



COUNTY OF SAN LUIS OBISPO
OFFICE OF THE DISTRICT ATTORNEY

OFFICE OF THE DISTRICT ATTORNEY
PUBLIC RECORDS ACT REQUEST FORM

This form is not required to submit a request; however, this assists the Department in identifying records or data you are requesting and in tracking your request.

Per the California Public Records Act (CPRA), I hereby request reproduction of the following records maintained by this department and understand that there may be fees incurred in the compilation or reproduction of the records.

Please complete the form below. If this department does not maintain your requested records this form will be forwarded to the correct department, to the extent known.

YOUR NAME JON ANSOLABEHRE, ASSISTANT CITY ATTORNEY	ORGANIZATION (IF APPLICABLE) CITY OF SAN LUIS OBISPO
MAILING ADDRESS (STREET AND UNIT NUMBER) 990 PALM STREET	PHONE NUMBER 805-781-7141
MAILING ADDRESS LINE 2	FAX NUMBER
CITY, STATE & ZIP CODE SAN LUIS OBISPO, CA 93401	EMAIL ADDRESS JANSOLAB@SLOCITY.ORG
RECORDS REQUESTED <i>(where applicable, include a contract #, RFP #, APN and/or property address)</i> Copy of complaint submitted by Kevin Rice regarding City's preparation of ballot question for Measure B and District Attorney response.	
TIME FRAME <i>(range of dates for your request)</i> 2017	
HOW DO YOU WANT TO RECEIVE THE REQUESTED DOCUMENTS? <input type="checkbox"/> PAPER* <input checked="" type="checkbox"/> ELECTRONIC *Certified documents are only available as paper documents <input type="checkbox"/> FAX <input type="checkbox"/> WALK-IN/PICK-UP	
YOUR SIGNATURE (TYPE NAME IF COMPLETING ONLINE) /S/ JON ANSOLABEHRE	TODAY'S DATE 7/25/17

CPRA requests may be submitted:

- **Via Email:** Email completed form to: lcunningham@co.slo.ca.us
- **Via Fax:** Fax completed form to [805] **(805) 781-4304 Attn: Lee Cunningham**
- **Via US Mail:** Mail completed form to: **1035 Palm Street, San Luis Obispo, CA 93408**
- **In Person:** Submit completed form to front counter staff.

A response will be sent to you within ten business days of receipt of your request by this office. All payments are due at the time record reproduction is provided.

Questions? Please contact us: [805] **781-5800**

*In some instances, the Department may require up to an additional 14 days to respond to a request as authorized by the Act.

PLEASE NOTE: The California Public Records Act (Gov't Code Section 6250 et. seq.) applies to writings in County files "containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." The County will provide those documents to you, unless they are exempt from disclosure under the Public Records Act or other legal reason prevents the documents from being disclosed to the public.

Lee Cunningham

From: Kevin P. Rice <kevin@kevinrice.org>
Sent: Thursday, May 25, 2017 5:01 PM
To: Dan Dow; Lee Cunningham
Subject: Criminal complaint against SLO City Council, City Attorney, City Clerk
Attachments: Ballot Title and Summary.pdf; Resolution 10797.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear D.A. Dow and Asst. D.A. Cunningham,

I would sincerely appreciate your look at this matter, to wit, criminal violation of Elections Code §§ 301, 9203, 9210, 9214(b). Criminal penalties are set out in §§ 18002 and 18401.

SUMMARY

In brief, the San Luis Obispo City Attorney, City Council, and City Clerk conspired together to alter the "**ballot title**" (§ 301(c)) of the local Rental Housing Inspection Ordinance repeal initiative measure (the "Initiative") to be presented to the voters on August 22. The motive for doing so is to alter the ballot language (the "ballot title") and, thus, mislead voters into voting against the Initiative.

DISCUSSION

The **ballot title** was prepared by the City Attorney pursuant to § 9203 ("title and summary") on September 14, 2016 (see attachment, "Ballot Title and Summary", obtained from the City Attorney.) The **ballot title** thenceforth becomes the official title of the Initiative. The City Attorney's **ballot title** was published in a newspaper of record and appeared on over 11,000 Initiative petition sections which were circulated to the voters for signatures:

AN INITIATIVE TO REPEAL CHAPTER 15.10 OF THE SAN LUIS OBISPO MUNICIPAL CODE ENTITLED "RENTAL HOUSING INSPECTION" AND TO ADOPT NEW CHAPTER 15.10 ENTITLED "NON-DISCRIMINATION IN HOUSING"

The Initiative was filed with 7,111 signatures on February 16, 2017. Once the petition is filed, "**no petition section shall be amended except by order of a court...**" (§ 9210.)

Pursuant to § 9214(b), the City Council **must** submit the Initiative proposed ordinance **without alteration** to a vote of the voters of the City. "Without alteration" includes the **ballot title**.

INSTEAD, the City Attorney, City Council, and City Clerk acted in concert in adopting City Council Resolution No. 10797 (May 16, 2017), which illegally alters the **ballot title** and calls for a different question to be placed on voter ballots, as follows (see attachment, "Resolution 10797", at page 2):

Shall an ordinance be adopted to replace former Chapter 15.10 of the San Luis Obispo Municipal Code, entitled "Rental Housing Inspection" (repealed by City Council Ordinance 1632, effective April 20, 2017), with new Chapter 15.10 to be entitled "Non-Discrimination in Housing"?

CRIMINAL VIOLATIONS

§ 18002 specifies a crime for willful neglect or refusal to perform any duty relating to elections, or who knowingly and fraudulently acts in contravention or violation of any election laws.

§ 18401 specifies a crime for printing or circulating a ballot, knowing it does not conform to Chapter 2 (§ 13100, et seq.) of the Elections Code. § 13247 specifies "The statement of all measures submitted to the voters shall be abbreviated on the ballot in a ballot label as provided for in Section 9051." Section 9051(b) requires the ballot label "shall be a condensed version of the ballot title and summary..." The language illegally added to the **ballot title** is not from the official ballot title and summary prepared by the City Attorney.

CLOSING

Your review of these crimes is warranted and sincerely appreciated. I possess additional documentation and correspondence which I am happy to share should you deem further investigation warranted.

Respectfully,

Kevin P. Rice
PO Box 14107
San Luis Obispo CA 93406-4107
(805) 602-2616 cell
kevin@kevinrice.org

OFFICE OF THE DISTRICT ATTORNEY
County of San Luis Obispo

Dan Dow
District Attorney

Lee V. Cunningham
Assistant District Attorney

Jerret C. Gran
Chief Deputy District Attorney

Sheryl M. Wolcott
Chief Deputy District Attorney

FILE COPY



June 13, 2017

Kevin P. Rice
P.O. Box 14107
San Luis Obispo, CA 93406-4107

Re: Analysis of SLO City Council's action re SLOMC Chapter 15.10 Initiative

Dear Mr. Rice:

Mr. Dow asked me to respond to your request that we review the conduct of the San Luis Obispo (SLO) City Council in altering the Initiative seeking the repeal and replacement of Chapter 15.10 of the San Luis Obispo Municipal Code (SLOMC).

As I understand the facts, in September of last year the SLO City Attorney prepared the ballot title and summary of an Initiative that, if passed, would *repeal* Chapter 15.10 of the SLOMC entitled "Rental Housing Inspection", and *replace* it with a new Chapter 15.10 which would be entitled "Non-Discrimination in Housing". On 2/16/17 the petition for the Initiative, having garnered sufficient signatures to qualify for a vote of the registered voters, was filed with the City Clerk.

On 3/21/17 the City Council repealed the "Rental Housing Inspection" chapter by Ordinance #1632. Thereafter, on 5/16/17, the City Council adopted Resolution #10797 calling for a special election on the petition, framing the question as, "Shall an ordinance be adopted to replace former Chapter 15.10 of the San Luis Obispo Municipal Code, entitled "Rental Housing Inspection" (*repealed by City Council Ordinance 1632, effective April 20, 2017*), with new Chapter 15.10 to be entitled 'Non-Discrimination in Housing'?" (emphasis added.) The text of the Initiative was attached to the resolution as Exhibit A.

Ordinance 1632 repealing the "Rental Housing Inspection" chapter became effective on 4/20/17. The special election on the Initiative is to be held 8/22/17.

Analysis

Elections Code § 9210 prohibits the amendment of a filed petition by anyone other than a court of competent jurisdiction.

Elections Code § 9214 states that if the petition is signed by a sufficient percentage of voters and requests that it be immediately submitted to a vote of the people at a special election, the legislative body (here the SLO City Council) is limited to one of three options:

- (a) Adopt the ordinance without alteration;
- (b) Order a special election, "...at which the ordinance, **without alteration**, shall be submitted to a vote...";
- (c) Order a report. When the report is presented, either adopt the ordinance within 10 days or order an election.

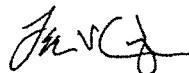
It appears that the SLO City Council chose option (b). However, by enacting Ordinance # 1632 they effectively **altered** the question to be posed from a "repeal and replace" choice, to simply a "replace" choice. It also made the question inconsistent with the Attached Exhibit A – the unaltered text of the Initiative.

Although it appears that the City Council unlawfully altered the Initiative, I don't believe their action was criminal. Elections Code § 18002 makes it a crime for any person charged with the performance of any duty regarding elections to *willfully* neglect or refuse to perform that duty, or to *knowing and fraudulently* act in violation of election laws. I see no evidence that the conduct of the City Council constituted willful neglect/refusal or intentional fraud.

The error could be easily rectified if Ordinance # 1632 were repealed. However, if the City Council fails to do so, or should they disagree with my analysis, a civil action may be your only remedy. You should contact a civil attorney if you need or desire follow up in that direction.

Thank you for bringing this matter to our attention.

Very truly yours,
Dan Dow
District Attorney



By: Lee V. Cunningham
Assistant District Attorney