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A T T O R N E Y S

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May 12, 2016

VIA E-MAIL AND U.S. MAIL

Councilman Mitch O'Farrell
Chair, Arts, Parks and River Committee
Los Angeles City Council
City Hall
200 North Spring Street, #480
Los Angeles, CA 90012

**Re: CF 15-1138-S8/Change of Use of Westminster Senior Center at
1234 Pacific Avenue to Storage Use**

Dear Councilman O'Farrell and Members of the Committee,

Our firm represents the Venice Stakeholders Association, a non-profit organization dedicated to the protection and preservation of the Venice community. The Association is opposed to the proposed conversion of the Westminster Senior Center at 1234 Pacific Avenue, in Venice, for use as a storage facility for private individuals ("Project"), which the City is attempting to accomplish by the mere modification of an existing contract between it and Chryalis, a non-profit organization, which will operate the Project.

The City's proposed actions to approve the Project do not conform to State and City laws, including due process.

1. The Project Requires a Project Permit pursuant to the Venice Local Coastal Specific Plan and a Coastal Development Permit

Pursuant to the Venice Local Coastal Specific Plan, no certificate of occupancy may be issued for any Venice Coastal Development Project unless the project has received a Venice Coastal Specific Plan Exemption or a Project Permit pursuant to Los Angeles Municipal Code ("LAMC") §11.5.7 [Section 6]. Here, the Project does not fall into any of the enumerated projects eligible for a Venice Coastal Specific Plan Exemption [Section 8.A], and therefore must receive a Project Permit pursuant to LAMC §11.5.7 [Sections 8.B, 8.C] prior to being issued a certificate of occupancy for the proposed change of use.

Councilman Mitch O'Farrell
Chair, Arts, Parks and River Committee
May 12, 2016
Page Two

Similarly, both the State Coastal Act and LAMC §12.20.2 require a Coastal Development Permit ("CDP") to be obtained for an intensification of a non-residential use (intensification includes increase in parking need, increased impact to potential traffic generation, noise, smoke, glare, odors, hazardous materials, water use, sewage generation, etc.). Over the last five years, the Westminster Senior Center has been only used sporadically for public meetings. Accordingly, the attraction of hundreds of people on a daily basis during the winter when the Winter Shelter program is operating constitutes an intensification of use requiring a CDP.

2. The Project Must Comply with the California Environmental Quality Act

Under the California Environmental Quality Act ("CEQA"), environmental review is required for all "projects," *i.e.* activities which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment undertaken, supported, or approved by a public agency. *California Building Industry Association v. Bay Area Air Quality Management District* (2013) 218 Cal.App.4th 1171. The definition of "project" is given a broad interpretation to maximize protection of the environment. *Center for Sierra Nevada Conservation v. County of El Dorado* (2012) 202 Cal.App.4th 1156.

Under the definition provided by CEQA, the Project, which will change the use of the Westminster Senior Center, requires environmental review prior to approval. Such environmental review must include the impacts on noise (a storage use will undoubtedly attract scores of transients to camp adjacent to the facility, both on city park property and adjacent sidewalks and alleys, causing late night noise to the surrounding residential community).

3. The Recreation and Parks Department Must Hold a Public Hearing

The Ralph M. Brown Act serves to facilitate public participation in all phases of local government decisionmaking and curb misuse of the democratic process by secret legislation of public bodies. *Epstein v. Hollywood Entertainment Dist. II Business Improvement Dist.* (2001) 87 Cal.App.4th 862, 868. It requires that proceedings of public agencies, and the conduct of the public's business, take place at open meetings, and the deliberative process by which decisions related to the public's business are made be conducted in full view of the public. To this end, the Brown Act requires, subject to narrow exceptions, that most meetings of

Councilman Mitch O'Farrell
Chair, Arts, Parks and River Committee
May 12, 2016
Page Three

a local agency's legislative body¹ be open to the public for attendance by all. *Wolfe v. City of Fremont* (2006) 144 Cal.App.4th 533; *Epstein, supra*, (the Brown Act must be construed liberally as to accomplish its purpose).

Similarly, due process principles require reasonable notice and opportunity to be heard before governmental deprivation of a significant property interest. *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 612. Land use decisions which "substantially affect" the property rights of owners of adjacent parcels constitute "deprivations" of property within the context of procedural due process. *Id.* at 615.

The Project has not been vetted with the community or the Venice Neighborhood Council even though approval thereof will undoubtedly substantially affect the owners of the adjacent residential neighborhood. As such its secret approval would constitute both a violation of the Brown Act and general due process.

In the interests of transparency, the City Council must demand that the Project be presented to the Venice Neighborhood Council and that the City's Recreation and Parks Department hold a hearing regarding the Project at which the affected neighbors can voice their concerns.

If the City fails to abide by law, the Venice Stakeholders Association will pursue all administrative and legal avenues to require such compliance.

Very truly yours,

LUNA & GLUSHON



ROBERT L. GLUSHON

cc: Members of the Arts, Parks and River Committee; Councilman Mike Bonin; Mayor Eric Garcetti; City Attorney Mike Feuer; Sylvia Patsaouras President, Los Angeles City Board of Recreation and Parks Commissioners; Steve Kinsey, Chair, California Coastal Commission; Jack Ainsworth, Acting Executive Director, California Coastal Commission; Councilman Marqueece Harris-Dawson and Members of the Committee on Homelessness and Poverty.

¹ "Legislative body" includes any commission, committee, board, or other body of a local agency, whether permanent or temporary, decisionmaking or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. *Cal. Gov't Code* § 54952(b).