

Notice of Measure Election

SEL 802

26 194

rev 01/16 ORS 250.035, 250.041, 250.275, 250.285, 254.095, 254.465

City

Notice		
Date of Notice 3/16/2017	Name of City or Cities City of Portland	Date of Election May 16, 2017
Final Ballot Title The following is the final ballot title of the measure to be submitted to the city's voters. The ballot title notice has been published and the ballot title challenge process has been completed.		
Caption 10 words which reasonably identifies the subject of the measure. See attached		
Question 20 words which plainly phrases the chief purpose of the measure. See attached		
Summary 175 words which concisely and impartially summarizes the measure and its major effect. See attached		
Explanatory Statement 500 words that impartially explains the measure and its effect. If the county is producing a voters' pamphlet an explanatory statement must be drafted and attached to this form for: → any measure referred by the city governing body; or → any initiative or referendum, if required by local ordinance.		
		Explanatory Statement Attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Authorized City Official Not required to be notarized.		
Name Deborah Scroggin	Title City Elections Officer	
Mailing Address 1221 SW 4th Ave, Rm 310 Portland OR 97204	Contact Phone 503-823-3546	
By signing this document: → I hereby state that I am authorized by the city to submit this Notice of Measure Election; and → I certify that notice of receipt of ballot title has been published and the ballot title challenge process for this measure completed.		

RECEIVED
 17 MAR 16 PM 3:42
 TIM SCOTT
 DIRECTOR OF ELECTIONS

Deborah Scroggin
Signature

3/16/2017
Date Signed

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

SHELBY BENNETT,

Petitioner

v.

CITY COUNCIL OF THE CITY OF
PORTLAND,

Respondent.

Case No. 17CV08736

GENERAL JUDGMENT

This matter came before the Court on March 14, 2017, on a "Petition for Review of Ballot Title" filed by Shelby Bennett pursuant to ORS 250.296 and Section 2.04.120 C. of the Portland City Code directed to the Ballot Title prepared by respondent following adoption of City Council Resolution No. 37268 on February 15, 2017. Petitioner Shelby Bennett appeared by and through her attorneys, Rachel C. Lee and Per A. Ramfjord. Respondent City Council for the City of Portland, Oregon, appeared through their attorneys Linly F. Rees and Kenneth A. McGair, Sr. Deputy City Attorneys. The Court reviewed the memoranda filed by the parties and heard statements of counsel. Now, being fully advised,

IT IS HEREBY ORDERED that the following ballot title adopted following City Council Resolution No. 37268 is hereby certified to the elections officer for the City of Portland:

CAPTION1: AMENDS CHARTER: AUTHORIZES
COUNCIL TO CHANGE SCOPE OF TRANSIENT
LODGINGS TAX OBLIGATIONS

QUESTION: Shall City Council be authorized to impose
Transient Lodgings Tax obligations on online businesses and
others without further voter approval?

1 The court does not count the words "Amends Charter" in the 10-word limit for the caption, consistent with ORS 250.035(2)(a) ("Amends Constitution" not included in word limit for caption for measure that amends the Oregon Constitution), and *Portland Police Assn. v. Civil Service Board*, 292 Or 433, 440 (1982) ("A city's charter is, in effect, the city constitution").

SUMMARY: In City Charter Section 7-113, adopted in 1971, city voters authorized City Council to impose a Transient Lodgings Tax on amounts paid "for lodging" in hotels or other short-term rental spaces. The "owner or operator" of rental space is required to collect and remit this tax to the City. Recently, a federal court ruled that Charter Section 7-113 does not authorize the City to collect the Transient Lodgings Tax from a business that operates websites that connect tourists and other renters with homeowners and others seeking to make property available for short-term rentals. By authorizing new definitions and interpretations of Section 7-113, this measure authorizes Council to change the scope of Transient Lodgings Tax obligations and, among other things, (1) impose the tax obligations on businesses that facilitate short-term rentals but may not fit the 1971 definition of "owner or operator"; and (2) tax payments that may not fit the 1971 definition of payments "for lodging." Council could make such changes by ordinance without any additional voter approval. This measure does not change tax rates.

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IT IS FURTHER ADJUDGED that no costs or disbursements or attorneys' fees will be assessed against any party.

IT IS FURTHER ADJUDGED that this General Judgment fully and finally resolves all requests for relief by Petitioner in this action.

Presented by:

/s/ Kenneth A. McGair

Kenneth A. McGair, OSB #990148

Measure Explanatory Statement for County Voters' Pamphlet

Important! Please read all instructions before completing this form. This form is to be used when filing a 'Measure Explanatory Statement for County Voters' Pamphlet' with your County Elections office. If a local government is located in more than one county, the county clerk of the county in which the city hall of the city or the administrative office of the local government is located shall be the filing officer for the 'Measure Explanatory Statement for County Voters' Pamphlet'.

Filing Information

Election: Primary 20____ General 20____ Special May 16, 2017 Measure # 26 - 194

Ballot Title Caption

AMENDS CHARTER: AUTHORIZES COUNCIL TO CHANGE SCOPE OF TRANSIENT LODGINGS TAX OBLIGATIONS

Name of Person responsible for content of 'Explanatory Statement' (as it should appear in the Voters' Pamphlet):

Nick Fish

Name of Jurisdiction/Organization Person is authorized to represent (as it should appear in the Voters' Pamphlet):

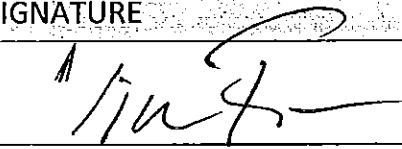
City of Portland

CONTACT INFORMATION

Phone: Cell: _____ Work: (503) 823-3589 Home: _____

E-Mail: NickFish@portlandoregon.gov

SIGNATURE



Signature of person responsible for content of 'Explanatory Statement'

RECEIVED
17 MAR 16 PM 3:43
TIM SCOTT
DIRECTOR OF ELECTIONS
Date 3/16/17

MEASURE EXPLANATORY STATEMENT

See attached for 'Measure Explanatory Statement' (500 word/number MAX).

For Office Use only:

County: _____

Signed? Yes No

'Measure Explanatory Statement' attached?

Yes No

Intake Staff Initials: _____

Word Count (500 max): _____

Digital copy? Yes No

Review Staff Initials: _____

Explanatory Statement (up to 500 words)

The "Transient Lodgings Tax" is the tax a guest pays when they stay in a hotel, motel, vacation rental or any other short-term rental in the City of Portland.

This measure amends Portland's City Charter (Section 7-113 Transient Lodging Tax) to clarify that City Council, by adopting an ordinance, can ensure that transient lodging taxes are collected and remitted from all short-term lodging rentals in the City of Portland.

City Charter Section 7-113 was enacted in 1971 to impose a Transient Lodgings Tax on amounts paid "for lodging" to the "owner or operator" of any hotel or other space in Portland that is intended for short-term lodging. At that time, the only way to make a reservation at a lodging establishment was by phone or in person and the types of spaces designed for short-term lodging did not include the technologies available today.

A federal court recently ruled that the City Charter does not currently authorize the City Council to require online businesses to collect and remit Transient Lodgings Taxes because they are not the "owner or operator" of lodging space, as those terms were understood in 1971. And the Charter does not apply to new technologies that help travelers book and pay for lodging.

Technology changes over the past 45 years have increased the number of ways a guest can reserve and pay for a hotel, motel or other short-term rental. Additionally, the types of lodging structures and locations that now offer transient lodging occupancy have changed over this time period. Both reservations and payments for transient lodging are no longer required to be done directly with the owner or traditional operator of the hotel or space intended for lodging occupancy as in the past. Today, there are dozens of online companies that advertise a variety of lodging types and locations and are able to accept both room reservations and deposits or full payments for a variety of lodging options. Some online businesses collect and remit the Transient Lodgings Tax. Others do not.

Adding this provision allows the City Council, through legislative action following a public hearing, to define terms to match the current ways transient lodging occupancy is offered and reserved. It would ensure that transient lodging taxes are properly collected from guests in the same manner for all types of transient lodging rentals.

The Measure does not increase the tax rates. Revenues from the city's 5% Transient Lodgings Tax are credited to the city's General Fund and used for fire, police and other basic City services. Additionally, revenues from a 1% Transient Lodgings Tax are credited to a non-profit corporation dedicated to the promotion, solicitation, procurement, and service of convention business and tourism in the City.

Submitted by:

Nick Fish

Portland City Council