

# ZIR Historical Timeline

## As of March 8, 2019

The Santa Barbara Association of REALTORS® (SBAOR) has often been asked what steps have been taken in regards to the City of Santa Barbara Zoning Information Report (ZIR) problems. Below is a *brief* historical timeline describing various meetings and actions which are leading SBAOR to ask the City Council to make ZIR's voluntary. If you have any questions or need additional information, please contact Krista Pleiser, Government Affairs Director at (805) 884-8609 or [kpleiser@sbaor.com](mailto:kpleiser@sbaor.com).

**June 2009** – The SBAOR ZIR Task Force was formed in order to address problems surrounding ZIR's.

- The conclusion of the first meeting was Santa Barbara City staff does not understand the volatility of an escrow, short sales, or a 30 day escrow. It was also concluded that ZIR's can negatively impact property values and ZIR's need to be reliable.
- Began receiving "stories" of inaccurate ZIR's

**July 2009** – Met with Santa Barbara City staff about problems with ZIR's. The following issues were discussed:

- Issues with timing from application to completion.
- A suggestion by Santa Barbara City staff was to educate SBAOR members on getting ZIR's done as soon as a listing comes on the market. SBAOR disseminated this information, but the problem is property owners don't know if their property will sell and therefore they don't want to invest that much money.
- Discussed emailing reports and accepting faxed applications with credit card information.
- Discussed priority in the permitting process for those who have violations and need to have resolution.

**October 2009**

- SBAOR sent a letter to Santa Barbara City staff concurring with a suggestion put forth by the joint Planning Commission and City Council. The suggestion was to make ZIR's optional.
- Met with Santa Barbara City staff about problems with ZIR's. The following issues were discussed:
  - Proposed the idea of making condo's optional and Santa Barbara City staff concurred with the Task Force that condos shouldn't need to be mandatory.
  - Proposed the idea of privatizing the ZIR process.
  - Learned about the holiday furloughs and how they would affect ZIR's. SBAOR worked with Santa Barbara City staff to disseminate the information to entire membership

**January 2010** – SBAOR staff had a conversation with Santa Barbara City staff about:

- When condos will become optional.
- Informed that ZIR's probably won't become optional for single and multi-family dwellings because ZIR's are used as a measuring tool for the housing element, good statistics come out of ZIR's, and ZIR's are good at catching illegal units.
- Santa Barbara City staff asked SBAOR staff to look into if home inspectors would be open to the idea of privatizing ZIR's.

**February 2010**

- SBAOR ZIR Task Force met:
  - Discussed why the City of Santa Barbara didn't need ZIR's and concluded that the County and Goleta don't have them and those areas aren't health and safety hazard areas or slums.
  - The Task Force received information from the City of San Marino on their privatization ordinance and forwarded it to the Santa Barbara City staff
- Met with Santa Barbara City staff:
  - Received news that Jinny's replacement would be Betsy Teter as ZIR Inspector
  - Discussed the privatization plan

## **April 2010**

- Met with Santa Barbara City staff:
  - ZIR's would be delivered via email in June
  - Continued discussions about making condos optional
  - Was told by Santa Barbara City staff that they are proposing an increase in the price of ZIR's from \$415 to \$465 in July
- Santa Barbara Finance Committee meets. A Councilmember questions if increasing the ZIR fees will make the process happen any faster. The answer from Santa Barbara City staff was no, the purpose of increasing the fee is to keep a full time employee (FTE).

## **May 2010**

- The SBAOR Task Force writes a letter to the City Council urging them to support making condos optional for ZIR's and to oppose the increase in the ZIR fees.
- Santa Barbara Budget Hearings bring up several questions such as "do the fees justify the service". Condos are forwarded and the increased fees pass.

**June 2010** – Members of the SBAOR ZIR Task Force and GRC met with every Councilmember to discuss the ZIR issues. There was interest in changing ZIR's but no real action to do anything about it.

**October 2010** – The Ordinance Committee met to make minor ordinance revisions to ZIR's which included making ZIR's optional for condos. The language is vetted with SBAOR and passes.

**November 2010** – City Council met and made condos optional

**May 2011** – SBAOR ZIR Task Force met and discovers more issues with ZIR's:

- ZIR's calling out violation on laundry facilities in 20x20 garages, there's no consistency, ZIR's are way too expensive since they can't be relied upon, and reports are getting a note in the file instead of being cleaned even if the violation was proven wrong.
- Introduced "grandfathering" idea to Task Force

**September 2011** – Met with Santa Barbara City staff to discuss:

- "Grandfathering"
- The City must stick to zoning issues only
- Went over the scope and history of a ZIR

**November 2011** – SBAOR ZIR Task Force sent a letter to Santa Barbara City staff following up on the "grandfathering" idea.

**January 2012** – Met with Santa Barbara City staff

- Discussed before mentioned issues

## **February 2012**

- SBAOR worked with Santa Barbara City staff to create a pamphlet explaining the ZIR process
- SBAOR sent a letter to the City Council and Planning Commissioners requesting that ZIR's continue to be a major work assignment within the Planning Department. This was accepted.

**March 2012** – SBAOR ZIR Task Force and GRC discussed going forward to City Council with an optional or elimination plan.

**May 2012** – SBAOR submits a letter to the City Clerk requesting to be placed on the Council agenda to discuss openly the issues of ZIR's and to present the various options SBAOR and Santa Barbara City staff has worked on. Discovered that the information about how to submit an agenda request was wrong on the city website and was informed that 2 Councilmembers need to place it on the agenda.

**May – August 2012** – Met with various City Council members who all agreed that something should be done to rectify the ZIR problems, but they don't know what the solutions are.

**September 2012** – Met with Santa Barbara City staff and department heads

- Various solutions were discussed and the City agreed to meet with SBAOR again after the City was able to have an internal meeting to discuss all the solutions.

**October 2012** - Planning Commission and City Council jointly met and agreed that ZIR's are a problem.

**November 2012** – Received a response to SBAOR's May letter from the Santa Barbara City staff. The letter explained the City's role in ZIR's and responded to the various solutions presented.

**December 2012** – Met with Santa Barbara City staff and department heads as a follow up to the September meeting. It was discussed that an appeal form, guideline menus, and ordinance changes would be reviewed by the Santa Barbara City staff to determine if these would be viable options.

**February 2013** – SBAOR ZIR Task Force met and decided to see what Santa Barbara City staff had to offer and if the proposed changes wouldn't rectify the problems then SBAOR would go forward to City Council.

**March 2013**

- SBAOR ZIR Task Force met and decided that the proposals of an appeal form, guideline menus, and ordinance changes were not palatable. The proposed changes would create an additional cost to correct violations.
- Received a memorandum from Robinson & Cole that the City is not liable for any inaccurate reports. This is not a legal opinion, but an analysis.

**April 2013** – SBAOR BOD voted to advocate for voluntary ZIR's at City Council

**May 2013** – Met with two City Councilmembers and they will discuss this issue with Santa Barbara City staff and others concerned with this issue.

**August 13, 2013** – Had ZIR issue placed on City Council agenda and City Council will have the ordinance reviewed by the Planning Commission and Ordinance Committee.

**September 12, 2013** – City Council and Planning Commission had a joint work session and received an update on what City Council said the previous month about ZIR's as well as possible changes that could occur in the future.

**September 19, 2013 & October 3, 2013** – Planning Commission met and agreed that a ZIR Working Group be formed to delve into all the nuanced issues revolving around ZIR's. The Commissioners didn't necessarily want to get rid of ZIR's because they felt that it is a good tool for buyers.

**January 30, 2014**  
**February 26, 2014**  
**March 12, 2014**  
**April 17, 2014**  
**April 24, 2014**  
**June 3, 2014**  
**July 22, 2014**  
**September 23, 2014**  
**October 21, 2014**

ZIR Working Group Meetings – The Working Group worked on clarifying and streamlining the ZIR process and formulating recommendations for changes to the ZIR process and Zoning Ordinance. The first several meetings focused on gaining common ground and understanding of the issues, information sources used for preparing a ZIR, the process of preparing a ZIR, how staff classifies and identifies major and minor violations, and abatement process when violations are identified in a ZIR. The subsequent meetings focused on the definition of major and minor violations, improvements to the ZIR template, dealing with discrepancies between ZIR's, administrative zoning approval process, the abatement of violations identified in ZIR's, and a potential Zoning Abatement Pilot Program.

**November 13, 2014** – Planning Commission recommended to City Council to move forward with the ZIR Working Group recommendations which include identification and categorization of major and minor violations, changes to the ZIR template and appeal of ZIR findings, dealing with discrepancies between ZIR’s, administrative zoning approval, encouraging early violation abatement and application for ZIR’s, changes to the ZIR process (short-term, in-progress, longer-term which require ordinance amendments).

**February 10, 2015** – City Council meeting – City Council moves forward with recommendations from ZIR Working Group.

**May 13, 2015** – Grand Jury investigates ZIR’s and finds that “while ZIR’s had an important role to play in preserving neighborhoods from overcrowding, time has caught up with them and they no longer hold the relevance they once had.... Once the City affixes its official seal to the document, it should stand behind its staff and the information it provides.”

**June 4, 2015** – Planning Commission discussed a proposal that would allow the Community Development Director to grant Minor Zoning Exceptions (MZE) in the case of a discrepancy or error in ZIR’s.

**July 21, 2015** – City Council meeting - City Council responds to the Grand Jury Report. States many improvements are already being made and therefore the Grand Jury’s recommendations are noted as unwarranted or include an explanation of improvement efforts already underway. SBAOR responds to response with concerns on the basic dismissal of the Grand Jury’s recommendations. Councilmembers Rowse/Francisco to form an adhoc committee to work with staff to redraft answers to the Grand Jury report and bring back to Council on August 4, 2015, for approval.

**August 4, 2015** – City Council meeting – City Council accepts rewritten response to the Grand Jury Report. SBAOR responds to response by pointing out discrepancies and reiterating that ZIR’s should be voluntary, per the Grand Jury Report.

**October 13, 2015** – City Council Ordinance Committee – forwarded the recommended MZE process to Planning Commission.

**November 5, 2015** – Planning Commission – Recommended to City Council to approve the MZE Ordinance with the changes of 1) including façade changes in the interior setback and 2) allow the administrative decision on a MZE be appealed to the Community Development Director and not require a notice or public hearing.

**December 15, 2015** – City Council – adopted MZE ordinance with recommended changes from the Planning Commission.

**February 11, 2016** – MZE became effective

**June 2016** – ZIR webpage on the City’s website is launched. Has FAQ’s, information on MZE’s, and talks about how to get a ZIR.

**August 19, 2016** – NZO Joint Committee – The committee moves forward to retain minor “left-over” MZE items in the ZIR chapter as exceptions.

**September 15, 2016** – SBAOR and City meet to discuss City of Santa Barbara’s draft New Zoning Ordinance changes to the Minor Zoning Exception process. It was decided to keep the MZE even though there are only 4 items within the MZE.

**September 22, 2016**  
**October 27, 2016**  
**December 7, 2016**



New SBAOR ZIR Task Force formed. Meets to discuss issues of the confidentiality of the RPA and why the City does not need it to prove the need for an expedited ZIR; a formal appeals process; checklist for City ZIR inspections; lack of knowledge at the planning counter re: ZIR’s; create an informational guide for SBAOR members regarding ZIR process.

**January 2017** - Received funding clearance from C.A.R. Legal Action Trustees to sue the City of Santa Barbara to challenge the constitutionality of ZIR's because it imposes unconstitutional conditions on the Fourth Amendment right of homeowners to be free from unreasonable searches. SBAOR retained legal counsel from Pacific Legal Foundation.

**April 21, 2017** – Pacific Legal Foundation submitted letter to City of SBAOR intent to sue.

**June 21, 2017** – SBAOR receives letter from City stating they are procedurally changing ZIR’s to allow “drive-by’s”. This means the inspector does not enter the property, but views the property from the sidewalk. This "drive-by" did not change the way the ordinance is currently written.

**October 19, 2017** – Filed lawsuit.

**November 30, 2017** – City files demurrer to have the petition dismissed.

**December 7, 2017** – SBAOR files amended complaint.

**January 12, 2018** – City files demurrer again.

**March 19, 2018** – Judge Stern hears oral arguments for demurrer case.

**June 4, 2018** – Judge Stern upholds demurrer.

**June 13, 2018** – SBAOR files second amended complaint.

**July 17, 2018** – City files demurrer.

**August 23, 2018** – Judge Stern upholds demurrer as “time-barred”. Pacific Legal Foundation will not appeal case.

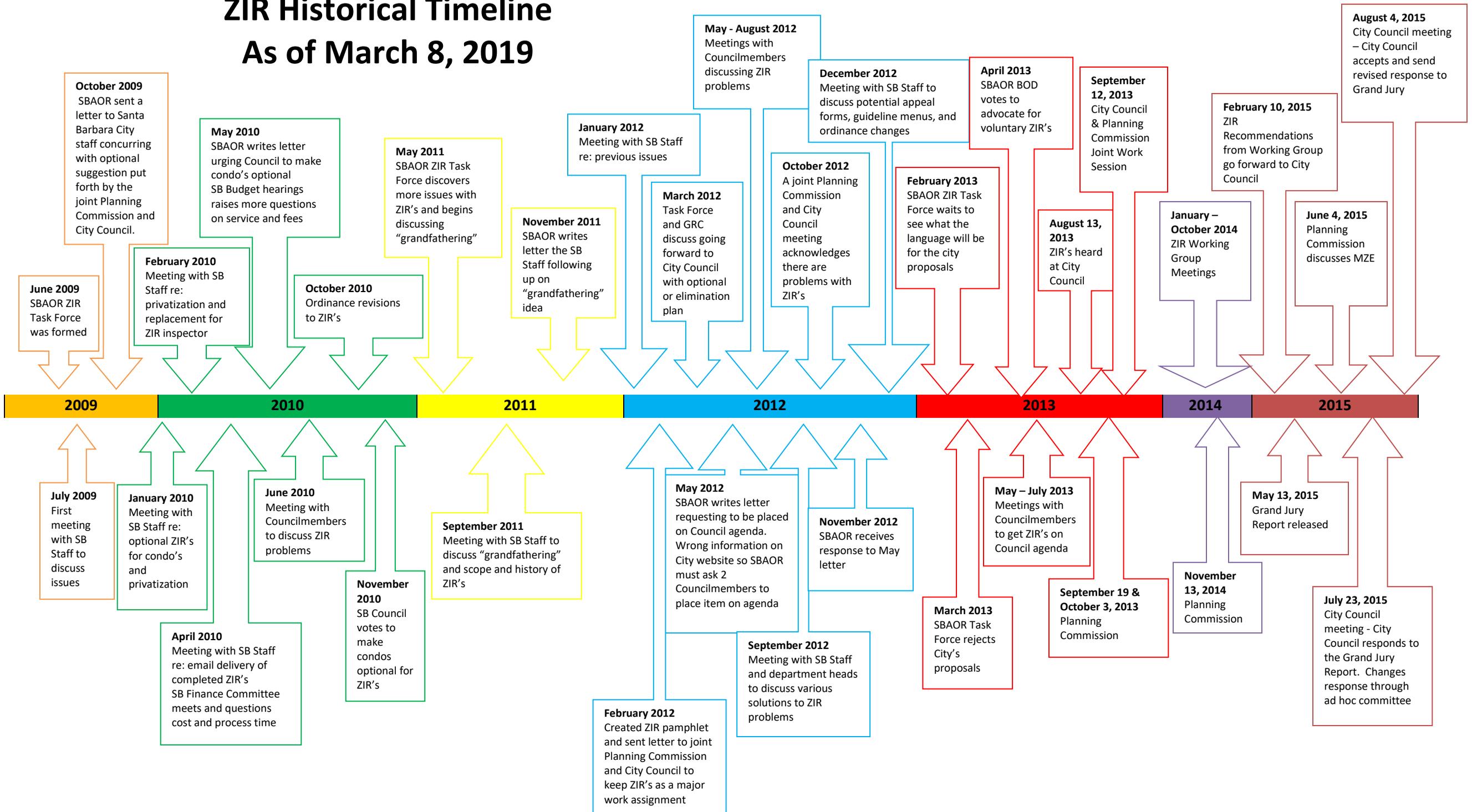
**November 6, 2018** – SBAOR Board of Directors approves moving forward with trying to place an initiative on the City of Santa Barbara ballot to repeal ZIR’s.

**January 2019** – SBAOR begins process to create and submit petition for initiative – retains election lawyer & signature gathering firm

**March 5, 2019** – submit initiative to City Clerk for Title and Summary

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## As of March 8, 2019



**October 13, 2015**  
City Council Ordinance Committee forwards MZE process to Planning Commission

**December 15, 2015**  
City Council adopts MZE

**February 11, 2016**  
MZE becomes effective

**August 19, 2016**  
NZO Joint Committee retains "left-over" MZE items in the ZIR chapter as exceptions

**September 22, 2016**  
**October 27, 2016**  
**December 7, 2016**  
Formed new ZIR Task Force to discuss multiple issues.

**January 2017**  
SBAOR receives funding approval from C.A.R. to use Pacific Legal Foundation to sue City over violation of 4<sup>th</sup> Amendment

**June 22, 2017**  
City changes ZIR procedure: request written consent to enter home or "drive by" option

**October 18-26, 2017**  
News stories about SBAOR filing lawsuit

**January 12, 2018**  
City files demurer

**June 4, 2018**  
Judge Stern rules in favor of demurrer.

**July 17, 2018**  
City files demurer again

**November 6, 2018**  
BOD approves moving forward with trying to place an initiative on the 2019 City of Santa Barbara ballot to repeal ZIR's

**January 2019**  
Begin initiative process

**2015 (cont.)**

**2016**

**2017**

**2018**

**2019**

**November 5, 2015**  
Planning Commission recommends to City Council MZE

**June 2016**  
ZIR webpage on City website launched

**September 15, 2016**  
SBAOR and City meet to discuss retaining MZE's

**April 20, 2017**  
Meet with City to explain violation of 4<sup>th</sup> Amendment & possible lawsuit

**October 18, 2017**  
Filed Complaint!

**November 14, 2017**  
City approves spending up to \$110,000 on outside counsel

**March 19, 2018**  
Demurer heard in court

**June 13, 2018**  
SBAOR files second amended complaint.

**August 23, 2018**  
Judge Stern uphold demurrer based on "time-barred".

**March 5, 2019**  
SBAOR submit petition for initiative