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VIA HAND DELIVERY

**ATTORNEY-CLIENT COMMUNICATION
PRIVILEGED AND CONFIDENTIAL**

October 4, 2022

Susana Alcala Wood
City Attorney
Office of the City Attorney
915 I Street, Fourth Floor
Sacramento, CA 95814-2604

Re: Residential Investigation – Councilman Sean Loloee
File No.

Dear City Attorney Alcala Wood:

Thank you for referring the above referenced matter to me for investigation. Your office requested that I conduct an impartial investigation regarding the residency of Sacramento City Councilman Sean Loloee and to provide a written opinion advising whether Councilman Loloee has met, and continues to meet, by a preponderance of the evidence, the residency requirement of Section 27 of the City of Sacramento Charter and California law, including relevant caselaw and opinions of the California Attorney General.

Councilman Sean Loloee serves as the elected Councilman for District Two, City of Sacramento. Constituents and media outlets have questioned whether Councilman Loloee lawfully holds office based upon allegations that he may not reside in Sacramento's District Two as required by the City of Sacramento Charter and California law.

After careful consideration of the City of Sacramento Charter, relevant California law, and the facts developed from witness interviews and review of relevant documents, it is my opinion that not later than March 2019 and continuing to the present date, Councilman Sean Loloee's primary residence or "domicile" is 1209 Nogales Street, Sacramento, California, which is located in District Two of the City of Sacramento. As a result, Councilman Sean Loloee has

met and continues to meet the residency requirements of Section 27 of the City of Sacramento Charter and California law.

I.

RELEVANT CHRONOLOGY

Councilman Sean Loloee is originally from Iran. His family fled Iran as refugees, lived in a refugee camp in Turkey, and migrated to the United States to the Riverside, California area. He attended the University of California, Riverside, and three years of medical school, but then pursued his goal of opening a business. Councilman Loloee began selling fruits and vegetables from a truck in Los Angeles, and later opened a chain of Supreme Market grocery stores in the Los Angeles area. He maintained his primary residence or “domicile” in Los Angeles, as it has consistently been his intent to be domiciled in the same geographic area as his primary place of business. Councilman Loloee eventually sold the grocery stores.

In the 1996-time frame, Councilman Loloee received a call from then Oakland Mayor Jerry Brown asking him to open a grocery store in West Oakland since that neighborhood had been without a supermarket for 30 years. He visited West Oakland, considered the opportunity, and opened a Gateway Foods supermarket in West Oakland.

Consistent with his intent to maintain his primary residence or “domicile” in the geographic area as his primary place of business, while operating Gateway Foods, Councilman Lolee purchased a home in the Oakland Hills (████████████████████) in the 1998 – 2000-time frame. At the same time, he continued to commute to the Los Angeles and Riverside areas to visit his parents and family.

While living in Oakland, Councilman Loloee also met his wife, ██████████ ██████████ was an engineer at the time. It should be noted that ██████████ is also Iranian. Because of social, religious, and political issues in Iran, she holds strong feelings about the need to be respected and recognized as a professional woman and to safeguard her family, education, and assets. As noted below, after marriage, Councilman Loloee and his wife ██████████ each purchased real property, residences, as their sole and separate properties. Each executed a disclaimer of interest in the other spouse’s property, and they have maintained separate residences, separate primary residences, or domiciles, and each has commuted from different cities throughout their marriage. It is my opinion that the idea of owning separate property and maintaining separate domiciles or residences is consistent with ██████████ stated values based upon her family and cultural background. The Councilman himself also holds strong feelings about the need to protect his wife and family which arise from his life’s experiences in Iran, and hence he has sought to protect her and his family. It is also my opinion that as relates to this investigation, the Councilman’s domicile has nothing to do with the Councilman’s desire to serve on the Sacramento City Council. This couple has intended to have separate domiciles

during their marriage for personal, socio-political, and/or business reasons and not regarding the council seat.

In approximately 2006, Councilman Loloee purchased the former Save Plus grocery Store in Citrus Heights/Sacramento. During this time, his wife purchased a townhouse in Natomas (██████████). ██████████ purchased the home as her sole and separate property and the Councilman signed a disclaimer of interest in the property. The property was mostly an investment property for her, but the Councilman and his wife resided in the townhouse as he operated the Save Plus store since it is in Sacramento and close to the store.

Although ██████████ lived with the Councilman for a period in the Natomas townhouse, she later moved to Southern California ██████████. From 2006 – 2010, ██████████'s primary residence was a rental home in ██████████, California. She maintained a separate residence and commuted back and forth from Southern California to Sacramento during school and after graduation when she commenced ██████████ in Southern California.

In approximately 2008, Councilman Loloee opened the first Viva Supermarket on Norwood Drive in Sacramento. He continued to live at his wife's Natomas townhouse, while she continued to reside in Southern California.

By approximately 2016, ██████████ sold her ██████████ in the Los Angeles area and decided to purchase a home in Granite Bay. She purchased the home as her sole and separate property. The Councilman executed disclaimers of interest in her property. She has a friend who lives in the Granite Bay area which was a factor in purchasing the home in Granite Bay.

In approximately 2017/2018, ██████████ had the opportunity to sell the Natomas townhouse and sold it. Councilman Loloee started looking for another primary residence in Sacramento consistent with his intent to establish a primary residence or domicile in the same city as his principal place of business. After she sold the townhouse, he commuted for several months from ██████████'s home in Granite Bay to Sacramento. That stopped once he purchased the Nogales Street home by 2019.

In late 2018, a customer at the Viva Supermarket informed Councilman Loloee of the home located at 1209 Nogales Street, Sacramento, which was still under construction and was for sale. Councilman Loloee visited the property and decided to purchase the home since it is conveniently located to his business office in Natomas and at least two of the Viva Supermarkets. Since the house was still under construction, he had the opportunity to request upgrades in the home with the hopes that his wife and children would consider moving into the house as a primary residence for all the family. Regardless of where his wife and children lived, Councilman Loloee expressed his intent to reside in the home as his primary residence or

domicile consistent with his past pattern of confirming a primary residence or domicile in the area of his businesses.

The Councilman purchased the Nogales Street home in approximately March 2019. He initially purchased the home with cash, but then applied for and took out a Quicken Loan on the home in May 2019. The loan agreement identified the home as his “primary residence.”

In addition, his wife [REDACTED] signed an Interspousal Transfer at the time of purchase granting the Councilman title to the property as “a married man, as his Sole and Separate Property.”

Councilman Loloee has either used his business office in Natomas or his domicile to receive mail. He uses the Nogales Street address for his driver’s license, personal mortgage loans, insurance, vehicle registration, passport renewal applications, utilities, and other mail. These types of mail are consistent with Councilman Loloee’s stated intent that the Nogales Street home is his primary residence or domicile.

As discussed below, where his family resides does not govern Councilman Loloee’s primary residence or domicile under the law. However, it should be noted that after he purchased the Nogales Street home, his wife and children lived in the Nogales Street home during parts of 2019 and 2020. [REDACTED] and their children gradually moved into the home, with the intent to establish the home as the family’s primary residence. They eventually lived there for at least six months. [REDACTED] and their son walked precincts with her husband during the campaign, got to know the district and its constituents and enjoyed the Councilman’s passion to represent the district. However, [REDACTED]’s experiences in the district were not all pleasant. She received prank telephone calls on her cellular telephone asking her to move out of the district and to “go back to where you came from”, someone vandalized their home with graffiti, and someone who claimed to be an officer called her cellular telephone and offered to help her move away from the Councilman who he described as an abusive man. These calls felt threatening to her and caused her much concern about her safety and the safety of her children. These unpleasant experiences prompted her to decide to return to her Granite Bay home as her primary residence. She moved approximately six months after her move to the Nogales Street home.

Although she and her children moved to Granite Bay, they returned to the Nogales Street home to visit. The family did not shelter in place together during the 2020 COVID-19 pandemic but did visit each other. During the pandemic and the organized protests, [REDACTED] became increasingly concerned about her family’s safety and the safety of Councilman Loloee. One evening a City of Sacramento police car was sent to the Nogales Street home during a council meeting. It was parked in front of the home. She became concerned that the officers were there to inform her that something bad had happened to her husband. She recalled running to her computer to check to see him on-line at his meeting. She learned that there had been a concern for council members and their families’ safety, which is what prompted the police car to go to

her home. Because of this heightened concern for safety and her past unpleasant experiences while living at the home, she decided that she could not return to the Nogales Street home due to safety concerns.

Notwithstanding his wife's move out of the Nogales Street house, Councilman Loloee continued to reside in the Nogales Street home as his primary residence. He visits his wife and children on weekends, or on Sundays, or sometimes during a weekday morning to drive a child to school. He sheltered in place at the Nogales Street home and his office. His office is in Natomas, and consistent with past practice, this couple has generally maintained two separate primary residences or domiciles. The practice of having two separate primary residences predated Councilman Loloee's candidacy and election to the District Two seat.

In addition to questions being raised about the Councilman's domicile as relates to his wife's and children's residence, questions have also arisen concerning other individuals who have resided in the Councilman's Nogales Street home. As I address issues concerning this family, I note that generally the details of this other family would be protected by California's privacy laws. Here, because this family has resided with Councilman Loloee in his primary residence on Nogales Street, certain aspects of their private life are now relevant to this investigation.

In approximately the fall of 2020, after the Councilman's wife moved out of the Nogales Street home, Councilman Loloee learned that a family member of one of his long-term employees was experiencing a challenging situation which was impacting the individual and family. Councilman Loloee decided to assist that person and family during this challenging situation. Councilman Loloee's employee, [REDACTED] [REDACTED]. Councilman Loloee has known the [REDACTED] most of their lives. [REDACTED] [REDACTED] In the fall of 2020, Councilman Loloee offered to help the [REDACTED] and [REDACTED] family by inviting [REDACTED] to move into the Nogales Street home with the Councilman so that he could assist during this difficult time.

The [REDACTED]'s [REDACTED] moved in with the Councilman in the fall of 2020. [REDACTED] [REDACTED] The [REDACTED] registered to vote at the Nogales Street address that fall. Councilman Loloee assisted the [REDACTED] with a place to live rent free and by providing a part-time job and guidance regarding life, education, and employment. Councilman Loloee also helped [REDACTED] with resources, [REDACTED] [REDACTED] Councilman Loloee also encouraged [REDACTED] [REDACTED] to pursue education and consistent with [REDACTED] [REDACTED] interests, he helped the [REDACTED] pursue a [REDACTED]. The [REDACTED] interests include mechanics and as a result, there are often many vehicles parked at the Councilman's Nogales Street property.

Significantly, I found no evidence that the [REDACTED] has ever been charged rent, or that he ever paid rent, to Councilman Loloee. I also found no evidence that these circumstances changed the Councilman's intent regarding this domicile or that he changed his domicile because of these circumstances.

A couple of months after [REDACTED] moved in and later in 2020, Councilman Loloee learned that the [REDACTED] family had attempted to purchase a home and that the purchase failed. Upon learning this information, Councilman Loloee again offered to help the [REDACTED] family and this time invited the entire family to move into the Nogales Street home with him. He described it as a "win-win" situation where the [REDACTED] family could live together rent free if they needed to live there. Councilman Loloee felt it gave him the opportunity to help a family in need and it also allowed the house to be put to good use where the family and he could live in the house together. The [REDACTED] family accepted his offer and they have resided in the home since not later than December 2020 to the present.

After the [REDACTED]'s moved in, the [REDACTED] family has lived in one section of the house and Councilman Loloee lives in another section. The Nogales Street home can be divided into three sections: the first third of the home [REDACTED]
[REDACTED]
[REDACTED] the next third of the home, [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED] the back third of the home [REDACTED]
[REDACTED]. [REDACTED].

After the [REDACTED]'s moved in, Councilman Loloee moved into the first third of the home. He maintains his clothes, shoes, work areas, and personal belongings in his room and bathroom. The closet is full of his clothing, business suits and shoes. The [REDACTED]'s also moved into the back third of the home. The [REDACTED]'s and the Councilman share food, sometimes dine together, and they share time together talking and going about their day to day lives. Councilman Loloee and [REDACTED] [REDACTED] are both early risers. He tends to leave the house by 5-5:30 am. The [REDACTED]'s hear him get up, leave the house for work, and then return to the home after 8, 9 or 10 pm. [REDACTED] leaves the home for work around a half hour or hour after the Councilman leaves the home and arrives by 6 pm to the house.

Significantly, I found no evidence that the [REDACTED] family has ever been charged rent, or that that they have ever paid rent, to Councilman Loloee. I also found no evidence that these circumstances changed the Councilman's intent regarding this domicile or that he changed his domicile because of these circumstances.

Media and news outlets began reporting on the questions regarding Councilman Loloee's residence in approximately June 2022. A photograph of the Councilman getting sworn in at a home which appears to be his wife's home in Granite Bay was used in reports to question where the Councilman resides. Earlier in the month of June, Councilman Loloee was also in the news for allegedly waging "a personal war against affordable housing" when he questioned a consent calendar item concerning a proposed 124-unit apartment building in District Two. These were the two major news stories in June 2022.

Mayor Derrell Steinberg visited Councilman Loloee's home after questions arose about the Councilman's residency. Mayor Steinberg later publicly called for an independent investigation to confirm Councilman Loloee's residence in compliance with the City of Sacramento Charter and California law. Councilman Loloee voluntarily agreed to an investigation.

This investigation followed.

II

SUMMARY DECISION

The central question presented is whether Councilman Sean Loloee had as his primary residence or "domicile" the Nogales Street property within 30 days immediately preceding the date he filed a declaration of candidacy of office and whether he has continued to reside at that address or in the district throughout his incumbency.

Sacramento Charter Article III, section 27 and several California Attorney General Opinions govern the analysis. Sacramento Charter Article III, section 27 requires that each member of the City Council must have resided in the district that member represents for at least 30 days immediately preceding the date he files a declaration of candidacy for the office and must continue to reside in the district throughout his incumbency.

The Charter incorporates the state Elections and Government Codes, under which an official's "residence" is defined to mean "domicile". To establish a "domicile" for election law purposes, an official must physically inhabit a place with the intent to remain there. A person can only have one domicile at a time, so to change one's domicile requires both action and intent – that is, the act of physically moving to a new residence plus the intent to make it one's fixed home.

While Councilman Loloee may have only one legal domicile, or primary residence, he may have multiple residences. California case law and Attorney General opinions make clear: elected officials may split time between two residences and may have different domiciles from their spouses, if their actions remain consistent with their declared intent to remain at the domicile or primary residence within the district.

Here, Councilman Loloee became domiciled in his Nogales Street home in or about March 2019, when he purchased the home and moved himself and his family to the home. This move was consistent with his past practice of maintaining a primary residence or domicile near his business offices, consistent with how he assumed title to the home and the fact that his wife disclaimed interest in the home, and consistent with his overall intent to reside in the Nogales Street home indefinitely to be close to his business office and supermarkets. The facts support the opinion that Councilman Loloee's domicile is the Nogales Street property consistent with Sacramento City Charter.

III

ANALYSIS

A. The City of Sacramento Charter Governs the Councilman's Residency Requirement

The City of Sacramento Charter, Articles III and IV set forth the requirement that each City Councilmember must reside in the district for which the council member is elected. (See Sacramento Charter Articles III & IV.)

To ensure that each candidate for Council, and each elected Councilmember, possesses sufficient connection with the district from which that person seeks to be or has been elected, the Charter requires that each Councilmember be a resident of the district before seeking office and throughout his or her term. Specifically, the Charter provides that each Sacramento Councilmember

“...shall be an elector and a resident in such member's council district for not less than 30 days preceding the date of candidacy and election or appointment, as the case may be, and must continue to reside in such council district during the term of office.”
(Sacramento City Charter, Article III, section 27)

Section 27 also specifies that “‘Date of candidacy’ means the date of filing nominating papers or equivalent declaration of candidacy”.

The Sacramento City Charter does not define the term “resides” but does confirm that where local law is silent,

“... all elections shall be held in accordance with the provisions of the Elections Code and Government Code of the State of California, as the same now exist or may be hereafter amended, for the holding of elections in cities, insofar as the same are not in conflict with this Charter.” (Sacramento City Charter, Article X, section 155.)

California law is clear: an elected official “resides” for electoral purposes where the person is domiciled. (Cal. Elec. Code section 349(a) [“Residence for voting purposes means a person’s domicile”]; see also, Cal. Govt. Code section 244; Walters v. Weed (1988) 45 Cal.3d 1, 7; Smith v. Smith (1955) 45 Cal.2d 235, 239; DeMiglio v. Mashore (1992) 4 Cal.App.4th 1260, 1268.)

The California Attorney General has also explained that the term “residence”

“... connote[s] ‘domicile,’ i.e., the place where a person’s habitation is fixed, at which the person intends to remain, and to which the person intends to return whenever absent.” 75 Ops. Cal. Atty. Gen. 287, 289 (1992.)

Therefore, whether Councilman Loloee satisfies Sacramento Charter Article III, section 27 depends on whether he established and retained his domicile in District 2 on or before October 20, 2019 – 30 days before the November 19, 2019, submission his candidate nomination papers.

B. Physical Presence Plus Intention to Make Permanent Residence Establish a Domicile

California courts and Attorney General Opinions make clear that a person’s residence or “domicile” required to be elected or appointed as an elected official is governed by two factors: action and intent. “[T]he test for determining a person's domicile is physical presence plus an intention to make that place his permanent home.” (Fenton v. Board of Directors of Groveland Community Services District (1984) 156 Cal.App.3d 1107, 1116.) See also (81 Ops. Cal. Atty. Gen. 98, 101 (1998)).

Courts generally hold "that two elements are indispensable" to establishing domicile in a particular place: actual residence plus the intent to remain there. (DeMiglio, 4 Cal.App.4th at 1268.) "The acquisition of a new domicile requires the union of act and intent." (Walters, 45 Cal.3d at 14; see also, Cal. Gov't Code section 244(f).) Therefore, a person's mere intent to make a certain location his domicile is not meaningful legally, unless and until the person actually inhabits that location with the intent to live there permanently. (Cal. Elec. Code § 2024.)

In determining intent, the inquiry requires a review of relevant records and timeline associated with a person's actions, however the first consideration is typically "the declaration of the party involved as to his or her intent." (86 Ops. Cal. Atty. Gen. 194 (2003); see also, Chambers v. Hathaway (1921) 187 Cal. 104, 105; Fenton, 156 Cal.App.3d at 1117.)

Here, Councilman Loloee has declared that the Nogales Street home is his intended and actual domicile, consistent with his past practice of holding a primary residence where his businesses are located.

The test for determining whether one is an inhabitant or resident or domiciled at a certain location is described in 72 Ops. Cal. Atty. Gen. 15, 21-22 (1989):

"... many factors enter into this equation, including where an individual is registered to vote and his or her address for mail. (Ballf v. Public Welfare Department (1957) 151 Cal. App. 2d 784, 788-89), where his or her tax returns are filed (Johnson v. Johnson (1966) 245 Cal. App. 2d 40, 44), where an automobile is registered (8 Ops. Cal. Atty. Gen. 221(1946), and where a homeowner's exemption or renter's credit is taken (Cal. Elec. Code Section 211; Fenton v. Board of Directors, supra at P. 1112).

The Court of Appeal's analysis in Fenton is instructive. In Fenton, an official purchased a home inside her district in 1950 and lived there for nearly a decade. During that period, the district home unquestionably was her domicile. (Id. at 1112, 1117.) In 1959, the official purchased a second home outside the district, and she split time between the two for several years. (Id.) Starting in 1968, the official lived "almost exclusively" at the second home and took a homeowner's property tax exemption there. (Id. at 1111-12.) While her voter registration and driver's license listed her as a resident of her district, and she visited the district home regularly "to check on its welfare," she did not "reside" there in the colloquial sense of that word. (Id. at 1112, 111-18.) Despite the official's nearly full-time residence at the second home over 14

years, the court found "ample evidence" that she had not changed domiciles. In reaching this conclusion, the court considered the official's declaration that she "continue[d] to consider the [district] property as her home," and "her actions as manifested by her consistent listing of the ... address as her residence, and the fact that she consistently returned to the property" to establish that she did not intend to change her residence. (*Id.* at 1112, 1117-18.)

Considering the many factors to assess Councilman Loloee's residency, I confirmed that except for his business mail which goes to his business office in Natomas, important mail items use the Nogales Street address including for voter registration, personal vehicle registration, driver's license, passport renewals, tax returns and tax exemptions. Given that "intent" is a critical element in assessing domicile and that the "acts of the individual must be examined as well," (*Mauro v. Department of Mental Hygiene* (1962) 207 Cal. App. 2d 381, 389), it is clear that Councilman Loloee intended the Nogales Street home to be his domicile and that he has not changed that domicile since 2019.

C. A Domicile, Once Established, is Presumed to Continue Until a New One is Acquired

While a person may, at any given time, have more than one physical place of residence, he or she may have only one domicile; and a domicile, once established, is presumed to continue until a new one has been acquired. *Walters v. Weed* (1988) 45 Cal. 3d 1, 7-8; See also Government Code section 5030 (a residence cannot be lost until another is gained); 81 Ops. Cal. Atty. Gen. 98, 101 (1998).

Further, the acquisition of a new domicile is generally understood to require an actual change of residence accompanied by the intention to remain either permanently or for an indefinite time in the new locality; the burden of proving that a change of address occurred falls on the party asserting it. The law requires a substantial showing of evidence that a sitting official has changed his domicile from the in-district home at which he lived to another residence. (101 Ops. Cal. Atty. Gen. (2018).) The burden of showing a change in domicile falls on the party asserting it. (*DeMiglio v. Mashore* (1992) 4 Cal.App.4th 1260, 1268.) And cases where claims are based on conjecture or lack substance may be deemed to be against public interest and/or an improper matter on which to expend judicial resources. (99 Ops. Cal. Atty. Gen. 74 (2016).) Thus, assuming Councilman Loloee properly established his domicile at the Nogales Street home, it is presumed to continue until a new one has been acquired.

In analyzing whether a new domicile has been acquired by a public official, the courts and Attorney General have traditionally considered such indicia as the address shown on a person's tax returns, driver's license, automobile registration, homeowner's exemption, telephone listing and voter registration. (84 Ops. Cal. Atty. Gen., supra, at p. 157; 75 Ops. Cal. Atty. Gen. 287, 289 (1992)).

Here, members of the community and media outlets have argued that Councilman Loloee spends time with his wife and family at her Granite Bay residence and that because the [REDACTED] family resides at the Nogales Street residence those two facts support the notion that he does not use the Nogales Street home as his primary residence or domicile. There is no evidence that Councilman Loloee acquired a new domicile after 2019 when he moved into the Nogales Street property. To the contrary, the evidence supports domicile at the Nogales Street residence since he receives important mail there, he uses the address for vehicle registration, for his driver's license, for his passport renewal and for tax and tax exemption filings. Based upon the facts and evidence considered Councilman Loloee continued to both intend and use the Nogales Street property as his domicile under the law.

D. The Elections Code Provides that Tax Exemptions Create a Rebuttable Presumption

California Elections Code section 2031 provides that taking a property tax exemption on a residence creates a rebuttable presumption that the residence is the person's domicile unless another residence is listed as the person's address on a driver's license or vehicle registration issued to that person.

Here, Councilman Loloee takes a tax exemption on the Nogales Street residence as was confirmed through a review of redacted tax returns and through his independent public accountant. Thus, under California law there is a rebuttal presumption that the Nogales Street address is his domicile. I note that the initially filing of the exemption did not occur by the accountant and that the accountant filed an amended return for same. The accountant accepted responsibility for not filing the exemption as something that he neglected to file.

E. Multiple Residences Do Not Impact Domicile

California law recognizes that public officials may split time between two homes without losing their domicile, if their actions corroborate their declared intent to remain in the district. As the Attorney General has explained,

"[w]hile an individual may have only one domicile, he or she may have multiple dwellings Accordingly, the acquisition of a new dwelling does not necessarily establish a change of domicile." (84 Ops. Cal. Atty. Gen. 154 (2001) [citations omitted].)

The Attorney General succinctly summarized its general rationale in 81 Ops. Cal. Atty. Gen. 94 (1998), by stating,

“[An] allegation that defendant has purchased a home outside the district, taken alone, is not dispositive, since an individual may have multiple dwellings as distinguished from the concept of domicile. In prior opinions, therefore, where such an allegation was insufficient to overcome direct evidence of an expressed intent to remain in and to return to the officer’s domicile within the public agency’s boundaries whenever absent for purposes of work, where such an expression was coupled with corroborative conduct, we have denied applications for leave to sue in quo warranto.” (Emphasis added; Citations omitted.)

Numerous cases have followed this rationale. In 86 Cops. Cal. Atty. Gen 194 (2003), a San Diego Unified School District Board Member split time between his in-district apartment, and a Coronado house at which lived his wife and five children. The official’s wife was registered to vote in Coronado and his children were enrolled in Coronado schools. While the official kept his in-district apartment, he split his personal belongings between the two homes and acknowledged that he would “divide his time between the two residence and spen[t] more time at the Coronado house.” A parking attendant at the Board Member’s in-district apartment estimated that he saw the official only two or three times per week, and a neighboring tenant claims to have seen him only three times in two years. Nevertheless, the official received mail at his in-district apartment, and the utilities were in his name. His driver’s license, vehicle registration, and voter registration all used his in-district address, and the official explained that he considered his apartment to be his permanent home, stating that “he has never formed an intention to make the Coronado rental house his permanent home.” The Attorney General concluded that the evidence did not support a conclusion that the official was domiciled in Coronado.

In 75 Ops. Cal. Atty. Gen. 26 (1991), the Attorney General declined to find substantial questions about a community college district trustee's domicile after the trustee and her spouse sold their in-district home and purchased a new home outside the district. The trustee "allocate[d] her time between" her family's new home and a rented residence in the district, but maintained voter registration, vehicle registration, phone service and bank accounts in the district. The Attorney General concluded that the "allegations that [the trustee] has purchased a residence outside of the district and resides there part-time, even when coupled with a conclusory belief that [the trustee] does not intend to remain at her residence within the District, are not sufficient when weighed against the direct evidence of intent on the part of defendant which is materially corroborated by her conduct."

In 101 Ops. Cal. Atty. Gen. 42 (2018), a Costa Mesa City Councilman lived with his family in a Newport Beach home owned by his in-laws for several months. The official nevertheless retained the mental state to return to Costa Mesa and did in fact return to a rented Costa Mesa apartment with his family. The Attorney General rejected the claim that the Councilman had lost his domicile in Costa Mesa by moving out of the city.

In 87 Cal. Ops. Atty. Gen. 30 (2004), the official in question also divided his time between two residences – the home of his mother and sister in the district and the home of his girlfriend outside the district. But he received mail at the in-district home, and his driver's license, insurance and voter registration listed that address as his residence. Although the official spent time at the girlfriend's home as well, the Attorney General concluded that "it is clear that such a residence, even if it were a house owned by him and occupied by his family, does not establish domicile – especially where, as here, [the official] affirms his intent to maintain his domicile in [the district] and supports his declaration of intent with substantial evidence from other sources."

In 72 Ops. Cal. Atty Gen. 63 (1989), a Lancaster Councilman moved with his family to Palmdale, registered to vote in Palmdale, registered his cars in Palmdale and claimed publicly to split time between a Lancaster apartment and Palmdale. Nevertheless, the Councilman demonstrated that he never changed his domicile to Palmdale after purchasing a house and re-registering to vote in Lancaster, as well as stating that his move to Palmdale was a temporary one.

As with the above cases, here Councilman Loloee has declared that the Nogales Street home is his domicile consistent with his past practice of having a primary residence or domicile

in the geographic location where he conducts business. He receives important mail at his “in-district home”, including his driver’s license, insurance, voter registration, tax information and tax exemption filings. Although he visits his wife and children at his wife’s home in Granite Bay, a house which is not owned by him but occupied by his family, those visits do not establish domicile especially where here the Councilman affirms his intent to maintain his domicile at the Nogales Street home and where he produced documentary evidence from other sources in support of this position.

F. An Elected Official’s Domicile May be Different from a Spouse’s Domicile

California cases and Attorney General Opinions make clear that an elected official may have a different domicile from that person's spouse. California Elections Code section 2029 provides,

"[t]he domicile of one spouse shall not be presumed to be that of the other, but shall be determined independently."

Elections Code section 2028 similarly states,

“If a person has a family fixed in one place, and he or she does business in another, the former is his or her place of domicile, but any person having a family, who has taken up an abode with the intention of remaining and whose family does not so reside with him or her, is a domiciliary where he or she has so taken up the abode.” (See also, Cal. Gov’t Code, section 244(g) (“A married person shall have the right to retain his or her legal residence in the State of California notwithstanding the legal residence or domicile of his or her spouse.”)).

Case law and Attorney General Opinions reject a common stereotype that married couples and families must reside together. In 86 Cal. Ops. Atty. Gen. 194 (2003), the Attorney General made the point clear. The party seeking to remove an official from office submitted as its “primary contention ... that [the official] has abandoned his domicile in the district by moving” to a house outside the district with his wife and their children. The Attorney General rejected that position noting that “[i]mplied in Relator's argument is a presumption that a person may not maintain a domicile separate from the residence shared with his or her spouse and children. But the law provides otherwise.”

Thus, a determination of Councilman Loloee's domicile is not dependent on his wife's domicile.

G. Ambiguities Should be Resolved in Favor of Domicile

California courts and the Attorney General have consistently held that "ambiguities concerning the right to hold public office should be resolved in favor of eligibility." (See, e.g., Helena Rubenstein International v. Younger (1977) 71 Cal.App.3d 406, 418:

"We consider disqualification from public office a significant civil disability. In California, the right to hold public office has long been recognized as a valuable right of citizenship.... [T]he right to hold public office, either by election or appointment, is one of the valuable rights of citizenship... the exercise of this right should not be declared prohibited or curtailed except by plain provisions of law. *Ambiguities are to be resolved in favor of eligibility of office...* (Italics added). More recently, the high court, citing Carter v. Comm. On Qualifications, etc., 14 Cal. Ed 179, 182, has termed the right to hold public office a fundamental right. (Zeilenga v. Nelson, 4 Cal. 3d 716, 720; Fort v. Civil Service Commission, 61 Cal. 2d 331, 335). Thus, any ambiguity in a constitutional provision calling for forfeiture of an existing office and disqualification from holding public office should be resolved in favor of continued eligibility...."

See also, 101 Ops. Cal. Atty. Gen. 16 (2018).)

The principles enunciated in Helena Rubenstein International v. Younger also support the opinion that Councilman Loloee has met and continues to meet the residency requirements of the Sacramento City Charter.

IV

CONCLUSION

Councilman Loloee established his domicile at the Nogales Street home in or about March 2019. This occurred before the October 20, 2019, deadline for him to establish residency in District Two to become a duly qualified candidate for City Council. The Councilman has stated that he spends most of his nights at his Nogales Street residence and would remain there if he were not in elected office, because of its proximity to his businesses. He also took no steps to

establish another domicile or residency after March 2019. That means that he continues to be domiciled in District Two and remains qualified to serve as District Two Councilman.

It is my opinion that Councilman Loloee's statements are credible and that his domicile is consistent with his pattern of maintaining a primary residence or domicile in the same geographic area as his principal place of business. I found no evidence that his domicile had anything to do with any interest in running for the District Two council seat. And I found nothing unusual about the Councilman's domicile as relates to his wife and children based upon his stated intent, the couple's practice of living in separate domiciles and their stated personal, socio-political and business interests.

During the investigation, I confirmed that Councilman Loloee spends most weeknights at the Nogales Street property and that he tries to spend weekends, or at least Sundays with his family in Granite Bay. Both he and his wife stated that Councilman Loloee has no intention of living in Granite Bay fulltime. He has consistently maintained a domicile where his businesses are located, and the Nogales Street home is located closely to his businesses.

Councilman Loloee's statements in this regard are dispositive, absent substantial evidence that the Councilman has changed his domicile. I found no evidence that he changed his domicile after moving to the Nogales Street home.

During this investigation, I reviewed documents produced by Councilman Loloee through his attorney. As noted above, in determining domicile, courts and the Attorney General review numerous factors, including the address shown on the person's voter registration, driver's license, vehicle registration, tax returns, homeowner's property tax exemption, insurance and utilities. (Fenton, 156 Cal.App.3d at 1116; 84 Ops. Cal. Atty. Gen 154 (2001); 75 Ops. Cal. Atty. Gen. 287 (1992).) I reviewed the following records in support of my conclusions:

- Property tax records: A Sacramento County "Claim for Homeowners Property Tax Exemption," demonstrates that Councilman Loloee planned to occupy 1209 Nogales Street as his principal residence. The document was signed and dated under penalty of perjury on March 15, 2019.
- Property tax (homeowner's) exemption: Tax Year 2019 and Tax Year 2020 Forms 1098, show that Councilman Loloee claimed the mortgage interest deduction for his mortgage payments on 1209 Nogales Street as his principal

residence during those calendar years. I should note that the exemption was confirmed by a reviewed of redacted tax returns which were prepared by an independent accountant. The accountant confirmed the filings, as well as the fact that the accountant had initially forgotten to claim the deduction on the Nogales Street home. Notwithstanding that, the independent accountant who is holds a California license, filed the amended returns to claim the deduction.

- Driver's license: Councilman Loloee's most recent California driver's license, shows 1209 Nogales Street as his address. Prior driver's licenses either used a prior home or his business address on the license.
- Vehicle registration: Councilman Loloee's most recent car registration, shows that his personal car is registered at 1209 Nogales Street with the Department of Motor Vehicles. This registration became effective in February 2022.
- Vehicle insurance: Councilman Loloee's car insurance shows that his personal car is insured at 1209 Nogales Street.
- International passport application: Councilman Loloee applied to renew his Iranian passport in March 2022 before the public and media inquiries about his residence. The application shows that Councilman Loloee listed 1209 Nogales Street as his primary residence for the foreign passport renewal application. Again, the Councilman submitted this application in March 2022, and a passport was issued in August 2022.
- Bank records: An excerpted QuickenLoan loan application, shows that Councilman Loloee identified 1209 Nogales Street to be his primary residence when obtaining a loan on that property
- Voter registration: A voter notification card, shows that Councilman Loloee is registered to vote at 1209 Nogales Street and has been registered at that address since March 2019.
- Utilities: SMUD, PG&E and Sacramento City utilities bills, show that Councilman Loloee receives and pays utilities at 1209 Nogales Street. These statements demonstrate that utilities have been continuously used at the home since he and his family moved there in 2019.

- Homeowner's insurance: Councilman Loloee's most recent evidence of homeowners insurance form, show that Councilman Loloee pays for insurance at 1209 Nogales as his primary residence.
- Documentation of habit: Some credit card statements show that Councilman Loloee has habitually patronized local District 2 coffee shops since 2019. The Councilman informed me that he typically purchases coffee at this shop multiple times per week. The coffee shop is close to his Nogales Street home but would be extremely inconvenient to patronize if he were commuting from Granite Bay.
- Title documents: Spousal transfer deeds demonstrate that Councilman Loloee owns his Nogales Street home as his sole and separate property, and that his wife owns her Granite Bay home ([REDACTED]) as her sole and separate property, with each one disclaiming interest in the other's property.

During the investigation I also toured the property on more than one occasion. I have described the layout of the interior of the home above. I should note that there are many vehicles that are parked in front of the home. On each occasion there were seven or more vehicles parked in front within the interior of a parking pad, on the grass and within a fence border to the property. Councilman Loloee has one vehicle that he drives. The [REDACTED]'s generally have two to three vehicles that they regularly drive. The other vehicles are vehicles that have been acquired by the [REDACTED]'s eldest son and which he works on as part of his interest in mechanics.

I also spoke to Councilman Loloee's wife and to [REDACTED] who confirmed the relevant facts, timeline and general facts which support Councilman Loloee's intent and action that the Nogales Street home is his domicile. I found both to be credible. [REDACTED] is also extremely credible. She feels badly that her family's residence at the home has somehow caused the councilman to suffer criticism. She expressed concern about her family's safety and the communications she has received from the media. It was clear that the Councilman has helped this family through very difficult times and that the family has never paid him rent for living in the home. Because of the media communications and concerns for her family, [REDACTED] confirmed it is likely that this family will move out of the councilman's home later this fall.

Based upon the totality of the material facts, it is my opinion that that Councilman Loloee established domicile at 1209 Nogales Street in March 2019 when he moved into that home with

the intent to remain there indefinitely consistent with his past practice and intent to establish domicile in the geographic areas where he conducts business. Councilman Loloee's domicile at that time had nothing to do with the District Two elections, and he submitted his candidate nomination papers more than 30 days after he established residency in District Two. Councilman Loloee's domicile at the Nogales Street property continues to this day.

It has been my honor to conduct this independent investigation on behalf of the City of Sacramento. Please feel free to contact me should you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Melinda Guzman". The signature is written in a cursive, flowing style.

MELINDA GUZMAN