

**LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL**  
**(Determining that Petitioners are Eligible for Voter Registration Appeal, Setting**  
**Appeal Hearings, and Adopting Hearing Rules)**

DEFEATED  
LEGISLATIVE ORDER NO. 03-222

1 **WHEREAS, Article X, Section 1 of the Constitution of the Tohono O'odham Nation provides that**  
2 **"All members of the Tohono O'odham Nation who have reached the age of eighteen**  
3 **(18) years prior to the election date shall have the right to vote, *provided they comply***  
4 ***with any and all ordinances regulating elections authorized by this constitution.*"**  
5 **(emphasis added); and**

6 **WHEREAS, Article X, Section 7 of the Constitution further requires that the "Council shall enact**  
7 **an election ordinance . . . which shall prescribe . . . the registration requirements for**  
8 **voting and such other rules and procedures necessary to the orderly conduct of**  
9 **elections, including but not limited to procedures for validation of petitions and the**  
10 **settlement of any and all election disputes."; and**

11 **WHEREAS, the Council did enact the Uniform Election Ordinance ("Election Ordinance"),**  
12 **Ordinance No. 03-86, as described above and which provides a process for registering**  
13 **voters, but which fails to provide a means for otherwise eligible voters who are not**  
14 **members of a specific district to register and be placed on the Official List of**  
15 **Registered Voters; and**

16 **WHEREAS, the constitutional right of otherwise eligible members of the Tohono O'odham Nation**  
17 **to vote is fundamental to the Nation's democracy and to the principle of equality for**  
18 **all enrolled members; and**

19 **WHEREAS, no class of eligible members should be disenfranchised solely for the reason that the**  
20 **United States of America and the Republic of Mexico agreed to divide Tohono**  
21 **O'odham lands, thereby dividing the O'odham themselves into two countries the**  
22 **O'odham had no voice in creating; and**

23 **WHEREAS, while the Election Ordinance fails to provide a process for O'odham in Mexico and**  
24 **other "no-district" members to register to vote and thereby fully participate in the**  
25 **Nation's democracy, the Election Ordinance *does* provide a process for a member to**  
26 **appeal the inability to register when that member's name is not added to the Official**  
27 **List of Registered Voters; and**

28 **WHEREAS, Article III, Section 2 of the Election Ordinance states that "Any member of the Nation**

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**(Determining that Petitioners are Eligible for Voter Registration Appeal, Setting Appeal Hearings, and Adopting Hearing Rules)**

**Page 2 of 4**

1           **whose name has been removed from the Official List of Registered Voters or whose**  
2           **name has been omitted in error, or whose name, *for other reasons, has not been***  
3           ***added to such list by action of a district council* after registering in accordance with**  
4           **Section 1 above, may appeal to the Tohono O'odham Council for listing at least fifteen**  
5           **(15) days prior to the general, primary or special election. The Tohono O'odham**  
6           **Council shall, if necessary, call a special meeting to decide such appeals. If the**  
7           **Council should decide that the appellant is a qualified voter, it shall order that the**  
8           **appellant's name be placed on the list. The decision of the Council shall be final"**  
9           **(emphasis added); and**

10 **WHEREAS, the Council has been presented with the petitions of enrolled Nation's members at**  
11           **least fifteen days prior to the 2003 General Election asking the Council to decide their**  
12           **eligibility appeals; and**

13 **WHEREAS, while the Council initially denied the appeals due to insufficient information**  
14           **(Resolution No. 03-198, pending certification and action by Chairman), and**  
15           **subsequently tabled consideration of voter registration appeals until certain**  
16           **requirements were first met (Legislative Order No. 03-207), additional evidence has**  
17           **been presented that now justifies hearing the petitioners' appeals; and**

18 **WHEREAS, the Council has been presented with the following information and documentation**  
19           **supporting petitioners' request for a voter registration appeal before the Council: (1)**  
20           **completed voter registration forms; (2) copies of petitioners' enrollment cards; (3)**  
21           **petitions alleging the petitioners are not members of any of the Nation's eleven**  
22           **districts; and**

23 **WHEREAS, this information taken together with the statement that the petitioners are unable**  
24           **to register to vote in any district due to their "no district" status, establishes that they**  
25           **are entitled to an appeal before the Council pursuant to Article III, Section 2 of the**  
26           **Election Ordinance.**

27 **NOW, THEREFORE, BE IT ORDERED that the Tohono O'odham Legislative Council hereby**  
28           **declares the petitioners named in the attached petitions are eligible for a voter**

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**LEGISLATIVE ORDER NO. 03-222**

**(Determining that Petitioners are Eligible for Voter Registration Appeal, Setting Appeal Hearings, and Adopting Hearing Rules)**

**Page 3 of 4**

1 registration appeal hearings pursuant to Article III, Section 2 of the Election  
2 Ordinance.

3 **BE IT FURTHER ORDERED** that the Legislative Council hereby sets voter eligibility appeal  
4 hearings for the above identified petitioners for 1:00 p.m. on Friday, May 9, 2003.

5 **BE IT FURTHER ORDERED** that the following rules shall apply to the voter eligibility appeal  
6 hearings set pursuant to this legislative order:

7 **Voter Eligibility Appeal Hearing Procedure**

- 8 1. The Legislative Council Chairperson, or in her absence, the Vice Chairperson  
9 shall preside and rule on the admissibility of any evidence and any procedural  
10 questions not addressed in the Legislative Rules. The Legislative Rules shall apply  
11 to the extent they do not conflict with this Procedure.
- 12 2. For his or her appeal to be heard, the petitioner must
- 13 I. be personally present in the Council Chambers,  
14 II. present valid proof of enrollment,  
15 III. present a completed voter registration form, and  
16 IV. state that he or she is not a member of any district of the Nation.
- 17 3. The appeals of all petitioners who submit the information required by section 2  
18 of this procedure on the same date shall be heard in a single consolidated hearing  
19 by the Legislative Council.
- 20 4. The presiding officer shall be responsible for obtaining the presence of one or  
21 more members of the Enrollment Committee and any other such witnesses as may  
22 be necessary to decide the appeals.
- 23 5. The member of the Enrollment Committee shall be present and be prepared to  
24 verify whether the petitioner is an enrolled member of the Nation and to verify the  
25 petitioner's age.
- 26 6. Members of the Council may be recognized by the Presiding Officer and may only  
27 ask questions directly relevant to the petitioner's eligibility to vote.
- 28 7. After the hearing begins, Council debate shall not be permitted.

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**LEGISLATIVE ORDER NO. 03-222**

**(Determining that Petitioners are Eligible for Voter Registration Appeal, Setting Appeal Hearings, and Adopting Hearing Rules)**

**Page 4 of 4**

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**8. After hearing and reviewing all relevant evidence for each petitioner, the Council shall determine by roll call vote whether all petitioners' names shall be added to the Official List of Registered Voters. If the names are so added, the Council decision shall be transmitted to the Election Board on the same calendar day as the decision.**

**BE IT FINALLY ORDERED that those petitioners who the Legislative Council decides are eligible to vote and who are to be added to the Official List of Registered Voters shall be issued absentee ballots by the Election Board.**

**The foregoing Order was presented to the Tohono O'Odham Legislative Council on the 08<sup>TH</sup> Day of MAY, 2003 at a meeting at which a quorum was present, and by a vote of 404.7 FOR; 1,759.75 AGAINST; 253.05 NOT VOTING; and [02] ABSENT, failed to pass because it did not receive a majority of the votes cast as required by Section 2 of Article V of the Constitution of the Tohono O'odham Nation.**

**TOHONO O'ODHAM LEGISLATIVE COUNCIL**

  
\_\_\_\_\_  
**Rita A. Martinez, Legislative Chairwoman**

**ATTEST:**

  
\_\_\_\_\_  
**Julianna Saraficio, Acting Legislative Secretary**

**ACTION: DETERMINING THAT PETITIONERS ARE ELIGIBLE FOR VOTER REGISTRATION APPEAL, SETTING APPEAL HEARINGS, AND ADOPTING HEARING RULES**

**MOVED: COUNCILMAN DAVID GARCIA**

**SECOND: COUNCILMAN DENNIS RAMON**

**DATE: MAY 08, 2003**

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
<b>BABOQUIVARI</b> 317.7	1. FRANCES MIGUEL ( )	158.85		X		
	2. FRANCES G. ANTONE ** (Lucilda Norris-Valenzuela)	158.85		X		
<b>CHUKUT KUK</b> 248.1	1. KENNETH WILLIAMS (Juanita Homer)	124.05		X		
	2. DAVID GARCIA (Mary Audrey Juan)	124.05	X			
<b>GU ACHI</b> 230.7	1. CAMILLUS LOPEZ ( )	115.35		X		
	2. JEROME F. JOAQUIN ( )	115.35		X		
<b>GU VO</b> 188.3	1. FERN SALCIDO ( )	94.15	X			
	2. EMILIO LEWIS (Michael Flores)	94.15	X			
<b>HICKIWAN</b> 167.3	1. SHIRLEY MOLINA ( )	83.65		X		X
	2. SANDRA ORTEGA ( )	83.65		X		
<b>PISINEMO</b> 174.7	1. BARBARA SALVICIO (Alex Antone)	87.35		X		
	2. PATRICIA CRUZ (Johnson Jose)	87.35		X		
<b>SAN LUCY</b> 160.7	1. ALBERT MANUEL, JR. (John W. Lawson, Sr.)	80.35			X	X
	2. GLORIA RAMIREZ ( )	80.35			X	
<b>SAN XAVIER</b> 184.7	1. FELICIA NUÑEZ ( )	92.35			X	
	2. DENNIS RAMON ( )	92.35	X			
<b>SCHUK TOAK</b> 144.5	1. MARY FLORES ( )	72.25		X		
	2. AMBROSE ENCINAS (Frances B. Conde(Francisco))	72.25		X		
<b>SELLS</b> 416.1	1. DENNIS E. JOSE ( )	208.05		X		
	2. EVELYN JUAN ( )	208.05		X		
<b>SIF ODAK</b> 184.7	1. ISIDRO LOPEZ (Nicholas Jose)	92.35		X		
	2. RITA MARTINEZ ( )	92.35		X		
<b>TOTAL</b>		<b>2,417.5</b>	<b>404.7</b>	<b>1,759.75</b>	<b>253.05</b>	<b>[02]</b>

**\*\*PASSED VOTES**