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September 21, 2017

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: Housing Committee

Dear Honorable Members:

**SUPPLEMENTAL REPORT RELATIVE TO STRENGTHENING ENFORCEMENT OF
THE RENT STABILIZATION ORDINANCE AND ELLIS ACT PROVISIONS (COUNCIL
FILES 14-0268-S4, 14-0268-S5, 15-0600-S36, 15-0728 and 17-0480)**

On June 30, 2017, Housing Committee instructed the Department of City Planning (DCP) to report back on a number of items related to your consideration of the Council Files listed above. This report follows up on an initial report by the DCP to the Housing Committee dated May 31, 2017. The City Council took action on June 3, 2017 to adopt the Housing Committee's report and recommendations. The June 3rd action further instructs the Department to respond to several additional items focused on concerns relative to demolition of units subject to the Rent Stabilization Ordinance (RSO), condo conversion and replacement of affordable housing. The issues are discussed in detail below:

A. Demolition of Housing Units

A.1. In consultation with the City Attorney, Los Angeles Housing and Community Investment Department (HCIDLA), and the Department of Building and Safety (DBS), report on the potential and existing consequences of the Department of Building and Safety's current demolition issuance policy that prevents the issuance of demolition permits of multi-family residential projects until either required entitlements and plans have been approved or building permits for a new project have been obtained; the feasibility of codifying this Department of Building and Safety policy; or, the feasibility of preparing an ordinance that seeks to prevent the issuance of demolition permits of multi-family residential projects while there are pending investigation for violations of the Ellis Act and/or RSO.

The current DBS demolition policy memo was initiated in July 2016 as a result of concerns about piecemealing of review under the California Environmental Quality Act (CEQA) if demolition occurs without analyzing the impacts of related new construction projects. The DBS memo states that no demolition permit may be issued until a project applicant confirms that the demolition is not part of any subsequent development project that would require an analysis under CEQA. The

memo includes a form that requires a notarized acknowledgement by the property owner that there is no larger project planned for the site, nor any project that requires a discretionary review (see *Attachment to Application for Demolition Permit: Notice and Owner's Declaration Related to CEQA and Project Scope*, attached as Appendix 1). If and when an owner signs the acknowledgement, they are permitted to demolish the building. Before demolition applicants reach this phase of the process, the applicant must first obtain approval from HCIDLA to affirm that any RSO provisions have been satisfied, if applicable.

The City Council motion (in CF 15-0728) aims to prevent the issuance of demolition permits that are part of larger multi-family residential projects until either required planning entitlements have been approved or building permits issued. The policy objective is to prevent or delay evictions that occur before an entitlement is granted or permit received. While the current demolition approval process has the effect of addressing much, but not all, of the Council's intent, the effectiveness of the current policy is constrained.

There may be several opportunities to enhance the current policy. First, the penalty for misrepresenting the full scope of the development project could be strengthened. Currently, the City may revoke and/or stay any approvals (include certificates of occupancy) until a full and complete CEQA analysis is prepared and cleared. Second, the current policy's lack of specific status in the LAMC may reduce the effectiveness of the policy. Third, the timing of the form completion, which is required at the very end of the demolition permit process, may result in the applicant feeling pressure to simply sign it to receive the permit. Finally, the fact that the current policy is tied to future projects under CEQA, not all future construction permits, means that additional projects could be captured in the review process. It should also be emphasized that the Ellis Act allows removal of RSO units and eviction regardless of the City's demolition policies.

Due to these challenges, staff was asked to look at 1) the feasibility of preparing an ordinance that would enshrine this current practice into the LAMC, or 2) more directly prevent the issuance of demolition permits of multi-family residential projects while there are pending investigation for violations of the Ellis Act and/or RSO. Either of the two options appears to be feasible; however their effects may be limited. A third option is also outlined, which may achieve the same limited goals more quickly and efficiently than a code amendment.

Option 1. An ordinance that adds the current demolition process to the Building Code

The first option would amend the Los Angeles Building Code section that lists instances when DBS may withhold an otherwise valid demolition permit (LAMC 91.106.4.1). The code amendment would likely largely mirror today's CEQA-related demolition issuance process described above. Embedding the current administrative process into the LAMC could enhance the enforceability of the current provisions by making the process an explicit part of the code. However, embedding the current language into the LAMC will not fundamentally change the fact that if an owner wants to remove dwelling units from the market, the Ellis Act regulates the cases in which it is permitted, outside of whether a demolition permit is requested or obtained. Neither will it change the fact that only future projects subject to CEQA must be identified as part of the demolition process (not all future projects).

Option 2. A more narrowly focused code amendment to prevent the issuance of demolition permits of multi-family residential projects while there are pending investigation for violations of the Ellis Act and/or RSO

The alternative approach, suggested in the Council direction, would be more tailored to RSO buildings, applying only in instances where HCIDLA has a pending investigation for violations of

the Ellis Act or the RSO. By requiring an active HCIDLA investigation, the demolition process will be impacted when a complaint from a current or former tenant has been received. This option would expand the scope of the current demolition policy to include instances of tenant protection. However, like the first option, this approach would also be tied to the issuance of demolition permits and not Ellis removals. Also, because it is based on complaints, and many tenants may not be aware of their full rights under the RSO, it is possible that illegal evictions may occur as part of a demolition without anyone being notified.

Option 3. Pursue administrative changes to the current demolition process

A third option that arose out of discussions with HCID and DBS staff, focuses on administrative changes to the current process. It is believed this approach could have largely the same benefits as an ordinance, but can be done more quickly and efficiently. Most significantly, DBS is able to change the timing of the DBS demolition affidavit from the very end of the process to before the HCIDLA Ellis/RSO review takes place. This may allow HCIDLA to better understand the scope of the complete project during its review and reduce incentives to sign the form in the haste to receive final permits (see Appendix 2 for current and proposed demolition permit flow charts). If the form is required earlier in the permit process, it is possible that applicants will view the form as an integral part of the permit process. Additionally, it is believed that language can be added to the current CEQA affidavit form to include a “penalty of perjury” clause in cases where an applicant knowingly misleads the City. This would complement and enhance the enforceability of the policy.

A.2. Response to the Councilmembers’ concerns regarding the proposed demolition policy

Councilmember Price expressed concern that any limits on when demolitions can occur could result in delays in demolishing structures that are blighted or present a threat to health and safety for the surrounding community. Current procedures exist that allow for the tear-down of an unsafe structure identified by a “red tag” upon completion of an engineering assessment. None of the policy options presented above (options 1-3) would change the current policy on tear-downs of dangerous buildings.

A.3. Report back in more detail on the impact the Small-Lot Subdivision ordinance is having on RSO units when more information becomes available.

Since the May 31, 2017 report from DCP, the Department has obtained some additional information on the impact of Small Lot Subdivision projects on RSO units from HCIDLA. Below is a summary of five years (2010-2014) of the impact of Small Lot Subdivision projects:

Table 1. RSO Units Removed as Part of Small Lot Subdivision Projects, 2011-2015

Year	Properties with RSO Units Removed	RSO Units Removed	Small Lot Units Constructed
2011	3	8	42
2012	3	10	35
2013	11	33	71
2014	12	30	68
2015	13	50	96
TOTAL 2010-2015	42	131	312

For the five year period 2011-2015, a total of 131 RSO units were removed from the rental market as the result of SLS projects. This equals an average of about 26 RSO units a year. These 131 units were located in a total of 42 buildings, meaning the average apartment building removed

had three units. The removal of these units resulted in a total of 312 SLS units. This total does not count additional SLS units built that did not result in the demolition of dwelling units. An average year during this period resulted in a loss of 26 RSO units to build 62 small lot single family homes.

The 131 RSO units removed as a result of SLS projects is only about four percent of the total RSO housing stock lost during those years (3,202).

B. Condominium Conversions

B. 1. Work with the Department of Water and Power (DWP) to provide accurate multifamily vacancy rates by planning area.

The Department, in cooperation with the Mayor's Office, will continue to work with DWP to determine the feasibility of DWP providing multi-family vacancy rates by planning area as part of its meter file information collection.

B. 2. Evaluate potential alternative vacancy data sources, and devise a protocol to ensure the latest and best information available is used in making vacancy rate determinations for the purposes of evaluating the impact of condo conversion projects on the overall rental housing stock.

Since the past report, the DCP's Demographics Research Unit has fully evaluated the potentially feasible alternative vacancy data sources, public and private. Unfortunately, there does not appear to be any publicly available data source that is perfectly suited to address multi-family vacancy rates by community plan area. Either the data is not at the right geographic level of specificity, is not specific to multi-family buildings or is not considered reliable. A quick guide to the pros and cons of various data sources can be found in Appendix 3.

As a result, the Department has determined that the US Census American Community Survey (ACS) five-year average estimate is the next best data source after the DWP residential electric meter file data in terms of its consistency and fitness for LAMC purposes. A downside of this source is timeliness, as the ACS represents a five-year average for a time period two years earlier.

The Department has devised a protocol to ensure the latest and best information available is used in making vacancy rate determinations. Demographics Research Unit staff has made the current ACS vacancy rates available to staff by planning area, along with instructions on how to use the data.

B. 3. Identify a mechanism to obtain additional information from project condominium conversion applicants and work with HCIDLA to more readily share information needed for evaluating cumulative impacts of condominium projects on rental markets.

The DCP subdivision staff has created a new form (the Tenant Information Chart - CP-6345) to obtain additional information on existing tenants from project condominium conversion applicants. The form is now required for all subdivisions seeking a Tract (including demolition, condominium conversion and Coastal Zone Tracts) and acts to collect information on existing tenants and the rents paid in order to assist with the analysis required as part of the condo conversion process.

DCP staff has begun coordinating with HCIDLA to expand regular data sharing between the departments, including the evaluation of condominium projects' cumulative impacts on rental markets. To date, DCP has received information on existing RSO units and Ellis removal

applications. This data provides DCP with a consistent method to evaluate the cumulative impacts of past and proposed condo projects. Discussion continues as to the details of the data sharing process and the Departments have committed to signing a Memorandum of Understanding (MOU) in the coming months.

B.4. Provide staff guidance on how to best evaluate cumulative impacts on rental markets and develop model criteria.

In conjunction with the MOU, the DCP, in consultation with HCIDLA, will produce detailed staff guidance on how to consistently evaluate cumulative impacts of condo conversions on rental markets and develop model criteria.

C. Value Capture Ordinance

C. 1 Implement the housing replacement provisions of Measure JJJ and pursue additional one-to-one affordable housing replacement provisions for projects that obtain additional density through alternative entitlement pathways such as certain conditional use permits, eldercare facilities and public benefit procedures.

The Value Capture ordinance has been approved by the PLUM Committee on August 22, 2017 and has been sent to the Office of City Attorney for form and legality review.

CONCLUSION

If you have any questions, please do not hesitate to contact Matthew Glesne of the Department of City Planning at (213) 978-2666 or matthew.glesne@lacity.org.

Sincerely,

VINCENT P. BERTONI, AICP
Director of Planning



KEVIN J. KELLER, AICP
Executive Officer

VPB:KK:MG:mn



City of Los Angeles - Department of Building and Safety
**Attachment to Application for Demolition Permit:
Notice and Owner's Declaration Related to CEQA
and Project Scope**

I. Notice to Owner

If you are applying for a demolition permit to facilitate the construction or development of the project site, you may be referred to the Planning Department for further assistance.

The California Environmental Quality Act (CEQA) directs public agencies to assess and disclose the environmental effects of the projects it approves. In determining whether a proposed project is subject to CEQA, the City is required to consider all of the parts and phases of the project and may not limit its review to the specific permits or approvals sought. (Public Resources Code Section 21065) Failure by a project applicant to disclose future construction or development activities on the project site may result in a violation of CEQA. If the City determines that an application or approval is part of a larger undisclosed project, the City may revoke and/or stay any approvals until a full and complete CEQA analysis of the whole project is reviewed and an appropriate CEQA clearance is adopted or certified.

Please contact the Planning Department if you have additional questions after reviewing this notice.

II. Owner's Project Information

Based upon the above-stated rule, is the proposed demolition part of a larger development project at the demolition site, and if so, will the larger project require any discretionary approvals from the City? (Select "Yes" or "No," and follow the related instructions)

Yes ☐ A CEQA clearance from the Planning Department will be required prior to the issuance of the demolition permit for the proposed project. Return this form to a Department of Building and Safety Plan Check Engineer at the time of plan check.

No ☐ Sign and notarize the signature at the bottom of the form and return the notarized form to a Department of Building and Safety Plan Check Engineer at the time of plan check.

III. Owner's Declaration

I own the property located at _____. I have read the above "Notice to Owner." I understand that a "project," as defined by CEQA, is the whole of the proposed activity and is not limited to the demolition subject to this application. I further understand that CEQA prohibits treatment of each separate approval as a separate project for purposes of evaluating environmental impacts. I acknowledge and understand that should the City determine that the demolition proposed is part of a larger project requiring any discretionary permits, the City may revoke and/or stay any approvals (including certificates of occupancy) until a full and complete CEQA analysis is prepared and clearance is adopted or certified.

I certify that (i) the demolition authorized by this permit is not to facilitate the construction or development of a larger project at the project site, or (ii) the demolition is part of a larger project and, after using all reasonable efforts, including consulting with the City Planning Department, I have determined there are no discretionary permits required for the project, including but not limited to haul route permits, permits to remove protected trees, historic resource review, or any discretionary zoning or map approvals.

Date _____ Name of the Owner (Print) _____

Signature _____

(See page 2 of 2 For Notary Acknowledgment)



City of Los Angeles - Department of Building and Safety
**Attachment to Application for Demolition Permit:
Notice and Owner's Declaration Related to CEQA
and Project Scope**

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

Project Consists of:
New Buildings and
Demolition of Rental
Unit(s)

Apply to DBS
for New Bldg
Permit

Apply to DBS
for Demo
permit for
existing Bldg

DBS Plan Check
Determines if project:

- Needs Entitlement or
- By-right

Entitlement – City Planning

- Zone Change
- Variance
- >= 50 units
- Subdivision

Planning :
Process CEQA Review
Provide clearance on
building permit application

**DBS Issues Permit for
New Building**
Concurrently or after demo
permit issued

**By-Right Project – comply
with all zoning
requirements and is less
than < 50 units**

DBS Performs:
Demo pre-inspection report
(DPI).
Provide CEQA Form
to applicant.
Mail notice to abutting
neighbors if bldg. to be
demolished is 45 years old.

**After DPI is done, DBS Plan
Check:**
Generate Demo permit
application
Prepare Clearance
Summary include HCID
Clearance and Planning for
Historical bldg

HCID:

- Determines if
demolishing RSO Units

HCID:

- Eviction
- Relocation
- Replacement of RSO
Units at greater of
units demolished or
20% of new units
within 5 years

HCID

- Permit / Project
Clearance

Planning:

- Reviews if bldg. is
historical building

**DBS to review CEQA Form
If applicant responded with
Yes or No**

If CEQA Form is YES:

- Complete City Planning
Review process and
Approval is required

**City Planning provides
clearance / approval**

If CEQA Form is NO:

- OK to continue with DBS
for permit issuance
process

**DBS Issues Demolition Permit
after all clearances are obtained
and 30 days after the notices to
abutting neighbors are sent for
bldgs. to be demolished is more
than 45 days**



Start of Flowchart



End of Flowchart

Demo Permit Flowchart (Existing)

Project Consists of:
New Buildings and
Demolition of Rental
Unit(s)

Apply to DBS
for New Bldg
Permit

Apply to DBS
for Demo
permit for
existing Bldg

**DBS Plan Check
Determines if project:**

- Needs Entitlement or
- By-right

DBS Performs:

- Initiate PCIS application for Demo Pre-Inspection (DPI) only.
- Provide CEQA Form and applicant to answer if Yes or No to questionnaire.
- Mail notice to abutting neighbors if bldg. to be demolished is 45 years old.

Entitlement – City Planning

- Zone Change
- Variance
- >= 50 units
- Subdivision

Planning :
Process CEQA Review
Provide clearance on
building permit application

**By-Right Project – comply
with all zoning
requirements and is less
than < 50 units**

LADBS:

- Generate Demo Permit application with CEQA and Historical clearance(if applicable), no plan check yet.

City Planning CEQA:

- Complete City Planning Review process

**City Planning
provides approval
on permit**

**After DPI is done and
CEQA, Historical Planning
Clearance obtained, DBS
Plan Check add HCID
Clearance to the clearance
summary sheet**

**After DPI is done, DBS Plan
Check Prepares:**
Clearance Summary sheet
include HCID Clearance
and Planning for Historical
bldg., if applicable

HCID:

- Determines if
demolishing RSO Units
or not

RSO

HCID:

- Eviction
- Relocation
- Replacement of RSO Units at greater of units demolished or 20% of new units within 5 years

Not RSO

HCID

- Permit / Project Clearance

HCID provides clearance

HCID provides clearance

**DBS to complete plan
check and verify all
clearances are obtained**

Planning provides clearance

Planning:

- Reviews if bldg. is historical building

**DBS Issues Permit for
New Building
Concurrently or after demo
permit issued**

**DBS Issues Demolition Permit
after all clearances are obtained
and 30 days after the notices to
abutting neighbors are sent for
bldgs. to be demolished is more
than 45 years old**

CEQA YES

CEQA NO



Start of Flowchart



End of Flowchart

Demo Permit Flowchart (Proposed)

DIFFERENCES BETWEEN VACANCY RATE ESTIMATES

Source	DWP	American Community Survey (ACS)	Current Population Survey (CPS)	American Housing Survey (AHS)	US Post Office Survey	Private Real Estate Company ⁽³⁾
Potential issues	Privacy	Overlapping/Splits	Overlapping/Splits	Overlapping/Splits	Privacy/Splits	N/A
Agency	Los Angeles City	Bureau of Census	Bureau of Census	Housing and Urban Development (HUD)	HUD	Privately Owned
Data	100% ⁽¹⁾	3% ⁽²⁾	0.8% ⁽²⁾	0.7% (2009) ⁽²⁾	N/A	N/A
Geography	Individual Meters	County by Census Tracts	75 Largest Metropolitan Areas	Selected Metropolitan Areas	County by Census Tracts	N/A
Data collect method	Mandatory (Daily)	Mandatory (Monthly)	Voluntary (Monthly)	Voluntary (Monthly)	Voluntary (Monthly)	N/A
Vacancy definition	3-Month Idling or turned off	On Survey Day	N/A	N/A	Various	N/A
Availability	2017	2015	2016 (2nd quarter)	2015	2015	N/A
Continuity	Yes	Yes	Yes	Pending on Funds	Pending on Funds	N/A
Accuracy	Yes (reality)	Some	Less	Less	Less	N/A
Tenure type	ALL	ALL (Single vs Multiple)	Renter vs Owner	Renter vs. Owner	N/A	N/A
Note: (1) Los Angeles City DWP's residential electric meters (2) Sampled survey from Bureau of Census, ACS "Vacancy Fact Sheet", https://www.census.gov/housing/vacanciesfactsheet.html (3) Zillow vacancy source same as CPS https://www.zillow.com/research/falling-rental-vacancy-9086/						