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CITY ATTORNEY

REPORT NO. R 1 6 - 0 0 9 0
MAR 1 7 2016

REPORT RE:

**DRAFT ORDINANCE REPEALING SECTION 85.02 OF
THE LOS ANGELES MUNICIPAL CODE PROHIBITING THE
USE OF STREETS AND PUBLIC PARKING LOTS FOR HABITATION**

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

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance repeals Section 85.02 of the Los Angeles Municipal Code (LAMC), which makes it unlawful to use a vehicle as living quarters while on any City street or parking lot owned by the City of Los Angeles or under the control of the Los Angeles County Department of Beaches and Harbors.

In 2014, the Ninth Circuit ruled that LAMC Section 85.02 was unconstitutional as currently written. *Desertrain v. City of Los Angeles* 754 F.3d 1147 (9th Cir. 2014). The City Attorney's Office transmitted two alternative draft ordinances to replace LAMC Section 85.02. Due to the passage of time since the Ninth Circuit issued its decision, this Office recommends that the City Council repeal the unconstitutional version of LAMC Section 85.02. Repealing the unconstitutional version in no way precludes the City Council from adopting a replacement to the repealed law at a future date.

Council Rule 38 Referral

A Copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Recreation and Parks, the Los Angeles Police Department and the Department of Transportation requesting that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Valerie Flores at (213) 978-8130. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney



By

DAVID MICHAELSON
Chief Assistant City Attorney

DM:VLF:ac
Transmittal