

Sam Reed  
Secretary of State  
Olympia, Washington

September 25, 2009

RE: Release of names, signatures, and home addresses on referendum and initiative petitions

Dear Secretary Reed:

We have recently become aware of a request to your office seeking copies of un-redacted petitions for several previously submitted ballot measures with the names, signatures, and home addresses of millions of citizens. This request was submitted on September 18, 2009 and specifically requested the petitions from the following initiatives: 1033 – Tax limits, 2009; 985 – Transportation, 2008; 960 – Tax limits, 2007; 920 – Estate taxes, 2006; 917 – Car tabs, 2006; 912 – Gas tax, 2005; 900 – Performance audits, 2005; 776 – Car tabs, 2002; 747 – Property tax limits, 2001; 745 – Transportation funding, 2000; 722 – Property tax limits, 2000.

That's a total 3,404,536 names, signatures, and home addresses.

While the request is for the costs of obtaining these documents, it is not unreasonable to assume a request for all or some of the documents will soon follow.

As citizens of the state of Washington and as voters, we demand that you deny this request and any subsequent requests and follow the lead and the example of the other individuals who have held the position you are now in. It has been the long-time policy and well-established position of the Secretary of State's office that the information contained on these petitions is private information about individuals that could potentially be used for commercial purposes, identity theft, discrimination, and/or harassment.

You were assistant Secretary of State to Lud Kramer at the time, so you must remember that, following the passage of the Public Records Act I-276 in 1972, the Secretary of State's office in 1973 refused to turn over the names, signatures, and home addresses of the 699,000 citizens who signed Initiative 282, sponsored by Lynnwood furniture salesman Bruce Helm, which capped legislators' salaries. The initiative was prompted by the Legislature's midnight vote on the last day of the legislative session for a massive pay raise for themselves in the midst of national wage-and-price controls.

A lawsuit was filed in Thurston County Superior Court (*Chaney v. Kramer, Cause No. 48733*) where the plaintiff sought to obtain the names, signatures, and home addresses of the citizens who signed petitions for I-282. The Secretary of State's position was upheld and the petitions were not allowed to be copied.

In a public release in 1973, Lud Kramer explained: *"It has been my policy not to release the names of citizens signing initiative and referendum petitions. As far as I'm concerned petitions ... are being held in trust by this office. Furthermore, the release of these signatures have no legal value, but could have deep political ramifications to those signing. I will not violate public trust."*

The Secretary of State's practice of not turning over personal information on petitions has been maintained for 95 years, including during the tenure of Lud Kramer, Bruce Chapman, the 20 years of Ralph Munro, and your first six years as Secretary of State. There is a 1938 Attorney General's opinion (*"It is the public policy of this state that we uphold the secret ballot in every particular and these petitions are, more or less, in effect a vote of those who sign the petitions ... your office should refuse to permit them to be inspected and copied."*) backed up by a 1956 AG opinion (*"With the exception of representatives of the public entitled to be present during the canvass of the signatures, we reaffirm our previous opinion."*), **but, contrary to**

**statements by you and your office, there has not been a subsequent attorney general's opinion on this subject.**

Secretary Reed, a policy of releasing the names, signatures, and home addresses on petitions would create a "prior restraint" on future measures for those citizens who would have otherwise participated in their right to referendum and initiative. The wisdom of your predecessors should guide you and provide clarity on this issue.

**The people's right to the initiative and referendum process is guaranteed by our state Constitution. No law, rule, policy, or practice may interfere with that right. Only laws, rules, policies, and practices that facilitate the process are allowed under our state Constitution. Your reversal of 95 years of Secretary of State practice frustrates, and does not facilitate, the process.**

You have sworn to uphold the state Constitution. You have a fiduciary responsibility to the people of this state to not expose them to harm. It is standard procedure for public agencies to inform all individuals, prior to the release of documents, that their information may be released and afford them the opportunity to object. Do you intend to do this for all referendum or initiative petition requests prior to releasing them? As individuals we have signed many of the enumerated ballot measures. We demand that you inform each of us individually prior to making such a release of public documents containing our private information.

If the office of the Secretary of State has adopted a policy inconsistent with the traditional policy of protecting the rights afforded citizens under the state Constitution and in violation of your public trust, please respond to this letter as soon as possible. If, under your direction, you have altered or reversed the aforementioned policy, please respond as soon as possible so that we may begin action in an alternative forum to stop such a misguided and harmful new policy.

This is not about your personal interpretation of the Revised Code of Washington. This is not about the statutory nuances of public records requests. This is not about your concept of "open government." This is about the state Constitution and your willingness to undermine the rights of the people afforded by that Constitution. This is about the harm you are glibly willing to visit upon millions of registered voters in this state. This is about the callous arrogance of an elected official willing to violate his oath of office. This is about your decision to leave the people of the state of Washington vulnerable in their personal security.

We ask that you publicly reaffirm that your office will not release any names, signatures and home addresses appearing on referendum or initiative petitions. We ask that you publicly reaffirm that you will uphold the state Constitution and protect the citizens of this state.

If you are unwilling to do this, you will leave us with no alternative but to seek an order from an authority with the power to order you to uphold the state Constitution and protect the citizens of Washington state.

If you fail to respond in five days, by Friday, October 2, 2009, we will be forced to seek injunctive relief to prevent this harm.

Respectfully Submitted

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