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6 *Real Party in Interest, In Pro Per*

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF ALAMEDA

9 CITY OF BERKELEY,) Case No.: RG14720117
10 vs. Petitioner/Plaintiff,)
11) DECLARATION OF JESSE ARREGUIN IN
12) OPPOSITION TO MEMORANDUM OF POINTS AND
13) AUTHORITIES IN SUPPORT OF PETITION FOR
14) WRIT OF MANDATE AND COMPLAINT FOR
15) DECLARATORY RELIEF
16)
17 TIM DUPUIS, in his official capacity as)
18 Registrar of Voters of the County of)
19 Alameda, and MARK NUMAINVILLE, in his)
20 official capacity as City Clerk of the)
21 City of Berkeley,)
22)
23)
24)
25)
26)
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28)
Date: April 29, 2014
Time: 1:30 p.m.
Dept.: 31

Respondent/Defendant

(The Honorable Evelio Grillo)

MAX ANDERSON, JESSE ARREGUÍN, STEFAN ELGSTRAND,
PAUL KEALOHA BLAKE, MATTHEW LEWIS, STEPHANIE
MIYASHIRO, PHOEBE SORGEN, ALEJANDRO SOTO-VIGIL
and KRISS WORTHINGTON,

Real Parties in Interest

DECLARATION OF JESSE ARREGUÍN

I, Jesse Arreguin, hereby declare:

1. That I am a named Real Party in Interest in the case of *City of Berkeley v. Dupuis*, Alameda County Superior Court Case No: RG14720117. I submit this declaration in opposition to the petitioner/plaintiff City of Berkeley's Petition for Writ of Mandate and Complaint for Declaratory Relief.

- 1 2. I was also elected by the voters of the Fourth Council District as their
2 representative on the Berkeley City Council at the November 4, 2008 election,
2 and was re-elected to the City Council on November 2, 2010.
- 3 3. I participated in all discussions and votes taken by the Berkeley City Council
4 regarding redistricting following the 2010 federal decennial census.
- 5 4. On September 30, 2011, the deadline for the submission of redistricting
6 proposals by members of the public during the first phase of redistricting, a
7 proposal was submitted by the Berkeley Student District Campaign, which created
8 new district boundaries, including the redrawing of District 4, my City Council
9 District, as a student super-majority district. The purpose of this proposal
10 was to create a district that included the neighborhoods immediately adjacent
11 to the UC Berkeley campus, areas in which large numbers of UC students reside.
12 While this proposal intended to unite a community of interest within one
13 district, it was not compliant with the Berkeley City Charter requirement in
14 Article V, Section 9, that no sitting Councilmember may be drawn out of their
15 district. Given the lack of compliance with the Charter, the proposal was not
16 further analyzed by City staff as part of the redistricting process.
- 17 5. During the two public hearings for the first phase of redistricting, held on
18 November 15, 2011 and January 17, 2012 respectively, representatives of the
19 Berkeley Student District Campaign and their supporters acknowledged that their
20 redistricting proposal was not Charter compliant, but rather than amend it to
21 comply with the requirements of the City Charter, the creators of the map and
22 their supporters urged the City Council to place on the ballot an amendment to
23 the City Charter that would eliminate the requirement that district boundaries
24 follow as closely as possible to the original lines established by the voters
25 in 1986. They argued that the district lines were intentionally created to
26 divide the student community and other communities of interest, and that they
27 were arbitrary, unfair, and did not reflect the City's current population. They
28 argued for the creation of a "student district" and felt that the requirement
29 to stay close to the original boundaries stood in the way of achieving a
30 "student district".
- 31 6. On January 17, 2012, the Berkeley City Council voted to defer the redistricting
32 process until after the November 2013 election and stated its preference to
33 place a measure on the November 2012 ballot to amend the City Charter to change
34 the requirements for redistricting. I was one of only two Councilmembers who
35 voted in opposition to the deferral of redistricting given that an
36 unnecessarily large groups of voters would potentially go 6 years before they
37 would be able to vote for their representative on Council. After the Council's
38 vote on deferral, several Councilmembers volunteered to work with the Mayor to
39 develop a Charter Amendment. I was one of those Councilmembers who volunteered.
- 40 7. Throughout the end of January and month of February, I participated in several
41 meetings with Mayor Tom Bates and Councilmember Laurie Capitelli to develop a
42 proposal to amend the City Charter around redistricting. My Chief of Staff

1 creating an independent redistricting commission, establishing a commission
2 appointed by the legislative body, and requiring a super majority vote of the
3 legislative body to adopt a redistricting plan, among other characteristics. I
4 had presented these alternatives to the Mayor and Councilmember Capitelli, who
5 indicated their preference to stay with the current process of the Council
6 adopting district boundaries. There were extensive discussions of changing the
7 number of districts or composition of elected positions on the City Council.
8 One idea was to create 5 districts in the City, with some at-large seats that
9 would better enable a student candidate to run. Another idea was to add two at-
10 large seats in addition to the 9 Council seats that currently exist. There were
11 discussions of moving back to all at-large elections, but all of us agreed that
12 district elections were preferable, not only given the large amount of money
13 that would need to be raised to run citywide, but also given that the city has
14 been operating under a district elections system since 1986 and voters
15 generally prefer that system.

- 16
- 17 8. In our discussions of the new process for redistricting, we were all in
18 agreement that we should eliminate the original boundaries prefixed in the City
19 Charter in 1986, but rather put in place criteria to guide the Council's
20 development of district boundaries. I had suggested that if we were not going
21 to create an insulated process, such as my preference for an independent
22 commission, that we not remove the provision that prohibits drawing
23 Councilmembers out of their districts because I feared that if the provision
24 was removed, it would be used by a majority of the Council to punish political
25 opponents of the minority faction. I also felt that the voters elect their
26 Councilmembers and only they should have the power to remove them, not a
27 majority of the City Council. There were several discussions on whether to
28 remove the incumbency protection provision. Councilmember Capitelli stated that
he felt that removing it may give Council more flexibility to draw boundaries,
and at one meeting using a map of the current districts, Councilmember
Capitelli pointed to how the boundaries would be cleaner and that we can create
a student district by drawing out Councilmember Kriss Worthington from his
district. We also agreed that we should require that the lines follow major
streets so it's clear to the voters where one district ends and where one
begins. We also wanted to explicitly say that the boundaries had to respect
communities of interest. This was in light of the request by UC Berkeley
students for a student super-majority district. It became clear during the
discussions in 2011 that part of the issue was not just the 1986 boundaries,
but also that the redistricting criteria did not talk about respecting
communities of interest. Without communities of interest being specifically
defined as part of the criteria in the Charter, it was not as important as the
other criteria codified, and did not have to be specifically reflected in any
redistricting ordinance passed by the City Council. I had raised the idea of
mentioning students explicitly as a community of interest in the measure,
however, this request was rejected by the Mayor and Councilmember Capitelli who
feared that long term residents would vote against the measure if it said
anything about a student district. I had put forward a few suggestions on
communities of interest to specifically mention in the measure, such as
neighborhoods, so they would be explicitly considered by the City Council.

1 9. In our meetings, I also raised the idea of requiring 7 votes of the City
2 Council to approve any redistricting plan so that the plan adopted has broad
3 consensus and would not be a partisan gerrymander where one side punishes
4 another. I got general agreement from the Mayor and Councilmember Capitelli
5 about adding a requirement for 7 votes to approve a redistricting plan. We also
6 discussed what to do if there was an impasse. When I was presented with a draft
7 of the item from Sbeydeh Viveros, Senior Aide to the Mayor, prior to the
8 deadline for the April 3, 2012 agenda, I noticed that there was no mention of a
9 requirement for 7 votes to approve a redistricting plan. I reiterated in an
10 email to her that we had agreement that there should be a high vote threshold,
11 but she said in response that the item will be submitted as written and that I
12 should discuss any changes with the Mayor and Councilmember Capitelli
13 separately prior to the vote on April 3, 2012 (See Exhibit A).
14

15 10. In my discussions with the Mayor and Councilmember Capitelli prior to the April
16 3, 2012 meeting I had raised the issue of requiring 7 votes of the Council to
17 approve a redistricting plan. It appeared that they changed their position on
18 the issue. I was able to get agreement that as part of the referral to staff to
19 draft the Charter Amendment that we will also include a requirement for a two-
20 thirds (or 6 Councilmembers) requirement for passage and to develop impasse
21 procedures.

22 11. On April 3, 2012, I co-sponsored an item along with the Mayor and Councilmember
23 Capitelli to request that the City Manager direct the City Attorney to draft
24 ballot language to amend the City Charter requirements for redistricting based
25 on the following parameters:

- 26 • Elimination of the 1986 boundary lines.
- 27 • Using major traffic arteries and natural geography as boundaries.
- 28 • Keep communities of interest (as defined by law) intact.
- 29 • Protection of incumbents.

30 The Council also at my request included in the referral a requirement for a
31 two-thirds vote to approve any redistricting plan and to develop an impasse
32 procedure.

33 12. At the May 29, 2012 City Council meeting, the Council considered draft Charter
34 Amendment language (See Exhibit B). I once again reiterated my request for a
35 two-thirds vote to approve a redistricting plan. I made a motion to amend the
36 Charter Amendment language to add the two-thirds requirement that Council had
37 previously agreed upon. The majority of Council reneged on the two-thirds
38 requirement and the motion did not prevail, resulting in majority rule
39 redistricting process. Council also explicitly in its vote stated that
40 communities of interest shall take precedence over major arterials, geography
41 and other criteria. Council did not prescribe any process for redistricting in
42 the measure. I ultimately voted to place the Charter Amendment on the ballot
43 and on June 26, 2012 was designated by the City Council along with Mayor Bates
44 to write the ballot arguments in favor of the measure.

45 13. As part of the Council's motion designating me as an author of the ballot

1 communities of interest. Overall respecting and protecting communities of
2 interest was the overriding argument.

3 14. I not only endorsed Measure R but allowed my name to be used as an endorser for
4 the ballot arguments. Measure R was overwhelmingly approved by the voters at
the November 6, 2012 election.

5 15. As an author of Measure R, and a participant in the Council's discussions of
6 the measure, I can speak with specific knowledge and authority about the
7 legislative intent of Measure R. I can attest that the primary reason for the
8 measure was to amend the Charter to give the Council the flexibility to
consider and protect communities of interest in the redistricting process. The
9 prefixed boundaries that were prescribed in the Charter intentionally divided
communities of interest, including the student community, and that by removing
10 the boundaries, decades of division could be corrected. I can also attest in
11 replacing the fixed boundaries, the Council had to prescribe criteria,
12 including communities of interest, for drawing new district boundaries. There
13 was no prescribed process for redistricting included in Measure R as Council
14 retained the sole authority to draw district boundaries and to adopt them in
any manner they so choose, notwithstanding the Brown Act.

15
16 I declare under penalty of perjury that the foregoing is true and correct. I
have firsthand knowledge of the same, except as to those matters described on
17 information and belief, and if called upon to do so, I could and would testify
competently thereto. Executed this 22nd day of April 2014 in Berkeley, California.
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21 _____ Jesse Arreguin
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