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May 30, 2017

VIA EMAIL Sharon.dickinson@lacity.org

Hon. Jose Huizar, Chair
Planning and Land Use Management Committee
Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

Re: Objections to Item #5 on PLUM Committee Agenda, Council File # 17-0559
Case No. CPC-2017-1240-CA, CEQA No. ENV-2017-1241-CE

Honorable Chair Huizar and PLUM Committee Members:

This office represents the La Mirada Avenue Neighborhood Association of Hollywood, Society for the Preservation of Downtown Los Angeles, George Abrahams, and others interested in the City and CRA/LA's compliance with laws related to the proper exercise of authority over the Site Plan Review process.

Among the changes proposed in the City's ordinance would be an effort to remove the CRA/LA, the lawfully designated successor agency to the former redevelopment agency of the City, from its role as the land use decisionmaker and therefore, lead agency for environmental review as set forth in the current Los Angeles Municipal Code.

The Planning Department Staff Report makes the following claims about why the City is proposing to remove the CRA/LA from LAMC Section 16.05G as the lead agency to review and make the first discretionary decision regarding Site Plan Review:

> "Historically in the City of Los Angeles, the CRA played a significant role in reviewing and approving development projects in adopted Redevelopment Project Areas, and, in this capacity, acted as the lead agency for the purposes of environmental review. However, in 2012, a California State Assembly Bill (ABx1 26) dissolved all redevelopment agencies throughout the state and mandated that the agencies wind down their operations. When the CRA was dissolved it

> was replaced with a Designated Local Authority and Successor Agency (also known as CRA/DLA) operated by an Oversight Board which was delegated the responsibility of winding down the affairs of the agencies. Since the CRA is dissolved, and since the Designated Local Authority and Successor Agency (CRA/DLA) is not permitted to take on new functions or accept new financial obligations, the CRA/DLA is unable to operate as lead agency. In addition, the CRA/DLA is no longer the agency with the greatest responsibility for reviewing and approving a project. To ensure the continued implementation of the City's land use plans and policies, this role has reverted to the City of Los Angeles which has always conducted a parallel review process when required by the Los Angeles Municipal Code. As a result, the proposed ordinance would no longer identify the CRA as the lead agency for projects in adopted Redevelopment Project Areas."

The City Will Violate the Health and Safety Code If It Attempts To Piecemeal Take Certain Land Use Functions From the CRA/LA, But Does Not Assume *All* CRA/LA Land Use Authority and Responsibility.

The Planning Staff report set forth above omits significant information and is materially misleading about the authority, responsibility, and resources of the CRA/LA, successor agency to the former redevelopment agency.

Health and Safety Code Section 34173(i) provides:

> "At the request of the city, county, or city and county, notwithstanding Section 33205, **all land use related plans and functions** of the former redevelopment agency are hereby transferred to the city, county, or city and county that authorized the creation of a redevelopment agency; provided, however, that the city, county, or city and county shall not create a new project area, add territory to, or expand or change the boundaries of a project area, or take any action that would increase the amount of obligated property tax (formerly tax increment) necessary to fulfill any existing

> enforceable obligation beyond what was authorized as of June 27, 2011." (Emphasis added.)

Section 34173(i) provides the sole means by which the City may lawfully attempt to assume land use authority of the former redevelopment agency, which authority is currently exercised by the CRA/LA as the lawful successor agency. While the staff report is correct that the former redevelopment agency and the CRA/LA played a significant role in administering the land use authority of their own redevelopment plans, it is a false and unsupported claim by the Planning staff that "the CRA/DLA is no longer the agency with the greatest responsibility for reviewing and approving a project," or that "the CRA/DLA is unable to operate as lead agency."

If the redevelopment plan continues in full force for real estate developers to exercise certain development rights upon CRA/LA review and discretionary approval, it is an outright misrepresentation for the City Planning staff to claim that such approval authority is somehow diminished beneath that of the City. After all, the City did not create or adopt the redevelopment plans; the former redevelopment agency did, and the CRA/LA is currently the lawful successor agency to all of the land use authority and responsibilities associated with maintaining the redevelopment plans. To suggest otherwise is for the City to incorrectly claim that developers can have greater densities and lower parking in their projects under the redevelopment plans, but the CRA/LA (or the City if it validly assumes authority and responsibility) has no corresponding responsibilities.

Under current law, the redevelopment plans are slated to remain in effect until their scheduled expiration, and during those long years, some into the 2030's, the CRA/LA will be responsible to exercise that significant land use authority, unless or until the City of Los Angeles assumes **all** of that authority under Section 34173. With that authority comes substantial responsibilities for which the former redevelopment agency, and now the CRA/LA, are in breach. As our Civil Code says, "with the benefits go the burdens." For instance, Hollywood Heritage, Inc. has recently sued the CRA/LA for failure to complete virtually any of the various design, historic preservation, and transportation plans to protect the Hollywood community from devastating impacts from uncontrolled development. It is clear that in proposing that the City "take over" the CRA/LA's lawful responsibility to initially environmentally review and make the first Site Plan Review for projects within a redevelopment plan area, the City is trying to usurp the CRA/LA land use authority in a limited way, not authorized by Section 34173(i), while at the same time evading taking responsibility for all of the CRA/LA's

failures to properly administer the redevelopment plans.

Since the redevelopment agencies were dissolved, the City has considered, but failed to act, on two Council files involving the **comprehensive assumption of all** CRA/LA land use authority under the redevelopment law. See, e.g., Council File No. 12-0014-S4, incorporated herein by reference. However, today's action is an attempt to misrepresent the facts, and evade the legal requirement to comprehensively undertake all CRA/LA authority and responsibilities. For this reason, the proposal to usurp the CRA/LA's Site Plan Review obligations in connection with the redevelopment plan areas, while not seeking to transfer all land use authority from the CRA/LA to the City as the comprehensive whole required by the Health & Safety Code, is unlawful.

The CEQA Exemption Claim is Also Improper.

In addition, the City's claimed exemption under CEQA is improper. Exemptions from CEQA's requirements are to be construed narrowly in order to further CEQA's goals of environmental protection. See Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster (1997) 52 Cal.App.4th 1165, 1220. Projects may be exempted from CEQA only when it is indisputably clear that the cited exemption applies. See Save Our Carmel River v. Monterey Peninsula Water Management Dist. (2006) 141 Cal.App.4th 677, 697. The City cannot make and has not made such an "indisputably clear" showing.

The CRA/LA Is The Proper Lead Agency Unless or Until There Is A Lawful Transfer Of All Land Use Authority And Responsibilities.

There can only be one "lead agency" under CEQA. Whenever "a project 'is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or negative declaration for the project. This agency shall be called the lead agency.'" City of Redding v. Shasta County Local Agency Formation Com. (1989) 209 Cal.App.3d 1169, 1174, quoting CEQA Guidelines § 15050, subd. (a). The agency tasked by law with performing environmental review and preparing the environmental documents for Site Plan Review in redevelopment plan areas is the CRA/LA. LAMC § 16.05G. Thus, the CRA/LA is the "lead agency" under CEQA. Moreover, the CRA/LA fulfills the definition of lead agency under CEQA in part by virtue of its expertise and function in approving projects in the Redevelopment Area.

It is not within the City's purview or jurisdiction to "allow" or not allow the "successor agency to stand in for the CRA." That is controlled by State law under the Health & Safety Code, which vests in the CRA/LA, as successor to the CRA, the successor duties. See also the CRA/LA's website at http://www.crala.org/internet-site/index.cfm, incorporated herein by this reference, prominently stating on the home page: "Notice: ABx1-26 does not abolish the 31 existing Redevelopment Plans. The land-use authorities in the Redevelopment Plans remain in effect and continue to be administered by the CRA/LA".

Conclusion.

If the City is going to legislatively assume the CRA/LA's duties, it must do so comprehensively as to **all** of those duties and responsibilities. It cannot legally do so in the fragmented, piecemeal fashion contemplated by the action before you today.

Very truly yours,

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

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