



October 21, 2020

VIA EMAIL

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Re: Request for Investigation of San Diego County Assessor/Recorder/Clerk Ernest J. Dronenburg, Jr.

Dear Messrs. Becerra and Engler and Meses. West and Stephan:

We write to request that your offices undertake an immediate investigation into the misappropriation of public resources by San Diego County Assessor/Recorder/Clerk Ernest J. Dronenburg, Jr and his staff for the purpose of illegally campaigning against Proposition 15, an initiative measure that will appear on the November 3, 2020 election ballot. The

misappropriation of public funds creates both criminal and civil liability for Mr. Dronenburg and staff, giving each of your agencies' jurisdiction over his unlawful activities.

Factual Background

On at least three separate occasions, San Diego County Assessor/Recorder/Clerk Ernest J. Dronenburg, Jr and his staff have appeared at events using Mr. Dronenburg's official title, the office's official seal, staff time, office resources and office equipment to advocate against Proposition 15.

On Tuesday, September 15, 2020, the Assessor, Mr. Dronenburg, appeared at a meeting of the San Diego County Board of Supervisors, along with his staff, advocating that the Board of Supervisors oppose Proposition 15 (Item 34). (This meeting was streamed live and is publicly available at https://sdcounty.granicus.com/MediaPlayer.php?view_id=9&clip_id=2829) At about the 6:33:25 time mark, Mr. Dronenburg was introduced with the slide titled "Reject Proposition 15," with his name, title and the official seal of his office. (A screenshot of Mr. Dronenburg's slide is available as Exhibit 1 to this letter.) During Mr. Dronenburg's presentation arguing against Proposition 15, Mr. Dronenburg's never indicated that he was appearing in his personal capacity. Instead, county resources and staff time were clearly used to prepare Mr. Dronenburg's presentation, where Mr. Dronenburg in his official capacity as County Assessor expressly advocated for voters to reject a state ballot measure.

On Tuesday, August 25, 2020, Jordan Marks, the San Diego County Assessor's Taxpayer Advocate, appeared in a video presentation on behalf of the San Diego Assessor's office with the seal of the office behind him at an event hosted by the North San Diego County Association of Realtors. (This video can be accessed on YouTube at <https://www.youtube.com/watch?v=XIzyL3biYvU&t=210s>) Mr. Marks gave no indication that he was appearing in a personal capacity, but instead introduced himself in his official capacity as the Taxpayer Advocate for the San Diego Assessor's office. At the 52:00 minute mark, with the seal of the Tax Assessor's office behind him, Mr. Marks expressly advocated for voters to reject Proposition 15. Mr. Marks conceded that his presentation used data from the Assessor's office, indicating that he used office resources and staff time to advocate against a state ballot measure. Mr. Marks ended his presentation with a slide labeled "PROP 13 IS WORKING – REJECT PROP 15" quoting Mr. Dronenburg that Proposition 15 was the "[w]rong idea at the wrong time." (A screenshot of Mr. Marks' presentation is available as Exhibit 2.)

On Saturday, October 3, 2020, three officials from the Assessor's Office participated in Politifest, hosted by the media outlet Voice of San Diego. (This video can be accessed on YouTube, at <https://www.youtube.com/watch?v=tDjcR1BznbQ&feature=youtu.be>) These officials were the Assessor Mr. Dronenburg, Chief Deputy Assessor Jeff Olson, and the Assessor's Taxpayer Advocate Mr. Marks. The three appeared from their county government offices and Mr. Marks appeared with the seal of the office behind him and each official used their official titles. Ostensibly, these officials appeared in their official capacity as members of the Assessor's Office, never noting that they were offering their opinions in their personal capacity. At the 26:21 minute mark, after being introduced as the County Assessor, Mr.

Dronenburg began his comments by stating, “Thank you for the opportunity to lay out what led me to oppose Proposition 15 and why I think the voters should be against the elimination of the Prop 13 protections for property owners.” Again, this presentation used data from the Assessor’s office, indicating that office resources and staff time were used to advocate against a ballot measure. Mr. Dronenburg ended his presentation with a slide at the 1:24:39 time mark titled “Reject Prop 15,” which quoted from himself, using his official title as San Diego County Assessor/Recorder/Clerk, stating “Proposition 15 is the wrong idea at the wrong time.” (A screenshot of this slide is available as Exhibit 3.) Thus, these officials used their platform as officials in the Assessor’s Office to advocate against a statewide ballot measure, indicating that the Assessor’s Office took an official position on the measure.

Notably, these presentations are filled with misleading information and blatant misrepresentations of Proposition 15. Several of Mr. Dronenburg’s examples provided incorrect information about properties that allegedly would be reassessed. Other claims confuse basic math terms, conflating average property values and median property values. Mr. Dronenburg and his staff’s claims regarding Proposition 15’s impact on homeowners and the reassessment of home-based businesses are not only incorrect but were previously found to be false and misleading by a Sacramento Superior Court judge in August 2020 and stricken from the Proposition 15 opponent’s argument in the official state ballot pamphlet. In short, it’s not surprising that Mr. Dronenburg and his staff would engage in illegal advocacy against a ballot measure, knowing that they can’t get their basic fact straight.

Analysis

The California Constitution, California Supreme Court authority, state statutes, and local County policy uniformly prohibit public officials from using public resources to advocate the defeat or passage of an initiative measure. As the California Supreme Court stated in *Stanson v. Mott*, 17 Cal. 3d 206, 217 (1976): “A fundamental precept of this nation’s democratic electoral process is that the government may not ‘take sides’ in election contests or bestow an unfair advantage on one of several competing factions.” The integrity of our democratic system depends upon a constitutional commitment to elections “free of partisan intervention by the current holders of governmental authority.” *Id.* at 227. Using public resources to influence the electoral outcome of ballot initiatives “presents a serious threat to the integrity of the electoral process.” *Id.* at 218 (citing Cal. Const. art. II, § 2); *Vargas v. City of Salinas*, 46 Cal. 4th 1, 31-32 (2009) (recognizing constitutional concerns inherent in governmental advocacy concerning ballot measures).

To that end, the California Government Code expressly prohibits public officers from using the resources of their office to advocate for or against passage of a measure. Cal. Gov’t Code § 54964(a) (officers of a local agency may not expend resources to support or oppose ballot measures); *id.* § 8314 (“It is unlawful for any ... local appointee [or] employee ... to use or permit others to use public resources for a campaign activity); *see also* Cal. Penal Code § 424(c) (violations of Government Code § 8314 may constitute a crime).

In addition, using an agency's logo, letterhead or seal with the intent to deceive voters into thinking the communication is from an agency is a violation of California election law. Elections Code section 18304 provides that any person who uses or allows the use of a reproduction or facsimile of a county seal or seal of any agency of local jurisdiction, such as the San Diego County Assessor/Recorder/Clerk, in any campaign literature with intent to deceive the voters, is guilty of a misdemeanor.

Furthermore, the California Political Reform Act requires public agencies which expend public funds to advocate the defeat or passage of a ballot measure to file and properly disclose all expenditures, including public equipment and staff time, related to the unlawful activities. (Cal. Code Regs. tit. 2, § 18420.)

Finally, the County of San Diego's ethics policy requires that all county employees comply with all applicable federal, state and local laws, rules and regulations.¹ It also requires that county employees and officers prevent and deter improper government activity, which means any activity, conduct, or act by a County department, officer, or employee relating to the performance of official County functions, duties or responsibilities, and including gross mismanagement, a significant waste of funds or an abuse of authority.

Together, these authorities clearly prohibit local officials like Mr. Dronenburg and his staff from using County resources, including his official seal, his official title as San Diego County Assessor/Recorder/Clerk, County office computers, PowerPoint applications and staff time to engage in advocacy against a ballot measure. But in these presentations, that is exactly what Mr. Dronenburg and his staff have done. Under the County Assessor's seal and in his capacity as County Assessor/Recorder/Clerk, Mr. Dronenburg and his staff, in several instances, urged voters to vote no on Proposition 15.

Through these presentations, not only did Mr. Dronenburg and his staff violate the California Constitution, and state law – he traded on his official government position to lend weight to his argument that voters should reject Proposition 15, and applied the imprimatur of the County of San Diego and his office of Assessor/Recorder/Clerk to bolster the credibility of his message. In doing so, Mr. Dronenburg misappropriated public resources to influence the outcome of the election and has seriously threatened the integrity of the electoral process. His actions are even more egregious because, as Mr. Dronenburg noted in his presentation at Voice of San Diego' Politifest, his role of County Assessor is as a "technical administrator of property tax assessments." Mr. Dronenburg clearly recognized the value of using that office to serve his political purposes when he advocated against Proposition 15 using his official title and seal of this office and allows his staff to do the same. His deliberate misappropriation of public resources cannot be condoned.

Mr. Dronenburg and his staff demonstrated an unlawful, calculated effort to use public resources, including his official position and County Assessor/Recorder/Clerk seal, to advocate

¹ County of San Diego Code of Ethics, available at <https://www.sandiegocounty.gov/content/dam/sdc/cao/docs/elspstmt.pdf> (last accessed October 20, 2020).

against the passage of Proposition 15. We respectfully request that the Attorney General, the California Fair Political Practices Commission, and the San Diego County District Attorney initiate investigations and hold him accountable.

Sincerely,

A handwritten signature in black ink that reads "Lori B Thiel". The letters are cursive and fluid, with a large initial "L" and "T".

Lori Thiel, President
League of Women Voters of San Diego

A handwritten signature in black ink that reads "Andrea Guerrero". The signature is cursive and includes a long horizontal flourish at the end.

Andrea Guerrero, Executive Director
Alliance San Diego