

MEMORANDUM OF LAW

DATE: August 15, 1985

TO: Charles G. Abdelnour, City Clerk

FROM: City Attorney

SUBJECT: Propriety of Ballot Argument Signature

By separate memorandums of August 9, 1985, you asked our review of the propriety of two signatures with respect to the Managed Growth Initiative. Mr. Zerbe has signed in support of the initiative yet is a registered voter in El Cajon. Mr. Hahn has signed in opposition to the initiative yet is not registered to vote in San Diego.

This question requires a review and construction of California Elections Code sections 5013 and 5014.1 which provide in pertinent part:

ELECTIONS CODE

Sec. 5013. Filing written argument; length; printing;

enclosure with sample ballot

The legislative body, or any member or members of the legislative body authorized by that body, or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure

Sec. 5014.1 Acceptance of ballot argument or rebuttal argument; inclusion of name of person in text other than author

A ballot argument or, if applicable, a rebuttal argument which includes in its text the name of a person, other than the author of the argument, who is represented as being for or against a measure, shall not be accepted unless the argument is accompanied by a signed consent

of such person. The consent of a person, other than an individual, shall be signed by an officer or other duly authorized representative. "Person" as used in this section means any individual, partnership, corporation, association, committee labor organization, and any other organization or group of persons.

Since Mr. Zerbe is not an eligible voter, his signature qualifies if at all as the designated representative of Common

Cause. Election Code section 5013 allows a signature from a "bona fide association of citizens" but this is qualified by Election Code section 5014.1 which requires that the consent of the association be confirmed "by an officer or other duly authorized representative" Hence before Mr. Zerbe's signature can be accepted, a factual determination must be made that the "coordinator" is the authorized representative of that association.

Likewise Mr. Hahn, as an ineligible voter, does not have a qualifying signature. His signature qualifies only if he is the authorized representative of the Mayor's Growth Management Task Force. Again a factual determination must be made to ascertain whether he is the authorized representative.

We conclude then that neither signature is appropriate without the confirmation by the officer or other authorized representative of the respective associations confirming same.

JOHN W. WITT, City Attorney

By

Ted Bromfield

Chief Deputy City Attorney

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