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## Shipyards strike back in Barrio

### Environmental Health Coalition sued over alleged 'frivolous' lawsuit

By Roger Showley (/staff/roger-showley/) 6 P.M. DEC. 5, 2013 PRINT

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Barrio Logan's community plan would restrict industrial and residential use in this block in a planned buffer zone. - Roger Showley

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San Diego's shipyards struck back Thursday against the Environmental Health Coalition in the ongoing battle over the Barrio Logan community plan.

The Port of San Diego Ship Repair Association filed a motion in court to stop the coalition from halting a referendum drive against the plan.



The case is not set for hearing until May 24, less than two weeks before the referendum could be held.

6 COMMENTS

The City Council is due Tuesday to accept the more than 33,000 signatures necessary for a referendum on the plan, which the shipyards and repair suppliers object to because of its tighter zoning controls in the 1,000-acre neighborhood southeast of downtown.



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Put another way: The environmental group wants the plan, the shipyards don't, and each is now taking legal steps to stop the other from gaining victory.

Both sides agreed that this latest motion stops all legal discovery proceedings by the health coalition aimed at stopping the referendum.

Coalition attorney Livia Borak said she had not yet received the legal papers but would quickly file counter motions to allow discovery to continue. Long before court appearances, attorneys spend months and sometimes years searching for documents and interviewing witnesses to prepare their cases. This process is called "discovery."

Shipyards spokesman Chris Wahl said his side could have filed a summary judgment to kill the coalition's challenge to the referendum. But instead, this approach will allow to seek repayment of its attorneys' fees if it wins.

This procedure is authorized under the state's "Anti-SLAPP" statute -- an acronym that stands for "strategic lawsuit against public participation" -- and Wahl said in this case the environmental group, in effect, is trying to stop the public process involved in a referendum from going forward.

The health coalition had sought a temporary restraining order against the shipyards, arguing their referendum petition and signature gatherers misstated the facts in the Barrio Logan plan.

A judge earlier this week did not approve the order, saying the written petition was not wrong and that the signature gatherers' comments, captured in recordings presented in court, were more akin to political opinion and hyperbole than intentional misstatements.

That decision, released Tuesday, permitted the coalition to proceed to argue the merits of its case.

"Their litigation had a material effect" in the shipyards' petition drive, Wahl said.

Borak, who said her clients have used the Anti-SLAPP law in other cases, called the shipyards' action a "dirty move" because they are going after a nonprofit organization "in a way calculated to obtain attorneys' fees."



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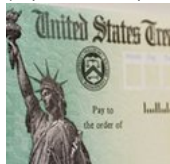
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