



MUNICIPALITY OF ANCHORAGE
Board of Ethics

October 5, 2022

Subject: *Ethics Complaint for Potential Violation 2022-02*

Allegations: Violation of AMC 1.15.040 – Use of Municipal Resources; AMC 1.15.110C – Use of Municipal Resources for Political or Partisan Activity.

On April 22, 2022, the Board of Ethics (the “Board”) received *Ethics Complaint for Potential Violation 2022-02* (the “Complaint”). The complainant alleged that during a meeting of the Anchorage Assembly, Assembly Member Allard falsely informed officers of the Anchorage Police Department that the complainant “jumped the line” for public comments, knowing that providing such misinformation would result in the complainant’s arrest, and with the intent to silence the complainant’s testimony on a matter pending before the Assembly during the meeting. The Complaint further alleged that Assembly Member Allard was assisted in her endeavors by a second Assembly Member.¹ Further details of the alleged assistance by the second Assembly Member were not provided in the Complaint.

The Board reviewed the Complaint at its June 15, 2022, meeting and determined that: (1) the allegations against Ms. Allard, if true, could constitute a violation of the Municipality of Anchorage Code of Ethics (the “Ethics Code”); (2) the allegations against the second Assembly Member lacked sufficient supporting information to constitute a violation of the Ethics Code; (3) the Board would accept the Complaint against Ms. Allard for further investigation; (4) the Board would decline to continue review of the Complaint against the second Assembly Member pursuant to AMC 1.15.160A.2.f and 1.15.160A.2.g²; and (5) the Board required additional information from the complainant and other witnesses to investigate the Complaint.

The Board heard testimony from the complainant, Assembly Member Allard, and the arresting police officer. The Board also reviewed the video footage of the Anchorage Assembly meeting and the police report documenting the arrest of the complainant. Having completed its investigation, the Board issued a report³ concluding that the supported facts did not constitute a violation of the Ethics Code.

¹ Because the Complaint against the second Assembly Member was not accepted, the identity of this Assembly Member remains confidential pursuant to AMC 1.15.160E and is anonymized here.

² Pursuant to AMC 1.15.160A.2.f the Board may decline or cease its review of a complaint when it reasonably believes that the complainant lacks sufficient supporting information. Pursuant to AMC 1.15.160A.2.g the Board may decline or cease its review of a complaint when the allegations, if true, fail to constitute a violation of the code of ethics.

³ This is a summarized version of the report that was changed to protect the confidentiality of the complainant and witnesses pursuant to AMC 1.15.160(E). Assembly Member Allard waived confidentiality.

Explanation of Finding:

Applicable Legal Standard

AMC 1.15.040 prohibits Assembly Members from using municipal resources for outside business interests or personal endeavors, including political activities.⁴ AMC 1.15.110C further specifically prohibits Assembly Members from using or authorizing the use of municipal resources for political or partisan activity, with certain limited exceptions. “Municipal resources” are defined to expressly include “funds, facilities, tools, equipment, vehicles, property, consumable resources, and employees and employee time.”⁵ The Board has also interpreted this language to prohibit the use of a public servant’s title or position of authority in pursuit of personal or political ends.

As noted above, the Board understood the complaint to allege that Assembly Member Allard used her official position as an Assembly Member to intentionally and falsely compel action by the Anchorage Police Department with the intent to limit the complainant’s testimony on a matter before the Anchorage Assembly, because of the potential content of the testimony. If true, the Board would consider such action by a Member of the Assembly to be the prohibited use of municipal resources for the partisan purpose of limiting the contents of public testimony at a public hearing before the Assembly. That said, for the Board to reach such a conclusion, it must conclude that each element of the allegation is supportable, including (1) direct communication between the assembly member and the Anchorage Police Department; (2) the falsity of any information conveyed by the assembly member to the Police Department; and (3) the intent of the assembly member to limit the content of testimony at the Assembly Meeting. The mere fact of the complainant’s arrest, even if resulting from documented misinformation about the complainant’s place in line at the podium, does not itself arise to a violation of the Ethics Code absent both action and intent by the assembly member.

Summary of the Board’s Investigation and Findings of Fact

As noted above, the Board’s investigation of the Complaint included both witness interviews and the review of documentary evidence. The Board interviewed the complainant, Assembly Member Allard, and the arresting police officer on July 20, 2022. Members of the Board reviewed the Police Report and the Meeting Video asynchronously outside of Board meeting time. The Board found all the testimony it heard, and the evidence it reviewed, to be credible.

Based upon this investigation, the Board concluded that there is no documentary evidence or testimony supporting the presence of specific action by Assembly Member Allard which precipitated or was otherwise tied to the complainant’s arrest.

The evidence the Board relied upon in reaching this conclusion included the following:

⁴ AMC 1.15.040B.

⁵ AMC 1.15.040A.

- The moment of unrest that led to the complainant's arrest is not documented by the Meeting Video because the arrest occurred during a break in the agenda.⁶ The Meeting Video depicts verbal allegations from the audience about the complainant's place in the line, and increased disregard by the audience of rules of decorum for Assembly meetings, leading to the imposition of a break by Assembly Chair LaFrance.
- The complainant testified to the Board that prior to the break, accusations began to circulate that the complainant was not rightly at the front of the line. The complainant further testified that during the break in the meeting, they approached the dais to tell Assembly Member Allard that they would be willing to move further back in line. The complainant said Assembly Chair LaFrance then came down from the dais to speak with the complainant, that representatives of the Anchorage Police Department eventually accompanied her, and that this conversation ultimately concluded in the complainant's arrest.
- The Police Report contains the following description of the chain of events:

Public testimony began and there was a [the report describes the complainant] standing near the podium. There was word rumor prior to the beginning of the session that this person cut in front of the line. Public testimony began and there was confrontation about the person cutting in line. [The complainant] was asked to leave by security and failed to do so. We were requested by APD Chief McCoy to intervene.

- When interviewed by the Board, the arresting officer testified that he and another officer were in the hallway behind the Assembly dais when the disturbance began, at which time they were alerted by a member of Assembly Staff that an argument was occurring within Assembly chambers which may require police intervention. Upon entering the chambers, the arresting officer observed Chief McCoy stand up and wave him and another officer over to the podium where the disturbance was occurring.
- The complainant testified to the Board that they did not observe Assembly Member Allard speaking either to Chief McCoy or to the arresting officer during the Assembly meeting prior to their arrest, nor did they otherwise have knowledge of any specific interaction in which Ms. Allard would have requested police intervention. The complainant testified that while they believed that Assembly Member Allard had played a role in causing the arrest, they did not have any specific evidence to support their concern.
- The arresting officer testified that the steps he took which led to the complainant's arrest were precipitated by observing the argument occurring at the podium and orders from Chief McCoy, conveyed via gesture from across Assembly chambers.
- The arresting officer further testified that he was not approached or in any way directed to intervene by Assembly Member Allard, and that he had no direct contact with Assembly Member Allard prior to your arrest. He specifically testified that, to his knowledge, Assembly Member Allard had no role in the "word rumor" regarding the complainant's place in line which precipitated the complainant's arrest.

⁶ In response to growing unrest from the Assembly audience, Assembly Chair Suzanne LaFrance called a brief recess during the meeting. During this period, video of the meeting was discontinued.

- Assembly Member Allard testified that she did not speak with Chief McCoy or the arresting officer prior to the complainant's arrest, and that the only concern she recalled relaying to the police at any point during the series of Assembly meetings in late September 2021 was a generalized concern about members of the audience approaching members of the Assembly on the dais.
- The Police Report does not indicate any involvement by Assembly Member Allard in the complainant's arrest.
- The Meeting Video does not depict any interaction between Assembly Member Allard and any member of the Anchorage Police Department.

As noted above, for the Board to reach the conclusion that Assembly Member Allard violated the Code of Ethics in this instance, the Board must conclude that each element of the allegation is supportable, including (1) direct communication between Ms. Allard and the Anchorage Police Department; (2) the falsity of any information conveyed by Ms. Allard to the Police Department; and (3) the intent of Ms. Allard to limit the content of testimony at the Assembly Meeting. The Board here concludes that there is no evidence of any communication between Ms. Allard and the Anchorage Police Department. As such, the Board ceases its analysis, and concludes that the facts do not substantiate the allegation.

Conclusion

Based upon the oral testimony and written and video documentation reviewed by the Board, the substantiated facts do not constitute a violation of the Code of Ethics.

The Board acknowledges, and regrets, the emotional and, at times, uncivil tenor of the meetings of the Anchorage Assembly in September of 2021. That said, the Board cannot conclude from the evidence and testimony before it that Assembly Member Allard in fact intentionally used her position on the Anchorage Assembly to compel the Anchorage Police to arrest the complainant for disorderly conduct.

Based upon its investigation, the Board concludes that the supported facts do not constitute a violation of the Ethics Code and issued its report in accordance with AMC 1.15.160B. Confidentiality has been waived by the respondent pursuant to AMC 1.15.160E.

Approved by the Municipality of Anchorage Board of Ethics

Becky Windt Pearson, Chair
Aesha Pallesen, Vice Chair
Abram Goodstein
Terrence Kelly