

Media Advisory

FOR IMMEDIATE RELEASE: Friday January 24, 2014

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Sacramento City Clerk Completes Examination of the Petition for Voter Approval for Public Funding of Professional Sports Arena Act

Sacramento, CA. Today Sacramento City Clerk Shirley Concolino has advised the proponents of the petition drive to require a vote on city financing of a downtown sports arena, that their petitions do *not* meet all the legal requirements for placing the issue on a citywide ballot.

“Due to technical issues identified in the submitted petitions, I find the petition noncompliant with significant provisions of the California Elections Code and the Sacramento City Charter, and therefore insufficient to move forward.” – Shirley Concolino, City Clerk

City Clerk Concolino outlined the major deficiencies leading to her decision in a letter to petition proponents this morning. A copy of that letter accompanies this press release.

The City Charter requires the City Clerk to make the determination of the validity of petitions submitted to the City, based on the state Elections Code and the City Charter. The decision is completely independent of the City Council and there is no appeal process provided in the City Charter. The petitioners’ sole remedy lies with the civil courts, which may consider substantive as well as technical issues. The City Clerk, however, can only base her decision on the technical and legal provisions of applicable law.

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January 24, 2014

Julian Camacho
517 8th Street
Sacramento, CA 95814

James and Delphine Cathcart
1825 O Street
Sacramento CA 95811

Re: Petition for Voter Approval for Public Funding of Professional Sports Arena Act

I have received the Certificate of Petition from the County Registrar and the number of valid signatures is 22,938. However, due to the issues described below, I find the petition noncompliant with the California Elections Code and the Sacramento City Charter, and therefore insufficient.

The California Elections Code prescribes the technical requirements for the form and processing of an initiative petition. The Sacramento City Charter incorporates the California Elections Code: "Unless otherwise provided by ordinances hereafter enacted, all elections shall be held in accordance within the provisions of the Elections Code and Government Code of the State of California." (Sacramento City Charter, § 160). The City Clerk has the responsibility for the technical review of all petitions to ensure statutory compliance. If statutory technical requirements are not satisfied the City Clerk has the legal duty to reject the petition.

In fulfilling my duty as the elections official for the City of Sacramento, I reviewed the submitted petitions and identified several technical problems. As I have indicated, the role of the elections official is one of ministerial review and Election Code conformance and not one of judicial review. I thoroughly reviewed the submittal without regard for what a court might determine as substantial compliance and I am only addressing the technical and procedural deficiencies with the submittal.

During my review I identified that nine different petition versions were submitted. While this in itself is not cause for rejection, it substantially increased the complexity of processing, reviewing, and evaluating the sufficiency of the petition. Among the nine versions, some differences are minimal while others are more substantial. The number of versions is not necessarily a determining factor; but each version still must comply with the Elections Code. And many of the petitions do not conform to the Elections Code because they have different language than what is contained in the Notice of Intent.

City of
SACRAMENTO
Office of the City Clerk

The grounds for insufficiency due to noncompliance are enumerated below.

1. Petitions dated prior to the date the notice of intent was filed with the City Clerk.
One version of the petition contains 105 valid signatures, but includes a notice of intent dated May 19, 2013. You did not file your notice of intent with my office until May 29, 2013.
2. Language differences between the notice of intent and some versions of the petition.
The notice of intent provided to the City Clerk and subsequently published includes a paragraph regarding a City of Stockton arena proposal. This published language does not appear in all of the petitions. One version of the petition that contains 6,719 valid signatures does not contain this language, and in addition, entirely new language has been included, with some ending in an incomplete sentence, followed by a statement regarding the sole purpose of the petition. Rejecting these 6,719 signatures, together with the 105 signatures identified in number 1 above, results in a total number of valid signatures as 16,114, which is less than the amount required to qualify the petition for the ballot.
3. Inserted language between the title and summary and the proposed text.
Inserted in each petition between the city attorney's title and summary and the proposed text for the ballot measure is a random paragraph that is not even the same in each version of the petition. It is neither required nor permitted information under Elections Code section 9203(b) and as such should not have been included. This affects all versions of the submission.
4. Omitted enactment clause.
Elections Code section 9224 requires an enactment clause. Additionally, the Sacramento City Charter provides "the enacting clause of each ordinance enacted by the initiative or referendum process shall be 'Be it Enacted by the People of the City of Sacramento'." The measure and all of the petitions submitted fail to include an enacting clause. This affects all versions of the submission.
5. Omitted names and signatures of proponents on the notice of intent.
Elections Code section 9202 requires the notice of intent to be signed by the proponents, which was done and submitted to my office. Election Code section 9205 requires that signed notice of intent be published. Your published notice of intent, however, did not include the signatures or names of the proponents. This affects all versions of the submission.

Please contact me if you wish to review the petitions to verify these insufficiencies.

Sincerely,



Shirley Concolino MMC
City Clerk
City of Sacramento