

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: March 31, 1988

TO: Mikel Haas, Office of the City Clerk

FROM: City Attorney

SUBJECT: Candidates' Statements of Qualifications

This is in response to your memorandum of March 22, asking for our review of five (5) mayoral Statements of Qualifications under SDMC Section 27.2204.

SDMC Section 27.2204 reads in relevant part:

The Clerk shall reject any statement which contains:

(1) any language or matter the circulation of which through the mails is prohibited by Congress, (2) any mention of party affiliation of the candidate or membership or activity in partisan political organizations, (3) any matter not relating to the candidate, or (4) any mention of opponents or other persons by name. The statement shall not contain any obscene, vulgar, profane, scandalous, libelous or defamatory matter or any language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of race, color, religion or manner of worship.

Nothing contained in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet. Emphasis added.

We find that a part of Candidate Rose Lynne's proposed statement violates that portion of the above-cited Code provision that prohibits any matter not relating to the candidate. The offending language begins with the term "At my trial, the Mayor . . ." and ends with the terms "- - - against the Mayor, City Attorney, and Manager." You should reject this language and not place it on the printed voter's pamphlet because it violates the Code provision in that it refers to a criminal trial and an alleged conspiracy that are wholly foreign to the pending mayoral election or qualifications of the candidate.

We also take note of Candidate Charles Ulmschneider's statement

in that he mentions the Communist Party. He does not state that he is a member of or affiliated with it, therefore, its use on the statement is not prohibited by this Code section. Therefore, you should accept it for publication assuming it meets the word limit.

The other statements submitted to us for review are proper under this Code provision and should be printed "as is" unless they exceed the permissible number of words.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

CCM:fs:930.62

MS-88-5