

PAC Spends Thousands to Oppose Local Candidate

Both Newkirk and Frost Denounce Tactics

BY LILLIAN BOYD, DANA POINT TIMES

The mailbox is seemingly the battleground for this year's election.

But whether you opt to vote with an absentee ballot, or in-person, your mailbox is likely inundated with political mailers—and the constituents of Dana Point's District 4 are no exception.

On Oct. 7, Dana Point's city clerk received expenditure reports to show that a political action committee dubbed the California Homeowners Association had spent nearly \$10,000 on mailers to oppose city council candidate Gary Newkirk.

Soon thereafter, mailers arrived at residences within District 4 of the city, depicting Newkirk as pro-development and in favor of big-box retail. The initial set of mailers accused him of putting a senior citizen at risk during the COVID-19 pandemic, using a stock image of a hospitalized elderly patient on a respirator.

"If Newkirk gets his way, we won't ever see another Craft House or Coastal Kitchen," one mailer states, misspelling Newkirk's name. "His vision is to bring more chain restaurants and big box stores to Dana Point."

Newkirk says when he saw the expenditure report, he joked with his wife that he might learn something about himself.

"The first mailer was laughable. Everyone that knows me laughed about it," Newkirk said. "But my gut feeling is this doesn't happen randomly. . . It's just hard to imagine that there's not some consultation and collaboration."

The second round of mailers implies that Newkirk's vision for the future is to fashion Dana Point like Santa Monica and to bring in "mega development."

"It's very frustrating," Newkirk said. "I've been around a long time. I have a thick skin, but it's not easy to have your name dragged through the mud and your picture dropped in everyone's mailbox that you've lived near for 27 years. A line was crossed."

Newkirk's sole opponent in the election, Mike Frost, has stated that neither he nor his campaign has any connection to the group that created the mailers.

"The tone of that mailer is not what I represent," Frost said. "Obviously, I cannot control who puts independent expenditure communications together. How my opponent gathered his signatures is his business."

In an official statement, Frost states that the mailers were done so poorly and with

such inaccuracies that he's not yet certain if they were intended to tarnish his own campaign.

Newkirk, a former planning commissioner, has campaigned on a platform of being "pro-resident," with the words displayed on his political signs around town. As far as development, Newkirk has previously told the *Dana Point Times* that he upholds the city's zoning and city codes—and that he believes it's important for the city to follow suit except in certain, specific circumstances that may call for a variance.

The first major development proposal for Dana Point's Town Center sought variances for building height and reduced parking, which Newkirk voted against as planning commissioner.

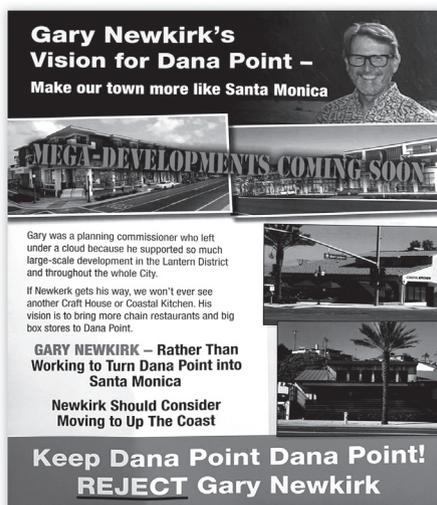
Carol Kelly, a volunteer for Newkirk's campaign, tells *Dana Point Times* she was the senior citizen referenced in the mailer accusing Newkirk of putting her at risk. The mailer claims Newkirk sent a "Senior Citizen to collect his signatures in the middle of the COVID Pandemic.....(sic)" to qualify for the ballot.

"We had a short window of time to collect signatures since we were waiting to know if (Councilmember) Paul Wyatt would choose to run for reelection," Kelly said. "I told Gary I'd help get signatures. I called up people in my neighborhood ahead of time. I came to them with a mask on, they wore masks, too, and everyone used their own pen to sign."

To run for city council in Dana Point, candidates must obtain signatures from at least 20 voters, but not more than 30, registered to vote in the respective council district. This year, the deadline was Aug. 12. Early in his campaign, volunteers were reportedly instructed to always maintain distance and to remain on the sidewalk if a resident was at their door.

"I helped gather signatures for Gary. It was all done with social distancing and masks," Kelly said. "I was 68 years old at the time. I never got COVID-19, and I never got sick."

Campaigning in 2020 has been forced to reckon with social distancing directives in light of the pandemic. In-person candidate forums have been moved to a Zoom format. Meet-and-greets are likely lacking in handshakes, with expectations that candidates put physical distance between themselves and their potential constituents—and political rhetoric guided by CHA's mailers have called into question how safely candidates are campaigning.



Residents in District 4 received a wave of political mailers opposing Gary Newkirk in this year's Dana Point City Council Election. Photo: Courtesy of Newkirk

"I am proud to be talking to residents in a responsible manner," Frost said. "I have been out knocking on doors, sitting outside coffee shops and listening to residents and gathering notes on issues."

Frost says that about 95% of residents have been "tremendously receptive, as they want to have their concerns heard." He adds that he always

either wears a mask or stands at least 6 feet from the door after door-knocking.

As for the force behind the mailers, there lies a cloud of confusion and mystery.

At the bottom of the California Homeowners Association mailers, a disclaimer states the ad was paid for by the PAC with "major committee funding from Kieu Hoang." Attempts to reach a spokesperson with the PAC were unsuccessful or met with phone hang-ups.

Dana Point Times did, however, successfully reach Hoang by phone. Hoang, a Vietnamese-born American billionaire, denied knowledge of the mailers and referred questions to his attorney.

"We are contacting California Homeowners Association to determine if this flyer was released in error, was fully or partially recycled from a previous election or was generated by a third party," said Robert Blackmon, an attorney representing Hoang. "In any case, Mr. Hoang is abstaining from participation in this election season in any way and has not funded any PAC or candidate."

The Fair Political Practices Commission currently has an open case against Hoang regarding potential violations of campaign finance and advertisement disclaimer provisions of the Political Reform Act—an incident stemming from February ahead of the March primary.

The *Voice of OC* previously reported that Hoang has denied any wrongdoing and that officials haven't said what the investigation is about, other than it being centered on advertisements.

Requests to be connected to a representative with California Homeowners Association remained unanswered as of press time. According to its website, the CHA describes itself as one of California's most active political action committees working in every area of the state.

"Established in 2009, the California Homeowners Association is a non-partisan Political Action Committee formed to support fiscally responsible candidates," the website states. "Our donors are wide ranging from individuals, to small businesses to labor organizations all with one

goal—protecting homeowners."

In the FPPC's campaign manual, it states that the California Political Reform Act requires primarily formed ballot measure and general purpose committees to specifically identify in a disclosure on ads the top contributors of \$50,000 or more. A general purpose recipient committee is formed when an individual or group receives contributions totaling \$2,000 or more in a calendar year for the purpose of supporting or opposing one or more state or local candidates or ballot measures or to make contributions to other political committees.

Jon Fleischman is the former executive director of the Republican Party of California and has since founded a Fleischman Consulting Group, a firm specializing in national, state and local political affairs. He says that even if a PAC spends all the money that a donor gave the group, the donor's name will still appear in a disclosure for a calendar year.

"The FPPC, in trying to uphold transparency, created a rule where if someone donates a certain amount of money, the PAC name, as it appears in a disclosure, now has to be changed to include the donor's name," Fleischman said.

The FPPC denied the *Dana Point Times* requests for comment and insight on existing policies, due to the open investigation against Hoang.

"It's not surprising that Kieu Hoang may have been alarmed to learn about these mailers with his name on them when his donation (to the PAC) was made during the primary election," Fleischman said.

Newkirk hopes that District 4 residents who are exposed to attack ads, such as the mailers sent out by CHA, do their own research.

"My overriding focus in all the time I've spent in public service has been to really listen to and be a voice for the residents. We are the reason the city exists," Newkirk said. "I'm proud of everything I've done for the city. Everything I've done is 100% transparent, and it's all on the city website. There are pages and audio and minutes that show every position, every statement and vote that are opposite to what those mailers purport."

In Frost's statement on Friday, Oct. 16 on the mailers, he announced his campaign's investment in a positive mailer denouncing negative campaign literature—which were set to arrive in mailboxes on Tuesday, Oct. 20.

On Thursday, Oct. 22, candidates and PACs are expected to submit campaign expenditures for a quarterly deadline. The next deadline for campaign statement filings is not until Feb. 1, 2021—meaning reports of campaign spending (potentially on more political mailers) after Thursday will not be reported until after the new year.

"It's an unfortunate byproduct of contribution limits in small races like city council elections," Fleischman said. "People are going to try and find other ways around these set limitations."

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