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Via email

Mayor Eric Garcetti
City of Los Angeles
200 N. Spring St.
Los Angeles, CA 90012

City Attorney Mike Feuer
City of Los Angeles
James K. Hahn City Hall East, Suite 800
Los Angeles, CA 90012

Director Vincent Bertoni
Los Angeles City Planning
200 N. Spring St., Suite 525
Los Angeles, CA 9001

Dear Mayor Garcetti, City Attorney Feuer, and Director Bertoni:

I am writing, in my capacity as Co-Director of the Frank G. Wells Environmental Law Clinic, to request that the City take immediate action to address the impact of COVID-19 and the City and State “Safer At Home” orders on public participation in planning processes in the City. I request that the City postpone deadlines for public comment on environmental review of planning matters, including Draft Environmental Impact Reports for projects and land use and zoning plans, and not initiate any more comment periods, until the “Safer At Home” orders are lifted and public libraries and city offices are operating normally again. The California Environmental Quality Act (“CEQA”) provides a legally-mandated and crucial opportunity for public

participation in environmental review processes. The City should provide relief from deadlines and processes where, as here, circumstances block effective public participation.

The serious precautionary measures the City and State have taken to ensure community protection against COVID-19, while necessary, have sharply limited public access to draft EIRs and other documents, and have thus rendered it impossible to have a full, fair, and transparent public review process for projects and plans currently in process. Moreover, the legal notices that the City has issued concerning the availability of documents for public review have been rendered inaccurate, and are therefore legally insufficient, now that the public is not physically able to review paper copies of City draft documents in any of the locations where the City had originally made them available (or indeed in any location at all). Finally, the overall circumstances, which include cancellation of both official and unofficial in-person gatherings, as well as significant unanticipated family and personal hardships for individuals across the city, dramatically limit the public's ability to fully engage in public review and comment on pending City matters, even aside from the City's own precautionary measures.

First, the public availability of crucial documents, including those documents under public review, has been impaired dramatically. The closure of the City's libraries and the implementation of the "Safer At Home" order have rendered the City's EIRs and other documents inaccessible in paper form. City notices reference the availability of documents at the public Planning Department location and at library branches where the documents are either not, in fact, available¹, or where members of the public may not appear because of the "Safer At Home" order, which generally prohibits people from engaging in nonessential activities outside their homes.² The many members of the public without internet access, without bandwidth

¹ See, e.g., Notice of Completion and Availability of Draft Environmental Impact Report for 2800 Casitas Avenue Project (referencing DEIR availability at currently-closed locations), *available at* https://planning.lacity.org/eir/2800CasitasAve_formerlyTheBowTieLofts/deir/2800%20Casitas%20DEIR%20Extension%20Notice.pdf:

The Draft EIR and the documents referenced in the Draft EIR are available for public review at the City of Los Angeles, Department of City Planning, 221 N. Figueroa Street, Suite 1350, Los Angeles, CA 90012 during office hours Monday- Friday, 9:00a.m. - 4:00p.m. Please contact the Staff Planner listed below to schedule an appointment.

The Draft EIR is also available at the following Library Branches:

- 1) Los Angeles Central Library, 630 West Fifth Street, Los Angeles, CA 90071
- 2) Silver Lake Branch Library, 2411 Glendale Boulevard, Los Angeles, CA 90039
- 3) Atwater Village Branch Library, 3379 Glendale Boulevard, Los Angeles, CA 90038
- 4) Cypress Park Branch Library, 1150 Cypress Avenue, Los Angeles, CA 90065

²See City of Los Angeles, Public Order Under City of Los Angeles Emergency Authority (March 19, 2020), *available at* https://www.lamayor.org/sites/g/files/wph446/f/article/files/SAFER_AT_HOME_ORDER2020.03.19.pdf (detailing prohibitions on travel and activity within the City of Los Angeles); City of Los Angeles, What you should know about coronavirus, <https://corona-virus.la/updates> (detailing closures of all City of Los Angeles libraries previously

sufficient to download massive documents, or otherwise needing paper copies to review, are simply unable to access the documents. For example, as the City has noted, “[t]he Central Library and the 72 branch libraries will be closed through March 31.” While the Planning Department staff may still be available by appointment for document review (a situation that is unclear from the public notices), the “Safer At Home” order discourages this; moreover, people who are immunocompromised, are caring for such people, or have household members who are, cannot safely appear in person at City facilities anyway to review paper documents.

Second, these same developments have also rendered the City’s public notices about the availability of documents for public review, including Notices of Completion and Availability of Draft Environmental Impact Reports, inaccurate and legally inadequate, since the documents are not available in the noticed locations.³ The actions referenced above, including library closures together with the City and State “Safer at Home” orders, make it unrealistic if not practically impossible for residents to access documents. Thus, these city notices are technically and legally deficient.

Third, the COVID-19 situation and the State and City orders to limit activities also impair public participation in other significant ways, warranting postponement of these deadlines. Official and unofficial in-person gatherings are now forbidden, making it difficult to gather input or coordinate about responses to the City’s environmental review documents. Residents are experiencing massive disruption, including significant unanticipated family and personal hardships, that as a practical matter impairs their ability to participate in public comment processes now. LAUSD schools are closed, residents are struggling to ensure they have needed food and medication and are facing significant financial instability, and social distancing limits residents’ ability to gather and communicate. Even basic public services are limited. Under these conditions, it is impossible to ensure robust public participation.

Finally, I just learned of a new City order, dated March 21, 2019, that apparently directs that “[a]ll deadlines prescribed in the Los Angeles Municipal Code … pertaining to public hearings and decisions made by legislative bodies, zoning administrators, the Director of Planning, the General Manager of the Department of Building and Safety…including expiration dates for utilization of existing approvals, shall be tolled and suspended until further notice.”⁴ The Order lists four specific categories of suspensions, none of which appear to toll or suspend public

serving as public repositories for Draft EIRs and other City public review documents [“The Central Library and the 72 branch libraries will be closed through March 31”], and explaining limitations on travel and activity within the City of Los Angeles) (last visited March 21, 2020); State of California, Stay home except for essential needs, <https://covid19.ca.gov/stay-home-except-for-essential-needs/> (detailing State of California-imposed limitations on travel and activity) (last visited March 21, 2020).

³ See CEQA Guidelines 15085(b) (“The notice of completion shall include … [an] address where copies of the draft EIR are available”).

⁴ I cannot currently find this document on any City website, but I saw yesterday that Councilmember Cedillo posted a copy of the order, on Mayor’s stationery, on his Instagram feed.

comment periods. It is inappropriate for the City to suspend project applicant deadlines under the Municipal Code without similarly doing so for public participation deadlines. This new Order clearly warrants a similar tolling or suspension of public comment periods, and makes clear the lack of prejudice that would result for project applicants from any such tolling or suspension.

In addition to these general concerns, my law clinic is working with residents who are affected by a specific project, the proposed 2800 Casitas Avenue Project. While this is not the only public review affected by COVID-19, it is an especially urgent one to address, since the comment period is set to close on March 30—just one week from today, and well within the Safer At Home limitation period. The local neighborhood council meetings have been canceled, even further limiting residents' ability to express concerns about the project, or even to learn about the project, in formal and informal ways.

Currently, the City's "extraordinary measures to safeguard the health and safety of us all have resulted in the postponement of all regularly scheduled Commission and Board meetings, as well as community meetings, from now until at least April 16."⁵ The City's Safer At Home order extends until at least April 19, while the State order appears to be indefinite. Under the circumstances, I recommend that any public comment periods be extended, and new public review documents such as draft and final EIRs, not be released until at least an additional 45 days after City business resumes as usual.

Sincerely,



Sean B. Hecht

cc: Ms. Barbara Romero, Deputy Mayor of City Services
Mr. William Chun, Deputy Mayor of Economic Development
Mr. Nicholas Maricich, Director, Planning and Real Estate Development

⁵ Los Angeles City Planning, Important Notices Regarding the Novel Coronavirus (COVID-19), <https://planning.lacity.org/resources/p4la-covid-19> (last visited March 21, 2020).