

Orozco, Norma

From: Ariel Bedell <ariel@loftinbedell.com>
Sent: Tuesday, September 19, 2023 8:52 AM
To: eComment
Cc: Sue Loftin
Subject: Agenda Item 26 - Opposition Letter
Attachments: 2023-09-19 City of Santa Ana Re Opp Item 26 Request for Amend v5.pdf

Please see attached letter in opposition to Agenda Item 26.

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ATTORNEYS AT LAW

Via Electronic Transmission (eComment@santa-ana.org)

September 19, 2023

Honorable Mayor and Council Members
City of Santa Ana
c/o Office of the City Clerk
c/o City Attorney, Sonia R. Carvalho
20 Civic Center Plaza M-30
Santa Ana, CA 92701

Re: Hearing Date: City Council Meeting, September 19, 2023
Agenda Item 26: **Opposed**
Request: Amend the Existing Ordinance No. 3027 to Comply with Existing State and Federal Statutory, Regulatory and Case Law.

Dear Honorable Mayor Valerie Amezcuca, Mayor Pro Tem Jessie Lopez, and Councilmembers Thai Viet Phan, David Penaloza, Phil Bacerra, Johnathan Ryan Hernandez and Benjamin Vazquez:

This Firm represents Kingsley Management Corporation, and its affiliated companies, which manage, own, and operate, with care and concern for the Homeowners (residents), multiple mobilehome parks within in the City of Santa Ana.

This Firm, on behalf of Kinsley Management Corporation and its affiliated companies, has noted, commencing January 2, 2020, to the present, violations of California Government Code sections 54950 and 36934 in various communications, correspondences, and statements presented to the City Council at various stages of and in relation to the City Council's consideration and adoption of the various rent control and eviction protection ordinances and related policies. Such prior violations and deficiencies noted previously in the public record are incorporated herein as though set forth in full, which were presented in the following public proceedings: (i) City Council Hearings held on September 21, October 5 and November 19, 2021 ("**2021 Record**") for the adoption of Ordinance Nos. NS-3009 and NS-3010 ("**2021 Ordinances**"); (ii) City Council Hearings held on October 5, 2022 and October 18, 2022 ("**2022 Record**") for the adoption of Ordinance No. NS-3027 ("**2022 Ordinance**") which fully replaced the 2021 Ordinances; and (iii) adoption all regulations, policies, retention of third-party vendors/agents, including the adoption of Resolutions related thereto ("**2023 Resolution**"). The public records commencing approximately January 2, 2020 of the meetings, communications and hearings include all memorandums, electronic transmissions, letters between and among staff, consultants, and members of the public, excepting attorney-client privileged materials; and between any City staff person, consultant or elected or appointed official with any third party, and all opposition letters, emails and verbal presentations and the video recording of those hearings are hereby incorporated for the record in this matter.

ORDINANCE NO. NS-3027 and PROPOSED AMENDMENTS

Councilmember Phan proposed amendment to the 2022 Ordinance to change the council vote required for future amendments to the ordinance from a majority to a super-majority approval in the future, which provision, among others in the proposed amendment, violated the City's Charter and numerous Government Code sections as set forth in the August 29, 2023 correspondence submitted by this Firm and Attorney Terry Dowdall¹. Councilmember Phan is a lawyer, purportedly in the public agency team of her law Firm and holds some capacity in the City Attorney's Office of two other Cities. Councilmember Phan wrote the proposed "Amended Ordinance" that she put on the Agenda for hearing on August 29, 2023. The factual basis used to support the Amended Ordinance was generally framed from a political point of view, rather than a factual basis.

The next effort to modify the 2022 Ordinance to prohibit further amendment is the proposal before you at this time – the request to prepare a "City Council-Initiated Ballot Measure for Voter Approval Affirming the City of Santa Ana's Rent Stabilization and Just Cause Eviction Ordinance." Councilmember Phan shows her talent again as a political writer disguising the goals of the proposed ballot. Evidence of this talent was previously demonstrated in the Agenda Item 21, City Council Hearing, August 29, 2023. As discussed in the Opposition correspondence to such agenda item, the Agenda Item did not correspond the Agenda Packet for the same matter.

There are no factual or legal basis provided or presented as topics or considerations for discussion. The public is thereby prevented from providing knowledgeable support or opposition to the consideration for a ballot measure. The assumption contained herein is that the goal of the Ballot Measure will be the issues set forth in the Agenda Packet for August 29, 2023, Item 21 and unknown considerations and discussions related to a Council initiated ballot measure.²

The consideration of a Ballot Measure should incorporate the purposes, language and legality of the Ballot Measure. Questions to consider: The allocation of City funds is one of the issues to evaluate - What impact will additional expenditure to support the Ballot Measure have on the City Budget? Would the money be better spent assisting the resident renters to pay rent, utility charges and other expenses? The issue raised in 2021 regarding the excess funds from the Federal and State funding to assist with the rental assistance appears to not have been addressed at this time. What was, and is, the plan for the use of the funds? How much money has the City spent to date defending its legally deficient Ordinances? How much money has the City spent to date on contractors and vendors to prepare the 2022 Ordinance to amendment the 2021 Ordinances and similar expenses? Respectfully, the cost to the City, the negative impact on the renters due to changing City Ordinance and Policies, the negative impact on the providers of rental housing and the suppression of new housing could all have been avoided had the City taken the time to consider and pass a legally viable ordinance in 2021, rather than rushing the ordinances forward.

¹ Incorporated herein are the Opposition letters to this matter submitted by Sue Loftin, Loftin Bedell P.C. and Terry Dowdall, Dowdall Law, and all other opposition to the Phan proposal presented for the City Council Hearing on August 29, 2023, Agenda Item 21.

² The Opposition to the August 29, 2023, Agenda Item 21 is incorporated into this correspondence along with the public record related thereto.

Clerk of City of Santa Ana
September 19, 2023
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REQUEST TO AMEND EXISTING ORDINANCE NO. NS-3027

The 2021 Ordinances – the Rent Stabilization Ordinance and the Just Cause Eviction Ordinance, - were consolidated into one ordinance and amended as the City of Santa Ana Rent Stabilization and Just Cause Eviction Ordinance, Ordinance No. NS-3027, the 2022 Ordinance. The litigation filed in 2022 challenged the constitutionality of the 2021 Ordinance challenging whether various portions of the 2021 Ordinances were in violation of State and Federal laws specifically relating to mobilehome parks. Some of the issues and factual contentions raised in the litigation against the 2021 Ordinances were addressed and corrected in the 2022 Ordinance, including clarifying that the 2022 Ordinance is preempted by the Mobilehome Residency Law, but failed to include the preemptive nature of other State and Federal laws applicable to mobilehome parks. The issues raised in the litigation were provided to the Public Record and raised at the 2021 public hearings.³

Unfortunately, the 2022 Ordinance continues to contain provisions and policies adopted to implement those provisions that continue to violate both State and Federal statutes and regulations including the related case law. This Firm, as well as many others, have reached out to the City Attorney's Office and other City departments in an effort to offer collaboration in addressing the legal issues but, at least as this office has been informed, the City is not interested in collaborating to resolve the legal issues and thus the ongoing pending litigation. The goal of the attempted discussions through collaboration, transparency and responsibility, was to work with the City and any other group to craft and encourage the adoption of a legally appropriate ordinance which recognizes and protect the rights of all players in the rental housing market, specifically within mobilehome parks, and to provide the structure for all players under which to live their lives and to operate their businesses. The refusal during 2020 through 2023 adoption of Ordinances, amendments and policies, to meet with the owners, managers, attorneys and other agents, has been and is disappointing. This position to refuse to collaborate, act with transparency, honesty, responsibility and fairness is contrary to the Guiding Principles adopted by the City and to the code of Ethics and Conduct adopted by the City.⁴

As the video record in this matter shows, it appears certain members of the former and present council concur with the former Mayor's statement made at the hearing prior to the adoption of the 2021 Ordinances in response to another councilperson's Motion to refer the Ordinance back to staff for further refinement was that we have to pass this, *this is what the voters elected us for*. The attitude was confirmed by one councilman at the August 29, 2023 hearing when in his emphatic manner stated, "we have to do this [adopt the amendments] *because they are coming after us!*" It appears the attitude of some members of the council is "Votes before Law".

Based on the above and the immense amount of assets expended on defective ordinances, the request to you, the elected officials, is expend the time and money to amend the existing Ordinance to comply with the Federal and State Statutes, regulations and relevant case law, rather than a ballot measure and litigation. This approach provides the protection you seek for renters while also

³ It is assumed for this letter that the City Attorney's Office has kept the City Council informed as both challenges to the Ordinance have progressed through the courts, and that as to the challenge to the Ordinances, the Ninth District Court has provided its ruling.

⁴ See, among other City policies: *City of Santa Conflict of Categories*, Resolution No. 2002-075; and *The City of Santa Ana Code of Ethics*.
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recognizing the benefit to the City the owners of the rental properties provide through the rental housing and thereby to the overall culture, education and business within the City. A Ballot Measure based on defective ordinances will not accomplish the goals.

Respectfully submitted,

LOFTIN | BEDELL P.C.


By: L. Sue Loftin, Esq.

cc: Client

Orozco, Norma

From: Bulmaro Vicente <boomer@chispaoc.org>
Sent: Tuesday, September 19, 2023 2:47 PM
To: eComment
Subject: 9/19 CC Meeting Public Comment - Item 26
Attachments: Chispa Item 26 Letter 9.19 Santa Ana CC.docx.pdf

Hello,

Please see Chispa's Letter on Item 26.

In Solidarity,

Boomer
Policy and Political Director | Chispa
e: boomer@chispaoc.org c: [714.747.4271](tel:714.747.4271)
1505 E 17th Street Suite 117 Santa Ana, CA 92705

[Chispa is building a political home for young Latinxs in Orange County! Please consider making a donation to help us build our casita. Chispa is a project of Tides Advocacy, a 501c4 non-profit organization.](#)





September 19, 2023

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

Via Email

RE: ITEM 26 - Directing the City Attorney to Prepare a City Council-Initiated Ballot Measure for Voter Approval Affirming the City of Santa Ana's Rent Stabilization and Just Cause Eviction Ordinance for the November 2024

Dear Mayor Amezcua and City Councilmembers,

I write on behalf of Chispa to express our support for the requirement of a supermajority approval of total council members for certain future amendments to the Rent Stabilization Ordinance (RSO) and Just Cause Evictions Ordinance (JCEO). The City of Santa Ana (City) must commit to safeguarding housing stability and the tenant protections that provide it.

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 tenant protections and affordable housing at both the Local and State level. As such, we support the preservation of the City's RSO and JCEO.

Chispa urges you to provide direction to amend the City's RSO and JCEO to require a supermajority approval for certain future amendments. It is necessary that these ordinances are protected as the crucial tools they are to maintain and increase housing stability; and that certain amendments are only made with a supermajority vote. The City's RSO and JCEO policies are the result of decades of community advocacy that has included support from community members impacted by housing instability, charitable organizations, faith-based organizations, and more. These efforts must be respected and providing this direction will do just that. The City must do everything in its power to safeguard these policies and follow the requirement of supermajority approval that is required for other City items such as certain budget actions.

Renters make up approximately 55% of City residents and their stability must be prioritized. The City has passed model tenant protection policies with the RSO and JCEO that provide Santa Ana tenants with housing security and protections they would not be afforded otherwise. The Rental Registry that accompanies these policies has received national recognition and has been lauded by the White House. All of this great work must be continued.

We applaud this proactive effort to protect the RSO and JCEO. The City must continue to serve as a model and adopt higher standards to protect tenants. For these reasons, Chispa urges you to **UPDATE the RSO and JCEO to require a supermajority vote for certain amendments.** Thank you for your time and consideration.

Sincerely,



Bulmaro Vicente
Policy and Political Director

CC: VAmezcuca@santa-ana.org
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