



March 19, 2015

City of Irvine  
1 Civic Center Plaza  
Irvine, CA 92606-5207

RE: AgranAudit.com Signs

Dear Mayor Choi,

My firm represents the Committee That Cares. I am writing to you to discuss the recent action of the Irvine City Manager and City Staff unilaterally removing several "AgranAudit.com" signs without any consultation with the City Council and in violation of the First Amendment of the United States Constitution. (See *City of Ladue v. Gilleo* 512 U.S. 43, 48 (1994).) We anticipate that the City Manager will seek to justify their unilateral actions by relying on Irvine Zoning Ordinance Code Section 7-3-3. However, as discussed below, their reliance on this zoning code is misplaced and their actions have resulted in a serious violation of the First Amendment. Further, my client asserts that there is selective enforcement of this unconstitutional ordinance as the city currently has numerous signs displayed for the March 17th Special Election, yet the Agranaudit.com signs were removed within 24 hours of posting. My client believes the attached photo of former councilman Larry Agran's displeasure of the AgranAudit.com signs is the reason the City Manager and Staff ordered the expedited removal of the signs.

The actions of the City Manager and his interpretation of the Municipal Zoning Ordinance violate the United States Constitution. The "AgranAudit.com" signs are a classic example of the type of speech that is at the heart of the First Amendment's guarantee of freedom of expression. The manner in which the City Manager has unilaterally interpreted this ordinance has resulted in a total ban on this type of speech. This prohibition is specifically prohibited by the First Amendment. (*City of Ladue v. Gilleo* 512 U.S. 43 (1994).) Additionally, the actions of the City Manager appeared to be directed at a certain type of expression, the content of which he does not agree. To discriminate on a certain type of speech because of its content is perhaps the most serious violation of the First Amendment. Courts are extremely hostile to "viewpoint based" ordinances or city conduct. (See *Boos v. Barry* 485 U.S. 312 (1988).) Finally, as interpreted by the City Manager this sign ordinance is vague and overbroad. It provides very little direction to any person wishing to place a sign expressing a point of view and allows for the City staff to create an absolute ban. As such, this ordinance allows for the City to overreach and illegally infringe on First Amendment protections. (*Metromedia, Inc. v. City of San Diego* 435 U.S. 490 (1981).)

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immediate written assurance that you will cease and desist from further enforcement of this zoning regulation and will change the law to reflect constitutional standards at the City of Irvine's next planning and zoning meeting.

Sincerely,

Steve Baric

Cc: Irvine City Council

Sincerely,



Steven D. Baric

SDB/ert

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