



NEWS RELEASE

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FOR IMMEDIATE RELEASE

Subject: Measure I

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Certain members of the public have raised questions about the City's implementation of Measure I, which was approved by the voters on June 5, 2018.

When the initiative petition for Measure I was submitted to the City last year, the City Council ordered the preparation of a report on the impacts and legality of the proposed measure. Ordering this report was authorized under the California Elections Code. The City Council chose the law firm of Perkins Coie to prepare the report. Perkins Coie is a firm nationally recognized for its delivery of high quality and expert legal counsel, especially in the land use arena.

The report prepared by Perkins Coie concluded that the Measure contained procedural errors as well as provisions that violated substantive legal principles, including provisions that were inconsistent with the City's General Plan. Based on the report's findings, the City Council directed the City Attorney to file a lawsuit challenging the measure and declined to place the measure on the ballot of the June 5 election.

In opposition to the City's lawsuit, the attorneys for the proponents of Measure I argued that the City Council should have placed the measure on the ballot and then filed its lawsuit. The proponents' attorneys also argued that the City's substantive claims should not be addressed until after the election. The court agreed with the proponents' attorneys and ordered the measure to be placed on the ballot for the June 2018 election. In its ruling, the court expressly stated: "[The court] issues no ruling now on the City's arguments that the Initiative is substantively invalid because those matters must be determined after the election, if still relevant then." In other words, if Measure I failed at the polls, the court would not need to address the City's substantive claims, but if the measure succeeded, the court would thereafter resolve the City's substantive arguments.

After the election, the City and court were surprised to learn from the attorneys for the proponents of Measure I that they did not believe the City had standing to challenge Measure I based on these substantive grounds. Nonetheless, the court set a briefing schedule to address these new standing claims and set a hearing to decide them for September 11, 2018. In the intervening time, one of Measure I's attorneys was required to attend to family matters on the east coast, and, as a result, the hearing was postponed to January 24, 2019.

In short, because of Measure I's proponents' claims that the City no longer has standing to challenge Measure I on substantive grounds, including the measure's conflicts with the City's General Plan, these substantive issues remain unresolved and will not be resolved until sometime later in 2019.

In the meantime, and since June 5, 2018, no applications for new construction have been submitted to the City for projects or properties arguably governed by Measure I. The City is as eager as its citizenry to reach an expeditious conclusion to this litigation and resolution of Measure I's scope and validity.

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