

MALIBU — days, at least one couple found a respite from the clouds under sunny Southern California coastline

Judge's decision miffs SC council majority

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The legal action against the Santa Cruz City Council's nuclear war pamphlet is motivated by politics, not law, city officials said this morning, and they challenged those behind the action to fight it out in the public arena instead of the courts.

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"These unbelievably arrogant people are saying they represent the majority of people in Santa Cruz," said Mayor Michael Rotkin in a press conference he and Councilmember Mardi Wormhoudt

held at City Hall. "They may be right, but let them come to the polls and prove it."

"I don't like to see political battles fought in the court," said Wormhoudt, "rather than where they more appropriately belong — in the council chambers and at the polls."

Alert Santa Cruz, a group formed recently to challenge the council's liberal majority, filed a lawsuit last Friday to stop the council from spending \$1,100 in city funds to prepare and mail a pamphlet describing the effect on Santa Cruz of a one-megaton blast over San Francisco.

Included in the pamphlet is a list of organizations to which to write "to arrange speakers and films." The list includes Californians for a Bilateral Freeze, and other anti-nuclear groups.

Tuesday, Judge Harry Brauer ruled the booklet's "style, tenor and tone" might influence the vote on Proposition 12, and granted a restraining order to stop the mailing until after Tuesday's election.

He did not rule on the lawsuit's validity, however, and Rotkin said this morning the pamphlets will be mailed Wednesday.

The restraining order upset Wormhoudt and Rotkin, who maintain the pamphlet is a response to civil defense plans to relocate 600,000 Bay Area refugees in Santa Cruz if nuclear war begins.

The booklet is not an election issue, they said. The issue will be just as important Nov. 3 as now, but they worried the ruling set a precedent for "people who don't or can't win at the polls" to go to court instead.

In the past, Rotkin said, courts have "scrupulously avoided" ruling on what is proper legislative action. He worried

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Brauer was setting precedent by "telling us what we can do."

"The point here is the judge basically made a decision that interferes with the political and the legislative process."

Rotkin challenged Alert Santa Cruz to put the issue to a referendum vote, to see whether the majority supported the pamphlet mailing.

Alert Santa Cruz Attorney Tim Morgan replied later the case law on which the suit is based stems from the Constitution's First Amendment.

"It would be absurd," he said, "to put the First Amendment to a referendum vote in Santa Cruz."