

**FULL TEXT OF MEASURE I  
CITY OF SAN CLEMENTE**

AN ORDINANCE OF THE PEOPLE OF THE CITY OF SAN CLEMENTE, CALIFORNIA AMENDING APPENDIX "A" OF TITLE 17 OF THE SAN CLEMENTE MUNICIPAL CODE, ZONING, FOR PURPOSES OF ADDING SPECIAL RESIDENTIAL DEVELOPMENT STANDARDS TO THE SHORECLIFFS RL-11 AND RL-12 OVERLAY ZONES REGULATING RESIDENTIAL DEVELOPMENT WITHIN THE OVERLAY AREAS FOR THE PURPOSES OF NEIGHBORHOOD PRESERVATION AND VIEW; AND AMENDING SECTION 17.16.090 OF TITLE 17 OF THE MUNICIPAL CODE, ZONING, FOR PURPOSES OF A MINOR EXCEPTION PERMIT PROCESS TO ALLOW A REDUCTION OF THE REQUIRED MINIMUM REAR YARD; AND AMENDING SECTION 17.16.060 OF TITLE 17 OF THE MUNICIPAL CODE, ZONING, FOR PURPOSES OF A CONDITIONAL USE PERMIT PROCESS TO ALLOW AN INCREASE OF THE ALLOWED MAXIMUM HEIGHT

WHEREAS, on January 6, 2004, the City Council initiated the Shorecliffs Residential Bulk and Massing Study, for the purpose of determining whether new homes and additions to existing homes were occurring that were not consistent with the overall community character; and

WHEREAS, on June 21, 2005, the City Council established the Shorecliffs Residential Bulk and Massing Study Task Force, for the purpose of discussing issues in Shorecliffs related to new construction and to develop a survey to be conducted amongst Shorecliffs property owners; and

WHEREAS, on September 10, 2005, the City Manager approved a Professional Service Agreement with Pamela Wooldridge, of Research Network Ltd, at 27001 La Paz Road, Suite 446, Mission Viejo, CA 92691, for the purpose of preparing and conducting the Shorecliffs neighborhood survey; and

WHEREAS, on March 7, 2006, the City Council directed staff to prepare a draft overlay ordinance that reflects the findings of the Shorecliffs Neighborhood survey; and

WHEREAS, on April 4, 2006, the City Council directed staff to commence a zoning amendment process to consider the proposed Shorecliffs ordinance as well as conduct an advisory ballot vote of all Shorecliffs' property owners to ascertain whether the majority of the Shorecliffs' property owners support the adoption of the draft amendments to the Shorecliffs' RL-11 and RL-12 overlay districts, as well; and

WHEREAS, the City's Development Management Team (DMT) reviewed the subject Zoning Amendment application and determined its compliance with the General Plan and other applicable City ordinances and codes; and

WHEREAS, the Planning Division completed an environmental assessment of the amendment in accordance with the California Environmental Quality Act (CEQA), having determined that the amendments will not have any potential significant environmental impacts, and that, therefore, a Negative Declaration is warranted; and

WHEREAS, a Negative Declaration reflecting the independent judgment of the City of San Clemente was prepared on May 8, 2006 and was advertised for the required 20-day public review period from May 12, 2006 through May 31, 2006; and

WHEREAS, on June 7, 2006, the Planning Commission held a duly noticed public hearing on the subject application, considered evidence presented by the City staff and other interested parties, and recommended that the City Council approve the amendment; and

WHEREAS, on July 11, 2006, the City Council held a duly noticed public hearing on the subject application and considered evidence presented by the City staff, the applicant and other interested parties; and

WHEREAS, on July 25, 2006, the City Council adopted its Ordinance No. 1319 which (1) restricted residential building heights within a portion of the Shorecliffs neighborhood to sixteen (16) feet, subject to possible exceptions for certain residential lots through a conditional use permit process if it could be established that a building height in excess of 16 feet would not have a significant adverse impact on an ocean or shoreline view, and (2) reduced the front and rear setbacks and increased the maximum lot coverage requirements for certain of the lots affected by the reduced building height limits; and

WHEREAS, on August 23, 2006, a referendum petition was filed with the City Clerk's office with sufficient valid signatures to require that the City Council either rescind Ordinance No. 1319 or submit said ordinance to the City's voters for consideration no later than the next regular general municipal election taking place on November 4, 2008; and

WHEREAS, a lawsuit was filed challenging the legal sufficiency of the referendum petition, but the validity of the referendum petition was upheld by the Orange County Superior Court and the California Court of Appeal, Fourth Appellate District, Division 3; and

WHEREAS, on January 22, 2008, the City Council determined to submit Ordinance No. 1319 to the City of San Clemente's voters for consideration at the June 3, 2008 Special Municipal Election;

NOW, THEREFORE, THE PEOPLE OF THE CITY OF SAN CLEMENTE ORDAIN AS FOLLOWS:

SECTION 1. The People find and determine as follows with regard to ZA 06-237, including all proposed changes described in Section 4 through Section 9 hereto:

A. The proposed amendment will be consistent with the City of San Clemente General Plan (GP) for reasons that include, but are not limited to:

1. The proposed ordinance preserves the fabric of an existing residential neighborhood in the City. (GP Vision Statement, Section B, and GP Residential Land Use Policies, Intent Section).
2. The proposed ordinance preserves the scale of an older coastal neighborhood. (GP Constraint II.C.7 and GP Objective 2.9).

B. The proposed amendments will not adversely impact the public health, safety, and welfare in that the amendments implement General Plan policies and objectives related to orderly residential development and preservation of established neighborhood character.

SECTION 2. The People find that an additional reason supporting the adoption of this overlay zoning ordinance is that the ordinance will end neighbor disputes regarding the ability to develop structures over 16 feet in height under existing conditions.

SECTION 3. Appendix A of Title 17 subsection (K) of the City of San Clemente Municipal Code is hereby amended to read in its entirety as follows:

**K. RL-11 (Tracts 4199, 4200, 4201, 4628, 4804, 4822, 4937, 4938, 5655).**

1. Refer to the standards of the underlying RL zone, except for the following:

Minimum lot area:	7,200 sq. ft
Minimum lot width:	70 ft.
Interior-side yard setback:	6 ft.

2. The standards for fences, hedges, and walls, shall be as required in Section 17.24.090, Fences, Walls and Hedges, of this title, with the following exceptions:

a. Front Yard Setback Area.

- i.. From the front property line, to a point 10 ft. parallel to the front property line, no fence shall exceed the present height requirement of 42 in.

ii.. No fence shall exceed the stipulated 5 ft. height requirements from the 10 ft. front setback line to the front building line.

3. In addition to the above requirements, the following requirements shall apply to Lots 46 through 64 and Lots 107 through 114 of Tract 4938; Lots 5 through 19 of Tract 4937; Lots 1 through 57 of Tract 4804; and Lots 2 through 91 of Tract 4628.

Height	16 foot maximum, measured from the highest existing grade elevation at the perimeter of the development envelope. For purposes of this section, the development envelope is defined as the net lot area inside the required yard setback areas.
Rear Yard Setback for Through Lots:	20 foot minimum (see exception provision as provided in this section)
Front Yard Setback	10 foot minimum
Front Yard Setback to Street-Facing Garage	20 foot minimum or 18 foot minimum with roll-up garage door
Lot Coverage:	60% maximum

4. Exceptions.

A. Reduction of Rear Yard Setback. Properties subject to the maximum 16-foot height limit, as described in this Section, may be granted an exception to the minimum rear setback for through lots, allowing a reduction of as much as 25 percent of the required rear setback. In addition to the general findings required for a Minor Exception Permit, as provided in Section 17.16.090 of this Title, the following finding shall be made prior to approval of a Minor Exception Permit to reduce the minimum rear yard setback for through lots:

“The reduced rear yard setback will not have a substantial adverse impact upon a significant ocean view from other properties in the vicinity.”

B. Height Exception. Lots 46 through 64 of Tract 4938 may be granted an exception to the maximum 16-foot height limit upon the approval of a Conditional Use Permit.

1. The CUP application for a height exception shall be heard by the Planning Commission, who shall not refer the application to the design review subcommittee.

2. In addition to the general findings required for a Conditional Use Permit, as provided in Section 17.16.060(F) of this Title, the Planning Commission shall find that the development of the subject property in excess of 16 feet in height will not have a significant adverse impact on an ocean or shoreline view.

SECTION 4. Appendix A of Title 17 subsection (L) of the City of San Clemente Municipal Code is hereby amended to read in its entirety as follows:

**L. RL-12 (Tract 4940, 5691).**

1. Refer to the standards of the underlying RL zone, except for the following:

Minimum lot area: 7,200 sq. ft.  
 Minimum lot width: 70 ft.  
 Interior-side yard setback: 6 ft.

2. In Tract 4940, Lots 63-70, 72-79, 80-85, 133-140 and Tract 5691, Lots 2-17, 50-51, the following standards shall apply:

a. The standards for fences, hedges, and walls shall be as required in Section 17.24.090, Fences, Walls and Hedges, of this title, with the following exceptions:

i. From the front property line, to a point 10 ft. parallel to the front property line, no fence shall exceed the present height requirement of 42 in.

ii. No fence shall exceed the stipulated 5 ft. height requirements from the 10 ft. front setback line to the front building line.

3. In Tract 4940, Lots 19-68, 72-74, and 80-109, the following standards shall apply:

Height	16 foot maximum, measured from the highest existing grade elevation at the perimeter of the development envelope. For purposes of this section, the development envelope is defined as the net lot area inside the required yard setback areas.
Rear Yard Setback for Through Lots:	20 foot minimum (see exception provision as provided in this section)
Front Yard Setback	10 foot minimum
Front Yard Setback to Street-Facing Garage	20 foot minimum or 18 foot minimum with roll-up garage door
Lot Coverage:	60% maximum

4. Exception.

A. Reduction of Rear Yard Setback. Properties subject to the maximum 16-foot height limit, as described in this Section, may be granted an exception to the minimum rear setback for through lots, allowing a reduction of as much as 25 percent of the required rear setback. In addition to the general findings required for a Minor Exception Permit, as provided in Section 17.16.090 of this Title, the following finding shall be made prior to approval of a Minor Exception Permit to reduce the minimum rear yard setback for through lots:

“The reduced rear yard setback will not have a significant adverse impact upon substantial ocean views from other properties in the vicinity.”

SECTION 5. Section 17.16.090.C(17) of the City of San Clemente Municipal Code is hereby amended by adding a new subsection (d) to read as follows:

d. For lots subject to a 16-foot height limit in Accordance with Appendix A of this Title, subsections (L) and (K), a decrease of not more than twenty five (25) percent of the required rear yard.

SECTION 6. Section 17.16.090.F(2) of the City of San Clemente Municipal Code is hereby amended by adding a new subsection (k) to read as follows:

k. Reduced rear yard setback, specific findings in accordance with Appendix A, subsections (L) and (K), of this Title.

SECTION 7. Section 17.16.060.C of the City of San Clemente Municipal Code is hereby amended by adding the following language at the bottom of the table that comprises that section:

Height exceptions for residential development on Lots 46 through 64 of Tract 4938	Appendix A, subsection (K,4,B) of this Title
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SECTION 8. Section 17.16.060.F(2) of the City of San Clemente Municipal Code is hereby amended by adding the following language at the bottom of the table that comprises that section:

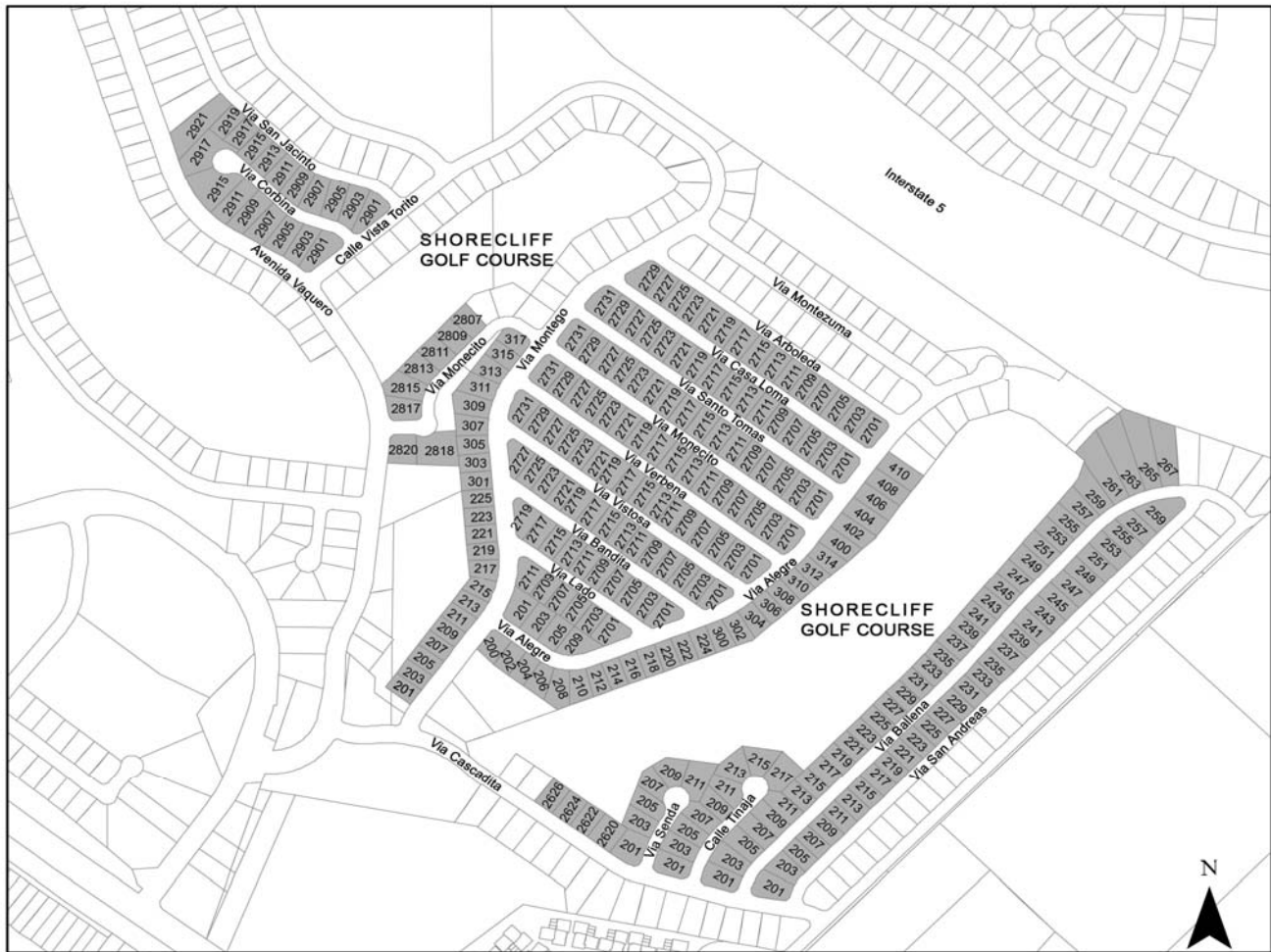
Height exceptions for residential development on Lots 46 through 64 of Tract 4938	Appendix A, subsection (K.4.B.2) of this Title
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SECTION 9. A map depicting the lots affected by this Ordinance is attached hereto as Exhibit "A."

SECTION 10. The People hereby declare their intention that the revisions to the maximum building heights effectuated by this Ordinance are not severable from the revisions to the minimum front and rear yard setbacks and maximum lot coverage standards set forth herein, such that if for any reason a court of competent jurisdiction issues a final, non-appealable judgment or order invalidating or enjoining the enforcement of the revised maximum building height standards for all or any lots, the People's intention is that the revised minimum front and rear yard setback and maximum lot coverage standards for those same lots shall also be null and void and of no further force or effect. The People further declare their intention that Sections 3.B, 7, and 8 of this Ordinance, which provide for the possibility of the issuance of height exception permits for Lots 46 through 64 of Tract 4938, are severable from the remaining provisions of this Ordinance, such that, if a court of competent jurisdiction determines that this Ordinance is invalid or unenforceable on the basis that this Ordinance does not provide for a similar height exception permit process for some or all of the remaining lots subject to this Ordinance, or on the basis that the disparate treatment of Lots 46 through 64 of Tract 4938 from some or all of the remaining lots subject to this Ordinance is arbitrary, capricious, discriminatory, or in any other respect unlawful, the People's intention is that Sections 3.B, 7, and 8 of this Ordinance shall be severed from the remaining provisions of this Ordinance and shall be null and void and of no further force or effect, such that the revised maximum building height provisions effectuated by this Ordinance shall apply equally to each and every lot subject to this Ordinance.

SECTION 11. The People hereby approve Zoning Amendment 06-237 subject to the above Findings.

SECTION 12. The City Clerk shall certify to the passage and adoption of this Ordinance and the same shall be noticed as required by law and shall take effect as provided by law.



Properties subject to ordinance includes all single-family properties addressed, fronting or accessed from the following list of streets (includes all single-family properties on the street unless otherwise indicated) :

- Calle Tinaja (201 to 217, inclusive)
- Via Alegre (200 to 410, inclusive)
- Via Arboleda (2701 to 2729, inclusive)
- Via Ballena (201 to 267, inclusive)
- Via Bandita (2701 to 2719, inclusive)
- Via Casa Loma (2701 to 2731, inclusive)
- Via Cascadita (2620, 2622, 2624, 2626)
- Via Corbina (2901 to 2917, inclusive)
- Via Lado (2701 to 2711, inclusive)
- Via Montecito (2701 to 2731, inclusive and 2807 to 2820, inclusive)
- Via Montego (201, 203, 205, 207, and 209 to 317, inclusive)
- Via San Andreas (201 to 259, inclusive)
- Via San Jacinto (2901 to 2921, inclusive)
- Via Santo Tomas (2701 to 2731, inclusive)
- Via Senda (201 to 211, inclusive)
- Via Verberna (2701 to 2731, inclusive)
- Via Vistosa (2701 to 2727, inclusive)

**IMPARTIAL ANALYSIS BY CITY ATTORNEY  
MEASURE I**

Shorecliffs is an established single-family residential neighborhood on the ocean side of Interstate 5, in the northern portion of San Clemente. The homes in Shorecliffs are predominantly single-story construction, although the maximum building height currently permitted under the City's Zoning Code is 25 feet, which will accommodate a typical 2-story home. The topography in the neighborhood slopes toward the ocean and many of the homes have significant ocean views over the homes below.

In July 2006, the San Clemente City Council adopted an ordinance reducing the maximum permitted building height in the majority of the Shorecliffs neighborhood from 25 feet to 16 feet--essentially a 1-story building height restriction. The lots affected by this restriction were selected based on the City Council's assessment of their potential to impair ocean views if 2-story construction were allowed to occur. The purpose of the ordinance is to prohibit 2-story above-grade construction on the affected lots and thereby preserve the existing ocean views from other homes, predominantly single-story homes, in the neighborhood.

After the City Council's action, a referendum petition was circulated and qualified for the ballot. A "yes" vote on this measure will affirm and approve the City Council's action. A "no" vote will have the effect of rescinding the City Council's action, keeping the existing 25-foot maximum building height limit in effect throughout the entire Shorecliffs neighborhood.

The Council-adopted ordinance also contains an exception procedure allowing 19 of the lots affected by the ordinance to build higher than 16 feet if it can be shown that there will not be a substantial adverse impact on ocean views. The ordinance also relaxes some development standards for the affected lots to permit a slightly larger single-story building "footprint" than would otherwise be permitted.

## ARGUMENT IN FAVOR OF MEASURE I

### VOTE 'YES' -- SAVE SHORECLIFFS

Built in the 1960's, Shorecliffs was one of San Clemente's oldest planned single-story neighborhoods with carefully-terraced hillside streets and expansive ocean views. Two-story homes were only built along the perimeter streets to keep the ocean views unobstructed.

Recently, a few large view-blocking expansions have arisen changing the design of the community. The Shorecliffs Height & View Preservation Ordinance is a fair and balanced compromise that restores Shorecliffs' intended protection against these structures, ensures responsible growth, and preserves this unique and special neighborhood.

#### A YES vote:

- **PRESERVES PROPERTY RIGHTS** that were intended for all Shorecliffs homeowners.
- **SAVES EXISTING OCEAN VIEWS, NEIGHBORHOOD CHARACTER**, compatibility, privacy, quality of life and property values.
- **GIVES HOMEOWNERS THE RIGHT TO EXPAND** by allowing an increase in square footage on a single-story level for every home affected by a height limit.
- **PROVIDES A BALANCED SOLUTION** approved by the vast majority of Shorecliffs homeowners.
- **OFFERS A WIN-WIN SCENARIO** with NO administrative costs to the city and NO effect outside of Shorecliffs. It does NOT affect your neighborhood.
- **SAVES ONE OF SAN CLEMENTE'S** oldest, most unique single-story terraced neighborhoods from mansionization.

Your city council, planning commission and community leaders support this much-needed ordinance. The majority of Shorecliffs homeowners voted in favor of this ordinance in the Shorecliffs Advisory Vote as documented by the city clerk. Please join them and vote YES.

**PLEASE VOTE YES**

**SAVE SHORECLIFFS!**

s/ **Donald K. Hansen**

San Clemente Lifetime Achievement Award,  
San Clemente Citizen of the Year,  
Former President, San Clemente Exchange Club & Dons

s/ **M. Dwight Hamro**

Original Shorecliffs Homeowner,  
Aerospace Engineer (Ret.)

s/ **Charles Mann**

Community Leader, Save San Clemente Open Space

s/ **Kayne Schroeder**

San Clemente Aquatics Specialist, Teacher & Coach

s/ **Paige Foreman**

San Clemente Youth Sports & PTA Mom

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE I

### VOTE NO TO RESTORE FAIRNESS

Shorecliffs is a 40 year old community where 2-story homes have always existed. It has terraced hillsides and ocean views like many communities in San Clemente and all along our coastline.

These homes were built in the 1960's, they are generally less than 1700 square feet, and have well documented construction flaws.

The **TRUTH** is Shorecliffs CC&R's:

DO NOT restrict or prohibit 2-story homes or 2nd story home additions;

DO NOT provide view protection;

DO NOT describe any unique neighborhood character;

**[www.voteNosc.com](http://www.voteNosc.com)**

In 1991, proponents of restrictions similar to this ordinance sought modification of the CC&Rs in Superior Court. Their claim was not only denied, the entirety of the CC&R's was ruled "unenforceable."

Restrictions on property rights do not "save" property values, restrictions hurt property values.

A yes vote takes property rights from one and gives them to another, a **NO** vote preserves the property rights that all Shorecliffs homes were purchased under.

**This ordinance will create unequal property rights for THREE different areas within ONE neighborhood if passed.**

Even Charles Mann's Save San Clemente Open Space Committee says, "The zoning code is designed to prevent any one owner from abusing a system created for the benefit of all San Clemente residents"

Should a small number of San Clemente homeowners be granted special rights through zoning codes that are not for the benefit of all San Clemente residents?

Shorecliffs families simply want to retain the same rights you have to remodel their homes.

### **PLEASE VOTE NO ON I**

#### **Heather Sterner**

Shorecliffs Homeowner And Mother Of Young Family

#### **James W. Nielsen**

Chairman California Alliance To Protect Private Property Rights,  
Sponsor Prop 98

#### **Mat Deveze**

SC Resident And Business Owner, Save Trestles Activist, Surfer,  
SC Little League Coach And Father

#### **Harcourt "Court" Morgan**

SC Resident, Environmental Planner And Activist, Past Member National Scholastic Surfing Association And Father

#### **Michael S. Winsten**

Chairman CUSD Recall Committee, Director South Coast Children's Society, SC Little League Sponsor/Umpire And Father

## ARGUMENT AGAINST MEASURE I

### VOTE NO ON MEASURE I

**San Clemente families urge you to vote NO to restore property rights in San Clemente. A 'NO' vote will restore private property protection. Voting NO will send the right message that property rights are a constitutional right that should be protected not taken from citizens.**

Taxpayers and homeowners have wasted hundreds of thousands dollars on this ordinance. **Vote NO** and put an end to the waste of precious city funds to support special interests.

Nearly 6,000 San Clemente residents signed the petition to bring this **UNFAIR** ordinance to an end by demanding the repeal of the ordinance or bringing it to a city-wide vote.

Since then supporters of this **UNFAIR** ordinance filed a lawsuit against the City to stop this vote. They lost the lawsuit and their appeal. Your constitutional rights to have this vote were upheld by the courts.

This **UNFAIR** ordinance prevents families from adding on to their homes without significant expense and additional risk because it restricts homes to 16 feet high and forces expansion onto open space hillsides prone to landslides, or expansion by digging down.

This ordinance will take property rights from 269 homeowners by imposing 16-foot height restrictions on homes and **GIFT** those rights to select other homeowners, providing them with **PRIVILEGED** view protection not found anywhere else in San Clemente. A '**NO**' vote will restore these property rights to the rightful owners.

Attempts have already been made to impose similar restrictions on homes in other parts of San Clemente. Stop them here or your neighborhood could be next.

**Please join our coalition of San Clemente families and homeowners, the California Republican Party, Democratic leaders and thousands of San Clemente voters all of whom oppose this ordinance and urge you to VOTE 'NO'.**

**Save property rights and stop UNFAIR discriminatory takings for special interests.**

s/ **Ryan Wilkinson**  
Shorecliffs Resident

s/ **Jim Dahl**  
City Councilman, Former Mayor

s/ **Truman Benedict**  
Former Educator & San Clemente Citizen of the Year

s/ **Pete Carty**  
Commander U.S.N., SC Little League Coach, Shorecliffs Resident

s/ **Mimi Walters**  
Assemblywoman 73<sup>RD</sup> District



## REBUTTAL TO ARGUMENT AGAINST MEASURE I

### VOTE 'YES' -- THE ORDINANCE IS FAIR:

- **RESTORES PROPERTY RIGHTS INTENDED FOR ALL SHORECLIFFS FAMILIES.** Do property rights belong only to those who want to build up? What about the rights of surrounding neighbors? Aren't ocean views, privacy, and neighborhood compatibility important property rights?
- **WILL NOT AFFECT YOUR NEIGHBORHOOD.** Do NOT be misled. This ordinance ONLY affects Shorecliffs.
- **SAVES OCEAN VIEWS, PRIVACY, NEIGHBORHOOD CHARACTER AND QUALITY OF LIFE.** What they call a "gift" is actually a legal means of reinstating enforceable protections against view-blocking expansions in Shorecliffs – protections found in other San Clemente planned developments.
- **ALLOWS RESPONSIBLE EXPANSIONS.** The claim about landslides resulting from single-story expansions is ludicrous. Why would a one-story expansion pose a greater threat than a two-story?

### VOTE 'YES' – THEIR CLAIMS ARE MISLEADING:

- The City Clerk invalidated more than 2,000 of those "nearly 6,000" petitions. Those who signed wanted to VOTE on the ordinance, not "repeal" it.
- The city spent a fraction of the "hundreds of thousands" claim. Shorecliffs homeowners incurred most of the costs, NOT THE CITY. No further expense is needed.

The ordinance represents the will of the vast majority of Shorecliffs homeowners. In fact, 72% of the homeowners who voted in the official Shorecliffs Advisory Vote were IN FAVOR of the ordinance, as documented by the City Clerk. Please join the City Council, the Planning Commission and Shorecliffs families to **ENSURE RESPONSIBLE GROWTH FOR FUTURE GENERATIONS.**

**VOTE 'YES' -- SAVE OUR SHORECLIFFS!**  
**[www.SaveOurShorecliffs.com](http://www.SaveOurShorecliffs.com)**

**s/ Donald K. Hansen**

San Clemente Lifetime Achievement Award,  
San Clemente Citizen of the Year,  
Former President, San Clemente Exchange Club & Dons

**s/ Nora Kanoy**

Alternate, Orange County Republican Party Central Committee,  
Shorecliffs Homeowner

**s/ Charles Mann**

Community Leader, Save San Clemente Open Space

**s/ Chris Wade**

Chief Operating Officer, Herron Co., National Real Estate Appraisal Firm,  
Shorecliffs Homeowner

**s/ Norman R. Dickinson**

Member, Orange County Republican Party Central Committee,  
San Clemente Resident