

NAVI SINGH DHILLON (SBN 279537)
navidhillon@paulhastings.com
CHRISTOPHER J. CARR (SBN 184076)
chriscarr@paulhastings.com
WINSTON P. STROMBERG (SBN 258252)
winstonstromberg@paulhastings.com
LUCAS V. GRUNBAUM (SBN 314180)
lucasgrunbaum@paulhastings.com
GRAYSON A. PETERS (SBN 359997)
graysonpeters@paulhastings.com
PAUL HASTINGS LLP
101 California Street, 48th Floor
San Francisco, California 94111
Telephone: (415) 856-7000

Attorneys for Defendants/Cross-Petitioners
NEWPORT BEACH STEWARDSHIP
ASSOCIATION and MARSHALL DUFFIELD

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

CITY OF NEWPORT BEACH, et al.

Plaintiffs,

v.

NEWPORT BEACH STEWARDSHIP
ASSOCIATION, et al.

Defendants.

NEWPORT BEACH STEWARDSHIP
ASSOCIATION et al.,

Cross-Petitioners,

v.

LENA SHUMWAY, et al.,

Cross-Respondents.

CITY OF NEWPORT BEACH et al.,

Real Parties in Interest.

Case No.: 30-2026-01559183-CU-JR-NJC
and Related Case No. 30-2026-01580961

Assigned for all Purposes to:
Hon. Julianne Bancroft, Department N14

**NBSA'S REPLY IN SUPPORT OF EX
PARTE APPLICATION RE CITY OF
NEWPORT BEACH'S UNLAWFUL
DELAY OF LOCAL VOTE**

Dept: N14
Judge: Hon. Julianne Bancroft

Action Filed: March 26, 2026

Ex Parte Hearing

Date: August 27, 2026
Time: 1:30 p.m.

1 Newport Beach Stewardship Association and Mr. Marshall Duffield (together, NBSA)
2 respectfully submit this reply in support of their ex parte application.

3 **REPLY**

4 The City of Newport Beach's Opposition is notable for what it does not say.

5 *First*, the Opposition offers no response whatsoever as to how the City could simultaneously
6 claim an emergency exists, including just last week to the Court of Appeal, and then take the
7 position that it was free to postpone any election to an unknown date in the future. This smacks
8 of bad faith.

9 *Second*, the Opposition does not dispute postponing the election until 2028 would be
10 inconsistent with the structure of the Initiatives, thereby running afoul of *Jeffrey*. (*Jeffrey*, 102
11 Cal.App.4th at 10 ["as long as the legislative body chooses a date not inconsistent with an
12 initiative's effective date, there is no risk of a de facto veto by a hostile city council"].) The silence
13 is telling, which also undercuts the claim of unfettered discretion.

14 *Third*, contrary to the City's position, a reviewing tribunal, sitting in equity, certainly has
15 the power to curb an abuse of discretion. It is bedrock law that mandamus is available "to correct
16 abuses of discretion, and will lie to force a particular action by the inferior tribunal or officer, when
17 the law clearly establishes the petitioner's right to such action[.]" (*Hammel v. Neylan* (1916) 31
18 Cal.App. 21, 25; *Spaulding v. Philbrick* (1940) 42 Cal.App.2d 58, 64 [affirming writ of mandate;
19 board's order "was entirely lacking evidentiary support" and "the board had no right or authority
20 to make" it].)

21 *Fourth*, the City offers no persuasive explanation as to why a delay is warranted. In essence,
22 the City's position is that it has unfettered discretion, which it does not. Incredibly, the City argues
23 that "as long as the City Council selects an election that is consistent with the allowable elections
24 in Section 1415 and 9255, there is no abuse of discretion." (Oppo. Br. at 4:12-14.) The City's
25 reading of Sections 1415 and 9255 is that **no** sideboards exist on delaying an election. Therefore,
26 under the City's theory, the City Council could delay the election until 2050, or 2080, or even 3000.
27 But as *Jeffrey v. Superior Court* (2002) 102 Cal.App.4th 1, 4 anticipated, city councils cannot "veto"
28 initiatives by unwarranted delay.

1 *Fifth*, the City does not dispute that no deliberations occurred prior to the vote, and the Staff
2 Report upon which the City now relies (and the purported resolution with findings) only confirms
3 the abuse here. Further, those claimed findings do not address the inconsistency of the
4 postponement with the structure of the Initiatives—again, which violates *Jeffrey*.

5 *Lastly*, the City attached a letter today from Orange County. At this time, Orange County
6 takes no position on this dispute, but does confirm that the City has independent authority to
7 conduct general municipal elections. It is undisputed that the next regularly scheduled general
8 municipal election is set for November 3, 2026. As requested, the Court should order the City to
9 hold an election on the Initiatives in November 2026. Whether that election is ultimately
10 consolidated with the statewide election also set for November 2026 or run independently by the
11 City has no bearing on the ultimate relief sought here: The City should be ordered to hold an
12 election in 2026.

13 Counsel for NBSA is fully prepared to address any questions the Court may have at any
14 hearing on this matter.¹

15 **CONCLUSION**

16 NBSA asks that the Court grant its application in full.

17 Respectfully submitted,

18 DATED: August 27, 2026

PAUL HASTINGS LLP

20 By: 

21 NAVI SINGH DHILLON

22 Attorneys for Cross-Petitioners and
23 Defendants
24 NEWPORT BEACH STEWARDSHIP
ASSOCIATION and
MARSHALL DUFFIELD

27 _____
28 ¹ The City's position that somehow this application is a motion for reconsideration is meritless.
The City's most recent violation of the law occurred on August 25.

1 **PROOF OF SERVICE**

2 I am employed in the City of San Francisco and County of San Francisco, State of California.
3 I am over the age of 18, and not a party to the within action. My business address is 101 California
4 Street, Forty-Eighth Floor, San Francisco, CA 94111.

5 On August 27, 2026, I served the foregoing document(s) described as:

6 **NBSA'S REPLY IN SUPPORT OF EX PARTE APPLICATION**
7 **RE CITY OF NEWPORT BEACH'S UNLAWFUL DELAY OF**
8 **LOCAL VOTE**

9 on the interested parties as follows:

10 RUTTAN & TUCKER
11 William H. Ihrke
12 Jennifer J. Farrell
13 Grace E. Cho
14 18575 Jamboree Road, 9th Floor
15 Irvine, CA 92612
16 Telephone: 714-641-5100
17 Email: bihrke@rutan.com
18 Email: jfarrell@rutan.com
19 Email: gcho@rutan.com

Attorneys for Plaintiffs, Cross-Respondents
and Real Parties in Interest
CITY OF NEWPORT BEACH, et al.

15 Daniel Richards, Esq.
16 Mark Servino, Esq.
17 Ryan Castillo, Esq.
18 Office of the County Counsel
19 County Administration North Building
20 400 West Civic Center Drive, Suite 202
21 Santa Ana, CA 92701
22 Email: daniel.richards@coco.oc.gov
23 Email: mark.servino@coco.oc.gov
24 Email: ryan.castillo@coco.oc.gov

Counsel for Robert Page in his
Official Capacity as Registrar
of Voters for Orange County, California

21 Martin Koczanowicz, Esq
22 Nathaniel Acosta, Esq.
23 Aleshire & Wynder, LLP
24 340 N. Westlake Blvd, Suite 115
25 Westlake Village, CA 91362
26 Email: mkoczanowicz@awattorneys.com
27 Email: nacosta@awattorneys.com

Attorneys for Lena Shumway, in Her
Official Capacity as City Clerk and the
City's Election Official

25 (BY ELECTRONIC MAIL) I caused the document(s) to be sent to the persons at the e-
26 mail address listed above. I did not receive, within a reasonable time after the
27 transmission, any electronic message or other indication the transmission was
28 unsuccessful.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 27, 2026, at San Francisco, California.



Ken Hartley