

*Office of the City Attorney*  
RICHARD DOYLE, CITY ATTORNEY

ARLENE SILVA  
Deputy City Attorney  
Direct Line: [REDACTED]

March 13, 2014

Sent via Email to: [REDACTED]

Re: City Councilmember Election 2014

Dear Mr. Lujano:

This letter is in response to your email to me dated March 11, 2014 concerning your questions on the process to appeal the outcome of the validation process from the Santa Clara Register of Voters (ROV) for your City Council campaign. I am responding to your questions pursuant to San Jose Municipal Code (SJMC) SJMC Section 12.05.080 which states "that any person may request the City Attorney to provide written advice with respect to the person's duties under the provisions of Chapter 12.05 and Chapter 12.06." Specifically, you have asked for the process to appeal the determination by the ROV that nomination signatures on your Nomination Petition were determined as invalid because some signatures were "completed by different signer."

SJMC 12.05.010 provides that in accordance with the City Charter Section 1602, the provisions of this chapter supersede any conflicting provisions in the California Elections or Government Codes. Therefore, unless the City provides otherwise, the City follows the California Election Code.

Election Code Section 100 provides that "... whenever any initiative, referendum, recall, nominating petition or paper, is required to be signed by voters of any county, city, school district, or special district subject to petitioning, only a person who is an eligible registered voter at the time of signing the petition or paper is entitled to sign it. **Each signer shall** at the time of signing the petition or paper **personally affix** his or her signature, printed name, and place of residence, giving street and number, and if no street or number exists, then a designation of the place of residence which will enable the location to be readily ascertained."

Election Code Section 100.5 adds that if a voter who is unable to personally affix on a petition or paper the information required under Election Code Section 100, the

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voter may request another person to print the voter's name and place of residence on the appropriate spaces of the petition or paper, but the voter shall personally affix his or her mark or signature on the appropriate space of the petition or paper, which shall be witnessed by one person by subscribing his or her name thereon.


Election Code Section 10221 further provides that nomination paper signatures to each nomination paper shall be appended on the same sheet of paper, and each signer shall add his or her place or residence, giving the street, and number.

Pursuant to Election Code Section 10002 et seq., the ROV was tasked with examining the signatures on the Nomination Petitions and they made the determination that your nomination papers did not comply with the requirements of the Election Code. Signatures that did not comply with the requirements were disqualified. There is no basis to make a determination that substantial compliance to the requirements of Election Code 100 or 10221 meet the threshold of the law and allow the rejected signatures to count.

We hope that this addresses your question. Please feel free to call if you have further questions or need clarification with regard to this letter.

Very truly yours,

RICHARD DOYLE, City Attorney

By:   
ARLENE SILVA  
Deputy City Attorney

AFS/afs

cc: City Clerk