

OFFICE OF THE ATTORNEY GENERAL OF CALIFORNIA

California Attorney General Opinion 25-301

California Attorney General Opinion 25-301 · No. 25-301 · Decided December 4, 2025

SUMMARY

California Attorney General Opinion No. 25-301 addresses an application for leave to bring a quo warranto action seeking to remove Christopher Pikus from the Poway City Council. The proposed relator argued that Brian Pepin was no longer qualified to serve when he voted for Pikus’s appointment because Pepin had vacated his district residence. The Attorney General denied leave to sue, concluding that the de facto officer doctrine foreclosed a retroactive challenge to Pepin’s vote and that the application presented no substantial issue warranting judicial resolution in the public interest.

CASE DETAILS

COURT	Office of the Attorney General of California
DECIDED	December 4, 2025
DOCKET	25-301
DISPOSITION	denied
PROCEDURAL POSTURE	Hiram Soto applied to the California Attorney General for leave to bring a quo warranto action seeking to invalidate Christopher Pikus's appointment to the Poway City Council and remove him from office. The Attorney General denied leave to sue.
STANDARD OF REVIEW	The Attorney General exercises broad discretion in deciding whether to grant leave to sue in quo warranto and considers whether the proposed action presents a substantial question of law or fact warranting judicial resolution and whether granting leave would serve the public interest. The Attorney General does not decide the ultimate merits of the underlying officeholding dispute.
PRECEDENTIAL VALUE	Published California Attorney General opinion; persuasive and nonbinding authority rather than a judicial holding.
PARTIES	Hiram Soto, proposed relator v. City of Poway, Christopher Pikus, real party in interest

TOPICS

- municipal law
- election law
- remedies
- civil procedure
- declaratory judgment

PRACTICE AREAS

municipal law

election law

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether quo warranto is the proper legal process for challenging an individual's title to a public office.
2. Whether the de facto officer doctrine prevents a retroactive collateral challenge to the validity of Pepin's vote after Pepin left office and Pikus assumed the council seat.
3. Whether Soto's application presented a substantial question of law or fact warranting judicial resolution and whether granting leave to sue would serve the public interest.

HOLDINGS

1. Quo warranto is the appropriate, and generally the only, legal method for determining title to a public office, including the office of a city councilmember. It could have been used to directly challenge Pepin's right to hold office while he remained in office, but a challenge directed at Pepin became moot after he left office.
2. The de facto officer doctrine prevents Soto from retroactively challenging Pepin's vote to appoint Pikus. Pepin was a de facto officer because he was physically present, publicly treated as the District 1 representative, and permitted by the City Council to exercise the functions of office; his vote was therefore valid and binding as to the public and Pikus despite the alleged defect in Pepin's eligibility.
3. Leave to sue in quo warranto must be denied because Soto's proposed challenge to Pepin's vote was barred by the de facto officer doctrine, presented no substantial question of law or fact requiring judicial resolution, and would not serve the public interest.

KEY QUOTATIONS

“The validity of Pepin’s vote cannot be challenged retroactively.” (6)

“When a sitting officer takes official action, the public should not have to inquire whether the officer has a right to hold that office or compel the officer to prove their right holding position.” (7)

“Because Councilmember Pepin’s vote for Pikus is conclusive as a matter of law under the de facto officer doctrine, and because adherence to that doctrine serves the public interest, we conclude that the application for leave to sue should be DENIED.” (11)

FACTUAL BACKGROUND

Poway Councilmember Brian Pepin submitted a resignation stating that it would become effective when his seat was filled, and he later participated in the January 21, 2025, vote to appoint Christopher Pikus as his successor. Soto alleged that Pepin had vacated his District 1 residence before the vote and therefore lacked eligibility to serve and vote. Despite being informed of Soto's objection, the City Council permitted Pepin to vote, and the 3-2 vote supplied the majority necessary to appoint Pikus. Soto then applied for leave to bring a quo warranto action seeking to invalidate Pikus's appointment.

PROCEDURAL HISTORY

Brian Pepin, a Poway City Council member, resigned effective when his successor was appointed and voted in January 2025 to appoint Christopher Pikus as his replacement. Soto alleged that Pepin had vacated his District 1 residence and was therefore no longer qualified to serve or vote. After the City opposed the application, Soto sought leave to sue in quo warranto. The Attorney General concluded that the proposed challenge presented no substantial question warranting judicial resolution and would not serve the public interest because the de facto officer doctrine protected Pepin's vote.

DISPOSITION

denied

CASES CITED

- Rando v. Harris, 228 Cal. App. 4th 868 (2014)
- Nicolopulos v. City of Lawndale, 91 Cal. App. 4th 1221 (2001)
- People v. Olds, 3 Cal. 167 (1853)
- Hallinan v. Mellon, 218 Cal. App. 2d 342 (1963)
- People ex rel. Schlesinger v. Sachs, 97 Cal. App. 5th 800 (2023)
- People ex rel. Tracy v. Brite, 55 Cal. 79 (1880)
- People ex rel. Fleming v. Shorb, 100 Cal. 537 (1893)
- Klose v. Superior Court in and for San Mateo County, 96 Cal. App. 2d 913 (1950)
- People ex rel. Strong v. City of Whittier, 133 Cal. App. 316 (1933)
- Citizens Utilities Co. v. Superior Court, 56 Cal. App. 3d 399 (1976)
- In re Bunker Hill Urban Renewal Project 1B of Community Redevelopment Agency of City of Los Angeles, 61 Cal. 2d 21 (1964)
- People ex rel. Hoffman v. Hecht, 105 Cal. 621 (1895)
- Ensher, Alexander & Barsoom, Inc. v. Ensher, 238 Cal. App. 2d 250 (1965)
- Oakland Paving Co. v. Donovan, 19 Cal. App. 488 (1912)
- Marine Forests Society v. California Coastal Commission, 36 Cal. 4th 1 (2005)
- Consumers' Salt Co. v. Riggins, 208 Cal. 537 (1929)
- Fair Political Practices Commission v. Californians Against Corruption, 109 Cal. App. 4th 269 (2003)
- Auto Equity Sales, Inc. v. Superior Court, 57 Cal. 2d 450 (1962)