

August 28, 2018

Councilmember José Huizar  
City of Los Angeles, Council District 14  
Los Angeles, CA 90012

Re: *Mitchell v. City of Los Angeles*

Dear Councilmember Huizar,

We are a diverse coalition of civic, business and community leaders dedicated to making our city a vibrant and welcoming place. We are writing this letter to share our thoughts on the pending court case *Mitchell v. City of Los Angeles*. As you know, this is a case filed against the City of Los Angeles in the Central District of California by the Legal Aid Foundation of Los Angeles and Carol Sobel. The case is currently before United States District Judge S. James Otero with a pending trial date of February 9, 2019. **As the representative of the Downtown area, we are asking that you continue to lead the conversation regarding this important case.**

### **Background**

Originally filed in March 2016, the complaint alleges that the City of Los Angeles, through the Los Angeles Police Department (LAPD), has undertaken a mass policy of arresting homeless persons for quality of life offenses in order to confiscate and destroy their property. In particular, plaintiffs allege:

- The City summarily confiscates the personal property of homeless individuals without legally sufficient cause, including personal identification, tents and medication.
- The City fails to properly catalogue property seized from homeless persons, making it difficult to claim.
- The City stores property seized from homeless persons in warehouses that are challenging to access.
- The City failed to provide homeless individuals with adequate notice of scheduled public clean-ups in Downtown.

### **Current Status**

On April 13, 2016, the district court issued a preliminary injunction against the City. The court accepted plaintiffs' allegations as true for the purpose of formulating its order, and it held that the alleged conduct of the City raised Fourth Amendment privacy and Fourteenth Amendment Due Process concerns. Judge Otero's preliminary injunction only relied on facts brought by the plaintiffs, refusing to give the City's counterevidence any consideration because it was "at best inconclusive," which is a highly unusual process for courts even at this preliminary stage.

The court's preliminary injunction applies only to the Downtown area between Spring and Alameda Streets and between 3rd and 8th Streets. When referring to Downtown in this letter we are referencing the above-mentioned area. The order requires the City to:

- Only confiscate homeless persons' property where there is a legally sufficient justification.
- Store confiscated property in facilities that are open during regular business hours, that are accessible within 72 hours of seizure, and that clearly catalog property based on names and identification.

- Maintain property confiscated in Downtown for at least 90 days before destroying it, and to provide notice to homeless persons as to where their property is stored.
- Provide advance public notice at least 24 hours before public street clean-ups in Downtown.

Many of these requirements have already been adopted by the City in Los Angeles Municipal Code (LAMC) 56.11 – Storage of Personal Goods. On July 5, 2018, the parties agreed to postpone the previously scheduled trial date of October 9, 2018 to February 9, 2019 in order to “continue to engage in further discussions” “to resolve this dispute.” In the stipulation agreement the City Attorney represented that this delay was necessary because “the City Council is currently in recess and is therefore unavailable to provide guidance to the City regarding its discussions in this matter.”

**We believe this new timeline provides the City Council with the opportunity to fully discuss this case and its implications for Downtown and the entire city.** This discussion is especially important as the City has made significant progress on homelessness since the preliminary injunction was issued in 2016, including Proposition HHH and an update to LAMC 56.11 with the development of associated protocols. There are also new actions that should be considered like the “A Bridge Home” initiative and the dedication of additional revenues from the State budget surplus.

The City has the ability to settle the *Mitchell* case in accordance with the current injunction so it only applies to Downtown, enter into a citywide settlement or go to trial. **We encourage the City to go to trial. If a trial is not possible, the City should explore a citywide settlement that is consistently applied throughout the city and discuss those terms with a broad and diverse group of stakeholders.** Settling this case without a robust and open dialogue would set a troubling precedent. We strongly feel that a settlement limited to Downtown is unreasonable and would expose the City to future litigation.

### Policy Considerations

There are many policy considerations the City Council should address in settling the *Mitchell* case. Currently the injunction effectively eliminates the 60-gallon limit on personal goods established in LAMC 56.11 only for Downtown. The rise in tents and personal goods on the sidewalks is a direct result of the injunction, and we are very concerned that this prevents people from seeking services, reconciling with family or significant others, or actively pursuing housing and other life opportunities by making life on the sidewalk permanent. This should not be the standard for our homeless neighbors. We can do better by providing housing and creating incentives for people to take advantage of those opportunities. If the City were to settle *Mitchell* with the current terms, the terms of the injunction would become permanent. **We are very concerned that permanently setting a different standard in one neighborhood of Los Angeles is unconstitutional and would set the City up for litigation in other neighborhoods.**

**We also believe a Downtown-only settlement would continue the over-concentration of homeless individuals, services and housing in Downtown, and ultimately further decrease the quality of life for the current homeless population in Downtown who need individualized treatment and care to live safely and reenter society.** By eliminating the 60-gallon limit, homeless persons with large amounts of personal property will likely keep their items only within the Downtown area set aside by the order. This will result in further densification of the Downtown homeless population and make it more challenging to provide housing, services and facilities to meet the current need.

In March 2016, the City Council adopted a motion that you authored calling for homeless housing, services and facilities to be provided throughout the city and county and to formally reverse the policy of containment that has led to an over-concentration of homeless services in certain parts of the city and county. The Downtown area



included in *Mitchell* has the highest concentration of homeless individuals, services, housing and facilities in the county. This raises an important question: **What precedent does it set for building homeless permanent and interim housing and the “A Bridge Home” initiative if the area with the most homeless services and housing is the place without limits on personal goods on the public right-of-way?** Homeless services, facilities and housing are the answers to ending homelessness. They are not the precursor to allowing unlimited personal goods on the public right-of-way. The City Council should continue to pursue solutions to ending homelessness.

**Perhaps most troubling with the proposed solution is the implication that those who currently have housing or are engaged in services to get off the streets in Downtown deserve less than those who live in the rest of the city.** Downtown represents the largest concentration of service and housing providers anywhere in the city. It is bad public policy to deny people in Downtown the same rights that we provide to other residents around the city of Los Angeles. People in Downtown deserve safe and clear sidewalks without being threatened, offered drugs or falling victim to human trafficking.

Although we agree that we need to prevent further over-concentration of homeless services in Downtown, we have been supportive of the many desperately needed homeless services that have opened since *Mitchell* was filed in 2016, including The Bin (a storage facility for homeless individuals’ personal goods), a sobering center and the Refresh Spot. We also believe that the greater Downtown area can and should do more. As an example, while not located in the *Mitchell* area, we are incredibly supportive of the El Pueblo interim housing project and the neighboring pilot project storage bin. But we know that homelessness is a countywide crisis and should be treated accordingly. Downtown cannot have separate standards from the rest of the city.

**We know creating separate standards for Downtown has serious implications, and we hope you will consider this when discussing the *Mitchell* case in closed session.** We have and will continue to raise these issues with the City Attorney and other members of the City Council as well.

Thank you for your consideration and continued commitment to ending homelessness.

Sincerely,

**Michael Arnold**

President & CEO, The Midnight Mission

**Elise Buik**

President & CEO, United Way of Greater Los Angeles

**Bert Dezzutti**

Executive Vice President, Western Region, U.S. Office Division, Brookfield Properties

**Tom Gilmore**

CEO, Gilmore Associates

**Lewis Horne**

Chair, Central City Association DTLA Initiative

**Noel Hyun**

CEO & President, The Brooklyn Companies

**Paul Keller**

Chairman, Mack Real Estate Development

**Jessica Lall**

President & CEO, Central City Association

**Kevin Murray**

President & CEO, The Weingart Center Association

**Maria Salinas**

President & CEO, Los Angeles Area Chamber of Commerce

**Stuart Waldman**

President, Valley Industry & Commerce Association



- CC:** Mayor Eric Garcetti, City of Los Angeles  
City Attorney Mike Feuer, City of Los Angeles  
City Council President Herb Wesson, City of Los Angeles  
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Councilmember Curren Price, Member, Homelessness & Poverty Committee  
Councilmember Monica Rodriguez, Member, Homelessness & Poverty Committee