

Opinion

THURSDAY
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MY WORD

Law required Oak-to-Ninth petition signatures be invalidated

CONTROVERSY OFTEN impels otherwise ethical people to play fast and loose with the truth. The ongoing debate over the Oak-to-Ninth housing development in Oakland is a good example of this sad fact. Therefore, it is important to set the record straight on my office's decision to invalidate the petition signatures challenging the City Council's decision to move forward with the development project.

Our Sept. 6 legal opinion directed the city clerk to uphold state election law and a fundamental principle of democracy — the voter's right to full disclosure. State law is draconian and strict in the requirements for petitioners. In California, a failure to present the actual text of the ordinance being challenged, or to attach the exhibits to the ordinance, is fatal to a referendum petition. Such failures to give people all the information necessary for an educated decision confuses and misleads voters, thereby threatening the overall integrity of the process.

One would have thought that the lawyers for The League of Women Voters, a longtime guardian of transparency and a participant in the referendum campaign, would have understood the rules for petition gathering and the necessity to present voters with accurate information. One might also have hoped the Referendum Committee had competent legal

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advice to ensure they were working within the provisions of the law. Sadly, this wasn't the case.

So, here is the myth: The Referendum Committee tried and tried to get the ordinance but no one would give it to them. Clearly, it was a conspiracy between the developers, the City Council, the city clerk, government agents from Roswell, New Mexico, and members of the Bavarian Illuminati to keep them from the information.

Here are the facts:

- ▶ The city of Oakland is required, upon request, to provide a date-stamped, certified, hard copy of any ordinance;
- ▶ The Referendum Committee finally requested a certified, hard copy of the ordinance on Sept. 8 — several weeks after

- the signatures had been turned in;
- ▶ The Referendum Committee claims it was told by the City Clerk's Office it could download the ordinance from the Web site, but cannot tell us who specifically gave this direction;
- ▶ The copy of the ordinance that the Referendum Committee used read "NOT ACCURATE — TO BE UPDATED" on the Table of Contents;
- ▶ Even though one of the primary concerns for the committee was a potential loss of park land, the petitioners did not provide the maps attached as exhibits to the ordinance to the public.

The fact is the Referendum Committee leaders did not do their homework and neither the public nor their volunteers were well-served by their failure. It's clear that the Referendum Committee's heedless rush to get signatures resulted in part, if not totally, in the embarrassing situation they find themselves in today.

It's ironic and bordering on strange to be attacked by the League of Women Voters' attorneys for upholding state disclosure laws and the protections those laws provide the public. Transparency is a value that must apply equally to all who participate in our democratic process. Transparency can be tough. No one can or should put themselves above it — no matter how passionately they believe in the righteousness of their cause.

John Russo is Oakland's city attorney.