



FEDERAL ELECTION COMMISSION
Washington, DC 20463

August 8, 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

ADVISORY OPINION 1986-28

Bob Ryan
State Senator
3020 S. Westwind Road
Las Vegas, Nevada 89102

Dear Mr. Ryan:

This refers to your letters dated July 20 and July 12, 1986, requesting an advisory opinion concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use of your residence as a campaign headquarters.

You state that you are a candidate for Congress in the First Congressional District of Nevada. You are using your residence as the headquarters for your Congressional campaign. You state that this residence is the "primary residence" of you and your wife and that it is "owned jointly" by both of you "in equal proportions."¹ You explain that one-half of your residence is "not used at all for campaign activity, and the other half is used intermittently." Documents filed with the Commission indicate that your principal campaign committee is the Committee to Elect Bob Ryan and that Victoria Ryan, your wife, is the treasurer and custodian of its records.² You ask whether your campaign committee is required to pay you and your wife for the campaign use of your residence.

The Commission concludes that your campaign committee is not required by the Act or Commission regulations to pay you and your wife for the campaign use of your joint residence.

¹ In a telephone conversation on July 29, 1986, with an attorney in the Office of General Counsel you also stated that this residence is a single-family detached house and does not include any apartment-type rooms that could be rented as another residence or as office space.

² In the same telephone conversation described in footnote 1, you confirmed Mrs. Ryan's status with your committee and explained that she performs her campaign duties on a volunteer basis using your jointly owned residence to do so.

In addition, the value of the campaign use of your residence is not a contribution to your campaign committee from either you or your wife.

As a general rule the Act and Commission regulations provide that a contribution of anything of value is subject to both the disclosure requirements and the contribution limits of the Act. See generally 2 U.S.C. 431(8)(A), 434(b), 441a(a); and 11 CFR 100.7(a)(1)(iii), 104.13(a), 110.1. Commission regulations, however, provide that a candidate may make unlimited campaign expenditures from personal funds. 11 CFR 110.10(a).³ Personal funds includes "any assets" in which the candidate has an ownership interest recognized under applicable state law and that otherwise satisfy the Commission's regulations at 11 CFR 110.10(b).

The Commission has previously recognized that real property in which the candidate has an exclusive or shared ownership interest is an asset that may be used for campaign purposes pursuant to 11 CFR 110.10. See Advisory Opinions 1984-60 and 1977-12. Where the candidate used his real property for both business and campaign office purposes, but not as his residence, the Commission concluded that the operating expenses of the office, including its fair market rental value, would have to be allocated between his business and his campaign. Advisory Opinion 1977-12. The allocable costs for the campaign use were required to be reported as a campaign expenditure. In a later opinion the Commission stated that the Act permitted a candidate to receive payment from his principal campaign committee for using one room of a house he owned that was also used as his residence. Advisory Opinion 1983-1, see also Advisory 1985-42. Significantly, the Commission did not conclude that the Act required that the candidates be paid for the campaign use of their property.

The foregoing opinions involved one instance where the real property was not the residence of the candidate (Advisory Opinion 1977-12) and others where, although the property was the candidate's residence, payment for campaign use was made by the campaign committee to the candidate (Advisory Opinions 1983-1 and 1985-42). None of these opinions involved real property owned jointly by a candidate and spouse. They also did not reach any issues regarding the applicability of Commission regulations that allow an exemption from reporting, as well as contribution limits, for the unpaid use of residential premises when an individual volunteers personal campaign services to a candidate. Those regulations are material to the situation presented here.

Commission regulations provide, in part, that neither a contribution nor an expenditure results if an individual, in volunteering personal services to a candidate on the volunteer's residential premises, provides the use of real or personal property to the candidate for candidate-related activity. 11 CFR 100.7(b)(4), 100.8(b)(5). Your request states that you have "limited financial resources and run an austere campaign," and for that stated reason you propose to use the jointly-owned residence as your campaign headquarters. You have also indicated that your wife uses the jointly-owned residence to provide her volunteer services to your campaign as treasurer and bookkeeper. Because both you and your wife are using your jointly-owned residence in connection with providing your respective volunteer personal services to your campaign effort, the Commission concludes that the cited regulation exemption would apply.

³ This exception does not apply to presidential candidates who qualify for Federal funding of their campaigns under Chapters 95 or 96 of the Internal Revenue Code, 26 U.S.C. 9001 *et seq.* and 9031 *et seq.*

Accordingly, for purposes of the Act the value of the campaign use of your residential premises is not a contribution from either you or your wife, and your committee is not required to report it. It also follows that the described use of your residence is not subject to the contribution limits of the Act.

This response constitutes an advisory opinion concerning application of the Act and Commission regulations to the specific transaction or activity set forth in your request. See 2 U.S.C. 437f.

Sincerely yours,

(signed)

Joan D. Aikens
Chairman
Federal Election Commission

Enclosures (AOs 1985-42, 1984-60, 1983-1, and 1977-12)