

LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN BERNARDINO

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DATE: November 6, 2007
FROM: KATHLEEN ROLLINGS-McDONALD, Executive Officer
TO: INTERESTED PERSONS

SUBJECT: ANNEXATION PROTEST PROCEDURES

One of the most frequent questions directed to the LAFCO staff pertains to the rights and responsibilities of voters and landowners within an annexation area. Often, the questions revolve around the procedures that must be followed in submitting written, formal protest to annexation proceedings. At the outset, a couple of points about this procedure need to be emphasized:

- Written expressions of protest or support for an annexation are always welcomed by the Local Agency Formation Commission. At the Commission level, however, these expressions are purely “advisory” in the sense that the Commission has the legal ability to approve or deny a proposal regardless of the level of consent or protest. Written protest only becomes legally binding in the final protest hearings.
- The legal requirements for a valid written protest are relatively simple, but they are very precise. Failure to comply with any one of the requirements will invalidate the protest.

With these basic points in mind, the California Government Code, commencing generally with Section 57000, provides the procedures and requirements for submitting a valid written protest. These can be summarized as follows:

1. Within a few days of a Commission action to approve an annexation, a resolution reflecting that approval will be forwarded to a variety of affected agencies and persons. The issuance of the resolution sets in motion two separate processes:
 - a) The law allows a thirty-day time period from the date of the Commission approval for any person or affected agency to request the Commission to reconsider its decision. If no request is submitted during this period, the application will move forward through the protest proceeding.

- b) The LAFCO Executive Officer will formally announce a period of time during which registered voters and/or landowners may submit written protest against annexation. The announcement of the protest proceeding is provided through publication of a legal advertisement in a local newspaper and through mailing of individual notices to everyone who has requested to receive individual notice. The Executive Officer is to provide individual notice of the protest hearing to all landowners and registered voters (in inhabited) within the study area. By law, the protest period can be no less than 21 days from the date the announcement of the protest proceeding is provided, nor more than 60 days.
2. Written protest may take the form of a petition or an individual letter, but it must meet the following criteria:
- a) Written protest must be circulated, signed, dated, and submitted to the LAFCO office **within** the protest period designated. Signatures bearing a date prior to the protest proceeding announcement, and signatures bearing a date after the close of the protest proceeding deadline, will not be counted as a valid protest. Protest cannot be accepted by fax.
 - b) The protest must indicate whether the letter or petition is signed by registered voters or landowners (**NOTE:** Do not mix voter protest and landowner protest on the same petition). If a person is a landowner and voter within the annexation area, then that person would be eligible to sign either or both petitions.
 - c) The protest letter or petition must refer to the specific annexation issue being considered (For example, “LAFCO #2876—Annexation to the City of San Bernardino”).
 - d) For a valid landowner protest, an address or parcel number within the annexation area must be provided. For a valid voter protest, the voter must provide a name and address as they appear on the affidavit of voter registration. Only those voters and owners of land within an annexation area are eligible to submit a legally binding written protest.
 - e) The law does not require that reasons be given for a protest. It is legally sufficient to simply indicate that “We, the undersigned registered voters (or landowners) do hereby protest LAFCO #____.”

Sample protest petitions, meeting the minimum requirements identified above, are included as attachments to this memo.

- 3. At the conclusion of the protest period, the LAFCO Executive Officer will make a finding as to the value of valid, written protest. Based upon the level of protest received, the Executive Officer shall issue a resolution taking one of the following actions:

- a) For *uninhabited* annexations (defined in Government Code Section 56046 as those annexations which contain less than 12 registered voters):
- (1) **Terminate** the annexation if protest is received from landowners who own 50% or more of the assessed value of land (improvement values are not counted) within the annexation area; or,
 - (2) **Approve** the annexation if written protest is submitted by landowners who own less than 50% of the assessed value of the annexation area.
- b) For *inhabited* annexations (areas containing 12 or more registered voters):
- (1) **Terminate** the annexation if protest is received from 50% or more of the registered voters in the annexation area.
 - (2) **Call an election** if protest is received from at least 25% and less than 50% of the registered voters, **or** if 25% to 100% of the number of landowners—who own at least 25% of the total annexation land value—submit written protest. The voters (whether they own land or not) would then decide the issue by majority vote in a special election.
 - (3) **Approve** the annexation without an election if written protest is received from less than 25% of the voters and less than 25% of the landowners (owning less than 25% of the land value).

Further information concerning the annexation protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 *et seq.*). Specifically, Sections 57025, 57051, and 57075 will be most relevant to your review.

Additional information can also be obtained by writing or visiting the LAFCO staff office at the addresses listed above. The staff can also be reached through E-mail at: lafco@lafco.sbcounty.gov.

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Attachments:

- 1 -- Registered Voter Protest Petition
- 2 -- Landowner Protest Petition