

Los Altos threatened with unfair elections lawsuit

A Malibu-based attorney is threatening legal action against the city of Los Altos unless leaders change an at-large council election format alleged to be discriminatory against the city's large Asian population.

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Kevin Shenkman, who has a history of such litigation against municipalities statewide, said Los Altos' at-large elections are in violation of the California Voting Rights Act (CVRA) of 2001.

In his April 14 letter to the city, Shenkman said “voting within the city is racially polarized, resulting in minority vote dilution.”

He said the CVRA “disfavors” at-large elections, in which voters of an entire jurisdiction elect candidates to each open seat. “At-large elections thus allow a bare majority of voters to control every seat, not just the seats in a particular district or a proportional majority of seats.”

In Los Altos' case, Shenkman alleges that the city's Asian population, comprising 36.8% of the 31,467 residents, is underrepresented.

“Asian representation on the Los Altos City Council has been sparse at best in the last 20 years,” Shenkman said in his letter. “The contrast between the significant Asian population of the electorate and near complete absence of Asians to be elected to the Los Altos City Council is outwardly disturbing and fundamentally hostile towards participation from members of this protected class.”

Lee Eng has been the sole Asian representative of the city council since 2016. She is being termed out this year. He added that candidate Kuljeet Kalkat “received significant support from Asian supporters,” but lost the city's 2020 at-large election. Shenkman also pointed to Lee Eng and the other councilmembers frequently at odds. “The hostility among city councilmembers, particularly between the lone Asian member and her colleagues, on issues of race further dissuades Asian candidates,” he said.

Shenkman asked for a response from the city by June 3, otherwise “we will be forced to seek judicial relief.”

There was no immediate comment from the city about the letter.

Some cities and school districts have responded to such legal challenges by changing their election schemes from at-large to district-based.

In these cases, jurisdictions are divided into different voting areas in which candidates from those areas compete for an area seat.

Under threat of legal action, the Foothill-De Anza Community College District switched from at-large to trustee area elections in 2022.

Members of the Fremont Union High School District school board last week approved a new trustee area map to switch from at-large to trustee area elections.

Shenkman has had success at getting cities to change their election schemes. In 2012, the city of Palmdale fought against a change to area elections and lost after an eight-day trial.

Citing the CVRA, attorneys can make \$30,000 just by sending a warning letter.

According to a San Francisco chronicle article, Shenkman alone has made more than \$15 million with such notices.

“With generous financial incentives for legal action and no state tracking of outcomes — California’s election landscape is being shaped by a small group of plaintiffs’ attorneys,” the Chronicle wrote in 2023.

Shenkman claims to represent the Southwest Voter Registration Education Project “and its members residing in the city of Los Altos.”

He told the Town Crier, “We sent the letter to the city of Los Altos in particular because a group of residents asked us to investigate whether Los Altos’ at-large elections violate the California Voting Rights Act (CVRA), and we found that they do. Not every city with at-large elections is violating the CVRA, but Los Altos certainly is.”