

May 2, 2024

**BY E-MAIL ONLY**

Hon. Members, City Council Budget Finance and Innovation Committee  
c/o Holly L. Wolcott, City Clerk  
200 North Spring Street, Room 395  
Los Angeles, CA 90012  
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Dear Honorable Committee Members:

On behalf of two of the nonprofit organizations whose litigation resulted in the 2016 federal court order requiring LAHD's housing program to comply with federal accessibility rules, we write to advise you that the proposed cuts in the FY 2025 budget for the Accessible Housing Program ("AcHP") are likely to expose the City to severe sanctions from the Court for noncompliance.

Our clients—Independent Living Center of Southern California ("ILCSC") and Communities Actively Living Independent and Free ("CALIF")—filed a lawsuit in January 2012, because the City had funded the development of thousands of inaccessible units in violation of the Americans with Disabilities Act and related laws. The City agreed to a court-approved settlement in August 2016, requiring it to provide 4000 certified Accessible Units within ten years.

When the City failed to make meaningful progress, ILCSC and CALIF filed a motion in 2019 to enforce the settlement. At the hearing on that motion, Judge Fernando Olguin was clearly frustrated with the City's inaction and stated that he was considering "a severe daily sanction" against the City" because "we have to get this thing back on track, and I really want people to understand the seriousness with which I'm taking this." *ILCSC v. City of Los Angeles*, Case No. 12-cv-551 (C.D. Cal.) Dkt.

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747-1, pp. 36:4-7. Judge Olguin cautioned the City that “[AcHP] is not just one of the dozens of programs operated by the City. This is a Court order [with] which the City is required to comply; and I will, if necessary, issue the appropriate orders to ensure the City complies with the spirit and letter of the Court's order.” *Id.*, pp. 36:22- 37:2.

The City responded to Judge Olguin's warning by installing new leadership at LAHD and increasing budget allocations for subsequent fiscal years. But because the settlement has been under-resourced, it has taken until April 2024—seven and one-half years into the settlement term—to reach even the milestone of 1000 Accessible Units. While our clients have asked us to continue to work cooperatively with AcHP, we can do so only so long as its programs are adequately funded.

There are already more than 80,000 Angelenos with disabilities on waiting lists for Accessible Units. Further delays in compliance with settlement obligations will leave our clients no option but to return to the Court to seek enforcement.

### **Background**

As you may know, the City has faced multiple claims related to the LAHD-funded affordable housing portfolio. In addition to the *ILCSC* lawsuit, a compliance review by the U.S. Department of Housing and Urban Development (“HUD”) found systemic accessibility violations. When LAHD failed to remediate, on July 19, 2019, HUD informed Mayor Garcetti that it would withhold \$80 million in federal block grant funds.<sup>1</sup> The City relented, entering into a Voluntary Compliance Agreement (“VCA”) on August 2, 2019, requiring the City to produce 4,013 Accessible Units within ten (10) years. Finally, the U.S. Department of Justice (“DOJ”) has conducted separate litigation against the City, alleging violations of the False Claims Act. *U.S. ex rel. Ling, et al. v. City of Los Angeles, et al.*, Case No. 11-cv-974 (C.D. Cal.).

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<sup>1</sup> “Citing discrimination, HUD denies L.A.\$80M,” *Politico* (July 19, 2019), *available at* <https://www.politico.com/story/2019/07/19/discrimination-hud-los-angeles-1606093>.

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In December 2019, finding the City's lack of progress "unacceptable," Judge Olguin made his views clear: "I'm persuaded that the deadlines backed by the threat of monetary sanctions are necessary to ... ensure that the City complies with the consent decree." Dkt. 747-1, pp. 6:1- 7:8; 34: 2-5. Following that hearing, there were significant changes in the administration of the program, and plaintiffs and the Court Monitor worked to improve outcomes. Due to the hard and effective work of AcHP staff, significant changes have occurred since 2016. Despite those efforts, the City continues to lag behind in a number of key areas, most significantly the production or retrofit of accessible units and the development of an effective database to evaluate progress and effectively conduct the monitoring required by the Settlement.

The City's obligations to produce Accessible Units under the ILCSC order and the VCA are clear. A decision to reduce staffing and funding in the FY 2025 budget will substantially undermine AcHP's ability to comply with these obligations and unnecessarily delay the completion of the next 3,000 Accessible Units required under both regimes. We cannot speak for what HUD and DOJ may do in response, but our clients' patience is wearing thin and we may be instructed to seek Judge Olguin's assistance to ensure compliance with his remediation orders. These issues will necessarily be aired at the next status conference with Judge Olguin on May 16, 2024.

### **Current budget proposal**

With HHH funding entirely committed and legal and political uncertainty plaguing the United for LA funding streams, the City will not be able to produce an additional 3000 Accessible Units without substantial reliance on retrofitting some of the 50,000+ units already in the portfolio. In many instances, retrofits are a faster and cheaper way for AcHP to provide such units as compared to new construction. Were AcHP to produce 250 Accessible Units from retrofits each year, it would satisfy its obligations under the court order and VCA much sooner, while also ensuring that Accessible Units are made available in all parts of the City.

LAHD General Manager Ann Sewill has already outlined for you how staffing and funding reductions will impair compliance with Judge Olguin's

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order and the VCA.<sup>2</sup> We emphasize that the City Council's final budget should fully fund existing positions (such as Rehabilitation Construction Specialist I and Assistant Inspector IV positions) as well as the new positions requested by AcHP (such as an additional Rehab Construction Specialist II and an additional Rehab Construction Specialist III). In addition to the cuts to the Retrofit staff, the proposed budget will reduce the amount of funding available to pay for the retrofits. As noted in Ms. Sewill's letter, these proposed cuts will leave insufficient funding for retrofit projects in the pipeline as well as the additional projects necessary to keep the City on track for compliance. We urge this Committee to restore and *increase* funding for the retrofit program in order to enable the City to move effectively to meet the required goals.

As Ms. Sewill's letter indicates, three Senior Management Analyst I positions (currently filled on an acting basis) provide necessary management and oversight for the complex implementation of the *ILCSC* settlement and she believes there is a need for an additional Management Analyst. There is already high turnover in the monitoring staff due in part to very heavy workloads, and long delays in filling the positions due to City personnel requirements. Eliminating these positions and the administrative clerk position in the Policy component of the AcHP, and failing to provide the additional Management Analyst position, will further delay compliance. We urge this Committee to restore all four of the removed positions into the final budget, and to add the requested Management Analyst position.

Finally, we understand that AcHP requested two Programmer Analyst IV positions. One of the areas Judge Olguin was concerned about was the City's failure to have an effective database system, making reporting and tracking of progress difficult. In 2019, he noted that failure to complete the database could result in *daily* sanctions. To date, the City still does not have such a database, and the Monitor has contracted with a consultant to evaluate the necessary steps to bring the City into compliance with this

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<sup>2</sup> Letter of Ann Sewill to this Committee, April 23, 2024, page, 4, *available at* [https://clkrep.lacity.org/onlinedocs/2024/24-0600\\_misc\\_LAHD\\_04-23-24.pdf](https://clkrep.lacity.org/onlinedocs/2024/24-0600_misc_LAHD_04-23-24.pdf). This letter also reflects additional information regarding AcHP budget requests that we requested and the City shared as part of our monitoring of the City's compliance with the settlement agreement.

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requirement. As a first step, it is essential that these Programmer Analyst IV positions be funded.

At the May 16, 2024, status conference, we anticipate that Judge Olguin will ask whether the City is on target to meet its settlement obligations by September 2026 (the ten-year Settlement Term contemplated in the settlement). Given that three-quarters of that period has expired and the City has produced only one-quarter of the required units, all parties contemplate that some extension may be necessary. We would prefer to approach Judge Olguin jointly with the City to propose a three-year extension but that will require a sustained effort by the City Council to provide sufficient funding for staffing and construction. The current proposed budget for FY 2025 does not evidence that sustained effort.

## **Conclusion**

LAHD's initial budget request provides the bare minimum necessary to continue progress toward achieving the requirements of the *ILCSC* settlement and VCA. We strongly encourage you to fully fund that request.

Sincerely,



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