

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
Barbara J. Parker
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TTY/TDD: (510) 238-3254

PUBLIC LEGAL OPINION

November 5, 2021

OAKLAND REDISTRICTING COMMISSION
Oakland, California 94612

Re: Whether the December 31, 2021 Charter-Mandated Deadline for the Redistricting Commission to Adopt a Final Plan Describing the District Boundaries for Council and School Board Districts Can be Extended

Dear Redistricting Commissioners:

I. INTRODUCTION

Oakland City Charter (“Charter”) Section 220(G) mandates that the Redistricting Commission “shall adopt a final plan for the City of Oakland specifically describing the boundaries for each of the council and school districts” by December 31, 2021. During a Redistricting Commission meeting several commissioners raised the question whether the December 31st deadline can be extended.

This is a public opinion because this issue requires interpretation of the City Charter, regarding the powers of the Redistricting Commission, the City Council, Mayor and City Administrator. Like all public opinions, this opinion will be posted on the City Attorney’s web site at www.oaklandcityattorney.org and can be found by clicking on the “Public Legal Opinions and Public Reports” link on the home page.

II. QUESTION AND BRIEF ANSWER

Question

Can the December 31, 2021 Charter mandated deadline for the Redistricting Commission to adopt a final plan be extended?

Brief Answer

No. December 31, 2021 is the Charter-mandated deadline for the Redistricting Commission to adopt a final plan for the City of Oakland specifically describing the boundaries for each of the council and school districts. The Charter does not authorize the Redistricting Commission, Council, Mayor, City Administrator or any other person or entity to extend the deadline. Accordingly, an extension of the deadline would require a Charter amendment. The Charter can be amended *only* by majority vote of the electorate at an established statewide

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election, or a regularly scheduled municipal election. No elections are scheduled before the December 31, 2021 deadline and the next statewide election will occur in June 2022.

III. ANALYSIS

A. Only the Voters Have the Power to Amend the Charter-Mandated December 31, 2021 Deadline

The Oakland Charter requires that the Redistricting Commission adopt a final plan describing the boundaries for each council member and Oakland school board district by December 31, 2021.¹ Charter section 220(G) provides:

(G) **By December 31, 2021, and in each year ending in the number one (1) thereafter, the Commission shall adopt a final plan for the City of Oakland specifically describing the district boundaries for each of the council and school districts prescribed above.** Upon adoption, the commission shall certify the plan to the City Council. The City Council may not change the plan. The plan shall have the force and effect of law.

(1) The Commission shall issue a report that explains the basis on which the Commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.

(2) If the Commission does not adopt a final plan by the dates in this section, the City Attorney for the City of Oakland shall immediately petition state court for an order prescribing the boundary lines of the districts in accordance with the redistricting criteria and requirements set forth in this Section. The plan prescribed by the court shall be used for all subsequent City Council elections until a final plan is adopted by the commission to replace it.

(Emphasis added)

Under the California Constitution, a city charter may be amended, revised or repealed *only* by majority vote of the electorate.² Therefore, California law prohibits the City from taking any action that would have the effect of amending, revising or repealing any provision of the Charter without a majority vote of the electorate.³

¹ Oakland City Charter, Article II, Section 220(G).

² California Constitution, Article XI, Section 3; *Hernandez v. County of Los Angeles*, 167 Cal. App. 4th 12, 21 (2003).

³ *Howard Jarvis Taxpayers Assn. v. City of Roseville*, 106 Cal. App. 4th 1178, 1186 (2003).

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The California Elections Code requires that proposed Charter amendments be submitted to the voters at an established statewide general election, statewide primary election, or regularly scheduled municipal election.⁴ The next statewide election in California is the primary election scheduled on June 7, 2022.⁵ As such, the earliest date Oakland's Charter could be amended by majority vote of the electorate to change the December 31, 2021 deadline for adoption of the final redistricting plan is June 7, 2022.

IV. CONCLUSION

In light of the above, the Redistricting Commission must adopt a final plan describing the boundaries for each Council member and Oakland school board district by December 31, 2021. In the event the Redistricting Commission fails to do so, the Charter provides that (1) the City Attorney shall immediately petition the state court for an order prescribing the boundary lines of the districts in accordance with the redistricting criteria set forth in Charter section 220(G), and (2) the plan prescribed by the court shall be used for all subsequent City Council elections until the Commission adopts a final plan to replace it.⁶

Very truly yours,



BARBARA J. PARKER
City Attorney

Attorneys Assigned:

Jennifer Logue

Mitesh Bhakta

cc: Deputy City Administrator Richard Luna
Chief Assistant City Attorney Doryanna Moreno
Special Counsel Ryan Richardson

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⁴ California Elections Code sections 1415 and 9255.

⁵ [Statewide Direct Primary Election - June 7, 2022 :: California Secretary of State](#)

⁶ Oakland City Charter, Article II, Section 220(G)(2).