



CITY OF OAKLAND
newsrelease
Office of the City Attorney

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Oak-9th plaintiffs throw in the towel on eve of court review
Plaintiffs preemptively dismiss lawsuit a few weeks before hearing on validity of case

OAKLAND – After more than a year of litigation, the Oak to Ninth Referendum Committee announced Friday it will voluntarily dismiss its lawsuit against the City next week – just a few weeks before a December 4 court hearing where a judge was to determine the merits of the Committee's case.

"This case was not about the Oak to Ninth development – the City's defense was always about the public's right to transparency and fairness in the democratic process," Oakland City Attorney John Russo said Friday.

The case started after the City Council voted in 2006 to approve a plan to turn a stretch of formerly industrial land between Oak and Ninth streets into 30 acres of parks with public access to the Oakland waterfront, 69,000 square feet of commercial space and 3,100 condos and apartments – many of which would be affordable to families earning between \$25,000 and \$50,000 a year. Much of the land is now run down, blighted and heavily contaminated, with no parks or real waterfront access.

In an effort to block the development, the Oak to Ninth Referendum Committee spent more than \$40,000 to collect signatures for a referendum. However, the signature drive used an incomplete and misleading version of the Council's ordinance – one that gave incorrect information about important issues such as open space and public access to the waterfront. In deposition, a committee leader admitted that they knew they were using an incomplete draft of the ordinance.

Because the Referendum Committee violated state election law by giving voters the wrong documents, the City rejected its petition on the advice of City Attorney Russo.

State law also required signature gatherers to be Oakland residents. Discovery revealed that some out-of-town signature gatherers lied under oath by claiming that they lived in Oakland.

The Referendum Committee sued the City in September 2006. Since that time plaintiffs have lost nine separate motions in court (see attached history of motions in this case). Plaintiffs have now chosen to dismiss the case "with prejudice" rather than have another day in court.

"The Referendum Committee has repeatedly tried to keep the public from knowing the facts of this case," City Attorney Russo said. "Now, just before they have a chance to argue their case in court, they announce their intention to dismiss. That says a lot about the merits of this lawsuit."

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