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National City files lawsuit to keep rent control measure off ballot



Irvin Martinez, a National City resident, denounced a lawsuit filed against him by the city in regards to a rent control measure. (David Hernandez / Union-Tribune)



By **David Hernandez**

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National City has filed a lawsuit in an attempt to block efforts to place a rent control measure on the November ballot, claiming the proposal would violate state law if enacted and “unnecessarily create the potential for community division.”

The lawsuit has outraged proponents of the measure, who staged a rally outside City Hall on Wednesday to denounce the city’s attempt to disrupt the initiative process.

“We’re here to urge the city to let the voters decide and get out of the way of our democracy,” said Lileana Robles of the local ACCE Action, an advocacy group that is part of a coalition that backs the measure.

Filed in San Diego Superior Court on May 2, the lawsuit names Irvin Martinez as the defendant. Martinez, a National City resident and San Diego State University student, started the initiative process in February on behalf of National City Families For Fair Housing.

His lawyer, Justin Hewgill, labeled the city’s lawsuit “improper.”

“You can’t do a pre-election review of this nature,” Hewgill said.

Peter Pierce, a Los Angeles and San Francisco attorney who has experience in election law, said a city “has every right to file a pre-election challenge.”

Courts, however, generally oppose challenges that raise concerns about the validity of a proposed measure, Pierce said. Courts are more inclined to sort out cases that question whether the measure properly qualified for the ballot — a so-called procedural challenge.

“As a general rule, I think the court would probably rather see this go to the voters first,” he said, referring to the measure proposed in National City.

He said the reasoning is that if voters reject the measure, the court would not have to step in to resolve the challenge.

At issue in National City’s lawsuit is the proposed establishment of a rent control board — similar to ones formed in other cities with rent control laws.

In its lawsuit, the city contends the measure would be “invalid and unenforceable” if enacted into law because it would violate state law by giving the board the authority to adopt a budget and hire staff, creating “a board within city government that is not subordinate to the City Council.”

The city also claims “processing the petition ... would constitute improper spending of tax monies and the time and effort of public employees, and would unnecessarily create the potential for community division.”

Mayor Ron Morrison defended the lawsuit, saying it is intended to address “legality issues” and was not a political move. He said it would make “no sense” to address the validity concerns after the election.

If approved by voters, the measure would cap annual rent increases at 5 percent and ban arbitrary and unfair evictions in the city, where renters make up 70 percent of the population.

According to the latest U.S. Census Bureau data, median rent in National City increased 16 percent between 2015 and 2016 — to about \$1,140. Rent in National City is the lowest in the county, but the city's median household income is also low — about \$42,000.

Cities with boards created to administer and enforce rent control programs include Santa Monica, Richmond, San Francisco and Berkeley.

The website for San Francisco's board outlines powers and duties similar to those laid out in the National City measure. The website references the board's budget and its authority to "hire staff, including administrative law judges."

In Richmond, the California Apartment Association last year challenged a rent control measure that was approved by voters, claiming it was unconstitutional. The association, which represented landlords, later withdrew the lawsuit against the city, allowing the law to remain in effect.

According to its website, the Richmond board has the authority to adopt a budget and hire legal staff and an executive director.

News of National City's lawsuit came as the signature-verification process for the measure got underway.

Martinez said he was served with a summons on May 17 — just hours after he and other proponents of the measure went to City Hall to turn in about 3,500 signatures for the initiative to qualify for the November ballot.

In response to the lawsuit, the group returned to City Hall on Wednesday to stage a news conference. They urged the city to withdraw the lawsuit and allow the measure to move through the initiative process.

Members of the coalition, who say they have unsuccessfully tried to get the city to establish some form of rent control, called the lawsuit an attempt to intimidate them and stop their efforts.

"While the city is trying to intimidate me and our community, I will not stand down," Martinez said.

Huddled together near the front doors of City Hall, the group chanted, "No court case will hold us back."

The group took issue with the fact that the City Council did not vote to authorize the lawsuit, saying it was not a transparent process. City Attorney Angil Morris-Jones, who declined to discuss the specifics of the lawsuit, said a vote was not required.

The lawsuit, which was filed before the signatures were turned over to the city clerk, asks for a court order that determines the proposed measure is invalid and relieves the city clerk and San Diego County Registrar of Voters of their duties to process the measure.

Michael Vu, the county registrar of voters, said his office received the signatures on Monday. The measure must be reviewed within 30 days to determine if it qualifies for the ballot.

Vu, who was hired in 2007, said he couldn't recall a court order that forced his office to not process an initiative.

The lawsuit is the second filed in San Diego County this year to keep a measure off the November ballot.

In a lawsuit filed in April, supporters of the SoccerCity proposal to redevelop the former Qualcomm stadium site claim the group behind an opposing measure — the SDSU West initiative — led residents to believe the university sanctioned the proposal, earning a spot on the ballot by “cynically tricking voters into signing the petition.”

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