

RESOLUTION NO. 5823

A RESOLUTION of the City of Everett, in Opposition to Initiative 933, entitled **“Initiative Measure 933 concerns government regulation of private property.”**

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 and Description:

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

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 []

WHEREAS, the city council is always mindful of the need to balance public good and private property rights; and

WHEREAS, voters are encouraged to read materials prepared by supporters and opponents of the initiative so that they can make an informed decision; and

WHEREAS, prior to adoption of this resolution, the City of Everett gave notice of the meeting at which it was considered containing the official Ballot Title of Initiative 933, and afforded approximately equal time for councilmembers and others to express opposing points of view in the course of such meeting;

WHEREAS, the City Council finds the following:

1. 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;
2. I-933’s definition of “damaging the use or value” would dramatically lower the threshold for compensation far below constitutional limits;
3. I-933’s definition of “private property” includes virtually all interests in real as well as personal property;

4. Because I-933's definition of "damaging the use or value" of 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;
5. The provisions of I-933 are to be "liberally construed" (Section 6) and its exceptions "shall be construed narrowly" (Section (2)(c));
6. The 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 incompatible and detrimental land uses and activities that would negatively impact property values in affected residential neighborhoods;
7. I-933 would deprive local jurisdictions, including the City of Everett, of the ability to adopt and enforce reasonable land use development standards to mitigate traffic impacts, assure appropriate building height and lot coverage standards, provide for the preservation of open spaces and protection of environmentally sensitive areas; and other general development regulations necessary to promote the public health, safety and welfare;
8. The provisions of I-933 could require the City to waive or pay compensation to private property owners who claim that specific land use regulations affect their ability to use or build upon their property as they see fit regardless of nuisance concerns or adverse impacts to neighbors;
9. I-933 erroneously assumes that local jurisdictions have authority to "decide" not to enforce or apply their duly adopted ordinances, regulations and rules, without granting express authority to pay compensation or waive the enforcement or application thereof;
10. I-933 could lead to incompatible growth and development, which could negatively affect the value and use of adjacent properties, thereby reducing the City's tax base and detrimentally affecting the City's ability to provide needed infrastructure, public services and public safety;
11. An analysis by the Association of Washington Cities has estimated that there would be significant administrative costs borne by cities to process claims for damages and significantly greater additional costs to compensate property owners;
12. I-933 could have further negative impact on the financial resources of the City because the term "compensation" as used and defined by the initiative includes attorneys' fees incurred by property owners seeking to benefit from the initiative;

13. The only alternative to payment of compensation provided by I-933 is to issue site-specific waivers from regulations, which may give rise to lawsuits and claims for compensation from adjacent property owners;
14. The fiscal impacts of Initiative 933 would be borne by the citizens and taxpayers of the City.

NOW, THEREFORE, BE IT RESOLVED that the City of Everett opposes adoption of Initiative Measure 933, and urges voters to reject I-933 due to the potentially significant and detrimental impacts outlined above.

Councilperson Introducing Resolution

PASSED and APPROVED this 11 day of October, 2006.

Council President