



The Weinberg Law Group

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City of Rolling Hills  
By @ CC MEETINGS

January 25, 2016

Via Hand Delivery

Heidi Luce  
City Clerk  
City of Rolling Hills  
2 Portuguese Bend Road  
Rolling Hills, CA 90274

Re: Resolution 1182 re Administrative Regulations

Dear Ms. Luce:

Tonight, January 25, 2016, at the City Council hearing, the Council will consider the adoption of Resolution 1182 regarding Administrative Regulations Interpreting Measure B for the City's View Ordinance.

Attached to this letter are my suggested modifications to the resolution text to be considered by the City Council.

Sincerely,

*Howard Weinberg*

The Weinberg Law Group

C: City Council  
Yolanta Schwartz  
Michael Jenkins, City Attorney

Attachment A

**City of Rolling Hills**  
**Administrative Regulations Interpreting Measure B**  
**Relating to View Preservation**

Chapter 1	Date of Property Acquisition
Chapter 2	"Mature" versus "Maturing" Trees
Chapter 3	Retroactivity of Measure B

**Chapter 1**  
**DATE OF PROPERTY ACQUISITION**

**Section 1001. Interpretation of the Date of Acquisition of Property.**

Measure B provides that a person may only apply to restore the view existing from the date that the current owner of the property actually acquired the property. In determining whether a transfer of property has resulted in an acquisition affecting the view that a person may apply to have restored, the City shall generally apply the rules applicable to reassessment of property taxes in the County of Los Angeles, *except as modified in this Resolution.*

The impacts of common transfers of property are illustrated below:

- A. The acquisition date of property acquired through inheritance shall be the date that the previous owner acquired the property, not the date of the transfer by inheritance.
- B. The acquisition date of property acquired from a third party through an arms-length purchase and sale shall be the date of the sale as evidenced by a deed.
- C. When property is placed into a revocable trust, the acquisition date of property shall not change. ~~When property is placed into an irrevocable trust, or a revocable trust becomes irrevocable, the acquisition date shall be the date that the property was placed into the irrevocable trust or the revocable trust became irrevocable.~~

*Or an irrevocable trust*

**Chapter 2**  
**"MATURE" VERSUS "MATURING" TREES**

**Section 2001. Definition of "Mature" Trees**

The International Society of Arboriculture defines maturity by "mature height," which means the "maximum height that a plant is likely to reach if the conditions of the planting site are favorable." The Sunset Western Garden Book is a trusted reference guide on trees, plants and other vegetation present in the region and defines a plant species' "maturity" as the time at which a plant achieves a certain height range and displays other characteristics. The Sunset Western Garden Book provides maximum height ranges for species of plants typically involved in View Preservation cases in the City.

For purposes of the View Preservation Ordinance and Measure B, a plant is "mature" when it reaches <sup>a height that is 80% of the</sup> ~~the~~ maximum height for the species specified in the Sunset Western Garden Book. However, arborists agree that plants that have been regularly cut may never reach their maximum potential height, and several alternative methodologies are recognized to determine the age of such trees. However, the alternative methodologies are complex and require reliance on a professional arborist. Further, the proponents of Measure B testified before the Planning Commission that the intent of Measure B was to exempt trees that have reached their full species height prior to acquisition of a complainant's property. Therefore, trees that show evidence of regular cutting and are therefore unlikely to reach their maximum potential height shall not be considered "mature" for purposes of the View Preservation Ordinance and shall not be exempt from restorative action.

prior

**Section 2002. Definition of "Maturing" Trees**

Trees and other vegetation that are not "mature" as specified in these regulations are "maturing."

not planted

**Section 2003. Presumption that Trees were not "Mature"**

If evidence is presented, such as historical aerial photographs, showing that <sup>one or more</sup> ~~one~~ of the offending trees or vegetation subject to a complaint was ~~planted~~ at or around the time that the complainant acquired the property from which a view is claimed, the complainant shall be entitled to a presumption that the offending trees and vegetation were not "mature" at the date of acquisition and are therefore subject to restorative action.

that were not planted

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Argument in favor of Measure "B"

City of Rolling Hills  
By @ CC MEETINGS  
FROM NORM MILLER

The *View Ordinance* does not define when the "view" in question existed. *Measure B* surgically defines "view", and preserves the remainder of the 6-page *Ordinance* which works well, i.e., requiring that neighbors first try to work things out, establishing a View Committee, and so forth.

The current *Ordinance* has been interpreted to allow someone to buy a house with no view, priced accordingly, and then force neighbors to cut their trees in order to give the desired view. This is grossly unfair. It adds value to the complainant's property while reducing the value of the neighbor's property. Also, the City pays for most of the legal fees related to the complaint, and other costs such as surveys, expert witnesses, and photographs while the neighbor is responsible for their own legal fees and other expenses.

*Measure B* will change the current ordinance to state that a resident is only entitled to the view that existed when that resident bought the house.

Because the *Ordinance* now encourages an inherently unfair transfer of property values, it triggers expensive and unnecessary litigation that we all must pay for with our property taxes. There are currently four view-related lawsuits filed against the City, and more pending.

Before circulating the petition, the proponents of the measure urged the City Council on several occasions to start a revision process. The process only began after more than 250 Rolling Hills voters signed the petition to qualify *Measure B* for the election ballot. Let's pin down this small change that fairly defines a view as what an owner bought and paid for when they purchased their property.

Please vote "YES" on Measure B

Richard Coffey

Lynn E. Gill

Norman LaCaze

Marcia Schoettle

Marion Scharffenberger

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City of Rolling Hills  
By Norm Miller 1/26/16