

JEFFREY DANA
City Solicitor



JORGE O. ELORZA
Mayor

Office of the City Solicitor

CONFIDENTIAL INTRAOFFICE MEMORANDUM

TO: Luis Aponte, City Council President
FROM: Jeffrey Dana, City Solicitor
RE: Charter § 209 Initiative – Proposed Stadium Ordinance
DATE: September 22, 2015

QUESTION:

Whether the petition to the City Council that it enact an ordinance entitled “An Ordinance Establishing Rules for New Stadiums” complies with Section 209 of the Providence Home Rule Charter (“the Charter”), and, if it does not, whether there is still a requirement for the Department of the City Clerk to verify the signatures on said petition.

ANSWER:

Said petition does not comply with Section 209 of the Charter. Stated more accurately, the petitioners, assuming without verifying that they are qualified electors of the city, do not have the power to bring this initiative under Section 209. The City Clerk, therefore, need not verify the signatures.

DISCUSSION:

The proposed ordinance in the petition provides that stadiums and athletic facilities located in Providence shall pay property taxes at the full commercial rate and that no public money may be used to subsidize them. More particularly, the proposed ordinance states:

“No stadium or athletic facility shall be a permissible use of the land designated on May 1, 2015 as Parcel P4 in the I-195 District. Every new stadium constructed in the city of Providence after May 1, 2015 shall pay property tax at the full commercial rate on the assessed value. No public money from the city of Providence shall be used directly or indirectly to subsidize or otherwise provide any financial benefit to any new stadium.”

Section 209 of the Charter expressly provides that the power of initiative excludes ordinances related to the budget, capital programs, the appropriation of money, or the levy of taxes. More particularly, the first sentence of Section 209 states, in pertinent part:

“The right to enact ordinances is hereby granted to the qualified electors of the city by initiative, provided that such power shall not extend to the budget or capital programs or to any ordinance relating to the appropriation of money, or to the levy of taxes ...”
(emphasis added).

Thereafter, Section 209 sets forth the procedures for the proper exercise of the power of initiative.

The proposed ordinance endeavors to regulate capital programs, the appropriation of money and the levy of taxes related to stadiums and athletic facilities. Accordingly, it falls squarely within the types of ordinances that are not permitted by public petition under Charter § 209.

Furthermore, because it is clear from the face of the petition that it endeavors to enact an ordinance which includes provisions that may not be properly enacted by public petition under Charter § 209, there is no need to verify the signatures on the petition to determine if the petitioners are, in fact, qualified electors.