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NEAL A. DONNER

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF LOS ANGELES

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14 NEAL A. DONNER,
15 Petitioner,
16 vs.

17 CONNY McCORMACK, County of Los
Angeles Registrar-Recorder/County Clerk;
18 FRANK MARTINEZ, City of Los Angeles City
Clerk,
19 Respondents.

20
21 CITY OF LOS ANGELES CITY COUNCIL
and DOES 51 through 100, Inclusive,
22 Real Parties in Interest.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE**

[Elections Code §9295]

**IMMEDIATE ACTION REQUIRED:
ELECTION LAW MATTER ENTITLED
TO CALENDAR PREFERENCE
PURSUANT TO C.C.P. §35**

23
24 Petitioner, NEAL A. DONNER, alleges as follows:

25 GENERAL ALLEGATIONS

26 1. Petitioner, NEAL A. DONNER, is a qualified registered voter in the City of Los Angeles
27 and County of Los Angeles. He is opposed to a ballot measure which has qualified for the ballot
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1 and has been designated as Proposition R by Respondent CONNY McCORMACK.

2 2. Respondent CONNY McCORMACK, is the County of Los Angeles Registrar-
3 Recorder/County Clerk, and is the chief elections official of the County of Los Angeles.

4 Respondent McCORMACK is charged with the duty of preparing ballot pamphlet materials for
5 Proposition R pursuant to Elections Code section 9295, 10403.5, subdivision (c), as well as
6 ballots, ballot materials, sample ballots, and other voting materials pursuant to the Elections Code.
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8 Ms. McCORMACK is named as a Respondent in this matter under her official capacity only.

9 2. Respondent FRANK MARTINEZ, is the City of Los Angeles City Clerk, and is the chief
10 elections official of the City of Los Angeles. Mr. Martinez is named as a Respondent in this
11 matter under his official capacity only.

12 3. Real Party in Interest CITY OF LOS ANGELES CITY COUNCIL is the legislative body
13 which authored and approved Proposition R for the November 7, 2006 ballot.

14 4. On August 2, 2006, Real Party in Interest CITY OF LOS ANGELES CITY COUNCIL
15 enacted Ordinance No. 177773 and placed Proposition R on a November 7, 2006 city-wide special
16 election ballot to be consolidated with the statewide election to be held that same day. A true and
17 correct copy of Ordinance No. 177773 is attached hereto as Exhibit A and is incorporated herein
18 by this reference.

19 5. Generally, Proposition R seeks to amend the City of Los Angeles Charter by 1) increasing
20 the number of terms a resident may hold office on the City Council from a maximum of two terms
21 to a maximum of three terms; 2) add a new restriction against lobbyists contributing to candidates
22 and their controlled political committees; 3) amend disclaimer requirements for independent
23 expenditure committees, and 4) change the qualifications for those who may be appointed to city
24 commissions. Proposition R also proposes several city ordinance amendments related to charter
25 amendments 2-4. A true and correct copy of Proposition R is attached hereto as Exhibit B and is
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1 incorporated herein by this reference.

2 6. On July 28, 2006, City of Los Angeles City Attorney, Rockard J. Delgadillo, presented a
3 report to the City Council advising that the proposed term limits amendment did not relate to the
4 other proposed charter and ordinance amendments. A true and correct copy of the July 28, 2006
5 memo is attached hereto as Exhibit C and is incorporated herein by this reference.

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7 7. Elections Code section 13314 provides that any elector may seek a writ of mandate
8 alleging that an error is about to occur in the printing of a ballot, sample ballot, voter pamphlet, or
9 other official matter, to have the error stricken from such official matter.

10 SPECIFIC ALLEGATIONS

11 8. Real Party in Interest CITY OF LOS ANGELES CITY COUNCIL has placed upon the
12 November 7, 2006 city-wide special election ballot a ballot measure which encompasses more
13 than one subject matter while seeking to amend the City Charter in violation of Article XI, Section
14 7.5 of the California Constitution as adopted by Volume 1, Article IV, Section 450 of the City of
15 Los Angeles Charter.

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17 9. Volume 1, Article IV, Section 450, subdivision (b) of the City of Los Angeles Charter
18 provides: "Petitions to amend the Charter shall be governed by provisions of the California
19 Constitution and applicable provisions of state law concerning Charter amendments."

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21 10. In turn, Article XI, Section 7.5 of the California Constitution provides a list of restrictions
22 for ballot measures proposed by the legislative body of the jurisdiction.

23 11. Article XI, Section 7.5 does not explicitly provide that a ballot measure proposed by a
24 legislative body may not embrace more than one subject, however, the court in *Pala Band of*
25 *Mission Indians v. Board of Supervisors* ("Pala Band") (1997) 54 Cal.App.4th 565, 582 held that
26 every restriction placed upon a statewide ballot measure equally applies to a local ballot measure
27 unless explicitly otherwise provided by a local charter. In this matter, the local charter explicitly
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1 adopts state constitutional restrictions.

2 12. Article XVIII, Section 1 provides that the State Legislature may not propose amendments
3 to the State Constitution in a ballot measure which embraces more than one subject. Therefore,
4 pursuant to *Pala Band* a local legislative body is also prohibited from proposing amendments to a
5 local charter in a ballot measure which embraces more than one subject unless such restriction is
6 explicitly precluded by the local charter. Again, in this matter, rather than the local charter
7 explicitly precluding the state restriction, said restriction is explicitly adopted.

9 13. As a result, Proposition R, a ballot measure proposed by Real Party in Interest CITY OF
10 LOS ANGELES CITY COUNCIL, the local legislative body of the jurisdiction, violates Article
11 XI, Section 7.5 of the California Constitution, as adopted by Volume 1, Article IV, Section 450 of
12 the City of Los Angeles Charter, incorporating the single subject restriction set by Article XVIII,
13 Section 1 of the California Constitution, in that it is a ballot measure proposing amendments to the
14 local charter embracing more than one subject.

16 14. Petitioner has no other adequate or speedy remedy at law and will suffer severe and
17 irreparable injury if the court does not stricken Proposition R from the November 7, 2006 City of
18 Los Angeles city-wide special election ballot.

19 15. Pre-election review is appropriate in this matter as *Senate of State of California v. Jones*
20 (1999) 21 Cal.4th 1142, 1154 requires single subject rule challenges be heard prior to an election
21 if said challenges evidence a strong likelihood that the disputed ballot measure embraces more
22 than one subject.

24 WHEREFORE, Petitioner prays for relief as follows:

25 1. For issuance of a peremptory writ of mandate directly Respondents CONNY
26 McCORMACK and FRANK MARTINEZ to remove Proposition R from the November 7, 2006
27 consolidated ballot in the City of Los Angeles;

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- 2. For an award of costs and attorneys' fees; and
- 3. For such other and further relief as this court deems proper.

Date:

Respectfully submitted,

BELL, McANDREWS & HILTACHK, LLP

Paul T. Gough
Attorneys for Petitioner
NEAL A. DONNER

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VERIFICATION

I, NEIL A DONNER, am a Petitioner herein. I have read this VERIFIED PETITION FOR WRIT OF MANDATE and have personal knowledge of the contents stated therein and would, under the penalty of perjury, declare that the VERIFIED PETITION FOR WRIT OF MANDATE is true and accurate.

Executed this ____ day of August, 2006 in _____, California.

NEIL A DONNER

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