

From: Dianne Martinez <dmartinez@emeryville.org>
Sent: Monday, April 19, 2021 10:23 AM
To: Andrea Visveshwara <avisveshwara@emeryville.org>; Michael Guina <mguina@emeryville.org>
Cc: Sheri Hartz <shartz@emeryville.org>
Subject: Re: [External] proposed Right to Recall ordinance

Hi, there -

For some reason the complete email didn't seem to forward...

I've copied their text below:

"Dear Councilmembers,

Thank you for considering the proposed Right to Recall ordinance for Emeryville hotel and card club workers. As you know, hospitality workers have been extremely hard hit by mass layoffs during the COVID-19 pandemic, and many are at risk of never getting their old jobs back. Now that vaccinations are underway and we can all see a light at the end of the tunnel, laid-off workers are asking for assurance that they will be able to get back on their feet as their industry recovers. In addition to urging you to pass a Right to Recall ordinance as soon as possible, I'd like to address some of the particular policy questions you may be considering.

1. Applicability. UNITE HERE Local 2850's draft of the proposed ordinance would apply to the groups of workers hardest hit by mass layoffs in Emeryville: hotel and card club workers. The hotels have been operating at very low occupancies and with skeleton crews, and the card club was closed completely for over a year. In other cities, workers at airports, convention centers, and sports stadiums and arenas have also been very hard hit. These groups of workers have been covered by other local ordinances, including Oakland's, but do not exist in Emeryville.

2. Length of recall benefit. If we have learned anything from the last year of the pandemic, it's that it is impossible to predict the timing of things going back to normal. It is still impossible to say how quickly the hospitality industry will recover, which is why the right to recall should not be time limited. For the same reason, we advocate that the ordinance not have an automatic sunset date. The ordinance will essentially sunset itself when all the workers have been called back to work. Our draft also includes a "check-in" provision calling for staff to report by the end of 2022 on the progress of worker recall in the affected industries and whether or not it is necessary to keep the ordinance on the books and/or take any additional action. This is consistent with most other recall rights ordinances in California, including Oakland's.

3. Length of notice period. The notice period simply needs to be long enough for workers to have an opportunity to consider it and respond without being unduly rushed. Nobody should lose their opportunity to return to work because of a delay in mail delivery or because they need to take a few days to discuss with their family the pros and cons of returning to work during a pandemic. Ten days allows this without being overly burdensome to employers, who will be making advance plans to reopen and, in the case of hotels, have occupancy forecasts weeks in advance. (They cannot

predict occupancy with total accuracy, but nor do they need to tell workers at the time of recall how many days per week they will be working.) A ten day notice period is consistent with Oakland.

4. Intersection with Measure C. Nothing about this draft ordinance is inconsistent with Measure C. The threshold of applicability (50 hotel rooms) is the same. Otherwise, the ordinances cover different situations. The worker retention provisions of Measure C apply when the ownership or management of a hotel changes, ensuring that employees working at the hotel prior to the ownership or management change don't lose their jobs. The proposed Right to Recall ordinance applies to workers who have been laid off, due to the pandemic, not due to a change of ownership. It also includes a provision that extends these recall rights even if ownership changes while workers are laid off. This provision will allow the ordinance to fit seamlessly with Measure C. If a hotel is sold while some of the workers are working and some are laid off, Measure C will ensure the workers who are working keep working, and the Right to Recall ordinance will ensure the laid-off workers have the opportunity to go back to work in the future.

5. Enforcement. Every local recall rights ordinance that has passed in California has a private right of action (right to file a civil lawsuit) because most cities do not have the resources to do the necessary enforcement. A private right of action empowers workers, individually or collectively, to enforce their rights themselves.

Please feel free to reach out to me if you have any questions.

Thank you,

Ty

Ty Hudson
UNITE HERE Local 2850

Dianne Martinez
she/her/hers
Mayor
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

510-596-4376 office
dmartinez@emeryville.org