

COMPLAINT NUMBER	20/467
ADVERTISER	Shanan Halbert and NZ Labour Party
ADVERTISEMENT	Shanan Halbert and NZ Labour Party, Unaddressed Mail
DATE OF MEETING	24 September 2020
OUTCOME	Settled Advertisement not to be distributed

Advertisement: The Labour Party branded brochure promotes Shanan Halbert as the Labour candidate for the Northcote electorate. It details his plans if elected and invites voters to share their vision for Northcote. Under the heading “I love this place” a list of achievements includes the statement: “We’ve built over 600 houses for our growing Northcote family.” The advertisement contains the Labour Party logo and promoter’s statement.

The Chair ruled the complaint was Settled.

Complaint: In July 2020 I received a brochure from Labour claiming they had built over 600 houses in the Northcote Electorate. I have lived in this area for 25 years and know this not to be true. I made an OIA request to Kāinga Ora – Homes and Communities and they confirmed "From 1 November 2017 to 31 July 2020, Kāinga Ora built 74 new homes. Of these, 67 were part of redevelopments on land already owned by Kāinga Ora, and 7 were new builds." The claim that 600 houses have been built is incorrect and misleading to potential voters. This is unacceptable before an election. I would like a brochure sent out to all people in my electorate correcting this claim before the 2020 election.

The Advertiser, NZ Labour Party, said:

Thank you for forwarding us ASA complaint 20/467 for comment. I’ve reviewed the ad and consulted with our Northcote candidate, Shanan Halbert. On review, we’ve concluded that we have made an error.

While the current government has made progress building homes in the growing Northcote community, we have not built 600 homes in Northcote since the 2017 election.

This means the complainant is correct, and our claim in the advertisement that we’ve built over 600 houses in Northcote is inaccurate.

We very much regret this error.

In response, our local team in Northcote has agreed to remove any remaining stock of this flyer from their election stalls. They’ve also agreed to change the copy for their upcoming direct mail, and for any reprints of this flyer, so that it is accurate.

We have also made our fact-checking team aware of the error, and asked them to redouble their efforts to be vigilant in reviewing draft materials.

Unfortunately, because the flyer was distributed quite some time ago, any attempt to recall it from the homes we delivered it to would likely be fruitless.

Please accept our apologies for this error, and please also pass them on to the complainant.

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(b), Rule 2(e)

Principle 2: Truthful Presentation: Advertisements must be truthful, balanced and not misleading.

Rule 2(b) Truthful Presentation: Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

Rule 2(e) Advocacy advertising: Advocacy advertising must clearly state the identity and position of the advertiser. Opinion in support of the advertiser's position must be clearly distinguishable from factual information. Factual information must be able to be substantiated

About Advocacy Advertising

Complaints about advocacy advertising are considered differently to complaints about advertising for products and services.

In assessing whether an advocacy advertisement complies with the Advertising Standards Code, the freedom of expression provisions under the Bill of Rights Act 1990 must also be considered.

Section 14 of the Act says: "Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form." This freedom of expression supports robust debate on current issues in a democracy.

Under Rule 2(e) Advocacy advertising of the Advertising Standards Code:

- The identity of the advertiser must be clear
- Opinion must be clearly distinguishable from factual information, and
- Factual information must be able to be substantiated.

If the identity and position of the Advertiser is clear, a more liberal interpretation of the Advertising Standards Code is allowed.

Procedural matter

The Chair noted the Complainant had received the advertisement in July 2020 and following receipt of a response to an Official Information Act request, had submitted the complaint to the ASA on 24 September 2020. The Chair accepted the complaint that day and it was sent to the Advertiser for a response. The Advertiser's response was received on 25 September 2020.

The Chair also noted the Complainant's request as part of their complaint which said: "I would like a brochure sent out to all people in my electorate correcting this claim before the 2020 election."

The Chair confirmed under the ASA process if a complaint was upheld or settled, the Advertiser is asked to remove the advertisement if possible and/or or not make the claim again. All decisions are released to the public via the ASA website, www.asa.co.nz.

About this complaint

The Chair acknowledged the Complainant's concern the claim in the advertisement about the number of houses built in Northcote is misleading.

The Chair confirmed the Advertiser's identity and position was clear. The advertisement complied with the requirements of Rule 2(e) of the Advertising Standards Code.

The Chair acknowledged the Advertiser said an error had been made and had apologised.

The Advertiser said in part: "While the current government has made progress building homes in the growing Northcote community, we have not built 600 homes in Northcote since the 2017 election. We very much regret this error. In response, our local team in Northcote has agreed to remove any remaining stock of this flyer from their election stalls. They've also agreed to change the copy for their upcoming direct mail, and for any reprints of this flyer, so that it is accurate.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action taken in removing any remaining copies of the flyer and changing the copy for any future advertising, the Chair said that it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled the complaint was settled.

Chair's Ruling: Complaint **Settled – advertisement not to be distributed**

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. **NOTE:** Under the fast track process one month prior to the Election, appeals must be made in writing via email or letter within three (3) calendar days of receipt of this decision.