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DA: Fallen Leaf Lake voter fraud a case of poor judgment

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By **Jessie Marchesseau**

In January 2010, there were 158 registered voters in the Fallen Leaf Lake Community Services District. By August 2010, that number had grown to 461.

This flood of voter registrations was spurred by political turmoil in the area. However, such a significant increase in voters over such a short period of time does not go unnoticed. A voter fraud investigation was opened by the El Dorado County District Attorney's Office and the California Secretary of State's Office.



It's a new day for voters at Fallen Leaf Lake. Photo/LTN file

Much of the political divide within the Fallen Leaf Lake CSD revolved around the replacement of longtime Fallen Leaf Lake store and marina operators John and Ruth Rich. Even though the board of directors voted unanimously to replace the Riches on two occasions, the community was sorely divided. In July 2010, residents petitioned for a recall election to replace two of the board members. The recall election was approved, and voter registrations started pouring in.

When the small district whose voter registration numbers generally hover somewhere around 100 to 150 voters quickly jumped to more than 400, red flags went up at the El Dorado County Elections Department. The elections office alerted the Secretary of State's Office, which in turn alerted the El Dorado County District Attorney's Office.

An investigation was launched that lasted just more than a year and identified felony voter fraud. The determination was that many of the voters who voted in the August

2010 election were not legally eligible to vote in the Fallen Leaf Lake Community Services District. Some were ineligible because Fallen Leaf Lake is not their legal domicile, and some were registered to vote in more than one district.

On Sept. 19, 2011, District Attorney Vern Pierson issued a letter to every voter registered at the time of the August 2010 recall election outlining the department's decision in the matter.

The letter states, "This investigation revealed that improprieties had in fact occurred, and were criminally subject to prosecution as felony-grade offenses. Largely because the acts appear to have been precipitated by poor judgment, some misinformation which was circulating in the community, and a failure by some to accurately and fully appreciate the requirements of the pertinent law, this office has determined to decline prosecution at this time."

While the fraud findings do not negate the results of the election in question, the letter goes on to say that any similar future violations will be prosecuted.

Pierson said he declined to prosecute because he saw no malicious behavior on the part of the voters, and attributed the fraud to negligence and misunderstanding of the law.

This type of issue comes up from time to time in areas with a lot of vacation homes, he told *Lake Tahoe News*. What it essentially boils down to is where a person's domicile, or primary residence, is. Voters are entitled to vote and hold office where they intend their domicile to be, and only in that place.

The El Dorado County Assessor's Office lists 289 land parcels in the Fallen Leaf Lake area, some of which are vacant land, commercial property and U.S. Forest Service cabins. The official list of voters from Aug. 10, 2010, lists some addresses as having five, six and seven voters registered at a single address.

With only about a dozen people living at Fallen Leaf Lake full time, this prompts the question that if only people who consider Fallen Leaf their primary residence can vote and hold office, would the entire district be run by that handful of people?

This quandary has left homeowners with the task of trying to figure out how to effectively and legally run their community. One idea being considered is allowing a set number of votes per parcel.

As for the election coming up in November, Fallen Leaf Lake CSD does not have anything slated for the ballot, but the registered voters will be receiving ballots for Measure R, Lake Tahoe Unified School District and Lake Tahoe Community College. The next scheduled election will be June 2012, leaving residents some time to find a solution.

In the meantime, however, the El Dorado County Elections Department has also issued a letter to Fallen Leaf Lake voters reminding them of registration regulations and the district attorney's decision on the matter, as well as providing instructions on how to remove themselves from the voter list.

As of Aug. 8, the number of registered voters in the Fallen Leaf Lake CSD was down to 267.



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dumbfounded says - POSTED: OCTOBER 7, 2011

Most crime involves poor judgement, however, it is only when the wealthy have poor judgement that the law is overlooked. Not such a good example of fairness. It seems that if a letter was circulated that contained incorrect information which caused a crime to be committed, the author(s) of the letter should be held responsible. How did the store work out since this little fiasco started?



kindasad says - POSTED: OCTOBER 7, 2011

Taxation without representation cannot continue. An equitable method of representation for the CSD must be found. Certainly to have the district controlled by a small group, many of whom are overwintering caretakers, is not an option. Perhaps dissolving the CSD would be the better choice. Considering all of the claimed illegality in voting are the past decisions binding? Was the CSD formation even legal?



Mike Kraft says - POSTED: OCTOBER 7, 2011

During this time I served as the FLL CSD President. On August 5th, 2010 I sent the letter below to the entire community in order to give them the information they needed to determine if they could legally participate in voting at FLL. All the supporting documents (election codes & USFS Recreational User handbook) were also attached to this letter. Many many people ignored this letter stating that I was trying to confuse the recall election. The people that voted were informed of all the requirements to legally vote in the district, they chose to ignore the law, betting they would not be prosecuted. This is more than poor judgement in my book. The fact that there are still 267 people registered to vote tells me that some of these people are not taking the DA's office seriously, until someone is actually charged with a crime I do not think they will take it seriously.

Please note that I resigned my position as the CSD President shortly after the below letter was sent to the community. The reason I resigned was because after reviewing the election codes I realized I could not legally vote within the FLL district. It was the right thing to do and also the legally correct thing to do.

Fallen Leaf Lake is not for controlling, it is for sharing with everyone equally. Some people in our community just don't get this, and I am not sure they ever will.

MK

August 5, 2010

Re: Voter Registration at Fallen Leaf Lake

To: Fallen Leaf Lake Community Members

It has recently come to my attention the initial information regarding voter registration requirements given by the El Dorado Election Office may not be correct. Because of the large number of new people registering to vote, the Elections Department became concerned that some of the people registering may not be legally entitled to do so. Because of this, the Election Department has turned the matter over to the El Dorado County District Attorneys office. The El Dorado County District Attorneys office has now turned it over to the Secretary of State – Voter Fraud Investigation Division. The Voter Fraud division has asked for a list of registered voters in our district after the August 16th voter registration deadline has occurred.

I spent quite a bit of time on the phone with them to understand what the problem may be. The Voter Fraud Division directed me toward several codes and definitions that outline the requirements for a person to register to vote and vote within our district (Fallen Leaf Lake).

Please review the attached documentation and decide for yourself if you meet the criteria outlined in order to legally register to vote and vote within the Fallen Leaf Lake District. Please be aware that if you do not meet these requirements and an investigation occurs fines and possible charges may apply. It may be necessary to un-register immediately to avoid problems.

Additional information regarding this subject may be found at the web site shown below.

California Elections Code

<http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=elec&codebody=&hits=20>

Sincerely,

Mike Kraft
CSD President



tahoeadvocate says - POSTED: OCTOBER 7, 2011

To Kindasad:

I agree with you regarding taxation without representation.

I've owned properties in South Lake Tahoe for decades but my primary residence is elsewhere. I believe I should be able to vote for any representation which affects my property (ie, taxes and services) no matter where I live. The only single representative which should be decided by my primary residence is the President of the United States. Otherwise, all local, county and state elections should be open to any property owner whose taxes will be affected.



Atomic says - POSTED: OCTOBER 8, 2011

The current situation at Fallen Leaf community is but a small snapshot of where the entire country finds itself.

WEALTH-DRIVEN MADNESS AND CORRUPTION

The massive voter fraud, as evidenced by Mike Kraft's letter above was carefully and maliciously organized, and done illegally. And they knew it. Thank you Mike for being a clear voice on this.

This and other events at Fallen Leaf are just plain disgusting. No longer is the Leaf a family cabin retreat area. A place to rejuvenate and breathe. It has been poisoned by ego-driven outsiders who have brought their power driven beliefs up the hill in their shiny SUVs.

Funny that, the lure of the Leaf is in it's beauty and simplicity. These people have lost their way...and the REAL community pays in a lost decade of greed and corruption, back-stabbing and double talk. PUKE.

On voting, yes, each developed parcel should have a set number of votes. Yes, they should exercise their rights in an American way and should have a fair voice in matters that involve their property.

So where is the DA now? Gee, the DA actually has a LIST of offenders. Prosecute SOMEONE now, they've used up their mulligan...



kindasad says - POSTED: OCTOBER 9, 2011

I was disturbed by Mike Kraft's comments. He demonstrated a very negative attitude toward his Fallen Leaf neighbors. He indicates that because 267 people are still registered to vote they are not taking the District Attorney's letter seriously and will not do so until someone is arrested. What a hateful opinion.

The district attorney advisory letter indicated a list of factors which might indicate a domicile...where one works, enrolls children to school, receives mail and sees a physician... Fallen Leaf lake has no school, no medical care, and no mail delivery. Why list these as key elements and leave out homeowner exemption, address on drivers license and car registration which are key elements to consider? Sec 2031 states " If a person has more than one residence and that person maintains a homeowner's property tax exemption on the dwelling of one of the residences pursuant to Section 218 of the Revenue and Taxation Code, there shall be a rebuttable presumption that the residence subject to the homeowner's property tax exemption is that person's domicile. However, this presumption shall not apply in the event any other residence is listed as the person's current residence address on any driver's license, identification card or vehicle registration issued to that person by, and on file with, the Department of Motor Vehicles."



kindasad says - POSTED: OCTOBER 9, 2011

The fallen leaf community is growing older. There are many retired people with several houses. Unencumbered by factors which might affect non retired, they may choose which of their homes they wish to be their domicile, providing they follow the requirements of the Election Code. Therefore there are potentially a large number of eligible voters in this category. Don't be bamboozled by those who are twisted by class envy, quest for power or financial motives. See an attorney for advice before making a decision re voter registration. No taxation without representation.



the conservation robot says - POSTED: OCTOBER 9, 2011

Make rich people play by the rules, and it's class envy. Got it.



Atomic says - POSTED: OCTOBER 10, 2011

Well said robot, but it's 'class-warfare' if they are FORCED to play by the rules, just to be clear-



Connie Bryant says - POSTED: NOVEMBER 2, 2011

I have been enjoying F.L.L. since I was 4 yrs old. I have always been envious of my friends that had a place there. After following the issues of the past couple years I am thankful that I am not a home owner in a community that is so divided. It appears there is a pretentious vibe that is at the heart of the division. Thank you Mike for advocating for the true F.L.L. Community that being the folks that have been enjoying it their whole life! See ya at the Beach! Don't forget to B.Y.O.B.!
