



CITY HALL
10300 TORRE AVENUE
CUPERTINO, CA 95014-3255
WWW.CUPERTINO.ORG

PRESS RELEASE

FOR IMMEDIATE RELEASE
March 21, 2019

CONTACT: Brian Babcock, PIO
TELEPHONE: (408) 777-3262

Superior Court Rules that Vallco Referendum Petition Is Valid

CUPERTINO, CA – The Superior Court of California, County of Santa Clara, ruled today that a referendum petition—which protests the General Plan [amendment](#) for the Vallco Town Center Specific Plan—substantially complies with the Elections Code. The request for ruling was made by the Cupertino City Clerk and Better Cupertino Action Committee.

In September and October 2018, the City Council adopted three resolutions and enacted three ordinances in connection with its approval of the Vallco Town Center Specific Plan project. Opponents of the project filed a total of [four referendum petitions](#) challenging two of the resolutions and two of the ordinances. On December 18, 2018, the City Council received the City Clerk’s certification that each referendum petition contained sufficient valid signatures.

Meanwhile, the City received a December 6, 2018 letter from attorneys representing Vallco Property Owner, LLC, the developer and applicant for the project. In the letter, Vallco claimed that the referendum petition challenging the General Plan amendment for the project “fails to provide the full and accurate text of the resolution being referred, as required by the California Elections Code” and that the City Clerk must therefore “reject this defective Referendum.”

The City Clerk investigated Vallco’s contentions and concluded that the referendum petition “substantially complied” with Elections Code requirements despite a few minor and inadvertent differences between the petition and the adopted General Plan amendment. In a submission filed jointly with referendum proponents Better Cupertino Action Committee, the City Clerk asked the Superior Court to rule that the referendum petition was valid and could continue to be processed by the City. As stated in briefing to the court, the Clerk argued that invalidating this referendum petition “would be inconsistent with fundamental constitutional interests of petition signers.”

In a March 21, 2019 order, Judge Sunil Kulkarni agreed that the petition “substantially complies” with the Elections Code’s requirement that a referendum petition include the text of the challenged resolution, and ordered that the City Clerk may submit the referendum petition to the Cupertino City Council.

Under the Elections Code, the City Council must then determine whether to repeal the Vallco General Plan amendment challenged by the referendum petition or to place that amendment on the ballot for City voters to consider at an upcoming election.

The City Council must also decide whether to repeal or place on the ballot two other Vallco approvals challenged by referendum petitions (the Specific Plan and a Development Agreement). The fourth referendum petition, challenging the rezoning ordinance for the project, was [rejected](#) as procedurally defective and is not moving forward.

To review documents regarding the referendums, visit www.cupertino.org/referendum.

Attachment: Order of the Superior Court of California, County of Santa Clara

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1 ROBERT S. PERLMUTTER (State Bar No. 183333)
KEVIN P. BUNDY (State Bar No. 231686)
2 ANDREW P. MILLER (State Bar No. 324093)
SHUTE, MIHALY & WEINBERGER LLP
3 396 Hayes Street
San Francisco, California 94102
4 Telephone: (415) 552-7272
Facsimile: (415) 552-5816
5 Perlmutter@smwlaw.com
bundy@smwlaw.com
6 amiller@smwlaw.com

(ENDORSED)
FILED
MAR 21 2019

Clerk of the Court
Superior Court of CA County of Santa Clara
BY Y. Lai DEPUTY

7 Attorneys for CITY CLERK OF CITY OF
CUPERTINO

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

10
11 IN RE REFERENDUM PETITION
12 AGAINST CITY OF CUPERTINO
13 RESOLUTION NO. 18-085

Case No. *19CV344912*
[PROPOSED] STIPULATED ORDER

Code Civ. Proc. § 1138

Action Filed: March 20, 2019

Filed Concurrently with Ex Parte
Application in Support of Joint Submission
on Agreed Facts

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19 **ORDER**

20 Pursuant to the Joint Submission on Agreed Facts and the Memorandum of Points and
21 Authorities and declarations in support thereof, it is hereby ordered that:

22 1. The referendum petition against City of Cupertino Resolution No. 18-085 ("GPA
23 Referendum") substantially complies with the requirement of Elections Code section 9238(b)(2)
24 that a referendum petition include the "text" of the subject resolution or ordinance.

25 2. The City Clerk shall process the GPA Referendum and promptly submit it to the
26 City Council for appropriate action pursuant to Elections Code section 9241.

27 3. Should the City Council submit Resolution No. 18-085 to the voters at a general or
28

1 special election pursuant to Elections Code section 9241, the Adopted Version of the Resolution
2 (as defined and described in the Joint Submission on Agreed Facts) shall be made available to
3 voters either in the ballot materials or as otherwise provided by law.

4 4. The parties shall bear their own costs. Code Civ. Proc. § 1139.

7 Dated: March 21, 2019

By: Sunil R. Kulkarni
Judge of the Superior Court

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