

June 20, 2017

11:45 am

Via Email: sharon.dickinson@lacity.org

Jose Huizar, Chair
Planning and Land Use Management Committee
Los Angeles City Council
200 N. Spring Street
LA, 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

Chairman Huizar and PLUM Committee Members:

I represent the Coalition to Preserve LA and its members who are concerned about the City and CRA/LA's adherence to laws regarding the proper exercise of authority over the Site Plan Review process, an issue of great importance to scores of communities and thousands of people in Los Angeles.

We have discovered that the City is illegally improving major projects in redevelopment plan areas even though the jurisdiction over key entitlements involved is solely under the power of the CRA/LA, the successor to the CRA.

Yes, the redevelopment agencies were shut down statewide. But the successor agency, the CRA/LA, remains vested with power to grant or deny LAMC 16.05G approvals of Site Plan Reviews.

Instead, in Los Angeles, the CRA/LA is punting and the City is usurping that authority, as we will explain below.

We are also deeply concerned with the piecemeal attempt by the City to pick and choose which of the CRA/LA's powers it wants to take over -- the ones that help wealthy developers and further the desires of Los Angeles elected leaders to approve projects after accepting large campaign donations from those very same developers.

This fragmented attempt to assume some, but not all, of the CRA/LA's powers will lead to further poor planning and an even bigger mess within the City's broken and widely untrusted planning system.

To be clear:

Proposed in the City's ordinance is an effort to strip from the CRA/LA, the lawful "successor agency" to the former Community Redevelopment Agency of the City, its role as the land use decision-maker and therefore the lead agency for environmental review, under current Los Angeles Municipal Code.

The Planning Department Staff Report makes erroneous claims, quoted below, to argue why the City should end the CRA/LA's lead agency role (as set out in LAMC Section 16.05G) which is 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.”

But this is wrong. 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.

The fact is, 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 reduced parking in their projects under the redevelopment plans, but the CRA/LA (or the City if it validly assumes authority and responsibility) hasn't any corresponding responsibilities.

As of now, the redevelopment plans are slated to remain in effect until their scheduled expiration years from now, and 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.**

For instance, Hollywood Heritage, Inc. 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. 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, it is clear that the City is trying to usurp the CRA/LA land use authority in a limited way, not authorized by Section 34173(i), while evading taking responsibility for all of the CRA/LA's failures to properly administer the redevelopment plans.

The City cannot make an illegal power grab on the one hand, while wriggling out of clearcut legal responsibilities on the other hand.

Since the redevelopment agencies were dissolved, the City failed to act on two Council files it considered, which involved 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 proposal and action is a clear attempt to misrepresent the facts, and evade the legal requirement to 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.

As previously stated, the power lies not with the City to "allow" or not allow the "successor agency to stand in for the CRA." **That power lies with 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".

Sincerely,
Jill Stewart
Director
Coalition to Preserve LA