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CITY ATTORNEY

REPORT NO. R 20 - 0034
JAN 31 2020

REPORT RE:

**DRAFT INTERIM CONTROL ORDINANCE ESTABLISHING A MORATORIUM ON
THE ISSUANCE OF PERMITS OR ENTITLEMENTS ISSUED UNDER CHAPTER I OR
CHAPTER IX OF THE LOS ANGELES MUNICIPAL CODE FOR THE
CONSTRUCTION, OPERATION, ESTABLISHMENT OR EXPANSION OF PRIVATE
DETENTION FACILITIES AND COMMUNITY DETENTION FACILITIES
FOR UNACCOMPANIED MINORS**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 20-0065

Honorable Members:

This Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft interim control ordinance, to be adopted as an urgency measure pursuant to California Government Code Section 65858, to prohibit the issuance of permits or entitlements issued under Chapter I or Chapter IX of the Los Angeles Municipal Code (LAMC) for the construction, operation, establishment, or expansion of private detention facilities and community detention facilities for unaccompanied minors Citywide (Draft ICO).

Legislative Background

On July 8, 2019, a motion (Wesson-Cedillo-Martinez-Harris Dawson) was adopted instructing the Department of City Planning (DCP), in consultation with the City Attorney, to prepare and present an ordinance to amend the Zoning Code to prohibit the

construction and operation of private detention centers in the City of Los Angeles (Council File No. 19-0742).

On November 15, 2019, a motion (Martinez-Cedillo) was introduced directing the DCP and Department of Building and Safety (DBS), in consultation with the City Attorney, to prepare a report related to the potential siting of a privately-operated detention facility on a commercially-zoned lot, that is surrounded by residential uses, in the Arleta community ("Woodman Site") (Council File No. 19-1417).

On January 17, 2020, a motion (Martinez-Wesson-Rodriguez-Price) was introduced, instructing the DCP, in consultation with the City Attorney, to prepare and process an interim control ordinance (ICO) that prohibits the issuance of any demolition, building, grading, or other applicable permits to prevent the construction or operation of private detention centers, inclusive of facilities wherein all persons, regardless of their citizenship status, are detained, confined, or under restraint or security pending the resolution of any judicial or administrative proceedings. These include detention facilities for separated or unaccompanied minors, and those that are operated by private, non-governmental entities (ICO Motion) (Council File No. 20-0065).

On January 22, 2020, the Council adopted the ICO Motion, stating that the ICO shall include an urgency clause, thereby making the ICO effective upon publication for a period of 45 days, subject to a 10-month and 15-day extension by Council Resolution, with the option of a second extension for an additional year, or until the adoption of the appropriate land use regulatory controls have been prepared by the DCP and adopted by the Council.

Summary of Ordinance Provisions

The ICO seeks to temporarily prohibit the permits or entitlements issued under Chapter I or Chapter IX of the LAMC for the construction, operation, establishment, or expansion of "community detention facility for unaccompanied minors" and "private detention centers." These uses are not currently defined in the LAMC, and require additional analyses of the potential land use impacts that these types of uses could have on surrounding communities, including any potential incompatible land uses or inconsistencies with General Plan policies.

The Draft ICO defines a "Community Detention Facility for Unaccompanied Minors" as a facility operated by a private or nongovernmental person or entity to house unaccompanied, undocumented minors in the custody of the federal government.

The Draft ICO defines a "Private Detention Center" as a facility operated by a private or nongovernmental person or entity in which persons are incarcerated or otherwise involuntarily confined for purposes of execution of a punitive sentence imposed by a court, or detention pending a trial, hearing, or other judicial or

administrative proceeding, except that a Private Detention Center shall not include any facility described in Penal Code Section 9502. However, a Private Detention Center shall include a facility described in Penal Code Section 9502, Subsection (d), if that facility is used to house persons in the custody of the federal government.

Under Government Code Section 65858, the City Council may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council is studying or intends to study through a 4/5 vote of the City Council. If adopted, the Draft ICO shall be in effect for a period of 45 days from its date of adoption. The City Council may extend this Ordinance for a period of 10 months and 15 days, subject to a second extension of one year, for a total period of two years from the date of initial adoption, by council resolution as provided in Government Code Section 65858.

Charter Findings Not Required

Because the draft ICO will be adopted as an urgency measure pursuant to California Government Code Section 65858, it is not subject to the procedures otherwise required before the adoption of a land use ordinance.

Council Rule 38 Referral

A copy of the enclosed draft ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety with a request that all comments be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Senior Assistant City Attorney Terry Kaufmann Macias at (213) 978-8233 or Deputy City Attorney Kathryn Phelan at (213) 978-8242. They or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

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DM:TKM/KP:zra

Transmittal