

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 07/17/07

DEPT. 86

HONORABLE DAVID P. YAFFE

JUDGE

C. HUDSON

DEPUTY CLERK

HONORABLE
1.

JUDGE PRO TEM

B. JAUREGUI, COURTROOM ASST.

ELECTRONIC RECORDING MONITOR

NONE

Deputy Sheriff

NONE

Reporter

9:45 am

BS106456

Plaintiff

Counsel

DAVID HERNANDEZ ET AL

NO APPEARANCES

Defendant

Counsel

VS

COUNTY OF LOS ANGELES ET AL
170.6 JANAVS BY RESPONDENT
AND RPI

NATURE OF PROCEEDINGS:

RULING ON SUBMITTED MATTER - HEARING ON PETITION FOR WRIT OF MANDATE;

Matter having been argued and submitted on July 16, 2007, the court rules as follows.

The Petition for Writ of Mandate is denied.

Petitioners seek a writ of mandate that will effectively invalidate Measure R, that was approved by almost 60 percent of the voters in a municipal election held on November 7, 2006. The sole argument advanced by petitioners for invalidating the charter amendment is that it violates Article 2, section 8(d), of the California Constitution which succinctly states, "an initiative measure embracing more than one subject may not be submitted to the electors or have any effect."

The impartial summary of the ballot measure prepared by the Chief Legislative Analyst states the subjects covered by the measure in three separate paragraphs as follows: (1) This proposed charter amendment would change the number of terms a city councilmember could serve from two four-year terms to three four-year terms; (2) this charter amendment would also prohibit lobbyists from being appointed as city commissioners and prohibit campaign contributions from

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lobbyists and lobbying firms to officials and candidates; and (3) make several revisions to the City's ethics laws by ordinance. (Opposing Brief, Ex. 4, Voter Information Pamphlet, Page 24).

The City contends that all of the above subjects do not violate the single subject rule because they are all, "reasonably germane to the common goal of reducing the influence of lobbyists and special interests in city government." (Opposing Brief 9:12-14). The contention has no merit because the ultimate purpose of the single subject requirement of the California Constitution is to prevent politicians and special interests from manipulating the initiative process by bundling together measures to force voters to accept all or none of them, when, if they were submitted to the voters separately, the voters would likely accept some and reject others. Such manipulation is precisely the effect of the bundling in this case. It is likely that many voters would vote one way on the anti-lobbying and ethics provisions of Measure R, and the opposite way on the term limits provisions, if they were given an opportunity to do.

If the action by the City Council constitutes the use of the initiative under Article 2, section 8, and Article 2, section 11 of the California Constitution, it is invalid because it fails to comply with the single subject requirement of Article 2, section 8(d).

The action by the City Council, however, does not

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constitute the use of the initiative. The governing body of a chartered city does not have the power to propose an initiative measure. Article 2, section 11(a) of the Constitution, which confers initiative power upon the ELECTORS of a city, does not, by its own terms, apply to chartered cities. Article 11, section 3, of the Constitution, which applies specifically to chartered cities, states that an election to determine whether to revise a charter, "may be required by initiative OR by the governing body." (Emphasis added). Therefore, when the City Council of the city of Los Angeles voted to submit a charter amendment, Measure R, to the voters, it did not propose an initiative. The electors of the city could propose such a charter amendment themselves by signing an initiative petition, but the action by the City Council was not a use of the initiative, and the single subject requirement imposed by the Constitution upon initiative measures, does not apply.

Counsel for respondent City of Los Angeles is to submit a proposed judgment to this department within ten days with a proof of service showing that a copy has been served upon all other counsel by hand delivery or FAX. The court will hold it for ten days before signing and filing it.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 07/17/07 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: July 17, 2007

John A. Clarke, Executive Officer/Clerk

By: _____

Connie L. Hudson

Candice E. Jackson
Attorney at Law
2540 Huntington Drive, Suite 201
San Marino, California 91108

Judy W. Whitehurst
Principal Deputy County Counsel
Office of the County Counsel
500 West Temple Street, Room 652
Los Angeles, CA 90012

Valerie Flores
Harit U. Trivedi

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Office of the City Attorney
800 City Hall East
200 North Main Street
Los Angeles, California 90012

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