



Los Angeles/Ventura Chapter

Michael LoGrande
Director of Planning
Department of City Planning
200 North Spring Street
Los Angeles, CA 90012

July 14, 2015

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**Subject: Opposition to the Draft Clean Up Green Up Ordinance
CPC-2015-1462-CA**

Dear Mr. LoGrande,

The Los Angeles / Ventura Chapter (“BIALAV”) of the Building Industry Association of Southern California represents more than 1,100 home building businesses throughout Southern California, and is the voice of residential development here in Los Angeles.

BIALAV appreciates the opportunity to participate in the Clean Up Green Up (“CUGU”) stakeholder process, but cannot support the CUGU Draft Ordinance and accompanying changes to the Green Building Code, in their current forms. The Draft Ordinance falls far short of the original CUGU goals, and unduly targets new home construction in underserved areas.

We currently face the greatest housing crisis in our City’s history. At a time when millions of people look to Los Angeles as a destination to live, work and play, they face some of the highest housing cost in the nation. When it comes to both for-sale and rental housing, Angelenos are hard pressed to afford roofs over their heads.

The Draft Ordinance, in its current form, will only serve to aggravate the housing crisis and hinder Los Angeles in its efforts to realize Mayor Eric Garcetti’s goal of building 100,000 new homes by 2021.

Of particular concern is a proposal to label – selectively – all new multifamily housing within 1,000 feet of a freeway as potentially hazardous to human health. Such labeling is completely unnecessary, especially in light of the fact that all new homes built in Los Angeles must meet some of the nation’s highest standards when it comes to noise mitigation and air filtration.

Los Angeles currently requires housing near freeways to have filtration standards on par with surgical rooms in hospitals, even though both the federal Environmental Protection Agency and the California Green Building Standards

Code indicate that such standards are unnecessary.¹

The labeling proposal is arbitrary, in that it only applies to new buildings – thus ignoring the fact that older homes have far laxer (or nonexistent) requirements for air filtration. In addition, roughly 20% of all houses in Los Angeles are near one or more freeway, meaning that the Draft Ordinance insinuates that one in every five Los Angeles homes is health harmful. Certainly, this is not a message that the City should send to its residents.

If the proposal were expanded to apply throughout the City ***the Draft Ordinance would effectively require that most – if not all – transit oriented development be labeled as harmful to health***, because most transit stops are within freeway right-of-ways.

The proposal comes at a time when unprecedented steps are being taken to improve the emissions characteristics of vehicular fleets in California, including the most problematic large trucks and buses. New diesel engine emissions standards, the increasing shift to using clean natural gas for goods movement, and the public adoption of electric and plug-in hybrid cars, all indicate that potential environmental hazards for near-freeway development are rapidly being eliminated. This, in combination with the current mitigation requirements for new homes, adequately removes any potential harm.

BIALAV is committed to supporting the creation of energy and water efficient homes that provide for the highest standard of living for residents. We have a strong record of working to find reasonable solutions to ensure that Angelenos live in high quality homes. The Draft Ordinance falls far short of this reasonableness test.

Despite repeated attempts at compromise, the Draft Ordinance fails to adhere to the original intent and goals of CUGU; and it unduly harms new home builders in Los Angeles. For all these reasons, BIALAV strongly opposes the Draft CUGU Ordinance, and recommends that the Department of City Planning not move forward with the Draft Ordinance, instead address the aforementioned concerns, and rework it to fulfill CUGU's original intent.

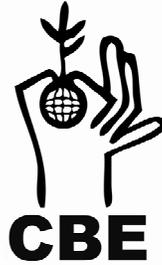
Sincerely,



Tim Piasky
Chief Executive Officer

Cc: The Honorable Gil Cedillo, Councilmember District 1
The Honorable Felipe Fuentes, Councilmember District 7
The Honorable Marqueece Harris-Dawson, Councilmember District 8
The Honorable Mitchell Englander, Councilmember District 12
The Honorable José Huizar, Councilmember District 14
The Honorable Joe Buscaino, Councilmember District 15
Kevin Keller, Office of Mayor Eric Garcetti
Tom Rothmann, Department of City Planning

¹ The City's internal interpretation document (Z.I. 2427) calls for standards in line with the federal and state guidelines.



July 13, 2015

Hon. Councilmembers, City Planning Commission and
Mr. Michael LoGrande, Director of Planning
Department of City Planning
City of Los Angeles
200 North Spring Street
Los Angeles, Ca 90012

**Re: Case No. CPC-2015-1462-CA (CF 11-0112)
Clean Up Green Up Overlay District**

Dear Councilmembers, Commissioners and Mr. LoGrande:

This letter is submitted to follow up on comments the LA Collaborative submitted on April 24, 2015, after the March 31 Clean Up Green Up (CUGU) stakeholder meeting, and to follow up on the testimony provided in the public hearings held on June 8, 15 and 22, 2015 on the proposed Clean Up Green Up Overlay District Ordinance. We continue to appreciate the efforts you and your staff are undertaking to move this most important and ground-breaking policy forward and the opportunity to help shape an ordinance and related policies that will address pollution in the City, aid businesses of all sizes, assist industries to implement more environmentally healthy practices, and improve the quality of life and attractiveness of communities. We support these efforts to sustain a healthier living environment while promoting quality, sustainable and healthy business retention and expansion.

In this letter we want to focus on the draft ordinance. We want to reiterate, however, our support for the importance of moving all components of the Clean Up Green Up policy forward and in concert.

We understand the Clean Up Green Up policy to consist of three key components: (1) performance standards that would apply to new, expanded and substantially modified business establishments (most of these standards are embraced in the draft ordinance) to assure that future business operations move toward greener, cleaner and more health-protective methods of operating; (2) additional inspections and enforcement to assure that businesses are pursuing sound policies and adhering to existing rules, and capturing businesses that may be operating without appropriate permits so as

to bring them in line with legally operating businesses; and (3) technical and financial incentives and assistance both to the businesses operating—at least initially—in the three environmental justice pilot communities of Boyle Heights, Pacoima/Sun Valley and Wilmington and to the wider communities to correct long term deficiencies and to make them both more environmentally sound and more attractive to business attraction, growth and expansion.

Comments Specific to the Draft Ordinance

The key elements of the draft ordinance are performance standards (development regulations) that would apply to new structures, structures that undergo major improvement or have substantial additions made to them that are occupied or to be occupied by particular kinds of businesses enumerated in the ordinance. The standards would also apply to an existing building whose occupancy changes to one of those enumerated uses. Further, there are some additional standards that apply to structures within 1,000 feet of a freeway or specified state route (SR-47 in Wilmington is one such route), to Publically Habitable Uses placed adjacent to one of the enumerated uses or one of those uses being placed adjacent to a Publically Habitable Use. We support the proposed development standards as they are set forth. We appreciate that these standards address and seek to remedy or mitigate health issues caused by light, noise, emissions, truck activity and other aspects of these business operations while reasonably allowing businesses to function and prosper. We particularly point out a proposed distancing requirement that new (or newly located) auto dismantling yards, exhaust test stations, automotive repair establishments and others listed in the draft ordinance be prohibited within 500 feet of a residential zone. These uses, while often small individually, have a disproportionately severe impact in these communities because they tend to be close to residential uses and generate noise, traffic and emissions that are not only nuisances but also harmful to sensitive populations. We previously recommended that, in addition, new such uses not be allowed to be closer than 300 feet from an already-existing use of these types, and would request that this additional condition be revisited.

We fully support requiring uses such as oil refineries, asphalt manufacturers and sulfur recovery and storage to obtain a conditional use permit. In addition, we recommend that the notification for applications for such permits be expanded to 1,500 feet from the refinery or other use, as is being proposed for properties in the Surface Mining District. The purpose of the conditional use permit is not to duplicate the regulations that are covered by other entities on operations but specifically to focus on issues of compatibility with nearby uses, including noise, flaring, composition of pollutant emissions, truck and rail access routes, so as to address health impacts deriving from the proximity of these uses to adjacent communities, factors we strongly believe—and with experience our local communities have seen—are not fully covered by the regulations under which these businesses operate. It should be noted that among the cities in California where such uses exist, almost all others require

a conditional use permit. Los Angeles and El Segundo are the only exceptions in Southern California.

We note that questions have been raised by others about potential duplication of rules or additionally burdening already regulated businesses with new requirements including those embraced in the proposed development standards in the draft ordinance. Many of the regulatory agencies themselves see a need for local land use regulation to address issues that they do not. For example, many regulations are triggered by scale—size of business or volume of pollutants emitted—and in the case of neighborhoods such as Boyle Heights, Pacoima/Sun Valley and Wilmington, many businesses fall below these thresholds. But, at the same time, regulators note, and we agree, that most regulations treat individual businesses and do not address the compounding effect of large numbers of businesses in small areas, especially in close proximity to homes, schools, parks, day care and medical facilities and similar “sensitive receptors”. Thus these regulatory bodies advise adopting local land use policies that specifically deal with local land use compatibility issues and with issues of the cumulative impacts of concentrations of potentially polluting businesses. We concur and believe that the performance standards set forth in the draft ordinance, and the other components of the Clean Up Green Up program, focus on these two specific concerns

Part of the original planning for the Clean Up Green Up policy recommended, in addition to focusing on the three pilot communities of Boyle Heights, Pacoima/Sun Valley and Wilmington, was to follow adoption of the policy and its implementing ordinance or ordinances with a program (up to three years) of evaluation of cost, effectiveness and applicability in other parts of the City. We endorse continuing to include an evaluation component in the policy, and offer to work with the Department on identifying appropriate metrics and measurement methodologies.

Additional Comments regarding the Clean Up Green Up Policy

While not part of the proposed ordinance (though acknowledged in the opening “whereas” clauses) we recognize and endorse the importance of a strong business support program accompanied by pro-active business outreach. We have endorsed the “business ombudsperson” concept and were pleased to see it recognized in the Mayor’s Sustainability Plan, and look forward to the office being established within the City framework in the upcoming fiscal year. This office is critical in several ways: it will help various departments that work in impacted communities to know the full array of available assistance programs; it can provide a single point of entry to businesses seeking assistance—technical or financial—in starting the application process; and it can reach out especially to new and smaller businesses to help them through what is often a complicated and lengthy application and approval process. The ombudsperson will also serve as a point of contact with other City, regional and state-level environmental agencies to help facilitate their enforcement and compliance efforts. We were

pleased to see the recent offer by the Los Angeles County Economic Development Corporation to make their programs better known and more accessible, and we plan to continue to offer the resources we have put into the “Guide to Green” as a helpful compendium of financial and technical assistance programs, along with community-based “Guide to Green” workshops to bring representatives of public sector programs into direct contact with local businesses to access their services.

As noted in our last letter, though also outside the scope of the draft ordinance, we strongly endorse the requirement of air filtration systems in structures with high levels of occupancy, including multi-family residences, within 1,000 feet of a freeway or other heavily travelled freight transportation corridors, and strongly support the Department’s recommendation (expected to be put forth by the Department of Building and Safety in proposed changes to the Building Code) to make this requirement City-wide. The adverse impact on health, especially on lung development in young children and the prevalence of heart conditions and asthma in persons residing close to such corridors has been well documented. This is a logical step forward in public health planning, it is a step beyond the advisory recommendation for such multi-family housing that the City currently provides, and it is consistent with the healthy living policies embraced in the recently adopted Health and Wellness Element of the General Plan.

We have heard some concern that requiring higher design standards in housing sites near freeways and freight transportation corridors may be at odds with policies to promote transit oriented development. While some transit corridors follow former railroad freight lines, a relatively small number follow freeways, which are the greatest sources of mobile air pollutants. Thus, encouraging housing around transit—making for more transit access for pedestrians and bicycle riders—can both help redirect housing growth away from freeways and over time reduce automobile dependence and thus slow or reverse the growth of vehicle miles travelled, reducing pollution from automobiles. Given that lower income households have a higher propensity to ride transit, we believe that inclusion of a significant amount of affordable housing for extremely low income individuals around key transit stops is also a desirable goal. However, in the interim—until more housing sites are put into use remote from freeways and until fuel and tire chemistry and mechanics change to reduce the hazards of freeway proximity—we believe that additional measures are needed to identify and deal with health risks of freeway proximity. The ordinance only requires posting notification of potential health impacts of freeway proximity within the proposed Clean Up Green Up communities, which we support as a ground-breaking public health step in raising awareness of the hazards of freeway proximity. We strongly support (outside the context of the ordinance but in a proposed amendment to the Building Code) that freeway-proximate structures City-wide be required to be mechanically filtered at a level to substantially reduce the risk of ultra-fine particles in intake and circulated air.

We agree with comments we have heard from our business colleagues about the importance of addressing illegal operations. Not only do these operations produce undesirable levels of pollution and adversely affect quality of life, but they unfairly compete with those businesses that strive to follow the rules.

We have looked at programs such as the City's Annual Inspection Monitoring (AIM) program, and believe that an expanded AIM program to include more industries as well as check for the Clean Up Green Up performance standards, or a similar initiative, can address both issues. This would depend on staff being able to identify non-permitted and non-complying businesses, and likely require a separate enabling ordinance. Bringing additional businesses into the fold, and collecting initial and annual fees from the expanded business pool, can help fund the cost of and staff this expanded effort. Another option may be for the Ombudsperson to serve as a point of contact for City, regional and statewide environmental regulatory agencies to facilitate their activities for stronger and more coordinated compliance and enforcement within these highly polluted communities.

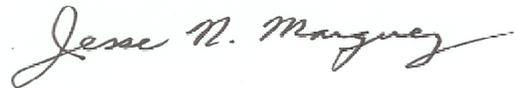
Thank you again for your efforts to move this critical policy forward.

Very truly yours,

LA Collaborative for Environmental Health & Justice



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Cc: Hon. Members, Planning and Land Use Management Committee
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