



*City of Arts & Innovation*

# REVISED

## City Council Memorandum

**TO: HONORABLE MAYOR AND CITY COUNCIL      DATE: JULY 23, 2013**

**FROM: CITY ATTORNEY      WARD: ALL**

**SUBJECT: REPORT ON THE LEGAL VIABILITY OF A BALLOT MEASURE ON THE USE OF PHOTO RED LIGHT ENFORCEMENT CAMERAS**

**ISSUE:**

The issue presented for City Council consideration is a report on the legal viability of a ballot measure on the use of photo red light enforcement cameras in the City of Riverside.

**RECOMMENDATION:**

That the City Council receive and file this report.

**BACKGROUND:**

On February 26, 2013, the City Council received an update on the City's Photo Red Light Camera Enforcement Program. At that time, the City Council received a report on the litigation pending in the Riverside County Superior Court concerning an initiative in the City of Murrieta which would have prohibited the use of photo red light enforcement cameras. The measure was challenged in court and the trial judge ruled that the Murrieta initiative was beyond the powers of the voters because traffic regulation is a matter of statewide concern and the legislature has specifically delegated the regulation of automated traffic enforcement systems to city councils. California Vehicle Code section 21455.6 specifically authorizes city councils to enter into a contract for such a system. The court concluded that such a delegation therefore precludes the municipal electorate from using the initiative and referendum process to authorize or prohibit photo red light enforcement cameras.

The Court of Appeal then stayed the trial court's order and allowed the measure to go to the ballot where it was approved by the voters. The Court of Appeal did not rule on the principal issue of state preemption, or otherwise comment on the correctness of the trial court's conclusion. Rather, the appellate court deferred judicial resolution until after the election when there will be more time for full briefing and deliberation.

Following this report, the City Council received and ordered filed the photo red light camera program update, postponed consideration of the ballot measure on the use of photo red light camera enforcement until the court ruled on the validity of the measures, and requested staff to return to the City Council in time to consider a measure for the November, 2013 ballot. In conformity with that direction, we submit the following update on the Murrieta litigation.

The hearing on the legality of the ballot measure was held on April 5, 2013. After consideration of the pleadings on file, documentary evidence and the arguments of counsel, the trial court granted the petition challenging the measure and ordered the Murrieta City Council to take no action to enforce or implement the ballot measure known as “Murrieta Prohibition of Automated Traffic Enforcement Systems Act” which was passed at the November 6, 2012 general election. The judgment was entered on April 5<sup>th</sup>, and a Notice of Entry of Judgment was issued on April 10, 2013. The time for filing an appeal has expired and the litigation has concluded.

The trial court’s decision is well-reasoned and it is our opinion that the decision would have been upheld by the Court of Appeal had the ballot measure proponents elected to appeal the judgment. The judgment is consistent with the well-settled principle that the state has plenary power and has preempted the entire field of traffic control. Unless expressly authorized by the legislature, a city, whether charter or general law, has no police power over vehicular traffic control.

Most importantly, the City Council has and continues to retain the unquestioned authority to continue **or** terminate the red light camera enforcement program at any time pursuant to an express grant of authority in California Vehicle Code section 21455.6. Therefore, given the final determination in the Murrieta litigation, it is recommended that the City Council receive and file this report and take no further action other than to exercise the specific power granted to it by Section 21455.6.

**FISCAL IMPACT:**

None.

Prepared by: Gregory P. Priamos, City Attorney

Approved by: Scott C. Barber, City Manager