



City of Malibu News

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Malibu Files Motion to Dismiss Lawsuit Challenging Measure R

(Malibu, CA) – The City of Malibu filed a motion to dismiss all nine claims in the federal lawsuit challenging Measure R on Wednesday, February 4.

“The people of Malibu spoke clearly at the ballot box about their desires for future commercial development, and the City will defend the law vigorously against challenges,” said Malibu Mayor John Sibert. “The City was founded on the desire to gain more local control, and we have a fundamental right to determine the character of our community.”

Last November, Malibu voters decisively approved a citizen-initiative known as Measure R, which changed the zoning law governing commercial projects in two respects: a voter-approved specific plan is required in conjunction with commercial and mixed-use development over 20,000 square feet; and the Measure imposes new limits on the number and size of certain types of chain store in shopping centers.

The lawsuit challenging Measure R was filed by Malibu Bay Company and The Park at Cross Creek LLC, each of which owns commercial property in the civic center. The Malibu Bay Company is proposing a 60,727 – 80,970 square-foot, mixed-use development on its 9.2 acres, which may include a new urgent care facility. The Park at Cross Creek is proposing approximately 38,424 square feet on its 5.88 acres, which will include a Whole Foods market. Neither property owner has obtained approvals from the City and both are subject to Measure R.

Six of the nine claims in the lawsuit contend that Measure R is unconstitutional. Property owners claim that the Measure violates the federal constitution because of its alleged effect on interstate commerce from regulating chain stores, and they allege that the measure is unfair because new shopping centers must abide by stricter rules than existing ones.

“The property owners rushed into federal court before the City had a chance to implement Measure R,” said City Attorney Christi Hogin. “The lawsuit claims that there is no way that Measure R can be implemented without running afoul of the constitution, and we believe that is simply not true.”

In the City’s motion, Hogin conveyed to the court the underlying purpose of Measure R: “Unabated, proliferation of chain stores could turn every town into AnyTown. Measure R represents Malibu’s attempt to tackle a real, current and growing threat to its community character. The California Constitution empowers cities to control development for just this purpose.”

Full copies of the City's motions are available online at www.malibucity.org/MeasureR. The Plaintiffs have until February 19 to file opposition to the City's motion to dismiss. A decision from the court is expected in March.

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