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Dear Mr. O'Neil,

RE: Your comments to the SouthLakeTahoeNow.com news.

Your statement sounds more intimidating than informative. It is also misleading.

"O'Neill said his department will be investigating every request for a change of voter registration. He said investigations will go quickly.

"We do not want this to happen," said O'Neill. "We don't want to prosecute."

This was also the case at Fallen Leaf Lake about 10 years ago, people who had homes there wanted to register to vote in an election there but were upset they couldn't.

State Elections Code states "It is illegal to register to vote when you are ineligible to vote." Depending on the exact violation, a person is subject to a fine and/or jail time."

I would respectfully suggest that you update your position statement.

The Secretary of State is the state's Chief Elections Officer and is now responsible for investigating complaints involving voting irregularities or fraud. I believe that any voting related complaints should be addressed to that office.

Obviously, we wouldn't want people from all over the country registering here for the purpose of swaying the election or to run for an office they are not qualified to hold. However, that would be considerably different from people who established roots and are not mere transients who own retirement homes here voting on matters that will directly affect them. The fact that they own property here does give credibility to their intent to retire and live here permanently.

I purchased my home as a vacation/retirement home/VHR years ago. When I retired, I moved into it. Should I have been prosecuted if I registered to vote here?

Many others have purchased their retirement homes before retirement because the prices and taxes are continuously climbing. The cost of my home doubled between the time I purchased it and when I was able to retire and move into it.

The Secretary of State provided the legal distinction between a domicile where you should register to vote and a residence which is merely a temporary abode:

Cal. Elec. Code § 349 (a) "Residence" for voting purposes means a person's domicile. (b) The domicile of a person is that place in which his or her habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning. At a given time, a person may have only one domicile. (c) The residence of a person is that place in which the person's habitation is fixed for some period of time, but wherein he or she does not have the intention of remaining. At a given time, a person may have more than one residence. Ca. Elec. Code § 349

Comment: The distinction between "domicile" (where you can vote) and "residence" any location you live temporarily, should not be confusing. The determining factor is "where you intend to live permanently" is your domicile where you should vote, not where you live temporarily.

An attorney told me that he had no problem with people declaring their second home to be their domicile if they intended it to be their permanent home where they would retire.

The voting code even provides examples of living outside the country for years, while maintaining a domicile and voting in the district you formerly lived in. The determining factor always comes down to intent.

I realize this is a controversial issue. If you help clarify the residency requirements, you would be helping thousands of local residents who may have been intimidated from legally exercising their right to vote by your unqualified statements while preventing unqualified voters from erroneously changing their voter registration. Your response will affect over 7,000 potential voters.

I have previously contacted District Attorney Vern Pierson about this matter and the Sunnyvale letter might have been avoided if he had bothered to respond.

Your prompt response would be greatly appreciated.

Thank you,

John Messina