

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

IN THE MATTER OF:

Case No. 2012 IECDB 19

Mark A. Behrens, a candidate  
for county supervisor

ORDER

On this 16<sup>th</sup> day of November, 2012, a complaint filed against Mark A. Behrens came before the Iowa Ethics and Campaign Disclosure Board. The Ethics Board elects to handle this matter by administrative resolution. See Iowa Admin. Code r. 9.4(2). For the reasons that follow, the Ethics Board hereby dismisses the complaint.

BACKGROUND

Mr. Behrens was a candidate for Lyon County Supervisor. On November 5, 2012, Mike Estep filed a complaint with the Ethics Board alleging Mr. Behrens had campaign signs on government property in violation of Iowa Code section 68A.406. The complainant included several street addresses and pictures of signs.

Mr. Behrens contacted the Ethics Board's Director after hearing that Mr. Estep was photographing his campaign signs. He acknowledged that some of his signs may be in the right-of-ways. The Ethics Board's Director advised Mr. Behrens to review the placements of his signs and move back any signs arguably within the right-of-way. Mr. Behrens said he would do so right away.

ANALYSIS

The Ethics Board must first determine whether the complaint is legally sufficient. A legally sufficient complaint must allege all of the following:

- a. Facts that would establish a violation of a provision of chapter 68A, chapter 68B, section 8.7, or rules adopted by the Ethics Board.
- b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.
- c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

Iowa Code § 68B.32B(4). If the Ethics Board determines the complaint is legally sufficient, it shall order an investigation. *Id.* § 68B.32B(6). If the Ethics Board determines none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. *Id.*

The complaint alleges conduct that occurred this year. Mr. Behrens is subject to the Ethics Board's jurisdiction as a candidate. *Id.* § 68B.32(1). The only remaining question is whether the complaint alleges facts that would establish a violation of chapter 68A.

Iowa Code section 68A.406 prohibits the placement of campaign signs on "[a]ny property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way." The complaint alleges the Mr. Behrens had campaign signs on government property. Therefore, because the complaint alleges facts that would establish a violation of section 68A.406, the Ethics Board finds the complaint is legally sufficient.

The Ethics Board finds it is unnecessary to order an investigation since the candidate has already reviewed the sign placements and moved signs that may have been in the right-of-way. The Ethics Board receives numerous calls concerning campaign signs and the staff's protocol is the following: (1) contact the candidate or candidate's committee, (2) ask the candidate or committee to review the sign in question and move it if it violates any provision of 68A.406, and (3) report to the Ethics Board's staff the action taken. The Ethics Board is satisfied with the actions taken by Mr. Behrens in response to the complaint. The complaint is hereby dismissed.

By direction of the Ethics Board



---

James Albert, Chair  
John Walsh, Vice Chair  
Saima Zafar  
Carole Tillotson  
Jonathan Roos  
Mary Rueter

CERTIFICATE OF SERVICE

The undersigned hereby certifies this order was sent by first class mail, address service requested, on November 28, 2012, to:

Mr. Mark Behrens  
406 E. Dakota Avenue  
George, IA 51237

Mr. Mike Estep  
4107 220<sup>th</sup> St.  
George, IA 51237

By: Megan Tooker  
Megan Tooker, Executive Director for the Board