August 12, 2018

Mr. Michael Vu

Registrar of Voters

Post Office Box 85656

San Diego, CA 92186-5656

 Re: Measure QQ on November 6, 2018, General Election Ballot

Dear Sir:

County Counsel’s Impartial Analysis for Measure QQ, Citizens’ Initiative to Repeal and Replace the Benefit Fee for Julian-Cuyamaca Fire Protection District, on the November 6, 2018, ballot, contains the following notation:

 “*The District has not determined whether approval requires a majority or 2/3 vote*”.

On November 6, 2018, citizens in JCFPD will cast their vote on this Initiative. I am confident the tally will be over 50%. If the Initiative does not receive approval by 2/3rds of the voters, what action will you take to certify the outcome?

The statement by County Counsel does not indicate this is a decision they will make, but one that will be posed to the JCFPD Board of Directors. Please tell me, precisely, how (by what steps) will you undertake that task?

My position is that the Supreme Court of California, in Ruling S234148, filed on August 28, 2017, refers to:

(1) “*First, Sections 8 and 11 of Article II of the state Constitution contains the people’s initiative power, which we have described as “one of the most precious rights of our democratic process*.” The Constitution gives the right to citizens to create laws by a simple majority vote. That is the democratic process.

(2) “*Second, Article XIII C — added by one of several successful initiative constitutional*

*amendments concerning taxation — limits the ability of “local governments . . . to*

*impose, extend, or increase any general tax*.” This Article restricts government agencies from imposing taxes on the people without approval by a 2/3 vote.

The question before the court was whether Article XIII C also restricts the ability of *voters* to impose taxes via initiative. The Court of Appeal here concluded that article XIII C does not constrain voters’ constitutional power to propose and adopt initiatives. The Supreme Court concluded:

 “[W]*e agree with the Court of Appeal that article XIII C does not limit voters’ power to raise taxes by statutory initiative.” And, further, “A contrary conclusion would require an unreasonably broad construction of the term “local government” at the expense of the people’s constitutional right to direct democracy, undermining our longstanding and consistent view that courts should protect and liberally construe it.”*

The references to voters’ power and direct democracy mean that laws can be created via a citizens’ initiative by a majority vote = 50% + 1.

I understand that Gena Burns, Counsel for JCFPD, does not agree with my understanding of the Supreme Court ruling and she is advising the JCFPD Board that the Initiative requires a 2/3 vote to pass. This is the same counsel who “inadvertently” failed to advise the JCFPD Board of their duty to comply with the Elections Code; the same counsel who scheduled an ex parte hearing on August 30, 2018, to order your office to place the Initiative on the ballot. This is the same counsel who was admonished by Judge Timothy Taylor for showing up late for the hearing that she scheduled, and being told that the failure of counsel and the JCFPD Board to comply with the Elections Code could constitute cause for a malpractice lawsuit [by the Proponents of the Citizens’ Initiative].

I am not a lawyer, but I can understand the intent of the Supreme Court in its ruling. In the event Measure QQ receives a “majority vote” (greater than 50% + 1), I expect the measure to be certified as law. If it is not, you are on notice that litigation will be filed against the County of San Diego, Registrar of Voters, the Law Firm of McDougal Love as Counsel for JCFPD and the individual members of the current Board of Directors for Julian-Cuyamaca Fire Protection District who would deny the right of democracy to the citizens of Julian-Cuyamaca.

Respectfully,

Dr. Patricia Landis

Proponent for Citizens’ Initiative

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cc: Office of County Counsel, San Diego County

cc: Gena Burns, Law Firm of McDougal Love Boehmer

cc: Managing Partner, Law Firm of McDougal Love Boehmer

cc: JCFPD Board of Directors

 Jack Shelver

 Aida Tucker

 Kirsten Starlin

 Brian Kramer

 Buddy Seifert

cc: William Everett, Proponent

cc: Karen Keifer, Proponent