

Letter: SLT city attorney violates First Amendment

To the community,

Like the paid parking foes who received a “rejection” of their initiative earlier this week, our medical marijuana voter initiative was also rejected. That makes two separate citizen groups that the South Lake Tahoe city attorney has denied their First Amendment rights and twice that he has flaunted the law to exercise authority he doesn’t have.

The city attorney claims, “It is the duty of the city attorney to review the text for compliance with California law. If the text is proper and appropriate following that review, the city attorney should provide a ballot title and summary, allowing the circulations of petitions.”



Steve Kubby

That is not what the law says. Here is the actual law that pertains: “Section 9203 (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the elections official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The elections official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and return to the city elections official a ballot title for and

summary of the proposed measure. The ballot title may differ from any other title of the proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure."

Please note that "any proposed measure" may be submitted and the city attorney must issue a ballot title and summary. The word "shall" means "mandatory" as it relates to issuing the ballot title and summary.

I publicly challenge the city attorney to provide a legal basis for his authority to reject a voter initiative, because the language of the Section 9203 (a) of the California Election Code is clear enough and he does not have any authority to decide what petitions qualify for the ballot. Furthermore, by rejecting our initiative the city attorney has directly violated one of the key warnings of Section 9203 (a), by creating an argument of "rejection" which creates extreme prejudice against our proposed measure.

Worse still, the city attorney is directly obstructing our First Amendment right to petition our government, under color of law. Such obstruction can only serve to create the appearance of a city government at war with the community, determined to block opposition through unlawful means.

So far, not one word from any City Council members to speak out against this outrageous and unprecedented attack on the right of the people to seek redress through the initiative process. Indeed, to the citizens who seek redress on the issue of paid parking, as well as those who seek a sane medical marijuana policy, these illegal actions by the city attorney and the silence of the City Council calls into question the judgment and character of those who are supposed to serve us.

Steve Kubby, South Lake Tahoe