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CITY ATTORNEY

REPORT NO. R 16 - 0037

JAN 28 2016

**REPORT RE:**

**DRAFT ORDINANCE AMENDING SUBSECTIONS 91.9305.2, 91.9309.2 AND 91.9309.3 OF ARTICLE 1, CHAPTER IX OF THE LOS ANGELES MUNICIPAL CODE TO ADJUST TIME LIMITS TO COMPLY WITH MANDATORY SEISMIC RETROFITTING OF EXISTING WOOD-FRAME BUILDINGS WITH SOFT, WEAK OR OPEN-FRONT WALLS; AND CLARIFY ENGINEERING ANALYSIS TERMS AND SPECIFICATIONS**

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-S2

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 amends Subsection 91.9305.2 of Article 1, Chapter IX of the Los Angeles Municipal Code (LAMC) to adjust time limits to comply with mandatory seismic retrofitting of existing wood-frame buildings with soft, weak or open-front walls. The draft ordinance also amends Subsections 91.9309.2 and 91.9309.3 to clarify technical terms and specifications used in the engineering analysis.

Background

On October 9, 2015, the City Council adopted an ordinance that mandates the seismic retrofitting of pre-1978 wood-frame, soft first-story buildings,<sup>1</sup> but provides an

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<sup>1</sup> Soft first-story buildings are buildings with open sections on the first floor, such as garages, tuck-under parking spaces, or large windows that create a weak first story.

exception for residential buildings with three dwelling units or less (CF 14-1697-S1; Ordinance No. 183893) ("Mandatory Seismic Retrofit Ordinance"). The ordinance went into effect on November 22, 2015.

At a special Housing Committee meeting held on December 7, 2015, the Department of Building and Safety (DBS) proposed amendments to the Mandatory Seismic Retrofit Ordinance that would modify the compliance timeline affecting soft first-story building retrofits and clarify engineering specifications. DBS also proposed adding an exception to parking requirements for affected buildings if the mandatory retrofit work displaced existing parking. Following public comment, the Housing Committee recommended these amendments in a Housing Committee Report to City Council (Cedillo), along with other actions relating to a proposed 50 percent pass-through of retrofit costs (CF 14-0286-S7, 14-1697-S2).

#### Summary of Ordinance Provisions

On January 13, 2016, the City Council adopted, as amended, the Housing Committee Report to request that the City Attorney, with the assistance of DBS, prepare and present an ordinance to modify time limits for compliance with the soft first-story building retrofit mandate, to clarify engineering specifications, and to add an urgency clause.<sup>2</sup>

The draft ordinance amends Division 93 of Article 1 of Chapter IX of the LAMC by permitting two years, instead of one, for property owners to submit building or demolition plans to DBS; and allowing three and a half years, instead of two, for owners to obtain the required permits for the proposed demolition or retrofit work. The draft ordinance does not change the seven-year limit to complete all retrofit work. As a result, because the new time limits are measured from the date an owner receives an order from DBS, property owners will have one and a half years to acquire permits after submitting plans, and three and a half years after permits are issued to complete all retrofit construction. In addition, the proposed ordinance clarifies technical terms and specifications used in the engineering analysis applicable to soft first-story buildings. Finally, the proposed ordinance adds an urgency clause.

#### CEQA Determination

This Office recommends that City Council find that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) for the same reasons described in the Notice of Categorical Exemption (Case No. ENV-2015-3581-CE)

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<sup>2</sup> The City Council's request for the proposed ordinance also included adding an exception to the City's parking requirements. However, in order to avoid delaying implementation of the revised compliance timeline and technical requirements for soft first-story buildings, this Office will be submitting the draft ordinance adding the parking exception separately.

prepared for the adopted Mandatory Seismic Retrofit Ordinance. See Pub. Res. Code Section 21084; and CEQA Guidelines Sections 15060, 15061, 15300, *et seq.*

City Council previously determined that the Mandatory Seismic Retrofit Ordinance was statutorily and categorically exempt from CEQA. See CF 14-1697-S1. Specifically, the adopted ordinance was found exempt from CEQA because it does not “have the potential for causing a significant effect on the environment.” CEQA Guidelines Section 15061(b)(3). In addition, the adopted ordinance was found categorically exempt pursuant to CEQA Guidelines Sections 15061(b)(3), 15301 (Class 1 – Existing Facilities), 15302 (Class 2 - Replacement or Reconstruction) and 15269 (Statutory Exemption for Emergency); and under the City of Los Angeles CEQA Guidelines, Class 1, Type 1 (Existing Facilities) and Class 2, Type 2 (Replacement or Reconstruction).

The enclosed ordinance amends the previously adopted Mandatory Seismic Retrofit Ordinance. It does not alter the seven-year period to complete all retrofit work and the technical amendments clarify engineering requirements already in effect. Accordingly, prior to adoption of this proposed ordinance, we recommend that Council again determine that the proposed ordinance is exempt from CEQA for the same reasons described in the Notice of Categorical Exemption prepared by the Planning Department (Case No. ENV-2015-3581-CE).

#### Charter Findings Not Required

The enclosed draft ordinance relates to Building Code standards for the seismic retrofitting of existing wood-frame soft-story buildings. It amends compliance timelines and clarifies engineering terms and specifications. For this reason, this draft ordinance is not subject to approval by the City Planning Commission pursuant to Charter Section 558.

#### Findings Required Under the California Health and Safety Code

Under California Health and Safety Code Section 19163, any local ordinance establishing seismic retrofit standards for certain buildings shall comply with a nationally recognized model code relating to the retrofit of existing buildings. If the City adopts local amendments to those provisions, it must determine that those amendments are consistent with Health and Safety Code Section 17958.5. Pursuant to California Health and Safety Code Section 17958.7, before making any changes or modifications pursuant to Section 17958.5, the Council shall make an express finding that any changes or modifications to the building standards contained in the California Building Code is reasonably necessary because of local climatic, geological or topographical conditions. To the extent that the provisions of the proposed ordinance constitute a change or modification to the building standards contained in the California Building Code, this Office recommends that the Council make the following findings:

1. WHEREAS, California Health and Safety Code Section 17958.5 authorizes the Council to make reasonably necessary changes or modifications to the State adopted building codes, including the California Building Code, based on local conditions; and

2. WHEREAS, California Health and Safety Code Section 17958.7 requires the Council to make express findings of the necessity for modifications to the building standards contained in the California Building Code; and

3. WHEREAS, in support of these modifications and changes, the City Council hereby expressly finds that the amendments and modifications to building standards contained in the California Building Code, as adopted by the City Council, are reasonably necessary due to the following local climatic, geological or topographical conditions:

a. The City of Los Angeles is bounded on the east by the San Andreas Fault and interlaced with other earthquake faults, which run through, adjacent and under the City, and therefore has the geological conditions of earthquake faults; and

b. The City is located in Seismic Zone 4, which is considered by experts to be the most seismically active of the four seismic zones in the world; and

c. Seismic experts predict a massive earthquake on one of these faults within the next 30 years and several earthquakes similar in intensity to the Northridge Earthquake during the same period; and

d. The 1994 Northridge Earthquake, which was a moderate size (6.8 magnitude) earthquake, caused extensive damage to buildings and structures, including damage to more than 115,000 buildings, moderate to major damage to more than 3,000 buildings and the vacating of about 21,000 residential units including 2,000 homes, and resulted in the loss of human life; and

e. Major earthquakes pose unusual and extraordinary stresses on buildings and structures requiring more stringent building regulations than would otherwise be required; and

4. Therefore, any amendments to building standards contained in the proposed ordinance are reasonably necessary due to the local geological conditions described herein.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety 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 Monica Castillo at (213) 978-8228. 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/MDC/mrc  
Transmittal