

Supreme Court Case No. S281977

IN THE SUPREME COURT  
OF THE STATE OF CALIFORNIA

---

LEGISLATURE OF THE STATE OF CALIFORNIA; GAVIN  
NEWSOM, in his official capacity as Governor of the State of  
California; and JOHN BURTON,  
*Petitioners,*

vs.

SHIRLEY N. WEBER, Ph.D., in her official capacity as  
Secretary of State of the State of California,  
*Respondent*

THOMAS W. HILTACHK,  
*Real Party in Interest.*

---

**APPLICATION FOR LEAVE TO FILE AMICUS  
CURIAE BRIEF OF 45 MEMBERS OF THE UNITED  
TO HOUSE LA COALITION IN SUPPORT OF  
PETITIONERS AND PROPOSED BRIEF**

---

**GREINES, MARTIN, STEIN & RICHLAND LLP**

\*Robin Meadow (SBN 51126)

[rmeadow@gmsr.com](mailto:rmeadow@gmsr.com)

Katarina E. Rusinas (SBN 352688)

[krusinas@gmsr.com](mailto:krusinas@gmsr.com)

6420 Wilshire Boulevard, Suite 1100

Los Angeles, California 90048

Telephone: (310) 859-7811 | Facsimile: (310) 276-5261

**PUBLIC COUNSEL**

Gregory Bonett (SBN 307436)

[gbonett@publiccounsel.org](mailto:gbonett@publiccounsel.org)

Jonathan Jager (SBN 318325)

[jjager@publiccounsel.org](mailto:jjager@publiccounsel.org)

Faizah Malik (SBN 320479)

[fmalik@publiccounsel.org](mailto:fmalik@publiccounsel.org)

610 South Ardmore Avenue

Los Angeles, California 90005

Telephone: (213) 385-2977 | Facsimile: (213) 385-9089

Counsel for Amici Curiae

**CALIFORNIA SUPREME COURT**

**CERTIFICATE OF INTERESTED ENTITIES OR PERSONS**

Supreme Court Case No.	S281977
Case Name: <i>Legislature Of The State Of California; Gavin Newsom, In His Official Capacity As Governor Of The State Of California; And John Burton v. Shirley N. Weber, Ph.D. (Thomas W. Hiltachk)</i>	

Please check the applicable box:

- There are no interested entities or parties that must be listed in this Certificate under California Rules of Court, Rule 8.208.
- Interested entities or parties required to be listed under California Rules of court, Rule 8.208 are as follows:

Name of Interested Entity or Person	Nature of Interest

*/s/ Katarina E. Rusinas*

Signature of Attorney/Party Submitting Form

Printed Name: Katarina E. Rusinas

Address: Greines, Martin, Stein & Richland  
5900 Wilshire Boulevard, 12th Floor  
Los Angeles, California 90036

State Bar No.: 51126

Party Represented: Attorneys for Amici Curiae

Document received by the CA Supreme Court.

## TABLE OF CONTENTS

	<b>Page</b>
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS	2
TABLE OF AUTHORITIES	5
APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF	7
Interest Of Amici Curiae	8
How This Brief Will Assist The Court	21
Authorship And Funding Of The Amicus Curiae Brief	22
BRIEF OF AMICUS CURIAE IN SUPPORT OF PETITIONERS	23
INTRODUCTION	23
RELEVANT FACTS	25
A.    Los Angeles’s Housing And Homelessness Crisis.	25
B.    The TPA Measure’s Destructive Impact On Measure ULA And The Initiative Process That It Purports To Champion.	31
ARGUMENT	32
I.    The TPA Measure Undermines The Initiative Process To Such An Extent That, In Combination With Its Other Far-Reaching Changes, It Constitutes A Revision.	32
A.    Applying A Supermajority Requirement To Special Taxes, A Core Subject Of The Initiative Process, Would Severely Limit the People’s Reserved Right to Legislate by Initiative.	33

## TABLE OF CONTENTS

	<b>Page</b>
1. The TPA Measure’s supermajority requirement is qualitatively different from those that have been upheld before because it applies to initiatives.	34
2. In targeting special tax initiatives, the TPA Measure’s supermajority requirement cuts at the “intended object” of the initiative power.	37
B. The Measure’s Retroactivity Provision Would Likely Require A Special Election, Which Is Not A Representative Election.	39
II. Because The TPA Measure Creates Fundamental Uncertainties About How To Proceed If It Becomes Effective, Pre-Election Review Is Essential.	42
A. Nearly \$150 Million Has Already Been Allocated, Collected And Partially Spent, Under Measure ULA.	42
B. It Is Not Clear Whether Measure ULA Will Have To Be Reenacted As An Initiative—An Expensive And Burdensome Process That Could Make Reenactment Impossible.	44
CONCLUSION	48
CERTIFICATE OF COMPLIANCE	50
PROOF OF SERVICE	51
SERVICE LIST	52

## TABLE OF AUTHORITIES

<u>Cases</u>	Page(s)
<i>Alliance San Diego v. City of San Diego</i> (2023) 94 Cal. App. 5th 419	36
<i>Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization</i> (1978) 22 Cal.3d 208	34
<i>Associated Home Builders etc., Inc. v. City of Livermore</i> (1976) 18 Cal.3d 582	31
<i>California Cannabis Coalition v. City of Upland</i> (2017) 3 Cal. 5th 924	34
<i>City and County of San Francisco v. All Persons Interested in Matter of Proposition C</i> (2020) 51 Cal.App.5th 703	34–36, 45
<i>City and County of San Francisco v. All Persons Interested in the Matter of Proposition G</i> (2021) 66 Cal.App.5th 1058	36
<i>City of Fresno v. Fresno Building Healthy Communities</i> (2020) 59 Cal.App.5th 220	36
<i>County of Alameda v. Alameda County Taxpayers’ Association, Inc.</i> (Jan. 29, 2024, A166401, A166404) __ Cal.App.5th __ [2024 WL 323213]	35
<i>Howard Jarvis Taxpayers Association v. City and County of San Francisco</i> (2021) 60 Cal.App.5th 227	36
<i>Kennedy Wholesale, Inc. v. State Bd. of Equalization</i> (1991) 53 Cal.3d 245	35, 40
<i>Raven v. Deukmejian</i> (1990) 52 Cal.3d 336	38

## TABLE OF AUTHORITIES

	<b>Page(s)</b>
<i>Rossi v. Brown</i> (1995) 9 Cal.4th 688	37
<b><u>California Constitution</u></b>	
California Constitution	
Article II, section 1	33
Article IV, section 1	35, 37
Article XIII A, section 4	44, 45
Article XIII C, section 2	32
<b><u>Statutes, Codes &amp; Regulations</u></b>	
Government Code	
section 65584	26
Los Angeles Administrative Code	
section 22.618.1	24, 28
Los Angeles Election Code	
section 324	39
section 706	46
section 708	46
section 711	46
sections 348, 356	39
Los Angeles Municipal Code	
section 21.9.2	24
section 22.618.6	38

Document received by the CA Supreme Court.

**APPLICATION FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF**

Pursuant to California Rules of Court, rule 8.520(f),  
**Korean Immigrant Workers Advocates of Southern  
California, DBA Koreatown Immigrant Workers Alliance;  
ACT-LA; Active San Gabriel Valley; Alliance of  
Californians for Community Empowerment; Bet Tzedek  
Legal Services; BASTA, Inc.; Beverly-Vermont Community  
Land Trust; Brilliant Corners; Cangress, DBA the Los  
Angeles Community Action Network; Clergy and Laity  
United for Economic Justice; Communities Actively  
Living Independent & Free; Corporation for Supportive  
Housing; CTY Housing; Eastside LEADS; Esperanza  
Community Housing Corporation; Ground Game LA;  
Holos Communities; Homes & Hope; International  
Brotherhood of Electrical Workers, Local Union 11; Inner  
City Law Center; Inquilinos Unidos; LA Family Housing;  
LA Forward Institute; LA Más; L.A. Voice; Liberty  
Community Land Trust; LTSC Community Development  
Corporation; Long Beach Gray Panthers; Los Angeles  
County Federation of Labor, AFL-CIO; CRSP DBA Los  
Angeles Ecovillage Institute; Los Angeles/Orange Counties  
Building and Construction Trades Council; Los Angeles  
Right to Counsel Coalition; Move LA; PATH; Roofers  
Union Local 36; Southern California Association of  
Nonprofit Housing, Inc.; Social Justice Learning Institute;  
Tenemos que Reclamar y Unidos Salvar la Tierra-South**

Document received by the CA Supreme Court.

**LA; UNITE HERE Local 11; United Teachers Los Angeles; United Way, Inc.; Venice Community Housing Corporation; Watts Labor Community Action Committee; Westside LA Tenants Union; and Worksite Wellness LA,** members of the United to House LA Coalition, seek leave to file the attached amicus curiae brief.

### **Interest Of Amici Curiae**

Amici curiae are all members of the United to House LA Coalition (Coalition). The Coalition consists of homeless service providers, nonprofit affordable housing builders, labor unions, and renter’s rights advocates. The Coalition developed, qualified, and supported Measure ULA, a Los Angeles ballot initiative passed in November 2022. The Coalition is deeply concerned about The Taxpayer Protection and Government Accountability Act (TPA Measure) and its potential impact on Measure ULA.

If the TPA Measure appears on the ballot and is enacted, Measure ULA would be subject to its requirement that non-compliant special taxes adopted after January 2022 must be reenacted—thus jeopardizing a substantial source of funding earmarked for Los Angeles’s affordable housing and homelessness crisis. The Coalition is committed to encouraging pre-election review and a sound judicial interpretation of the validity of the TPA Measure.



The amici curiae are:

**Korean Immigrant Workers Advocates of Southern California, DBA Koreatown Immigrant Workers Alliance (KIWA)**, a nonprofit organization building power with immigrant workers and renters to bring about a more just and inclusive Los Angeles. Founded in 1992, KIWA works in the areas of organizing, policy innovation, and providing affordable housing and vital community services. KIWA is a co-founder of the Coalition and a member of its steering committee.

**ACT-LA**, a coalition of 45 nonprofit organizations working on affordable housing and public transit in Los Angeles County. The coalition was a lead member of the team that drafted Measure ULA and ran the campaign to pass it.

**Active San Gabriel Valley**, offers a number of professional services to cities, agencies, businesses, organizations, and community-based groups to support a more sustainable, equitable, and livable San Gabriel Valley, particularly for low-income communities of color disproportionately impacted by environmental injustices.

**Alliance of Californians for Community Empowerment (ACCE)**, a statewide multi-racial, democratic, nonprofit community organization that stands for, and builds power to fight for, economic, racial, and social justice. ACCE takes seriously its commitment to ground-up organizing to build

a strong people’s movement that can create transformative community change.

**BASTA, Inc.**, the largest nonprofit organization in Los Angeles County exclusively devoted to representing tenants in eviction actions and to hold landlords accountable for substandard conditions, harassment, and discrimination.

**Bet Tzedek Legal Services**, provides free legal services to low-income individuals residing in Los Angeles County regardless of race, religion, ethnicity, gender, gender identity, or immigration status. It focuses on addressing issues of economic justice, elder justice, justice for children and families, and housing justice, which includes supporting low-income tenants facing evictions.

**Beverly-Vermont Community Land Trust (BVCLT)**, a community land trust that focuses on anti-displacement through the preservation of affordable units in Los Angeles’ Koreatown. BVCLT currently stewards 60 units with over half of them resident-owned and managed, collectively aiming to create community-controlled land for low-income residents.

**Brilliant Corners**, a statewide nonprofit organization providing innovative housing and housing-related services to individuals at risk of institutionalization and people experiencing chronic homelessness. In Los Angeles, Brilliant Corners is developing five multi-family properties and has provided supportive housing services to over 11,000 people.

**Cangress, DBA the Los Angeles Community Action Network (LA CAN)**, a long-standing organization representing the rights of housed and unhoused Angelenos. LA CAN provides tenant advocacy, rental assistance, legal services, community organizing, and public policy advocacy, focusing on the health and well-being of Los Angeles.

**Clergy and Laity United for Economic Justice (CLUE)**, which organizes the faith community to accompany low-wage workers, immigrants, and the Black, Indigenous, people of color (BIPOC) community in their struggle for economic justice.

**Communities Actively Living Independent & Free**, an independent living center for people with disabilities and older adults in Central and South Los Angeles. It assists with counseling, food, benefits services, and housing referrals and assistance which is the most challenging and requested service, due to the lack of affordable, accessible housing.

**Corporation for Supportive Housing (CSH)**, a community development financial institution, which is a private, nonprofit organization dedicated to delivering responsible, affordable lending to help low-income, low-wealth, and other disadvantaged people and communities. CSH is a national leader in advancing supportive housing as a more equitable, cost effective and humane model for ending cycles of homelessness.

**CTY Housing**, a consultant to affordable housing developers, public agencies, and nonprofit lenders. CTY Housing’s mission is to help families and individuals stabilize and grow by supporting private and public affordable housing providers with the development and financing of high-quality affordable housing in California.

**Eastside LEADS**, a coalition of organizations and individuals advocating for development, investment, and policies that uplift the values of social housing, including permanent affordable housing, decommodification of housing, resident governance and control of decision-making, cooperative structures, and equal status among residents, regardless of immigration or economic status.

**Esperanza Community Housing Corporation**, works with low-income communities of color to achieve comprehensive, long-term equitable community development in the Figueroa Corridor of South Central Los Angeles, specifically working to uphold the pillars of health, public health, housing, economic justice, environmental justice, racial and immigrant justice, and supporting local arts and culture.

**Ground Game LA**, a grassroots organization, focusing on building a better more affordable Los Angeles. It works alongside residents, unhoused neighbors, similar organizations, and the City Council to improve the living conditions for all Angelenos.

**Holos Communities**, a nonprofit dedicated to creating spaces that provide homes, services and jobs to individuals, families, and businesses with the goal of providing opportunities for a fuller life for all people. With 13 operational sites across the greater Los Angeles area, it creates spaces with a holistic lens as it works to end homelessness, combat global warming, and reverse racial inequity, while helping to strengthen neighborhoods and local economies.

**Homes & Hope**, a dedicated team of affordable housing leaders driven by a singular mission: to provide affordable, safe, and welcoming homes for all. With decades of experience and a deep-rooted commitment to social change, it empowers communities, one home at a time.

**International Brotherhood of Electrical Workers, Local Union 11 (IBEW 11)**, the dynamic and progressive voice of the Electrical Construction Industry in Los Angeles. It is a movement for social justice, safe jobsites, training, green jobs and opportunity for all. IBEW 11 represents 12,000 Electricians, Communications and Systems Installers, Transportation Systems Journeyman, Civil Service Electricians, Apprentices, Construction Wireman and Construction Electricians.

**Inner City Law Center (ICLC)**, a poverty-law firm serving the poorest and most vulnerable residents of Los Angeles. As the only legal-services provider located in the Skid Row neighborhood, ICLC fights for housing justice for individuals experiencing homelessness, low-income tenants, working poor

families, immigrants, people living with HIV or other disabilities, and homeless veterans.

**Inquilinos Unidos**, an organization dedicated to empowering low-income tenants through community organizing, education, and advocacy to fight for safe, decent, and affordable housing in Los Angeles.

**LA Family Housing**, helps people transition out of homelessness and poverty through a continuum of housing enriched with supportive services. It employs evidence-based best practices to achieve this goals, and operates over 30 properties of temporary, permanently affordable, and permanent supportive housing across Los Angeles, with headquarters and most services based in the San Fernando Valley.

**LA Forward Institute**, a multiracial, cross-class community of Angelenos working to make Los Angeles a fair, flourishing place for everyone. Its civic education, community organizing, and policy advocacy work engage hundreds of thousands of people. Addressing the housing and homelessness crises in a real and comprehensive way is a top interest of its members.

**LA Más**, a community organization building collective power in Northeast Los Angeles to promote neighborhood stability and economic resilience for working-class communities of color. With the community front and center, LA Más is creating community housing that is affordable and stewarded by

working-class residents—making it possible for longtime community members to stay in the neighborhoods they’ve shaped and call home.

**L.A. Voice**, a multi-racial, multi-faith community organization that awakens people to their own power, training them to speak, act, and work together to transform Los Angeles County into one that reflects the dignity of all people. LA Voice’s organizing presence is based throughout Los Angeles County, with over 70 congregations, 26 with teams, and 17 of them with teams that have mobilized through deep relational organizing to deliver wins around affordable housing, economic justice, immigration reform, and transformative justice.

**Liberty Community Land Trust**, a nonprofit organization, located in Los Angeles’ Crenshaw corridor, whose mission is to stop speculative activity and community displacement by acquiring land and property to preserve and steward in perpetual trust, creating affordable housing for the benefit of our low-income communities.

**LTSC Community Development Corporation (Little Tokyo Service Center)**, a more than 40-year-old organization focused on providing a comprehensive array of social welfare and community development services to assist low-income individuals and other persons in need in Little Tokyo and throughout the Los Angeles region.

**Long Beach Gray Panthers**, represents over 1000 seniors in Long Beach that seek expansion of affordable housing. Seniors are the fastest growing segment of the unhoused population.

**Los Angeles County Federation of Labor, AFL-CIO**, a federation of over 300 affiliated union and labor organizations representing more than 800,000 members in every industry across Los Angeles County. They stand united in their mission to build a justice movement committed to protecting the rights of working people and improving the lives of families and communities.

**CRSP DBA Los Angeles Ecovillage Institute**, an education, outreach, development, research, and demonstration center for people who want to be part of resilient and regenerative communities, featuring higher quality living patterns at lower environmental impacts. As the nonprofit developer of the Los Angeles Ecovillage, it has facilitated the creation of 50 units of permanently affordable housing (Urban Soil/Tierra Urbana, a limited equity housing co-op). It was among the first of community land trusts in Southern California with the Beverly-Vermont Community Land Trust (CLT), which has sparked a CLT movement.

**Los Angeles/Orange Counties Building and Construction Trades Council**, an umbrella group representing 48 local unions and district councils in 14 construction and building trades, covering more than 140,000 skilled workers. The



Council negotiates Project Labor Agreements that bring union labor standards to projects in the public and private sector, including affordable housing projects, and believes everyone who lives within its jurisdiction deserves to live in well-constructed, affordable housing.

**Los Angeles Right to Counsel Coalition**, made up of tenants, tenant organizing groups and advocates, homeless advocates, academics, and legal services organizations representing over 30 organizations across Los Angeles County, currently works with tens of thousands of low-income tenants facing eviction, rising rents, and harassment to ensure they know their rights, connect with Stay Housed LA, and help them fight to stay in their homes.

**Move LA**, a coalition-building nonprofit that led the successful campaigns for Measures R, M, and ULA that fund transformative public transit and affordable housing infrastructure investments in Los Angeles County. Move LA's civic engagement model builds coalitions to support smart, transformative solutions to transportation, affordable housing, and climate change challenges.

**PATH**, is one of California's largest and most impactful nonprofit homeless services providers and affordable housing developers, with a mission to end homelessness for individuals, families, and communities. With staff in 150 cities across California, PATH provides supportive services including case management, street outreach, interim housing, housing

navigation, employment assistance, mental health care resources, veteran services, and substance use treatment linkages to 25,000 individuals each year.

**Roofers Union Local 36**, represents union construction workers. Its members are directly impacted by the crisis in affordable housing—they build Los Angeles’ housing and must be able to afford to live where they work.

**Southern California Association of Nonprofit Housing (SCANPH)**, a membership organization facilitating the development of affordable homes across Southern California by advancing effective public policies, sustainable financial resources, strong member organizations, and beneficial partnerships. Nonprofit developers, SCANPH’s core constituency, provide below-market-rate homes for low-to-extremely-low-income community members and people experiencing homelessness.

**Social Justice Learning Institute (SJLI)**, is dedicated to improving the education, health, and wellbeing of urban communities. SJLI believes its insights and experiences can provide the Court with unique and valuable perspectives to consider.

**Tenemos que Reclamar y Unidos Salvar la Tierra-South LA (T.R.U.S.T. South LA)**, formed through grassroots-led organizing efforts in 2005 as a democratic and permanent land steward to address displacement pressures

facing South Los Angeles, T.R.U.S.T. South LA builds power among low-income residents to stabilize and transform both gentrifying and disinvested neighborhoods, with 149 families currently living in permanently affordable housing on T.R.U.S.T. South LA's Community Land Trust.

**UNITE HERE Local 11**, is a union for more than 30,000 hotel housekeepers, cooks, dishwashers, and other hospitality workers in Southern California and Arizona. Because of soaring housing costs in Los Angeles, its members struggle to afford to stay safely housed in the communities where they work. To address this crisis, the union has engaged in numerous efforts to secure and protect affordable housing, including gathering thousands of signatures for Measure ULA.

**United Teachers Los Angeles (UTLA)**, the largest teachers' union in California and the second largest in the nation. UTLA strives to ensure equity in public education, enforce educators' rights, advance student well-being, and strengthen communities. It utilizes the collective bargaining and organizing power of 37,000 Los Angeles educators to fight for the needs of classrooms and for common good demands impacting Los Angeles, including affordable housing for all.

**United Way, Inc. (United Way of Greater Los Angeles)**, focuses on bringing about real and sustainable change by unleashing the collective power of people to open minds, unite diverse communities, and convert compassion into action for a more just, inclusive, and thriving Los Angeles County. It was

active in the campaign to qualify and pass Measure ULA, and has supported specific Measure ULA program recommendations for Seniors and Persons with Disabilities Income Support based on its regional expertise in direct income assistance and aging advocacy.

**Venice Community Housing (VCH)**, which supports and builds equitable and inclusive communities by providing affordable housing with supportive services, education, employment programs, and public policy advocacy that advances racial and economic justice. VCH believes we must challenge the root causes of housing injustice and homelessness and actively confront all forms of racism to ensure equitable communities with access to healthy, safe, and affordable homes for all.

**Watts Labor Community Action Committee (WLCAC)**, is a grassroots multi service agency enhancing the community of Watts and surrounding areas. Its homeless and housing services include outreach, interim housing and development, and housing navigation.

**Westside LA Tenants Union**, has worked with tenants on the westside of Los Angeles since 2017 to educate them about their rights, help them in crisis, and assist them in forming building-based tenants associations so that tenants can advocate on their own behalf. The Westside LA Tenants Union has worked with hundreds of tenants in dozens of buildings across Los Angeles' westside.

**Worksite Wellness LA**, which provides Medi-Cal enrollment and retention assistance to low-income families in Los Angeles. It also provides health education and mental health education classes to support low- and moderate-income workforce employed in small businesses, the food industry, and nonprofit organizations. Its clients are at constant risk of eviction, and it can see the health impacts of stress due to fear of losing their rental housing and becoming homeless.

### **How This Brief Will Assist The Court**

The Coalition’s amicus curiae brief will assist the Court in multiple ways.

*First*, the brief provides the Court with a concrete example of the ramifications of allowing the TPA Measure to appear on the ballot by describing its impact on Measure ULA, which the Coalition proposed, qualified, and worked to pass. That is because Measure ULA is subject to the TPA Measure’s requirement that non-compliant tax measures adopted after January 2022 be re-enacted within 12 months of the TPA Measure’s passage. The brief describes the threat this situation poses to Measure ULA’s continued existence—and the threat to the people’s initiative power that the TPA Measure purports to protect.

*Second*, the brief supports the need for pre-election review by explaining how the very pendency of the TPA Measure has undermined Measure ULA’s mandate, and why, if the TPA

Measure passes, the Coalition could not wait for post-election review but would need to act immediately to try to requalify and reenact Measure ULA within the 12-month cure period.

*Third*, the Coalition brings to the Court its unique experience as the proponents of an initiative. The Coalition and its members are deeply committed to the integrity of the initiative process. Even so, the unique nature of the TPA Measure—which fundamentally alters the constitutionally protected right to govern by initiative—necessitates action.

#### **Authorship And Funding Of The Amicus Curiae Brief**

The organizations listed above were involved in the preparation of the proposed amicus curiae brief. (Cal. Rules of Court, rule 8.520(f)(4)(B).)

No party or counsel for any party to the pending action authored any portion of the proposed amicus curiae brief. No one has made any monetary contribution to fund the preparation of the brief. (Cal. Rules of Court, rule 8.520(f)(4)(A).)

**BRIEF OF AMICUS CURIAE IN  
SUPPORT OF PETITIONERS**

**INTRODUCTION**

It is the height of irony for the promoters of The Taxpayer Protection and Government Accountability Measure (TPA Measure) to proclaim they are defending the people’s right to govern. The TPA Measure, though an initiative itself, does anything but. Its actual effect is to strip the people of their initiative power and place the real power in the hands of a tiny minority of voters.

The TPA Measure’s threat to Los Angeles’s Measure ULA shows why immediate, pre-election review is essential.

Measure ULA was enacted by initiative in the City of Los Angeles during the November 2022 general election, winning almost 58 percent of the vote. (Los Angeles County Registrar, *Final Official Statement of Votes Cast By Countywide* (Nov. 8, 2022) p. 319 <<http://tinyurl.com/kaxptdau>> [as of Jan. 25, 2024].)<sup>1</sup>

Measure ULA imposes a tax on the sale of expensive homes and other real estate—largely by wealthy people to other wealthy people—and dedicates the proceeds to services that expand affordable housing and address the homelessness crisis.

---

<sup>1</sup> [https://content.lavote.gov/docs/rrcc/svc/4300\\_final\\_svc\\_countywide.pdf](https://content.lavote.gov/docs/rrcc/svc/4300_final_svc_countywide.pdf)

To improve readability, we have shortened URLs in the text using the tinyURL service ([www.tinyurl.com](http://www.tinyurl.com)). The full URLs appear in footnotes. The text and footnote hyperlinks operate identically.

(Los Angeles Mun. Code, § 21.9.2; Los Angeles Admin. Code § 22.618.1.)

Measure ULA represents a policy decision by a significant majority of voters. Recognizing that the wealth disparity in Los Angeles contributes to the homelessness crisis, Measure ULA demands that those with the most wealth contribute to lifting up those who lack even the most basic resources.

To be sure, some disagree with this policy. But it is a core principle of democracy—and especially of the initiative process—that the majority rules so long as it does not abuse the minority’s rights. And homelessness is an undeniable fact of modern life that communities must find ways to address because, as one City Councilmember said, “lives are literally on the line.” (Press Release, Mayor Karen Bass, *Mayor Bass Applauds City Council for Approving Funding Plan To Provide Tenant Protections and Build Affordable Housing* (Aug. 29, 2023)

<<http://tinyurl.com/3cc8r9yp>> [as of Jan. 25, 2024].)<sup>2</sup>

The TPA Measure completely reverses core principles of democracy. It seeks to strip away the people’s power to enact policies by giving a small minority the ability to quash initiatives that the majority supports. In essence, its democratic façade conceals a fundamentally anti-democratic goal.

It doesn’t amend the Constitution. It revises the Constitution, and this Court should invalidate it.

---

<sup>2</sup> <https://mayor.lacity.gov/news/mayor-bass-applauds-city-council-approving-funding-plan-provide-tenant-protections-and-build>



## RELEVANT FACTS

### A. Los Angeles’s Housing And Homelessness Crisis.

By early 2023, over 46,000 people in the City of Los Angeles were experiencing homelessness on any given night, continuing a steady upward trend with a 10 percent increase from 2022. (Press Release, Los Angeles Homeless Services Authority, *LA’s Homeless Response Leaders Unite To Address Unsheltered Homelessness as Homeless Count Rises* (June 29, 2023) <<http://tinyurl.com/34rhmupf>> [as of Jan. 25, 2024].)<sup>3</sup> In just ten months of 2023, over 71,000 eviction notices were filed with the Los Angeles Housing Department, the overwhelming majority citing “non-payment of rent” as the reason. (Los Angeles City Controller, *Eviction Notices (February–November 2023)* (Dec. 2023) <<http://tinyurl.com/2264pj2j>> [as of Jan. 25, 2024].)<sup>4</sup>

These numbers aren’t surprising, given how many Los Angeles citizens teeter on the edge of homelessness. In 2022, when Measure ULA was enacted, some 22 percent of Los Angeles families made less than \$25,000 per year, and 42 percent made less than \$50,000. (Los Angeles City Clerk, *Voter Information Pamphlet* (Nov. 2022) pp. 41-42 <<http://tinyurl.com/y5b25fc5>> [as of Jan. 25, 2024].)<sup>5</sup> In 2019, 59 percent of renter households were

---

<sup>3</sup> <https://www.lahsa.org/news?article=927-lahsa-releases-results-of-2023-greater-los-angeles-homeless-count>

<sup>4</sup> <https://controller.lacity.gov/landings/evictions>

<sup>5</sup> [https://clkrep.lacity.org/election/2022\\_Nov\\_General\\_Ballot\\_Measures\\_Eng.pdf](https://clkrep.lacity.org/election/2022_Nov_General_Ballot_Measures_Eng.pdf)

“cost-burdened,” meaning that the household spent more than 30 percent of its income on rent—more than any other major American city. (*Ibid.*) Over half of these renters—about 32 percent of all Los Angeles renters—were severely cost-burdened, meaning they spent over 50 percent of their income on rent. (*Ibid.*) Renters in the Los Angeles metro area must earn \$42.73 per hour—nearly triple California’s minimum wage—to afford a two-bedroom apartment. (National Low Income Housing Coalition, *California: How Much Do You Need to Earn to Afford a Modest Apartment in Your State?* (2023) appen. A, p. i <<http://tinyurl.com/zus9t4f8>> [as of Jan. 25, 2024].)<sup>6</sup>

And yet, Los Angeles has routinely fallen short of ensuring enough affordable housing for all residents. The California Department of Housing and Community Development, along with the regional councils of government, adopt a Regional Housing Needs Assessment for each city, estimating the housing needs for persons at all income levels. (Gov. Code, § 65584.) In the eight-year assessment cycle ending in October 2021, Los Angeles built less than half of the needed housing for low- and very-low-income households, while building more than 340 percent of the housing needed for the highest-income households. (California Department of Housing and Community Development, *5th Cycle RHNA Progress Report* (Jan. 10, 2024) <<http://tinyurl.com/yjrf5xum>> [as of Jan. 27, 2024].)<sup>7</sup> In the

---

<sup>6</sup> [https://nlihc.org/sites/default/files/OOR\\_2023-MiniBook.pdf](https://nlihc.org/sites/default/files/OOR_2023-MiniBook.pdf)

<sup>7</sup> <https://data.ca.gov/dataset/rhna-progress-report/resource/cff0bc49-dd85-43a1-b1d5-1cfa7cf1ae22>

current cycle, the assessed need for low- and very-low-income housing is far higher: there are an estimated 185,000 units needed for low- and very-low-income households—over five times the target from the previous cycle. (California Department of Housing and Community Development, *SCAG 6th Cycle Final RHNA Allocation Plan* (July 1, 2021)

<<http://tinyurl.com/2thfe7wv>> [as of Jan. 27, 2024].)<sup>8</sup> The City estimates it would have to increase the annual building rate fifteenfold to meet the needs of these households. (City of Los Angeles, Department of City Planning, *Housing Needs Assessment: 2021-2029* (November 24, 2021), p. 99

<<http://tinyurl.com/ypujd9d2>> [as of Jan. 26, 2024].)<sup>9</sup> In 2021, before Measure ULA was passed, the City acknowledged that the “total housing needs for lower and moderate income households greatly exceeds the ability to meet those needs with existing financial resources and incentives.” (*Id.* at 100.)

To respond to this crisis, the Coalition developed, qualified, and promoted Measure ULA, a voter initiative to impose a special real property transfer tax on the sale of real property for more than \$5 million. In November 2022, Los Angeles voters passed Measure ULA with a decisive majority—almost 58 percent. The revenue from Measure ULA must be used to address the City’s

---

<sup>8</sup> [https://scag.ca.gov/sites/main/files/file-attachments/6th\\_cycle\\_final\\_rhna\\_allocation\\_plan\\_070121.pdf?1646938785](https://scag.ca.gov/sites/main/files/file-attachments/6th_cycle_final_rhna_allocation_plan_070121.pdf?1646938785)

<sup>9</sup> [https://planning.lacity.gov/odocument/bde50bc0-5f1f-4e88-a5cf-06a12e1d8078/Chapter\\_1\\_-\\_Housing\\_Needs\\_Assessment\\_\(Adopted\).pdf](https://planning.lacity.gov/odocument/bde50bc0-5f1f-4e88-a5cf-06a12e1d8078/Chapter_1_-_Housing_Needs_Assessment_(Adopted).pdf)

urgent and pressing housing and homelessness crisis by funding affordable housing, eviction defense programs, and emergency assistance to families at risk of homelessness and low-income seniors burdened by the cost of housing. (Los Angeles Admin. Code, § 22.618.1.)

Measure ULA took effect in April 2023, and by November 2023 the City had already collected almost \$143 million. (Los Angeles Housing Department, *United to House LA COC Meeting* (Jan. 11, 2024) p. 3 <<http://tinyurl.com/3c5mn3tw>> [as of Jan. 26, 2024].)<sup>10</sup> This number will increase substantially in coming years, given the temporary revenue reduction from the rush to close sales ahead of Measure ULA’s effective date. (See Flemming, *L.A.’s Rich Are Already Scheming Ways To Avoid New “Mansion Tax,”* Los Angeles Times (Dec. 15, 2022) <<http://tinyurl.com/4cstx289>> [as of Jan. 25, 2024];<sup>11</sup> see also Los Angeles City Clerk, *Voter Information Pamphlet* (Nov. 2022) pp. 41-42 <[https://clkrep.lacity.org/election/2022 Nov General Ballot Measures Eng.pdf](https://clkrep.lacity.org/election/2022%20Nov%20General%20Ballot%20Measures%20Eng.pdf)> [as of Jan. 25, 2024] [projecting \$600 million to \$1.1 billion annual revenue from Measure ULA].<sup>12</sup>)

As one City Councilmember said, “[w]hen L.A. voters overwhelmingly passed Measure ULA,” they voted to fund and

---

<sup>10</sup> [https://publiccounsel.org/wp-content/uploads/2024/01/Item-4-LAHD-COC-Presentation-1\\_11\\_24.pptx](https://publiccounsel.org/wp-content/uploads/2024/01/Item-4-LAHD-COC-Presentation-1_11_24.pptx)

<sup>11</sup> <https://www.latimes.com/california/story/2022-12-15/l-a-s-new-mansion-tax-scheme>

<sup>12</sup> [https://clkrep.lacity.org/election/2022 Nov General Ballot Measures Eng.pdf](https://clkrep.lacity.org/election/2022%20Nov%20General%20Ballot%20Measures%20Eng.pdf)

create programs “that [the] City desperately needs to address our housing and homelessness crisis.” (Press Release, Mayor Karen Bass, *Mayor Bass Applauds City Council for Approving Funding Plan To Provide Tenant Protections and Build Affordable Housing* (Aug. 29, 2023) <<http://tinyurl.com/3cc8r9yp>> [as of Jan. 25, 2024].)<sup>13</sup>

For the 2023-2024 fiscal year, the City Council has allocated and begun spending \$150 million towards specific programs supporting affordable housing and homelessness prevention. (Los Angeles Housing Department, *Report from the Los Angeles Housing Department with Proposed Revisions and Implementation Recommendations for the Fiscal Year 2023-24 ULA Interim Program Guidelines and Expenditure Plan* (Oct. 13, 2023) pp. 199-200 <<http://tinyurl.com/5efb6rr8>> [as of Jan. 25, 2024].)<sup>14</sup> The allocations include:

- \$56.8 million to multifamily affordable housing;
- \$30.4 million to short-term emergency assistance programs for low-income tenants;
- \$11 million to income support for rent-burdened at-risk seniors and people with disabilities;
- \$23 million to a right-to-counsel eviction defense program;

---

<sup>13</sup> <https://mayor.lacity.gov/news/mayor-bass-applauds-city-council-approving-funding-plan-provide-tenant-protections-and-build>

<sup>14</sup> [https://clkrep.lacity.org/onlinedocs/2023/23-0038\\_rpt\\_lahd\\_10-13-2023.pdf](https://clkrep.lacity.org/onlinedocs/2023/23-0038_rpt_lahd_10-13-2023.pdf)

- \$5.5 million to tenant outreach and education programs;
- \$11.2 million to tenant harassment protection programs.

(*Ibid.*)

This allocation was a conservative estimate because of the uncertainty surrounding Measure ULA’s future, partially because of the TPA Measure.<sup>15</sup> The revenue and accompanying spending are expected to increase sharply in the coming years, with annual funding projected to exceed \$600 million in 2024 and 2025. That extra funding will go towards ongoing programs as well as programs that could not be funded in the 2023-2024 fiscal year, such as expanding homeownership opportunities and finding alternative models for permanent affordable housing.

(*Id.* at p. 199)

---

<sup>15</sup> The uncertainty is amplified by ongoing litigation seeking to overturn Measure ULA—a lawsuit filed by the Howard Jarvis Taxpayers Association (HJTA), consolidated with a similar lawsuit filed by Newcastle Courtyards and others (*Howard Jarvis Taxpayers Association, et al. v. City of Los Angeles, et al.* (Super. Ct. L.A. County, No. 22STCV39662)), and a federal lawsuit brought by Newcastle Courtyards and others (*Newcastle Courtyards, LLC, et al., v. City of Los Angeles, et al.* (C.D. Cal., LA CV23-00104 JAK (ASx).) In the state court action, the trial court granted judgment on the pleadings against HJTA and Newcastle Courtyards; they have appealed. (*Howard Jarvis Taxpayers Association, et al. v. City of Los Angeles, et al.* (2d Civil, No. B334071.) In federal court, the trial court granted defendants’ motion to dismiss; the plaintiffs have appealed. (*Newcastle Courtyards, LLC, et al., v. City of Los Angeles, et al.* (9th Cir., 23-2665).)

**B. The TPA Measure’s Destructive Impact On Measure ULA And The Initiative Process That It Purports To Champion.**

The Coalition is proud of its accomplishment and has learned from experience why the initiative process is so “precious.” (RPI Prelim. Opp. 21, citing *Associated Home Builders etc., Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 591.) Why, then, does the Coalition support Petitioners and their challenge to the TPA Measure?

The Coalition seeks not just to preserve the gains made by Measure ULA but also to protect the initiative process in general. In the Coalition’s view, the extraordinary nature of the TPA Measure would undermine the very system of direct democracy it purports to protect. The threat it poses demands intervention.

In part, the TPA Measure does this harm by the structural, revisionary changes it imposes on state and local government and on the initiative process itself. But from a practical, immediate perspective, it also does so by injecting profound uncertainty into the status of laws that have already been regularly enacted and implemented, and by its ambiguity as to the processes by which those laws may remain in place.

The TPA Measure would transform both state and local taxation. And it would not just do so prospectively by giving a minority the power to control taxation after the TPA Measure’s enactment. It also threatens to undo at least two years of

legislation that conflicts with the proponents’ desire to create minority rule. Measure ULA could well be one of its victims.

Section 6 of the TPA Measure would amend Article XIII C, section 2 of the Constitution to require any local law imposing a special tax, including one proposed by initiative, to be submitted to the electorate and approved by a two-thirds vote. (Petition 79-80.) It would also require any tax adopted after January 2022 to be reenacted within 12 months of the TPA Measure’s effective date if the tax was not adopted in accordance with the TPA Measure. (*Ibid.*)

Concerning Measure ULA, the TPA Measure threatens to unwind the law by creating insurmountable obstacles to establishing its validity—despite its adoption by 58 percent of voters in a general election. (See § I, *post.*) We say “threatens” because, with the TPA Measure, nothing is certain. Under one interpretation, it might leave Measure ULA a path for reenactment, while under another it would almost certainly rip Measure ULA to shreds. (See § II, *post.*)

## ARGUMENT

### **I. The TPA Measure Undermines The Initiative Process To Such An Extent That, In Combination With Its Other Far-Reaching Changes, It Constitutes A Revision.**

“All political power is inherent in the people. Government is instituted for their protection, security, and benefit, and *they have the right to alter or reform it when the public good may*



*require.*” (Cal. Const., art. II, § 1, italics added.) Los Angeles voters exercised this power when 58 percent of them passed Measure ULA to address the public crises of homelessness and affordable housing.

While purporting to put power in the hands of the people, the TPA Measure diminishes that very power. If the TPA Measure passes, the two-thirds vote requirement for special taxes, including those proposed through initiatives, would make the majority beholden to a minority. And the retroactivity provision would force Measure ULA and similar initiatives to seek reenactment in non-representative special elections.

**A. Applying A Supermajority Requirement To Special Taxes, A Core Subject Of The Initiative Process, Would Severely Limit the People’s Reserved Right to Legislate by Initiative.**

The TPA Measure would require a two-thirds majority vote for all special taxes, including those proposed by initiative. This would make special tax initiatives, such as Measure ULA, much more difficult to pass. This is especially true when, as with Measure ULA, millions are spent to oppose the initiative.<sup>16</sup> The supermajority requirement on special taxes would “hobble[] the exercise of the initiative power by lashing it to a supermajority

---

<sup>16</sup> Opposition donations totaled nearly \$8 million to campaign committee no. 1450459, Angelenos for Affordability, No on Initiative Ordinance ULA and campaign committee no. 1453847, Angelenos Against Higher Property Taxes—No on ULA and SP. (See <https://ethics.lacity.org/ss/336764>, as of Jan. 28, 2024.)

vote requirement.” (*City and County of San Francisco v. All Persons Interested in Matter of Proposition C* (2020) 51 Cal.App.5th 703, 716 (*All Persons*).

This near elimination of the initiative right as it relates to special taxes cannot stand because “[w]hen weighing the tradeoffs associated with the initiative power, [the Supreme Court] ha[s] acknowledged the obligation to resolve doubts in favor of the exercise of the right whenever possible.” (*California Cannabis Coalition v. City of Upland* (2017) 3 Cal. 5th 924, 934 (*California Cannabis*)). Although we recognize that the Court was interpreting a provision that did not expressly address the initiative process (as the TPA Measure does), its language leaves no doubt about courts’ duty to “jealously guard” the initiative power. (*Ibid.*) One cannot square that duty with an initiative like the TPA Measure, in which the proponents use the initiative power to severely limit taxation and then pull up the ladder behind them to prevent anyone else from using the initiative in the future to enact special taxes.

**1. The TPA Measure’s supermajority requirement is qualitatively different from those that have been upheld before because it applies to initiatives.**

While the Court has upheld the supermajority voter approval requirements in Propositions 13 and 218 for taxes proposed by government entities (e.g., *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 228-229 [describing the initiative process as

“a legislative battering ram”]), applying such a requirement to the initiative process itself is qualitatively different. And “[f]ollowing *California Cannabis*, the California appellate courts have uniformly concluded that the supermajority requirements applicable to special taxes imposed by local government [citation] *do not limit the electorate’s initiative power.*” (*County of Alameda v. Alameda County Taxpayers’ Association, Inc.*, (Jan. 29, 2024, A166401, A166404) \_\_ Cal.App.5th \_\_ [2024 WL 323213, at \*4] [two cases consolidated in appellate court] [par. pub.] (*Alameda County*), italics added.) This distinction is because, while the Legislature and local governments receive their power from the people through the Constitution, the power to legislate by initiative is reserved to the people. (See Cal. Const. art. IV, § 1 [“The legislative power of this State is vested in the California Legislature which consists of the Senate and Assembly, but the people reserve to themselves the powers of initiative and referendum”].)

While the previously interpreted provisions did not expressly address the initiative process as the TPA Measure does, the appellate courts’ “uniform[]” refusal to interpret two-thirds voter requirements as applying to initiatives is telling. (*Alameda County, supra*, 2024 WL 323213, at p. \*4.) Those courts explained that to make such a holding would “constrain the constitutionally protected power of future voters to approve initiatives by majority vote.” (*All Persons, supra*, 51 Cal.App.5th at p. 715; see also *Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 249-251 [rejecting an

interpretation of Proposition 99 that would require a supermajority and “implicitly limit the expressly reserved power of initiative”]; *City and County of San Francisco v. All Persons Interested in the Matter of Proposition G* (2021) 66 Cal.App.5th 1058, 1070-1071 [rejecting an interpretation of Propositions 13 and 218 that would allow a “fundamentally undemocratic’ requirement of a supermajority vote” to an initiative]; *Howard Jarvis Taxpayers Association v. City and County of San Francisco* (2021) 60 Cal.App.5th 227, 231-236 [same, as applied to an initiative imposing a special parcel tax]; *City of Fresno v. Fresno Building Healthy Communities* (2020) 59 Cal.App.5th 220, 231-239 [same, as applied to an initiative imposing a special tax for parks]; *Alliance San Diego v. City of San Diego* (2023) 94 Cal. App. 5th 419, 430-435 [same, as applied to an initiative imposing a special tax on lodging].)

Measure ULA and similar initiatives fulfill the fundamental purpose of the initiative process. For example, in Los Angeles, housing affordability and homelessness had been steadily growing worse, and elected officials were hobbled in their ability to generate sufficient funding by the existing supermajority requirement for special taxes—a nearly insurmountable hurdle for any tax proposal facing well-funded opposition.

Measure ULA stepped into the breach. It creates and funds a first-of-its-kind program to provide legal assistance to those facing eviction; it provides direct cash assistance for rent to seniors and people with disabilities; and it is funding the

development of traditional affordable housing and giving the City the flexibility to experiment with alternative ways to provide safe, stable, affordable housing. (See pp. 28-29, *ante*.) This was the paradigm of voters using their constitutionally protected right to initiative. But if the TPA Measure passes, Measure ULA and other similar initiatives—promoted by citizens facing well-funded opposition and acting when their government will not or cannot act—will encounter potentially insurmountable obstacles.

**2. In targeting special tax initiatives, the TPA Measure’s supermajority requirement cuts at the “intended object” of the initiative power.**

That the TPA Measure’s supermajority requirement targets only special taxes, including those passed by initiative, underscores its attack on direct democracy. “When the statewide initiative power was added to the Constitution in 1911 as part of newly adopted article IV, section 1, taxation was not only a permitted subject for the initiative, but was an *intended object of that power*.” (*Rossi v. Brown* (1995) 9 Cal.4th 688, 699., italics added.) Especially in the wake of prior anti-tax enactments, the initiative process is especially critical for special taxes.

Special taxes allow voters to both impose a tax *and* mandate the use of the revenue towards a particular policy or program. Special taxes adopted by initiative often include oversight provisions to foster accountability and bolster the people’s role in government. For example, Measure ULA created

a Citizens Oversight Committee consisting of housing and homelessness experts and city residents who have experienced homelessness or housing instability, and it empowered them to develop guidelines and direct the use of the tax revenue. (Los Angeles Mun. Code, § 22.618.6.) If the TPA Measure becomes law, the ability of the voters to enact special state or local taxes using the initiative power will be fundamentally altered—indeed, as a practical matter, it may well be eliminated.

At its core, the TPA Measure is a Constitutional revision. In *Raven v. Deukmejian* (1990) 52 Cal.3d 336, the Court found that Proposition 115’s provision vesting judicial interpretive power in the United States Supreme Court as to fundamental criminal defense rights was a qualitative change so significant as to amount to a constitutional revision—it “not only unduly restricts judicial power, but it does so in a way which severely limits the independent force and effect of the California Constitution.” (*Id.* at p. 353.) Here, the TPA Measure would “severely limit[] the independent force and effect” of the people’s reserved power to legislate by initiative. (*Ibid.*) Taken in combination with the many other fundamental and far-reaching changes the TPA Measure would effect, imposing the supermajority requirement on the initiative process is a drastic change that can only occur through constitutional revision.

**B. The Measure’s Retroactivity Provision  
Would Likely Require A Special Election,  
Which Is Not A Representative Election.**

While it creates what will likely prove to be an impossibly high bar, the TPA Measure does have an avenue to allow initiatives to pass in the future. But initiatives that passed in the retroactive window are almost certainly dead in the water, even though they were entirely valid under the law as it then existed—Measure ULA uniquely so. This contrast is surely no accident, given the TPA Measure’s destructive effect on initiative-passed taxes.

As we read the TPA Measure—as explained below (§ II, *post*), it is not entirely clear—if it passes it will void Measure ULA unless Measure ULA is reenacted by a supermajority popular vote within 12 months. Assuming approval of the TPA Measure in November 2024, the reenactment could not occur during a general election and would have to occur in a special, off-year election in 2025.<sup>17</sup>

---

<sup>17</sup> Although there is a statewide “regular” election scheduled for November 4, 2025, it will not qualify as a *general* election. A regular election is one prescribed by law, whereas a special election is not. (Elec. Code, §§ 348, 356.) A regular election can be, but is not always, a general election. (Elec. Code, § 324.) The November 2025 regular election is not a general election because there is no member of Congress on the ballot. (*Ibid.*) As of January 29, 2024, there do not appear to be any Los Angeles City elections scheduled for that date. (See Los Angeles County Recorder, *Current & Upcoming Elections, 2025 Scheduled Elections* (Jan. 2, 2025) <<https://www.lavote.gov/home/voting-elections/current-elections/upcoming-elections>> [as of Jan. 29,

But special elections consistently have drastically lower turnout rates than general elections. For example, Measure ULA passed in November 2022 in a general election where voters turned out not just for Measure ULA but also to vote for members of Congress; to vote on the most expensive statewide proposition races in state history; to vote on a high-profile mayoral election featuring no incumbent candidate; to vote on four city council seats in the first election after the City's council was the subject of a high-profile scandal; and more. The turnout was nearly 45 percent. (Los Angeles County Registrar (Nov. 8, 2022), *supra*, p. 319.)

Compare that to a June 2019 special election for a school district parcel tax: The turnout was just 16.5 percent of registered Los Angeles City voters. (Los Angeles County Registrar, *Final Official Statement of Votes Cast By District* (June 4, 2019) p. 10 <<http://tinyurl.com/ybbpvwcx>> [as of Jan. 25, 2024] [counting only Los Angeles City voters and not all LAUSD voters].)<sup>18</sup> Or compare it to a 2023 special election for a City Council seat, which had a turnout of just 13.1 percent. (Los Angeles County Registrar, *Final Official Statement of Votes Cast*

---

2024].) Therefore, even if Measure ULA and the City can qualify Measure ULA for the regular election, as the only or one of very few things on the ballot, that election will operate essentially as a special election. And given the technical nature of placing an initiative on the ballot, there is no guarantee that the vote to reenact Measure ULA would be able to qualify for that date. Thus, for all practical purposes, reenactment will require a special election.

<sup>18</sup> [https://www.lavote.gov/docs/rrcc/svc/4041\\_svc\\_district\\_zbc.pdf](https://www.lavote.gov/docs/rrcc/svc/4041_svc_district_zbc.pdf)



*By City Council* (June 27, 2023) <<http://tinyurl.com/pkc4v46f>> [as of Jan. 25, 2024].)<sup>19</sup> Optimistically assuming a 2025 special-election turnout of, say, 18 percent, *just 6.01 percent* of Los Angeles’s voting population could defeat Measure ULA, despite its original approval by a hefty majority.

It is no answer to suggest that the Coalition can just skip the reenactment window, let Measure ULA lapse, and start over from scratch for the next general election. As a special real property transfer tax, Measure ULA requires an expensive and difficult citizen-led process to qualify for the ballot (see § II.B., *post*), and the revenue lost in the years it would take to requalify would amount to hundreds of millions of dollars. (See p. 29, *ante*; Los Angeles Housing Department (Oct. 13, 2023), *supra*, p. 199 [projecting over \$600 million each for both of the next two fiscal years].) To preserve the gains made by Measure ULA, the Coalition will have to attempt to reenact Measure ULA during the 12-month retroactivity deadline.

Invalidating lawfully adopted citizen’s initiatives and forcing them to be re-adopted in a minimally representative election is profoundly undemocratic. The retroactive destruction of the “precious power” of initiative, combined with the other far-reaching provisions of the TPA Measure (see Petition, pp. 39-62), cannot qualify as a mere amendment to the Constitution. It is a revision.

---

<sup>19</sup> [https://content.lavote.gov/docs/rrcc/svc/4313\\_final\\_svc\\_council\\_1os\\_angeles.pdf](https://content.lavote.gov/docs/rrcc/svc/4313_final_svc_council_1os_angeles.pdf)

**II. Because The TPA Measure Creates Fundamental Uncertainties About How To Proceed If It Becomes Effective, Pre-Election Review Is Essential.**

Regardless of the TPA Measure’s validity, if the Court denies pre-election review and the TPA Measure passes, the process of how to proceed is unknown. First, there is no guidance surrounding the retroactivity requirement for laws that have passed and been in place for almost two years. Second, the TPA Measure is not sufficiently clear on how to reenact an initiative. This is especially true in the case of Measure ULA.

Local governing bodies and initiative supporters need answers to these questions sooner rather than later. Delay could mean millions in litigation and election costs and hundreds of millions in lost revenue to Los Angeles.

**A. Nearly \$150 Million Has Already Been Allocated, Collected And Partially Spent, Under Measure ULA.**

Although required to fulfill the mandate of Measure ULA, the City is also aware of the TPA Measure’s threat. In its 2023-2024 budget, the City placed a spending cap of \$150 million on Measure ULA—regardless of whether there is greater revenue—and limited spending to six designated interim programs. Some of the direct impacts of the pending uncertainty about the TPA Measure’s future include: limited or no new hiring; focusing only on ongoing efforts rather than investing in new programs; and “[p]roduc[ing] fast results to address housing

insecurity and homelessness, rather than developing new programs at this time that would require capacity building for participants and partners.” (Los Angeles Housing Department, *Council Transmittal: Los Angeles Housing Department Report Regarding the United to House LA (Measure ULA) Fiscal Year 2023-24 Interim Program Guidelines and Expenditures Plan* (July 26, 2023) p. 5 <<http://tinyurl.com/25ctjp58>> [as of Jan. 25, 2024].)<sup>20</sup> The City can move forward with \$150 million because that amount is backstopped by federal programs and the General Fund. (*Ibid.*) But the City has been forced to provide a band-aid when the voters demanded surgery.

The City’s worry is understandable because the future of Measure ULA and its crucial funding is precarious. Even if the TPA Measure is ultimately declared invalid, if pre-election review is denied and the TPA Measure passes, Los Angeles could lose millions, if not hundreds of millions, in revenue. The TPA Measure is not sufficiently clear to guide local governments on how to proceed, particularly concerning the enforceability of a tax enacted during the retroactive window but not yet reenacted.

The Coalition believes that the TPA Measure’s voidness is prospective only—taxes incurred during the 12-month reenactment period remain enforceable even if reenactment does not occur. (Petition 80 [TPA Measure’s proposed Section 6 to Art. XIII C, § 2, subd. (g), stating any tax within the retroactive window “is void *12 months after* the effective date of this act,”

---

<sup>20</sup> [https://clkrep.lacity.org/onlinedocs/2023/23-0038\\_rpt\\_HCI\\_7-25-23.pdf](https://clkrep.lacity.org/onlinedocs/2023/23-0038_rpt_HCI_7-25-23.pdf)

italics added].) But we expect immediate litigation to challenge this interpretation. If this occurs, it is likely—indeed, almost certain—that parties to qualifying real estate sales will delay transactions, hoping for their preferred resolution or for Measure ULA to not be reenacted. (See Flemming, *supra*.) Such uncertainty could delay, or ultimately cost, many millions in revenue, even if a higher court later determines that Measure ULA is enforceable or that the TPA Measure is invalid.

Similarly, although the Coalition believes that Los Angeles will not have to return money already collected and allocated if the TPA Measure passes (Los Angeles Housing Department (July 26, 2023, *supra*, p. 4; see also Petition 80 [TPA Measure’s proposed Section 6, art. XIII C, § 2, subd. (g), stating any tax within the retroactive window “*is void 12 months after the effective date of this act,*” italics added]), it is reasonable to expect litigation over that question, too—and the correlative risk of lost funding.

**B. It Is Not Clear Whether Measure ULA Will Have To Be Reenacted As An Initiative—An Expensive And Burdensome Process That Could Make Reenactment Impossible.**

Measure ULA, as a special real property transfer tax, could only have been adopted by initiative. California Constitution, Article XIII A, section 4 precludes “[c]ities, [c]ounties and special districts” from enacting “a transaction tax or sales tax on the sale of real property,” but multiple Court of Appeal decisions have confirmed that section 4 does not limit citizens’ initiative power

to impose taxes by majority vote. (E.g., *All Persons, supra*, 51 Cal.App.5th at pp. 714-721 [“Article XIII A, section 4 requires governmental entities to gain the approval of a supermajority of voters before imposing a special tax. It does not repeal or otherwise abridge by implication the people’s power to raise taxes by initiative, and to do so by majority vote”].)

But Measure ULA’s *reenactment* raises a different issue.

Without pre-election review, if the TPA Measure passes the Coalition will only have 12 months to reenact Measure ULA, now with a two-thirds majority. The TPA Measure does not specify whether the City Council may schedule Measure ULA for a special election without the need for a new voter initiative, since it already qualified as an initiative. But the TPA Measure’s proponents will likely argue that the City Council may not do so, and mount litigation to require the use of the initiative process all over again. The TPA Measure is completely silent on the issue. (See Petition 73-82.)

Because it would almost certainly be impossible to finally resolve such litigation within the 12-month window—and because there would even be uncertainty as to whether the 12-month window would apply in the case of such litigation—out of prudence Measure ULA’s supporters would have to go through the initiative process again.

It is not a simple, inexpensive process. It begins with submitting the proposed ordinance to the City Clerk, after which the City Attorney prepares the official title and summary.

(Los Angeles Elec. Code, § 706.) Then, supporters must circulate petitions and gather signatures of registered voters—15 percent of the total number of votes cast for mayor in the last general election. (Los Angeles Elec. Code, § 711.) In this case, because 952,389 people voted in the November 2022 mayoral election, the Coalition would need 142,858 valid signatures. (Los Angeles County Registrar (Nov. 8, 2022), *supra*, p. 9.) The City Clerk then examines the petition and randomly samples signatures, a process that must statistically yield over 110 percent of the required number of signatures or undergo a more time-consuming individual tally. (Los Angeles Elec. Code, § 711.) After all this, the City Council then has 20 days to call a special election, which must be held earlier than 110 days nor later than 140 days. (*Ibid.*)

The largest barrier the Coalition will face is the signature collection requirement, which will require the Coalition to have a massive paid and volunteer signature-gathering campaign to collect well over 140,000 valid signatures in less than 120 days. (Los Angeles Elec. Code, § 708.) This is a dramatic increase from the November 2022 election, for which the Coalition had to gather less than 65,000 signatures. (Los Angeles County Registrar, *Votes Cast by Community* (March 7, 2017) p. 49 <<http://tinyurl.com/48uw2w7c>> [as of Jan. 29, 2024].)<sup>21</sup> Because of that election’s exceptionally high turnout, Measure ULA would now have to collect double the signatures that it had to collect to

---

<sup>21</sup> <https://www.lavote.gov/home/voting-elections/current-elections/election-results/past-election-results>

be on the November 2022 ballot. (Office of the City Clerk, *Certification of Sufficiency of an Ordinance Initiative Petition: Funding for Affordable Housing and Tenant Assistance Programs Through Special Tax on Real Property Transfers Over \$5 Million* (May 31, 2022) p. 4 <<http://tinyurl.com/j452fr4e>> [as of Jan. 25, 2024].)<sup>22</sup> The amount of money needed may be exceedingly difficult to raise, especially when considering that most donors have already donated to pass Measure ULA and would now face a near impossible two-thirds threshold during an off-year special election. On top of that, the Coalition would likely face even greater opposition spending than the \$8 million in 2022, given the second chance to defeat the tax. (See p. 32, fn. 16, *ante*.)

The Coalition also faces a barrier in the timing of this process. To ensure the election occurs within the TPA Measure's 12-month window, and assuming it takes the City Clerk approximately one month to validate a completed and submitted petition, the Coalition would need to formally begin the initiative process by submitting the proposed revised Measure ULA to the City Clerk in early December 2024, around the same time the TPA Measure's ballot results would be validated by the Secretary of State. The Coalition would be forced to spend the 2024 campaign season preparing for the possibility that the TPA Measure passes while simultaneously advocating against the TPA Measure to prevent its passage, working within the City of Los Angeles to implement the programs of Measure ULA in case

---

<sup>22</sup> [https://clkrep.lacity.org/onlinedocs/2022/22-1100-S2\\_rpt\\_clk\\_5-31-22.pdf](https://clkrep.lacity.org/onlinedocs/2022/22-1100-S2_rpt_clk_5-31-22.pdf)

the tax stands, and advocating for any number of other items on the November 2024 ballot, some of which are also being advanced by Coalition members.

As the original authors and champions of Measure ULA, the Coalition can say with certainty that it will be a huge burden to attempt to pass Measure ULA again. If the TPA Measure passes, voters may never get a second chance to vote on Measure ULA. And even if the TPA Measure is not invalidated until after the election, by that time the City may well have suffered an irretrievable loss in badly needed revenue.



The Court should determine the TPA Measure's validity now. If it passes without pre-election review, the uncertainty that arises from the retroactive provision will cause expensive litigation and lost revenue urgently needed to address the City's affordable housing and homelessness crisis.

### **CONCLUSION**

An overwhelming 58 percent of Los Angeles voters enacted Measure ULA to address the housing affordability and homelessness crisis. The TPA Measure seeks to retroactively undermine these voters and put in place a new regime that creates unprecedented barriers for voters to use their constitutionally protected initiative power.



The Court should grant the Petition and declare the TPA Measure invalid.

DATED: January 31, 2024

Respectfully submitted,

GREINES, MARTIN, STEIN & RICHLAND LLP

Robin Meadow

Katarina E. Rusinas

PUBLIC COUNSEL

Gregory Bonett

Jonathan Jager

Faizah Malik

By:  /s/ Katarina E. Rusinas

Katarina E. Rusinas

Counsel for Counsel for Amici Curiae

Document received by the CA Supreme Court.

## CERTIFICATE OF COMPLIANCE

Pursuant to California Rules of Court, rule 8.204(c)(1), I certify that this **AMICUS CURIAE BRIEF OF 45 MEMBERS OF THE UNITED TO HOUSE LA COALITION FILED IN SUPPORT OF PETITIONERS** contains 5,884 words, not including the tables of contents and authorities, the caption page, signature blocks, or this Certification page.

DATED: January 31, 2024

*/s/ Katarina E. Rusinas*

---

Katarina E. Rusinas

Document received by the CA Supreme Court.

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 6420 Wilshire Boulevard, Suite 1100, Los Angeles, California 90048, and my email address is krusinas@gmsr.com.

On January 31, 2024, I hereby certify that I electronically served the foregoing **AMICUS CURIAE BRIEF OF 45 MEMBERS OF THE UNITED TO HOUSE LA COALITION FILED IN SUPPORT OF PETITIONERS** through the Court’s electronic filing system, TrueFiling. I certify that all participants in the case who are registered TrueFiling users and appear on its electronic service list will be served pursuant to California Rules of Court, rule 8.70. Electronic service is complete at the time of transmission:

**\*\*\*\* SEE ATTACHED SERVICE LIST \*\*\*\***

I further certify that participants in this case who are not registered TrueFiling users are served by mailing the foregoing document by First-Class Mail, postage prepaid, to the following:

**\*\*\*\* SEE ATTACHED SERVICE LIST \*\*\*\***

Executed on January 31, 2024, at Los Angeles, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

*Pauletta L. Herndon*

\_\_\_\_\_  
Pauletta L. Herndon

Document received by the CA Supreme Court.

**SERVICE LIST**

OLSON REMCHO, LLP

Richard R. Rios, Esq.

[RRios@olsonremcho.com](mailto:RRios@olsonremcho.com)

Margaret R. Prinzing, Esq.

[mprinzing@olsonremcho.com](mailto:mprinzing@olsonremcho.com)

Robin B. Johansen, Esq.

[rjohansen@olsonremcho.com](mailto:rjohansen@olsonremcho.com)

Inez Kaminski, Esq.

[ikaminski@olsonremcho.com](mailto:ikaminski@olsonremcho.com)

1901 Harrison Street, Suite 1550

Oakland, California 94612

Telephone: (510) 346-6200

**Counsel for Petitioners**

***LEGISLATURE OF THE STATE OF CALIFORNIA, GAVIN NEWSOM,  
and JOHN BURTON***

OFFICE OF THE CALIFORNIA SECRETARY OF STATE

Steven J. Reyes, Esq.

[Steve.Reyes@sos.ca.gov](mailto:Steve.Reyes@sos.ca.gov)

Mary M. Mooney, Esq.

[mmooney@sos.ca.gov](mailto:mmooney@sos.ca.gov)

1500 11th Street

Sacramento, California 95814

Telephone: (916) 767-8308

**Counsel for Respondent**

***Secretary of State SHIRLEY N. WEBER, Ph.D.***

BELL MCANDREWS & HILTACHK

Thomas W. Hiltachk, Esq.

[tomh@bmhlaw.com](mailto:tomh@bmhlaw.com)

455 Capitol Mall, Suite 600

Sacramento, California 95814

Telephone: (916) 442-7757

HOWARD JARVIS TAXPAYERS  
ASSOCIATION

Jonathan Coupal, Esq.

Timothy Bittle, Esq.

Laura Dougherty, Esq.

[laura@hjta.org](mailto:laura@hjta.org)

1201 K Street, Suite 1030

Sacramento, California 95814

Telephone: Phone: (916) 444-9950

**Counsel for Real Party In Interest**

***THOMAS W. HILTACHK***

Document received by the CA Supreme Court.

OFFICE OF THE ATTORNEY GENERAL  
Post Office Box 944255  
Sacramento, California 94244-2550  
[Pursuant to California Rules of Court, rule 8.29]

By U.S. Mail

COYOTE CODORNICES MARIN  
INDEPENDENT CALIFORNIA INSTITUTE  
7040 Avenida Encinas, Suite 104, Box 103  
Carlsbad, California 92110

**Amicus Curiae**

MASTAGNI HOLSTEDT, A.P.C.  
Kathleen N. Mastagni Storm, Esq.  
[www.mastagni.com](http://www.mastagni.com)  
Sacramento Office  
1912 I Street  
Sacramento, California 95811  
Telephone: (916) 446-4692

**Counsel for Amicus Curiae  
CALIFORNIA PROFESSIONAL FIREFIGHTERS**

ACLU FOUNDATION OF  
NORTHERN CALIFORNIA  
Neil K. Sawhney, Esq.  
[nsawhney@aclunc.org](mailto:nsawhney@aclunc.org)  
Shilpi Agarwal, Esq.  
Angelica Salceda, Esq.  
Grayce Zelphin, Esq.  
39 Drumm Street  
San Francisco, California 94111  
Telephone: (415) 293-6307

**Counsel for Amici Curiae AMERICAN CIVIL LIBERTIES UNION OF  
NORTHERN CALIFORNIA and AMERICAN CIVIL LIBERTIES  
UNION OF SOUTHERN CALIFORNIA**

ACLU FOUNDATION OF  
SOUTHERN CALIFORNIA  
Michael Kaufman, Esq.  
Catherine Rogers, Esq.  
1313 West 8th Street, Suite 200  
Los Angeles, California 90017  
Telephone: (213) 977-5278

Document received by the CA Supreme Court.