SHUTE, MIHALY & WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: 415 552-7272 F: 415 552-5816
www.smwlaw.com

LAUREL L. IMPETT, AICP
Urban Planner
impett@smwlaw.com

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The Honorable City Council of the City of
Los Angeles
200 North Spring Street
Los Angeles, CA 90012

Re: Proposed Ordinance on Community Care Facilities; Council File No. 11-0262

Dear Honorable Council Members:

On behalf of Disability Rights California, Western Center on Law and Poverty, and the clients that those organizations represent, we have reviewed the proposed Ordinance to update the Los Angeles Municipal Code regarding various licensed community care facilities ("Ordinance" or "Project"). We have also reviewed the March 19, 2009 Initial Study/ Negative Declaration ("IS/ND"), the November 19, 2009 addendum to the March 2009 IS/ND and the January 3, 2013 City Attorney Report.[1] We submit this letter to express our legal opinion that: (1) the IS/ND for the proposed Project fails to comply with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code § 21000 *et seq.*, and the CEQA Guidelines, California Code of Regulations, title 14, § 15000 *et seq.* ("Guidelines"), and (2) the City must prepare an environmental impact report ("EIR") before proceeding with the Project. We prepared these comments in conjunction with Andrew Beveridge, demographic consultant. *See* Beveridge Letter, attached as Exhibit 1.

[1] This letter addresses the January 3, 2013 version of the proposed Ordinance with the changes to the definitions of Single Housekeeping Unit, Boarding or Rooming House and Parolee Probationer Home. *See* City Attorney Report to Council, January 3, 2013, at 2.

It is our legal opinion that the IS/ND does not provide adequate environmental review under CEQA. The IS/ND fails to include the necessary detail about the proposed Ordinance, lacks *any* description of the population that the Ordinance would effect, and omits *any* analysis of the Project's environmental effects. Certainly the IS/ND does not contain the factual support necessary to conclude that the Project's impacts would be less than significant.

At the same time, based on the documentation contained in the Letter, together with publicly available information, there can be no debate the Ordinance, would, if implemented, result in potentially significant environmental impacts. Consequently, the City may not approve the Ordinance without first preparing an EIR.

I. Legal Standard

It is well settled that CEQA establishes a "low threshold" for initial preparation of an EIR, especially in the face of conflicting assertions concerning the possible effects of a proposed project. *The Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 928 (2005). CEQA provides that a lead agency may issue a negative declaration and avoid preparing an EIR only if "[t]here is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment." Pub. Res. Code § 21080(c)(1). An initial study must provide the factual basis, with analysis included, for making the determination that no significant impact will result from the project. Guidelines § 15063(d)(3). In making this determination, the agency must consider the direct and indirect impacts of the project as a whole (Guidelines § 15064(d)), as well as the project's growth-inducing and cumulative impacts. *See City of Antioch v. City Council of Pittsburg*, 187 Cal. App. 3d 1325, 1333 (1986).

An agency must prepare an EIR whenever it is presented with a "fair argument" that a project may have a significant effect on the environment, even if there is also substantial evidence to indicate that the impact is not significant. *No Oil, Inc. v. City of Los Angeles*, 13 Cal. 3d 68, 75 (1974); Guidelines § 15064(f)(1). Where there are conflicting opinions regarding the significance of an impact, the agency must treat the impact as significant and prepare an EIR. Guidelines § 15064(f)(1); *Stanislaus Audubon Soc'y v. County of Stanislaus*, 33 Cal. App. 4th 144, 150-51 (1995). Further, where the agency fails to study an entire area of environmental impacts, deficiencies in the record "enlarge the scope of fair argument by lending a logical plausibility to a wider range of inferences." *Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 311 (1988). In marginal cases, where it is not clear whether there is substantial evidence that a project may have a significant impact and there is a disagreement among experts over the

significance of the effect on the environment, the agency "shall treat the effect as significant" and prepare an EIR. Guidelines § 15064(g); *City of Carmel-By-The-Sea v. Board of Supervisors*, 183 Cal.App.3d 229, 245 (1986). Given this standard, an EIR is required for this Project.

II. The IS/ND's Description of the Project and Environmental Setting Is Inadequate.

In order for an environmental document to adequately evaluate the adverse impacts of a project, it must first provide a comprehensive description of the project itself. "'An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.'" *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 730 (1994) (quoting *County of Inyo v. City of Los Angeles*, 71 Cal. App. 3d 185, 193 (1977)). This is because "'[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity.'" *Id.* (quoting *McQueen v. Bd. of Directors*, 202 Cal. App. 3d 1136, 1143 (1988)). While extensive detail is not necessary, the law requires that environmental documents describe proposed projects with sufficient detail and accuracy to permit informed decision making. *See* Guidelines §15124.

CEQA further requires that an initial study contain "an identification of the environmental setting." Guidelines ' 15063(d)(2). A complete and accurate description of a project's setting is the foundation upon which an environmental document is built. *San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus*, 27 Cal. App. 4th 713, 729 (1994). Therefore, an environmental document "must include a description of the physical environmental conditions in the vicinity of the project . . . from both a local and regional perspective." 14 Cal. Code Regs. ("CEQA Guidelines") § 15125(a). Without this description, a proper analysis of a project's impacts is impossible. *Galante Vineyards v. Monterey Peninsula Water Mgmt. Dist.*, 60 Cal. App. 4th 1109, 1122 (1997); *see also County of Amador v. El Dorado County Water Agency*, 76 Cal. App. 4th 931, 952 (1999). As explained below, the IS/ND does not come close to meeting these legal standards.

A. The IS/ND Fails to Provide Fundamental Details about the Project and the Affected Communities.

Here, the IS/ND omits even the most rudimentary information about the Ordinance or the communities that it would effect. The document lacks required information regarding the various uses targeted by the Ordinance (e.g., Single

Housekeeping Units" and "Boarding or Rooming Houses"). The IS/ND does notidentify the zones that currently allow Boarding and Rooming Houses and those that would allow these houses upon implementation of the Ordinance. The document does not identify the acreage or the number of parcels in the City where Boarding or Rooming Houses are currently permitted or the acreage and number of parcels where Boarding or Rooming Houses would be allowed uses upon implementation of the Ordinance. Nor does the document disclose the number of properties that currently operate as Boarding or Rooming Houses.

Perhaps most important, the document does not identify the number of individuals that currently live in shared housing situations that may be newly defined as Boarding or Rooming Houses and so may need to be relocated once the Ordinance goes into effect. Nor does the IS/ND disclose critical statistics identifying the number of special needs households and individuals currently within the City and within each zone or the number of special needs households and individuals that would be expected to be affected by the proposed Ordinance.[2] [3]

As explained in the Beveridge Letter and discussed further below it is certainly feasible to identify this relevant information. Nor can the City escape from this

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[2] As defined by the California Department of Housing and Community Development, "specials housing needs" includes persons with disabilities, elderly, large families and female headed households, facilities and person in need of emergency shelters. *See* http://www.hcd.ca.gov/hpd/housing_element2/HN_SHN_home.php, accessed January 29, 2013.

[3] It is important to emphasize that the City must collect detailed data in order to evaluate the full effect of the Ordinance. As Beveridge explains, because Census data does not have categories that allow for a differentiation between a "Single Housekeeping Unit" as defined by the proposed Ordinance and other types of households, to definitively ascertain whether four or more people residing together constitute a "Single Housekeeping Unit," the City would need information on a) the "transient" or "non-transient' nature of individuals in the group ("transient" is undefined in the census data); b) whether the individuals are "interactive" ("interactive" is also undefined); c) whether the individuals have joint access to and use of all living, kitchen, and eating areas within the dwelling unit, d) whether the individuals share household activities and responsibilities such as meals, chores, expenses and maintenance, and e) whether the makeup of the household is determined by the members of the unit rather than by the landlord, property manager, or other third party. Beveridge Report at 9.

task simply because it may be difficult or cumbersome. Any such dismissive examination of this information is not allowed under CEQA. Rather, the City must "use its best effort to find out and disclose all that it reasonably can "regarding resources on the Project site." *Citizens to Preserve the Ojai v. Ventura*, 176 Cal.App.3d 421, 431 (1986); *see also Laurel Heights Improvement Assn. v. Regents of the University of California*, 47 Cal.3d 376, 399 (1988) (*Laurel Heights I)* ("We find no authority that exempts an agency from complying with the law, environmental or otherwise, merely because the agency's task may be difficult.").

B. The IS/ND Relies on a Shifting Project Description Making Informed Environmental Analysis Impossible.

The flaws in the IS/ND's project description extend far beyond the lack of demographic data. Indeed, the Ordinance has been revised numerous times in very significant ways over the last few years, but there has been no corresponding revision of the IS/ND. For example, the definitions of "Single Housekeeping Unit" and "Boarding or Rooming House" and the relationship between them continues to change. Under the most recent version of the Ordinance, a husband, wife and two children renting a two-bedroom single family home or duplex (lodging provided to four or more people) would be considered to be living in a Boarding or Rooming House. At least one version of the Ordinance pending before the City recently added a requirement in which every 250 feet of floor area shall be considered the same as a separate guest room for parking purposes. The implications of such a requirement are substantial. As discussed below, and as the City's own staff confirm, because of this parking requirement alone, there will be insufficient legal rental units to house families. *See* Letter from City of Los Angeles Department of Disability to City Council, January 11, 2013, at 2. The IS/ND fails to even acknowledge, let alone analyze, the environmental effects from these numerous revisions.

Any reasonably complete description of the Project would include a clear and comprehensive description of the Ordinance and its environmental setting. Defining and analyzing the whole of the project being approved is a long-standing requirement under CEQA. The courts have consistently held that an EIR must examine a project's *potential* to impact the environment, even if the development may not ultimately materialize. *Bozung v. Local Agency Formation Com.* (1975) 13 Cal. 3d 263, 279, 282

III. The City Must Prepare an EIR that Analyzes the Potentially Significant Impacts of the Proposed Project.

If an environmental document fails to disclose information about a possible significant environmental effect, this constitutes a failure to proceed in the manner

required by law. *Vineyard Area Citizens*, 40 Cal.4th at 435; *Protect the Historic Amador Waterways v. Amador Water Agency*, 116 Cal.App.4th at 1108-1109. The court in *Berkeley Keep Jets Over the Bay v. Board of Port Commissioners* (2001) 91 Cal.App. 4th 1344, 1355, 1371-72, held that CEQA requires a good-faith effort at full disclosure and the absence of information from an environmental document is a prejudicial abuse of discretion "if the failure to include relevant information precludes informed decision-making and informed public participation." Here there is no reasoned analysis. The document lacks even a minimal degree of specificity or detail and therefore provides neither the lead agency nor the public with the type of information called for under CEQA.

A. The IS/ND Fails to Analyze the Project's Population and Housing Impacts, and These Impacts Would Be Significant.

CEQA requires assessment of environmental effects if a project "will cause substantial adverse effects on human beings." CEQA Guidelines 15065 (a) (4). CEQA also requires assessment of a project's impact on population and housing. CEQA specifically considers housing loss, new housing construction and the displacement of people as potential adverse environmental impacts requiring analysis. (CEQA Guidelines, Appendix G, Environmental Checklist Form; *see also* Guidelines §15064 d: In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.).

In *Napa Citizens for Honest Government v. Napa County Bd. of Supervisors*, 91 Cal.App.4th 342, 369 (2001), the Court of Appeal established the minimum level of analysis required under CEQA for review of housing impacts, explaining: "[I]n order to fulfill its purpose as an informational document, the [EIR] should, at a minimum," (1) "identify the number and type of housing units that persons working within the Project area can be anticipated to require," (2) "identify the probable location of those units," and (3) "consider whether the identified communities have sufficient housing units and sufficient services to accommodate the anticipated increase in population." 91 Cal.App.4th at 370. These minimum requirements apply whether the impacts will occur within or outside the Project boundaries. *Id*. at 369.

Although unacknowledged by the IS/ND, the Ordinance would result in the displacement of a substantial component of the City's population. As the Beveridge Letter shows, by changing the definition of "Boarding and Rooming House," the

Ordinance will substantially reduce the acreage and number of parcels where people who share housing are currently allowed. These people will be required to relocate or become homeless. There will be much less housing available for those who currently desire and/or require shared housing. Such a drastic effects could not come at a worse time.

The economic downturn coupled with the housing crisis are already resulting in a profoundly challenging time for millions of Americans. Many families have suffered significant declines in their net worth over the past several years, especially as the value of their homes and other assets has plummeted. Many households have faced job losses or large reductions in the number of hours worked, events that have reduced family income and well-being.

According to the Federal Reserve Board, the effects of the recent recession were especially pronounced in Los Angeles. *See* Statement from Reserve Governor Sarah Bloom Raskin: "Downturns and Recoveries: What the Economies in Los Angeles and the United States Tell Us, April 12, 2012, attached as Exhibit 2. Although the recession was declared to have ended nearly three years ago, the recovery--both at the national level and in Los Angeles--has been extraordinarily slow compared with other recoveries:

> A comparison of the recent national economic downturn with a view of the economic downturn in Los Angeles shows that the recent recession was even deeper than for the nation as a whole. The unemployment rate, which was about the same as the national average prior to the recession, rose to a peak of nearly 13 percent. Moreover, the number of jobs in Los Angeles fell by a cumulative 9 percent, nearly half again as much as the decrease in national employment. Those of you with a longstanding connection to the local economy certainly recall the prolonged downturn of the early 1990s, which followed a real estate crash, cuts in federal military spending in the region, and a sharp contraction in local industries such as aerospace manufacturing. However, the increase in the unemployment rate was even larger during the recent recession than in the 1990s episode. In fact, Los Angeles's peak unemployment rate in 2010 was the highest ever recorded in this city in the almost four decades during which local-area statistics have been published. In the Los Angeles metropolitan area, the contraction in the housing sector has been even more extreme than for the nation as a whole. Home

> prices have fallen nearly 40 percent from their peak, while the issuance of building permits for the construction of new homes dropped nearly 90 percent. *Id.*

The Los Angeles General Plan confirms that the City is in the midst of an unprecedented housing crisis. Indeed, when it last updated its Housing Element in 2009, the City understood the dire ramifications for affordable housing for low- and very-low income households and those with special needs, explaining that they "teeter on the brink of eviction and subsequent homelessness due to unaffordable rents." *Id*. at 2. City of Los Angeles Housing Element 2006-2014 ("Housing Element) at 1, attached as Exhibit 3. The situation is even worse now since the Housing Element was prepared prior to the explosion in home foreclosures and the downturn in the economy. In light of the serious housing problems plaguing Los Angeles, one would expect the IS/ND to have comprehensively analyzed the Ordinance' effects. As discussed below, the impacts will be especially acute for individuals with special needs.[4]

1. The IS/ND Fails to Analyze the Ordinance's Effect on the City's Special Needs Communities.

The California Department of Housing and Community Development ("HCD") acknowledges the housing needs of those associated with specific demographic or occupational groups ("special housing needs).[5] As HCD explains, the following populations have special housing needs:

- *Persons with Disabilities:* Many individuals with a disability live on a small fixed income, limiting their ability to pay for housing. Individuals with mental, physical, and developmental disabilities need affordable, conveniently-located housing which, where necessary, has been or can be specially adapted to address accessibility issues and with on- or off-site support services including outpatient/inpatient day treatment programs.

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[4] The City's proposed Ordinance would undoubtedly impact affect a broad swath of the City's population. This letter, focuses on individuals with special needs since the impacts to this population will be especially severe.

[5] *See* http://www.hcd.ca.gov/hpd/housing_element2/HN_SHN_home.php, accessed January 29, 2013.

- *Elderly*: It is critical that individuals have access to housing which suits their varying needs during each stage of their lives. As people age, they often find themselves facing new or additional housing problems. Senior households often have special housing needs related to physical disabilities/limitations, fixed incomes and health care costs.

- *Large Families and Female Headed Households: D*ue to the limited supply of adequately sized units to accommodate larger households, large families often face significant difficulty in locating adequately-sized, affordable housing. Female-headed households generally have lower-incomes and higher living expenses and may lack the resources needed for adequate child care or job training services, often making the search for affordable, decent and safe housing more difficult.

- *Families and Persons in Need of Emergency Shelters:* Homelessness in California is a continuing and growing crisis affecting almost one in every 100 California residents. According to recent census figures, 26 percent of the nation's homeless individuals and families live in California even though the State is home to only 12 percent of the nation's total population. Homeless individuals and families are without permanent housing largely due to a lack of affordable housing and often compounded by a lack of job training and supportive services related to mental illness, substance abuse or domestic violence. *See* http://www.hcd.ca.gov/hpd/housing_element2/HN_SHN_home.php, accessed January 29, 2013.

According to HCD, specific program responses are required to meet these special housing needs, such as preservation of single-room occupancy hotels or the development of units with three or more bedrooms. *Id*. Moreover, HCD recommends that localities conduct a thorough analysis of special needs to identify groups with the most serious housing needs in order to develop and prioritize responsive programs. *Id*. Here, the IS/ND does not conduct an assessment of housing needs at all, let alone a *thorough assessment* of how the Ordinance would effect this population.

Certainly, it is feasible to conduct such an analysis as evidenced by the City's own General Plan Needs Assessment. *See* General Plan Needs Assessment, attached as Exhibit 4. In fact, this Needs Assessment shows that there is a substantial special needs population in the City and identifies the constraints associated with meeting the needs of individuals with special needs. Set forth below is a sampling of information about just two special needs communities: persons with disabilities and the elderly.

Persons With Disabilities

Population

Persons with disabilities in the City face unique problems in obtaining affordable and adequate housing. This segment of the population, which includes mental, physical, and developmental disabilities, needs low-cost, conveniently-located housing which has been specially adapted for wheelchair accessibility, along with other physical needs. It is estimated that over 500,000 physically, mentally, and developmentally disabled people reside in the City of Los Angeles. There are 95,000 persons with severe mental illness in Los Angeles County. Persons with developmental disabilities numbers 183,328, and person with physical disabilities numbers 259,636. A large proportion of the homeless (one-third to one-half) have mental or physical disabilities. Approximately 3,300 individuals with mental disabilities can be found in the County's jails (or 16% of all inmates).

Housing Needs

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 very low cost small or large group homes (near retail services and public transit), supervised apartment settings, outpatient/day treatment programs, and inpatient/day treatment programs or crisis shelters. It is the opinion of many groups homes developers and non-profit mental health services organizations that the City's current zoning regulations are too restrictive and do not facilitate the implementation of such housing projects.

There is a scarcity of housing in the City accessible to persons with a physical disability. In 1990 only one percent of the City's housing units were accessible, while between 12 and 14 percent of the City's population has a physically or developmental disability.

In order to accommodate the City's population with physical disabilities, there is a need to adapt houses or apartments for wheelchairs and other special requirements. Both Federal and State housing laws require certain features of adaptive design for physical accessibility in all multi-family residential buildings with four or more units built for first occupancy starting March 13, 1991. However, numerous dwelling units built before that date are not subject to these accessibility requirements.

Further, the Americans with Disability Act, adopted July 26, 1990 (Public Law 101-336), requires architectural retrofitting of commercial structures converted to residential use to accommodate individuals with physical disabilities, the Los Angeles City Advisory Council on Disability states that there is a need for architectural accessibility in 4 to 15 percent of all housing in the City. Housing preservation programs (See Chapter VI) administered by the Los Angeles Housing Department provide for accessibility retrofitting to comply with the law.

It is the opinion of many groups homes developers and non-profit mental health services organizations that the City's current zoning regulations are too restrictive and do not facilitate the implementation of such housing projects.

Source: City of Los Angeles Housing Element Needs Assessment (emphasis added).

Elderly

Population	Housing Needs	Housing Locations
According to the 1990 census, 13.5% of the City of Los Angeles' population of 3,485,398, or 470,900 people, were aged sixty years or older. Of those, 345,960 residents were sixty-five years or older, or 10%, slightly less than the national average. In 1995, the City Department on Aging projected an elderly population (60 and older) of 504,328 persons in the year 2000 Elderly renter in the City is very different, given an average rent of $544 per month and the generally low incomes of the elderly. A notable segment of the elderly population does not require constant care and chooses to live in alternative housing. For example, social agencies match people in need of housing with other elderly homeowners or apartment dwellers looking for roommates	There would be a need for 15,588 dwelling units to house the additional elderly population of 33,428 expected by the year 2000 (using the average of 1.58 persons per dwelling unit recommended by the Los Angeles Housing Department). This estimate does not consider the size and type of dwelling unit.	Large numbers of elderly live in the Southwest Valley and Northwest Valley subareas of the City The 1990 Census supported that finding showing that (for those persons 60 years of age and older) the largest increase of population has taken place in the Northeast, Northwest and Southwest Valley subareas of the City, with smaller increases in Northeast and South Los Angeles.

Source: City of Los Angeles Housing Element Needs Assessment

2. Implementation of the Ordinance Will Result in Significant Housing and Population Impacts.

By changing the definition of "Boarding or Rooming House," the Ordinance would substantially reduce the acreage and number of parcels where shared housing are currently allowed. As the Beverage Letter explains, under the proposed Ordinance, groups of four or more renters living together in a building with two or fewer units which do not meet the new definition of "Single Housekeeping Unit" will not be a permitted use in zones that do not permit "Boarding or Rooming Houses." This revised definition would not just apply to planned Boarding or Rooming Houses. Instead, it would apply to current structures, dwelling units and uses.

There would be numerous effects from such a revision to the Ordinance. First, given the City's right to enforce the Ordinance, unless lessees decide to reduce the number of residents, the entire housing group would be required to move into an entirely different area of the City. Either way, the individual tenants would either be forced to relocate or to reduce the number of renters in their dwelling, if feasible.

In addition to the obstacles discussed above regarding Los Angeles' severe housing crisis and the stalled economic recovery, as Beveridge explains, there may simply not be enough acreage or parcels to accommodate these forced relocations. Beveridge compared both the acreage and the parcels in the City where Boarding or Rooming Houses are permitted to the acreages and number of parcels that do not allow Boarding or Rooming Houses. The results of this analysis confirm that there simply may not be sufficient land to meet the housing and population needs of those who currently reside in Boarding or Rooming Houses if the Ordinance is implemented.

Just under 10 percent of residentially zoned land in Los Angeles (about 13,000 acres) currently allows Boarding or Rooming Houses. Beveridge Letter at 7. Boarding or Rooming Houses are currently prohibited on more than 90 percent of the City's residentially zoned land, or roughly 124,000 acres. The effect of these current zoning restrictions could not be more clear. A household sharing housing that became a "Boarding or Rooming House" under the proposed Ordinance would be limited to zones that allow Boarding or Rooming Houses. As a result, the proposed Ordinance would result in an approximately 90 percent reduction in residentially zone land available to such households. *Id.* Moreover, as the City itself acknowledges, because Boarding or Rooming Houses are required to provide one parking space for each guest room "the City simply does not have enough rental units to house families that would be legal under the

proposed ordinance." *See* Letter from City of Los Angeles Department of Disability to City Council, January 11, 2013, at 2.

The impacts caused by the proposed Ordinance of course extend beyond the restricted land available for Boarding or Rooming Houses. There would be a corresponding substantial reduction in the number of units that would be potentially available for those who currently desire and/or require such housing. Beveridge ran several different scenarios to determine the potential effects of the proposed Ordinance on current households and the number of persons living in those households:

- Of the households living in a dwelling of two units or less, he determined a) the number of owner-occupied households with four or more renters with a non-"family" relationship with the householder and b) the number of non-owner-occupied households with three or more renters with a non-"family" relationship with the householder. Together, these amounted to 6,335 housing units and 48,122 residents.

- Because the proposed ordinance would also affect households with four or more renters (regardless of blood or other "family" relationship as defined by the Census) that could not meet the "Single Housekeeping Unit" definition, Beveridge examined two other potential sets of units, all of which include the set of units discussed above.

  - The first additional set includes the "family" units as described, plus all rental "family" units with four or more persons in the households where at least one of them had a non-"family" relationship to the owner. With that definition some 23,089 units with 146,974 residents could be affected.

  - The second includes the "family" units as described, plus all rental "family" units with four or more persons in the household. With that definition, some 82,197 units with 473,396 residents could be affected.

- Beyond individuals living in households, some individuals live in group quarters. Particularly, those living in the following sort of group quarters may be affected unless the home falls within a specific category of facility protected by the exceptions in the proposed Ordinance:

  Group homes intended for adults (code 801)—Group homes intended for adults are community-based group living

> arrangements in residential settings that are able to accommodate three or more clients of a service provider. The group home provides room and board and services, including behavioral, psychological, or social programs. Generally, clients are not related to the caregiver or to each other. Group homes do not include residential treatment centers or facilities operated by or for correctional authorities.

Beveridge estimated the potential impact on these sorts of group quarters for the zoning restriction. The results of this estimate are the following: 3,182 residents may be in housing that is restricted by the new zoning changes.

While these statistics should be considered educated estimates, Beveridge bases his analysis on evidentiary data and therefore meets the fair argument standard under CEQA that the Project would have significant population and housing effects. Consequently, the City cannot approve the Ordinance without first preparing an EIR.

B. Implementation of the Ordinance Will Result in Reasonably Foreseeable Physical Changes in the Environment.

The proposed Ordinance has the potential to result in numerous environmental impacts, none of which are analyzed in the IS/ND. As the attached study demonstrates, unmet housing needs result in all sorts of environmental impacts. *See* The Case for Housing Impacts Assessment: the Human Health and Social Impacts of Inadequate Housing and Their Consideration in CEQA Policy and Practice, City and County of San Francisco, May 2004, attached as Exhibit 5. For example, unmet housing needs increase the demand for and the cost of housing. High housing costs, in turn, drive development of lower cost housing on the urban fringe, contributing to traffic congestion, air pollution, increased greenhouse gas emissions, as well as the loss of farmlands and open space. *Id*. In addition, as the San Francisco Study explains, displaced residents may find that affordable housing and adequate replacement housing only exists far from jobs and schools. Relocation may thus create a new demand for public transportation. *Id*. at 11.

Residential displacement and unaffordable housing also forces residents into crowded or substandard living conditions or even homelessness. *Id*. at 5. These adverse living conditions can lead to diverse health effects including but not limited to elevated stress levels, respiratory infections, asthma and even mortality. *Id*. 4-7. Individuals in substandard housing also lack safe drinking water and hot water for

washing; often have ineffective waste disposal, intrusion by disease vectors (e.g., insects and rats); and inadequate food storage, all of which have been identified as contributing to infectious disease. *Id*. at 8.

The displacement of a substantial amount of existing housing, especially on the scale Beveridge identifies, would certainly necessitate the construction of replacement housing elsewhere. Indeed, the City concedes the potential for numerous environmental impacts resulting from development of additional community care facilities. *See* Department of City Planning Recommendation Report, October 14, 2010 at 8. Although the City's Report identifies the potential for impacts relating to parking, vehicular access, noise, residential character, and lighting (*Id*.), the IS/ND fails to actually analyze any of these impacts.

Finally, as discussed above, a recent version of proposed Ordinance requires a parking space for each guest room in a Rooming and Boarding House. This requirement has the potential to result in a substantial number of parking spaces, yet the IS/ND does not address this issue at all. The City must analyze the environmental impacts associated with the construction of these spaces. Moreover, since an ample supply of parking facilitates travel by automobile, rather than by transit, bicycling or walking, the City's EIR must analyze the environmental consequences from this additional travel.

C. The Ordinance Will Conflict with the City's General Plan.

CEQA requires that environmental documents analyze the consistency of a project with applicable local plans, including General Plans. *See Napa Citizens for Honest Govt. v. Napa County Board of Supervisors* 91 Cal. App. 4th 342, 386-87 (2001); CEQA Guidelines Appendix G, § IX (b). Inconsistencies with a General Plan or other local plan goals and policies that were enacted in order to protect the environment are significant impacts in themselves and can also be evidence of other significant impacts. *See id*.; *Pocket Protectors v. City of Sacramento*, 124 Cal. App. 4th 903, 929 (2004).

Here, IS/ND fails to conduct *any* analysis of this issue and somehow reaches the contrived conclusion that the proposed Ordinance would be consistent with the General Plan.[6] In direct contrast to the document's bold conclusion, the Project

[6] Nor does the document reach any conclusion -- or conduct any analysis -- of the Ordinance's consistency with the City's various community plans.

would clearly violate the General Plan Housing Element's cornerstone principles that recognize the decades of federal Housing Acts and the Universal Declaration of Human Rights calling for the City to preserve an adequate supply of ownership and rental housing that is safe, healthy, sanitary and affordable to people of all income levels, races, ages, and suitable for their various needs.

Indeed, the proposed Ordinance is indisputably inconsistent with the following General Plan's goals and polices:

- *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.

- Objective 1.5: Reduce regulatory and procedural barriers to the production and preservation of housing at all income levels and needs.

- 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.

- 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."

In addition to misinforming decision makers and the public about the Ordinance's consistency with the General Plan, the IS/ND ignores the actual impacts of the Project.[7] The City must prepare an EIR to provide a comprehensive and accurate analysis of all General Plan inconsistencies.

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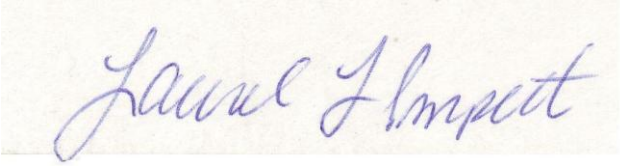
[7] Additionally, the EIR's conclusion that the Project is consistent with various General Plan goals and policies is fatally undermined by the fact that the EIR does not contain an *any* evaluation of the Project's impacts on the population and housing (footnote continued)

IV. Conclusion

For the reasons set forth above, Disability Rights California, Western Center for Law and Poverty, and the clients they represent request that the City defer action on the proposed Ordinance until such time as an EIR is prepared that fully complies with CEQA.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Laurel L. Impett, AICP, Urban Planner

Exhibits:

Exhibit 1: Andrew Beveridge Letter

Exhibit 2: Reserve Governor Sarah Bloom Raskin "Downturns and Recoveries: What the Economies in Los Angeles and the United States Tell UsCity of Los Angeles General Plan Needs Assessment

Exhibit 3: City of Los Angeles Housing Element 2006-2014

Exhibit 4: General Plan Housing Needs Assessment

Exhibit 5: The Case for Housing Impacts Assessment: the Human Health and Social Impacts of Inadequate Housing and Their Consideration in CEQA Policy and Practice, City and County of San Francisco, May 2004

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resources which those goals and policies are meant to protect. *See Napa Citizens for Honest Govt.*, 91 Cal. App. 4th at 381.

cc: Antonio Villaraigosa, Mayor
June Lagmay, City Clerk
Amy Brothers, Deputy City Attorney
Autumn M. Elliott, Associate Managing Attorney, Disability Rights California
Dara L. Schur, Director of Litigation, Disability Rights California
Stephanie Haffner, Senior Litigator, Western Center on Law and Poverty

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