AGENDA ITEM #6

STUDIO CITY NEIGHBORHOOD COUNCIL

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RECEIVED
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By

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Via email: councilmember.krekorian@lacity.org

Subj: Council Member O'Farrell's Motion 12B at the City Council Meeting on September 13, 2016, regarding Second Dwelling Unit ("SDU") Permits Issued by LADBS to new applicants between September 20 and 30, 2016 further reference is made to Council File # 14-0057-S8 - Proposed ordinance repealing Section 12.24W43 and 12.24W44 of Chapter 1 of the Los Angeles Municipal Code for the purpose of complying with State Law AB 1866 on Second Dwelling Units and grandfathering Second Dwelling Units permitted since June 23, 2003

Dear Councilmember Paul Krekorian:

At the board meeting on July 20, 2016, the SCNC Board passed a motion objecting to the repeal of Section 12.24W43 and Section 12.24W44 of Chapter 1 of the Los Angeles Municipal Code. The full text of the motion of opposition was submitted to the Los Angeles Planning and Land Use Committee and the City Council in a letter dated July 21, 2016. On September 13, 2016, Council Member O'Farrell introduced motion 12B, which fundamentally changes the SDU grandfathering ordinance by allowing **anyone** who files a new application **by September 30th** to be eligible for grandfathering under the more lenient standards. The amended ordinance even says that these new permits will be issued "in accordance with" the unlawful ZA 120. This is completely at odds with Judge Chalfont's ruling and opens up the City to a whole new front of appeals and judicial challenges.

1) Motion 12B violates the Superior Court's ruling and would give rise to potential litigation by surrounding neighbors challenging new second dwelling unit permits issued by LADBS to new applicants between September 20 and 30.

- The Superior Court ruled that, in 2010, the City had unlawfully issued ZA 120, which substituted the permissive state default standards for the City's own much stricter adopted local standards. The Court enjoined the City from issuing any further new second unit permits based on the invalid ZA 120.
- Up to now, the proposed City ordinance has proposed to grandfather only permit holders and applicants who, prior to the Court's ruling, had been issued permits or applied for them in reliance on ZA 120.
- Motion 12B fundamentally changes the grandfathering ordinance by also including an open-ended additional class of persons who have never previously applied for second unit permits. Under motion 12B, the grandfathering provision of section 1 would be amended to substitute the words "*pursuant to* an issued building permit...", rather than "*in reliance on* an issued building permit...." This would remove the express need for past reliance. The proposed amended ordinance then goes on to state that an open-ended class of persons -- anyone who files a *new* application by September 30 -- will be eligible for grandfathering, and it states that the permits that these new applicants obtain will be "considered lawful" to the extent that the second unit is constructed or purposed to be constructed "*in accord with ZA 120.*" Consequently, the amended ordinance is saying these new permits will be issued "in accordance with" the unlawful ZA 120.
- The proposed issuance of new permits to new applicants is completely at odds with Judge Chalfant's ruling that *ZA 120 was unlawful and cannot be used as the basis to issue any new permits*. (His injunction forbids exactly that.) It is one thing for the City to grandfather the closed class of past permits and permit applications previously issued or applied for in reliance on ZA 120 prior to the Court's judgment. To try to grandfather an open-ended class of *new* applicants who can obtain *new* permits issued *"in accord with ZA 120"* is precisely what the Superior Court forbid.
- Any group of surrounding neighbors impacted by the proposed second unit construction from these new September 20 to 30 applications could administratively appeal (and judicially challenge) them *on this same ground.*

2) The various Councilmembers who stated that they supported Motion 12B did so on their misconception that only a handful of potential new applicants could file new second unit applications because of the practical difficulty of preparing an application "sufficient for complete plan check."

- In speaking against Motion 12B, Councilmember Koretz contended that, typically, when there is a short window for filing applications under permissive regulations, before stricter regulations are to take effect, developers will rush to file their applications seeking to take advantage of the permissive regulations. Accordingly, the proposed amendment could likely encourage 100 or more new second unit applications throughout the City under the lenient "default" standards before the September 30th filing date. These new applications would not need to establish any hardship or reliance interest, which, up to now, had been the hallmark of the proposed grandfathering.

3) Motion 12B's proposed grandfathering of an open class of new applicants who may file new applications between September 20 and 30 is patently contrary to the basic purpose of the grandfathering ordinance.

- Prior to now, the Council has proposed grandfathering the "stranded" property owners who, prior to the Superior Court rulings, had undertaken second unit construction or applied for second unit permits, based on the hardship they have suffered due to their reliance on the City's unlawful administration of ZA 120. The City Council acknowledged that the surrounding neighborhoods may experience substantial negative impacts from construction of the grandfathered second units that exceeded the City's adopted standards. But the Council determined that those potential negative neighborhood impacts were outweighed by the hardship that these second unit permit holders and applicants would otherwise suffer, through no fault of their own, from being unable to complete their projects.
- The proposed motion now proposes to grandfather an additional open-ended class of persons who have no such reliance interest. Under the motion, the surrounding neighbors will potentially experience similar neighborhood impacts but without any off-setting hardships that would otherwise be experienced by this open-ended class of new applicants.
- Motion 12B would leave as its legacy many dozens, and potentially hundreds, of neighborhoods severely impacted by oversized second units constructed in designated "hillside" areas and other improper locations. The Council would sacrifice these neighborhoods without obtaining any corresponding benefit in relieving hardships by those who had unknowingly relied on ZA 120 before the Superior Court's ruling. This makes no policy sense at all.

Your opposition to motion 12B is critical to the protection of our community. We request that you vote against the motion referred to above on September 20, 2016, when it comes before the City Council.

Sincerely,

Denise Welvang

Denise Welvang, President
Studio City Neighborhood Council

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