

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

JAMES V. LACY et al.,
Plaintiffs and Respondents,
v.
CITY AND COUNTY OF SAN
FRANCISCO et al.,
Defendants and Appellants.

A165899

(San Francisco Super. Ct.
No. CPF22517714)

BY THE COURT:*

On September 6, 2022, respondents filed a motion for calendar preference and an injunction prohibiting appellants from certifying the election result until the appeal is resolved. On September 8, 2022, appellants filed an opposition.

Respondents' motion is DENIED. The statutory provisions providing calendar priority relied on by respondents do not apply. We decline to use our inherent authority to grant calendar preference and set an expedited briefing schedule. First, respondents seek a decision before the November 8, 2022 election or the December 8, 2022 deadline for certification, but any such decision would not be final and enforceable until long after these dates, even if neither party petitioned the Supreme Court for review or if such a petition were denied (Cal. Rules of Court, rules 8.264(b)(1), 8.272(b)(1)). If the Supreme Court granted review, even more time would elapse before a final decision. Moreover, the certainty that there will be no final decision by the certification deadline is a direct result of respondents' failure to challenge the

2016 enactment of Proposition N or the 2018 adoption of Ordinance 128-18, allowing four elections to take place with noncitizen voting before filing the instant lawsuit. Even after the adoption of Ordinance 206-21, respondents acted with no urgency, waiting four months before filing suit.

The constitutional challenges raised by respondents are significant ones that are entitled to deliberate consideration. In light of the factors discussed above we reject respondents' proposed briefing schedule and decline to order an injunction. No extensions of time will be granted absent a showing of exceptional good cause.

Dated: 09/08/2022 Simons, J., Acting P. J.

* Before Simons, Acting P.J., Burns, J. and Wiseman, J. (Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)