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MY WORD

Referendum committee leaders failed the public

Transparency is a value that must apply equally to all who participate in our democratic process. No one can or should put themselves above it — no matter how passionately they believe in the righteousness of their cause.

John RUSSO

THE RECENT "My Word" piece complaining about state law invalidating the Oak to Ninth petitions offers yet another opportunity to enlighten readers about my office's legal opinion to uphold State Election Law and defend a fundamental principle of democracy — a voter's right to full disclosure.

State law is draconian and strict in its requirements for petitioners seeking to challenge the actions of local government. 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.

Apparently, the Oak to Ninth Referendum Committee did not get competent legal advice; they chose to collect signatures while presenting to the public a document that was an early, incomplete version of the Oakland City Council's Oak to Ninth ordinance. The committee should have known this because the document they used was printed in bold and capital letters: "NOT ACCURATE — TO BE UPDATED."

Even though they claimed that the council's action in approving Oak to Ninth was wrongheaded due to the potential loss of park land, the committee's leaders chose not to circulate the actual maps of the proposed project. This failure to provide the public with the maps, by itself, invalidated the petition.

Sadly, the referendum committee leaders failed the public and those well-intentioned people who volunteered to help the campaign by not doing their homework. The heedless rush to get signatures without an accurate copy of the ordinance is the entire reason for the frustration these volunteers now feel.

Now, some leaders of the referendum committee are complaining about the cost of pursuing their lawsuit. A lawsuit they filed in order to blame someone — anyone else — for their own failure to follow the law. A lawsuit in which their attorney has shockingly argued in open court that the requirements of state law, the requirements that defend the voters' right to know what they are signing, should not be applied to this committee.

My office did not write this demanding state law, but I have taken an oath to uphold the law. That law — and this is the point the referendum committee leaders keep obscuring with their personal attacks — protects the public from voter fraud by making sure that when we are approached by someone gathering signatures to overturn a City Council decision, we are presented with the actual text of the decision we are being asked to overturn.

A lot of the mistakes made by referendum committee leaders sprang from their fear that, with only 30 days under state law to collect signatures, they needed to move very quickly. In hopes of remedying future mishaps with petition drives, my office is proposing an amendment to state law regarding the allotted time for gathering petitions. Under current law, a person or group that wants to use the power of referendum against a city ordinance must submit its petition signatures within 30 days of a City Council's adoption of the ordinance.

This amendment would ensure future referendum petitioners had the full 30 days to obtain their signatures. This amendment would do so by starting the clock for the signature gathering period from the date a city clerk attests to the final and full copy of the ordinance, not the date a City Council adopted the ordinance.

In a time when our federal government is increasingly stripping away civil liberties and hiding information from the public, we have a duty to ensure basic disclosure laws are upheld. Public access to information is the very basis for our democracy. Transparency is a value that must apply equally to all who participate in our democratic process. No one can or should put themselves above it — no matter how passionately they believe in the righteousness of their cause.

John Russo is the city attorney for Oakland.

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