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January 29, 2013

The Honorable City Council of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Re: Council File No. 11-0262, CPC-2009-800-CA
January 30, 2013, City Council Agenda Items 13 and 31
Proposed Ordinances Conflict with the City's General Plan

To the Honorable City Council:

On January 30, 2013, the City Council will consider two proposed ordinances to change the City's zoning code in several respects that conflict with the City's General Plan, in particular its 2006-2014 Housing Element. The proposed ordinances are under council File Number 11-0262, and are described in two City Attorney drafts dated September 13, 2011 and January 3, 2013. They would, in addition to confirming the City's treatment of certain licensed facilities to conform with state law:

1. Redefine boarding homes to curtail informal and private congregate living throughout the City

2. Impose a new and draconian classification, parolee/probationer home, and require unrelated persons who are on parole or probation to obtain a conditional use permit to live only in the City's highest density residential zones

As set forth in greater detail below, these provisions directly contravene the General Plan Housing Element's analysis of governmental

constraints on housing maintenance, improvements and development; and they are incompatible with the objectives, policies, and programs of the Housing Element. *See* Cal. Govt. Code §§65580, 65583, 65860(a)(2).[1]

A. The zoning change proposal of September 13, 2011

The City Attorney's September 13, 2011 ordinance is before the City Council as Agenda item 13.A. It defines a single housekeeping unit (and family) as one where residents live under *no more than one lease*. It then defines a boarding house as one where residents live under *more than* one lease. And, it adds a *new* definition of parolee/probationer home to mean any residential structure or unit that houses more than two "parolees-probationers unrelated by blood, marriage, foster care status, or legal adoption" and, according to the City Attorney's description permits such homes *as conditional uses only,* in the City's highest density residential zones.

B. The zoning change proposal as of January 3, 2013

On January 3, 2013, the City Attorney issued a new draft of the ordinance. It now:

1. Defines a boarding house as a dwelling where lodging is provided to four or more people for monetary or non-monetary consideration, not including a state-licensed facility. New parking requirements are also proposed, to count every 250 square feet of floor area as the same as a separate guest room.

2. Makes a new definition of a "single housekeeping unit" as a non-transient group of people living together and sharing all access to living, kitchen and eating areas, and sharing household activities and responsibilities, whose makeup is determined by the members of the unit rather than by a third party such as the landlord, property manager, or other entity (like a nonprofit organization). A single housekeeping unit does not include a boarding house. Under the

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[1] Sections refer to the California Government Code unless otherwise noted.

proposal a "family" is a group of people living together as a single housekeeping unit.

3. Adds a new zoning code definition, "Parolee-Probationer Home," which is any dwelling that contains a dwelling unit or guest room that houses more than two "parolees-probationers" who do not have a family relationship to each other. This living arrangement would then be prohibited in all but the most restrictive residential zones, and even in those zones a conditional use permit must be obtained.[2] The conditional use permit process entails at a minimum notice to the occupants of surrounding properties, publication of the proposed use, and a public hearing. L.A.M.C. §12.24.

C. The impact of these changes

As reflected in the Beveridge letter, it is estimated that 6335 residential units and 48,122 residents would have their housing arrangements become unlawful due to the proposed changes to the definitions of boarding house and family alone.[3] If the parking restriction is passed, boarding houses would not likely be able to locate anywhere in the city, because the parking requirement would be impossible to meet at most, if not all, locations. For example, a two bedroom house of 1,000 square feet of living space could be required to have four on-site parking spaces. *See* L.A.M.C. §12.21(4).

Still more individuals would be impacted by the "Parolee-Probationer" home provision, as anywhere more than two people are parolees or probationers live together, their residence would become illegal. Only if the unit is in the

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[2] The September 13, 2011 report of the City Attorney states, "Finally, the draft ordinance adds a definition of Parolee-Probationer Home and permits them as conditional uses only in R-3 and less restrictive zones." The January 3, 2013 report explains that under the revised ordinance, "a conditional use permit is ... required where one or more units ... have three or more parolee-probationers."

[3] Letter from Andrew Beveridge to Laurel Impett, January 29, 2013, attached as Exhibit 1. The full letter with all of its exhibits is submitted to the City Council under separate cover and incorporated herein by reference. The Beveridge letter explains that the potential impact is actually far greater, on as many as 473,396 of the City's residents.

city's highest density zones would residents even be eligible to apply for a conditional use permit, with no assurance of the result of their application.

To impose the changes prospectively alone would profoundly restrict housing options for the City's residents. Worsening the effects, the proposals would also render illegal *existing* uses, thus subjecting thousands or more of the City's residents to displacement and fear of displacement.

D. The City Must Reject the Proposals as Inconsistent with the Objectives, Policies, and Programs of the 2006-2014 Housing Element

Under state law, the City's general plan, specifically the housing element of its general plan, must plan for housing that meets the needs of all economic segments of the community. §65580(d). In so doing, the City must identify and analyze existing and projected needs, and state goals, policies, quantified objectives and programs for the preservation, improvement and development of housing. §65583. The element must specifically assess housing needs, resources, and constraints relevant to meeting these needs specifically for persons with disabilities, among others. §65583(a)(7). Flowing from this assessment, the element must then include a "statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement and development of housing." §65583(b)(1). Although the goals, quantified objectives and policies need not meet all of the needs identified, they must "[a]ddress and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing," specifically including housing for persons with disabilities. §§65583(b)(2), (c)(3).

All subsequent land use decisions, including the adoption and amendment of zoning ordinances, must be consistent with the general plan and its elements, including the housing element. §65860; *see e.g. Lesher Communications, Inc. v. City of Walnut Creek,* 52 Cal.3d 531, 541 (1990). A city zoning ordinance is inconsistent with the general plan if the land uses authorized by the ordinance are not "compatible with the objectives, policies, general land uses, and programs specified in the plan."

§65860(a)(2); *Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of Sup'rs,* 62 Cal.App.4th 1332, 1336 (1998).

In *Lesher*, the City of Walnut Creek passed a growth initiative, Measure H, to control traffic congestion. At the time the ordinance was passed the general plan of the City of Walnut Creek was "growth oriented," and had an objective to accommodate projected population growth as can reasonably accommodated in the City. Because it conflicted with the general plan at the time it was passed, Measure H was held invalid. 52 Cal.3d at 541, 544.

In *Building Industry Association of San Diego, Inc. v. City of Oceanside,* 27 Cal.App.4th 744 (1994), voters enacted Proposition A, which adopted a maximum number of dwelling units to be constructed each year. In reaching its conclusion that Proposition A was invalid, the court observed that after the proposition was passed, the City did not meet its regional housing needs objectives for all income categories, in particular for low and moderate income families. Moreover, at the time the proposition was adopted, an element of the general plan stated a policy to "avoid direct controls on the number or location of new housing units to be built...." *Id.* at 766. The proposition also conflicted with the general policy, "Adequate provision for the housing needs of all economic segments of the community is an issue of the highest priority in Oceanside to meet the low income household assistance goals and to protect, encourage and, where feasible, provide low and moderate income housing opportunities within the intent of State policy to address local needs." *Id.* at 767. The Court held, "*Prop. A does not promote this policy and accordingly must be deemed inconsistent with it.*" *Id.* (emphasis added).

The current proposed zoning amendments pose multiple conflicts with the housing element's objectives, policies, general land uses, and programs specified in the plan, and impose new constraints where they did not previously exist. The proposals further conflict with the analysis of governmental constraints upon which those objectives, policies and programs is based.

E. The Proposed Ordinances Conflict with the 2006-2014 Housing Element

1. The Proposed Ordinances Add Rather than Alleviate Governmental Constraints on Housing for People with Disabilities

In analyzing housing needs specific to persons with disabilities, the Housing Element states:

> As with any population, *a full spectrum of affordable housing is needed*, from mobile home, temporary shelters to transitional and permanent housing, *including group, congregate and independent housing. Independent, supported living is preferable,* either through individual or shared homes or apartments providing each individual with his/her own bedroom. Support services may be provided either on- or off-site. *Appropriate housing for persons with mental or physical disabilities includes affordable small or large group homes* (near retail services and public transit), apartment settings with support ... [etc.]" City of Los Angeles 2006-14 Housing Element ("HE"), p. 1-16. (Emphasis added)

Thus, rather than finding a need to expand available licensed facilities only, the Housing Element's needs assessment stresses the importance of a *full spectrum* of group, congregate and independent housing.

In its section analyzing governmental constraints on housing for people with disabilities, the Housing Element states:

> The City of Los Angeles completed an Analysis of Impediments to Fair Housing Choice (AI).... The latest update recommended...the update of the definition of 'family'[4]....

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[4] The 2005 Analysis of Impediments to Fair Housing observed, at pp. 5-14 to 5-15:

> Local governments may restrict access to housing for households failing to qualify as a "family" by the definition specified in the zoning ordinance. Even if the code provides a broad definition, deciding what constitutes a "family" should be avoided to prevent confusion or give the impression of restrictiveness. Furthermore, Landlords or property owners may refuse to rent or sell units to households not meeting the definition of family.
>
> The City's Zoning Code defines "family" in a potentially restrictive manner that could limit the number of unrelated individuals from sharing housing. The City's Zoning Code defines a "family" as:

> The City of Los Angeles adopted Ordinance No. 177325 (effective March 18, 2006) ... [which] amended the Zoning Code Section 12.03 definition of 'family,' which had previously posed a regulatory impediment due to its effect of discriminating against individuals with disabilities residing together in a congregate or group living arrangement. The definition of family now complies with fair housing laws....[5] HE at p. 2-28 to 2-29.

In conflict with the Housing Element's finding that prior governmental constraints had been removed, the proposed ordinances would:

> *An individual or two or more persons related by blood or marriage, or a group of not more than 5 persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit, except that there may be up to 4 foster children, 16 years of age or under, where the total number of persons living in a dwelling unit does not exceed 8 and providing the keeping of the foster children is licensed by the State of California as a fulltime foster care home.*

> California court cases have ruled that an ordinance that defines a "family" as (a) an individual, (b) two or more persons related by blood, marriage or adoption, or (c) a group of not more than a certain number of unrelated persons as a single housekeeping unit, is invalid. These cases have explained that defining a family in a manner that distinguishes between blood-related and non-blood related individuals does not serve any legitimate or useful objective or purpose recognized under the zoning and land planning powers of the City, and therefore violates rights of privacy under the California Constitution. A zoning ordinance also cannot regulate residency by discrimination between biologically related and unrelated persons.

> In general, the City's definition of "family" has the potential to discriminate nontraditional families such as gay and lesbian couples, or certain cultures that prefer living with extended family members and friends.

The 2005 Analysis of Impediments goes on to analyze in great detail fair housing impediments imposed by the zoning code definition of family. Excerpts are attached hereto as Exhibit 2 and the entire 2005 Analysis of Impediments is incorporated herein by reference.

[5] In response to the 2005 Analysis of Impediments' findings, the City specifically committed to adopt an ordinance to "Revise the definition of "family" in the Zoning Code to read "one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit." Analysis of Impediments at p. 5-22.

1. Add, rather than remove, impediments against individuals with disabilities residing together in a congregate or group living arrangement by imposing new restrictions on the definition of family.

2. Add, rather than remove, impediments against individuals residing together in a congregate or group living arrangement by imposing new and onerous parking restrictions.

3. Conflict with the Housing Element by reinstating a discriminatory criterion requiring a legal relationship for more than two parolees and probationers to live together anywhere in the City without a conditional use permit. The parolee-probationer home restriction reaches residents who and are not related to each other by "blood, marriage, foster care status, or legal adoption."

4. As a further conflict with the Housing Element and perhaps illustrating the lack of care in drafting the parolee-probationer home restriction, the ordinances on their face also discriminate against same-sex couples who are *domestic partners* but cannot legally marry in California. Thus, an unmarried same-sex couple with a roommate is treated differently under the proposals than a married heterosexual couple with a roommate, where all are parolees or probationers.

F. The Proposed Ordinances Add Rather than Alleviate Governmental Constraints on the City's Zoning Capacity

In analyzing the current governmental constraints on zoning, the Housing Element states:

> Multi-family housing (including SROs and permanent supportive housing) are allowed by right in the following residential and commercial zones: [including R2 & RD zones]. "By right" means that no process whatsoever is required for the construction of multi-family housing, SROs or permanent supportive housing in each of these zones.... HE at p. 2-5.

> With the exception of density bonus projects that exceed the maximum density permitted by law, multi-family housing projects do not require conditional use permits. Conditional use provisions in the Zoning Code, therefore, do not constrain zoning capacity... HE at p. 2-8.

In conflict with these provisions, and rather than alleviating zoning constraints, the proposed ordinances impose new zoning constraints that:

1. Restrict "by right" multifamily housing uses in zones that currently permit it by expanding the category of persons considered to live in a boarding house and barring boarding houses from new zones, and

2. Impose new conditional use permit requirements that constrain zoning capacity for more than two parolees or probationers who are not related to each other.

G. The Proposed Ordinances are Incompatible with Housing Element Objectives, Policies, and Programs.

A City's zoning ordinance is *consistent* with its general plan "if, considering all its aspects, it will further the objectives and policies of the general plan and not obstruct their attainment. Perfect conformity is not required, but a project must be compatible with the objectives and policies of the general plan." *Endangered Habitats League, Inc. v. County of Orange,* 131 Cal.App.4th 777, 782 (2005) (internal quotes and citations omitted). Unfortunately, the proposed ordinances obstruct the attainment of various objectives, policies, and programs of the general plan:

1. **The proposed ordinances conflict with Objective 1.1:** Plan the capacity and develop incentives for the production of an adequate supply of rental and ownership housing for households of all income levels and needs.

   The proposed ordinances further conflict with Policy 1.1.3 Facilitate the new construction of housing types that address current and projected needs of the city's households.

The housing element's needs and constraints assessments acknowledge that a variety of housing options, including congregate living, is needed to accommodate the housing needs of the city's residents including homeless persons and persons with disabilities.[6] Rather than planning the capacity, developing incentives, and facilitating new construction, the Beveridge letter shows the ordinance imposes new restrictions on shared housing currently permitted, resulting in a 90% reduction of available residentially zoned land.

Similarly, where *no* restriction currently exists for parolees or probationers who reside together, the ordinances would render illegal *all* occupancy by more than two parolees or probationers who are not legally related to each other and only permit such occupancy to continue upon obtaining a conditional use permit. Moreover, the proposed ordinance takes effect upon existing parcels, with no "grandfathering" provision. It has *no* provision to mitigate the resulting disruption that the rezoning would immediately impose on residents of newly illegal homes.

The proposal thus does the opposite of facilitating new construction of housing types that are acknowledged to be needed, including congregate living options for homeless persons (described further below) and persons with disabilities; instead, it imposes disincentives and obstacles to meeting housing these housing needs. It further does the opposite of planning capacity and developing incentives for an adequate supply of housing options; instead, it imposes new restrictions and fails utterly to plan for the disruption and displacement they would impose.

2. **The proposed ordinances conflict with Objective 1.5** Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.

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[6] The housing element's discussion of needs of homeless persons is described in this section below.

The proposed ordinances further conflict with Policy 1.5.1 Streamline land use entitlement, environmental review, and building permit processes.

Rather than reducing regulatory and procedural barriers to preserving a variety of housing options for those who need to live with others as documented by the Housing Element's needs assessment, the proposed ordinances impose new barriers and render existing housing illegal. Rather than streamlining uses, it imposes a new conditional use process and broad geographic restrictions on parolees and probationers who are not in a traditional family.

3. **The proposed ordinances conflict with Objective 3.1** Assure that housing opportunities are accessible to all residents without discrimination on the basis of race, ancestry, sex, national origin, color, religion, sexual orientation, marital status, familial status, age, disability (including HIV/AIDS), and student status.

The proposed ordinances further conflict with Policy 3.1.1 Promote and facilitate equal opportunity practices in the sale and rental of housing.

As discussed above, the proposed ordinances instead re-inscribe disability and familial status discrimination that had been removed from the city's zoning code. Moreover, a prior version of the ordinance recognized that its target is the regulation of sober living homes, whose residents are persons with disabilities protected by the fair housing. Department of City Planning Recommendation Report, January 10, 2010, re CPC-2009-800-CA at pp. 4-6, 9 (acknowledging community demand to regulate sober living homes, and noting that regulation targeted solely at sober living homes "would be considered discriminatory").

And, the ordinance will have disparate impact on the basis of disability, sexual orientation, race, and national origin. In addition to

the concerns set forth above, parolees and probationers are more likely to be Black or Latino than the general population.[7]

Rather than be compatible, the proposed ordinances instead obstruct the attainment of the objective and policy to promote fair and equal housing opportunities in the City.

Finally, it is notable that as of December 31, 2011 the City has not implemented its Program 3.2.2.A to "provide information and training to Neighborhood Councils and other community organizations on fair housing issues." [8]

4. **The proposed ordinances conflict with Objective 4.1** Provide an adequate supply of short-term and permanent housing and services throughout the City that are appropriate and meet the special needs of persons who are homeless or who are at high risk of homelessness.

   The proposed ordinances further conflict with Policy 4.1.3 Provide permanent supportive housing options for homeless persons and special needs households with services such as job training and placement programs, treatment, rehabilitation and personal management training to assure that they remain housed. Ensure an adequate supply of emergency and temporary housing for people who become homeless or are at high risk of becoming homeless.

   The proposed ordinances further conflict with Policy 4.1.6 Eliminate zoning and other regulatory barriers to the placement and operation of housing facilities for the homeless and special needs populations in appropriate locations throughout the City.

   In analyzing housing needs of homeless persons, the Housing Element states:

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[7] Laura M. Maruschak, Erika Parks, Probation and Parole in the United States, 2011, Bureau of Justice Statistics (November 29, 2012), available at http://bjs.ojp.usdoj.gov/content/pub/pdf/ppus11.pdf and attached as Exhibit 4.
[8] Annual Element Progress Report, Housing Element Implementation, January 1, 2011 to December 31, 2011, Attachment 1, page 38, attached hereto as Exhibit 3 (program on "hold pending budget and staff resources").

> The housing needs of the homeless require special attention because the homeless have little to no income and face physical challenges, mental challenges, social isolation, and transportation limitations, all of which influence their access to appropriate and affordable housing. ...Providing appropriate housing is a critical part of the solution to end homelessness.
>
> ...The current 10,062 short-term beds for the homeless ... are not sufficient, evidenced by the large number of homeless people sleeping on the street and in cars, nor are they a long-term solution to end homelessness.
>
> *More short-term housing options (emergency shelters and transitional housing facilities) are needed* as well as affordable housing, permanent supportive housing and other forms of service-enriched permanent housing. HE at pp. 1-21 to 1-22 (emphasis added).

In conflict with these needs and the accompanying objective and policies, the proposals reduce and restrict available sites for transitional housing in residential zones. The group homes restrictions consider only "non-transient" households to be families. Although transient is not defined, *transitional* housing presumably would *not* be considered "non-transient" by nature.

In addition, homelessness has been identified as a significant national and local concern for persons on parole or probation.[9] The California Department of Corrections has reported that at any given time 10 percent of the state's parolees are homeless, and as high as 30 to 50 percent in major metropolitan areas such as Los Angeles.[10] The restrictions on parolees' and probationers' ability to live together anywhere in the city without a conditional use permit thus conflicts with their access to housing options that would provide a long-term solution to end homelessness. The proposals also conflict with state realignment and efforts to house parolees and probationers in

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[9] Katherine Brown, Council of State Governments, Homelessness and Prisoner Re-Entry: Strategies for Addressing Housing Needs and Risks in Prisoner Re-Entry
[10] *Id.*

integrated but supervised settings in the community, reflected in California Assembly Bills AB109 and AB117 (2011).

5. **The proposed ordinances conflict with various Housing Element Programs, including:**

   a. **Program 1.1.3.C** Innovative Housing Design. Rather than "encourage alternative multi-family residential design, such as congregate living and conversion of large homes to … shared housing," the ordinance again does the opposite. This program sets forth a schedule of actions:
      Establish Task Force to review City Codes – 2009
      Task Force report and recommendations – 2010
      Revised regulations – 2011
      As of December 2011, none of these steps had been implemented; instead, the City reports, "Task Force and recommendations for revised regulations [are] on hold pending budget and staff resources."[11]

      Although the proposals expand potential sites for certain state licensed homes, as to independent group living it *discourages, obstructs, and limits* congregate living options.

   b. **Program 1.5.1.F** Amend the Zoning Code to Facilitate Non-Conventional Housing

      This program requires the City to "Identify modifications needed in the Zoning Code to facilitate innovative housing types, such as shared housing, congregate living, … and group quarters, including consideration of parking requirements … and other development standards, and the need to better regulate through conditional use permits." The City considers the proposed ordinances its action to implement this program[12];

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[11] Annual Element Progress Report, Housing Element Implementation, January 1, 2011 to December 31, 2011, Attachment 1, page 8, attached hereto as Exhibit 3.

[12] December 31, 2011 Housing Element Progress Report at p. 25.

however, the ordinance must be considered in context with the City's needs assessment and constraints analysis.

Nothing in the Housing Element supports the City's focus exclusively on permitting licensed group housing while severely curtailing informal and independent arrangements by nonprofits, other third parties, and parolees and probationers. Rather than "facilitate" shared housing, congregate living, and group quarters, and in conflict with the needs assessment and analysis of constraints, the ordinance *limits* shared housing to licensed facilities while curtailing shared housing in independent settings. It is notable that these zone changes are proposed without benefit of the task force contemplated in Program 1.1.3.C, as that program was never implemented.

c. Programs 4.1.3.I, J, & K and 4.1.6.A and B

The restrictions on group living outside of licensed contexts, and on unrelated parolees and probationers living together, call into question the City's ability to meet its programs to expand the availability of: permanent supportive housing; new housing serving the mentally ill; permanent housing for persons with disabilities; and permanent and supportive homeless housing siting by right throughout the City. Again, it is notable that Program 4.1.6.B to "identify and adopt changes to the Zoning Code to facilitate by-right siting of a greater variety of shelter and transitional facilities throughout the City" is also "On hold pending budget and staff resources."[13]

6. The City has not met its Regional Housing Needs Allocations

As of December 31, 2011, the City had yet to meet its allocations for 23,721 very low-income units, 15,435 low-income units, and 99,068 units overall. As set forth above, the ordinances further restrict the City's ability to meet the housing needs of its residents and thereby conflict with the housing element objective 1.1 to "Plan the capacity and develop incentives

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[13] December 31, 2011 Housing Element Progress Report at p. 41.

for the production of an adequate supply of rental and ownership housing for households of all income levels and needs."

H. The City Council Should Reject the Proposals because they Violate the Least Cost Zoning Ordinance

California law requires cities to zone sufficient vacant land for residential use with appropriate standards to meet housing needs of all income categories. §65913.1. Appropriate standards mean those that "contribute significantly" to the economic feasibility of producing housing at the lowest possible cost for persons and families of low and moderate income. *Id.* By requiring a conditional use permit for unrelated parolees or probationers to live together, the ordinances impose additional and unnecessary costs, time and expense in particular for housing for persons re-entering society and subject to prison realignment. The new zoning restrictions also risk increasing the cost of group housing for homeless persons and persons with disabilities by making available sites more scarce and therefore more costly. *See Building Industry Association of San Diego,* 27 Cal.App.4th at 771 (growth control proposition facially conflicts with §65913.1 because it does not "comply with standards contributing to the economic feasibility of producing the lowest possible cost housing," in light of the limited exceptions to the growth controls imposed).

I. The City Council Hearing Violates the City Charter and Los Angeles Municipal Code Because Major Provisions have not been Considered by the City Planning Commission

The proposed ordinances have changes substantially since the time they were heard by the City Planning Commission in 2010. New provisions with broad reach that were *never* considered by the City Planning Commission include the Parolee-Probationer Home definition and citywide restrictions, and the proposed expanded parking restrictions on group homes. The municipal code, §11.5.5 provides:

> Nor ordinance, order or resolution referred to in Charter Section[] ... 558 shall be adopted by the Council *unless it shall first have been submitted to the City Planning Commission* for

> report and recommendation.... The report and recommendation shall indicate whether the proposed ordinance, order or resolution is in conformance with the General Plan ... and any other applicable requirement....

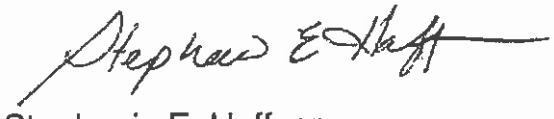
City Charter Section 558 sets forth the requirements for the creation or change of any zones for the purpose of regulating land use. City Charter, §558(a). The requirements include a report and recommendation of the City Planning Commission, which shall be considered by the City Council. City Charter §558(b). The current impactful proposals defining and regulating boarding houses and parolee-probationer homes have never been the subject of any City Planning Commission hearing, recommendation or report. Thus, the full public process to amend the zoning code has not been followed. The ordinances' passage, without benefit of the CPC's input into its new and sweeping provisions, would violate the City Charter and Municipal Code.

Conclusion

For all of the forgoing reasons, the City Council is urged to *reject* the proposed ordinances as inconsistent with the Housing Element and in violation of state law, and the City Municipal Code and the City Charter.

Sincerely,

Autumn M. Elliott
Associate Managing Attorney
Disability Rights California



Stephanie E. Haffner
Senior Litigator
Western Center on Law and Poverty

Cc: Antonio Villaraigosa, Mayor
June Lagmay, City Clerk
Amy Brothers, Deputy City Attorney

Exhibits:

1. Letter of Andrew Beveridge to Laurel Impett dated January 29, 2013 (text); the complete letter including all exhibits is submitted to the Council File under separate cover and incorporated by reference
2. Analysis of Impediments to Fair Housing (excerpts) (The full report, incorporated by reference, is available here: http://lahd.lacity.org/lahdinternet/Portals/0/Bids/RFPsRFQs/Analysis%20of%20Impediments%20to%20Fair%20Housing%20Choice.pdf.)
3. Attachment 1 to Housing Element Progress Report for January 1, 2011 to December 31, 2011
4. Laura M. Maruschak, Erika Parks, *Probation and Parole in the United States, 2011*, Bureau of Justice Statistics (November 29, 2012)
5. Katherine Brown, *Homelessness and Prisoner Re-Entry: Strategies for Addressing Housing Needs and Risks in Prisoner Re-Entry,* Council of State Governments

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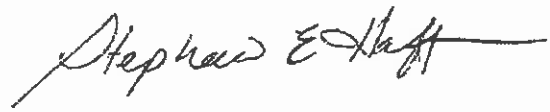

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