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Comment:

For attachment to CF#05-1853 & CF#05-1853-S1

NORTH HOLLYWOOD WEST NEIGHBORHOOD COUNCIL

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Jim Kompare <i>President</i>	Robin Ibrahim <i>Vice-President</i>
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December 22, 2011

Los Angeles City Council
City Hall
200 N. Spring Street
Los Angeles, CA 90012

Re: Objection to the DRAFT ORDINANCE amending Section 62.104(e) of the LAMC to repeal the "exception" that established city liability for repair of curbs, driveways and sidewalks due to tree root damage (CF#05-1853, #05-1853-S1)

Honorable Councilmembers:

The North Hollywood West NC has voted its opposition to the proposed ordinance transferring responsibility for sidewalk, curb and driveway repairs due to tree root damage to property owners. This includes any "point-of-sale" plan as well as any corresponding enforcement efforts.

LAMC Section 62.104 clearly states that the "Preventive measures and repairs or reconstruction to curbs, driveways or sidewalks required as the result of tree root growth shall be repaired by the Board at no cost to the adjoining property owner." While that duty has existed since 1974, the City has been remiss in its fulfillment and now seeks to shift the cost of the uncompleted task to property owners. The only reason tree-damaged sidewalks exist today is because the City has failed to perform its mandatory duty, both in maintenance of sidewalks, and care of trees it has exercised control over and property owner have been precluded from easily maintaining. The City now wants property owners to make up for forty years of missteps.

The proposed ordinance, as written, is the usual "quick fix" often thrust upon property owners, with no accompanying thought to mitigations (other than the change from two weeks to ninety days for completion from time of notice), though of course, consideration was given to including additional costs and penalties for not complying within the City's timeline. While the Bureau of Street Services recommended that, if enacted, the enforcement of the ordinance should be suspended for three years to facilitate notification, outreach, financial planning for property owners, and allow the Bureau of Street Services to establish repair guidelines – there is no mention of this in the ordinance. If the City seeks to transfer responsibility and liability for an area of infrastructure, shouldn't it first be delivered in "working order"? Should this be infeasible (and clearly past performance and the current 50 year trimming cycle shows this to be

true), shouldn't there be some type of compensation? Perhaps a break on property taxes for a period of time after completion of repairs. Certainly no payments to the City should be required for permits and such, nor should the use of City crews or specified contractors be required.

There is also nothing that addresses property owners having to bear responsibility without authority. They are to shoulder the burden of damages by City controlled trees with no say over the maintenance of said trees or their replacement. They may be held liable for accidents and increased insurance costs though unable to legally mitigate their risks. Barriers would need to be removed – for example: while it is true Class A free permits are available to remove an offending tree, the property owner is required to pay for *two* trees as a replacement...another possible mitigation to the transferred responsibility, just require the actual replacement.

It should be noted that this transfer also creates an economic disparity in property values. While the cost of repair and/or replacement of sidewalks and trees may be about the same for any area of the City, the relative reduction in property value is not. An \$850,000 home with \$5,000 of "damage" would lose .58% of value while a \$150,000 home would lose 3.3% of value. In addition, while the current system allows the costs to be spread out across the tax base (with those with lesser value property, and assumedly lesser economic status, paying less), the new system hits hardest those with the least ability to pay. The effect is the same whether at point-of-sale, point-of-permit or upon complaint. Again, no mitigation for high cost to value situations.

Outreach regarding this proposal has been lax. To our knowledge, neighborhood councils have not been approached for input or invited to participate in any groups or conferences. Information from other concerned organizations indicates there has been no coordinated outreach since 2009. Without such outreach by the City, its bureaus and City council, and input from community representatives, the full scope of the effects of this change cannot be realized.

While there may indeed need to be some changes in how this infrastructure upkeep is to be maintained, we believe that any proposal or ordinance *must* be fully vetted and the long term effects on property owners considered, and that any action on the proposed ordinance be held in abeyance until that time.

Respectfully submitted by:


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JK,DH:dh