

**FILED**

Superior Court of California  
County of Alameda

03/18/2024

Clad Fluke, Executive Officer / Clerk of the Court

By:  Deputy

K. Davis

SUPERIOR COURT, COUNTY ADMINISTRATION BUILDING

COUNTY OF ALAMEDA, STATE OF CALIFORNIA

Case No. 24CV059151

JERGENSEN, et al.

Petitioners,

vs.

ALAMEDA COUNTY REGISTRAR,

Respondent.

**ORDER ON THE MERITS**

Petitioners Ryan Jergensen and Linda Hurley currently serve on the Sunol Glen Unified School District Board of Trustees. Respondents are the Alameda County Registrar of Voters Department and Tim Dupuis, Registrar of Voters for the County of Alameda (RoV). Intervenor "Recall School Board Trustees Jergensen & Hurley" (the committee) is a committee of local voters and parents seeking to recall the Petitioners.

On December 7, 2023, the committee filed notices of intent to circulate petitions seeking the recall Linda Hurley and Ryan Jergensen with the RoV. Petitioners identified what they believe to be a number of defects in the notices of intent. Based on those defects, they seek a writ of mandate directing Respondents to reject the notices of intent and to refrain from certifying any petitions for recall based on the notices. In the meantime, the committee circulated petitions. At the hearing on the merits, the parties indicated that the petitions had been reviewed and signatures verified. It appeared a recall of Petitioners would indeed be authorized.

1 The court set the matter for expedited briefing and hearing on the merits of the writ petition.  
2 Petitioners filed a memorandum of points and authorities in support of their petition on February  
3 5, 2024. Respondents and the Committee filed opposition briefs, and petitioners filed a reply.  
4 The court heard argument on February 29, 2024 and took the matter under submission.  
5 The Court now DENIES the petition for a writ of mandate on the merits.

6  
7 **DISCUSSION**

8 “A traditional writ of mandate is a method for compelling a public entity to perform a legal and  
9 usually ministerial duty.” (Westiders Opposed to Overdevelopment v. City of Los Angeles  
10 (2018) 27 Cal. App. 5th 1079, 1085 [“traditional writ of mandate” is “method for compelling a  
11 public entity to perform a legal and usually ministerial duty”].) “Two basic requirements are  
12 essential to the issuance of the writ:” (1) respondent’s “clear, present and usually ministerial  
13 duty,” and (2) petitioner’s “clear, present and beneficial right.” (Monterey Coastkeeper v. Cent.  
14 Coast Reg'l Water Quality Control Bd. (2022) 76 Cal.App.5th 1, 18.)

15 Petitioners fail to establish that Respondents had a clear and present duty to reject the notices of  
16 intent or to refrain from certifying any recall petitions concerning Petitioners. The Elections  
17 Code governs recall of elected school board trustees. (See Elec. Code §§ 11000 et seq.) Recall  
18 proceedings “may be commenced” by the “service, filing and publication or posting of a notice  
19 of intention to circulate a recall petition.” (Id., § 11006.) The notices should include, as relevant  
20 here, a “statement, not exceeding 200 words in length, of the reasons for the proposed recall,”  
21 and the “printed name, signature, and residence address, including street and number, city, and  
22 ZIP Code, of each of the proponents of the recall.” (Id., § 11020, subs. (a)(2) & (a)(3)).)

23 Petitioners limit their arguments on the merits of the writ petition to two issues: (1) the word  
24 count in the “Statement of Reasons” in the Notice of Intent regarding the recall of Ryan  
25 Jergensen, and (2) the use of the label “street address,” rather than “residence address,” for the  
proponents of the recall. The court concludes that neither argument supports Petitioner’s request

1 for a writ directing the RoV to reject the notices of intent and to stop further processing relating  
2 to Petitioners' potential recall.

3  
4 **The Word Count for the Statement of Reasons**

5 Petitioners fail to establish that Respondents have a duty to reject the Ryan Jergensen notice  
6 based on the "statement of reasons" exceeding the word count for at least two reasons. First, the  
7 timing of the Petitioners' writ is problematic and is a bar to their request. The statement is  
8 "intended solely for the information of the voters, and "[n]o insufficiency in form or substance  
9 thereof shall affect the validity of the election proceedings." (Elec. Code, § 11024, subd. (a).)

10 The Election Code provides a very short timeframe during which a voter may seek a "seek a writ  
11 of mandate or an injunction requiring any or all of the statement" to be "amended or deleted."  
12 (Elec. Code § 11042.5 ["writ of mandate or injunction request shall be filed no later than the end  
13 of the 10-day public examination period"].) Petitioners allege that the notices were filed with the  
14 Registrar on December 7, 2023, and that the Registrar notified Petitioners that the 10-day public  
15 examination period would end on December 18, 2023. (Am. Pet., ¶¶ 6–8; Ex. C.) Petitioners,  
16 therefore, waived any right to challenge the sufficiency of the Statement of Reasons in the notice  
17 under section 11042.5.

18 Second, the RoV concluded that the word count for the statement in the two notices of intent at  
19 issue was under the 200 word limit, and the court sees no reason to question the RoV's decision  
20 in that regard. The RoV points out that "All proper nouns, including geographical names, shall  
21 be considered as one word; for example, 'City and County of San Francisco' shall be counted as  
22 one word." (Elec. Code § 9.) This esoteric but simple rule has a significant impact on Petitioners'  
23 claim. For example, Petitioners count "Sunol Glen Unified District Code of Ethics for Board  
24 Members Norms of Governance and  
25

1 Behavior” as 12 words. In failing to recognize the document title as a proper noun, Petitioners  
2 are overcounting by at least 11 words. There is nothing the court needs to correct by way of a  
3 writ of mandate.

4  
5 **Collection of Residence Addresses**

6 Petitioners also contend that the notice of intent forms fail to seek “residence addresses” as  
7 required by section 11020, subdivision (a)(3) of the Election Code. The notice of intent form ask  
8 for the printed name, signature, “street address,” and city for each of the proponents of the recall.  
9 Petitioners say that a “street address” is not necessarily a “residence address,” rendering the  
10 forms non-compliant. From their perspective, the RoV should have rejected the notices of intent  
11 forms, and the court should now order the RoV to reject them.

12 The court concludes that Petitioners are wrong, and it is not a close call. Above the boxes  
13 seeking information from the proponents of the recall signing the notices of intent is the  
14 following simple statement: “The printed names, signatures, and residence addresses of the  
15 proponents are as follows.” (Am. Pet., Exh. D [emphasis added].) The use of the words “street  
16 address” in the boxes containing the signature and other handwritten information for each of the  
17 proponents is clarified by the earlier statement and is not at all ambiguous. If anything, the  
18 phrase “street address” ensures that the proponents did not use a post office box instead of a  
19 street address to identify their residence. The forms are consistent with the statute.

20 Petitioners provide no support for their theory that one or more of the proponents might have  
21 provided something other than their residence addresses. The RoV also presents a declaration  
22 explaining that staff checked the residence addresses provided on the notice of intent forms by  
23 the proponents against the RoV’s files.

24 The cases relied on by Petitioners do not help their case. For example, the Mapstead decision  
25 dealt with post office box address for referendum petition signatories: “The reasons behind the  
requirement that signers designate a place of residence, rather than a mailing address, are

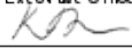
1 practical ones. A post office box, unlike a residence address, provides no indication as to the  
2 actual physical location of a person's residence. A person may move to a new residence (and no  
3 longer be eligible to vote) but keep the same post office box.” (Mapstead v. Anchundo (1998) 63  
4 Cal.App.4th 246, 261–62.) The form in Assembly v. Deukmejian, also cited by Petitioners,  
5 called for a referendum proponent to provide an “address as registered to vote” or “address ... as  
6 it is listed here (even if incorrect)”—as opposed to a residence address in any form—posing an  
7 obstacle to crosschecking signatories’ residence addresses against voter registration information.  
8 (See Assembly of State of Cal. v. Deukmejian (1982) 30 Cal.3d 638, 647.)  
9 Petitioners do not present even a colorable argument that the addresses provided in the notices of  
10 intent were not residence addresses, that anyone signing the form was unclear about what  
11 information they needed to provide, or that the RoV had cause to reject the notices of intent as  
12 non-compliant with the Elections Code.

13  
14 Dated: 3/18/2024

15 ALAMEDA COUNTY SUPERIOR COURT

16  
17 By:   
18 JUDGE MICHAEL MARKMAN

19 **Michael Markman / Judge**  
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23  
24  
25

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</b>	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	<b>FILED</b> Superior Court of California County of Alameda 03/18/2024 Chad Finke, Executive Officer / Clerk of the Court
PLAINTIFF/PETITIONER: Ryan Jergensen et al	By:  Deputy K. Davis
DEFENDANT/RESPONDENT: Alameda County Registrar of Voters et al	
<b>CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6</b>	CASE NUMBER: 24CV059151

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order On The Merits entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

Raymond Steven Lara  
Office of the County Counsel  
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Thomas Eugene Knutsen  
Law Offices of Thomas Knutsen  
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Dated: 03/18/2024

Chad Finke, Executive Officer / Clerk of the Court

By:



K. Davis, Deputy Clerk

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</b>	Reserved for Clerk's File Stamp
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DEFENDANT/RESPONDENT: Alameda County Registrar of Voters et al	K. Davis
<b>CERTIFICATE OF MAILING</b>	CASE NUMBER: 24CV059151

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Linda Hurley  
6362 Clark Avenue  
Dublin, CA 94568

Ryan Jergensen  
6362 Clark Avenue  
Dublin, CA 94568

Chad Finke, Executive Officer / Clerk of the Court

Dated: 03/18/2024

By:



K. Davis, Deputy Clerk

**CERTIFICATE OF MAILING**