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Palo Alto sued over plastic-bag ban

Lawsuit claims city failed to conduct adequate environmental analysis; calls for new ordinance to be invalidated

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Palo Alto's crusade against plastic bags faced its first legal challenge Tuesday, when a coalition of groups filed a [lawsuit](#) claiming that the city acted too rashly when it banned plastic bags from local grocery stores last month.

The lawsuit, filed on Tuesday by a coalition led by the group [SaveThePlasticBag.com](#), claims the city violated California law when it chose not to conduct a detailed Environmental Impact Report before it adopted an [ordinance](#) on March 16 banning plastic bags from grocery stores. Palo Alto's ban is slated to take effect Sept. 18.

Stephen Joseph, an attorney representing the Save the Plastic Bag Coalition, argues in the lawsuit the city's ordinance will force shoppers to shift to paper bags and that the city has failed to adequately consider the environmental impacts of this shift. The basis for the plastic-bag ban, the suit argues, is rooted in misleading information spread by "anti-plastic bag activists."

"In their zeal to eliminate plastic bags, anti-plastic bag activists and the City and Council have willfully ignored and brushed aside the environmental impacts caused by increasing the use of paper," the complaint states.

Joseph had previously voiced these concerns at public hearings before the ordinance was adopted and threatened to sue the city should it proceed. The city's environmental study acknowledged short-term environmental impacts from increased paper-bag usage, but emphasized the city's aggressive efforts to promote reusable bags as an effective way to mitigate these impacts.

"What we object to is the misinformation that is being spread about plastic bags, as well as about paper bags and reusable bags," Joseph told the Weekly. "From the point of view of environmental truth, there should be a proper objective analysis or the merits of plastic, paper and reusable bags."

Palo Alto's ordinance, the suit argues, should be nullified. Joseph's group successfully used a similar argument in its lawsuit against the City of Manhattan Beach, which banned plastic bags from stores last year. In February, the Los Angeles Superior Court ruled that Manhattan Beach should have conducted the environmental study and invalidated the ordinance. Manhattan Beach is currently appealing that ruling.

Beside [SaveThePlasticBag.com](#), petitioners listed in the complaint include several plastic-bag manufacturers, a Los Angeles County-based maker of reusable bags, and several individuals whom the complaint says have no financial interests in the plastic-bag debate.

"All of petitioner's members identified above are concerned about the environmental misinformation being disseminated about plastic bags because such misinformation is harmful to the environment and contrary to the public interest," the lawsuit states. "They firmly believe that a switch to paper bags will cause environmental damage that should be avoided."

Tuesday's lawsuit didn't come as a surprise to Palo Alto officials. Even before the City Council adopted the ordinance on March 16 by an 8-1 vote (with John Barton dissenting), council members acknowledged that a lawsuit from plastic-bag proponents is all but inevitable. They argued, however, that the city should proceed with the ban anyway, largely to reduce environmental impact.

Councilwoman Yoriko Kishimoto, a proponent of the bag ban, reaffirmed the city's position Tuesday. The lawsuit doesn't change her belief that passing the ordinance was the right move, she said.

"As a city, we're not surprised that this lawsuit did happen," Kishimoto said. "Our basic stance is that you can't let the threat of a lawsuit stop you from doing the right thing."

City officials have also argued that Palo Alto has a stronger case than Manhattan Beach did because the city provided a "negative mitigated declaration" -- an environmental-impact study that is less comprehensive than an Environmental Impact Report but more detailed than the "negative declaration" that Manhattan Beach supplied before proceeding with its ordinance.

Assistant City Attorney Donald Larkin said Tuesday the city has a very strong case against the new (but largely expected) legal challenge. The city's negative mitigated declaration already addressed the issues Joseph brought up, Larkin said.

"We did look at the paper bags, and we did look specifically at some of the studies that Mr. Joseph has mentioned in his comments," Larkin said. "All those issues he raised initially -- we responded to them."