on the issue because she was not advised by
12 the City attorney, and the applicant Miller did not have objection in her voting on the issue.
13 (Exhibit 20, page 4, line 112).

14
15 **Allegation four: At the March 19, 2008 City Council meeting, before the vote on wall**
16 **variance, Tarkanian failed to fully disclose that her daughter Jodie's property was in a**
17 **violation of the City Code.**

18
19 Tarkanian stated that the law does not require her to independently investigate alleged violations
20 of the City Code and Jackson did not provide any evidence to support his allegations regarding
21 such alleged violations. In addition, Tarkanian stated that the NRS 281A does not require her to
22 know legal status of her daughter's property.

23
24 **Allegation five: At the March 19, 2008, City Council meeting, before the vote on wall**
25 **variance, Tarkanian failed to fully disclose that her daughter Jodie's property is a two-**
26 **story house, an alleged violation of her deed.**

1 In her response, Tarkanian grouped her answers to allegations four and five together because
2 they are similar in nature. Therefore, the response is the same as allegation four: Tarkanian
3 believes that she has no obligation to know the legal status of her daughter's property.
4

5 **Allegation six: At the March 19, 2008 City Council meeting, before the vote on wall**
6 **variance, Tarkanian failed to fully disclose that her daughter Jodie was involved in the**
7 **petition submitted by Rancho Circle residents to the City Council.**
8

9 Tarkanian stated that there is no evidence that her daughter Jodie was involved in said petition.
10 (Tab C, page 9). In addition, during my interview with Jodie, she stated that she did not initiate
11 the petition and she was not involved in it. Her only "involvement" was that one of the residents,
12 Vicki Wille, dropped off the petition at her house and asked her to take it to one of the neighbors.
13 (Exhibit 5, #3), (Exhibit 1, #2).
14

15 **Allegation seven: Tarkanian believes that Miller "gave" her a waiver during the March 19,**
16 **2008 City Council hearing, when he allowed her to vote.**
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18 Allegation seven is a mere statement and does not allege a violation of the Ethics in Government
19 Law.
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21 **Allegation eight: On June 4, 2008, City Council meeting, before the vote on item #92,**
22 **Tarkanian failed to fully disclose that her daughter Jodie is "now on the Board" of Rancho**
23 **Circle Homeowner's Association:**
24

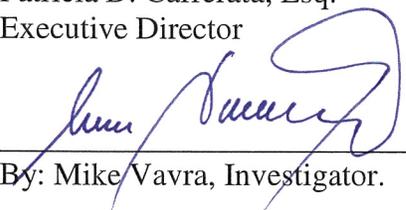
25 The evidence shows that Tarkanian disclosed her relationship with her daughter Jodie and
26 abstained from voting. (Exhibit 13, page 2, lines 37 to 44 and page 8, lines 200-203).
27
28

Conclusion:

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3 During the investigation, no evidence was discovered that Tarkanian's daughter Jodie received
4 any greater or lesser benefit than any other resident of the Rancho Circle neighborhood by
5 Tarkanian's participation or vote on the wall variance. Her property is not adjacent to Jackson
6 and Miller's. Therefore, Jodie would not benefit any more or less than any other resident.
7 (Exhibit 24). Jodie's position on the Rancho Circle Homeowner's Association Board of Directors
8 does not appear to be significant in this case, since the Board as whole did not proceed with any
9 actions against Jackson and Miller. The opposition was voiced by the Rancho Circle residents,
10 (Exhibit1), (Exhibit 22), (Complaint page 79 to 89, 109 to 112 and 134 to 135), not by the Board.
11

12 Dated this 16 day of June 2009.
13

14 NEVADA COMMISSION ON ETHICS
15 Patricia D. Cafferata, Esq.
16 Executive Director

17 
18 By: Mike Vavra, Investigator.
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