

Line in the Sand

A Newport Beach Political Action Committee

STATE OF LEGAL ACTIONS AGAINST LINE IN THE SAND PAC By Dennis Baker, Line in the Sand PAC President

June 8, 2017

On Wednesday, June 7, the attorneys for Line in the Sand Political Action Committee (LITS) filed an appeal to the denial by Superior Court Judge Geoffrey Glass of the anti-SLAPP motion requested by LITS in the lawsuit brought by Orange County Museum of Art (OCMA) against the City of Newport Beach. A strategic lawsuit against public participation (SLAPP) is a lawsuit that is intended to silence critics by burdening them with the cost of a legal defense until they abandon their criticism or opposition.

This suit revolves around the 11x17", 1034 page, 2 inch thick referendum petitions delivered and accepted by the City Clerk (the unusually large size being required because of city council action). OCMA claims the font size was too small (often by less than one seventy second of an inch), some pages were not legibly reproduced and the binding format made it difficult to read. LITS (named as a Real Party in Interest) asked the court for relief claiming that the suit was a compelling example of a SLAPP lawsuit. Judge Glass denied the motion and now LITS is appealing his decision.

The Related Companies and OCMA spent over \$500,000 to defeat the referendum. LITS spent under \$90,000 to launch the referendum and collect signatures. LITS major expense was the printing of the document, over \$40,000. The high cost was a result of the city council adding a great deal of documentation to their resolution of approval in anticipation of a referendum challenging their decision.

The same strategy as used in SLAPP lawsuits: **Make it so expensive critics will go away.** This strategy backfired in that the voting public in Newport Beach were so outraged, nearly 14,000 (more than twice the number required) signed the petition in a 13-day interval in the busy weeks just before Christmas. And despite OCMA's unprecedentedly aggressive, misleading and widespread campaign warning signers they were being defrauded, fewer than 85 of the 14,000 asked for their names to be removed.



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Failing in their half-million dollar opposition campaign and the city council's dissuasive attempt to stop the exercise of the voters' right to petition their government, OCMA and the project proponents turned to the courts with the same tactic.

LITS is a grass roots volunteer community organization operating on donations from the citizens of Newport Beach with no paid staff. It does not have deep pockets, nor does it stand to financially profit in any way unlike OCMA and the proponents.

LITS' court costs so far have exceeded \$50,000 and this is only in preparation for trial. Continuing to trial could involve hundreds of thousands of dollars more. It is an unknown. LITS feels it has a very strong case that this is a SLAPP lawsuit since the main complaint in the case revolves around 1/72 of an inch in font size.

The purpose of the OCMA lawsuit is to financially bleed LITS until they go away, the definition of a SLAPP lawsuit. If this strategy succeeds, future entities desiring to expand their projects and profits by amending the general plan and changing zoning will see a method by which to block any future voter opposition. The message will be clear, big money will win by bleeding the critics dry. If you can't win with the voters, bleed them in court. Just add it to the cost of the project.

The filling of the appeal most likely will postpone any action for about a year. The builder can come back in a year and request the general plan amendment again. The referendum is only for a year.

The question arises:

Why is OCMA pursuing this and spending a great deal of museum donors' money and to what end?

Or are they spending someone else's money?



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