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March 2, 2021

VIA <https://cityclerk.lacity.org/publiccomment/>

Honorable Marqueece Harris-Dawson, Chair
Planning and Land Use Management Committee
Los Angeles City Council
City Hall, Room 1010
200 N. Spring Street
Los Angeles, CA 90012

RE: Objection to Administrative Appeal Fee Increase
Council File 0-0969-S3, Item # 10 on PLUM Meeting Agenda

Dear City Council Members:

On behalf of individuals and community organizations adversely affected by proposals contained in Item No. 10 of today's Planning and Land Use Management Committee agenda, this firm objects to the City proceeding without any outreach of neighborhood councils, homeowner groups, non-profits and advocacy groups for marginalized persons who suffer access to government challenges to even learn of today's proposed actions.

We fully adopt the analysis and objections set forth in the comment letter from the Office of John P. Given, and my letter to this body dated August 15, 2017 which is attached to Mr. Given's comment letter.

The Context of this Proposal Is More Alarming Than In Prior Years.

The context in 2021 is more alarming than in 2017 when the Mayor's appointees tried to shift the alleged full costs of land use appeals from the general fund obligations of the City's taxpayers onto the backs of those who have legitimate concerns about development projects proposed in their communities. As a member of the legal staff of the appointed Charter Reform Commission in 1999-2000, I know that the City's residents were during that period in open rebellion and working to separate from the City. Their voices were not heard at Los Angeles City Hall. It was this movement that led to what has turned out, in my opinion, to be two unsuccessful Charter Reform concessions to those communities: the creation of advisory (translation: no real power) neighborhood councils, and the shifting of land use appeals from a single appeals board at City Hall to multiple area planning commissions. At the time, the City leaders proclaimed these "reforms" would give voice to affected

communities, including the appointment of area planning commissioners from the affected areas.

Neither of these reforms has given Los Angeles residents much of a voice in their communities. The neighborhood councils, as amply illustrated by the lack of any communication with them in this case, are often ignored by the City Council and given no outreach or notice of significant new legislative proposals that would affect constitutional and free speech rights of residents.

Since the 1999 Charter Reform approval created area planning commissions, mayors have thwarted the people's intent to have stronger input into planning and land uses issues. They have refrained from appointing community persons who hold sincere and thoughtful interests in balancing community interests. Instead, appointments to the City's planning commission and its area planning commissions have been skewed overwhelmingly in favor of campaign contributors, fundraisers, and persons whose sources of income are dependent upon the real estate development community. These sycophants of our mayors are expected to bow down to the desires of the officeholder. This is precisely why it is an open secret that one condition of being "honored" with a mayoral appointment to a commission includes the requirement that the commission appointee submit an undated resignation letter. The message at Los Angeles City Hall has long been: don't make waves or disturb the status quo that handsomely rewards the financial donors to the administration. As a result of this emasculation of the neighborhood councils, and the corrupt appointment system to the planning commissions, even these modest reforms of 20 years ago have been a visible, embarrassing failure.

For years, our current Mayor and many Council members have piously told communities and the press that campaign contributions, gifts, payments of related friends or family, or support of non-profit priorities of elected officials have "no impact" on policy making. No one believed these claims.

Now investigations by the FBI and federal Department of Justice have shown that the public's disbelief was well-founded. The indictment and sentencing of former Councilmember Mitch Englander, who admits that he lied under oath to the FBI about receiving envelopes of cash in restrooms, lavish meals and gifts, and sexual favors of prostitutes procured by businesspersons linked to or in the real estate industry, confirms the community's worst fears that City Hall suffers from very serious corruption problems.

The pending indictment of the former chair of this Planning and Land Use Management Committee, Jose Huizar, is a compendium of "how to" link campaign contributions, non-profit donations, gambling chips, or just bags of cash from real estate developers to public policy and decision making in this City. Given the depth of detail spelled out in the FBI's indictments of not only Mr. Huizar, but his associates,

including Mayor Garcetti's Economic Development Deputy, Raymond Chan, establishes the credibility of the charges. Our City's lack of conformity to the most basic norms of respect for the law and ethical conduct has led us to an "open sewer" of corrupt and grossly unfair treatment of those who might challenge the status quo.

And the residents of the City have known for some time that the Mayor and City Council have also worked to undermine institutions the City's voters established to enforce integrity of our City government. Just this week, the Los Angeles Times reported a story that the staff of the Los Angeles City Ethics Commission were threatened with budget cuts by a City Council member if they did not loosely interpret the City's gifts rules on elected officials. And it looks as if those threats may have been successful. The City's elected and appointed officials love to be wined and dined, and it appears that steps have been taken to weaken this important oversight of our elections and government officials.

So, given this additional context, much of which has come to light since the last time the Mayor's Chief Administrative Officer tried to raise the land use appeal fees to more than \$13,000, the people of Los Angeles must understand that the CAO would not be asking for this increase to more than \$16,000 without the full support of Mayor Eric Garcetti. Let responsibility for this proposal lay at the feet of the Mayor, who himself has openly sought real estate development campaign contributions to fuel his ambitions to leave Los Angeles for the Presidency of the United States. The intoxicating City Hall sale of zoning changes, general plan amendments and similar land use "decisions" has been going on for years, and this proposed land use appeal fee increase is just one more effort to rig the governmental processes of the City to silence persons who might have legitimate concerns to bring to the City Council for redress.

The Failure To Engage Racial Justice Is Missing From This Process.

This past summer, in the midst of a world-wide pandemic, the racial minorities of our communities organized marches against the systemic racism of our society embedded in policing and government. Many in minority and language-isolated communities of the City lack the resources to shell out the Mayor's \$16,000 appeal fee, let alone the City Planning Department's 1% cost recovery suggestion. The lack of an appeal waiver program for the lowest incomes in our community is a vestige of a system that has a far more disproportionate impact on communities of color. The lack of a relief value is itself a form of systemic racism.

One of the biggest problems facing organizations like Black Lives Matters is how to translate those marches for justice into meaningful reforms that grants a voice to the community interests they represent. By scheduling this matter without any input from his own community, Mr. Harris-Dawson, who represents one of the most impacted districts in the City, reinforces this exclusion of his own community from the table where policy is made. I do not presume to speak for minority racial communities of

Los Angeles, but I support them as an ally: These communities should have been invited to participate – especially when serious problems with gentrification are unfolding in areas like Mr. Harris-Dawson’s district as we speak. The status quo Mayor and CAO presume they can raise land use appeal fees without consulting the communities that rose up this past summer to demand change. That change should have included the full involvement of neighborhood councils, community-based organizations, and especially organizations representing minority and low-income communities who are disproportionately being pushed out of Los Angeles by the real estate hedge fund billionaire campaign contributors to the Mayor and City Council.

The City Ought To Consider The 2017 Proposal to Fund Appeal Fees With A Surcharge.

As more fully set forth in my August 15, 2017 letter, the status quo continues to try to push general fund costs of the City onto the backs of hard working residents who wish to exercise their constitutional right to seek changes to ill-conceived development proposals. The Mayor and CAO claim the City ought to “fully recover” their inadequately documented \$16,000 one-size-fits-all appeal fee, when the hearing of such administrative appeals is a basic governmental duty. This is a proper taxpayer funded cost of government -- out of the general fund.

But another disturbing development at the City is the payment of bloated salaries, benefits, and pensions that are not found in comparable cities or even private sector employment. These rising costs, which largely cannot be shifted by the status quo administration onto some poor fee payer, are threatening to bankrupt the City. The efforts of the City to fee shift in every department has been a classic status quo reinforcement strategy, but in this case it has lost sight of the important policy and legal limits of doing so.

In 2017, I suggested that if the City Council really thinks it is necessary to shift the costs of the City Planning Department onto those who seek to develop land, it ought to make the development community shoulder the cost of land use appeals. This could be implemented with a surcharge on all true development services, premised on the principle that development proposals necessitate appeals at times, therefore the cost ought to be spread over the entire real estate development process.

Responsible developers who conform their projects to the law do not generally draw an appeal of their development proposals. Often, bad proposals emerge from the Planning Department because of the impacts of campaign contributions, and yes in Los Angeles, outright bribery. The land use appeal process is a means of exposing ill-conceived or corrupt proposals. This ought to be a valued process to enable bad decision making in the Planning Department to be corrected. Given how other portions of the system have been neutralized by City Hall partisans, the land use appeal remains one of the most important vehicles to combat corruption of the City’s

processes, including the systemic racism that has come to the forefront during the pandemic.

The cost of land use appeals ought to be paid from the general fund, but if a portion or all of the cost is deemed appropriate for cost shifting, which I do not agree it is, at a minimum the costs ought to be spread over the entire planning fee process using a surcharge similar to how the City is paying for the cost of general planning.

Levying the Current Surcharges On Appeal Fees Is Unauthorized.

I do not know who made this decision, but although the City law provides that a land use appellant must pay a non-trivial fee of \$89 to initiate the appeal process, the City's bureaucrats have been assessing for years an unauthorized Planning and General Plan surcharge on top of the appeal fee.

There is no support for the City's claim that a land use appeal is a "planning service." The overwhelming fees levied by the City are to process applications for land use entitlements. This is linked as a legitimate cost of an owner seeking to develop or redevelop land in the City. The land use appeal is a constitutionally required process to allow persons aggrieved by City land use and environmental review decisions to petition the government. The land use appellant obtains no right to develop land in the City, and therefore, a land use appeal is not a "planning service". For this reason, it appears that the City has been and proposes to continue to levy surcharge fees to pay for Planning administration and General Plan development which are in no logical way linked to a land use appeal.

Even more concerning, the City Council does not appear to have addressed this question in the municipal code. There remains a serious question whether the bureaucracy of the Planning Department has the authority to levy surcharges on top of the appeal fees set by City Council in the municipal code. For these reasons, it appears, much like the City has been sued over Department of Water and Power taxes/fees in class action lawsuits, that the City Planning Department practices are themselves a proper subject for class action challenge. Therefore the City Council ought to correct this problem now by directing the Planning Department to cease and desist from this apparent improper practice.

Conclusion.

The context of the latest effort of the Mayor and CAO to erect more barriers to protection of constitutional rights of the residents of this City, including those in racial minority and low income communities, requires much greater scrutiny than running these proposals through City Council without engagement of the affected communities.

Additionally, for all the reasons set forth in prior objections, the proposed fees and lack of credible evidence to support such fees, requires they be sent back to the City Planning Department with direction to conduct proper outreach, revised cost study, and consider surcharge funding of most of the appeal fee cost.

Most sincerely,

/s/ Daniel Wright
Daniel E. Wright