

Benjamin M. Reznik
Direct: (310) 201-3572
Fax: (310) 712-8572
bmr@jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

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April 28, 2015

VIA E-MAIL (Sharon.gin@lacity.org) AND U.S. MAIL

Hon. Jose Huizar, Chair
and Honorable Members of the
Planning and Land Use Management Committee
200 N. Spring Street, Rm. 395
Los Angeles, CA 90012
Attn: Sharon Gin, Legislative Assistant

Re: Additional Proposed Conditions of Approval
Council File 15-0038
CPC-2011-1923-CU-SPR-PA1
ENV-2011-1924-MND
1905, 1911, 1915 Armacost (New West Charter School)

Hearing Date: April 28, 2015

Dear Chair Huizar and Honorable Members of the Planning and Land Use
Management Committee:

We represent New West Charter School ("New West"), a public school that provides a free, high-quality education to an ethnically and economically diverse student body, and the Applicant for the above-referenced Plan Approval, including an increase in enrollment, a portion of which the City Planning Commission (the "Commission") unanimously approved on September 11, 2014. As stated repeatedly in hearings and demonstrated by voluntary additional enforcement mechanisms, New West considers itself a part of the community, is committed to responsible operation of the school, and welcomes all but one of the additional proposed conditions of approval (the "New Conditions"; attached). However, New Condition 1, which purports to prohibit New West from applying for any additional enrollment increase, is arbitrary, unenforceable, against public policy, and therefore invalid. New West vigorously objects to the condition and the City should not impose it.

I. The City Proposes, and New West Agrees to Accept, Extensive New Conditions to Ensure Compliance with the Existing Conditional Use Permit.

As shown in the attached document, the City proposes ten New Conditions in addition to the 36 conditions (plus subparts) already imposed upon the school and which have

yielded a 99 percent compliance rate with respect to carpooling and vehicle traffic.¹ In addition to the existing strict and highly structured Traffic Mitigation and Monitoring Program (“TMMP”), the New Conditions would include third-party monitoring by traffic officers of the City’s Department of Transportation, as well as a third-party community ombudsman and new complaint-tracking software. New West agrees to the additional enforcement mechanisms and strongly believes these mechanisms will further substantiate and improve its exemplary compliance rate.

II. New Condition 1 is Arbitrary and Against Public Policy.

As stated in the record before the Commission, New West originally applied for a final enrollment of 875 students, consistent with its facilities, but the City Council approved 750 students. As part of this pending Plan Approval, New West applied in 2013 to increase its enrollment from 750 to 875 students, consistent with its original request, the Planning Department recommended approval of 875, and the Planning Commission granted a partial increase of 75 students, yielding an enrollment of 825 students. New West agreed to a number of New Conditions to address any potential effects of these new students. However, New Condition 1 now seeks to completely prevent New West from exercising its right under the First Amendment to petition the City for a redress of grievances with respect to its existing enrollment.

To ensure compliance and gauge the effectiveness of the New Conditions, proposed New Condition 9 requires New West to apply for a Plan Approval within one year of the start of the coming school term. Thus, a mechanism exists for the full and complete evaluation of New West’s compliance with the CUP, as modified, and this mechanism includes public hearings and requires a written determination. Thus, in addition to the record established before the Commission of New West’s compliance with its conditions, the City and local stakeholders will have an opportunity to establish a new and more detailed record of New West’s compliance going forward.

Thus, a complete prevention of any further enrollment for a seven (7) year period also is arbitrary and contradicted by the record. The City cannot prohibit New West from filing future applications for an enrollment increase.

¹ Director of Planning Michael LoGrande testified at the Commission hearing that many of these conditions were considered “cutting edge.”

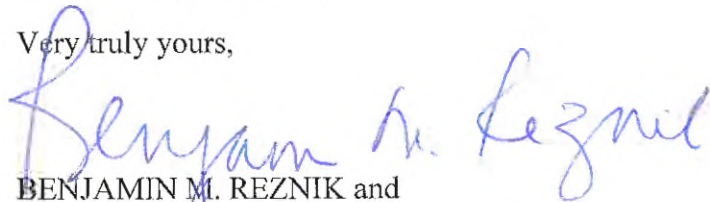
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Moreover, the City does not and could not provide any rational basis for the proposed seven-year ban. For example, if the required Plan Approval (which must occur within about one year) demonstrates New West's continued compliance with the original conditions of the CUP, as well as with the New Conditions, the City has no basis to refuse to hear any request for additional enrollment for a further six years.

III. The City Should Refuse to Impose New Condition 1.

For all of the reasons discussed above, Proposed Condition 1, which seeks arbitrarily to deprive New West of a fundamental right, is invalid, unenforceable, and against public policy. Therefore, the City should refuse to impose it.

Very truly yours,



BENJAMIN M. REZNIK and
NEILL E. BROWER of
Jeffer Mangels Butler & Mitchell LLP

BMR:neb
Attachment.

cc: **Via E-mail**
Hon. Mike Bonin, Councilmember, CD11
Chris Robertson, CD 11
Terry Kaufmann-Macias, Deputy City Attorney