

November 23, 2015

Honorable Councilmember Jose Huizar
Chair, Planning Land Use Management Committee
councilmember.huizar@lacity.org

Sharon Dickinson
Council Files Section Manager
sharon.dickinson@lacity.org

Members Planning Land Use Management Committee
via email

RE: Clean Up Green Up Ordinance (CF# 11-0112 and CF#15-1026)

Dear Members of Planning Land Use Management Committee,

On behalf of The Better World Group, Inc. (BWG), I respectfully submit this letter in support of the Clean Up Green Up Initiative Ordinance.

As a recognized leader in political and environmental strategy, policy development and advocacy, BWG understands the importance of working to improve air quality and developing more livable communities, which the Clean Up Green Up Initiative strives to achieve.

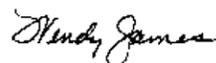
We strongly support the proposed new development standards for the three pilot Green Zones of Boyle Heights, Pacoima/Sun Valley and Wilmington because they provide much needed local regulatory tools to address issues arising from the proximity of incompatible land uses – largely industrial uses close to homes, schools, parks and other places where vulnerable populations gather. The standards also deal with the cumulative adverse impacts that result from concentrations of certain uses near such sensitive uses.

In addition, we support the Los Angeles Collaborative for Environmental Justice (Communities for a Better Environment, Coalition for a Safe Environment, Pacoima Beautiful & Union de Vecinos) in its effort to monitor the ordinance as it moves forward for passage by the full city council to ensure the ordinance contains the strongest local regulatory and land use tools possible, especially regarding the proposed conditional use permit for oil refineries and asphalt manufacturers.

We eagerly anticipate the passage of the Clean Up Green Up policies and we look forward to the success of the three pilot zones, which will lead the way to economic innovations and a healthier, safer and greener Los Angeles.

Sincerely,

Wendy M. James



CEO

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November 23, 2015

The Honorable Jose Huizar
Councilmember, District 14
City of Los Angeles
200 North Spring Street, Rm. 465
Los Angeles, Ca 90012

**Re: Comments on Small Business Concerns Over Proposed Clean Up Green Up Ordinance
CPC-2015-1462-CA**

Dear Councilmember Huizar:

The California Small Business Alliance (Alliance) is a coalition of trade associations committed to protecting small business interests. To meet the challenges facing small businesses, Alliance members: 1) play an active part in key committees, task forces, policy forums, and working groups, 2) advise government agencies in identifying the most cost-effective and least economically debilitating measures to regulate small businesses; 3) produce position papers and technical reports to enable regulators, public officials, economists, environmental groups, and business organizations to help them to better understand the processes, costs, and compliance challenges that small businesses face.

Our purpose for writing is to inform you of a number of serious, legitimate concerns we have about the detrimental impacts that the Clean Up Green Up (CUGU) ordinance, which was drafted by the Department of City Planning, is likely to have on the three pilot communities of Boyle Heights, Wilmington and Pacoima, and for that matter, the City of Los Angeles. Moreover, if the ordinance is approved and implemented in its present form, any meaningful benefit to the environment, and reduction in health risk to the public from air pollution and toxic air contaminants, is problematic at best. On the other hand, the likelihood that the version of ordinance, as drafted by the Department of City Planning, if approved and implemented, will contribute to a decline in business growth and meaningful employment is the more likely outcome.

This ordinance falls far from the original intent of the CUGU initiative, by neglecting to set the stage for an ombudsman and incentives to educate, motivate, and assist small business owners toward more environmentally healthy practices. Further, this proposal does little to address pollution in the City. Most of the requirements in the ordinance (e.g. fencing, building height, storage space, area lighting, noise abatement, tree planting) are completely unrelated to the "cumulative environmental effects" rationale for the CUGU ordinance and are contrary to the intent of a council motion made on June 19, 2013, that directed City Planning to identify strategies to reduce or clarify duplicative or contradictory regulation with respect to CUGU. There is no evidence showing that these requirements are necessary or have any environmental benefit. Clearly, no consideration was given to the fact that there are striking differences in the needs of small businesses vs. those of larger businesses. To expand on this point, large businesses typically own the land and buildings on which they conduct their commercial/industrial enterprises. Smaller businesses, on the other hand, usually lease property from landlords. In the course of developing their report and proposed ordinance City Planning seems to have failed to consider what course of action

would be available and acceptable to small business owners when landlords refuse to invest in these new CUGU ordinance mandates governing new business sitings or core business expansions. This oversight could place the life savings of hundreds of small business owners in extreme jeopardy.

Instead, the ordinance adds burdensome and unnecessary regulations on legitimate, tax-paying and job generating businesses. The effect of these additional regulations, in many cases will add delays and costs which serve as a disincentive and deterrent to the private sector to utilize environmentally friendly opportunities, to invest and improve, and to retain and create jobs in the very communities which the original motion intended to “assist” thru economic revitalization; nor does it progress the original version’s environmental objective. This is a classic case of good intentions resulting in unintended consequences.

Original Intent of the CUGU Program

In May of 2012, CUGU proponents publicly announced to that the intended for the program to focus on municipal policy reflecting best practices in public health and environmental agencies’ recommendations on how to effectively address the problem of toxic hot spots in these three communities. It was their stated intent that the CUGU program was to reduce the exposure to air toxics throughout the jurisdiction of the South Coast Air Quality Management District (AQMD) with emphasis on cumulative impacts.

An honest and objective reading of the report prepared by City Planning, together with the proposed ordinance, clearly reveals that the terms “air toxics,” “toxic hot spots,” or “cumulative impacts” do not even appear in the text. Moreover, Alliance members have participated in every stakeholder meeting that City Planning convened, as directed by the City Council, and none of us can recall an AQMD representative attending any of them. What is even more disconcerting – considering that approximately 90 percent of the pollution and toxic air contaminants enters these three pilot communities from mobile sources travelling over adjacent freeways and other high-traffic thoroughfares – is that the California Air Resources Board (CARB), the lead agency having jurisdiction for mobile sources, had no representative in these City Planning meetings either. The only meeting in which a CARB representative was in attendance was one that was convened by the Alliance who had the foresight to invite them.

Additional, Not Less, Burdens Placed on Small Businesses

At the beginning of this letter, I wrote that the report by City Planning, and their draft ordinance falls far short of the goals, objectives, and expectations of the CUGU proponents and the direction given by the City Council in their Motion of June 19, 2013. I also cited examples of some glaring deficiencies. Following are some examples of other deficiencies in Planning’s report and draft ordinance:

Alliance members are concerned about the likelihood of the proposed CUGU ordinance adding to an already lengthy permitting process because of any new, expanded or intensified requirements being imposed by the yet-to-be-named Ombudsman. We believe that a time limit, or accountability clause (such as 30 days), for processing, approving and issuing of permits, adjustments and exceptions, should be written into the ordinance.

Alliance members are concerned that little or no consideration or analysis seems to have been given to the additional costs that businesses – especially small businesses – wanting to site or expand in any of the three target communities will incur as the result of the additional time that will be required by the Ombudsman to process, approve and issue permits, adjustments and exceptions. This is especially concerning in instances where small business owners are leasing the premises and must pay rent on space that they cannot legally use for the purpose intended without a valid permit. It is also conceivable that situations could arise when a small business permit applicant is granted a permit to construct or operate

by the AQMD, but then is denied a permit, license or authorization by the Ombudsman or City of Los Angeles. Scarce and precious capital belonging to struggling small business owners could be unnecessarily put in jeopardy. And finally, it is clear that City Planning staff didn't even consider the fact that some landlords might be reluctant to invest in the highly prescriptive and burdensome mandates that will be part of this new ordinance, just to accommodate their tenants. Rather, they are more likely not to renew the leases for certain businesses.

During an Alliance review of the Recitals (statements of fact) in Appendix A of the proposed ordinance, we became concerned that the law does not address how many Recitals will be implemented and benefit the public, environment, economy, and the businesses within the boundaries of the three pilot communities.

For example:

- *WHEREAS, the cumulative environmental impacts resulting from concentrated industrial land use, on-road vehicle travel, and heavily freight-dominated transportation corridors in close proximity to homes, schools and other sensitive uses is a pervasive problem in Los Angeles;*
 - The proposed ordinance contains exhaustive details when describing zone classifications, lighting specifications, distance restrictions in feet and inches, trash receptacle enclosure measurements, fence and wall material descriptions and measurements, allowable shrub and tree species, signage specifications, and more.

The proposed ordinance even contains a paragraph (see NOTICE) acknowledging that the “cumulative impacts” of air pollution includes emissions from sources other than stationary sources within the geographic boundaries of the three target communities.

NOTICE: Air pollution studies show a strong link between the chronic exposure of populations to vehicle exhaust and particulate matter from major roads and freeways and elevated risk of adverse health impacts, particularly in sensitive populations such as young children and older adults. Areas located within too fee of the freeway are known to experience the greatest concentration of ultrafine particulate matter and other pollutant implicated in asthma and other health conditions.

- One suggested way for the proposed ordinance to be fair to all businesses, especially small businesses, and more protective of public health, is for the ordinance to require that the myriad unlicensed and/or unpermitted businesses operating within the boundaries of the three pilot communities to be identified, inventoried, and brought into compliance with existing city, county, state, and federal regulations. As the ordinance is currently written only properly licensed businesses which are presumed to be operating in accordance with their permit limits will be subject to increased regulation. By allowing the ordinance to deliberately ignore or disregard the harmful pollutants and lost revenues from the many renegade commercial enterprises in these three pilot communities the public will be left less protected, and badly-needed taxes will continue to be uncollected. Moreover, by having city officials continue to ignore or allow unlicensed and/or unpermitted businesses to operate anywhere in Los Angeles places legitimate, law-abiding, job-creating small businesses at a significant competitive disadvantage.

- While the Alliance realizes that the proposed ordinance can do little to reduce harmful emissions from the exhaust from vehicles travelling on nearby freeways, we suggest – even urge – the City Council to consider adding a provision in the new law that mandates that traffic signals in the three target communities be synchronized so as to expedite vehicle commuting times and minimize engine idling times. This would have the effect of expediting the flow of traffic through these communities, reduce engine idling times at stop lights, and should reduce harmful emissions from the major source of air pollution and toxic air contaminants in these three pilot communities.
- ***WHEREAS**, many businesses in the most adversely affected communities would greatly benefit from an ombudsperson assisting with environmental regulation compliance and applying financial incentives and technical support programs; and,*
 - The proposed ordinance is silent on the specific responsibilities of the ombudsperson to assist with environmental regulation compliance. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that both businesses and the public have a right to know what tangible benefits will flow from this ordinance.
 - The proposed ordinance is silent on the specific financial incentives that are available to all businesses, but especially small businesses, and what the qualifying criteria is for these financial incentives. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that affected businesses – especially small business owners – have a right to know what financial incentives will be available to them before the ordinance is approved.
 - The proposed ordinance is silent on the specific technical support programs that are available to all businesses, but especially small businesses, what the qualifying criteria are for this technical support, and if this support is provided *free*, or for a *fee*, to all businesses, or only to certain businesses. In light of the exhaustive detail given to the many prohibitions, restrictions and requirements found elsewhere in the new law, we believe that all businesses, but especially small business owners, have a right to know the details of the technical support that will be available to them.

No Metrics for Success

All businesses, including small businesses, are continually evaluated by their customers on the quality of the products they produce, the prices they charge and the service they deliver. Publicly traded companies are also evaluated by their investors. Good public policy dictates that government offices and programs have in place acceptable performance metrics to determine how successfully they're delivering services to citizens and adhering to legislative regulations. These are totally missing from the ordinance drafted by City Planning. Alliance members believe that a set of agreed upon performance metrics must be developed and approved before the ordinance becomes law.

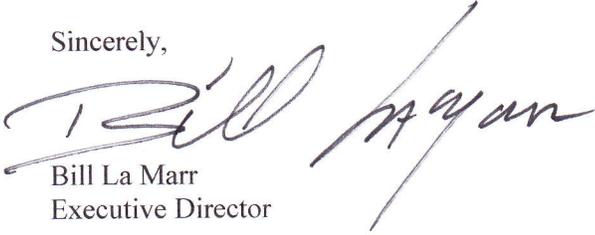
The California Small Business Alliance was invited to participate in the planning and development of the proposed CUGU ordinance. We believe that we have respected the challenge and contributed our time, talent and expertise to help craft an ordinance that would balance the concerns and needs of the public as

of employers already doing business in the three pilot communities, as well as any small businesses that might contemplate siting or expanding their operations therein. Regrettably, we believe that the proposed CUGU ordinance will have a chilling effect on decisions by business owner/operators – particularly small businesses – to invest and create or add jobs in these communities because of the additional mandates. As such, it is the strong recommendation of the Alliance that the PLUM Committee reconsider moving forward with the ordinance unless and until the deficiencies and recommendations we've cited in this letter are addressed and included in the final ordinance. Should you decide to accept our recommendations, we would also like to recommend that this vetting process be conducted by a neutral facilitator.

Initially, the cost for implementing the CUGU program was expected to be in the neighborhood of \$100,000 per year. It is our understanding that a recent analysis now puts that number at 10 times that amount, or over \$1 million dollars. And the program hasn't even begun! Small business owners, and the tax paying public, should be protected from their elected officials committing them to pay for speculative misadventures such as this.

If you have any questions, please do not hesitate to contact Bill La Marr, Executive Director, at (714) 778-0763.

Sincerely,



Bill La Marr
Executive Director

cc: Councilmember Joe Buscaino, 15th District
Sharon Dickenson, Legislative Assistant, City of Los Angeles



November 18, 2015

Honorable Members, Los Angeles City Council
Planning and Land Use Management Committee
City Hall
200 North Spring Street
Los Angeles, CA 90012

RE: CF#15-1026

Dear Honorable Members:

Thank you again for the hearing held on October 27, 2015 regarding the proposed Clean Up Green Up Policy and its related ordinances and other implementing mechanisms. We appreciate the support shown by the Committee and look forward to its approval at your upcoming meeting of November 24, 2015, and its subsequent consideration by the full City Council.

We wanted to take this opportunity to clarify some points that were raised in public testimony and in some of the follow-up discussion on the item. We do appreciate the participation of the business community, including the comments by the Los Angeles Chamber of Commerce and its affiliates, as well as those of the Los Angeles Business Council and those individual business owners and operators that also attended the hearing, many of whom spoke in support of the proposed Policy.

We concur with our business colleagues that there is a critical need to address living conditions in many communities in Los Angeles, including those in the three pilot communities of Boyle Heights, Pacoima/Sun Valley and Wilmington that are subject of what is currently under consideration by the Committee. However, we disagree with the assertion that the goals expressed currently differ from those set forth in response to City Council's initiating motion of January 2011, or those that have been a part of the numerous meetings, work-sessions and hearings that have taken place since, including workshops for the business community added at the request of the business sector.

Ombudsperson

We concur that the office of the Ombudsperson is important and believe that the proposed role for this position was well described in the Department of City Planning's report to their Commission on Clean Up Green Up. The role of, as well as the importance of, the Ombudsperson are further highlighted by the program's inclusion in

both the Health and Wellness Chapter to the General Plan and the Mayor's Sustainability Plan, both recently adopted by the City. Currently the position, which we are advised is an authorized and funded position in the Bureau of Sanitation, is proposed to be housed in the Office of the Mayor. While this decision is one that the City will ultimately make, we believe there is merit to the proposal for the Ombudsperson to—at least initially—be housed there. One role of the Ombudsperson is to coordinate the efforts of a variety of City and other departments that are involved in inspecting, interpreting and enforcing rules and regulations that affect businesses proposed to be covered by the Clean Up Green Up Policy. Another is to work with these departments to identify streamlining, simplifying and more effectively implementing both existing and new standards affected by the Policy. Given the inter-departmental coordination inferred by these roles, as well as those of identifying and extending business outreach opportunities and programs, we feel that a strong case can be made for the position to start in the Office of the Mayor—and to start as quickly as possible. While in the future it may make sense to house the function in an operating department, that consideration ought to occur as the position's role is further defined and experienced once the Policy is being implemented. In the interim, we see no reason either to delay adoption of the Clean Up Green Up Policy or to postpone filling the Ombudsperson position.

A question was raised about the long term sustainability of the Ombudsperson, noting that only one position has been funded and the assertion that the funding is only for the current fiscal year. That level of staffing is in keeping with the normal pace of starting up a program or function. It also does not acknowledge that there are staff in other areas of the City (such as the Economic and Work Force Development Department, Department of Building and Safety and the Bureau of Sanitation, to name only a few), whose efforts already embrace some of the inspection, enforcement and outreach functions to be expanded and coordinated by the Ombudsperson. We note, as stated above, that the position uses an authorized and funded position in the Bureau of Sanitation. We fully expect that, once the Ombudsperson position is filled and functioning, it will participate in discussions about roles, assignments and longer term staffing, which should be considered as the roles and responsibilities of the office are defined through operating experience. We also await the requested report from the offices of the Chief Legislative Analyst and City Administrator Officer at the October 27 hearing that should further examine this issue.

Resource Availability

There was testimony that the City lacks resources to provide assistance to local businesses in these communities. As has been pointed out on a number of occasions, there are documented over fifty programs and sources of both funds and technical support available from City, regional, State and Federal sources that can be targeted to these communities. These programs are compiled in the Guide to Green, a document assembled by the Liberty Hill Foundation and made available both to local businesses and business entities, and to the various source agencies themselves, which have lauded their ability (as a result of the compilation of programs) to become aware of one another's resources. Many of you have also sponsored and participated in Guide to

Green workshops in the targeted communities, well attended by many of the funding departments, and there was testimony from business operators of how they were able to identify and obtain funds to clean up and green up their businesses through these workshops.

Metrics

There were also comments made about the current lack of metrics to determine the effectiveness of the Clean Up Green Up Program. While some metrics are easy to suggest—numbers of outreach efforts initiated, numbers of Guide to Green workshops held, numbers of businesses contacted, numbers of businesses participating, numbers and types of business assistance programs accessed, numbers of businesses that have cleaned up and greened up their operations and in what ways are some early ones—it is also important that the Ombudsperson participate in the formulation of appropriate metrics—a task that rightly will occur once the position is filled and operating, and another reason to proceed quickly to fill the position.

Health Impact Assessment

Finally, comments were raised about the proposal to employ a Health Impact Assessment process, which comments included claims that the Health Impact Assessment is not widely used in the United States, and that there is no proven model to follow in the use and evaluation of the Health Impact Assessment tool. A further question dealt with Health Impact Assessments in relation to the narrower Health Risk Assessment.

Since the Clean Up Green Up Policy is built on a cumulative impacts analysis, the Health Impact Assessment tool is very much in keeping with this approach, rather than the more focused Health Risk Assessment. A Health Impact Assessment looks at impacts not necessarily covered by a Health Risk Assessment, and is thus more comprehensive, including indirect and cumulative impacts and more deeply involving impacted communities in the analysis.

A Health Risk Assessment seeks to arrive at a *probability* estimate—asking for example the question "how many people will get sick as a result of an activity" (i.e. be stricken with cancer, etc). In California, CEQA has accepted the Health Risk Assessment, although it is not named as such in federal laws such as NEPA. Health Risk Assessments address the health and safety problems from biophysical changes caused by a proposed project.

In comparison, Health Impact Assessments arise out of participatory processes globally such as consensus conferences. They are recognized by the World Health Organization, the federal Center for Disease Control, and other major institutional entities as a more holistic process whereby *impacts* are considered to guide policy through a collection of a broader range of data and community health needs.

Human Impact Partners, a national non-profit based in Oakland, CA, submitted a letter to

the record regarding the Health Impact Analysis. In that letter and the materials they submitted along with that correspondence they noted that over 300 Health Impact Analyses have been completed or are in process around the country, many conducted by government agencies including health departments, planning departments, and Metropolitan Planning Organizations. They noted that there exists considerable diversity in the practice and products of Health Impact Analyses due to the variety of policies, plans, programs, and projects assessed and the diverse settings in which decisions take place; and the evolution of the field. We also provided examples of a few Health Impact Assessments to staff to assist in their response to the Committee's inquiries about the roles and purposes of both types of analyses.

Fundamentally, the purpose of Health Impact Analysis is to assess the health impacts (as opposed to projected illness results) of proposed projects and plans—including cumulative health impacts in communities experiencing disproportionate health hazards—and identify ways to mitigate any potential harms identified. In addition, engagement of community members throughout a Health Impact Analysis is a core part of the Health Impact Analysis process.

As written in the proposed Clean Up Green Up ordinance, the Health Impact Analysis requirement is in line with this purpose and is properly targeted to the type of projects that may benefit from Health Impact Analysis-type review. There are a number of available guidance documents for Health Impact Analysis that potential project sponsors who would be required to conduct a Health Impact Analysis can use. The *Minimum Elements and Practice Standards for Health Impact Assessment* (attached to the Health Impact Partners submittal, and attached here again for your review) provides guidance on what is required for a study to be considered a Health Impact Analysis and lists benchmarks for effective practice. Health Impact Partners was one of the primary authors of this document. In addition, the National Academy of Sciences published *Improving Health in the United States: The Role of Health Impact Assessment*, which describes the background of Health Impact Analysis, steps in the process, and offers guidance to officials in the public and private sectors on conducting Health Impact Analyses. UCLA is another local leader, and has developed manuals and check lists that are in use by entities conducting Health Impact Analyses.

A recently completed legal review of Health Impact Analyses concerning the use of Health Impact Analyses found that, *“Even in the absence of explicit legal authority to conduct Health Impact Analyses [such as in NEPA], government agencies and officials increasingly conduct Health Impact Analyses or consider the results of Health Impact Analyses conducted by other organizations to inform their decisions. This has been the most common method of Health Impact Analysis practice in the United States.”*

Requirements for Health Impact Analyses can be found in Washington for several types of energy and environment proposals and Massachusetts for several types of transportation proposals. Several have been done in California, including both San Francisco and Los Angeles. In addition, numerous laws across the country *facilitate* the conduct of Health Impact Analyses by authorizing or requiring the functional equivalent

of a Health Impact Analysis to inform programmatic, policy, or administrative decisions. Given this context, the requirement to conduct a Health Impact Analysis (limited in the proposed Ordinance to the Conditional Use process) is appropriate and would contribute to an expansion of the field.

Our thanks again to you for helping to move this very important policy and program forward for the people of Los Angeles.

Very truly yours,



Bahram Fazeli
Director of Research & Policy
Communities for a Better Environment



Jesse Marquez
Executive Director
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Veronica Padilla
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Michele Prichard
Director, Common Agenda
Liberty Hill Foundation

CC: Los Angeles City Council
Hagu Solomon-Cary
City Clerk