



THE CITY OF SAN DIEGO

TODD GLORIA
MAYOR

April 30, 2025

Mr. Keene Simonds
Executive Officer
San Diego County Local Agency Formation Commission
2550 Fifth Avenue, Suite 725
San Diego, CA 92103

Dear Mr. Simonds,

Please allow this to serve as the City of San Diego's formal Letter of Objection to the San Diego County Local Agency Formation Commission's Certificate of Sufficiency for Proposed Special Reorganization for Incorporation of the City of La Jolla petition regarding the Incorporation of Community of La Jolla and Concurrent Detachment from the City of San Diego.

BACKGROUND FACTS

The Association for the City of La Jolla (Proponents) submitted a petition regarding the Incorporation of Community of La Jolla and Concurrent Detachment from City of San Diego (Petition) purportedly containing 7,795 signatures of registered voters who reside within the proposed boundary. The San Diego County Local Agency Formation Commission (LAFCO) requested the Registrar of Voters (ROV) verify the submitted signatures. The ROV completed its review and determined that the Petition contained 5,723 valid signatures and was short 1,027 valid signatures to meet the required 25% threshold of 6,750.

On March 14, 2025, LAFCO issued a Notice of Insufficient Number of Valid Petition Signatures and Commencement of the 15-Day Remedy Period.¹ Under the applicable statutes, the Proponents were given an additional 15 days² to submit additional signatures. The Proponents submitted additional signatures in support of their Petition (Supplemental Petition).

The ROV reviewed the Supplemental Petition. On April 16, 2025, the ROV certified that of the 9,309 total signatures submitted, only 6,532 were found to be valid.³ Thus, the Proponents were short 218 valid signatures.

The Proponents requested to review the rejected signatures and contest those they believe the ROV improperly rejected. LAFCO then conducted a secondary review of the contested signatures. LAFCO overruled the ROV's rejection on 239 signatures. Of the 239 "resurrected" signatures, the City was allowed to review 212. The City agreed that of those it reviewed, 33 were valid signatures. The City objected to 179 of the signatures it reviewed.

On April 29, 2025, LAFCO issued a Notice of Sufficiency that the Proponents had met the 25% threshold, finding the number of valid signatures to be 6,722.

CITY'S OBJECTIONS

The City submits the following objections to LAFCO's issuance of the Notice of Sufficiency under Government Code section 56105:

I. THERE IS NO STATUTORY AUTHORITY FOR LAFCO'S EXECUTIVE OFFICER TO CONDUCT A SECONDARY REVIEW OF PETITION SIGNATURES OR OVERRULE THE ROV'S DETERMINATION ONCE LAFCO DELEGATED THAT DUTY TO THE ROV.

The City objects to LAFCO's secondary review of the signatures Proponents contested. Once LAFCO delegated the review of the Petition and Supplemental Petition to the ROV, the ROV was charged with determining whether the information and signatures on the Petition and Supplemental Petition matched voter registration records. The ROV oversees voter registration in the County and is the local subject matter expert in reviewing petitions such as this one. Here, the ROV reviewed both the Petition and Supplemental Petition and found them insufficient, with a shortfall of 218 valid signatures.

¹ See Attachment 1.

² Because the 15th day fell on a holiday, the Proponents actually had 16 days to collect and submit additional signatures.

³ See Attachment 2.

There is no authority permitting LAFCO or its Executive Officer to overturn the subject matter expert's determinations in this instance. Thus, LAFCO's Executive Officer should have issued a second Notice of Insufficiency following the ROV's review of the Supplemental Petition.

II. THERE IS NO STATUTORY AUTHORITY FOR LAFCO'S EXECUTIVE OFFICER TO OVERRULE THE ROV'S DETERMINATION REGARDING INCORRECT OR ILLEGIBLE NAMES.

To the extent that LAFCO contends that it had authority to conduct a secondary review of signatures, that review is limited to a review of whether the addresses of the signers was "readily ascertainable" (see Cal. Gov't Code section 56704(b)), and not to remedy errors in the signer's name as written on the Supplemental Petition. LAFCO appears to be relying on California Government Code section 56704(b) to grant it the authority to conduct the secondary review of the signatures rejected by the ROV. As stated above, the City does not agree with that position. However, if LAFCO did have authority to conduct a secondary review, that review was limited to whether, based on the information provided by signer on the petition, the signer's place of residence is "readily ascertainable." Government Code section 56704(b) does not authorize an analysis of whether a signer's name is "readily ascertainable" based on the information contained in the petition.

In its secondary review, in addition to reviewing contested signatures for errors in a signer's address, LAFCO also reviewed contested signatures to determine whether the signer's name was "readily ascertainable." The ROV rejected a number of the submitted signatures because of errors in a signer's name such that the name on the Supplemental Petition did not match the name in the voter registration record. Of the signatures it reviewed, the City objected to at least 27 of the resurrected signatures based on name alone, and at least 37 of the resurrected signatures based on errors contained in both the signer's name and address that did not match the voter registration record.⁴

III. LAFCO EXERCISED SIGNIFICANT DISCRETION IN OVERRULING THE ROV'S DETERMINATION AND WAS ARBITRARY AND CAPRICIOUS.

As the subject matter expert, the ROV follows a clear set of guidelines in determining if a signer's information and signature match the voter registration record. The ROV rejected 2,777 total signatures after examining

⁴ See Attachment 3 and 4. The City also objects to signatures based on errors in the signer's address that did not match the voter registration record.

both the Petition and Supplemental Petition. Of the total number of signatures rejected by the ROV, 2,072 were from the Petition and 705 were from the Supplemental Petition. LAFCO resurrected 239 of the rejections contested by the Proponents. The City only had an opportunity to review 212 of these contested signatures. The City agreed that of those it reviewed, 33 were valid signatures. The City objected to 179 of the signatures it reviewed on the basis of errors in the address, name, date, or other reason.

During the City's observation of the secondary review, LAFCO's representatives appeared to exercise significant discretion in favor of the Proponents, instead of deferring to the ROV's subject matter expertise. Indeed, at one point, LAFCO's representative stated that there was a need to exercise discretion in its review. LAFCO's representatives also speculated about whether a signer's primary language was English such that it might explain the errors on the Supplemental Petition. LAFCO's representatives also speculated about some signer's cultural heritage that could have caused the errors in the Supplemental Petition. LAFCO's representatives also resurrected signatures where the signer had a hyphenated last name, but included only one part of the last name on the Supplemental Petition such that it did not match the voter registration record. LAFCO's representatives also relied on Proponents' statements about what certain street signs said in determining whether an address was acceptable. At times, LAFCO's representatives also stated that they could understand why the ROV rejected the signature but decided to overrule the ROV's determination regardless.

Based on LAFCO's representatives' significant exercise of discretion, speculation as to causes of the errors, and reliance on information outside of the petition and voter registration records, including statements offered by the Proponents, LAFCO's determinations were arbitrary and capricious and the City objects to 179 of the resurrected signatures.

IV. OTHER IRREGULARITIES AND RESERVATION OF RIGHTS TO OBJECT.

The City has a number of unanswered questions related to this secondary review:

- Will the City be allowed to review the additional signatures that LAFCO resurrected prior to the City's participation in the secondary review?
- Did LAFCO provide the ROV with any instructions specific to LAFCO's procedures when it delegated review of signatures? If so, what were those instructions?

- Was LAFCO's secondary review limited to the Supplemental Petition or did it include the original Petition?
- Were signers whose signatures were rejected on the original Petition allowed to sign a second time on the Supplemental Petition?⁵
- Were all valid signatures reviewed to ensure there were no duplicates?⁶
- Who hired the consultant that prepared the spreadsheet LAFCO relied on?
- What was the source of information contained in the spreadsheet?
- In its review, did LAFCO compare the information on the petitions to the ROV's actual voter registration information?

Based on these lingering questions, the City objects to all resurrected signatures, except for 33, and reserves its right to raise additional bases for objections to the signatures it reviewed.

Sincerely,



TODD GLORIA
Mayor
City of San Diego

CC:

LAFCO Commissioners

- Chairman Stephen Whitburn
- Vice Chair Baron Willis
- Commissioner Jim Desmond
- Commissioner Joel Anderson
- Commissioner Kristi Becker
- Commissioner Dane White
- Commissioner Jo MacKenzie
- Commissioner Brigitte Browning
- Commissioner David Drake
- Commissioner John McCann
- Commissioner Marni von Wilpert

⁵ During the City's review, Proponents made statements several times that some of the signers signed several times because their signatures had been previously rejected.

⁶ During the City's review, it noticed several duplicate names.