

File No. 220777

Committee Item No. 3

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

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Committee: Rules Committee

Date July 18, 2022

Board of Supervisors Meeting

Date \_\_\_\_\_

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Completed by: Victor Young

Date July 14, 2022

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

1 [Advanced Written Determination Regarding Statement of Incompatible Activities - Small  
2 Business Commission - Tiffany Carter]

3 **Motion finding that Tiffany Carter’s proposal to apply for grants administered by the**  
4 **Office of Economic and Workforce Development (“OEWD”) and to seek assistance**  
5 **from OEWD relating to the growth of the restaurant she owns are not incompatible with**  
6 **the Statement of Incompatible Activities of the Small Business Commission, of which**  
7 **she is a member, subject to conditions.**

8  
9 WHEREAS, Tiffany Carter is a member of the Small Business Commission (“SBC”),  
10 appointed by the Board of Supervisors, and the owner of restaurant named Boug Cali, which  
11 generates less than \$1 million in annual revenue; and

12 WHEREAS, Members of the Small Business Commission are subject to a Statement of  
13 Incompatible Activities (“SIA”) that guides employees of the Office of Economic and Workforce  
14 Development (“OEWD”) and members of the SBC about the kinds of activities that are  
15 incompatible with their public duties and therefore prohibited; and

16 WHEREAS, Section 3.218 of the Campaign and Governmental Conduct Code  
17 authorizes City employees and officers to seek an Advance Written Determination (“AWD”)   
18 from their employer or appointing officer that a proposed activity is or is not incompatible with  
19 the governing SIA; and

20 WHEREAS, An AWD that a proposed activity is not incompatible with the applicable  
21 SIA provides the requestor with immunity from any subsequent enforcement action for  
22 violation of the SIA if the material facts are as presented in the requestor’s written submission;  
23 and

24 WHEREAS, Carter submitted a request for an AWD confirming that the following  
25 activities are not incompatible under the SBC’s SIA: 1) applying for OEWD grants to support

1 her restaurant, Boug Cali, and 2) seeking assistance from OEWD to identify a new location for  
2 her restaurant (“Proposed Activities”); Carter’s request is on file with the Clerk of the Board of  
3 Supervisors in Board File No. \_\_\_\_\_; and

4 WHEREAS, Notwithstanding this prohibition, Carter’s proposed activities are not  
5 incompatible with the SBC’s SIA because the City and County aspires to a diversity of  
6 representation on its Boards and Commissions, particularly encouraging women and  
7 members of the BIPOC, Immigrant, LGBTQ+, Reentry and other underrepresented  
8 communities to serve on their own time; and

9 WHEREAS, BIPOC, Immigrant, LGBTQ+, Reentry and other underrepresented  
10 communities also experience significant barriers to accessing small business financial and  
11 technical support, as well as pre-development, lease, capital tenant improvement and  
12 acquisition funding, and having to choose between equitable access to small business grants,  
13 loans or other forms of public assistance can be a disincentive to authentic and diverse  
14 representation on the Small Business Commission; and

15 WHEREAS, Small business owners in the restaurant industry have very small margins,  
16 and without significant outside investment from private investors, are unable to afford high  
17 commercial rents, required upgrades to bring restaurant spaces up to code, or even broker  
18 services to help locate viable space; and

19 WHEREAS, Tiffany Carter’s small business does not generate enough revenue  
20 currently to qualify her to pay gross receipts tax; now, therefore, be it

21 MOVED, That based on the information submitted, the Board of Supervisors finds that  
22 the Proposed Activities are not incompatible with the SIA of the SBC, subject to the following  
23 conditions:

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- Tiffany Carter will submit another AWD request if she applies for additional grants, loans or support after two years of the adoption of this motion or if Boug Cali begins to generate over \$1 million in revenue annually; and
- The Board of Supervisors may hold a hearing to re-evaluate this AWD approval at any point.

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## REQUEST FOR ADVANCE WRITTEN DETERMINATION

*Under section 3.218 of the San Francisco Campaign and Governmental Conduct Code, each Department, Board, or Commission has adopted a Statement of Incompatible Activities ("SIA") that lists those outside activities that are inconsistent or incompatible with the duties of the officers and employees of the Department, Board, or Commission. Section III.C of the SIA permits an officer or employee to seek an Advance Written Determination whether a proposed outside activity is prohibited because it is inconsistent or otherwise in conflict with the officer's or employee's duties. A written Determination by the Decision-Maker that an activity is not incompatible with the SIA provides the Requestor immunity from any subsequent enforcement action for a violation of the SIA, if the material facts are as presented in the Requestor's written submission. A written Determination does not provide immunity from any other laws that prohibit the proposed activity. An officer or employee may also seek a written opinion from the Ethics Commission to determine whether the person's proposed activities violate the SIA or any other local law relating to conflicts of interest and governmental ethics.*

*To obtain a written Determination, please fill out Sections A-E legibly and completely, and submit this form to the Decision-Maker identified in Section C. Please note that the Decision-Maker may require you to provide additional information in order to make a Determination. At any time, the Decision-Maker may revoke the Determination, by providing written notice to you specifying the changed facts, circumstances or other good cause that warrants the revocation.*

**A. I am a:**

- City employee (Submit completed form to your Department head or his or her designee, or as directed in your SIA.)
- Department head (Submit completed form to your appointing officer.)
- Appointed member of a City board or commission (Submit completed form to your appointing officer, your Board or Commission, or the Ethics Commission, as directed in section III.C of the SIA. If the form is to be submitted to the Ethics Commission, please send the completed form to the Ethics Commission office at 25 Van Ness Avenue, Suite 220, San Francisco, CA 94102 or by faxing it to (415) 252-3112.)
- Elected official (Submit completed form to the Ethics Commission.)

| B. Requestor Information (Please Print Clearly)   | C. Decision-Maker Information (Please Print Clearly)  |
|---|---|
| <p>Tiffany Carter<br/> <hr/> Name (Last, First)<br/> Small Business Commissioner<br/> <hr/> Title<br/> <div style="background-color: black; width: 100%; height: 40px; margin-top: 5px;"></div><br/> <hr/> Small Business Commission<br/> <hr/> 94124<br/> Zip Code</p> | <p>Board of Supervisors<br/> <hr/> Name (Last, First)<br/> Shamann Walton<br/> <hr/> Title<br/> President<br/> Name of Department, Board, or Commission<br/> Board of Supervisors<br/> <hr/> Office Phone<br/> Email<br/> <hr/> Office Address<br/> Zip Code</p> <p>Decision-Maker is (check applicable):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Department head</li> <li><input type="checkbox"/> Department head's designee</li> <li><input type="checkbox"/> Board or Commission</li> <li><input checked="" type="checkbox"/> Appointing officer</li> <li><input type="checkbox"/> Ethics Commission</li> </ul> |

***Please turn page over.***

**The Requester and Decision-Maker should retain a copy of this document for their records.**

ADVANCE WRITTEN DETERMINATION – Page 2

**The Written Request**

Provide a description of the proposed activity and an explanation of why the activity is not incompatible under the SIA of your Department, Board, or Commission SIA. Describe the proposed activity in sufficient detail for the Decision-Maker to make a fully informed determination. If necessary, the Decision-Maker may require additional information from you. Attach additional documents as appropriate.

For Department Use Only—Date Written Request Received

**D. Description of Proposed Activity:**

I'm the owner of Boug Cali, a restaurant in the La Cocina Marketplace. I am looking to expand my restaurant to another location and will likely be applying for OEWD grants such as SF Shines, Small Business Accessibility Grant, etc. and seeking assistance from OEWD as I identify a new space. I'm seeking this waiver because my Commission, the Small Business Commission, is part of the Office of Small Business and related to OEWD.

**E. Verification**

I certify under penalty of perjury that the information provided on this request for Advance Written Determination is true, complete, and correct. I understand that if the Decision-Maker determines that the proposed activity is incompatible, I will not be immune from prosecution from any subsequent enforcement action brought for a violation of the SIA. I further understand that if the Decision-Maker makes a determination that the proposed activity is not incompatible, the Decision-Maker may revoke that Determination at any time based on the changed facts, circumstances, or other good cause, by providing written notice to me.



Tiffany Carter  
Name of Requestor (Last, First)

Signature

3/29/2022  
Date Request Submitted

**F. Written Determination by the Decision-Maker**

Based on the information submitted, I, the undersigned, find that the proposed activity:

- is incompatible with the SIA of the Department, Board, or Commission.
- is not incompatible with the SIA of the Department, Board, or Commission.

Print Name of the Decision-Maker (Last, First)

Department, Board, or Commission

Signature

Date

For Department Use Only—Date notice provided to Requestor.

**G. Comments:**

The Requester and Decision-Maker should retain a copy of this document for their records.