

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE B-17

This is an initiative measure placed on the ballot by a petition signed by the requisite number of City voters. The measure proposes to: 1) repeal former Chapter 15.10 of the San Luis Obispo Municipal Code, entitled "Rental Housing Inspection", which established a program for the registration and code compliance inspection of residential rental units in the City; and 2) replace it with a new Chapter 15.10 entitled "Non-Discrimination in Housing." After proponents submitted the measure to the City Elections Official and it qualified for a special election, the City Council repealed the Rental Housing Inspection program. The Elections Code does not permit a qualified measure to be modified or withdrawn, once submitted. Thus, the repeal provision remains in the text of the measure, even though the Council already repealed Chapter 15.10.

The City is currently governed by state and federal laws, which: 1) prohibit housing discrimination based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability or genetic information; and 2) establish the legal requirements to conduct residential inspections.

The first sentence of the proposed measure specifies that "...imposing any compulsory program, policy, intrusion, or inspection applicable to any residential dwelling unit" is a prohibited type of discrimination, if based on certain characteristics, including some, but not all, characteristics protected under state and federal housing law. The sentence also prohibits the specified type of discrimination based on "income" or "inability or ability to own a home," which are not protected characteristics, as defined under state or federal law.

The second sentence of the measure prohibits any City "...determination to conduct an inspection of any dwelling...based substantially on..." similar, but not identical, characteristics as listed in the first sentence. This inspection sentence includes the characteristic "status as an owner or renter," instead of "inability or ability to own a home" as used in the first sentence. The measure does not define any terms or explain the distinctions in terms between the two sentences. The measure does not include any of the exemptions included in state or federal housing law. This creates uncertainty as to the effect of the measure on existing law and the operation of the measure.

The measure also states that former Chapter 15.10 authorized discrimination and was unconstitutional. Those assertions have not been ruled upon by a court, but could result in liability to the City in subsequent litigation if the measure were adopted and a court deemed the assertions to be admissions by the City.

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A yes vote means that new Chapter 15.10 would replace former Chapter 15.10 and that specified City actions and residential inspections, based on the characteristics specified in the measure, would be prohibited, unless later modified by the voters of the City.

A no vote means that former Chapter 15.10 would not be replaced with new Chapter 15.10 and the City would continue to be governed by existing state and federal laws regarding housing non-discrimination and residential inspections.

Dated: May 30, 2017

J. Christine Dietrick
City Attorney
City of San Luis Obispo