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Documents Merely Referenced in a General Plan Resolution Need Not be Included in a Referendum Petition

If a referendum petition includes the full text of the subject land use measure, documents referenced in such measure need not be attached to the petition unless they are attached to the measure or expressly incorporated into it by reference. *Molloy v. Vu*, No. D075593 (4th Dist., Oct. 31, 2019). The San Diego Board of Supervisors adopted a general plan amendment, new specific plan, and a rezoning ordinance to allow for the development of



In

counties, each section of a referendum petition must contain the title and text of the resolution or the portion of the resolution that is the subject of the referendum, commonly referred to as the "full text requirement." Plaintiff filed a mandamus action arguing the referendum petition violated the full text requirement because it should have included the land use designation descriptions from the land use element of the general plan in addition to the resolution itself. Relying on established precedent, the Court of Appeal found that the petition complied with the full text requirement because it clearly contained the entire resolution and all five exhibits. The court rejected plaintiff's argument that the general plan "rural" and "semi-rural" land use designations must be included because the sub-regional plan expressly adopted the designations by reference. The "adopted by reference" language plaintiff relied on was adopted by the County during a 2011 general plan update, not during the 2018 general plan amendment. Thus, the challenged resolution did not expressly incorporate the land use designations

by reference. Further, the central purpose in adopting the resolution was not to amend or enact the "rural" and "semi-rural" land use designations. Additionally, failure to include the meanings of the land use designations would not inherently confuse voters because the land use designations had long been in force. While some voters might have to review the general plan land use designations, the full text requirement did not require inclusion of all "additional information a conscientious voter might want to know before signing the petition." Plaintiff also challenged the referendum petition on grounds that the petition was required to challenge not just the general plan amendment, but also the specific plan and rezoning ordinance the County adopted in furtherance of approving the development project. The Court of Appeal rejected this argument, finding no support for this requirement in the Elections Code or case law. *SB 359* Earlier this year, California enacted SB 359. The bill changes the law to allow referendum proponents in cities to attach a summary of the challenged measure rather than its full text. While SB 359 substantially changes the full text requirement for cities, *Molloy* is still relevant for state, county and district referenda, and in cities where proponents choose to attach the full text rather than a summary.