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August 21, 2016

**VIA E-MAIL (brian.walters@lacity.org)**

The Honorable Herb Wesson, President  
Members of the Los Angeles City Council  
c/o Brian Walters  
200 N. Spring Street  
City Hall, Room 395  
Los Angeles, CA 90012

Re: Letter in Support of Council Action to Comply with State Mandates for  
Second Dwelling Units

**Agenda Items:** 14 & 15; Council File: 16-0348 and 14-0656-S25

**Hearing Date:** Tuesday, August 23, 2016

Dear President Wesson and Members of the City Council:

Our office represents Mark Judaken, the City of Los Angeles ("City") homeowner that was permitted by Building and Safety to construct a granny flat for his elderly grandfather, only to have a group of his neighbors sue him and the City to void his permit. As you now know, the group claimed that the permit should not have been issued because Memorandum 120 - which was adopted in 2010 by the City in order to comply with California Government Code § 65852.2 - was improperly issued. Unfortunately for Mr. Judaken, and hundreds others, these litigious neighbors succeeded in their endeavor, and now Mr. Judaken, his elderly grandfather, and hundreds of others hang in the balance awaiting the City to fix this disastrous situation.

The City has also sits in a precarious situation as a result of this lawsuit, given that the City's second unit permitting standards as they exist in the Municipal Code are unquestionably illegal. While City Municipal Code § 12.24.W.43 and 44 does provide for second units, it does so only in connection with the issuance of a conditional use permit. It also completely prohibits second units in huge swaths of the City, including in hillside areas and equestrian areas, for no particular reason. These standards are in clear conflict with California Government Code § 65852.2, which requires second units to be permitted ministerially and prohibits local agencies from precluding second units within single-family and multi-family zoned areas.<sup>1</sup> With Memorandum 120 now voided by the court, decisive and immediate action

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<sup>1</sup> Local agencies may only prohibit second units only if find that such units would create a specific adverse impact on the public health, safety, and welfare, and if the agency further acknowledges that the prohibition may limit housing opportunities of the region.

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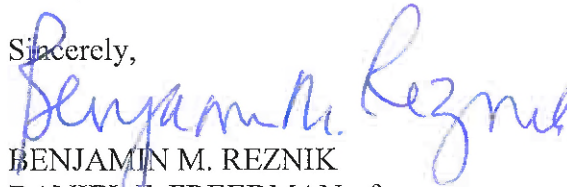
must be taken by the City Council to bring the City's second unit regulations into compliance with the law.

While we understand that certain groups are calling on the City Council to "preserve" Municipal Code § 12.24.W.43 and 44, it is critical that the City Council recognize the danger and absurdity of taking this approach. Firstly, as noted above, it is indisputable that the requirements of Government Code § 65852.2 make these antiquated provisions of the Code illegal to enforce. The group that sued the City under Memorandum 120 is already demanding almost a quarter of a million dollars in legal fees in connection with their case, and the City's exposure to this type of litigation would only be exacerbated if it actually sought to enforce Municipal Code § 12.24.W.43 and 44 as it is written. It is for this reason that this particular section of the code has not been enforced for nearly 15 years, and it is also for this reason why Memorandum 120 was adopted in the first place. Moving backwards is not an option.

Secondly, much of the community opposition to the City's adoption of this ordinance is a direct result of a campaign of misinformation advanced by certain groups that, apparently do not oppose second units in general, but, seem to see some benefit in having the City struggle with state regulations. In opposing the ordinance, these groups have continually alleged and argued that the City Council's adoption of this ordinance will "weaken" the City's second unit regulations, all the while conveniently failing to explain that the ordinance is only affirming the regulations that have been in effect for nearly 5 years. These same groups also conveniently fail to mention that Municipal Code § 12.24.W.43 and 44 is illegal as written, and that under state law second units must comply with all residential "height, setback, lot coverage, architectural review, site plan review, fees, charges, and other zoning requirements generally applicable to... the zone in which the property is located." (*Gov. Code* § 65852.2)

Given the City's tumultuous effort to comply with state second unit laws over the past two decades, it is imperative that the City Council act to approve this ordinance and bring the matter to resolution once and for all. Doing so will not only help reduce the City's exposure to continued litigation risks, but would protect hundreds of homeowners that have relied on second unit permits issued by the City while also providing much needed housing opportunities for a city in crisis. Thank you in advance for your consideration.

Sincerely,



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cc via e-mail:

Vince Bertoni, Director of Planning, Department of City Planning

Nick Maricich, Director of Planning Policy and Development, Office of Los Angeles Mayor Eric Garcetti

