VSA VENICE STAKEHOLDERS ASSOCIATION

July 21, 2015

Councilman Jose Huizar
Chair, Ad Hoc Committee on Homelessness
City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: CF 14-1656 and CF-1551

Dear Councilman Huizar,

I am president of the Venice Stakeholders Association, a non-profit organization representing the public safety concerns of Venice residents.

As your committee considers amendments to the new sidewalks storage ordinance (LAMC section 56.11) and the new parks storage ordinance (LAMC section 63.44) we wish to advise you on several issues.

Venice residents have long suffered from a large and frequently troublesome transient population. The failure over many years of the City and County of Los Angeles to abate the public nuisance stemming from the Venice Beach Recreation Area (VBRA) led the organization to bring a lawsuit against the City and County last year. This suit is pending. One of our principal demands is for the City and County to enforce existing laws against camping in the VBRA and against the storage of personal property in the park after closing hours. The recent re-codification of LAMC 63.44 provides clear language on these points and we look forward to its enforcement.

No Amendments Are Proposed to the Parks Ordinance (LAMC 63.44).

It is our understanding that none of the amendments proposed in Motion No. 5-A and Motion 5-B now before your committee concern

the parks ordinance (LAMC 63.44) nor should they be applied to the parks ordinance. We would ask that your committee not change LAMC 63.44 and that you urge the Mayor, the Department of Recreation and Parks, the Police Commission and the Los Angeles Police Department to begin enforcing the ordinance.

The VBRA is a nationwide magnet for many individuals, increasingly those who leave homes in distant states to travel the country and end up living rough on Venice Beach, enticed by moderate weather, easy availability of drugs, lax enforcement, sympathetic tourists good for a few dollars, and misguided social services groups who provide food (but no counseling or housing). We believe that an end to camping and storage of tons of personal possessions in the VBRA will lessen its attractiveness and in the end increase public safety for residents and the public at large.

Amendments Proposed to Sidewalks Ordinance (LAMC 56.11) in Motion 5-A.

We variously support and oppose certain amendments to the new version of LAMC 56.11, the sidewalks storage ordinance, as proposed in Motion 5-A. We address each of the proposed amendments below.

2.g. (Revisions to definition of "Personal Property")

While amending the definitions section 2(g) to remove the term "Personal" from "Personal Property" may appear to be benign, as the phrase "Personal Property" is used throughout the ordinance any revision to delete the term "Personal" must be carried through to the entire ordinance.

The second part of the proposed amendment would delete the phrase "personal items such as luggage, backpacks, clothing, documents and medication, and household items" from the definition of "Personal Property" (or, as proposed, "Property"). This change is far from benign, as it effectively means that the City could never remove items in these categories from sidewalks. Thus, we believe that this phrase should remain in the definition.

The clear intent of the decision in Lavan v. City of Los Angeles, 693 F.3d 1022 (2012), was to allow the temporary placement of personal possessions on the public right-of-way during the day so the owner could leave those possessions long enough, as the court put it, "*to perform necessary tasks such as showering, eating, using restrooms, or attending court.*" It is reasonable to assume that the list of "necessary tasks" set forth in the Lavan decision was not exhaustive, and that other personal business such as visiting a doctor's office, going shopping, looking for a job, and the like, would qualify.

However, one thing all of these "necessary tasks" have in common is that they can be performed within a matter of hours.

Under the ordinance as already amended, personal items such as luggage, backpacks, clothing, documents and medication, and household items left unattended during these excursions for "necessary tasks" will be protected from removal as long as they are removed within 24 hours after notice is given. That is more than enough time for the owner to return to his or her possessions and move them from the sidewalk. The ordinance as already amended reasonably excludes from this safe harbor those items which, by definition, do not reasonably qualify as "personal possessions" for purposes of Lavan, such as bulky items like furniture or large quantities of smaller items that collectively have a volume greater than a 50 gallon bin.

The proposed amendment in Motion 5-A would categorically remove "personal items such as luggage, backpacks, clothing, documents and medication, and household items" from the definition of "Personal Property" (or "Property"). This would effectively mean that these categories of items could remain at all times, even after 24 hours' notice is given.

This is not a prudent revision to the ordinance. The point of the 24-hour notice period is specifically to deal with these "personal items" that Lavan protects from immediate seizure. After the expiration of the 24-hour period, all of these items - luggage, backpacks, clothing, documents and medication, and household items – should, and must, leave the sidewalks. Otherwise, they cumulatively result in the development of encampments, which become a threat to public health and safety due to drug use, food waste, and public defecation, urination and inebriation.

Moreover, the segregation of various forms of property as between so-called "personal items" and other items for purposes of removal by the City creates a distinction that cannot be navigated by the Los Angeles Police Department and the Department of Sanitation, which are responsible for cleanups of the sidewalk after the requisite 24-hour notice is given. These departments simply do not have the capacity to sort through all of the various items left on the sidewalk more than 24 hours to separate out just the "luggage, backpacks, clothing, documents and medication, and household items" from all the other items. Thus, this proposed amendment would result in the entire ordinance not being enforceable.

While we appreciate the concern about not confiscating documents and medication evidenced in Motion 5-A, it should be borne in mind that under the ordinance as presently amended such items are not to be

destroyed, even when they are confiscated. Instead, they are stored and available for retrieval by their owners. This is not at all like the situation that obtained in the incidents that gave rise to the litigation in Lavan, where medications and documents were seized and immediately disposed of.

Finally, while Lavan had the arguably laudable goal of preserving personal items such as medication and documents from immediate seizure and/or destruction, the fact is that for the sake of their owners these items should not remain unattended on the sidewalks for long periods of time anyway. The possibility of theft is palpable at any public site, and those living in public spaces should not be encouraged by the law to leave personal documents and medications unattended with the belief they will be there when the owner returns.

2(n) and 2(o) (new definitions of "attended" and "unattended" property.)

Initially, we note that Motion 5-A makes no specific proposal about how to define "attended" and "unattended" property. Before definitions are amended into the ordinance, we would ask that they be circulated to the public.

Further, we question whether it is necessary to define "unattended" and "attended" property, as the ordinance does not make this distinction anywhere, and in fact appears to intentionally avoid the distinction. The ordinance presently includes no reference to "unattended" property, and the only reference to "attended" property is in section (5), which states that even property that is "attended" at the end of the 24-hour notice period must be removed.

With that said, if a definition is necessary we would argue that "attended" property should be defined narrowly as property that is within 5 feet from its actual owner, and that all other property that is not defined as "attended" is "unattended" property.

3(b) (clarification of authority to impound stored property)

We support the revision of section 3(b) to read that "All stored property in public areas may be impounded by the City with proper notice, or as outlined in this code section." This is a more accurate statement of the City's actual authority under the ordinance.

3(c) (simplification of provision concerning moving stored property to another location)

We support the revision of section 3(c) to change the second sentence to read simply that "Moving stored property to another location in a

public area shall not be considered to be removing property from a public area." The original language concerning "returning personal property to the same block on a daily or regular basis" is properly removed as it is somewhat ambiguous and the language in any event is subsumed under the prohibition of "moving stored property another location."

3(i) (addition of new provision allowing removal of property that interferes with sanitation or maintenance work)

We support the addition of subsection 3(i) to read: "Property that interferes with planned sanitation or maintenance work may be removed and impounded following pre-removal notice."

3(j) (addition of new provision allowing immediate removal of property that interferes with sidewalk passability)

We support the addition of a new subsection 3(j) to provide for immediate removal of property that interferes with sidewalk passability, including ADA access, but we recommend that instead of the language proposed in Motion 5-A, the language should be more specific as to the requirements of the ADA, and should read as follows: "Property that interferes with sidewalk passability, including passage by the disabled under the American with Disabilities Act, may be removed and impounded without prior notice. For the purposes of this section, a passage way of at least five feet, the distance to allow two disabled persons in wheelchairs or assisted by a walker to pass in opposite directions, shall be maintained at all times free of any personal property. Post-removal notice shall be provided as set forth in Section 56.11, Subsection 4(b) below."

5 (replacement of language concerning failure to remove attended property)

We support the replacement of section 5 concerning the removal of "attended" property, but we recommend that instead of the language proposed in Motion 5-A, the following language should be used: "Removal of Attended Stored Property. Once ownership of Stored Property is asserted and the owner is present, the City shall first give the owner the opportunity to immediately comply by removing the Stored Property from a Public Area."

Additional Amendment Requested to Add New Section 3(k) (stored property within 300 feet of residences).

In addition to the amendments and revisions discussed above, we would ask that another subsection 3(k) be added to read: "Personal Property placed in Public Areas within 300 feet of a residence may be

removed and impounded at any time without prior notice. Post-removal notice shall be provided as set forth in Section 56.11, Subsection 4(b) below."

The reasons for this additional amendment are obvious, especially in Venice but increasingly throughout the City: The proximity of encampments to residences has brought on a host of noxious and dangerous incidents, from trespass on private property, storage of personal possessions on private property, constant late night noise exceeding the City noise ordinance, and urination, defecation and public inebriation on private property or nearby public property, to home invasions, burglaries and assaults. The City must establish a barrier between these nuisances and residences under its obligation to protect residents' right to the quiet enjoyment of their homes.

We appreciate that adding the additional amendment may risk further litigation along the lines of the Lavan case. However, even with a 300-foot storage free buffer zone around residences there will remain hundreds of miles of sidewalks in commercial and industrial zones throughout the City where personal property could be stored subject to the limitations ensured by Lavan and the amended ordinance.

Thank you for the opportunity to comment on these proposed amendments.

Sincerely,

Mark Ryavec

cc: Mayor Eric Garcetti
City Attorney Mike Feuer
Members of the Los Angeles City Council
Steve Soboroff, President, Board of Police Commissioners