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City Club of Portland Report on Ballot Measure 1

City Club of Portland (Portland, Or.)

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CITY CLUB OF PORTLAND
Report on
Ballot Measure 1: Allows voter approval of
urban renewal bond repayment outside limit

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The City Club membership will vote on this report Friday, June 11, 1993. Until the membership vote, the City Club does not have an official position on this report. The outcome of the vote will be reported in the City Club *Bulletin* dated June 25, 1993 (Vol. 75, No. 4).

TABLE OF CONTENTS

	page
I. INTRODUCTION	9
II. BACKGROUND	9
III. ARGUMENTS ADVANCED IN FAVOR AND AGAINST	11
IV. DISCUSSION	12
V. MAJORITY CONCLUSIONS	15
VI. MAJORITY RECOMMENDATION	15
VII. MINORITY CONCLUSIONS	16
VIII. MINORITY RECOMMENDATION	16
IX. APPENDICES	17
A. Oregon Cities and Counties With Active Urban Renewal Districts	17
B. Witnesses	17
C. Bibliography	18

I. INTRODUCTION

The Oregon legislature has submitted Ballot Measure No. 1 ("Ballot Measure") for a statewide vote at the June 29, 1993, special election. Passage of the Ballot Measure will amend the Oregon Constitution to authorize cities and counties ("local taxing districts"), with local voter approval, to levy taxes outside the limits of Section 11b, Article XI, of the Oregon Constitution ("Measure 5") to repay current or future urban renewal bonds. Passage of the Ballot Measure will not, of itself, raise property taxes. Rather, passage will allow voters in local taxing districts either to authorize bonded indebtedness for urban renewal projects or authorize taxes to pay existing urban renewal bonded indebtedness. In either case, such taxes would be outside of Measure 5's limits.

The scope of this study is to determine the merits of the Ballot Measure. The advantages and disadvantages of urban renewal districts, urban renewal indebtedness, and urban renewal developments were outside of the scope; however, these issues surfaced often during testimony and deliberation due to the inter-relationship of the subject matter with respect to the Ballot Measure.

The Ballot Measure caption, question and explanation, as prepared by the Secretary of State, will appear on the ballot as follows:

- Caption: Allows voter approval of urban renewal bond repayment outside limit.
- Question: Shall Oregon's Constitution be amended allowing local voters to authorize taxes outside Article XI limit to repay urban renewal bonds?
- Explanation: Payment for bonds is generally excluded from the property tax rate limit, but courts have interpreted Ballot Measure 5, adopted in 1990, to include taxes to pay urban renewal bonds within the limit. This measure maintains a limit on urban renewal bonds, which may be used for community development and housing, unless local voters authorized bond payment outside the limits. If this measure passes, cities or counties could ask voters to approve taxes outside the limit to repay current or future urban renewal bonds.

II. BACKGROUND

"Urban renewal" originally described the process used by cities and counties to provide adequate housing and related community development following demolition of blighted properties. A major source of urban renewal financing was Tax Increment Financing ("TIF"). TIF provided the local matching funds for federal urban housing projects. TIF is described as follows: when a municipality adopts an urban renewal plan, the plan describes the boundaries of the specific area in which urban renewal will be undertaken. This area within the city or county is called the urban renewal district. The County Assessor "froze" the assessed value of real property within the urban renewal district (ORS 457.430). As property values thereafter increased due to normal appreciation or as a result of new local development, property taxes were levied on property in the urban renewal district based on then-current assessed values. Taxes collected on the increment between the frozen

value and the then-current value was the TIF revenue. TIF revenue could only be used to pay for urban renewal indebtedness (ORS 457.440).

In the early 1970s, the federal government substantially reduced funding for urban renewal programs. No longer simply a source of matching funds for federal programs, TIF became a major resource for cities and counties to finance urban renewal projects on their own.

The permissible uses of TIF were expanded in 1979. Oregon lawmakers recognized that communities could be improved by stimulating economic development with or without housing so that housing considerations were no longer a required ingredient in the urban renewal plan. The legislature also broadly expanded the definition of "blight" to include "a growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety, and welfare" (ORS 457.010(1)(h)).

A 1991 *City Club Report on Tax Increment Financing in Oregon* concluded that Oregon has benefitted and will continue to benefit from TIF. Further, TIF has helped to promote development and provided a valuable tool by which local governments can shape development.

In November 1990, Oregon voters approved Measure 5. Measure 5 constitutionally limits non-school property taxes to \$10 per \$1000 in property value ("the \$10 limit"). In many counties and cities taxing districts overlap on specific property. Under Measure 5, the sum of the rates for all taxing districts on any specific property cannot exceed \$10 per \$1000. When it does, all taxing districts have their assessment revenues proportionately reduced to fit under the \$10 limit on that property. This proportionate reduction in revenues is termed "compression."

Property taxes to pay bonded indebtedness are excluded from Measure 5 limits. It was assumed, based on an attorney general's opinion, that urban renewal bonds would also be excluded from Measure 5 limits because they were a form of bonded indebtedness. Notwithstanding the attorney general's opinion, the issue remained a legal "gray area." In order to obtain a clear ruling, the Portland Development Commission took the issue to the Oregon Supreme Court, which ruled in May 1992 that urban renewal financing was subject to the \$10 limit.

This ruling immediately affected local taxing districts subject to compression which had existing, or desired to incur new, urban renewal indebtedness. Such indebtedness could only be serviced with property tax revenues within the \$10 limit, thereby reducing property tax revenues available for other local governmental services. The ruling would have no immediate effect on most local taxing districts not yet subject to compression. A listing of those cities and counties that have active urban renewal districts is attached as Appendix A. Appendix A also designates the 13 cities and counties subject to compression, which include Portland.

The 1991 implementing legislation for Measure 5, House Bill 2550, changed the way TIF was used. TIF is now used only to compute the estimated long-range increase in tax revenues that will be raised in the urban renewal district due to urban renewal as well as normal appreciation. The estimate sets the maximum urban renewal debt the local taxing district can incur for that urban renewal pro-

gram. The actual tax for retirement of the urban renewal indebtedness is spread among the property taxpayers in the city or county and is noted separately on the property tax bill.

State Ballot Measure 1 would provide cities and counties with the option to finance urban renewal outside the \$10 limit with voter approval. Cities and counties may set specific limitations on the terms of such financing (e.g., limit to one or more specific projects, limit the authorized debt, limit the tax rate or limit the time within which bonds may be issued). Proposed legislation (Senate Bill 14) mandates certain minimum disclosures. As drafted at the time this report went to press, SB 14 would require local urban renewal ballot measures to disclose the last date for issuance of any bonded debt and either (1) the maximum amount of bonded indebtedness; or (2) the maximum tax rate (the "SB 14 Disclosures").

III. ARGUMENTS ADVANCED IN FAVOR AND AGAINST

A. Arguments Advanced in Favor of the Ballot Measure

1. The Ballot Measure is only an enabling measure, not a tax measure.
2. The Ballot Measure provides local control and local accountability for urban renewal financing.
3. The Ballot Measure restores an urban renewal financing option removed by Measure 5.
4. Implementation of urban renewal financing outside of Measure 5 limits will increase tax funds available for other essential services such as police, fire, libraries, etc., which are subject to Measure 5 limits.

B. Arguments Advanced Against the Ballot Measure

1. The Ballot Measure circumvents Measure 5's purpose of limiting property taxes.
2. Although the Ballot Measure does not impose taxes, the sole purpose of the Ballot Measure is to enable cities and counties to seek local authorization for additional property taxes.
3. The Ballot Measure establishes urban renewal projects as a priority over other governmental services such as police, fire, libraries, etc.
4. Passage of the Ballot Measure, together with implementing legislation, will negatively impact the ability of other agencies to raise property tax funds.
5. The Ballot Measure opens the door for abuse by local taxing districts.
6. The Ballot Measure is unnecessary because adequate financing for urban renewal projects is available through general obligation bonds and other existing forms of public financing.

IV. DISCUSSION

A. Enabling Legislation

The Ballot Measure authorizes local taxing districts to seek permission from their voters to service new or existing urban renewal bonds outside the \$10 limit. Passage of the Ballot Measure does not levy additional taxes. Additional urban renewal taxes may be levied under its authority only if voters in a specific local taxing district approve another ballot measure specifically authorizing the additional taxes ("urban renewal bond measure").

Opponents argued the Ballot Measure is a tax measure because it is the first step, or the enabling step, to increased taxes.

In any event, with passage of the Ballot Measure, voters should expect that most local taxing districts under compression will seek voter authorization not only to repay existing urban renewal indebtedness but also to fund new urban renewal projects outside Measure 5's limitations.

B. Local Control / Multiple Project Funding Authority

City and county governments will determine the scope of urban renewal projects. The local voters will decide the fate of the project(s). Currently, urban renewal projects in many cities and counties lack voter oversight. Critics testified that voters have had no control over the disposition of urban renewal funds. Others responded that voter control isn't necessary. They point out that cities and counties, including Portland, have enjoyed great success with urban renewal projects without voter oversight. Cities and counties carry on many expensive government projects without voter oversight, and advocates ask: "Why should urban renewal be any different?" Nevertheless, the Ballot Measure provides voters with a say in authorizing urban renewal projects.

The extent of voter involvement in the authorization of urban renewal projects is at the discretion of the municipal government. Herein lies a major controversy between the proponents and opponents of the Ballot Measure. The Ballot Measure provides that bonding for future urban renewal projects may be authorized on either a specific project-by-project or multiple-project basis. Cities and counties will determine the scope of future measures they will submit to their voters. As a result, taxes for urban renewal purposes may be raised without specific definition of the projects to be funded, if the local taxing district so decides and the voters approve. Opponents assert that if broad undefined authority is requested, it is likely that voters will be without sufficient information to make an informed decision.

There are several urban renewal projects throughout the state in various planning and construction stages that lie dormant for lack of funding. Proponents argue that the flexibility afforded by the Ballot Measure would permit local taxing districts to submit their financing proposals to the voters on a project-by-project or multiple-project basis as needed. Such flexibility would allow each local taxing district to respond to its individual situation both with respect to the status of existing and contemplated urban renewal projects as well as voter attitudes. For instance, if voters in The Dalles want to encourage economic development in their area and vest broad authority in their urban renewal agency, the voters should be able to do so. Passage of the Ballot Measure would accomplish that result.

The flexibility of the Ballot Measure furthers the goal of local control to meet local needs. Opponents argue that if multiple-project bonding authority is passed, voters would have no further say in the use of the approved funds. Thus, there would be no local oversight. Testimony further revealed that the multiple-project option is not only possible but likely because some local taxing districts are considering submission of such a measure to their voters. However, proponents doubted whether such multiple-project options would be offered, since voter approval would be unlikely.

C. Spirit of Measure 5

Proponents of the Ballot Measure testified that the inclusion of urban renewal indebtedness within Measure 5's limitation was inadvertent and that even the proponents of Measure 5 did not intend that result. However, some opponents felt Measure 5 specifically intended that urban renewal projects be funded within the \$10 limit, an intent confirmed by the Oregon Supreme Court. Opponents emphasized that passage of Measure 5 is a statement by voters that they do not want to pay any more property taxes, period. Measure 5 was a means of requiring the Oregon legislature and local governments to begin the process of prioritizing expenditures of property tax revenues.

D. Competition for Funding

To the extent that existing and new urban renewal projects are financed outside of the \$10 limit, the local taxing district will have additional funds to spend on other services, if the district is under compression. However, the Ballot Measure does not prevent local taxing districts from financing urban renewal projects within the \$10 limit and districts not under compression may well choose to do so.

Proponents asserted local taxing districts did not anticipate that service of urban renewal indebtedness would compete with funding for police, fire and other local government services under the \$10 limit. Passage of the Ballot Measure would allow local taxing districts to alleviate this competition with local voter approval.

Opponents argued that this Ballot Measure would grant urban renewal projects a super-priority. Police, fire and other local government services, including school operations, are not constitutionally eligible for funding outside Measure 5's limits. Opponents maintained that urban renewal financing should not be accorded a special constitutional funding capability not granted for other essential local government services. Proponents countered that removing urban renewal debt from competition for funding under the \$10 limit would make additional funds available for these essential local government services.

Taxpayers have a finite amount of taxes they are willing to pay. If the Ballot Measure passes and taxes are raised to fund urban renewal, opponents asserted voters will be less inclined to vote in favor of tax measures that propose to fund other desirable community projects outside of the \$10 limit.

E. Disclosure

Senate Bill 14 (SB 14), currently under consideration by the Oregon Legislature, will require urban renewal bond measures to contain certain disclosures regarding the breadth and scope of the project or projects for which it seeks financing. Opponents argued that the Ballot Measure does not provide safeguards to ensure

sufficient information even with the SB 14 disclosures, e.g., the term of bonded indebtedness is not included. As such, voters would be uninformed regarding which future projects would be funded or how the money would be spent.

Testimony revealed that some local taxing districts are considering proposing an urban renewal bond measure on the same ballot as the Ballot Measure. Opponents expressed concern that time is insufficient to inform voters adequately of the effects of both the Ballot Measure and the urban renewal bond measure. Passage of a local urban renewal bond measure could slip by an uninformed or confused electorate when faced with two urban renewal ballot measures having different goals.

Proponents responded to these arguments by stating that urban renewal agencies will recognize that submission of measures with little or ill-defined limitations, or sweeping funding authority, will meet with voter disapproval. Further, they charge opponents with giving too little credence to the intelligence of the voters.

F. Other Urban Renewal Financing Options

Opponents maintain that future urban renewal projects could be funded not only through general obligation bonds, but also through other special taxing mechanisms (e.g., local improvement districts), grants and even transfers from the general fund of the local taxing district in which the project is situated. Furthermore, private financing is capable of undertaking many projects currently being funded through urban renewal bonding. While not all of these avenues for alternative financing are available for every urban renewal project, every urban renewal project could, in theory, be financed through at least one of these alternative financing approaches.

Proponents of the Ballot Measure argue that flexible bonding authority is necessary for urban renewal projects, and that the alternatives described above are inadequate for comprehensive urban renewal financing. Even though general obligation bonds are available for urban renewal financing, such bonds are restricted in scope. General obligation bonds are limited to financing capital improvements. It is estimated that only 30% of the expenditures required for the existing City of Portland urban renewal projects would qualify for financing through general obligation bonds. Monies raised by general obligation bond financing are inadequate to completely fund some aspects of urban renewal projects because such funds cannot be used in conjunction with private party transactions. Further, general obligation bonds do not provide continuous funding for long-term evolving projects.

IV. MAJORITY CONCLUSIONS

The majority concludes that:

1. The Ballot Measure, in and of itself, is only an enabling measure and does not raise property taxes.
2. The Ballot Measure delegates to local taxing districts and their voters complete authority to deal with urban renewal issues, such as the scope of projects, financing mechanisms and extent of local oversight. The fact that the ultimate decision rests with the local voters addresses criticisms concerning current practices of urban renewal agencies.
3. The Ballot Measure restores desired flexibility to urban renewal financing. General obligation bonds and other proffered public financing mechanisms are too limiting and, therefore, inadequate.
4. The Ballot Measure authorizes local urban renewal legislation which would alleviate the competition, created by Measure 5, between urban renewal financing and funding for police, fire and other public health and safety services. One could even say that a vote for this Ballot Measure paves the way for increased funds for police, fire and other essential municipal services.
5. Thirteen cities and counties in Oregon are presently under compression and many others are close to it. Voters in those areas ought to be permitted to consider passage of urban renewal financing outside the \$10 limit. Defeat of the Ballot Measure will deny all local taxing districts the option to raise urban renewal financing through local voter approval, even though the local voters may have been in favor of the Ballot Measure.
6. Certainly a well-informed electorate is essential to good public policy. The priority accorded urban renewal financing by passage of the Ballot Measure is justified by the economic benefits derived by those communities who choose to implement it through local voter elections. Given the current voter climate, only those local taxing districts that provide a complete and accurate description of their urban renewal projects will receive voter approval for bonding such indebtedness. The majority of your committee rejects the assertion that local taxing districts will deal with their constituents less than forthrightly or with inadequate information.

V. MAJORITY RECOMMENDATION

The majority recommends a "YES" vote on Ballot Measure 1.

Respectfully submitted,

Joseph Lidrich
Esther I. Lorange
Nickie Lynch
Renée E. Rothauge
Rick Simpson
James A. Larpenteur, Jr., chair

VI. MINORITY CONCLUSIONS

A minority of the committee concludes that:

1. The Ballot Measure circumvents the intended purpose of Measure 5 and will return Oregon to pre-Measure 5 taxing authority. Passage of the Ballot Measure will increase property taxes.
2. The Ballot Measure establishes a special constitutional taxing authority for urban renewal not granted police, fire, human services or schools. Passage of the Ballot Measure will establish urban renewal as the most important local governmental function in Oregon.
3. Passage of the Ballot Measure will not ensure that additional property tax revenues will be available to fund other essential governmental services. Rather, the Ballot Measure will negatively impact the ability of other local government agencies to obtain funding for essential services, since taxpayers have a finite amount of taxes they are willing to pay.
4. The Ballot Measure does not ensure full disclosure to the electorate, yet allows for multiple-project approval. These failures render the Ballot Measure ripe for abuse.
5. The Ballot Measure is unnecessary, since adequate urban renewal funding mechanisms already exist.

VII. MINORITY RECOMMENDATION

The minority recommends a "NO" vote on Ballot Measure 1.

Respectfully submitted,

Sam Tamura
John C. Etter, vice chair

VIII. APPENDICES

A. Oregon Cities and Counties With Active Urban Renewal Districts

Benton County*	Lake Oswego
Clackamas County	Lebanon
Coos County*	Lincoln City
	Medford
Albany*	Milton-Freewater
Astoria*	Newport
Bandon	Oregon City
Beaverton	Philomath*
Bend	Portland*
Cascade Locks	Redmond
Coos Bay	Roseburg*
Cottage Grove	Salem*
Eugene	Seaside
Gladstone	Talent
Grants Pass	The Dalles*
Hillsboro	Tualatin*
Hood River	Veneta*
Keizer	Waldport
Klamath Falls*	Wilsonville

* subject to compression

Source: Association of Oregon Redevelopment Agencies

B. Persons Interviewed

Association of Oregon Redevelopment Agencies

Jeanette Launer, president

Jeff Tashman, former president and urban planning consultant

Chao, Rebecca Marshall, public finance consultant, Portland

City of Salem

Dick Hayden, development director

City of Portland

Bud Clark, former mayor

Joan Engert, auditor's office

Vera Katz, mayor

Howe, Gregory, attorney, Portland

Lowthian, Philip, attorney, Portland

McIntire, Don, Ballot Measure 5 proponent, Portland

Multnomah County Tax Supervising and Conservation Commission

Gil Gutjahr, retired director

Oregon State Legislative Revenue Office

Jim Scherzinger, director

Oregon State Legislature

Senator Shirley Gold, District 7

Representative Cedric Hayden, District 28

Oregon Urban Renewal Coalition

Mike Thorne, chair

Portland Development Commission

Douglas E. Butler, acting executive director

Julie Rawls, public information specialist

Smith, Peter, Portland citizen

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American Planning Association

"Tax Increment Financing," *Planning Advisory Service Report No. 38*

City Club of Portland

Report on Tax Increment Financing In Oregon, Volume 72, No. 2, June 14, 1991

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Resolution No. 35040, adopted by City Council on September 16, 1992

City of Portland vs. Smith, et al, 314 OR 178 (1992)

Dennehy, Tom

Testimony before the Committee on Revenue and School Financing on SJR 10 and SB 357, February 26, 1993

Hayden, Cedric, Oregon House of Representatives, District 28

Testimony before Senate Revenue Committee, April 30, 1991

Testimony on the floor of the House of Representatives, April 29, 1993

Oregon Business

"Say Goodbye to TIF," Douglas Gantenbein, January 1993

"Saving Urban Renewal," Jeanette M. Launer, January 1993

Oregon State Legislative Ad Hoc Committee

Explanatory statement, June 29, 1993 election, Ballot Measure 1

Oregon State Senate

Senate Bill 14

Senate Bill 357 (Ballot Measure 1)

Senate Joint Resolution 10 (Ballot Measure 1)

Oregon Urban Renewal Coalition

Letter to Senator Shirley Gold, February 12, 1993

The Oregonian

"Urban renewal bond exemption sought," Cathy Kiyomura, January 28, 1993

"Senate OK's votes to lift tax ceiling for urban renewal," Cathy Kiyomura, February 18, 1993

"Rising revenues put city council in budget quandary," Barnes C. Ellis, April 16, 1993

"PDC defends its contract with lobbying firm," Barnes C. Ellis, May 2, 1993

Portland Chamber News

"Oregon's Urban Renewal Program in Jeopardy," April 1993

Portland Development Commission

Annual Urban Renewal Report (fiscal year 1991-92)

Urban Renewal Community Profiles

Smith, Peter and Dorothy

Drafts of Measure 1 opposition pages in Voters Pamphlet, April 20, 1993