

# Judge rules against East Palo Alto on property initiative

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The courts dealt another legal blow to East Palo Alto Wednesday when a San Mateo Superior Court judge ruled the city must hold a special election on a property rights initiative that the council rejected in March.

The initiative, sponsored by a group of East Palo Alto property owners, could undermine the city's rent control ordinance. It could also severely restrict the City Council's legislative powers over private property.

Judge Harlan Veal ruled in favor of the East Palo Alto Property Rights Committee Wednesday immediately after hearing oral arguments. It was the second time in

two weeks the courts have ruled against the city.

On Aug. 29, the 1st Appellate District Court in San Francisco ruled 106 ballots cast in the June 1983 incorporation election are tainted and must not be counted. The city plans to appeal that ruling to the California Supreme Court.

Judge Veal said Wednesday the city must decide by its Oct. 1 meeting when to schedule a special election on the property rights initiative. The special balloting would have to be scheduled between 85 and 100 days from Oct. 1.

The city could appeal that ruling, an alternative it will discuss in closed session Monday.

City Attorney Robert Johnson, who argued the case before Veal, said he will make a recommenda-

tion to the council on Monday on whether to pursue the case in court. Johnson said he still believes the initiative is illegal, and that he does not agree with the judge's decision.

"I didn't follow his reasoning," Johnson said this morning. "His language was kind of disjointed."

Joe Horwath, a member of the property rights committee and a landlord behind the incorporation election challenge, said the judge was "right on the beam."

Calling the ruling a major victory for property owners in the city, Horwath said the judge "saw the issues ... and laughed them out of court."

Horwath said he believes that if the initiative is accepted by the voters, it would "gut" the rent con-

trol law.

He said there would at least be a direct conflict between the existing rent law and the property rights initiative law. "And the last one would prevail," he said.

Johnson said he didn't know whether the initiative would affect the rent law, however. He said that conflict would probably wind up in court, also.

In March, acting on the advice of its city attorney, the council voted 4-1 to reject the initiative petition.

Enough signatures were collected and validated for the initiative to be placed on a special election ballot, but Johnson believed that would have been illegal.

Johnson's arguments for rejecting the petition were shot down by

the judge Wednesday.

He had argued three major points. First, he said the initiative was moot because its topic had been covered by the April 10 rent control referendum election. The initiative, Johnson said, was basically a second attempt to negate the city's rent control law, the first being a referendum filed in December 1983.

State law prohibits voting on the same issue within 12 months.

Second, Johnson argued that the law was unconstitutional because it denied the city the right to sanction zoning laws, health and safety ordinances and building codes.

And third, Johnson contended the language of the initiative was too vague.