



July 13, 2022

Richard Ryon c/o Barry Fadem
3527 Mr. Diablo Boulevard, No. 192
Lafayette, CA 94549

RE: Referendum Petition Submitted Against Resolution No. 2022-085

Dear Mr. Ryon:

On July 8, 2022 you presented for filing with my office a referendum petition against Resolution No. 2022-085. As required by Elections Code Section 9210, we took in the petition sections for the purpose of making the *prima facie* count of signatures to determine whether the total number of signatures equals or is in excess of the minimum number of signatures required, which is 5,702.

Based on the advice of the City Attorney and special counsel, who prepared the attached memorandum, the City has determined that Resolution No. 2022-085 was an administrative act, not a legislative act, and not subject to referendum. As specified in the approved impartial summary of the referendum prepared pursuant to Elections Code Section 9238 that appears on each page of the petition, Resolution No. 2022-085 "implements the City Council's prior legislative acts..." approving a specified development project. Acts that implement previous legislative decisions are deemed to be administrative and not subject to referendum. *San Bruno Committee for Economic Justice, et al., v. City of San Bruno* (2017) 15 Cal.App.4th 524, 533. Separately, since the Resolution implements the disposition of the former redevelopment agency property at issue for the development of affordable housing, as required by statute and the City's Long Range Property Management Plan, which was previously approved by the Successor Agency to the Livermore Redevelopment Agency, the Oversight Board, and the California Department of Finance, the Resolution is the implementation of the Legislature's requirements for redevelopment dissolution and not subject to referendum. See, 101 Ops.Cal.Atty.Gen'l 34 (Caballero, 2018). Lastly, the petition itself states that it only challenges those portions of Resolution No. 2022-085 that are legislative acts, but it does not identify any specific act that it challenges or purports to be legislative. Since the resolution does not contain any legislative acts, the petition has no legal effect and is therefore not eligible for filing or processing as a referendum. Therefore, the City is taking no further action on this petition.

Even though the City is taking no further action on this petition, I will nevertheless retain the petitions in this office in compliance with Elections Code Sections 17200 and 18650, as well as Government Code Section 6253.5. If you have further questions or comments regarding this matter, please contact City Attorney Jason Alcalá.

Sincerely,

A handwritten signature in blue ink that reads "Marie Weber".

Marie Weber, City Clerk