

**MEASURE W**

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE W**

This measure is an ordinance that would limit the amount a landlord could increase rent for certain residential units in the City of Mountain View, and enact related regulations.

The City does not currently regulate the amount of rent a landlord may charge. The City does have an ordinance requiring a landlord and tenant go to mediation and, in some cases, nonbinding arbitration when there are disputes ("Current Ordinance").

Under the Current Ordinance, rental disputes include rent increases in excess of 7.2% within a 12-month period, service reductions, notices to vacate, maintenance and repairs, security deposits and a tenant's early termination of a lease. Rental properties with three or more rental units in a single structure are subject to the Current Ordinance. All disputes are subject to conciliation and mandatory mediation. Disputes related to rent increases in excess of 7.2% and service reductions are also subject to mandatory but nonbinding arbitration. The arbitrator's decision is advisory.

This measure would amend the Current Ordinance to regulate rents for rental units with a certificate of occupancy prior to February 1, 1995. Under this measure, if a landlord wants to increase rents by more than 5% of the base rent in a 12-month period or reduce services, then the landlord and tenant could be required to go and the arbitrator's decision would be binding on the parties.

The Current Ordinance specifies the factors an arbitrator may consider when hearing a rent increase dispute. The proposed ordinance clarifies this provision by allowing an arbitrator to consider the landlord's debt service costs, but only to the extent those costs are related to capital improvements to the rental property.

A landlord may "bank" rent increases. This means that if a landlord does not raise the rent as much as legally permitted in a particular year, the landlord can accumulate the rent increase and impose it the next year, provided it does not exceed 8%.

In addition, in those rental units covered by the measure, a landlord could only terminate a tenancy for just cause, which would include failure to pay rent; breach of lease; nuisance; criminal activity; failure to grant reasonable access; necessary repairs; owner move-in; withdrawal of the unit from the rental market; and demolition. However, if a landlord complies with the City's Tenant Relocation Assistance Ordinance, just cause would not be required for a landlord to terminate a tenancy.

If adopted, the City Council could not change the substantive provisions of the ordinance for at least two years. Substantive provisions include those addressing the binding arbitration requirement, just cause for eviction protections, base rent and rent increase. After two years, the Council could make substantive changes to the ordinance if approved by at least five of the seven Council members.

This measure was placed on the ballot by the City Council.

**CITY ATTORNEY'S IMPARTIAL ANALYSIS OF  
MEASURE W-Continued**

**The above statement is an impartial analysis of Measure W. If you desire a copy of the ordinance, please call the City Clerk's Office at 650-903-6304 and a copy will be mailed at no cost to you. Copies are also available in the City Clerk's Office and on the City's website at: [www.mountainview.gov](http://www.mountainview.gov).**

Submitted by:

/s/ Jannie L. Quinn  
City Attorney  
City of Mountain View

August 22, 2016

## ARGUMENT IN FAVOR OF MEASURE W

Mountain View's housing affordability crisis threatens our city's diversity. The Council recognizes the long-term solution is to increase the supply of housing and is working diligently to do so, but solutions are needed to bridge the gap until that supply comes online. This November, there are two ballot measures aimed at stabilizing rents. We believe **Measure W is the best choice.**

**Measure W enacts strong renter protections**, including many of those in Measure V. The most important difference is that **Measure W protects against unintended consequences** by allowing a supermajority of the City Council the flexibility to make changes after 2 years if circumstances warrant.

Measure V goes too far by amending the city's constitution and requiring citywide elections to make even minor changes. Its inflexibility greatly increases the risk of unintended consequences. We feel **Measure W offers a better, less risky approach.**

**The budget for implementing Measure W would be approved and monitored by the City Council.** By contrast, Measure V would be implemented by an unelected board with an unlimited budget and the authority to impose fees on property owners.

**Measure W** limits rent increases, offers just-cause eviction protection, was drafted and reviewed by Mountain View's City Attorney, and is modeled after a successful program in Los Gatos. It's based on extensive feedback from tenant advocates, property owners, policy experts, and the broader community. **Measure W is a solution that will work, we can afford, and most importantly, can be changed if it doesn't meet our expectations.**

We all want to address the affordability crisis that is tearing apart the fabric of our community, and Measure W is a strong, responsible solution that can evolve to meet our community's needs. If you believe Mountain View should do more for renters, vote:

**YES** on **Measure W**, and **NO** on Measure V

/s/ Pat Showalter  
Mayor, City of Mountain View

/s/ Michael Kasperzak  
Former Mayor & City Council Member, City of Mountain View

/s/ Chris Clark  
Former Mayor & City Council Member, City of Mountain View

/s/ John McAlister  
Former Mayor & City Council Member, City of Mountain View

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE W

Under state law (**California Civil Code Section 1954.50, et seq.**), a residential landlord generally may charge a new tenant whatever (initial) rent the market will bear. In the context of local rent control, this state mandate is sometimes called "**vacancy decontrol.**"

The state law assures landlords the opportunity to increase their overall rental income greatly as vacancies occur-even when there is local rent control. At the same time, "**vacancy decontrol**" provides landlords (in rent control cities) with the incentive to end existing tenancies and get new tenants at market rates.

A local rent control law that does NOT outlaw simply ending tenancies instead of raising rents will NOT help tenants..

The 4 landlord-endorsed City Councilmembers who placed this competing measure on the ballot (McAlister, Clark, Showalter and Kasperzak) first agreed that affected tenants should only be evicted for "**just cause**" but then created a **GIANT LOOPHOLE** in the law they are proposing.

Under Measure W, landlords could end tenancies without any **just cause** as long as those tenants are given some "**relocation expenses**"-the amount of which may be re-set by vote of the (mostly landlord-endorsed) City Council!

/s/ Gary Wesley  
Long-Term Resident/Attorney

## ARGUMENT AGAINST MEASURE W

With every member of the Mountain View City Council (except Lenny Siegel) having been endorsed as a candidate by a landlord-advocacy group, it was no surprise that residential tenants faced with steep rent increases received no significant help from the City Council.

So, starting in April, residents launched an initiative petition (signature) drive and qualified for the November ballot a proposed rent control-just cause eviction law (to become part of the city charter).

In response, the landlord-endorsed City Council majority devised this rent increase "arbitration" ordinance and placed it on the November ballot as a competing measure.

The effect of this additional measure could be to split the votes in support of holding down some residential rents and cause the defeat of the initiative. Some have called the maneuver a "DIRTY TRICK."

Indeed, there is a legal issue about whether the City Council even had the authority to place this proposed ordinance on the city ballot. If not legally authorized, passage of this measure would NOT result in its enactment into law.

If you believe that some restrictions should be placed on raising rents for some existing residential tenants, you should consider voting for the other (initiative) measure on the Mountain View ballot.

**EVICTIONS INVITED.** The landlord-endorsed City Councilmembers who placed this competing measure on the ballot failed to even outlaw an easy way around even its modest restriction on increasing rents on existing tenants (in covered units) : simply evict tenants instead of raising their rent! At most, a landlord might have to provide some "relocation assistance."

**YOU MAY VOTE FOR BOTH CITY BALLOT MEASURES.** But no one should be tricked into voting against the initiative in hope that this competing measure might become law and actually help anyone stay in Mountain View.

/s/ Gary Wesley  
Long-Term Resident

## REBUTTAL TO ARGUMENT AGAINST MEASURE W

Measure W's lone opponent suggests there is "a legal issue" about whether the City Council can place an ordinance on the ballot. It is clearly legal for the City Council to put Measure W on the ballot. The following official legal guidance was provided to the City Council after a member of the public raised a question:

*Per the Mountain View City Charter, Mountain View follows the Elections Code for the State of California. Elections Code Section 9200 authorizes any incorporated city to enact an ordinance in accordance with the Elections Code and Section 9222 of the Elections Code specifically authorizes the legislative body of a city which is the Mountain View City Council to submit the enactment of an ordinance to the voters.*

Measure W's opponent also suggested it fails to protect tenants from being evicted simply to raise rents. In fact, Measure W explicitly addresses this issue by including Just-Cause-Eviction provisions based on and very similar to those in Measure V. Measure W prohibits evicting someone without a good reason like failure to pay rent or criminal behavior and contains anti-retaliation protection. The City Council even went a step further than Measure V by adding a financial disincentive for evicting someone for the sole purpose of raising the rent by requiring the payment of significant relocation assistance.

Measure W is the smarter renters' initiative.

Vote for Measure W.

/s/ Pat Showalter  
Mayor, City of Mountain View

/s/ Michael Kasperzak  
City Council Member, Former Mayor

/s/ Chris Clark  
City Council Member, Former Mayor