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Public Forum

Halloween Comes Early to Moraga

Halloween is traditionally a time for children, enjoying treats or being the target of tricks. But this year is different - it is Moraga's adult resident voters who are the target of tricks-political tricks the likes of which Moraga has never seen before.

Immense amounts of money have been spent by developer, Bruzzone Inc., trying to defeat Measure K through chaos, confusion and intimidation of the voter. This developer has spent an astonishing \$500,000 so far-more than \$100 per voting household. His campaign no longer promotes his own Measure J, but now concentrates on attacking and distorting the citizen-sponsored Measure K. You can see the results of these huge expenditures in your postal and email mailboxes and on your TV sets.

Bruzzone Inc.'s attack mailers are scarier than a haunted house, but they are not truthful.

For example, the latest Bruzzone gem implying that the Moraga-Orinda Fire District opposes Measure K has been unequivocally repudiated by MOFD Fire Chief Pete Nowicki.

And if creating confusion and distorting the truth do not work and Measure K passes, Bruzzone Inc. threatens to sue the Town. Does this sound like someone protecting your interests - someone whose counsel, advice and guidance you should follow?

Developers' lawsuit threats are not new to Moraga. Northwood Homes made the same threat twenty-two years ago when Moraga citizens campaigned for the Town's first open space protection measure, the Moraga Open Space Ordinance (MOSO 1986). It is important to note here that MOSO 1986-an ordinance now praised by Measure K's opponents-was not a product of the Moraga Planning Process. It was an initiative, created by residents, placed on the ballot through the collection of signatures, and approved by the voters.

After MOSO 1986 passed, the developer did sue, and the Town defended that initiative in court and won. That lawsuit, and its judgment in favor of the Town, has become a landmark case in land use law. Most long-time Moragans feel that passing the MOSO Initiative in 1986 and subsequently defending the will of the voters in court was the right thing to do.

If Measure K fails, the Town will be forced to process the major subdivisions planned for Bollinger Canyon, Indian Valley and Rheem Ridge. Is the Town protected from lawsuits then? Absolutely not!

As evidenced by the Palos Colorados project, contentious developments spawn lawsuits of their own, and legal challenges would likely be filed against each of these new subdivision projects individually. Moraga was sued twice over Palos Colorados, by both the developer and by Lafayette, and had to pay its own legal expenses. And Orinda and Lafayette have made clear that they stand ready to challenge any development project generating significant additional traffic from Moraga.

Just how strong is the legal basis for a challenge to Measure K? The Town Attorney examined the eight most important legal issues regarding the initiative. On every issue, the Town Attorney's analysis (in the "9212 Report") showed the significant difficulty such a challenge would face. This Town Attorney has served Moraga for over 20 years, successfully defended MOSO 1986 on behalf of the

voters of Moraga, and is recognized as one of the most experienced and respected land use attorneys in the Bay Area.

But if you don't trust the Town Attorney, consider the fact that Alameda County voters passed an open space measure very much like Measure K in 2000, which was upheld all the way to the California Supreme Court where it became a statewide precedent. Four years later, Hercules voters passed a similar measure which was also upheld. Fremont and Livermore voters passed their own similar open space initiatives which were never challenged-those developers figured out that to do so would be a waste of money.

The bottom line is that Measure K has a strong and tested legal foundation. If Measure K must be defended, the Town will be defending the right of its residents to establish land use regulations under state and federal law.

Measure K will protect the quality of life in Moraga. It's easy to take for granted, but we should all ask ourselves just what contributes to that quality of life and what first attracted us to Moraga?

Surely, the semi-rural character and stunning beauty of our surroundings enhances our lives with a feeling of peace as we rush through our busy days. Are developments with huge estate houses lining the ridgelines and covering the hillsides consistent with your concept of semi-rural?

We are all familiar with the traffic problems in and out of Moraga, especially the torturous commute traffic. Is there any way our lives won't be impacted by the several thousand additional vehicle trips generated daily by the proposed developments?

And what about the value of our homes, probably the single most important component of our quality of life? As everyone knows, home value is a function of desirability of location. How will the desirability of Moraga - the quality of life it offers - be impacted by building in scenic view areas and on ridgelines, and by adding yet more traffic?

This Halloween, don't fall for the developer's tricks. Protect your quality of life and property values, and vote Yes on Measure K.

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