

CITY OF BERKELEY MEASURE LL

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MEASURE LL: Shall Ordinance No. 6,958–N.S., Repealing and Reenacting Berkeley Municipal Code (BMC) Chapter 3.24 (Landmarks Preservation), passed by the City Council, granting the Landmarks Preservation Commission new authority to prohibit, instead of suspend, demolition of historic resources; eliminating property owners’ approval in establishing historic districts; and substantially revising procedures for designating historic resources (including limiting reconsideration of properties not designated) and regulating alteration or demolition of historic resources, subject to appeal to the Council, be adopted?

YES

NO

CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE LL

REFERENDUM ON THE LANDMARKS PRESERVATION ORDINANCE 6,958-N.S.

The current Landmarks Preservation Ordinance (“LPO”) establishes a 9 member Landmarks Preservation Commission (“LPC”) appointed by the City Council. The LPC’s main powers are to designate landmarks, structures of merit, and historic districts (“historic resources”), and to regulate alterations to them. The LPC does not regulate demolition of historic resources, which is controlled by the City’s Zoning Adjustment Board. The LPC’s decisions are subject to appeal to the City Council. The LPO as currently in effect grants the LPC authority to suspend demolition of historic resources for up to one year (“suspension power”).

In 2006, the City Council repealed and reenacted the LPO, substantially revising it. These revisions, in combination with accompanying changes to the Zoning Ordinance, were designed to provide earlier public notice of proposals to alter or demolish historic resources and to grant the LPC new authority to regulate their demolition, while streamlining the process for LPC decision making.

As the result of a citizen referendum petition, the revised ordinance has been placed on the ballot. This measure asks the voters to approve or reject the revised ordinance adopted by the City Council, described below.

New authority of LPC: The revised ordinance grants the LPC new authority to designate historic districts without the consent of a majority of property owners or residents of the proposed district, and to prohibit demolition of historic resources.

Environmental review: The revised ordinance clarifies the role of the LPC with respect to environmental review of projects that may affect historic resources, and establishes timelines for LPC action with respect to such environmental review.

Suspension: The revised ordinance repeals the suspension power of the LPO. The City has not been implementing this power, based on the City Attorney’s advice that it con-

flicts with permit processing deadlines imposed by State law.

Procedural changes: The revised ordinance establishes new processes for property owners to obtain a decision from the LPC about whether a property is a historic resource, and requires the LPC to make such decisions within a set period of time. Properties that are not designated could not be reconsidered for two years. The revised ordinance streamlines the LPC process for reviewing and approving or denying applications to alter or demolish historic resources.

Standards for designation, alteration and demolition: The revised ordinance would require that historical resources retain sufficient characteristics to reflect their historic, cultural or architectural significance. The revisions also modify the findings required for alteration of historic resources to allow the City more flexibility.

Appeals: The revised ordinance would expand the right of appeal by allowing any person to appeal a decision of the LPC to the Council.

Qualifications: LPC members must have additional qualifications, consistent with state requirements for “Certified Local Governments”.

Other changes: The revisions also made a number of technical amendments to the LPO.

A “yes” vote would allow the revised ordinance adopted by the City Council to become law. A “no” vote would reject the Council’s revised ordinance and leave in place the current LPO.

s/ZACH COWAN

Acting Berkeley City Attorney