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CITY ATTORNEY

REPORT NO. R 19-0241  
AUG 06 2019

**REPORT RE:**

**DRAFT ORDINANCE AMENDING LOS ANGELES MUNICIPAL CODE  
SECTION 91.8605 TO ALLOW CITY-OWNED OR LEASED BUILDINGS IN  
COMPLIANCE WITH THE CITY'S MANDATORY EARTHQUAKE HAZARD  
REDUCTION REQUIREMENTS TO BE USED AS TEMPORARY EMERGENCY  
HOMELESS SHELTERS ESTABLISHED IN RESPONSE TO THE CITY'S  
DECLARATION OF A SHELTER CRISIS**

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

Council File No. 14-1697-S5

Honorable Members:

This Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Section 91.8605 of the Los Angeles Municipal Code (LAMC) to allow buildings owned or leased by the City and in compliance with the requirements of the City's mandatory earthquake hazard reduction requirements to be used as temporary emergency homeless shelters established in response to the City's declaration of a shelter crisis pursuant to California Government Code Section 8698, et seq.

Background and Summary of Ordinance Provisions

On April 17, 2018, the City Council adopted an ordinance establishing development standards for emergency homeless shelters pursuant to the City's declaration of a shelter crisis. (Ordinance Number 185490, amending LAMC Section

91.8605.) This action was in response to the enactment of California Government Code Section 8698.4, which exempts the City from complying with certain state and local regulations, to the extent that these laws hinder or delay the City's ability to mitigate the shelter crisis, so long as the City adopts, by ordinance, reasonable standards and procedures for the design, site development, and operation of homeless shelters.

LAMC Section 91.8605 states that “[s]helters shall not be located in existing, substandard buildings subject to mandatory earthquake hazard reduction requirements....” As a result of this provision, existing buildings that are otherwise in compliance with Section 91.8605 but have not been retrofit cannot be used as temporary emergency shelters unless they immediately commence work to meet the City's mandatory earthquake hazard reduction requirements (Seismic Retrofit Requirements).

The work required to meet these standards is costly and can take time, and because of that, the Seismic Retrofit Requirements allow existing buildings to achieve compliance over time, with different reporting and performance deadlines imposed for unreinforced masonry buildings (LAMC Section 91.8801, *et seq.*), wood-frame buildings with soft, weak, or open-front walls (LAMC Section 91.9301, *et seq.*), and non-ductile concrete buildings (LAMC Section 91.9501, *et seq.*). However, LAMC Section 91.8605.2.4.B does not afford buildings used as emergency temporary homeless shelters the opportunity to comply over time.

To address this issue, a motion (Huizar-Harris-Dawson) was introduced on April 16, 2019, requesting the City Attorney, with the assistance of the Department of Building and Safety (DBS), to transmit an ordinance allowing projects that are not retrofit to the standards established by the City's mandatory earthquake hazard reduction requirements Seismic Retrofit Requirements, but are otherwise in compliance with applicable building and safety regulations, to defer compliance with the Seismic Retrofit Requirements in order to be immediately used as temporary emergency homeless shelters pursuant to the City's shelter crisis declaration.

On June 11, 2019, the Planning and Land Use Management (PLUM) Committee of the City Council amended the motion to allow only shelters developed on City-owned or leased properties pursuant to LAMC Section 12.80 to be eligible for the same deferred compliance as other existing building subject to the Seismic Retrofit Requirements. The PLUM Committee also amended the motion to have an urgency clause included in the ordinance transmitted by this Office. The PLUM Committee recommended approval of the motion as amended to the City Council. Thereafter, the City Council approved the motion and requested that this Office prepare and present the draft ordinance.

The draft ordinance amends LAMC Section 91.8605 to allow shelters located on City-owned or leased properties to comply with the Seismic Retrofit Requirements over

time, in the same manner as other existing buildings in the City that are subject to those requirements. This means that the City shall meet all reporting and filing obligations, as well as performance deadlines, set forth in the LAMC. The draft ordinance does not exempt the City from Seismic Retrofit Requirements; it only removes the immediate compliance with the development standards imposed by the Seismic Retrofit Requirements.

As requested, the draft ordinance includes an urgency clause so that, upon adoption by the City Council and approval by the Mayor, it can become effective upon publication. Given the dire homeless shelter situation that gave rise to the City Council's declaration of a homeless shelter crisis last year and that led to the City Council's motion requesting this Office to transmit this draft ordinance, the utilization of an urgency clause pursuant to Charter Section 253 is legally appropriate. The draft ordinance is required for "the immediate preservation of the public peace, health or safety" insofar as it provides for additional shelters to be established throughout Los Angeles to alleviate the shortage of beds that currently exists in the City in order to accommodate the many homeless in Los Angeles. The draft ordinance includes a statement describing the urgency as required by Charter Section 253. Urgency ordinances require a three-fourths vote of the City Council in order to pass.

#### California Environmental Quality Act Standard of Review

The Department of City Planning recommends that the City Council, based on the whole of the administrative record, determine that the draft ordinance amending LAMC Section 91.8605 is exempt from the California Environmental Quality Act (CEQA) under California Public Resources Code Sections 15268 (statutory exemption for ministerial projects), 15269 (statutory exemption for emergency projects), 15301 (categorical exemption for existing facilities), 15302 (categorical exemption for replacement or reconstruction of existing structures and facilities), 15303 (categorical exemption for new construction or conversion of small structures), 15304 (categorical exemption for minor alterations to land), 15305 (categorical exemption for minor alterations in land use limitations), 15311 (categorical exemption for accessory structures), 15323 (categorical exemption for normal operations of facilities for public gatherings), 15332 (categorical exemption for in-fill development projects), and 15378 (definition of a project), and that none of the exceptions under 15300.2 apply.

Reliance on these exemptions is appropriate when substantial evidence in the record supports the use of the exemptions and none of the exceptions in CEQA Guidelines Section 15300.2 applies.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to Los Angeles Department of Building and Safety, Los Angeles Fire Department, Los Angeles Housing and Community Investment Department, the Police Department, and the Office of the City Administrative Officer with a request that all comments, if any, be presented directly to the City Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Adrienne Khorasanee at (213) 978-8246. She or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON  
Chief Assistant City Attorney

DM:ASK:mgm  
Transmittal