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COUNTY OF ORANGE

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October 30, 2023

Sonia Carvalho, City Attorney
City of Santa Ana
P.O. Box 1988
Santa Ana, CA 92702

Re: November 14, 2023, Recall Election – Jessie Lopez, Office of City Council, Ward 3, City of Santa Ana

Dear Ms. Carvalho:

We are in receipt of your letter dated October 27, 2023, which responds to Registrar of Voters Bob Page's letter to Santa Ana City Clerk Jennifer Hall. In your letter, we note that the City does not dispute that the wrong map for Ward 3 was used for the collection of signatures and the qualification of the recall petition.

You twice request on behalf of the City that the Registrar rescind his Certificate as to Verification of Signatures on Petition, which he issued on July 17, 2023, given that the wrong map for Ward 3 was used. As you may know, this certificate was prepared at the City's request dated June 13, 2023, which stated:

The official number of registered voters in Ward 3 in the City of Santa Ana is 26,370 based on your report to the Secretary of State dated February 10, 2023 as reported for the approved circulation date of April 7, 2023. The minimum number of signatures needed to qualify at 20% is 5,274.

Your request on behalf of the City Clerk that the Registrar rescind the certificate is based on the fact that the number of registered voters in Ward 3 in the City of Santa Ana, **as it was comprised at the time of Ms. Lopez's election in 2020**, is actually 27,158 based on the Registrar's report to the Secretary of State dated February 10, 2023, as reported for the approved circulation date of April 7, 2023. Accordingly, we read your letter as a modification of the City's request dated June 13, 2023 to provide that the minimum number of signatures needed to qualify at 20 percent is 5,432.

As noted in the enclosed Registrar's Superseding Certificate as to the Verification of Signatures dated October 30, 2023, which rescinds and supersedes the certificate dated July 17,

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2023, the number of valid signatures of registered voters in Ward 3 in the City of Santa Ana, as it was comprised at the time of Ms. Lopez's election in 2020, is 5202, which falls short of the 5,432 required for the petition for recall to have been certified as sufficient. In preparing this Certificate, the Registrar did not re-examine the signatures, but simply tabulated the number of valid signatures within the precincts of the "old" Ward 3 boundaries.

Given that the Registrar has complied with your request on behalf of City Clerk that he rescind his certificate dated July 17, 2023, we presume that the City Clerk will now rescind her July 17, 2023, Certificate of Sufficiency of Recall Petition.

Moreover, in light of the City's request and the Registrar's compliance with this request, we reiterate our request that the City determine whether it intends to proceed with November 14, 2023, recall election. While you posed this as a question to the Registrar, the Registrar is merely performing election services at the request of the City pursuant to Section 10002 of the Election Code. Under Section 10002, the Registrar does not become the election official who is responsible for conducting the City's elections. Rather, the City Clerk continues to serve as the election official responsible for the conduct of the election. (Santa Ana Ordinance § 702 [City Clerk "conducts all City elections"]; Santa Ana Ordinance § 1200 ["The conduct of all municipal elections by the City Clerk shall be under the control of the City Council which shall, by ordinance or resolution, provide for the holding of all municipal elections"].)

You had also asked about complying with election requirements, given that voters outside of the old Ward 3 boundaries may have received a recall ballot while voters who reside within the old Ward 3 boundaries, but outside of the new boundaries, may not have yet received a recall ballot. Of course, if the City does not proceed with the election, this issue will become moot.

The Registrar is, of course, available to discuss with the City Clerk the operational issues related to recall election.

Very truly yours,

LEON J. PAGE
COUNTY COUNSEL

By 

Mark Servino, Supervising Deputy

cc: Bob Page, Registrar of Voters (via email)
Jennifer Hall, City Clerk, City of Santa Ana (via email)
Steven Mendoza, Acting City Manager, City of Santa Ana (via email)