

FILED
OFFICE OF THE CITY CLERK
OAKLAND

22 MAY 19 PM 1:07

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89244 C.M.S.

INTRODUCED BY COUNCILMEMBER CARROLL FIFE

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE GENERAL MUNICIPAL ELECTION ON NOVEMBER 8, 2022, A PROPOSED ORDINANCE TO AUTHORIZE THE CITY OF OAKLAND TO DEVELOP, CONSTRUCT, OR ACQUIRE UP TO 13,000 LOW RENT SOCIAL HOUSING UNITS IN THE CITY UNDER ARTICLE 34 OF THE CALIFORNIA CONSTITUTION, AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION

WHEREAS, the State of California and the City of Oakland continue to experience an unprecedented housing crisis; and

WHEREAS, a growing number of Oakland residents are facing difficulties meeting their housing needs due to economic insecurity, unemployment, and displacement, which has been further exacerbated by the COVID-19 pandemic; and

WHEREAS, 60% of Oakland residents are renters and vast majority are rent burdened because the cost of living has gone up exponentially, while wages have stagnated, forcing people to dedicate a large portion (over 30%) of their income towards housing costs; and

WHEREAS, a 2020 study of Housing Vulnerability in Oakland, conducted by the University of Pennsylvania's Housing Initiative (HIP), in partnership with the City of Oakland's Department of Housing and Community Development found that 51% of renter households make less than 50% of the Area Median Income (AMI) and most renters of color are rent burdened, making an increasing number of Oaklanders vulnerable to displacement; and

WHEREAS, access to low and very low-income housing is critical to ensuring that a growing number of Oakland residents are not plunged into homelessness; and

WHEREAS, according to the City's Housing Element Annual Progress Report for 2020, the City has met only 43% of its Regional Housing Needs Allocation (RHNA) goals for very low-income housing, and 25% of its RHNA goals for low-income housing; and

WHEREAS, the December 2021 RHNA allocation plan for the Bay Area for 2023-2031 concluded Oakland needs 6,511 units of very low-income housing, and 3,750 units of low-income housing; and

WHEREAS, in order to capture the deficit from Oakland's current RHNA cycle allocation for low-income and very low-income housing and capture the allocations for the next cycle (2023-2031), approximately 13,000 such units are needed; and

WHEREAS, in 1950 California voters approved a measure that added Article 34 (XXXIV) to the California Constitution, prohibiting the development, construction, or acquisition of publicly funded low rent housing projects without majority approval by the electors of a city or county; and

WHEREAS, Article 34 is a reactive measure that sought to maintain the status quo of housing segregation in light of the adoption of the Federal Housing Act in 1949, which banned explicit racial segregation in public housing; and

WHEREAS, Article 34 continues to be a barrier to the development of much needed low rent housing across our State; and

WHEREAS, under Article 34 of the California Constitution, the City of Oakland cannot develop, construct, or acquire low rent social housing units, or assist such housing development, without voter authorization, unless exempt; and

WHEREAS, for purposes of this Resolution, social housing describes housing units that would accommodate extremely low-income, very low-income, and low-income residents, and that are owned and managed by the City or by an affordable housing provider with development or acquisition assistance from the City; now, therefore be it

RESOLVED: That the Oakland City Council finds and determines the forgoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That the Oakland City Council does hereby submit to qualified voters in the City, at the November 8, 2022 General Municipal Election, an Ordinance that reads as follows:

THE CITY COUNCIL AND PEOPLE OF THE CITY OF OAKLAND DO ORDAIN AS FOLLOWS:

Section 1. Article 34 Authorization. Consistent with Article 34 of the California Constitution, the voters authorize the City of Oakland (the "City") to develop, construct, or acquire up to 13,000 low rent residential units in social housing projects within the City for the purpose of providing affordable rental housing to households and individuals with low incomes or below. Subject to applicable laws, the City is further authorized to take any actions necessary to implement this Ordinance, including, but not limited to, causing or assisting private sponsors to develop said housing. This Ordinance shall not take effect if Article 34 of the California Constitution is repealed by a vote of the People of California before the effective date of this Ordinance.

Section 2. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the Ordinance.

; and be it

FURTHER RESOLVED: That each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

A PROPOSED ORDINANCE TO AUTHORIZE THE CITY OF OAKLAND TO
DEVELOP, CONSTRUCT, OR ACQUIRE LOW RENT SOCIAL HOUSING UNITS
MEASURE _____

<p>Measure _____. Shall the Measure to authorize the City of Oakland to develop, construct, or acquire, or assist the development of, up to 13,000 low rent residential units in social housing projects within the City for the purpose of providing affordable rental housing be adopted?</p> <p>[FINAL QUESTION SUBJECT TO CITY ATTORNEY APPROVAL]</p>	Yes	
	No	

; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 8, 2022, to file with the Alameda County Clerk certified copies of this Resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots the foregoing recitals and the measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication, and printing of notices, pursuant to the requirements of the Charter of the City of

Oakland, Chapter 3.08 of the Oakland Municipal Code, the Government Code, and the Elections Code of the State of California; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the November 8, 2022, General Municipal Election, and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the General Municipal Election; and be it

FURTHER RESOLVED: That certain sections of the proposed Ordinance may be codified into the City of Oakland Municipal Code at the direction of the City Clerk upon approval by the voters; and be it

FURTHER RESOLVED: That this Resolution shall be effective immediately upon approval by five members of the Council.

IN COUNCIL, OAKLAND, CALIFORNIA, JUN 07 2022


PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: 
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

22 JUL 14 AM 8:47

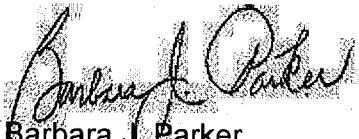
CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE _____

TITLE: A Proposed Ordinance To Authorize The City Of Oakland To Develop, Construct, Or Acquire Low Rent Social Housing Units

CITY ATTORNEY'S SUMMARY OF MEASURE _____:

This measure would authorize the City of Oakland to develop, construct, or acquire up to 13,000 low rent residential units in social housing projects within the City of Oakland for the purpose of providing affordable rental housing to households and individuals with low incomes or below.

This authorization would be provided pursuant to Article XXXIV of the California Constitution (commonly known as "Article 34"). Article 34 provides that no "low rent housing project" may be "developed, constructed, or acquired" by any "state public body" unless the project is approved by the voters. Article 34 defines "state public body" to include a city.



Barbara J. Parker
City Attorney

3186739v1

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE

22 JUL 14 AM 8:47

Article XXXIV of the California Constitution (commonly known as "Article 34") provides that no "low rent housing project" may be "developed, constructed, or acquired" by any "state public body" unless the project is approved by the voters. Article 34 defines "low rent housing project" as housing affordable to persons of low income. State statutes exclude certain types of housing development from this definition. Article 34 does not define "developed, constructed, or acquired", but state statutes define this term as excluding certain types of financing activities by governmental agencies. Article 34 defines "state public body" as including a city, among other governmental agencies.

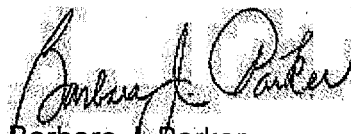
Courts have interpreted Article 34 to allow a locality to seek general voter approval of a specified maximum number of low rent housing units without identifying specific housing projects.

The City currently provides financial assistance to affordable housing providers in the form of grants or loans to develop affordable rental housing. Such housing is restricted to occupancy by low income households and other income groups at a restricted affordable rent. The City follows income and rent affordability standards set by the state and federal government. Most of these housing providers are nonprofit developers, although some are for-profit entities. In most cases, these housing projects are owned and managed by the affordable housing providers, although in a few cases the City owns and manages the housing.

This measure would grant voter approval pursuant to Article 34 for the City to develop, construct, or acquire up to 13,000 low rent "social housing" units within Oakland. "Social housing" is defined as housing units that would accommodate extremely low-income, very low-income, and low-income residents -- these income groups are defined by state and federal affordable housing standards -- and that are either owned and managed by the City, or owned and managed by an affordable housing provider with development or acquisition assistance from the City. The 13,000 unit figure is derived from the Regional Housing Needs Allocation ("RHNA") goals for affordable housing production set by the state on localities, including Oakland. The 13,000 number represents the total deficit of required affordable units not produced in Oakland over the previous RHNA cycle, plus the total RHNA affordable unit production goals for Oakland over the next RHNA cycle (2023 through 2031).

This measure only provides legal authorization for the development of the specified number of affordable housing units and does not allocate any City funds to support such development.

The Oakland City Council placed this measure on the ballot. A "yes" vote supports the passage of the ordinance authorizing the City to assist development, construction, or acquisition of up to 13,000 low rent social housing units within the City; and a "no" vote opposes passage of the ordinance. A majority vote (i.e., more than 50% of the votes cast) is required to pass the measure.


Barbara J. Parker
City Attorney

22 JUL 29 PM 7:30

Summary

Article 34 of the California State Constitution specifies that low-rent housing project(s) shall not be developed, constructed, or acquired by any public body without approval by the voters in the jurisdiction the project(s) will be located. If approved by a majority of the voters, the proposed ordinance would authorize the City to develop, construct, or acquire up to 13,000 low-rent social housing units in the City for the purpose of providing affordable rental housing to households and individuals with low incomes or below. The proposed ordinance further authorizes the City to take any actions necessary to implement the ordinance subject to applicable laws, including causing or assisting private sponsors to develop such housing.

Financial Analysis

This measure, by itself, will have minimal fiscal impact on the City, as it is only authorizing the City to develop, construct or acquire low rent housing units, as required by Article 34 of the California State Constitution. It does not approve any specific low-rent housing project(s) or identify funding for any such projects.

Our independent analysis is based on the best information available at this time.