

Orozco, Norma

From: Isuri Ramos <isuri@chispaoc.org>
Sent: Thursday, September 14, 2023 4:58 PM
To: eComment
Subject: 9/19 CC Meeting Public Comment - Item 28
Attachments: Chispa LOS Item 28 - 9.15 Santa Ana CC.pdf

Hello,

Please see Chispa's Letter of Support on Item 28 and confirm receipt.

Thank you and have a nice weekend.

Isuri S. Ramos (*she/her*)
Deputy Director | Chispa
isuri@chispaoc.org

In order to maintain a healthy work-life balance Chispa has adopted a 4 day work week. Our office is closed on Fridays. Thank you for your patience.

[Chispa is building a political home for Latinx Youth in Orange County! Please consider making a small donation to help us build our casita. Chispa is a project of Tides Advocacy, a 501\(c\)4 non-profit organization.](#)





September 14, 2023

Mayor Amezcua and City Councilmembers
20 Civic Center Plaza
Santa Ana, CA 92701
ecomment@santa-ana.org

Via Email

RE: SUPPORT ITEM 28 - Noncitizen Voting in City Council and Mayoral Elections

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of Chispa to express our support for Item 28, to place the issue of Noncitizen Voting in City Council and Mayoral Elections on the November 2024 ballot. The City of Santa Ana (City) must continue to expand opportunities for noncitizen residents to participate civically.

As an organization based in the City, Chispa seeks to engage with excluded peoples to uproot systems of oppression and cultivate systems grounded in community accountability, solidarity, and self-determination for our communities to thrive. We are a membership based organization for young Latinxs advocating for systemic changes across Orange County. We are strong advocates for civic engagement and democratic elections where voting is accessible to everyone, regardless of citizenship status. As such, we support allowing all City residents to participate in elections.

Chispa urges you to provide direction to return with options to place this issue on the November 2024 ballot, and amend the City's Charter to allow non-citizen voting. Per the Report produced for this item, "Noncitizen residents make up about 24 percent of Santa Ana's population."¹ About 30 percent of voting age residents in Santa Ana are noncitizens.² The American Immigration Council estimates that immigrant residents, including noncitizen residents, in

¹ Ron Hayduk, "Early American History," accessed September 9, 2023, <https://www.immigrantvotingrights.com/americanhistory>

² United States Census Bureau American Community Survey 5-Year Estimate, 2021.

Orange County contributed \$10.5 billion in taxes in 2018.³ Santa Ana is home to the largest share of noncitizen residents in all of Orange County cities, and nearly 20 percent of the county's noncitizen resident population resides in Santa Ana.”⁴ Noncitizens make up a large percentage of the City's residents - they cannot be excluded from City elections any longer.

The City has passed model policies to increase the participation of its noncitizen residents in the City's civic business. These policies resulted in the City's Sanctuary City designation in 2016, the creation of a Deportation Defense Fund in 2017, and an amendment to the City's Municipal Code that allowed noncitizens to serve on any City Board, Commission, and Committee in 2021. These policy efforts have been met with great support from community members, charitable organizations, faith-based organizations, and more; and the case was no different when the Council discussed extending voting rights to noncitizens in 2022.

In 2022, members of the Council expressed concern with the legality of noncitizen voting. That concern has been addressed as the First District Court of Appeal (Court) made it clear that charter cities have the authority to expand voting in local elections to its noncitizen residents. The Court stated that “neither the plain language of the Constitution nor its history prohibits legislation expanding the electorate to noncitizens.”⁵ The Court also reaffirmed the strength of charter amendments that allow noncitizen voting, when passed as a ballot measure by the electorate. These affirmations of legality and authority should propel the Council to take action now.

We applaud this proactive effort to make voting accessible to everyone. The City must continue to serve as a model for inclusion and democracy. For these reasons, Chispa urges you to provide **direction to the City Manager and City Attorney to return with options to place this issue on the November 2024 ballot, and amend the City's Charter to allow non-citizen voting.** Thank you for your time and consideration.

Sincerely,



Isuri S. Ramos
Deputy Director

³ American Immigration Council, “Map the Impact,” accessed September 3, 2023, <https://data.americanimmigrationcouncil.org/map-the-impact/>

⁴ United States Census Bureau American Community Survey 5-Year Estimate, 2021.

⁵ *James V. Lacy v. City and County of San Francisco*, 165899, Cal. App. 2023.

CC: VAmezcu@SantaAna.org
JessieLopez@SantaAna.org
TPhan@SantaAna.org
JRyanHernandez@SantaAna.org
BVazquez@SantaAna.org
DPenalosa@SantaAna.org
PBacerra@SantaAna.org

Orozco, Norma

From: Timothy Rush [REDACTED]
Sent: Monday, September 18, 2023 5:15 PM
To: eComment
Subject: Non Citizens Voting in Municipal Elections

Honorable Mayor & Members of the City Council;

Our group representing the leadership of many of the Neighborhood Associations in SNA are unanimous in our opposition to this proposal. It is so offensive to our belief in the rights to be accorded to bona fide US Citizens we are appalled that such a discussion would even be agendized. It makes a mockery of the hard work done by people who worked hard to become citizens and EARN the right of franchise to cast a ballot for whomever they feel is the best qualified candidate. This right should not be granted in a cavalier manner.

While the effort to involve more folks in our democratic process is a laudable one the concept is still terribly flawed. We strongly urge you to vote against any such proposal. Thank you for your consideration as always.....

Sincerely,

Tim Rush

Chairman

The G-7 Neighborhood Leaders Alliance

"Leaders Leading The Way to a Better Santa Ana"

[REDACTED]



Orozco, Norma

From: Annette Wong <awong@caasf.org>
Sent: Tuesday, September 19, 2023 12:00 PM
To: Amezcua, Valerie; Phan, Thai; Vazquez, Benjamin; Bacerra, Phil; Penaloza, David; Lopez, Jessie; Hernandez, Johnathan; eComment
Cc: Carvalho, Sonia R.; Annie Lee
Subject: Public Comment: Agenda Item #28 - Noncitizen Voting in Santa Ana
Attachments: Re Agenda Item 28 - Support for Noncitizen Voting in Santa Ana.pdf

Dear Mayor and City Council of Santa Ana,

Please find attached a letter of public comment in support of non-citizen voting in Santa Ana. We hope that the City of Santa Ana advances these efforts for the November 2024 election. As advocates advancing immigrant voting in San Francisco, we hope that Santa Ana will join with us in leading the way forward to advance a proactive measures to build pro-immigrant inclusivity in the face of federal inaction.

Thank you!

-- Annette

--



Annette Wong | 王浩儀
Chinese for Affirmative Action
Managing Director of Programs

华人权益促进会 | 项目主任

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AWong@caasf.org

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September 15, 2023

Chinese for Affirmative Action

17 Walter U Lum Place
San Francisco, CA 94108



Mayor Valerie Amezcuea

Santa Ana City Council

20 Civic Center Plaza,
Santa Ana, CA 92701
Cc: City Attorney Sonia R. Carvalho

Re: Agenda Item #28 - Support for Noncitizen Voting in Santa Ana

Dear Mayor Amezcuea and Santa Ana City Council,

Chinese for Affirmative Action (CAA), a 54 year old civil rights organization located in San Francisco, which has led efforts to pass and implement non-citizen/immigrant voting in San Francisco school board elections since 2004, respectfully urges the City Council of Santa Ana to include immigrant voting on the ballot for November 2024.

Immigrant voting cannot wait, especially in a place as diverse and immigrant-dense as Santa Ana. The enfranchisement of any new group of voters has always been difficult, whether for women and people of color, or more recently, youth (in certain municipalities), and in the state of California, parolees with felony convictions. Despite the hesitancy of those who support the status quo, true democracy demands that democratic processes be accessible to those who are governed.

Immigrant voting has been successfully implemented in San Francisco over the course of the last five school board elections. As cities that value our immigrant residents, Santa Ana and San Francisco are blazing a trail forward in California that is a pro-immigrant model for those across the state, nation, and world that are considering similar initiatives. In the face of immense attacks on immigrant rights, particularly over the last several years, we cannot be afraid to take a proactive stance, just as our immigrant brothers and sisters have been fearless in their efforts to live full lives as active participants in our shared communities.

Expanding the electorate in Santa Ana is legally permissible

The Court of Appeal of the State of California, First Appellate District, Division Five ruled in *Lacy v. City and County of San Francisco et al.* that San Francisco can expand the electorate in school board elections for two reasons. First, neither the language of the California Constitution nor its history prohibits local legislation which extends suffrage to noncitizens. Second, the California Constitution's home rule provisions allow charter cities, like San Francisco, to implement the expansion of the electorate, including in local school board elections. Notably, the Court cites Article XI, section 5 of the California Constitution which denotes considerable authority to charter cities: "It shall be competent in all city charters to provide, in addition to those provisions

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allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees.” (94 Cal. App. 5th 238, 250-251). The Court referred to this provision as the “Home Rule Provision” and analyzed whether it extended to school board elections as it clearly covered local elections for “municipal officers and employees.” The Court found that the “history of home rule in the California Constitution demonstrates an intent to confer broad authority on charter cities over municipal affairs generally,” including over school board elections (*Id.* at 253).

This ruling in *Lacy* is favorable to Santa Ana as it considers noncitizen voting in local elections. First, the Constitution does not bar Santa Ana from passing local legislation to extend suffrage to noncitizens. Second, charter cities like Santa Ana have home rule authority to determine who may vote for municipal officers and employees. Thus, it is legally permissible for Santa Ana to expand municipal elections for all immigrants, regardless of citizenship status, should the city's voters choose to do so.

In the face of inaction at the federal level on inclusive immigration policy, immigrant voting is an opportunity for Santa Ana to raise a light of hope and belonging to its residents. As the late Dr. Martin Luther King Jr. writes, “Justice too long delayed is justice denied.” We hope that the City of Santa Ana will not deny justice for its immigrant residents, and include immigrant voting on the ballot in November 2024.

Thank you.

Sincerely,



Annie Lee, Esq.
CAA Managing Director of Policy



Annette Wong,
CAA Managing Director of Programs

Orozco, Norma

From: Dale Helvig [REDACTED]
Sent: Tuesday, September 19, 2023 12:34 PM
To: Amezcua, Valerie; Phan, Thai; Vazquez, Benjamin; Lopez, Jessie; Bacerra, Phil; Hernandez, Johnathan; Penaloza, David; Ridge, Kristine; Carvalho, Sonia R.; Mendoza, Steven; eComment
Cc: Tim BHHScaprops Rush; Jeff Katz
Subject: 2023-09-19 Letter to City Council: Item 28 Noncitizen Voting

September 19, 2023

Mayor Amezcua and Santa Ana City Councilmembers
City of Santa Ana
20 Civic Center Plaza, 8th Floor
Santa Ana CA 92702

Subject: ITEM 28 –Discussion on Non Citizen Voting

Since there is only a discussion item I put forth to you some thoughts and concerns that I have.

1. Federal law bans noncitizens which includes green card and visa holders, from voting in federal elections.
2. With the current concern about the cost of elections, I expect this will will cost more than special elections. The FULL burden of any election would be the responsibility of the City.
3. U.S. citizens residing in U.S. territories cannot vote for president in the general election.
4. I would not expect to go another county and vote on how they should run their government.
5. Is noncitizen defined as legal permanent resident?
6. Places that have noncitizen voting have you show photo ID. Would this be acceptable in Santa Ana?

Voting is a privilege that comes with citizenship, it's not a right of every resident. I see this as an expensive administrative nightmare.

Discuss it tonight, then put it to rest.

Dale Helvig
Resident, Santa Ana

Orozco, Norma

From: Jenna Narahara (clinic) <jnarahar.clinic@law.uci.edu>
Sent: Tuesday, September 19, 2023 1:39 PM
To: eComment
Cc: Phan, Thai; Vazquez, Benjamin; Bacerra, Phil; Hernandez, Johnathan; Carvalho, Sonia R.; Carvalho, Sonia R.
Subject: Letter to City Council Members Regarding Non-Citizen Voting
Attachments: UCI-IRC Letter to Santa Ana City Council.pdf

Dear all,

My name is Jenna Narahara, and I am with the UC Irvine Law Immigrant Rights Clinic. We are forwarding our public comment for today's City Council meeting.

Thank you very much for your time and consideration.

Best,
Jenna Narahara
Immigrant Rights Clinic
UCI School of Law

September 19, 2023

Santa Ana City Council
22 Civic Center Plaza
Santa Ana, CA 92701

To the City Council:

The UC Irvine School of Law Immigrant Rights Clinic submits this letter regarding Item 28 on the City Council Meeting Agenda for September 19, 2023 (Noncitizen Voting in City Council and Mayoral Elections). About 23% of Santa Ana's residents are noncitizens and thus, despite being an integral part of the City, are unable to vote in local elections. Currently, 17 municipalities around the country permit noncitizens to legally vote. These include towns in Maryland and Vermont, two California cities (San Francisco and Oakland), New York City, and Washington, D.C. Although Santa Ana would be taking a lead as the first city in Southern California to extend the vote to noncitizens, there is ample precedent that would support such a measure.

Recently, the California First District Court of Appeal upheld a 2016 amendment to San Francisco's city charter to allow noncitizens to vote in school board elections, also known as Proposition N. Lacy v. City and County of San Francisco (2023) 94 Cal.App.5th 238, as modified on denial of reh'g (Aug. 28, 2023).¹ While the trial court initially struck down Proposition N, the Court of Appeal reversed the trial court's decision. In reaching its result, the trial court noted that there were "two reasons" it was rejecting the plaintiffs' challenge. Id. at 1.

First, the Court of Appeal examined the language and history of what it called the Citizen Voter Provision of the California Constitution—Article II, section 2(a)—and found that "neither the plain language of the Constitution nor its history prohibits legislation expanding the electorate to noncitizens." Id. at 1. In other words, the Constitution leaves open or defers to relevant lawmaking bodies or voters to determine whether individuals beyond those set forth in Article 2, section 2(a) can vote. Id. at 11.

¹ For the remainder of this letter, page references for the Lacy opinion will correspond to the relevant page(s) in the slip opinion available at <https://www.sfcityattorney.org/wp-content/uploads/2023/08/Lacy-v-City-and-County-of-San-Francisco-Decision.pdf>.



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Second, the Court of Appeal determined that because San Francisco is a charter city, it did not need to wait for the California Legislature to authorize noncitizen voting to expand the electorate. Id. at 12, 28. Voters in San Francisco instead had the power to enact noncitizen voting on their own through an amendment to the city charter.

Because the San Francisco amendment applied to school board elections, and public education has been determined to be a statewide concern for some purposes, see id. at 20-21, the Court of Appeal spent a fair amount of time in the Lacy decision discussing what it called the Constitution's Charter City School Board Provision, Article XI, section 16, and specifically the part of that provision bestowing upon charter cities the power to determine the "manner in which" school board members shall be elected or appointed. See id. at 21-22. Charter cities' authority to determine who may participate in elections for municipal officers is *even clearer*. In fact, the Constitution describes charter cities' power over the "manner in which" municipal officers shall be elected or appointed as "plenary." See id. at 22-23. The Court of Appeal ultimately found that charter cities had no less authority to determine who may vote in school board elections than municipal officer elections, but the authority to determine who may vote in municipal officer elections was never in question; it was treated as a given by all parties. See id. at 25.

Santa Ana can also rely on the Lacy decision even though it is not both a city and a county like San Francisco. Throughout the decision, the Court of Appeal refers to the power of charter *cities*. See, e.g., id. at 17 (describing the rationale behind "confer[ring] on charter cities the authority to expand the electorate where, as here, the city's voters determine that doing so would better serve local needs"). The decision makes barely any mention of San Francisco's additional status as a county.

The proposal by Councilmembers Hernandez and Vazquez would allow the City Council to consider whether voters of Santa Ana should be given the choice to follow in the footsteps of San Francisco and other cities. There remains little question that Santa Ana *can* take this step. It will ultimately be up to the voters to determine if expanding the electorate would better serve local needs of the City.

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ala.', with a long horizontal stroke extending to the right.

Annie Lai, Director
Jenna Narahara, Law Student
Amy Al Salek, Law Student
Immigrant Rights Clinic
UC Irvine School of Law

Orozco, Norma

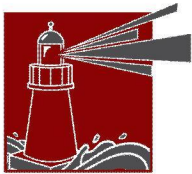
From: Mai Do <mai@harborinstituteoc.org>
Sent: Tuesday, September 19, 2023 1:59 PM
To: Amezcua, Valerie; Phan, Thai; Vazquez, Benjamin; Bacerra, Phil; Penaloza, David; Lopez, Jessie; Hernandez, Johnathan; eComment; Carvalho, Sonia R.
Subject: Agenda Item #28 - Noncitizen Voting in Santa Ana
Attachments: 9.19.23 Support for Item 28.pdf

Dear Mayor Amezcua and City Councilmembers,

Please find attached a letter of support for Agenda Item #28 on behalf of several organizations working with local immigrant and refugee communities.

Best,
Mai Nguyen Do

--



Mai Nguyen Do

They/Them

Research & Policy Manager

Harbor Institute for Immigrant & Economic Justice

✉ mai@harborinstituteoc.org

🌐 www.harborinstituteoc.org

📍 837 N Ross St, Santa Ana, CA 92701



September 19, 2023

Santa Ana City Council
20 Civic Center Plaza
Santa Ana, CA 92701

Re: Agenda Item #28 - Support for Expanding Voting Rights to Noncitizen Residents in Santa Ana

Dear Mayor Valerie Amezcua and Santa Ana City Council Members,

We write in strong support of Agenda Item #28.

The City of Santa Ana should explore expanding the local electorate to noncitizen residents, who comprise nearly a quarter of the city's population.¹ Such an expansion would foster inclusion, encourage political participation, and improve community resources through increased stakeholder engagement – all of which bolster our democracy. It remains deeply undemocratic that many local residents are excluded from participating in the election of the very officials who shape the local policies that all residents, regardless of immigration status, must abide by.

Noncitizen residents are a key part of the Santa Ana community and make up a sizable portion of the local taxpayer base. Yet, noncitizen residents are unable to participate in the election of those who are supposed to represent them in local government. It is imperative that the City Council improve representation of taxpayer interests in local government and end the political exclusion of nearly a quarter of the city by exploring the expansion of the electorate in municipal elections to noncitizen residents.

Earlier this year, the Court of Appeal of the State of California, First Appellate District, Division Five ruled in *Lacy v. City and County of San Francisco et al.* that San Francisco can allow for noncitizen voting in its school board elections. The Court's decision is favorable to an expansion of local voting in Santa Ana. The Court was "not persuaded [by the plaintiff] that the Constitution grants charter cities less authority in determining the nature of the electorate with respect to school board members than as to municipal officers."² This suggests charter cities' existing authority already allows them to determine the nature of the electorate with respect to municipal officers, and such authority was never disputed.

We urge the City Council to explore this viable avenue for strengthening local democracy in Santa Ana and, with that same spirit of democracy, allow the city's voters to ultimately decide.

Sincerely,

Harbor Institute for Immigrant & Economic Justice
El Centro Cultural de México
Orange County Communities Organized for Responsible Development (OCCORD)
VietRISE
Santa Ana Collaborative for Responsible Development (SACReD)
Korean Resource Center
Orange County Justice Fund

¹ U.S. Census Bureau, American Community Survey 2021 5-Year Estimate, 2022.

² *James V. Lacy v. City and County of San Francisco*, 165899, Cal. App. 2023.

Orozco, Norma

From: Eric Do [REDACTED]
Sent: Tuesday, September 19, 2023 2:03 PM
To: eComment
Cc: general@vietrise.org
Subject: Public Comment in support of Agenda Item #28

Good evening Madam Mayor and councilmembers

My name is Eric Do, I am a board member of Orange County Mobile Home Residents coalition and a resident of Westminster. I would like to voice my support for item #28 to allow noncitizens of Santa Ana voting rights in local elections. This disenfranchised group of people work and pay taxes like everyone else and they too, should have a say in their community. They, like all families that arrive in the United States, seek a better future for them and their children. They should be able to have a voice in the community they live in, work in, pay their taxes, and where their children go to school. As a child of immigrant parents, I am in **support of Agenda item #28, the proposal to create Resolution Options to Place the Issue of Noncitizen Voting in City Council and Mayoral Elections on the November 2024 Ballot.**

Orozco, Norma

From: Tracy La <tracy@vietrise.org>
Sent: Tuesday, September 19, 2023 2:51 PM
To: eComment; Amezcua, Valerie; Phan, Thai; Vazquez, Benjamin; Bacerra, Phil; Penaloza, David; Lopez, Jessie; Hernandez, Johnathan
Subject: Public Comment for Agenda Item #28: Noncitizen Voting in Santa Ana
Attachments: VietRISE_Public_Comment_Agenda_Item_28_9.19.23 Letter.pdf

Dear Mayor Amezcua and City Council members,

Please find attached VietRISE's letter and public comment in support of agenda item #28, non-citizen voting in Santa Ana. We hope that the city of Santa Ana will join the 17 municipalities across the country that have already passed this measure, and that you will allow the residents of the city to ultimately decide on this matter.

Best regards,
Tracy La



Tracy La
She/Her
Executive Director

✉ tracy@vietrise.org

☎ (714) 589-5496

📍 [14351 Euclid St. #1M, Garden Grove, CA 92843](#)

🌐 www.vietrise.org





Advancing social justice and building power with working-class Vietnamese and immigrant communities in Orange County since 2018.

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September 19, 2023

Santa Ana City Council
20 Civic Center Plaza
Santa Ana, CA 92701

Re: Agenda Item #28 - Support for Expanding Voting Rights to Noncitizen Residents in Santa Ana

Dear Mayor Valerie Amezcuca and Santa Ana City Council Members,

On behalf of VietRISE, we write in strong support of Agenda Item #28.

The City of Santa Ana should explore expanding the local electorate to noncitizen residents, who comprise nearly a quarter of the city's population.¹ Specifically, among the city's 314,000 residents, a staggering 74,125 (23.62%) are noncitizens who are currently deprived of their voice in local political processes by existing voting laws. 5,646 (17.86%) of the city's 31,611 Asian adult residents and 64,022 (37.02%) of the 172,962 Latino adult residents in Santa Ana are noncitizens. Such an expansion would foster inclusion, encourage political participation, and improve community resources through increased stakeholder engagement – all of which bolster our democracy. It remains deeply undemocratic that many local residents are excluded from participating in the election of the very officials who shape the local policies that all residents, regardless of immigration status, must abide by.

Noncitizen residents are a key part of the Santa Ana community and make up a sizable portion of the local taxpayer base. Yet, noncitizen residents are unable to participate in the election of those who are supposed to represent them in local government. It is imperative that the City Council improve representation of taxpayer interests in local government and end the political exclusion of nearly a quarter of the city by exploring the expansion of the electorate in municipal elections to noncitizen residents.

Earlier this year, the Court of Appeal of the State of California, First Appellate District, Division Five ruled in *Lacy v. City and County of San Francisco et al.* that San Francisco can allow for noncitizen voting in its school board elections. The Court's decision is favorable to an expansion of local voting in Santa Ana. The Court was "not persuaded [by the plaintiff] that the Constitution grants charter cities less authority in determining the nature of the electorate with respect to school board members than as to municipal officers."² This suggests charter cities' existing authority already allows them to determine the nature of the electorate with respect to municipal officers, and such authority was never disputed.

VietRISE is a founding member of the Santa Ana Families for Fair Elections coalition, which is a multi-ethnic, multi-generational coalition of community organizations and residents that aims to enfranchise noncitizen residents who are excluded from voting in local elections. From women's suffrage to people of color winning the right to vote, our campaign is about universal suffrage. We urge the City Council to explore this viable avenue for strengthening local democracy in Santa Ana and, with that same spirit of democracy, allow the city's voters to ultimately decide.

Sincerely,

Tracy La

¹ U.S. Census Bureau, American Community Survey 2021 5-Year Estimate, 2022.

² *James V. Lacy v. City and County of San Francisco*, 165899, Cal. App. 2023.



Advancing social justice and building power with working-class Vietnamese and immigrant communities in Orange County since 2018.

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Executive Director, VietRISE

Orozco, Norma

From: Julia Gomez <JGomez@aclusocal.org>
Sent: Tuesday, September 19, 2023 2:52 PM
To: eComment
Subject: Public Comment re September 19 City Council Meeting Item 28
Attachments: 2023.09.19 ACLU SoCal Letter to Santa Ana City Council re Item 28.pdf

Attached please find public comment on Item 28 on today's agenda. Best,

Julia

Julia Gomez, Staff Attorney
ACLU of Southern California
1313 W 8th Street, Suite 200
Los Angeles, CA 90017
(o) 213.977.5258

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Sent via email

September 19, 2023

Santa Ana Mayor and City Council
22 Civic Center Plaza
Santa Ana, CA 92701
eComment@santa-ana.org

RE: September 19, 2023 Meeting, Support for Item No. 28

Dear Mayor Amezcua and Members of the City Council:

We write in support of Item No. 28 and to emphasize that the City, following voter approval, has the power to amend the City Charter to permit noncitizen residents to vote in mayoral and city council elections. Santa Ana has authority to expand the electorate in local elections to noncitizen residents under Article XI, section 5 of California Constitution (hereinafter, the “Home Rule Provision”), which grants charter cities like Santa Ana authority over the conduct of city elections and plenary authority over the manner in which municipal officers are elected.¹ Nothing in state law or the Constitution prevents Santa Ana from moving forward with a charter amendment.

The California First District Court of Appeal recently reaffirmed the authority charter cities have under the Home Rule Provision when it upheld San Francisco’s amendment permitting noncitizen caregivers to vote in school district elections.² In *Lacy*, the Court of Appeal considered whether the Constitution’s voter qualifications language prohibited San Francisco’s charter amendment and whether San Francisco had authority to expand the electorate beyond the qualifications laid out in the Constitution and in state statutes. As to the first question, the Court of Appeal held that “neither the plain language of the Constitution nor its history prohibits legislation expanding the electorate to noncitizens.”³ As to the second question, the Court of Appeal held that San Francisco could expand the electorate in school board elections because a constitutional provision relating to the election of school board members in turn relied on the authority granted to charter cities by the Home Rule Provision.⁴ In other words, San Francisco was able to expand the electorate in school board elections precisely because it has broader authority over local elections under the Home Rule Provision. The same is true for Santa Ana.⁵

Importantly, expanding the right to vote in Santa Ana mayoral and city council elections does not conflict with state law. A local measure must cede to state law only when: 1) there is an actual and

¹ Cal. Const., art. XI, § 5(b).

² *Lacy v. City and Cnty. of San Francisco*, 312 Cal. Rptr. 3d 391, 396 (2023).

³ *Id.* at 395.

⁴ *Id.* at 401-04.

⁵ The Court of Appeal did not cabin its analysis to San Francisco, the only consolidated city and county in the state. Instead, the Court focused on the charter city provisions in the Constitution. *See, generally, Lacy v. City and Cnty. of San Francisco*, 312 Cal. Rptr. 3d 391 (2023).

EXECUTIVE DIRECTOR Hector O. Villagra

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genuine conflict with state law; *and* 2) the subject of the conflicting state statute is a matter of statewide concern; *and* 3) the state statute is not overbroad.⁶ The Elections Code provision on voter qualifications tracks the constitutional language that the *Lacy* court already held sets a floor on who may vote, not a ceiling: “Every person who qualifies under Section 2 of Article II of the California Constitution and who [has registered to vote] may vote at any election held within the territory within which he or she resides and the election is held.”⁷ Like the Constitution, the Elections Code identifies individuals who “may” vote, and expanding the electorate would not prevent those individuals from voting. Also like the Constitution, nothing in the Elections Code affirmatively forbids charter cities from enlarging the electorate. There is therefore no actual conflict with state law which would prevent Santa Ana from moving forward with the ballot measure.

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We urge the City Council to direct staff to prepare draft resolutions and report back on the issue of expanding the electorate to include noncitizen residents. Should you have any questions, please do not hesitate to contact me at jgomez@aclusocal.org.

Sincerely,



Julia A. Gomez
Senior Staff Attorney

⁶ *California Fed. Savs. & Loan Assn. v. City of Los Angeles (CalFed)*, 54 Cal.3d 1, 17 (1991).

⁷ Cal. Elec Code § 2000(a).