

RESOLUTION R- 4602

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND STATING THE CITY COUNCIL'S OPPOSITION TO INITIATIVE 933.

WHEREAS, Initiative 933 (I-933) will be presented to the voters of the State of Washington at the general election on November 7, 2006, with the following official Ballot Title:

Statement of the Subject: Initiative Measure 933 concerns government regulation of private property.

Concise Description: This measure would require compensation when government regulation damages the use or value of private property, would forbid regulations that prohibit existing legal uses of private property, and would provide exceptions or payments.

Should this measure be enacted into law? Yes [] No [];

and

WHEREAS, I-933 would require an agency, including a city government, that "decides" to "enforce or apply" any "ordinance, regulation, or rule" to private property which would result in "damaging the use or value of private property" to first "pay compensation," as those phrases are defined and used in I-933; and

WHEREAS, I-933's definition of "damaging the use or value" would dramatically lower the threshold for compensation far below constitutional limits; and

WHEREAS, I-933's definition of "private property" includes virtually all interests in real as well as personal property; and

WHEREAS, because I-933's definition of "damaging the use or value" or private property includes no minimum threshold for the reduction of use or value, virtually any limitation on the use of private property creates a cause for a compensation claim for "damages" within the meaning of I-933, regardless of the importance of the public protection achieved by such limitation; and

WHEREAS, by its terms, the provisions of I-933 are to be "liberally construed" (Section 6) and its exceptions listed in Section (2)(c) do not list nuisance uses that typically would be precluded from residential neighborhoods, and thus I-933 would authorize claims for payment or waiver

for City regulations that prohibit a wide variety of detrimental and incompatible land uses and activities that would seriously degrade the quality of life and property values of such residential neighborhoods; and

WHEREAS, I-933 would deprive local jurisdictions, including the City of Kirkland, of the ability to adopt and enforce reasonable land use development standards to mitigate traffic impacts, assure appropriate building heights, setbacks and lot coverages, provide for the protection and preservation of trees and vegetation, open spaces and environmentally sensitive areas; and other general development regulations necessary to promote the public health, safety and welfare; and

WHEREAS, I-933 erroneously assumes that local jurisdictions have authority to "decide" not to enforce or apply duly enacted ordinances, regulations, and rules, without granting express authority to pay compensation or waive the enforcement or application thereof; and

WHEREAS, the Association of Washington Cities has estimated that the statewide annual administrative costs to cities alone would be between \$60 million and \$76 million, while the statewide annual cost to cities for paying claims is estimated to be between \$3.5 billion and \$4.5 billion; and

WHEREAS, the cost of processing and paying compensation for the enforcement of reasonable development regulations under I-933 would far exceed the requirements of both the federal and state constitutions and cripple the fiscal ability of the City to provide needed public safety, infrastructure and other public services; and

WHEREAS, as provided in RCW 42.17.130, the City Council of the City of Kirkland desires to show its opposition to I-933;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council, after considering testimony at a duly noticed public hearing, hereby opposes Initiative 933.

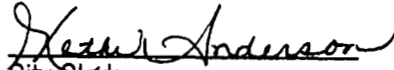
Section 2. The City Council hereby urges citizens to vote no on Initiative 933 on November 7, 2006.

Passed by majority vote of the Kirkland City Council in open meeting this 19th day of September, 2006.

Signed in authentication thereof this 19th day of September, 2006.


MAYOR

Attest:


City Clerk