

I. THE ANTI-INJUNCTION CLAUSE IS A CONSTITUTIONAL NULLITY

The provision contained in Oakland Municipal Code §4.26.130 titled “Enjoining Collection Forbidden” is not simply unconstitutional ; it is legally impossible for a municipality to enact.

Only the Legislature may define or limit judicial remedies regarding taxation. Municipal governments possess no authority whatsoever to restrict the jurisdiction or equitable powers of the courts.

The separation-of-powers doctrine contained in California Constitution Article III provides that: The legislative, executive, and judicial powers of state government are separate. Under this constitutional structure, the judiciary alone determines when injunctive relief is appropriate.

A city ordinance attempting to prohibit courts from issuing injunctions is therefore ultra vires and void.

The California Supreme Court has repeatedly emphasized that local governments cannot immunize themselves from judicial review. See: • Rossi v. Brown (1995) • Howard Jarvis Taxpayers Assn. v. City of La Habra (2001) The ordinance here attempts precisely that. **By declaring that courts may not enjoin collection of the tax, the City attempted** to legislate away the judiciary’s core equitable authority. No municipality possesses such power.

Accordingly, Section 4.26.130 is void ab initio.

II. THE CITY ATTEMPTED TO CREATE A MUNICIPAL VERSION OF A STATE “ANTI-INJUNCTION TAX STATUTE”

Page(2)

The defect becomes even clearer when the ordinance is compared to state law. Certain state tax systems contain statutes limiting injunctions against tax collection. Those statutes exist because the state Legislature enacted them pursuant to its constitutional authority. But municipalities do not possess that authority. Local governments derive their powers from the state and therefore cannot create their own jurisdiction-stripping statutes. **Inserting an anti-injunction provision into a municipal tax ordinance is therefore the legal equivalent of a city attempting to:**

- redefine judicial jurisdiction, or
- rewrite state procedural law. Both are constitutionally impossible. **Thus the clause is not merely defective — it represents a fundamental jurisdictional overreach.**

III. THE PRESENCE OF AN ANTI-JUDICIAL CLAUSE DEMONSTRATES INTENT TO EVADE CONSTITUTIONAL REVIEW Courts are particularly suspicious when legislation attempts to preemptively shield itself from judicial scrutiny.

Section Oakland Municipal Code §4.26.130 was inserted precisely for that purpose: to ensure that even if the tax were unlawful, courts could not stop it. That design feature alone undermines the legitimacy of the ordinance. California courts have repeatedly warned that legislative bodies cannot construct legal barriers to judicial review of their own actions. Such provisions strike at the core of constitutional governance.

IV. THE DEFECT IS COMPOUNDED BY MISLEADING THE ELECTORATE ABOUT THE TAX The constitutional problem is

compounded by the manner in which the measure was presented to voters.

The ballot materials described the measure as a “sales tax.” But the ordinance enacted a transactions and use tax under California Revenue and Taxation Code §7251. Those taxes differ in a critical respect: • Sales tax applies only to retail transactions occurring within the jurisdiction. • Transactions and use tax applies to goods purchased elsewhere but used within the jurisdiction. By labeling the tax a sales tax, **the ballot materials failed to disclose that the measure would reach out-of-city purchases and online transactions.**

California law requires ballot descriptions to accurately reflect the measure being approved. See: • California Elections Code §13119 • Rossi v. Brown (1995) Where voters are misled regarding the nature or scope of a tax measure, the election result cannot stand because the electorate did not knowingly approve the tax that was enacted.

V. THE TWO DEFECTS TOGETHER CREATE A STRUCTURAL CONSTITUTIONAL FAILURE

The defects in this case are mutually reinforcing. First, the City **misrepresented** the nature of the tax to obtain voter approval. Second, **the ordinance includes a clause attempting to prevent courts from halting the tax. The combination is extraordinary.**

It effectively creates the following sequence: 1. Misdescribe the tax to voters. 2. Enact a broader tax than voters were told about. 3. Insert a clause attempting to prevent courts from stopping it. **Courts cannot permit such a structure to stand.**

Allowing a municipality to mislead voters and then attempt to insulate the resulting tax from judicial review would undermine both electoral integrity and constitutional governance.

VI. THE DEFECT RENDERS THE ENTIRE MEASURE VOID

Respondents may argue that the anti-injunction clause can be severed. But severance is inappropriate where the invalid provision reflects a core structural defect. Under the severability doctrine explained in *Legislature v. Deukmejian* (1983), courts must determine whether the remaining measure would represent the same legislative scheme adopted by voters. Here it would not. **The anti-injunction clause was designed to guarantee that the tax would continue to be collected even if its legality were challenged.**

Page(4)

Removing the clause would fundamentally change the enforcement scheme voters were asked to approve. Thus the ordinance cannot be judicially reconstructed.

VII. THE COURT SHOULD ISSUE A WRIT INVALIDATING THE MEASURE

Because the ordinance: • was approved through misleading ballot language, and • contains a jurisdictionally void attempt to restrict judicial authority, the enactment is constitutionally defective in its entirety.

The Court should therefore:

1. Declare Oakland Measure A (2025 Transaction and Use Tax) invalid;
2. Prohibit further enforcement of the ordinance; and
3. Grant such additional relief as justice requires. The Devastating Line Judges Remember

In appellate arguments, one sentence can crystallize the entire case: “The City obtained voter approval for a ‘sales tax,’ enacted a broader transactions and use tax, and then attempted to forbid courts from stopping it. No municipality has the power to do that.” That line simultaneously highlights: • voter deception • constitutional overreach • judicial interference