

Santa Cruz city election ruling to be appealed

A judge's decision that there were not enough illegal votes cast in the 1983 Santa Cruz City Council election to affect the outcome is going to be appealed.

Tim Morgan, attorney for a group of Santa Cruz citizens who challenged the election results, said today he is filing an appeal of the ruling made by Superior Court Judge Harry F. Brauer earlier this year as the culmination a three-month trial.

Morgan's clients challenged the election results following charges by the county Grand Jury that as many as 1,700 votes from the UC-Santa Cruz campus were cast by people who didn't reside on the campus, making the votes illegal.

Armed with the Grand Jury report, and further research of their own, a group of people active in conservative politics in Santa Cruz specifically challenged the legality of 472 votes cast on the campus, mostly by students. The election was so close that if the judge had thrown out even 182 of the challenged votes, a conservative — Bill Feiberling — would have become a winner instead of Jane Weed, a progressive.

Because Ms. Weed's victory gave the progressives only a 4-3 majority, her replacement by Feiberling would have returned control of the City Council to the conservative-moderate

forces.

But Judge Brauer ruled that only 110 of the contested votes were illegally cast.

Attorney Morgan said after Brauer's decision that he believed it to have been based on faulty legal logic, but he and his fellow attorney, John Bohrer, said that a decision to appeal would not be made until it could be determined whether their clients wanted to undertake that relatively expensive action.

Today, as the deadline for filing approached, the decision was announced.

Morgan said he will argue in his appeal, among other things, that Judge Brauer erred in applying a general section of the state government code to the issue of voter residency instead of relying on the more specific provisions of the elections code; and that the judge's decision accorded "special status" to students in the residency laws for voters.

"The contestants have consistently argued that the sanctity of the electoral process is at issue in this contest," Morgan said. "It is only through the ability physically to verify that voters actually reside in their claimed precincts that the opportunity for wholesale voter fraud can be prevented. Judge Brauer's opinion is widely perceived as leaving the door wide open for such practices in future elections," he said.