Channel Law Group, LLP

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JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760 jamie.hall@channellawgroup.com

*ALSO Admitted in Colorado

**ALSO Admitted in Texas

May 22, 2018

VIA ELETCRONIC MAIL AND PERSONAL DELVERY

Homelessness and Poverty Committee City of Los Angeles 200 N. Sprint Street Los Angeles, CA Eric.Villanueva@lacity.org

Re: Environmental Objection to Proposed Temporary Homeless Shelter Proposed at 682 S. Vermont, Los Angeles, CA; Council File No. 18-0392

Dear Honorable Committee Members:

This firm represents No 682 Vermont, a group newly formed to protest the proposed location of a temporary homeless shelter on a City-owned parking lot at 682 Vermont in Koreatown ("Project"). The group is particularly concerned with the lack of notice, the failure to allow public input and the inadequate alternatives evaluation conducted by the City. Moreover, my client is gravely concerned that the City is moving forward with the Project without complying with the California Environmental Quality Act ("CEQA").

I. The Proposed Actions

The City is considering taking the proposed actions today:

Action No. 1

I THEREFORE MOVE that the City Council instruct the City Administrative Officer, with the assistance of the Chief Legislative Analyst, the Bureau of Engineering, Los Angeles Homeless Services Authority, and any other affected City stakeholders, to evaluate the City-owned LADOT Parking Lot located at 682 S. Vermont Avenue (Lot 691) to determine if the property is suitable for development as a crisis and bridge housing facility.

Action No. 2

I FURTHER MOVE that if the property is determined to be suitable for development as crisis and bridge housing facility, the City Council instruct the City Homeless Coordinator to coordinate with Los Angeles County to identify funds for operations at this site, including, but not limited to County Measure H revenue.

II. The City has Failed to Undertake Any Environmental Analysis Whatsoever

The City has failed to do any analysis for the proposed Project. The law is clear that a public agency cannot defer environmental review until after a decision is made on a project – this applies to any approval. CEQA Guidelines, section 15004(a), entitled "Time of Preparation," states as follows: "Before granting any approval of a project subject to CEQA, every Lead Agency or Responsible Agency shall consider a final EIR or Negative Declaration or another document authorized by these Guidelines to be used in the place of an EIR or Negative Declaration." (emphasis added). This was long ago established by the California Supreme when it stated "If postapproval environmental review were allowed, EIR's would likely become nothing more than post hoc rationalizations to support action already taken." *Laurel Heights Improvement Ass'n v. Regents of Univ. of Cal. (1988)*

An agency has no discretion to define approval so as to make its commitment to a project precede the required preparation of an EIR. *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, 132. CEQA Guidelines Section 15352(a) states that "'Approval' means the decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances. *Legislative action in regard to a project often constitutes approval*."

There is no question that the City is poised to commit itself to a definite course of action by adopting the proposed Motion. Therefore, CEQA is triggered.

III. The California Environmental Quality Act

a. Purpose of California's Environmental Protection Statute

The California Environmental Quality Act is California's broadest environmental law. CEQA helps to guide public agencies such as the City during issuance of permits and approval of projects. Courts have interpreted CEQA to afford the <u>fullest protection of the environment</u> within the reasonable scope of the statutes. CEQA applies to all discretionary projects proposed to be conducted or approved by a City, including private projects requiring discretionary government approval. *See* California Public Resources Code, sections 21000 - 21178, and Title 14 Cal. Code Regs., section 753, and Chapter 3, sections 15000 - 15387.

b. CEQA's Broad Definition of a "Project" Includes *All Phases* of a Development

"CEQA broadly defines a 'project' as 'an activity which may cause either a direct

physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and ... that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.' [Citation.] The statutory definition is augmented by the [CEQA] Guidelines [Cal.Code Regs., tit. 14, § 15000 et seq.], which define a 'project' as 'the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment....'" *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1222, 66 Cal.Rptr.3d 645 (*Tuolumne County*). This includes <u>all phases of a project</u> that are reasonably foreseeable, and all related projects that are directly linked to the project. (CEQA Guidelines section 15378).

c. CEQA Has a Strong Presumption in Favor of EIR Preparation

A strong presumption in favor of requiring preparation of an Environmental Impact Report ("EIR") is built into CEQA which is reflected in what is known as the "fair argument" standard, under which an agency must prepare an EIR whenever substantial evidence in the record supports a fair argument that a project may have a significant effect on the environment. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75, 82; *Friends of "B" St. v. City of Haywood* (1980) 106 Cal.App.3d 988, 1002.

"The EIR is the primary means of achieving the Legislature's considered declaration that it is the policy of this state to 'take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.' [Citation.] The EIR is therefore 'the heart of CEQA.' [Citations.] An EIR is an 'environmental "alarm bell" whose purpose it is to alert the public and its responsible officials to environmental changes before they have reached ecological points of no return." Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392.

Under CEQA and the CEQA Guidelines, if a project is not exempt and *may* cause a significant effect on the environment, the agency *must* prepare an EIR. PRC §§ 21100, 21151; 14 Cal. Code Regs. §15064(a)(1), (f)(1). "Significant effect upon the environment" is defined as "a substantial or potentially substantial adverse change in the environment." PRC §21068; 14 Cal Code Regs §15382. A project "may" have a significant effect on the environment if there is a "reasonable probability" that it will result in a significant impact. *No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 83 n.16; *Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296, 309, 248 CR 352. This standard sets a "low threshold" for preparation of an EIR. *Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App. 4th 903, 928; *Bowman v. City of Berkeley* (2004) 122 CA4th 572, 580; *Citizen Action to Serve All Students v. Thornley* (1990) 222 CA3d 748, 754; *Sundstrom v. County of Mendocino* (1988) 202 CA3d 296, 310.

IV. There are Potentially Significant Impacts Associated with the Proposed Temporary Homeless Shelter.

While the City's goals to provide shelter for the homeless is laudable and supported by my client, there is no dispute in the environmental community that there are environmental impacts associated with such shelters. This is because they intensity many of the environmental

3

¹ See, for example, http://www.piercecountywa.org/DocumentCenter/View/44600/Environmental-Impacts-of-Homeless-Encampments which describes the environmental impacts of encampments in just one study location.

harms associated with homeless (unsanitary conditions, refuse, trash, etc.) and necessarily relocate said impacts closer to the shelter. There may be measures that the City can undertake to mitigate these impacts under CEQA, but that does not excuse conducting the required analysis, providing public comment and adopting appropriate mitigation measures. The typical environmental factors that should be evaluated in such a study are shown below.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

| Aesthetics | Agriculture Resources | | Air Quality |
|----------------------------------|------------------------------------|--|------------------------|
| Biological Resources | Cultural Resources | | Geology/Soils |
| Hazards & Hazardous Materials | Hydrology/Water Quality | | Land Use/Planning |
| Mineral Resources | Noise | | Population/Housing |
| Public Services | Recreation | | Transportation/Traffic |
| Utilities/Service Systems | Mandatory Findings of Significance | | |

V. Conclusion

The City must comply with CEQA before adopting the proposed Motion. I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,

Jamie T. Hall



Fwd: #18-0392CD10

1 message

Gloria Pinon <gloria.pinon@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>
Co: Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 12:29 PM

Please see below email.

Gloria Piñon Office of the City Clerk Tel. (213) 978-1022 Fax (213) 978-1027 Mail Stop #160-01



----- Forwarded message -----

From: 'Hae Jin Han' via Clerk - CityClerk <cityclerk@lacity.org>

Date: Tue, May 22, 2018 at 12:07 PM

Subject: #18-0392CD10 To: cityclerk@lacity.org

LA City Council and Councilman Wesson

We demand public hearing. Please hear and respect our voice!!

Hae Jin Han (527 Molino st #202 La Ca 90013)



Fwd: Dear LA city council and councilman wesson

5 messages

Anna Martinez <anna.martinez@lacity.org>

Mon, May 21, 2018 at 3:01 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez
Office of the City Clerk
200 N. Spring St., Rm. 360
Los Angeles, CA 90012
213-978-1025
213-978-1027 - FAX

Mail Stop 160-01





------ Forwarded message -------From: **yuji ki** <yunjinyang0@gmail.com>
Date: Mon, May 21, 2018 at 3:00 PM

Subject: Dear LA city council and councilman wesson To: cityclerk@lacity.org, partrice.lattimore@lacity.org

Dear LA city council and councilman wesson

Please respect Korean voices we demend public hearing no shelter and can't be divided korea town without Korean's participation

thank you

Anna Martinez <anna.martinez@lacity.org>

Mon, May 21, 2018 at 4:25 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez
Office of the City Clerk
200 N. Spring St., Rm. 360
Los Angeles, CA 90012
213-978-1025
213-978-1027 - FAX
Mail Stop 160-01





----- Forwarded message -----

From: min jae bae <babyshark2002@hotmail.com>

Date: Mon, May 21, 2018 at 4:24 PM

Subject: Dear LA city council and councilman wesson To: "cityclerk@lacity.org" <cityclerk@lacity.org>

File number 18-0392 CD10

We demand public hearing, please hear and respect our voice.

Sent from my Verizon, Samsung Galaxy smartphone

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 7:51 AM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

[Quoted text hidden]

Gloria Pinon <gloria.pinon@lacity.org>

Tue, May 22, 2018 at 8:05 AM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Cc: Anna Martinez <anna.martinez@lacity.org>

Please see below email.

Gloria Piñon Office of the City Clerk Tel. (213) 978-1022 Fax (213) 978-1027 Mail Stop #160-01



----- Forwarded message ------

From: min jae bae <babyshark2002@hotmail.com>

Date: Mon, May 21, 2018 at 4:24 PM

Subject: Dear LA city council and councilman wesson To: "cityclerk@lacity.org" <cityclerk@lacity.org>

File number 18-0392 CD10

We demand public hearing. please hear and respect our voice.

Sent from my Verizon, Samsung Galaxy smartphone

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 8:08 AM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez Office of the City Clerk

200 N. Spring St., Rm. 360 Los Angeles, CA 90012 213-978-1025 213-978-1027 - FAX Mail Stop 160-01



----- Forwarded message ------

From: min jae bae <babyshark2002@hotmail.com>

Date: Mon, May 21, 2018 at 4:24 PM

Subject: Dear LA city council and councilman wesson To: "cityclerk@lacity.org" <cityclerk@lacity.org>

File number 18-0392 CD10

We demand public hearing. please hear and respect our voice.

Sent from my Verizon, Samsung Galaxy smartphone



Fwd: File # 18-0392 CD10

2 messages

Anna Martinez <anna.martinez@lacity.org>

Mon, May 21, 2018 at 3:17 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez
Office of the City Clerk
200 N. Spring St., Rm. 360
Los Angeles, CA 90012
213-978-1025
213-978-1027 - FAX
Mail Stop 160-01



----- Forwarded message -----

From: Carrie Choi <ecarriechoi@gmail.com>

Date: Mon, May 21, 2018 at 3:16 PM

Subject: File # 18-0392 CD10

To: cityclerk@lacity.org, partrice.lattimore@lacity.org

To. LA city Council and Councilman Wesson

Re: File # 18-0392 CD10

First of all, I want to thank you for all the hard work you do for the city of Los Angeles.

I am writing to echo what Ron Kim, the spokesman for "No Shelter in 682 Vermont" has said,

"...I think we could all agree the problem of the situation with the homeless is real and a national tragedy. But, it calls for a really comprehensive solution. It does not call for targeting one portion of one city council person's district, CD 10 of Herb Wesson's district, the Koreatown portion of his district. Not the South LA portion of his district or other portions of his district, but to focus only on Koreatown and in effect, ambush us by subjecting us to an unfair process where we have not been allowed a single public hearing for our concerns to be voiced. It's a fundamentally unfair process."

Sincerely, Eun Jung Ahn

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 2:35 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

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Anna Martinez Office of the City Clerk

200 N. Spring St., Rm. 360 Los Angeles, CA 90012 213-978-1025 213-978-1027 - FAX Mail Stop 160-01



----- Forwarded message ------

From: **Kyu Kim** <kyuyungkim815@gmail.com>

Date: 2018-05-22 14:34 GMT-07:00 Subject: File # 18-0392CD10

To: cityclerk@lacity.org

To: councilman Wesson 공청회 없는 쉘터 반대한다. 공청회를 열어 달라. 플랜을 재 검토하자.

Sent from my iPhone



Fwd: File No 18-0392 CD10

2 messages

Patrice Lattimore <patrice.lattimore@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Tue, May 22, 2018 at 2:02 PM

Patrice Y. Lattimore
Acting Division Manager
Council & Public Services Division
Office of the City Clerk
PLEASE NOTE NEW PHONE NUMBER - (213) 978-1050



----- Forwarded message -----

From: gracekang611 < gracekang611@yahoo.com>

Date: Tue, May 22, 2018 at 2:01 PM Subject: Re:File No 18-0392 CD10

To: patrice.lattimore@lacity.org, cityclerk@lacity.org

LA city council and councilman wesson:

Residents and the business owners near the proposed homeless shelter in korea town rightfully deserves a public hearing. Please hear and respect their voice!

Respectively,

Grace Kang 1658 Lindacrest Drive Beverly hills, Ca 90210 3102797025

Sent from my T-Mobile 4G LTE Device

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 2:26 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez
Office of the City Clerk
200 N. Spring St., Rm. 360
Los Angeles, CA 90012
213-978-1025
213-978-1027 - FAX
Mail Stop 160-01



----- Forwarded message -----

From: 'gracekang611' via Clerk - CityClerk <cityclerk@lacity.org>

Date: Tue, May 22, 2018 at 2:01 PM Subject: Re:File No 18-0392 CD10

To: patrice.lattimore@lacity.org, cityclerk@lacity.org

LA city council and councilman wesson:

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Respectively,

Grace Kang 1658 Lindacrest Drive Beverly hills, Ca 90210 3102797025

Sent from my T-Mobile 4G LTE Device



Fwd: File Number 18-0392 CD10

2 messages

Patrice Lattimore <patrice.lattimore@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Tue, May 22, 2018 at 3:27 PM

Patrice Y. Lattimore
Acting Division Manager
Council & Public Services Division
Office of the City Clerk
PLEASE NOTE NEW PHONE NUMBER - (213) 978-1050



------ Forwarded message -------From: **Sarah** <smpak74@yahoo.com>
Date: Tue, May 22, 2018 at 3:26 PM
Subject: File Number 18-0392 CD10

To: "cityclerk@lacity.org" <cityclerk@lacity.org>, "patrice.lattimore@lacity.org" <patrice.lattimore@lacity.org>

Dear LA City Council and Councilman Wesson,

We demand public hearing. Please hear and respect our voice. Strongly agree. Decision without proper public hearing can't be supported.

Sincerely,

Sarah Heo

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 3:53 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez

Office of the City Clerk

200 N. Spring St., Rm. 360 Los Angeles, CA 90012 213-978-1025 213-978-1027 - FAX Mail Stop 160-01



----- Forwarded message -----

From: 'Sarah' via Clerk - CityClerk <cityclerk@lacity.org>

Date: Tue, May 22, 2018 at 3:26 PM Subject: File Number 18-0392 CD10

To: "cityclerk@lacity.org" <cityclerk@lacity.org>, "patrice.lattimore@lacity.org" <patrice.lattimore@lacity.org>

Dear LA City Council and Councilman Wesson,

We demand public hearing. Please hear and respect our voice. Strongly agree. Decision without proper public hearing can't be supported.

Sincerely,

Sarah Heo



Fwd: File# 18-0392 CD10 - Homeless Shelter in Korea Town

3 messages

Patrice Lattimore <patrice.lattimore@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Tue, May 22, 2018 at 12:24 PM

Patrice Y. Lattimore
Acting Division Manager
Council & Public Services Division
Office of the City Clerk
PLEASE NOTE NEW PHONE NUMBER - (213) 978-1050



----- Forwarded message -----

From: Sarah Kim <sarahsykim1021@gmail.com>

Date: Tue, May 22, 2018 at 12:20 PM

Subject: File# 18-0392 CD10 - Homeless Shelter in Korea Town

To: cityclerk@lacity.org, patrice.lattimore@lacity.org

Dear LA City Council and Councilman Wesson,

My name is Sarah Kim who owns a business in Los Angeles Downtown.

I've been watching and supporting the crowd against the new shelter being planted in the heart of Korea town.

We all know the shelter for homeless creates a big change in any town. Far more negative aspects than positive in terms of safety and hygiene for residents in all ages, specially for little kids and youth.

It is very disturbing that the county makes this huge decision without a public hearing.

I, as part of the Korean Community demand an IMMEDIATE PUBLIC HEARING to review the homeless shelter project in any part of Korea Town before City Councils make any further progress.

Best regards, Sarah Kim 1769 E. 41st Place Los Angeles, Ca. 90058

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 12:29 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

__

Anna Martinez

Office of the City Clerk

200 N. Spring St., Rm. 360 Los Angeles, CA 90012 213-978-1025 213-978-1027 - FAX Mail Stop 160-01

https://mail.google.com/mail/u/0/?ui=2&ik=6da442a5b6&jsver=4v-OUP2y87c.en.&cbl=gmail_fe_180610.15_p0&view=pt&cat=18-0392&search=cat&th=16389579a836



----- Forwarded message -----

From: Sarah Kim <sarahsykim1021@gmail.com>

Date: Tue, May 22, 2018 at 12:20 PM

Subject: File# 18-0392 CD10 - Homeless Shelter in Korea Town

To: cityclerk@lacity.org, patrice.lattimore@lacity.org

Dear LA City Council and Councilman Wesson,

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Best regards, Sarah Kim 1769 E. 41st Place Los Angeles, Ca. 90058

Eric (Roderico) Villanueva <eric.villanueva@lacity.org>
To: Patrice Lattimore <patrice.lattimore@lacity.org>

Tue, May 22, 2018 at 12:33 PM

Got it. Thanks.

Eric Villanueva Office of the City Clerk 200 N. Spring St. Rm. 395 Los Angeles, CA 90012 213-978-1075



[Quoted text hidden]



Fwd: Koreatown shelter

2 messages

Patrice Lattimore <patrice.lattimore@lacity.org>
To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>

Tue, May 22, 2018 at 1:30 PM

Patrice Y. Lattimore
Acting Division Manager
Council & Public Services Division
Office of the City Clerk
PLEASE NOTE NEW PHONE NUMBER - (213) 978-1050



----- Forwarded message -----

From: **Kim, Jasmine** <la_jas@yahoo.com> Date: Tue, May 22, 2018 at 1:29 PM

Subject: Koreatown shelter

To: cityclerk@lacity.org, patrice.lattimore@lacity.org

To LA city council and councilman wesson,

We demand public hearing. Please hear and respect our voices.

File number- 18 0392 CD10 Name - Jasmine Kim Address - 155 S. Oxford Ave. Los Angeles CA 90004

Thank You. Jasmine

Anna Martinez <anna.martinez@lacity.org>

Tue, May 22, 2018 at 1:45 PM

To: "Eric (Roderico) Villanueva" <eric.villanueva@lacity.org>, Gloria Pinon <gloria.pinon@lacity.org>

Please see email below.

--

Anna Martinez
Office of the City Clerk

200 N. Spring St., Rm. 360 Los Angeles, CA 90012 213-978-1025 213-978-1027 - FAX Mail Stop 160-01





----- Forwarded message ------

From: 'Kim, Jasmine ' via Clerk - CityClerk <cityclerk@lacity.org>

Date: Tue, May 22, 2018 at 1:29 PM

Subject: Koreatown shelter

To: cityclerk@lacity.org, patrice.lattimore@lacity.org

To LA city council and councilman wesson,

We demand public hearing. Please hear and respect our voices.

File number- 18 0392 CD10 Name - Jasmine Kim Address - 155 S. Oxford Ave. Los Angeles CA 90004

Thank You. Jasmine