

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: TERESA L. STRICKER, INTERIM CITY ATTORNEY
DAISY GOMEZ, CITY CLERK
SUBJECT: REFERENDUM PETITION CHALLENGING ORDINANCE NO.
4072

AGENDA ACTION: FOR INFORMATION ONLY

RECOMMENDATION

For Information Only.

EXECUTIVE SUMMARY

Update on the review process and effect of the referendum petition ("Petition") filed with the City Clerk challenging portions of Ordinance No. 4072, the Rent Stabilization and Other Tenant Protection Ordinance adopted by City Council on August 30, 2016 ("Ordinance").

BACKGROUND

On September 26, 2016, the Petition was filed with the City Clerk. The Petition challenges all provisions of the Ordinance except for one: The Petition does *not* challenge the provision of the Ordinance that repealed both the 90-day moratorium on rent increases that took effect on July 7th and the Just Cause Eviction Ordinance that took effect on September 16th.

The Petition was filed with the City Clerk in five sealed boxes. Based on a blank petition form provided by the Petition proponents, the City Clerk verified that the form used for the Petition met all legal requirements.

Later in the day on September 26th, the City Clerk delivered the sealed boxes to Sonoma County Registrar of Voters ("Registrar") to both (1) complete a prima facie ("on its face") examination of the Petition and (2) determine whether the Petition contains at a sufficient number of signatures of qualified voters. The City Clerk also submitted to the Registrar the 151 letters the City Clerk had received prior to the Petition's filing from individuals requesting to have their signatures removed from the Petition.

On October 3rd, the Registrar certified, based on a prima facie review of the Petition, that the Petition contains 12,524 signatures. The Registrar informed the City Clerk that to be sufficient, the Petition must contain at least 8,485 valid signatures of qualified City voters. The Registrar has not yet verified how many valid signatures the Petition contains.

As explained in the attached Sonoma County's Observer Guidelines, the Registrar's Petition review process may be observed Monday through Friday from 8:00 a.m. to 5:00 p.m. at 435 Fiscal Drive, Santa Rosa, CA 95403.

PRIOR CITY COUNCIL REVIEW

Not Applicable.

ANALYSIS

A. PROCESS

Under section 32 of the Santa Rosa Charter, the referendum process is governed by state law. California Elections Code sections 9235 to 9247 set forth the referendum process for cities.

Under state law, the Registrar has 30 working days, or no later than November 7th, to use a random sampling verification process to determine whether the Petition contains signatures from a sufficient number of qualified voters. This process requires the Registrar to randomly select 500 signatures to verify. The Registrar must then apply a specific formula to determine whether, based on statistical sampling principles, the Petition contains a sufficient number of signatures from qualified voters.

Under 95 Percent

If the statistical sampling shows that the number of valid signatures is **less than 95 percent** of the 8,485 valid voter signatures required to qualify the Petition, the Register will certify that the Petition is *insufficient*.

Over 110 Percent

If the statistical sampling shows that the number of valid signatures is **greater than 110 percent** of the 8,485 valid voter signatures required to qualify the Petition, the Registrar will certify that the Petition is *sufficient*.

Between 95 Percent and 110 Percent

If the statistical sampling shows that the total number of valid signatures is **between 95 percent and 110 percent** of the 8,485 valid voter signatures required to qualify the Petition, the Registrar of voters must perform a “full check.”

Under a full check verification process, the Registrar must verify *every signature* on the Petition. If a full check is necessary, the Registrar has an *additional 30* working days to complete the verification process.

If the Registrar determines that the Petition is *insufficient*, the City Council may not act on the Petition. If, however, the Petition is found to be *sufficient*, City Council must take one of the following actions:

- Adopt an ordinance repealing all challenged parts of the Ordinance; or
- Submit the challenged parts of the Ordinance to the voters at the November 2018 general election or at a special election called before that time.

B. THE STATUS OF THE ORDINANCE

Under controlling state law, the filing of the Petition with the City Clerk prevented the challenged parts of the Ordinance from taking effect during the Petition verification process. That means that the challenged parts of the Ordinance did *not* go into effect on September 30th as otherwise would have been the case.

Should the Registrar determine that the Petition is *insufficient*, the suspended portions of the Ordinance will take effect immediately after the City Clerk certifies the Registrar’s determination of insufficiency to the City Council at the Council meeting following that determination.

If, on the other hand, the Registrar determines that the petition is *sufficient*, and the City Council submits the issue to the voters, the challenged parts of the Ordinance will not take effect until and unless the voters approve the Ordinance.

If the City Council repeals the challenged parts of the Ordinance, or the City Council submits the Ordinance to the voters and the voters disapprove it, the Ordinance may not be enacted by the City Council again for one year after the date of its repeal by City Council or disapproval by the voters.

Because, however, the Petition did not challenge the provision of the Ordinance that repealed both the 90 moratorium on rent increases and the separate Just Cause Eviction Ordinance, the repeal provision took effect on September 30th. That means that as of September 30th, both the moratorium and the Just Cause Eviction Ordinance were no longer in effect.

FISCAL IMPACT

The cost to the City will be depend on whether the Petition is determined to be sufficient and any future action taken by the City in response to that determination.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not Applicable.

NOTIFICATION

Not Applicable.

ATTACHMENTS

Attachment 1 - Sonoma County's Observer Guidelines

CONTACT

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