

CPC-2019-7393-CA

EXHIBIT I – Historical Document – Case Continuation

CPC-2019-7393-CA

Exhibit I

RECORD REQUESTED <i>@ F 98-0255</i>		DATE <i>6-12-01</i>
INDIVIDUAL REQUESTING <i>Tony Ramos</i>		EXT. <i>3-6206</i>
DEPARTMENT/BUREAU <i>Controller's / F & A</i>	LOCATION <i>Room 1212</i> <i>Controller's Office</i>	
SIGNATURE <i>[Signature]</i>	EXPECTED RETURN DATE	
Date Traced	Remarks	Extended to:

Form 163 (T)

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

98-0255

CD 6

March 13, 2001

Honorable Richard Riordan, Mayor
Office of Administrative and
Research Services
Attn: City Attorney Analyst
Liability Claims/Budget Group
Room 1260, CHE
Controller, Room 1200
Accounting Division, F&A
Disbursement Division

Treasurer
Planning Department
Building and Safety Department
Housing Department
Councilmember Svorinich
City Attorney,
cc: Christa Binder

RE: MATTERS REGARDING SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL, ET AL. VS. CITY OF LOS ANGELES (BC089678)

At the meeting of the Council held February 28, 2001, the following action was taken:

Attached report adopted.....	_____X_____
Attached motion adopted().....	_____
Attached resolution adopted.....	_____X_____
Ordinance adopted.....	_____X_____
Motion adopted to approve attached report.....	_____
Motion adopted to approve attached communication.....	_____
To the Mayor FORTHWITH:.....	_____
Ordinance Number.....	_____173815_____
Publication date.....	_____3-15-01_____
Effective date.....	_____4-15-01_____
Mayor vetoed.....	_____
Mayor approved.....	_____3-09-01_____
Negative Declaration adopted.....	_____
Categorically exempt.....	_____
Generally exempt.....	_____

City Clerk
dng

J. Michael Carey
[Handwritten signature]
3/15/01

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705
Fax: (213) 847-0636
Fax: (213) 485-8944

HELEN GINSBURG
Chief, Council and Public Services Division

PLACE IN FILES

MAR 15 2001

DEPUTY

[Handwritten signature]



Mayor's Time Stamp

RECEIVED

'01 MAR -2 P3:07

DEPUTY MAYOR

TIME LIMIT FILES
ORDINANCES

City Clerk's Time Stamp

ADUNA POSTED

CITY CLERK'S OFFICE

01 MAR -2 PM 3:02

COUNCIL FILE NUMBER 98-0255

COUNCIL DISTRICT 6

COUNCIL APPROVAL DATE February 28, 2001

LAST DAY FOR MAYOR TO ACT MAR 1 2 2001

ORDINANCE TYPE: Ord of Intent Zoning Personnel General

Improvement LAMC LAAC CU or Var Appeals - CPC No _____

SUBJECT MATTER: ORDINANCE ADDING CHAPTER 128 OF DIVISION 5 TO THE LOS ANGELES ADMINISTRATIVE CODE TO ESTABLISH THE COASTAL ZONE AFFORDABLE HOUSING TRUST FUND AS PART OF THE SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL, ET AL., V. CITY OF LOS ANGELES (BCO89678)

	APPROVED	DISAPPROVED
PLANNING COMMISSION	_____	_____
DIRECTOR OF PLANNING	_____	_____
CITY ATTORNEY	<u>X</u>	_____
OFFICE OF ADMINISTRATIVE AND RESEARCH SERVICES	_____	_____
OTHER: _____	_____	_____

MAR 09 2001

DATE OF MAYOR APPROVAL, DEEMED APPROVED OR *VETO: _____

*VETOED ORDINANCES MUST BE ACCOMPANIED WITH OBJECTIONS IN WRITING PURSUANT TO CHARTER SEC. 250(b) (c)

(CITY CLERK USE ONLY PLEASE DO NOT WRITE BELOW THIS LINE)

DATE RECEIVED FROM MAYOR MAR 09 2001 ORDINANCE NO. 173815

DATE PUBLISHED MAR 15 2001 DATE POSTED _____ EFFECTIVE DATE APR 15 2001

ORD OF INTENT: HEARING DATE _____ ASSESSMENT CONFIRMATION _____

ORDINANCE FOR DISTRIBUTION: Yes [] No []

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

FILE NO. 98-0255

Your **PLANNING AND LAND USE MANAGEMENT** Committee

reports as follows:

	<u>Yes</u>	<u>No</u>
Public Comments	<u>XX</u>	<u>—</u>

PLANNING AND LAND USE MANAGEMENT COMMITTEE REPORT, RESOLUTION, and ORDINANCE relative to matters regarding settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678).

Recommendations for Council action:

1. ADOPT accompanying RESOLUTION relative to a settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678).
2. PRESENT and ADOPT accompanying ORDINANCE adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund as part of the settlement agreement.

Fiscal Impact Statements: None submitted by the City Attorney. Neither the Office of Administrative and Research Services nor the Chief Legislative Analyst has completed a financial analysis of this report.

Summary:

At its meeting held February 20, 2001, the Planning and Land Use Management Committee considered a communication dated January 16, 2001 from the City Attorney (attached to Council File) and Resolution relative to a settlement agreement in the case of Venice Town Council, et al, vs. City of Los Angeles (BC089678) and ordinance establishing a Coastal Zone Affordable Housing Trust Fund. At that time, the Committee recommended that Council adopt the accompanying Resolution and approve the accompanying Ordinance establishing the Coastal Zone Affordable Housing Trust Fund, pursuant to the terms of the settlement agreement.

Respectfully submitted,

PLANNING AND LAND USE MANAGEMENT COMMITTEE

REPT., RESOL + ORD.

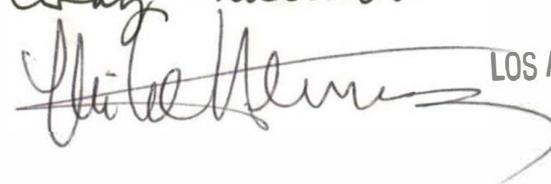
ADOPTED

FEB 28 2001

LOS ANGELES CITY COUNCIL

JAW:ys
2/23/01

#980255

Cindy Mischowski


2

J. MICHAEL CAREY
City Clerk

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

98-0255
CD 6

January 18, 2001

PLANNING & LAND USE MANAGEMENT COMMITTEE

In accordance with Council Rules, communication from the City Attorney relative to Resolution and draft ordinance for adoption in compliance with the Settlement Agreement in the case of Venice Town Council, was referred on January 18, 2001, to the PLANNING & LAND USE MANAGEMENT COMMITTEE.

J. Michael Carey

City Clerk
amm

AG HB
2-20-01



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

WRITER'S DIRECT DIAL: (213) 847-0562
FAX: (213) 485-8899
TTY:

REPORT NO. R 01-0034
JAN 16, 2001

REPORT RE:

RESOLUTION AND DRAFT ORDINANCE FOR ADOPTION IN COMPLIANCE WITH THE SETTLEMENT AGREEMENT IN THE CASE OF VENICE TOWN COUNCIL

The Honorable City Council
of the City of Los Angeles
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

(Council File No. 98-0255 - not transmitted)

RECEIVED
CITY CLERK'S OFFICE
01 JAN 17 AM 7:45
BY CITY CLERK

Honorable Members:

On November 21, 2000, the City Council authorized settlement in the case of *Venice Town Council, et al., vs. City of Los Angeles*, Case No. BC 089678. On December 13, 2001, a settlement agreement was finally executed pursuant to the Council's authorization.

As a part of that settlement, the City Council agreed to act within 60 days of the execution of the settlement to rescind the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases; and to supersede the Planning and Environment Committee March 20, 1984, report adopted by the City Council (File No. 81-6299).

Attached is a resolution which would meet those two requirements of the settlement agreement. The last day to act within the time limit is February 9, 2001. This Office recommends that you take this action as soon as possible.

In the settlement agreement, the City Council also agreed to adopt an ordinance establishing a Coastal Zone Affordable Housing Trust Fund. Attached is a copy of a draft ordinance to establish that trust fund.

PLAN & LAND USE MGT.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

JAN 17 2001

The Honorable City Council
of the City of Los Angeles
Page 2

An attorney from this office will be available when the Council considers this matter to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney


CLAUDIA CULLING
Assistant City Attorney

CC:rp
Transmittal

(61731)

RESOLUTION

WHEREAS, on December 13, 2001, the settlement agreement in the case of *Venice Town Council, et al., vs. City of Los Angeles* was finally executed pursuant to authorization given by the City Council on November 21, 2000;

WHEREAS, as a part of that settlement, the City Council agreed to act within 60 days of the execution of the settlement to rescind the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases; and to supersede the Planning and Environment Committee March 20, 1984, report adopted by the City Council (File No. 81-6299).

NOW, THEREFORE, BE IT RESOLVED, that the purported policy set out in the July 24, 1990, memo from the President of the then-existing Board of Zoning Appeals regarding presumptions on appeals of Mello Act cases is hereby rescinded; and

BE IT FURTHER RESOLVED that the Planning and Environment Committee March 20, 1984, report adopted by the City Council (in Council File No. 81-6299) is hereby superseded by the settlement agreement in this case, which then may be replaced by ordinance.

INTRODUCED BY

SECONDED BY

I CERTIFY THAT THE FOREGOING
RESOLUTION WAS ADOPTED BY THE
COUNCIL OF THE CITY OF LOS ANGELES
AT ITS MEETING OF FEB 28 2001
BY A MAJORITY OF ALL ITS MEMBERS.



J. MICHAEL CAREY,
CITY CLERK

BY Betty Swander
DEPUTY

J. MICHAEL CAREY
City Clerk

FRANK T. MARTINEZ
Executive Officer

When making inquiries
relative to this matter
refer to File No.

98-0255

CITY OF LOS ANGELES
CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705
Fax: (213) 847-0636
Fax: (213) 485-8944

HELEN GINSBURG
Chief, Council and Public Services Division

December 7, 2000

DEPUTY
DEC 13 2000
PLACE IN FILES

Honorable Richard Riordan, Mayor
Office of Administrative and
Research Services
Attn: City Attorney Analyst
Liability Claims/Budget Group
Room 1260, CHE

Treasurer
Planning Department
Building and Safety Department
Housing Department
Councilmember Svorinich
Councilmember Miscikowski

City Attorney,
cc: Christa Binder
Controller, Room 1200,
Accounting Division, F&A
Disbursement Division

RE: SETTLEMENT IN CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES,
SUPERIOR COURT CASE NO. BC 089678 IN THE AMOUNT OF \$325,000

At the meeting of the Council held November 21, 2000, the following
action was taken:

Attached report adopted.....	_____
Attached motion (Svorinich - Miscikowski)	
adopted in open session.....	_____ X _____
Attached resolution adopted.....	_____
Ordinance adopted.....	_____
Motion adopted to approve attached report.....	_____
Mayor concurred.....	_____ 12-05-00 _____
Findings adopted.....	_____
Generally exempt.....	_____

J. Michael Carey

City Clerk
crm
steno\



Mayor's Time Stamp

RECEIVED
 '00 NOV 27 AM 10:28
 DEPUTY MAYOR

RECEIVED
 City Clerk's Time Stamp

00 NOV 27 AM 10:17
 BY _____
 CITY CLERK
 DEPUTY

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 98-0255

COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE NOVEMBER 21, 2000

RE: SETTLEMENT IN CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES,
 SUPERIOR COURT CASE NO. BC 089678 IN THE AMOUNT OF \$325,000

LAST DAY FOR MAYOR TO ACT DEC 07 2000
 (10 Day Charter requirement as per Charter Section 341)

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED

✓

*DISAPPROVED

*Transmit objections in writing pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL

DEC 05 2000

MAYOR

steno\980255

[Handwritten Signature]

DEC 06 2000
 CITY CLERK
 RECEIVED
 CITY CLERK'S OFFICE
 00 DEC -6 AM 11:52
 BY *[Handwritten Signature]*
Settlement

MOTION

I HEREBY MOVE that Council adopt the following recommendations of the City Attorney in order to effect settlement in the case entitled Venice Town Council v. City of Los Angeles, Superior Court Case No. BC 089678 (challenge to City's implementation of the Mello Act in the Coastal Zone), **SUBJECT TO THE APPROVAL OF THE MAYOR:**

1. AUTHORIZE the City Attorney to expend \$325,000 in settlement of the case entitled Venice Town Council v. City of Los Angeles, Superior Court Case No. BC 089678 from the Liability Claims Account No. 9770, Fund 100, Department 59.
2. AUTHORIZE the City Attorney to draw a demand on Liability Claims Account No. 9770, Fund 100, Department 59, in the amount of \$325,000 payable to Western Center on Law and Poverty, Inc.
3. AUTHORIZE the City Attorney to sign the settlement agreement on behalf of the City.

MOTION
ADOPTED
IN OPEN SESSION
NOV 21 2000

PRESENTED BY: _____
RUDY SVORINICH
Councilmember 15th District

LOS ANGELES CITY COUNCIL

SECONDED BY: _____
CINDY MISCIKOSKI
Councilmember 11th District

COUNCIL VOTE

21-Nov-00 10:37:47 AM, #4

ITEM NO. (39)

Voting on Item(s): 39

Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Yes
GALANTER	Absent
GOLDBERG	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Yes
WACHS	Absent
WALTERS	Absent
*FERRARO	Yes

Present: 12, Yes: 12 No: 0

ORDINANCE NO. 173815

An ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 128 is added to the Los Angeles Administrative Code to read:

CHAPTER 128

COASTAL ZONE AFFORDABLE HOUSING TRUST FUND

Sec. 5.528. Coastal Zone Affordable Housing Trust Fund.

A. Creation and Administration of Fund. This ordinance creates within the Treasury of the City of Los Angeles a special fund known as the Coastal Zone Affordable Housing Trust Fund, referred to in this chapter as the Fund. The Los Angeles Housing Department shall administer, have overall management of and expend funds from the Fund in accordance with the provisions of this ordinance. The Los Angeles Housing Department shall also administer the Fund in accordance with established City practice and in conformity with Government Code Section 66000, *et seq.* All interest or other earnings from money received into the Fund shall be credited to the Fund and devoted to the purposes listed in this chapter.

B. Purpose. The Fund shall be used for the deposit of money paid to the City of Los Angeles pursuant to the Mello Act Ordinance and any other money appropriated or given to this Fund for affordable housing in the Coastal Zone.

C. Expenditures. Except as set forth below, funds collected pursuant to the Mello Act Ordinance and any other monies placed in this Fund shall be expended only for the purpose of developing affordable housing in the Coastal Zone.

The Los Angeles Housing Department is authorized to make expenditures from this in accordance with the Mello Act Ordinance. Administration of the Fund and expenditures from the Fund shall also be in compliance with the requirements in Government Code Section 66000, *et seq.*, including the following:

1. The City Departments shall deposit all monies received pursuant to the Mello Act Ordinance in the Fund and avoid any commingling of the monies with other City revenues and funds, except for temporary investments, and expend those monies solely for the purpose for which the in lieu fee was collected. Any interest income earned by monies in the Fund shall also be deposited in that Fund and shall be expended only for the purpose for which the in lieu fee was originally collected.
2. The Los Angeles Housing Department shall, within 180 days after the last day of each fiscal year, make available to the public all the information required by Government Code Section 66006 (a).
3. The City Council shall review the information made available to the public pursuant to Paragraph 2 within the time required by Section 66006, and give notice of that meeting as required by that Section.
4. When required to do so by Government Code Section 66001 (e) and (f), the City Council shall authorize refunds of fees paid to the Fund.

Funds shall be used for the purposes set forth in Subsection B. Should any project become infeasible for any reason determined by the City Council or there are project savings, the City Council may reprogram the applicable funds so long as the funds are used for the purposes set forth above.

Regulations to administer these funds shall be promulgated by the Los Angeles Housing Department.

D. Reporting. The Los Angeles Housing Department shall report annually to the City Council and Mayor identifying and describing in detail receipts and expenditures of the Fund. The Los Angeles Housing Department shall submit each annual report within 60 days after the close of the fiscal year covered in the report.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of FEB 28 2001.

J. MICHAEL CAREY, City Clerk

By *Maria Kooker*
Deputy

Approved MAR 09 2001

[Signature]
Mayor

Approved as to Form and Legality

2/23/01
James K. Hahn, City Attorney

By *Claudia Culling*
CLAUDIA CULLING
Assistant City Attorney

File No. CF 98-0255



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

WRITER'S DIRECT DIAL: (213) 847-0562
FAX: (213) 485-8899
TTY:

39

REPORT NO. R00-0561
NOVEMBER 15, 2000

sm

SETTLEMENT OF
VENICE TOWN COUNCIL V. CITY OF LOS ANGELES
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council
of the City of Los Angeles
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

RECEIVED
CITY OF LOS ANGELES
00 NOV 15 PM 2:12
BY _____
CITY CLERK

Re: Council File No. 98-0255 - not transmitted

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the grounds that the complaint did not allege that the City violated any mandatory duty and that the Act did not require the City to adopt procedures. The petitioners appealed, and the Court of Appeal reversed as to the first ground, holding that the plaintiffs sufficiently alleged duties under the Act, which the City was obligated to perform. The Court of Appeals, however, agreed that the Act did not require the City to adopt procedures to implement the Act. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing required duties.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

Honorable City Council
of the City of Los Angeles
Page 2

On January 15, 1998, this office received a settlement offer in this case, which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. During that time, the relevant City departments (Housing, Planning and Building and Safety) adopted interim procedures, agreed to by the plaintiffs. These are attached for your reference. As a result of your instructions, we continued to work with City staff and negotiated with the plaintiffs and came back to you with a recommendation. You agreed we should make the plaintiffs an offer to settle based on our recommendation, which included an offer of \$225,000 in attorneys fees and costs. The plaintiffs refused to settle on those terms and continued to seek \$476,146.88. The settlement judge before whom we were appearing recommended we seek mediation. We agreed and this mediation resulted in an agreement that we recommend to you settlement of costs and attorneys fees in this case in the amount of \$325,000. The plaintiffs have agreed to accept this amount and dismiss the lawsuit based on the settlement agreement attached to this report.

If you wish to settle on these terms, we recommend that you adopt the attached motion appropriating the necessary funds and authorize us to sign the attached agreement on behalf of the City.

We will present our concerns and recommendations when you consider this matter and will be available to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney

By

Claudia Culling
CLAUDIA CULLING
Assistant City Attorney

CC:rp

(60120)

#2

PLANNING AND LAND USE MANAGEMENT COMMITTEE
Report/Communication for Signature

Council File Number 98-0255
Committee Meeting Date 2-20-01
Council Date 2-28-01

COMMITTEE MEMBERS	YES	NO	ABSENT
COUNCILMEMBER BERNSON, Chair			✓
COUNCILMEMBER MISCIKOWSKI	✓		
COUNCILMEMBER HERNANDEZ	✓		

Remarks Venice Town Council et al vs
City of L.A.

John A. White, Legislative Assistant ♦♦♦♦ Telephone 485-5707

COUNCIL VOTE

28-Feb-01 10:32:41 AM, #5

ITEM NO. (8)

Voting on Item(s): 8 ¹2

Roll Call

BERNSON	Absent
CHICK	Yes
FEUER	Yes
*GALANTER	Yes
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Yes
WACHS	Yes
WALTERS	Yes
FERRARO	Absent

Absent

Present: 12, Yes: 12 No: 0

ORDINANCE NO. _____

An ordinance adding Chapter 128 of Division 5 to the Los Angeles Administrative Code to establish the Coastal Zone Affordable Housing Trust Fund.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 128 is added to the Los Angeles Administrative Code to read:

CHAPTER 128

COASTAL ZONE AFFORDABLE HOUSING TRUST FUND

Sec. 5.528. Coastal Zone Affordable Housing Trust Fund.

A. Creation and Administration of Fund. This ordinance creates within the Treasury of the City of Los Angeles a special fund known as the Coastal Zone Affordable Housing Trust Fund, referred to in this chapter as the Fund. The Los Angeles Housing Department shall administer, have overall management of and expend funds from the Fund in accordance with the provisions of this ordinance. The Los Angeles Housing Department shall also administer the Fund in accordance with established City practice and in conformity with Government Code Section 66000, *et seq.* All interest or other earnings from money received into the Fund shall be credited to the Fund and devoted to the purposes listed in this chapter.

B. Purpose. The Fund shall be used for the deposit of money paid to the City of Los Angeles pursuant to the Mello Act Ordinance and any other money appropriated or given to this Fund for affordable housing in the Coastal Zone.

C. Expenditures. Except as set forth below, funds collected pursuant to the Mello Act Ordinance and any other monies placed in this Fund shall be expended only for the purpose of developing affordable housing in the Coastal Zone.

The Los Angeles Housing Department is authorized to make expenditures from this in accordance with the Mello Act Ordinance. Administration of the Fund and expenditures from the Fund shall also be in compliance with the requirements in Government Code Section 66000, *et seq.*, including the following:

1. The City Departments shall deposit all monies received pursuant to the Mello Act Ordinance in the Fund and avoid any commingling of the monies with other City revenues and funds, except for temporary investments, and expend those monies solely for the purpose for which the in lieu fee was collected. Any interest income earned by monies in the Fund shall also be deposited in that Fund and shall be expended only for the purpose for which the in lieu fee was originally collected.
2. The Los Angeles Housing Department shall, within 180 days after the last day of each fiscal year, make available to the public all the information required by Government Code Section 66006 (a).
3. The City Council shall review the information made available to the public pursuant to Paragraph 2 within the time required by Section 66006, and give notice of that meeting as required by that Section.
4. When required to do so by Government Code Section 66001 (e) and (f), the City Council shall authorize refunds of fees paid to the Fund.

Funds shall be used for the purposes set forth in Subsection B. Should any project become infeasible for any reason determined by the City Council or there are project savings, the City Council may reprogram the applicable funds so long as the funds are used for the purposes set forth above.

Regulations to administer these funds shall be promulgated by the Los Angeles Housing Department.

D. Reporting. The Los Angeles Housing Department shall report annually to the City Council and Mayor identifying and describing in detail receipts and expenditures of the Fund. The Los Angeles Housing Department shall submit each annual report within 60 days after the close of the fiscal year covered in the report.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in a daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

J. MICHAEL CAREY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

2/23/01
James K. Hahn, City Attorney

By Claudia Culling
CLAUDIA CULLING
Assistant City Attorney

File No. CF 98-0255

SETTLEMENT AGREEMENT

**BETWEEN THE CITY OF LOS ANGELES AND
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

November 14, 2000

I.	<u>FINAL SETTLEMENT AGREEMENT AND RELEASE</u>	8
II.	<u>RECITALS</u>	8
A.	PARTIES	8
B.	PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES	8
III.	<u>DEFINITIONS</u>	9
IV.	<u>GENERAL PROVISIONS</u>	13
A.	COVERAGE	13
B.	PRINCIPLES	13
V.	<u>CITY POLICIES</u>	14
A.	CATEGORICAL EXEMPTIONS	14
	1. <u>Owner-Occupied One-Family Dwellings</u>	14
	2. <u>Residential Structures Declared a Public Nuisance</u>	14
	3. <u>Small New Housing Developments</u>	15
B.	DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE	15
C.	AFFORDABILITY COVENANTS	15
D.	METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS	16
E.	AFFORDABLE HOUSING INCENTIVES	16
F.	AFFORDABLE REPLACEMENT UNITS	16
	1. <u>Income Targeting Standards</u>	16
	2. <u>Location</u>	17
	3. <u>Timing Requirement</u>	17
	4. <u>Performance Standards</u>	18

G.	INCLUSIONARY RESIDENTIAL UNITS	18
1.	<u>Standards</u>	18
2.	<u>Location</u>	18
3.	<u>Timing Requirements</u>	19
4.	<u>Performance Standards</u>	19
H.	IN-LIEU FEES	19
1.	<u>Interim Ordinance</u>	19
2.	<u>Permanent Ordinance</u>	20
3.	<u>Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees</u>	21
4.	<u>Timing of Payments</u>	21
I.	DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE	21
VI.	<u>CITY PROCEDURES</u>	21
A.	OBJECTIVES	22
B.	INITIAL SCREENING AND ROUTING	22
1.	<u>Step one. Determine Coastal Zone location.</u>	22
2.	<u>Step two. Identify Conversions, Demolitions and New Housing Developments.</u>	22
3.	<u>Step three. Identify Categorically Exempt Applications.</u>	23
4.	<u>Step four. Send notice of Categorically Exempt Applications.</u>	23
C.	DEMOLITIONS AND CONVERSIONS	23

1.	<u>Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?</u>	23
2.	<u>Question #2. Is the proposed non-residential use Coastal-Dependent?</u>	24
3.	<u>Question #3. Is a residential use feasible at this location?</u>	24
4.	<u>Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?</u>	25
5.	<u>Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?</u>	27
6.	<u>Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?</u>	27
7.	<u>Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?</u>	28
8.	<u>Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?</u>	28
D.	NEW HOUSING DEVELOPMENTS	28
E.	IN-LIEU FEES	29
F.	DETERMINATIONS	29
1.	<u>Demolitions and Conversions</u>	29
2.	<u>New Housing Developments</u>	30

G.	AFFORDABLE HOUSING PROVISION PLAN	30
	1. <u>Methods to Provide Required Affordable Units</u>	30
	2. <u>Operational Details</u>	30
H.	APPEALS	31
	1. <u>General Information</u>	31
	2. <u>Burden of Proof and Findings</u>	31
	3. <u>Notice</u>	31
	4. <u>Discretionary Applications</u>	31
	5. <u>Non-Discretionary Applications</u>	32
	6. <u>Department of Building and Safety Actions</u>	32
I.	MONITORING AND ENFORCEMENT	32
	1. <u>Approval of Applications</u>	32
	2. <u>Monitoring</u>	32
	3. <u>Affordability Covenants</u>	33
	4. <u>Financial Assurances</u>	33
	5. <u>Certificates of Occupancy</u>	33
	6. <u>Right of First Refusal</u>	33
VII.	<u>FOLLOW-UP ACTIONS</u>	33
A.	MAPPING	33
	1. <u>Coastal Zone Maps</u>	33
	2. <u>Three Mile Radius Maps</u>	34
B.	LEGISLATIVE ACTIONS	34
	1. <u>Motions</u>	34
	2. <u>Ordinances</u>	34
C.	CONSULTANT CONTRACTS	35
	1. <u>Interim Study</u>	35
	2. <u>Longer-Term Study</u>	35
D.	ANNUAL REPORT	35
E.	WORK PROGRAM	36
VIII.	<u>AGREEMENT</u>	38

A.	DISMISSAL OF ACTION WITH PREJUDICE	38
B.	PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES	38
C.	GENERAL RELEASES	38
	1. <u>Claims Defined</u>	38
	2. <u>Releases</u>	39
	3. <u>Waiver of Civil Code Section 1542</u>	39
D.	FURTHER ASSURANCES	39
E.	OWNERSHIP OF CLAIMS	39
F.	INDEPENDENT ADVICE AND INVESTIGATIONS	39
G.	MISTAKE	40
H.	GOVERNING LAW	40
I.	ENTIRE AGREEMENT	40
J.	SEVERABILITY	40
K.	AGREEMENT NEGOTIATED	40
L.	HEIRS, SUCCESSORS AND ASSIGNS	40
M.	EXECUTION IN COUNTERPARTS	40
N.	MODIFICATIONS	40
	1. <u>Time Limit Extensions</u>	41
	2. <u>City Procedures</u>	41
O.	ENFORCEMENT OF AGREEMENT	41
P.	NOTICES	41
	1. <u>Plaintiffs</u>	41
	2. <u>City of Los Angeles</u>	42
Q.	NOTICE REQUIRED	42

EXHIBITS

- A. Interim Administrative Procedures
- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
 - Northwest Brentwood Subarea
 - Northeast Brentwood Subarea
 - Southwest Brentwood Subarea
 - Southeast Brentwood Subarea
 - Venice Subarea
 - Westchester Subarea
 - Northwest San Pedro Subarea
 - Northeast San Pedro Subarea
 - Southwest San Pedro Subarea
 - Southeast San Pedro Subarea
- E. Draft Map: Areas Within Three Miles of the Coastal Zone

I. FINAL SETTLEMENT AGREEMENT AND RELEASE

This Final Settlement Agreement and Release (Agreement) is entered into this ____ day of November, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

II. RECITALS**A. PARTIES**

Plaintiffs/Petitioners are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent is the City of Los Angeles.

B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that while the Act did not require the City to adopt procedures to implement the Act, the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

III. DEFINITIONS

“Administrative Fees” are the fees the City charges Applicants to recover the City’s costs of administering the Mello Act and City Policies and City Procedures.

“Affordable Housing Incentives Guidelines” means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

“Affordable Replacement Unit” means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

“Affordable Monthly Housing Cost” refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

“Affordable Existing Residential Unit” means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

“Agreement” means this Agreement and all exhibits to the Agreement.

“Appellant” means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

“Applicant” means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

“Application, Discretionary” means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary

approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

“Application, Non-Discretionary” means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

“Categorical Exemption” means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

“City” means the City of Los Angeles and its officers, agents and employees.

“City Policies” means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

“City Procedures” means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

“Coastal Commission Guidelines” means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

“Coastal-Dependent Non-Residential Use” means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

“Coastal Development Permit” means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

“Coastal-Related Nonresidential Use” means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

“Coastal Zone” means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

“Coastal Zone Affordable Housing Trust Fund” is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be

deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

“Complaint” means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

“Conversion” means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Date of Execution” means the date this Agreement is completely executed by all parties.

“Defendant” refers to the City of Los Angeles and its officers, agents and employees.

“Demolition” means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Director’s Determination” means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

“Density Bonus” means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

“Household, Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

“Household, Moderate Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

“Household, Very Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

“Housing Department General Manager” means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

“Inclusionary Residential Unit” means a Residential Unit with an Affordable Monthly Housing Cost.

“In-Lieu Fees” means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

“Interim Administrative Procedures” means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

“Interim Ordinance” means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

“Interim Study” means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

“Local Coastal Program” means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

“Longer-Term Study” means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

“Mello Act” means California Government Code Sections 65590 and 65590.1

“Monthly Housing Cost” means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

“New Housing Development” means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or

structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Permanent Ordinance” means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

“Plaintiffs” means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

“Public Nuisance” means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

“Residential Unit” means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

“Unified Development” means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

IV. GENERAL PROVISIONS

A. COVERAGE

This Agreement shall cover all property within the Coastal Zone portions of the City.

B. PRINCIPLES

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations,

ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.

3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to the Date of Execution of this Agreement.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

V. CITY POLICIES

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

A. CATEGORICAL EXEMPTIONS

City Policies shall include the following Categorical Exemptions:

1. Owner-Occupied One-Family Dwellings

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt.

2. Residential Structures Declared a Public Nuisance

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorically Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

3. Small New Housing Developments

Small New Housing Developments consisting of nine or fewer Residential Units are Categorically Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that Categorically Exempts small New Housing Developments consisting of nine or fewer Residential Units.

B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorically Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

C. AFFORDABILITY COVENANTS

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

E. AFFORDABLE HOUSING INCENTIVES

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

F. AFFORDABLE REPLACEMENT UNITS**1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.

- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or April 19, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

2. Location

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. Timing Requirement

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

G. INCLUSIONARY RESIDENTIAL UNITS

1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

2. **Location**

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3. On the same site as the New Housing Development;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. **Timing Requirements**

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

4. **Performance Standards**

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 7.5.1 Project design (Section 4A, page 7); and
- 7.5.2 Equal distribution of amenities (Section 4B, page 8).

H. IN-LIEU FEES

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

1. **Interim Ordinance**

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining

in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. Permanent Ordinance

2.1 Longer-Term Study

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 Inclusionary Residential Units

The City may adopt one or a combination of the following policy options:

2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

- 2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

4. **Timing of Payments**

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

I. DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

VI. CITY PROCEDURES

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the

goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

A. OBJECTIVES

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

B. INITIAL SCREENING AND ROUTING

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

C. DEMOLITIONS AND CONVERSIONS

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is “yes,” and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is “no,” the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is “yes,” the City shall skip to question #4. If the answer to question #2 is “no,” the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City’s presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant’s challenge to the City’s presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a “Q” or “D” limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City’s presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator’s grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site’s unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City’s presumption, an Applicant may not cite mere proximity to commercial or industrial uses.

- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 **Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion.** This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 **Step two. Identify long-term vacant residential units.** A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

- 4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

- 4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the

evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

- 4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:
- 4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.
 - 4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

- 4.6.5 Address;
 - 4.6.6 Names of occupants; and
 - 4.6.7 Number of bedrooms.
5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is “yes,” the City shall skip to question #8. If the answer to either question is “no,” the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a “no” answer to question #6 and go to question #7. If the

Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a “yes” answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is “yes,” the City shall go to question #8. If the answer to question #7 is “no,” and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is “yes,” the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is “no,” then it’s feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City’s consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After May 28, 2001, the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

D. NEW HOUSING DEVELOPMENTS

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

E. IN-LIEU FEES

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

F. DETERMINATIONS

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

1. Demolitions and Conversions

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

2. **New Housing Developments**

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

G. **AFFORDABLE HOUSING PROVISION PLAN**

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.

- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

H. APPEALS

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

1. General Information

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

2. Burden of Proof and Findings

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

3. Notice

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures.

In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

4. Discretionary Applications

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. The appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

I. MONITORING AND ENFORCEMENT

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

- 2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).
- 2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.
- 2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

3. **Affordability Covenants**

- 3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.
- 3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

VII. **FOLLOW-UP ACTIONS**

A. **MAPPING**

1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

B. LEGISLATIVE ACTIONS

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

2. **Ordinances**

2.1 **Mello Act Implementation Ordinances**

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

2.2 **Coastal Zone Affordable Housing Trust Fund Ordinance**

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

2.3 **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

2.4 **Rent Stabilization Ordinance and Condominium Conversion Provisions**

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City

Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

C. CONSULTANT CONTRACTS

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

1. Interim Study

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

2. Longer-Term Study

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

D. ANNUAL REPORT

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;

3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and
6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

E. WORK PROGRAM

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

Task	Date
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of this Agreement.

4.	City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5.	Prepare and submit to the plaintiffs the first required quarterly progress report.	Ten days after execution of the agreement. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
6.	Prepare and release Coastal Zone maps (VII A 1).	Maps are included in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
7.	Prepare and release Three Mile Radius maps (VII A 2).	Maps are in Exhibit D. Maps may be later revised based on data received from the California Coastal Commission.
8.	Complete Interim Study (Exhibit B).	January 5, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	February 16, 2001.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	February 16, 2001.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	April 18, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	April 18, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	July 2, 2001.

15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	November 1, 2001.
17.	Complete Longer-Term Study (VII C 2).	November 1, 2001.
18.	Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	February 10, 2003.
19.	Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

VIII. AGREEMENT

NOW THEREFORE, the Parties agree as follows:

A. DISMISSAL OF ACTION WITH PREJUDICE

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

B. PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$325,000 made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

C. GENERAL RELEASES

1. Claims Defined

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

D. FURTHER ASSURANCES

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

E. OWNERSHIP OF CLAIMS

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

F. INDEPENDENT ADVICE AND INVESTIGATIONS

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

G. MISTAKE

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

H. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of California.

I. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

J. SEVERABILITY

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

K. AGREEMENT NEGOTIATED

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

L. HEIRS, SUCCESSORS AND ASSIGNS

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

M. EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

N. MODIFICATIONS

1. **Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

2. **City Procedures**

The parties may agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

O. ENFORCEMENT OF AGREEMENT

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;
Dan Tokaji; and
Linda Lucks.

P. NOTICES

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. **Plaintiffs**

Richard A. Rothschild
Western Center on Law and Poverty
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010

Robert Jacobs
Law Office of Robert Jacobs
12240 Venice Boulevard, Suite 25A
Los Angeles, CA 90066

2. City of Los Angeles

Franklin P. Eberhard, Deputy Director
Department of City Planning
221 North Figueroa Street, 16th Floor
Los Angeles, CA 90012

Q. NOTICE REQUIRED

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
 - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
 - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
 - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date: _____

VENICE TOWN COUNCIL, INC.

By _____

Its _____

Date: CITY OF LOS ANGELES

By _____

Its _____

Date: CAROL BERMAN

Date: BARTON HILL NEIGHBORHOOD ORGANIZATION

By _____

Its _____

APPROVED AS TO FORM:

Date: CITY OF LOS ANGELES
JAMES K. HAHN, City Attorney

By _____

Its _____

Date: WESTERN CENTER ON LAW AND POVERTY, INC.
LAW OFFICES OF ROBERT JACOBS
LEGAL AID FOUNDATION OF LONG BEACH

By _____

J. MICHAEL CAREY
City Clerk

CITY OF LOS ANGELES
CALIFORNIA



Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

When making inquiries
relative to this matter
refer to File No.

98-0255

RICHARD J. RIORDAN
MAYOR

October 5, 2000

PLACE IN FILES

OCT 06 2000

DEPUTY

Honorable Richard Riordan, Mayor
Office of Administrative and Research Services
Attn: City Attorney Analyst
Liability Claims/Budget Group
Room 1260, CHE

Council Member Galanter
Council Member Miscikowski

City Attorney,
cc: Christa Binder
Controller, Room 1200,
Accounting Division, F&A
Disbursement Division
Treasurer

RE: SETTLEMENT OF CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES

At the meeting of the Council held September 26, 2000, the following
action was taken:

- Attached report adopted..... _____
- Attached motion (Galanter - Miscikowski) adopted
in open session... X
- Attached resolution adopted..... _____
- To the Mayor for concurrence..... _____
- To the Mayor FORTHWITH..... _____
- Mayor concurred..... 10-2-00
- Findings adopted..... _____
- Generally exempt..... _____

City Clerk
vp
steno\980255

Mayor's Time Stamp

RECEIVED
'00 SEP 29 P4:36
DEPUTY MAYOR

City Clerk's Time Stamp

RECEIVED
CITY CLERK'S OFFICE
00 SEP 29 PM 4:06
BY CITY CLERK
DEPUTY

SUBJECT TO MAYOR'S APPROVAL

COUNCIL FILE NO. 98-0255

COUNCIL DISTRICT NO. _____

COUNCIL APPROVAL DATE SEPTEMBER 26, 2000

RE: SETTLEMENT IN THE CASE ENTITLED VENICE TOWN COUNCIL V. CITY OF LOS ANGELES, LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

OCT 10 2000

LAST DAY FOR MAYOR TO ACT _____
(10 Day Charter requirement as per Charter Section 341)

RECEIVED
CITY CLERK'S OFFICE
00 OCT -4 PM 11:23
BY CITY CLERK
DEPUTY

DO NOT WRITE BELOW THIS LINE - FOR MAYOR OFFICE USE ONLY

APPROVED

✓

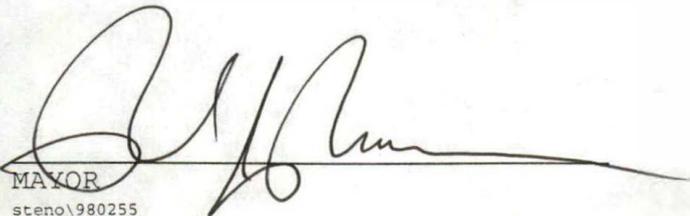
*DISAPPROVED

*Transmit objections in writing pursuant to Charter Section 341

DATE OF MAYOR APPROVAL OR DISAPPROVAL OCT 02 2000

OCT 04 2000 *Settlement*

MAYOR
steno\980255



MOTION

I HEREBY MOVE that Council ADOPT the following recommendations of the City Attorney in order to effect settlement in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.), **SUBJECT TO THE APPROVAL OF THE MAYOR:**

1. APPROVE the settlement agreement as recommended by the City Attorney relative to the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).
2. AUTHORIZE the City Attorney to expend \$225,000, in payment of attorney fees and costs, relative to settlement in the above case from Liability Claims Account No. 9770, Fund 100, Department 59 and AUTHORIZE the City Attorney to draw the necessary demands thereon.

MOTION
ADOPTED
IN OPEN SESSION
SEP 26 2000

Los Angeles City Council

PRESENTED BY _____
RUTH GALANTER
Councilmember, 6th District

SECONDED BY _____
CINDY MISCIKOWSKI
Councilmember, 11th District

CF 98-0255
September 26, 2000

980255.mot

CF 98-0255

September 26, 2000

MEMORANDUM TO FILE

The City Council held a Closed Session on Tuesday, September 26, 2000 pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).

The purpose of this memorandum is to note for the record that following discussion of the above matter in Closed Session, the City Council adopted the Motion (Galanter - Miscikowski) in Open Session.



KONRAD CARTER
Council Clerk

Attachment

980255.mem

COUNCIL VOTE

26-Sep-00 1:12:30 PM, #16

ITEM NO. (34)

Voting on Item(s): 34

Roll Call

BERNSON	Yes
CHICK	Yes
FEUER	Absent
*GALANTER	Yes
GOLDBERG	Absent
HERNANDEZ	Yes
HOLDEN	Yes
MISCIKOWSKI	Yes
PACHECO	Yes
PADILLA	Yes
RIDLEY-THOMAS	Yes
SVORINICH	Absent
WACHS	Absent
WALTERS	Yes
FERRARO	Absent

Present: 10, Yes: 10 No: 0

LOS ANGELES CITY COUNCIL, SUPPLEMENTAL AGENDA
TUESDAY, SEPTEMBER 26, 2000
COUNCIL CHAMBER, ROOM 300, CITY HALL - 10 AM

ITEM FOR WHICH PUBLIC HEARING HAS NOT BEEN HELD - ITEM 33
(10 Votes Required for Consideration)

ITEM NO. (33)

99-0002 - RESOLUTION (HOLDEN - GOLDBERG - ET AL.) relative to SB 1101
S58 (Murray) regarding the collective bargaining rights of Metropolitan
Transit Authority (MTA) employees who become employees of a
transportation zone established by the MTA.

Recommendation for Council action, SUBJECT TO THE CONCURRENCE OF
THE MAYOR:

RESOLVE to urge the Governor to sign SB 1101 (Murray) which
clarifies and preserves the collective bargaining rights of MTA
employees who become employees of a transportation zone established
by the MTA.

CLOSED SESSION - ITEM 34

ITEM NO. (34) **MEETING HELD - MOTION ADOPTED IN OPEN SESSION**

98-0255 - The City Council shall recess to Closed Session, pursuant to
Government Code Section 54956.9 (a), to confer with its legal
counsel relative to a settlement discussion in the case entitled
Venice Town Council v. City of Los Angeles, Los Angeles Superior
Court Case No. BC 089678 (alleged violation of Mello Act,
Government Code Section 65590, et seq.).

(Continued from Council meeting of September 22, 2000)

5. REQUEST the Mayor to include in the 2001-02 proposed City budget, a line item for full year funding for the Domestic Violence Project Coordinator position.

ITEM NO. (29)

98-1839 - RESOLUTION (FEUER - MISCIKOWSKI) relative to extending provisions of Ordinance No. 172814 for the Wilshire Boulevard of Westwood.

Recommendation for Council action:

RESOLVE to extend the provisions of Ordinance No. 172814 for the Wilshire Boulevard area of Westwood, for an additional one hundred and eighty (180) days.

ITEMS CALLED SPECIAL

PUBLIC TESTIMONY ON NON-AGENDA ITEMS

MOTIONS FOR POSTING AND REFERRAL

COUNCILMEMBERS' REQUESTS FOR EXCUSE FROM ATTENDANCE AT COUNCIL MEETINGS

CLOSED SESSION - ITEM 30

ITEM NO. (30) MEETING NOT HELD - CONTINUED TO SEPTEMBER 26, 2000

98-0255 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9 (a), to confer with its legal counsel relative to a settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code Section 65590, et seq.).



JKH

JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

WRITER'S DIRECT DIAL: (213) 847-0562
FAX: (213) 485-8899
TTY:

REPORT NO. R00-0464
SEPTEMBER 8, 2000

SETTLEMENT DISCUSSION ON
VENICE TOWN COUNCIL V. CITY OF LOS ANGELES
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

RECEIVED
CITY CLERK'S OFFICE
00 SEP 11 PM 12: 11
BY _____
CITY CLERK
TRUDY

Honorable City Council
of the City of Los Angeles
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

Re: Council File No. 98-0255 - not transmitted

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the grounds that the complaint did not allege that the City violated any mandatory duty and that the Act did not require the City to adopt procedures. The petitioners appealed, and the Court of Appeal reversed as to the first ground, holding that the plaintiffs sufficiently alleged duties under the Act, which the City was obligated to perform. The Court of Appeals, however, agreed that the Act did not require the City to adopt procedures to implement the Act. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing required duties.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370



Honorable City Council
of the City of Los Angeles
Page 2

On January 15, 1998, this office received a settlement offer in this case, which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. As a result, we have worked with City staff and negotiated with the plaintiffs and now come to you with the results of that work and negotiation. During this time, the relevant City departments (Housing, Planning and Building and Safety) adopted interim procedures, agreed to by the plaintiffs. These are attached for your reference. Also attached is a draft of a settlement agreement negotiated between the plaintiffs and representatives of these same departments. With the exception of attorneys fees and costs, the plaintiffs and the departments have agreed to all issues in the agreement.

However, there are a number of issues in this agreement to which we wish to draw your attention. In addition, we wish to discuss the subject of attorneys fees and costs with you. In this latter regard, we hired a professional legal auditor who audited the charges submitted by the plaintiffs. Based on that report, we indicated to the plaintiffs an amount we would recommend to you. The plaintiffs indicated that amount was not acceptable. We expect that the plaintiffs' representatives may wish to make public comments to you on various issues, including attorneys fees. After taking public testimony, you may wish to discuss all of these matters with our office in *closed* session pursuant to California Government Code § 54956.9(a).

We will present our concerns and recommendations when you consider this matter and will be available to answer any questions you may have.

Very truly yours,

JAMES K. HAHN, City Attorney

By

Claudia Culling
CLAUDIA CULLING
Assistant City Attorney

**INTERIM ADMINISTRATIVE PROCEDURES
FOR COMPLYING WITH THE MELLO ACT**

**IN THE COASTAL ZONE PORTIONS
OF THE CITY OF LOS ANGELES**

APPROVED BY:	SIGNATURE:	DATE:
ANDREW A. ADELMAN General Manager Department of Building and Safety		5/17/00
CON HOWE Director Department of City Planning		5/16/00
GARRY W. PINNEY General Manager Department of Housing		5/16/00

**ALL CITY STAFF AND EMPLOYEES
SHALL FOLLOW THESE PROCEDURES PURSUANT TO CITY COUNCIL
RESOLUTION AND DEPARTMENTAL ORDERS**

CONTENTS

1.0	<u>INTRODUCTION</u>	<u>5</u>
1.1	COUNCIL'S ACTION PROGRAM	5
1.2	INTERIM ADMINISTRATIVE PROCEDURES	6
	1.2.1 Effective Date and Period	6
	1.2.2 Pending Permit and Approval Applications	6
	1.2.3 Relationship of Procedures to Existing Regulations	6
	1.2.4 Constitutional and State Law Compliance	6
1.3	OVERVIEW OF THE MELLO ACT	7
2.0	<u>INITIAL SCREENING AND ROUTING</u>	<u>7</u>
2.1	STEP ONE. IDENTIFY COMMUNITY PLAN AREA.	7
2.2	STEP TWO. DETERMINE COASTAL ZONE LOCATION.	8
2.3	STEP THREE. IDENTIFY CONVERSIONS, DEMOLITIONS AND NEW HOUSING DEVELOPMENTS.	8
2.4	STEP FOUR. IDENTIFY CATEGORICAL EXEMPTIONS.	8
	2.4.1 Public Nuisances	8
	2.4.2 Small New Housing Developments	9
	2.4.3 Owner-Occupied Single-Family Homes	9
2.5	STEP FIVE. SEND NOTICE OF CATEGORICALLY EXEMPT APPLICATIONS.	9
2.6	STEP SIX. ROUTE NON-CATEGORICALLY EXEMPT APPLICATIONS TO THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) FOR FURTHER MELLO ACT COMPLIANCE REVIEW AND PROCESSING.	10
3.0	<u>DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE</u>	<u>10</u>

4.0	<u>DEMOLITIONS AND CONVERSIONS</u>	<u>10</u>
4.1	QUESTION #1. WILL RESIDENTIAL STRUCTURES BE DEMOLISHED OR CONVERTED FOR PURPOSES OF A NON-RESIDENTIAL USE ?	11
4.2	QUESTION #2. IS THE PROPOSED NON-RESIDENTIAL USE COASTAL-DEPENDENT?	12
4.3	QUESTION #3. IS A RESIDENTIAL USE FEASIBLE AT THIS LOCATION?	12
4.4	QUESTION #4. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?	13
4.5	QUESTION #5. IS THE APPLICATION FOR COASTAL-DEPENDENT OR COASTAL-RELATED NON-RESIDENTIAL USES? ARE THESE NON-RESIDENTIAL USES CONSISTENT WITH THE LAND USE PLAN OF A CERTIFIED LOCAL COASTAL PROGRAM?	17
4.6	QUESTION #6. ARE 11 OR MORE RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?	18
4.7	QUESTION #7. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS IN ONE-FAMILY OR TWO-FAMILY DWELLINGS?	18
4.8	QUESTION #8. IS IT INFEASIBLE FOR THE APPLICANT TO REPLACE ANY OF THE AFFORDABLE EXISTING RESIDENTIAL UNITS IDENTIFIED BY ANSWERS TO QUESTIONS #5 AND #7?	18
5.0	<u>NEW HOUSING DEVELOPMENTS</u>	<u>19</u>
6.0	<u>DETERMINATIONS</u>	<u>20</u>
6.1	DEMOLITIONS AND CONVERSIONS	20
6.2	NEW HOUSING DEVELOPMENTS	21

7.0	<u>GENERAL PROVISIONS</u>	<u>21</u>
7.1	AFFORDABLE HOUSING INCENTIVES	21
7.2	AFFORDABLE REPLACEMENT UNITS	21
	7.2.1 Income Targeting	21
	7.2.2 Location	22
	7.2.3 Timing Requirement	22
	7.2.4 Performance Standards	22
7.3	INCLUSIONARY RESIDENTIAL UNITS	22
	7.3.1 Location	22
	7.3.2 Timing Requirement	23
	7.3.3 Performance Standards	23
7.4	AFFORDABLE HOUSING PROVISION PLAN	23
	7.4.1 Methods to Provide Required Affordable Units	23
	7.4.2 Operational Details	23
7.5	ENFORCEMENT AND MONITORING	24
	7.5.1 Affordability Covenants	24
	7.5.2 Financial Assurances	24
	7.5.3 Monitoring Requirements	24
8.0	<u>APPEALS</u>	<u>25</u>
8.1	DISCRETIONARY APPLICATIONS	25
8.2	NON-DISCRETIONARY APPLICATIONS	25
8.3	DEPARTMENT OF BUILDING AND SAFETY ACTIONS	25

ATTACHMENTS

1. DEFINITIONS
2. MELLO ACT COMPLIANCE REVIEW WORKSHEET FOR PROPOSED DEMOLITIONS AND CONVERSIONS
3. LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME HOUSING PURCHASE FEASIBILITY ANALYSIS (FORM CP-6391)
4. AFFORDABLE HOUSING INCENTIVES GUIDELINES

1.0 INTRODUCTION

On January 19, 2000, the City Council adopted an action program with respect to implementation of California Government Code Sections 65590 and 65590.1, commonly called the Mello Act, within the City of Los Angeles. The Mello Act is a statewide law which seeks to preserve housing for persons and families with low or moderate incomes in California's Coastal Zone. The Mello Act also requires developers of New Housing Developments, if feasible, to provide Residential Units affordable to low or moderate income persons or families.

1.1 COUNCIL'S ACTION PROGRAM

Council's action program is summarized below:

- Part One. The Council re-adopted its existing policy (as previously contained in C.F. No. 81-6299), and directed the Departments of Building and Safety, City Planning and Housing to develop consistent and more effective Interim Administrative Procedures to implement this policy. Council was particularly concerned that every Discretionary and Non-Discretionary Application in the Coastal Zone that requires Mello Act compliance review receive the proper review. Council's policy generally requires the one-for-one replacement of demolished or converted housing units occupied by persons or families of low or moderate income within three years. In addition, Council's policy concerning New Housing Developments is based on the Coastal Commission Guidelines.
- Part Two. Council directed the Department of City Planning to develop a Mello Act Interim Ordinance, which will include an in-lieu fee payment option. Council also authorized the Department to execute a consultant contract with Hamilton, Rabinovitz and Alschuler (HR&A) to produce the studies and factual analysis necessary to support development of the Interim Ordinance and in-lieu fee payment program. The Interim Administrative Procedures developed in Part One will be tested and updated, and submitted to Council, along with the Interim Ordinance, in a timely manner.
- Part Three. Council directed the Department of City Planning to develop a permanent Mello Act implementation ordinance. The Council also committed to hiring a qualified consultant to prepare the studies and factual analysis necessary to support development of the permanent ordinance. The Interim Administrative Procedures will again be updated, and resubmitted to Council along with the permanent Mello Act ordinance.

1.2 INTERIM ADMINISTRATIVE PROCEDURES

It is the policy of the Council of the City of Los Angeles that the Departments of Building and Safety, City Planning (including the Zoning Administration Division) and Housing shall administer, enforce and monitor the provisions of the Mello Act in accordance with these Interim Administrative Procedures.

1.2.1 EFFECTIVE DATE AND PERIOD

These Interim Administrative Procedures are effective immediately, and shall remain in effect until modified in accordance with the Interim Ordinance.

1.2.2 PENDING PERMIT AND APPROVAL APPLICATIONS

Pending Discretionary and Non-Discretionary Applications are subject to the requirements of the Mello Act.

1.2.3 RELATIONSHIP OF PROCEDURES TO EXISTING REGULATIONS

Every Discretionary and Non-Discretionary Application for a Demolition, Conversion or New Housing Development in the Coastal Zone shall be reviewed pursuant to these Interim Administrative Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement also applies to any Discretionary or Non-Discretionary Application exempted from the requirement to obtain a coastal development permit.

In the case of conflict between these Interim Administrative Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. These Interim Administrative Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City of Los Angeles prior to May 17, 2000.

1.2.4 CONSTITUTIONAL AND STATE LAW COMPLIANCE

Nothing in these Interim Administrative Procedures shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.

1.3. OVERVIEW OF THE MELLO ACT

The Mello Act was adopted by the State Legislature in 1982. The Act sets forth requirements concerning the demolition, conversion and construction of housing within California's Coastal Zone. Each local jurisdiction shall enforce three basic rules:

- Rule 1.** Existing residential structures shall be maintained, unless the local jurisdiction finds that residential uses are no longer feasible. A local jurisdiction may not approve the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use, unless it first finds that a residential use is no longer feasible at that location.
- Rule 2.** Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced. Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced on a one-for-one basis.
- Rule 3.** New Housing Developments shall provide Inclusionary Residential Units. If feasible, New Housing Developments shall provide Inclusionary Residential Units affordable to Very Low, Low or Moderate Income persons or families.

These rules are subject to numerous exceptions and additional required feasibility determinations which complicate the administration of the Mello Act.

2.0 INITIAL SCREENING AND ROUTING

The Department of Building and Safety is responsible for the initial screening and routing of Non-Discretionary Applications. The Department of City Planning is responsible for the initial screening and routing of Discretionary Applications.

Public Counter staff at these Departments are hereby directed to develop the appropriate forms and procedures necessary to screen, route and track all Discretionary and Non-Discretionary Applications pursuant to steps one through six below.

2.1. STEP ONE. IDENTIFY COMMUNITY PLAN AREA.

Staff shall determine if a filed and deemed complete Discretionary or Non-Discretionary Application is located in the following Community Plan Areas: Brentwood-Pacific Palisades, Venice, Del Rey, Westchester-Playa Del Rey, San Pedro or Wilmington-Harbor City. If the Application is in one of these Community Plan Areas, go to step two.

2.2 STEP TWO. DETERMINE COASTAL ZONE LOCATION.

Staff shall consult the appropriate City of Los Angeles Coastal Zone Subarea Map to determine if the Application is located in the Coastal Zone. If the Application is in the Coastal Zone, go to step three.

2.3 STEP THREE. IDENTIFY CONVERSIONS, DEMOLITIONS AND NEW HOUSING DEVELOPMENTS.

Staff shall identify Discretionary or Non-Discretionary Applications that involve one or more Residential Units. Staff shall then determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development as contained in Attachment 1. If Demolitions, Conversions or New Housing Developments are identified, go to step four.

2.4 STEP FOUR. IDENTIFY CATEGORICAL EXEMPTIONS.

Staff shall identify which Demolitions, Conversions or New Housing Developments are Categorically Exempt from further Mello Act compliance review pursuant to Parts 2.4.1, 2.4.2, and 2.4.3 below. If Applications are identified as Categorically Exempt, go to step five. If Applications are identified as non-Categorically Exempt, go to step six.

2.4.1 PUBLIC NUISANCES

Residential structures declared a public nuisance pursuant to the following state and local codes are not subject to the Mello Act's replacement requirements:

- Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

In order to claim a Categorical Exemption from the Mello Act's replacement requirements, an Applicant shall submit a certified title report indicating that a public nuisance declaration has been recorded against the residential structure and has not been terminated. In reviewing certified title reports, staff shall take the following Mello Act provision into account:

"For purposes of this subdivision, no building, which conforms to the standards which were applicable at the time the building was constructed and which does not constitute a substandard building, as provided in Section 17920.3 of the Health and Safety Code, shall be deemed to be a public nuisance solely because the building

does not conform to one or more of the current provisions of the Uniform Building Code as adopted within the jurisdiction for new construction."

2.4.2 SMALL NEW HOUSING DEVELOPMENTS

Based on the Coastal Commission Guidelines, Council has found that it is generally infeasible for small New Housing Developments (developments which consist of nine or fewer Residential Units) to provide Inclusionary Residential Units. Such New Housing Developments are Categorically Exempt from further Mello Act compliance review.

Council has instructed the Department of City Planning to direct HR&A to analyze the feasibility of requiring these New Housing Developments to provide Inclusionary Residential Units, or to pay an in-lieu fee. Based on HR&A's study, Council may adopt a different feasibility presumption concerning these New Housing Developments for the Interim Ordinance.

2.4.3 OWNER-OCCUPIED SINGLE-FAMILY HOMES

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorically Exempt from further Mello Act compliance review.

2.5. STEP FIVE. SEND NOTICE OF CATEGORICALLY EXEMPT APPLICATIONS.

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4 above shall be sent, within five working days of the date the determination is made, to the Applicant and to:

Richard A. Rothschild
Western Center on Law and Poverty, Inc.
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010-2809

Notice of determinations that an Application is Categorically Exempt pursuant to Part 2.4.1, Public Nuisances, shall also be sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt pursuant to Part 2.4 are appealable pursuant to the procedures set forth in Part 8.0.

2.6 STEP SIX. ROUTE NON-CATEGORICALLY EXEMPT APPLICATIONS TO THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) FOR FURTHER MELLO ACT COMPLIANCE REVIEW AND PROCESSING.

Public Counter staff at the Departments of Building and Safety and City Planning shall route non-Categorically Exempt Conversions, Demolitions and New Housing Developments to the Department of City Planning, Zoning Administration Division (DCP/ZAD) for follow-up Mello Act compliance review, coordination and processing.

The Department of Building and Safety shall not issue any permits or other approvals until it has received clearance from the DCP/ZAD that the Applicant has satisfied all conditions set forth in the Mello Act and these Interim Administrative Procedures.

3.0 DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE

If an Applicant proposes to demolish Affordable Existing Residential Units, and build a New Housing Development on the same site, the Mello Act's replacement and inclusionary requirements are both triggered.

While with few exceptions all demolished Affordable Existing Residential Units must be replaced (as further discussed in Part 4.0 below), the inclusionary requirements only apply to the number of new Residential Units that exceeds the number of Affordable Replacement Units. For example, if an Applicant is required to provide 20 Affordable Replacement Units, and plans to build a total of 50 new Residential Units, the inclusionary requirements only apply to the 30 excess Residential Units.

DCP/ZAD staff shall determine the total number of required Affordable Replacement Units pursuant to Part 4.0, and the number of required Inclusionary Residential Units pursuant to Part 5.0. If the number of excess Residential Units is nine or fewer, no Inclusionary Residential Units are required pursuant to Part 2.4.2.

4.0 DEMOLITIONS AND CONVERSIONS

Assigned DCP/ZAD staff shall complete a Mello Act compliance review for each proposed Demolition and Conversion using the attached Mello Act Compliance Review Worksheet

(Attachment 2). This requirement applies to both Discretionary and Non-Discretionary Applications. Applicants are not permitted to complete this Worksheet.

The purpose of completing a Mello Act compliance review is to:

- Identify Applications to demolish or convert residential structures for purposes of a non-Coastal-Dependent, non-residential use. These Applications shall be denied unless the Applicant proves with substantial evidence that a residential use is not feasible at that location; and
- Identify the total number of Affordable Existing Residential Units that are proposed for Demolition or Conversion; and
- Determine the total number of required Affordable Replacement Units.

Each question on the Mello Act Compliance Review Worksheet is reproduced and further discussed below. Staff shall provide a written explanation for each answer recorded on the Worksheet, and attach all supporting documentation to the file. The results of each Mello Act compliance review shall be issued as a determination pursuant to Part 6.0.

4.1 QUESTION #1. WILL RESIDENTIAL STRUCTURES BE DEMOLISHED OR CONVERTED FOR PURPOSES OF A NON-RESIDENTIAL USE ?

The Mello Act states that the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location. This prohibition applies to all residential structures, regardless of the following factors:

- The income of current or past occupants;
- The form of ownership (whether the Residential Units are for-sale units or rentals); and
- Rents charged, for-sale prices, or appraised value.

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then staff shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is "no," staff shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are occupied by Very Low,

Low or Moderate Income Households. These Residential Units are termed, "Affordable Existing Residential Units."

4.2 QUESTION #2. IS THE PROPOSED NON-RESIDENTIAL USE COASTAL-DEPENDENT?

Coastal-Dependent uses are uses which requires a site on, or adjacent to, the sea in order to function at all. Examples of Coastal-Dependent uses include fisheries and boating and harbor facilities.

If the answer to question #2 is "yes," and the proposed non-residential uses are Coastal-Dependent, staff shall skip to question#4. The Demolition or Conversion may be approved, but only upon the condition the Applicant provides all required Affordable Replacement Units identified through the Mello Act compliance review process.

If the answer to question #2 is "no," and the proposed non-residential uses are not Coastal-Dependent, staff shall go to question #3.

4.3 QUESTION #3. IS A RESIDENTIAL USE FEASIBLE AT THIS LOCATION?

Because the site contains a residential structure, the City presumes that a residential use is feasible. The Applicant may challenge the City's presumption by presenting substantial evidence to the contrary directly to DCP/ZAD staff (for Non-Discretionary Applications); and to the decision-maker (for Discretionary Applications).

The following shall be considered in reviewing an Applicant's challenge of the City's presumption:

- The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a "Q" or "D" limitation may be imposed on a particular property which prohibits residential uses.
- If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City's presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.

- An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator's grant runs with the land.
- An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site's unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City's presumption, an Applicant may not cite mere proximity to commercial or industrial uses.
- An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.
- An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

If the Applicant has proved with substantial evidence that a residential use is infeasible, staff shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, staff shall record a "yes" answer to question #3. This stops the Mello Act Compliance Review process. The Discretionary or Non-Discretionary Application shall be denied. A determination shall be issued pursuant to Part 6.0.

4.4 QUESTION #4. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?

To answer question #4, staff shall refer the Applicant to the Los Angeles Housing Department (LAHD). LAHD has sole responsibility for determining whether any existing Residential Units are Affordable Existing Residential Units. If LAHD identifies Affordable Existing Residential Units, DCP/ZAD staff shall record the total number of identified units in the "yes" box, and go to question #5.

If LAHD does not identify any Affordable Existing Residential Units, DCP/ZAD staff shall record a "zero" in the "no" box. This stops the Mello Act Compliance Review process. The Applicant is not required to provide any Affordable Replacement Units. A determination pursuant to Part 6.0 shall be issued.

LAHD shall identify Affordable Existing Residential Units by completing steps one through six below for each referred Residential Unit. The Applicant is liable and responsible for all postage and other costs necessary to complete the occupant income determination process. LAHD has the authority to specify the processes Applicants must follow in order for the occupant income determination process to be successfully completed.

4.4.1 STEP ONE. SEND GENERAL NOTICE TO ALL BUILDING OCCUPANTS.

When LAHD receives a referral from DCP/ZAD of a proposed Demolition or Conversion, LAHD shall send a general notice to all current building occupants which contains the following:

- A description of the proposed Demolition or Conversion;
- An explanation of the purpose of the Mello Act and the City's Mello Act compliance review process;
- A description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit;
- A referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc. Until further notice from Western Center on Law and Poverty, Inc., the general notice shall contain the following referral:

Richard A. Rothschild
Western Center on Law and Poverty, Inc.
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010-2809

- A City telephone number to call for additional information.

4.4.2 STEP TWO. IDENTIFY LONG-TERM VACANT RESIDENTIAL UNITS.

A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing.

The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then LAHD shall not classify the Residential Unit as an Affordable Existing Residential Unit.

4.4.3 STEP THREE. DETERMINE OCCUPANT INCOME BASED ON MONTHLY HOUSING COST OR ACTUAL INCOME DATA.

LAHD may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. Pursuant to the definition set forth in Attachment 1, an existing Residential Unit is classified as an Affordable Existing Residential Unit if at least one person or family occupying the unit (excluding dependents) is of Very Low, Low or Moderate Income.

If current Monthly Housing Cost data indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, LAHD shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then LAHD shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, LAHD shall go to step four. If occupant income is based on actual income, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

4.4.4. STEP FOUR. VERIFY ACCURACY OF OCCUPANT INCOME BASED ON MONTHLY HOUSING COST DATA.

LAHD shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost.

LAHD shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, LAHD shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income. LAHD is

responsible for verifying the accuracy of any submitted income data. LAHD shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost.

Based on this review, LAHD shall:

- Go to step five if the person or family DOES NOT have a Very Low, Low or Moderate Income; or
- Go to step six if the person or family DOES have a Very Low, Low or Moderate Income.

4.4.5 STEP FIVE. IDENTIFY AND DETERMINE IF ANY EVICTIONS WERE FOR THE PURPOSE OF EVADING THE MELLO ACT.

LAHD shall conduct an investigation to carry out the following Mello Act provisions concerning evictions:

"For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit and if the eviction was for the purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision."

LAHD shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, LAHD shall go to step six.

4.4.6 STEP SIX. LAHD SHALL INFORM THE DEPARTMENT OF CITY PLANNING, ZONING ADMINISTRATION DIVISION (DCP/ZAD) OF THE RESULTS OF ITS OCCUPANT INCOME DETERMINATION PROCESS.

LAHD shall prepare a report for DCP/ZAD staff which contains the following information for each referred Demolition and Conversion:

One-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Two-Family Dwellings

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Triplexes and Other Structures that Contain Three or More Residential Units

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

Summary

- Total number of Residential Units
- Total number of Affordable Existing Residential Units

LAHD shall also provide the following information for each identified Affordable Existing Residential Unit:

- Address
- Names of occupants
- Number of bedrooms

The Mello Act generally requires the one-for-one replacement of demolished or converted Affordable Existing Residential Units within three years of the date that work commenced on the Demolition or Conversion. There are two limited exceptions to this general rule. The purpose of answering Worksheet questions #5 through #8 is to determine whether the Applicant is exempt from replacing any of the Affordable Existing Residential Units identified by LAHD.

4.5 QUESTION #5. IS THE APPLICATION FOR COASTAL-DEPENDENT OR COASTAL-RELATED NON-RESIDENTIAL USES? ARE THESE NON-RESIDENTIAL USES CONSISTENT WITH THE LAND USE PLAN OF A CERTIFIED LOCAL COASTAL PROGRAM?

If the answer to both questions is "yes," the Application fits into the first exception category. Staff shall skip to question #8. If the answer to either question is "no," the Application does not fit into the first exception category. Staff shall go to question #6.

As of the effective date of these Interim Administrative Procedures, the California Coastal Commission has not certified any LCPs in the City of Los Angeles. Consequently, no Applications currently fit into the first exception category. Until this situation changes, staff shall automatically record a "no" answer to question #5, and go to question #6.

4.6 QUESTION #6. ARE 11 OR MORE RESIDENTIAL UNITS PROPOSED FOR DEMOLITION OR CONVERSION?

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, staff shall record a "no" answer to question #6. Staff shall go to question #7.

If the Applicant is proposing to demolish or convert 11 or more Residential Units, staff shall record a "yes" answer to question #6. All of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category applies to a maximum of ten Residential Units.

4.7 QUESTION #7. ARE ANY AFFORDABLE EXISTING RESIDENTIAL UNITS IN ONE-FAMILY OR TWO-FAMILY DWELLINGS?

If the answer to question #7 is "yes," staff shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units are in triplexes and other structures that contain three or more Residential Units, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced. The second exception category does not apply to triplexes or other structures that contain three or more Residential Units.

4.8 QUESTION #8. IS IT INFEASIBLE FOR THE APPLICANT TO REPLACE ANY OF THE AFFORDABLE EXISTING RESIDENTIAL UNITS IDENTIFIED BY ANSWERS TO QUESTIONS #5 AND #7?

The purpose of answering question #8 is to determine if it is feasible for the Applicant to provide Affordable Replacement Units if the proposed Demolition or Conversion fits into the first exception category (consistency with a certified LCP, question #5); or the second exception category (ten or fewer Residential Units consisting of one-family and/or two-

family dwellings, question #7). If the proposed Demolition or Conversion does not fit into an exception category, then all of the Affordable Existing Residential Units recorded in the answer to question #4 must be replaced.

To answer question #8, DCP/ZAD staff shall instruct the Applicant to complete Form CP-6391, Los Angeles City Planning Department Moderate-Income Housing Purchase Feasibility Analysis (Attachment 3). DCP/ZAD staff shall review the submitted data, taking into consideration the typical public subsidies and other affordable housing incentives available by-right, to determine whether it's feasible for the Applicant to replace some or all of the Affordable Existing Residential Units identified by answers to questions #5 and #7.

If the answer to question #8 is "yes," how many Affordable Replacement Units is it infeasible for the Applicant to provide? Record this number in the "yes" box for question #8. Then subtract this number from the number recorded in the answer to question #4. Record the result on the line following question #8. This is the total number of required Affordable Replacement Units.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all of the Affordable Existing Residential Units recorded in the answer to question #4. Record a "zero" in the "no" box for question #8. Then record the number recorded in the "yes" box for question #4 on the line following question #8. This is the total number of required Affordable Replacement Units.

This concludes the Mello Act Compliance Review process for proposed Demolitions and Conversions in the Coastal Zone. A determination shall be issued pursuant to Part 6.0.

5.0 NEW HOUSING DEVELOPMENTS

Based on the Coastal Commission Guidelines, the Council has found that it is generally feasible for New Housing Developments consisting of ten or more Residential Units to provide Inclusionary Residential Units. Applicants shall implement one of the following two required inclusionary options:

- Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- Inclusionary Requirement Option #2. Reserve at least ten percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

The provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low or Low Income does not fulfill the inclusionary requirements for New Housing Developments.

6.0 DETERMINATIONS

A determination shall be issued for each non-Categorically Exempt Demolition, Conversion, and New Housing Development.

For Discretionary Applications, the decision-maker shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file created for the underlying case.

For Non-Discretionary Applications, DCP/ZAD staff shall issue the determination as a Director's Determination. Staff shall also prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

A copy of each determination shall be simultaneously transmitted to the Applicant, the Department of Building and Safety, LAHD, all building occupants, and:

Richard A. Rothschild
Western Center on Law and Poverty, Inc.
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010-2809

6.1 DEMOLITIONS AND CONVERSIONS

Each determination shall include the following:

- Results of the Mello Act compliance review process completed in Part 4.0;
- Total number of Affordable Existing Residential Units identified by LAHD;
- Total number of required Affordable Replacement Units recorded on the Mello Act Compliance Review Worksheet;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.2, 7.4, and 7.5;
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan prepared pursuant to Part 7.4; and

- Information for Appellants pursuant to Part 8.0.

6.2 NEW HOUSING DEVELOPMENTS

Each determination shall include the following:

- A requirement that the Applicant comply with one of the Inclusionary Requirement Options set forth in Part 5.0;
- Total number of Inclusionary Residential Units required under both Options #1 and #2;
- A requirement that the Applicant comply with the requirements set forth in Parts 7.3, 7.4, and 7.5; and
- A statement that the Application is not approved until LAHD has approved the Affordable Housing Provision Plan pursuant to Part 7.4; and
- Information for Appellants pursuant to Part 8.0.

7.0 GENERAL PROVISIONS

The following general provisions apply to Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units as set forth in a determination issued pursuant to Part 6.0.

7.1 AFFORDABLE HOUSING INCENTIVES

Applicants may be entitled to some or all of the incentives set forth in Section 12.22 A 25 of the Los Angeles Municipal Code, including a Density Bonus.

7.2 AFFORDABLE REPLACEMENT UNITS

7.2.1 INCOME TARGETING

Affordable Replacement Units may be provided at any level of affordability. For example, an Affordable Existing Residential Unit occupied by a Very Low Income Household may be replaced with an Affordable Replacement Unit affordable to a Moderate Income Household. The Council may change this policy when the Interim Ordinance is adopted and require "like for like" replacement (e.g., an Affordable Existing Residential Unit occupied by a Very Low Income Household shall be replaced with an Affordable Replacement Unit affordable to a Very Low Income Household.)

7.2.2 LOCATION

Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

7.2.3 TIMING REQUIREMENT

Required Affordable Replacement Units shall be provided within three years of the date that work commenced on the Demolition or Conversion. The Department of Building and Safety shall determine the date that "work commenced" on the Demolition or Conversion.

7.2.4 PERFORMANCE STANDARDS

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, then Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

All other Applicants shall comply with the project design and amenities requirements promulgated by LAHD.

7.3 INCLUSIONARY RESIDENTIAL UNITS

7.3.1 LOCATION

Inclusionary Residential Units shall be located on-site. Applicants claiming it is infeasible for them to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to Part 8.0. Applicants should consult the Department of City Planning's three mile radius Coastal Zone maps to identify potential sites located outside the Coastal Zone.

Based on the Coastal Commission Guidelines, the Council has found that it is generally more feasible for New Housing Developments that consist of 21 or more Residential Units to provide units on-site than it is for New Housing Developments that consist of 10-20 units to provide units on-site.

7.3.2 TIMING REQUIREMENT

If Inclusionary Residential Units are approved for off-site provision, they shall be provided within three years of the date that LAHD approved the Affordable Housing Provision Plan pursuant to Part 7.4 below. A New Housing Development's Inclusionary Residential Units and market-rate Residential Units shall be made available at the same time.

7.3.3 PERFORMANCE STANDARDS

Applicants shall comply with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Attachment 4):

- Project design (Section 4A, page 7); and
- Equal distribution of amenities (Section 4B, page 8).

7.4 AFFORDABLE HOUSING PROVISION PLAN

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall prepare an Affordable Housing Provision Plan that specifies how the Applicant shall carry out the conditions contained in the determinations issued pursuant to Part 6.0, and the requirements set forth in Parts 7.2 and 7.3 above, and Part 7.5 below.

Applicants shall submit their Affordable Housing Provision Plan to LAHD for review and approval. Applications only receive final approval after LAHD has approved the Affordable Housing Provision Plan.

The Affordable Housing Provision Plan shall include the following elements:

7.4.1 METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS

Applicants may propose to provide required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

- New construction; or
- Adaptive reuse (conversion of existing non-residential structures).

7.4.2 OPERATIONAL DETAILS

Applicants shall supply the following operational details:

- Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these Units to be provided off-site.
- General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.
- Affordable housing incentives and subsidies that will be utilized;
- Methods for complying with the Performance Standards set forth in Parts 7.2.4 and 7.3.3, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- Financing; construction plan; and project timetable for complying with the timing requirements set forth in Part 7.2.3 for Affordable Replacement Units, and Part 7.3.2 for Inclusionary Residential Units.

7.5 ENFORCEMENT AND MONITORING

7.5.1 AFFORDABILITY COVENANTS

Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units shall record a covenant with the Los Angeles County Recorder guaranteeing that applicable affordability criteria shall be observed for at least 30 years from the issuance of the Certificate of Occupancy. The Council may include a requirement for 55-year affordability covenants in the Interim Ordinance.

Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or the Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

7.5.2 FINANCIAL ASSURANCES

The LAHD may require the Applicant to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

7.5.3 MONITORING REQUIREMENTS

All Applicants shall comply with the monitoring requirements set forth in Section IVC of the Affordable Housing Incentives Guidelines (page 10 of Attachment 4).

8.0 APPEALS

Determinations may be appealed. The determination shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

Appellants have the burden of proof and shall present substantial evidence to support their appeal. A copy of the results of each appeal shall be simultaneously transmitted to the Applicant, the Department of Building and Safety, LAHD, all building occupants, and:

Richard A. Rothschild
Western Center on Law and Poverty, Inc.
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010-2809

8.1 DISCRETIONARY APPLICATIONS

The appeals procedures and appellate body shall be those connected to the underlying case.

8.2 NON-DISCRETIONARY APPLICATIONS

Appellants may appeal a Director's Determination using the forms and following the procedures promulgated by the DCP/ZAD. Until July 1, 2000, the appellate body shall be the Board of Zoning Appeals. After July 1, 2000, the appellate body shall be the Area Planning Commission.

8.3 DEPARTMENT OF BUILDING AND SAFETY ACTIONS

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

ATTACHMENT 1**DEFINITIONS**

The following words, whenever used in these Interim Administrative Procedures, shall be construed as defined in this Attachment. Words and phrases not defined shall be construed as defined in Sections 12.03 and 91.0200, *et sec*, of the Los Angeles Municipal Code as defined therein.

"Affordable Housing Incentives Guidelines" means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

"Affordable Replacement Unit" means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

"Affordable Monthly Housing Cost" refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, "Affordable Monthly Housing Cost" refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

"Affordable Existing Residential Unit" means an existing Residential Unit proposed for Demolition or Conversion that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in the Interim Administrative Procedures.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

"Appellant" means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal pursuant to the Interim Administrative Procedures.

"Applicant" means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

"Application, Discretionary" means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements:

approval-in-concept, coastal development permit, conditional use permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

"Application, Non-Discretionary" means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

"Categorical Exemption" means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act and these Interim Administrative Procedures.

"Coastal Commission Guidelines" means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

"Coastal-Dependent Non-Residential Use" means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

"Coastal Development Permit" means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

"Coastal-Related Nonresidential Use" means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

"Coastal Zone" means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

"Conversion" means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

"Demolition" means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

"Density Bonus" means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

"Director's Determination" means a determination of the Director of Planning of the Department of City Planning, or his or her designee.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

"Household, Low Income" means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

"Household, Moderate Income" means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

"Household, Very Low Income" means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

"Housing Department General Manager" means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

"Inclusionary Residential Unit" means a Residential Unit with an Affordable Monthly Housing Cost.

"Interim Administrative Procedures" means the interim administrative procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000.

"Interim Ordinance" means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

"Interim Study" means the study that consultants shall complete to assist the City in implementing the Mello Act; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

"Local Coastal Program" means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

"Monthly Housing Cost" means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

"New Housing Development" means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

"Public Nuisance" means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or Chapter IX, Article 1, Division 89 of the Los Angeles Municipal Code.

"Residential Unit" means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

"Unified Development" means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

ATTACHMENT 2

**MELLO ACT COMPLIANCE REVIEW WORKSHEET
FOR PROPOSED DEMOLITIONS AND CONVERSIONS**

FOR LOS ANGELES CITY PLANNING DEPARTMENT STAFF USE ONLY

Proposed Demolitions and Conversions in the Coastal Zone

MELLO ACT COMPLIANCE REVIEW WORKSHEET

Type of Application:		Application Number:	
Address:			
Project Description:			
QUESTION	YES	NO	
1. Will residential structures be demolished or converted for purposes of a non-residential use? If "yes," go to question #2. If "no," skip to question #4.			
2. Is the proposed non-residential use Coastal-Dependent? If "yes," skip to question #4. If "no," go to question #3 .			
3. Is a residential use feasible at this location? If "no," go to question #4. If "yes," stop. The Application to demolish or convert residential structures for purposes of a non-residential use is denied.			
4. Are any Affordable Existing Residential Units proposed for Demolition or Conversion? (Refer the Applicant to the Los Angeles Housing Department.) If "yes," record the number of identified Affordable Existing Residential Units in the "yes" box, and go to question#5. If "no," record a "zero" in the "no" box and stop. The provision of Affordable Replacement Units is not required.			
5. Is the Application for Coastal-Dependent or Coastal-Related non-residential uses? Are these non-residential uses consistent with the Land Use Plan of a certified Local Coastal Program? If the answer to both questions is "yes," skip to question #8. If the answer to either question is "no," go to question #6.			
6. Are 11 or more Residential Units proposed for Demolition or Conversion? If "no," go to question #7. If "yes," all Affordable Existing Residential Units recorded in question #4 must be replaced.			
7. Are any Affordable Existing Residential Units in one-family or two-family dwellings? If "yes," go to question #8. If "no," all Affordable Existing Residential Units recorded in question #4 must be replaced.			
8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7? If "yes," how many? Record this number in the "yes" box and subtract it from the number recorded in question #4. Record the result below. This is the total number of required Affordable Replacement Units. If "no," it's feasible for the Applicant to replace all Affordable Existing Residential Units proposed for Demolition or Conversion. Record a "zero" in the "no" box. Record the number recorded in question #4 below. This is the total number of required Affordable Replacement Units.			
Total Number of Required Affordable Replacement Units:			
Completed By:			
Date:			

INSTRUCTIONS: City Planning Department staff must answer each question with a written explanation. Attach supporting documentation to the file. City Planning Department staff must use the Interim Administrative Procedures to complete this Worksheet.

ATTACHMENT 3

**LOS ANGELES CITY PLANNING DEPARTMENT MODERATE-INCOME
HOUSING PURCHASE FEASIBILITY ANALYSIS (FORM CP-6391)**

Tentative Tract No. _____
 Coastal Development Permit No. _____

**LOS ANGELES CITY PLANNING DEPARTMENT
 MODERATE-INCOME HOUSING PURCHASE FEASIBILITY ANALYSIS
 (FOR MELLO FINDINGS)**

BASIC INFORMATION:

Number of Units:	_____	Square footage of garage:	_____
Square footage in each unit:	_____	Cost per square foot:	_____
Number of bedrooms in each unit:	_____	Other:	_____
Cost per square foot:	_____	Cost per square foot:	_____

A. ESTIMATED COST*

1. Land	_____
2. Improvement (e.g., grading, sewer, water, street lights, etc.)	_____
3. Architectural/Engineering	_____
4. Permit and Fees	_____
5. Interest and cost of loans	_____
6a. Construction Cost (total square feet x \$/square feet)	_____
7. Remodeling, refurbishing, etc. (for condominium conversion)	_____
8. Other (specify)	_____

Total for ___ market \$ _____ A
 Rate Units 1

B. LOANS*

1st	_____
2nd	_____
Construction	_____
Other (specify)	_____
B Total:	\$ _____

C. Investment

Cost(A) - Loans(B) = _____
 - _____ = \$ _____ C

6b. Construction cost with at least one moderate-cost unit of 1,000 square feet \$ _____

Total for ___ market \$ _____ A
 Rate Units + 1 moderate unit 2

* Proof and justification to be provided by the applicant (see page 3 for directions).

Tentative Tract No. _____
 Coastal Development Permit No. _____

D. DURATION OF PROJECT IN MONTHS: _____ D

E. SALES PROJECTIONS:

All units at
MARKET RATES*
Units x price
 _____ x _____ = \$ _____
 less sales cost = \$ _____
 (specify %) _____ %
 net sales proceeds = \$ _____
 E¹

Assume at least one unit
 (of 1,000 square feet) at
LOW/MODERATE PRICE**
 unit low/moderate price = \$ _____
 others: units x price = \$ _____
 less sales costs = \$ _____
 (specify %) _____ %
 net sales proceeds = \$ _____
 E₂

F. PROFIT/LOSS

MARKET RATES

Profit/Loss = Sales Projection - cost
 = E₁ - A₁
 = \$ _____ F₁

LOW/MODERATE

Profit/Loss = Sales Projection - cost
 = E₂ - A₂
 = \$ _____ F₂

G. RETURN ON INVESTMENT

Percent = F₁ x 100 = _____ %
 Return _____
 Annual Percent Return =
 = F₁ x 100 x 12
 _____ D
 = _____ %

Percent = F₂ x 100 = _____ %
 Return _____
 Annual Percent Return =
 = F₂ x 100 x 12
 _____ D
 = _____ %

Prepared by: _____
 Representative of _____

Date Prepared _____
 Telephone No. _____

** MODERATE-INCOME SALES PRICES: BASED ON 1988 MEDIAN-FAMILY INCOME

1 bedroom	\$ 85,200	3 bedroom	\$116,494
2 bedroom	\$101,175	4 bedroom	\$129,850

Tentative Tract No. _____
Coastal Development Permit No. _____

SUPPLEMENTAL DOCUMENTS TO BE PROVIDED BY THE APPLICANT

A. Estimated Cost

1. Land: provide legal proof of land cost.
2. Improvement: provide itemization of cost for each category of improvement.
3. Architectural/Engineering: Provide itemization of cost and proof.
4. Permit & Fees: provide itemization of cost.
5. Interest and cost of loans: provide itemization of cost and legal proof.
6. Construction Cost: provide itemization of cost for dwelling units and garage.
7. Remodeling, refurbishing, etc.: provide itemization of cost and proof.
(for condominium conversion)
8. Other, (specify): provide itemization of cost and proof.

B. Loans

Provide proof of the amount(s) in dollars, the percentage rate and length of loan(s).

- E. Provide at least three comparables (Sale cost of comparable dwelling units at market rate) within half a mile radius from the project area.

Note: If the above-mentioned documents are not provided by the applicant at the time of the filing, the application is deemed incomplete.

ATTACHMENT 4

AFFORDABLE HOUSING INCENTIVES GUIDELINES

Table of Contents

I. SCOPE AND PURPOSE	Page 1
II. DEFINITIONS	2
III. DESCRIPTION OF AFFORDABLE HOUSING INCENTIVES	
A. Incentives Option 1	4
B. Incentives Option 2	5
IV. PERFORMANCE STANDARDS	
A. Project Design	7
B. Equal Distribution of Amenities	8
C. Eligibility, Affordability, and Monitoring Requirements	8
V. PROCEDURE FOR OBTAINING A BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY	11

AFFORDABLE HOUSING INCENTIVES GUIDELINES

Implementing the Affordable Housing
Incentives Program Ordinance No. 170,764

AFFORDABLE HOUSING INCENTIVES GUIDELINES

I. SCOPE AND PURPOSE

The City of Los Angeles has established an Affordable Housing Incentives Program to encourage the production of housing for qualified lower income residents, including elderly and disabled persons. The program is based on a series of amendments to the Municipal Code. The Affordable Housing Incentives Guidelines, established by resolution of the City Planning Commission, facilitate the use of incentives established by law.

The Municipal Code now encourages broader application for the density bonus provisions of State law by creating incentives that eliminate discretionary review for qualifying developments, relax land use controls, defer payment of fees, and expedite application processing. These incentives, as explained in this document, are grouped into two main options.

The eligibility of a development to benefit from the incentives is determined on a case-by-case basis through application of performance standards. These guidelines set forth in detail the incentives for which developments may qualify and the standards by which they will be evaluated. The guidelines may be modified by resolution of the Planning Commission if needed.

The options permit a developer to receive incentives on the basis of public benefit offered. For example, a limited number of incentives such as reduced parking, deferred fees, and expedited processing are available if restricted affordable dwelling units are provided adjacent to public mass transit.

A development might, however, qualify for a density increase of up to 25%, in addition to the aforementioned incentives, if it meets criteria for tenant "set-asides" established by State law as follows:

- * 10% of dwelling units for "very low" income households (earning no more than 50% of the County median income and paying no more in rent than the amount established by the Los Angeles Housing Department (LAHD) for households earning up to 50% of the median income),
OR
- * 20% of dwelling units for "lower" income households (earning no more than 80% of the County median income and paying no more in rent than the amount established by LAHD for households earning up to 60% of the median income),
OR
- * 5% of dwelling units for disabled persons whose household income does not exceed Supplemental Security Income (SSI) levels.

Affordable Housing Incentives Program Applications are available at the Public Counter of the City Planning, Building and Safety Departments and at the Department of Housing. Completed applications must be submitted to the Department of Building and Safety for review and approval. Full compliance with each component is required to receive a density bonus or parking reduction without a density bonus.

II. DEFINITIONS

The following program definitions apply:

Affordable Accessible Unit - a dwelling unit or guest room that is adapted to be used by persons who are physically disabled, based on the criteria of Title 24 of the California Code of Regulations or any amendment thereto, where the household income of the residents does not exceed Social Security Supplementary Income (SSI) levels, and where the rent is restricted to no more than approximately 30% of the resident's SSI level according to a rent schedule prepared by the City's Housing Department.

Affordable Housing Incentives Guidelines - the guidelines approved by the City Planning Commission by which applications for affordable housing projects are evaluated for compliance with the goals and policies of the City's Affordable Housing Program.

Affordable Housing Units - dwelling units or guest rooms for which rental or mortgage payments do not exceed the limits stated in Section 65915 of the California Government Code. Dwelling Units or guest rooms designated for lower income households, as defined in Section 50079.5 of the California Health and Safety Code, shall have rents not exceeding 30 percent of 60 percent of the area median income as set forth on the rent schedule prepared by the City's Housing Department or its successor agency. In order for a development project to qualify as a project containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that these affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

Area Median Income - the estimate of median income in the Los Angeles-Long Beach Primary Metropolitan Statistical Area that is determined periodically by the United States Department of Housing and Urban Development (HUD) or any successor agency, adjusted for household size and which is published periodically.

Density Bonus - a density increase of at least 25% over the otherwise maximum allowable residential density pursuant to California Government Code Section 65915. The density bonus shall apply to housing developments consisting of five or more dwelling units.

Income, Lower and Very Low - annual income of a household that does not exceed the area median for either income category as specified in California Health and Safety Code Sections 50079.5 and 50105, as determined by the City's Housing Department.

Mass Transit Station - a transit stop for a fixed rail system, or a major bus center. A station is one that is currently in use or whose location is proposed and for which a full funding contract has been signed by all funding partners, or one for which a resolution to fund a preferred alignment has been adopted by the Los Angeles County Metropolitan Authority or its successor agency.

Major Bus Route - a bus route with peak-hour headways of 15 minutes or less.

Restricted Affordable Unit - an affordable housing unit in a development rented to a household with very low or lower income residents, and/or very low income senior citizens. In order for a development to qualify as a development containing affordable housing units, the owner shall record a document with the Los Angeles County Recorder guaranteeing that the relevant affordability criteria will be observed for at least 30 years from the issuance of the Certificate of Occupancy.

Senior Citizens - individuals who are at least 62 years of age, except that for density bonus projects of at least 150 dwelling units, a threshold of 55 years of age may be used, provided all applicable city, state, and federal regulations are met.

Single Room Occupancy Hotel - an apartment building, hotel, or other structure containing six or more guest rooms, and which may also contain dwelling units, in which 30% or more of the dwelling units or guest rooms do not contain a private bath and toilet facilities within the dwelling unit or guest room.

III. DESCRIPTION OF THE AFFORDABLE HOUSING INCENTIVES

The following options provide alternatives and incentives by which affordable housing dwelling units may be constructed.

A. Incentives Option 1

This is a minimum "by right" density bonus option provided by State law (Government Code, Section 65915) granted to a residential project which provides the set-aside dwelling units listed on Page 2, Section I of these guidelines, or in which at least 50% of the dwelling units are reserved for senior citizen tenancy. In exchange, the project shall receive the following:

a. A 25% density bonus*

A maximum density increase of 25% over the otherwise allowable residential density pursuant to California Government Code Section 65915. The density bonus applies to new or existing housing developments consisting of five or more dwelling units.

When calculating the number of dwelling units allowed in a project, the density figure will be rounded upwards from fractions of one-half ($\frac{1}{2}$) and more from that permitted by the applicable zone, to allow one additional dwelling unit.

*In cases where dwelling units will be targeted for senior citizens at market rate, the applicant may receive the 25% density bonus, but only through a conditional use permit. Any density bonus of 26% and above requires a conditional use permit.

b. Reduced parking requirements for the restricted dwelling units**

Parking requirements for each restricted affordable dwelling unit is as follows:

- 1.00 parking space per dwelling unit irrespective of the number of habitable rooms
for a project located within 1,500 feet of a mass transit station or major bus routes
- 1.00 parking space per dwelling unit
for restricted affordable dwelling units with 1 and 2 habitable rooms
- 1.50 parking space per dwelling unit
for restricted affordable dwelling units with 3 or more habitable rooms
- 0.50 parking space per dwelling unit or guest room
for dwelling units restricted to senior citizens and/or disabled
- 0.25 parking space per dwelling unit
for single-room occupancy hotels, with a minimum of 5 parking stalls per facility.

*The parking reduction is "by right", subject to conformance with the applicable conditions stipulated in the Affordable Housing Incentives Program Application. Any request for a parking reduction in excess of that permitted in the Affordable Housing Incentives Application shall be processed separately for discretionary action through the Department of City Planning.

c. Waiver of guest parking provision for restricted dwelling units

The requirement to provide guest parking is waived for only restricted dwelling units. Market rate dwelling units shall comply with the parking requirements as specified in the Zoning Code.

d. Deferred payment of selected permits and fees

The application and environmental fees (Department of City Planning) may be deferred up to the time of the issuance of any Certificate of Occupancy. However, fees must be paid for services performed regardless of project outcome.

e. Expedited processing of building plans and permits

Projects providing affordable housing will receive expedited processing as currently available.

B. Incentives Option 2

All the incentives listed above under Option 1, except the density bonus (incentive (a)) are also available to developers for projects that offer fewer affordable dwelling units than the amount listed on Page 1, Section I of these guidelines. Those projects are not entitled to the 25% density bonus available in Option 1.

AFFORDABLE HOUSING INCENTIVES PROGRAM Options Summary

Under Incentives Option 1, if a project of 5 or more dwelling units provides:

10% "very low" income,
or
20% "lower" income,
or
5% affordable accessible dwelling units



the applicant shall receive the following:

- a. 25% Density Bonus
- b. reduced parking for restricted dwelling units
- c. waiver of guest parking provisions for restricted units
- d. deferred payment of fees and permits
- e. expedited processing of plans and permits

Under Incentives Option 2, if a project provides dwelling units for:

low income seniors,
or
low income disabled persons,
or
other low income households with incomes at 80% or less of County median with rents set at 60% of median



the applicant shall receive the following:

- b. reduced parking for restricted dwelling units
- c. waiver of guest parking provisions for restricted dwelling units
- d. deferred payment of fees and permits
- e. expedited processing of plans and permits

IV. PERFORMANCE STANDARDS FOR OPTIONS 1 AND 2

The Performance Standards listed and described below are requirements of all projects with restricted dwelling units for which OPTION 1 or 2 is sought. The Performance Standards are included into three main categories:

- A. Project Design (Location of Restricted Units, Noise, Wall, Lighting)
- B. Equal Distribution of Amenities
- C. Eligibility, Affordability and Monitoring Requirements

A. Project Design

- Design of Restricted Affordable Units in Mixed-Income Projects:

Restricted dwelling units shall be comparable in every manner, except in the quality of interior "finish" materials (e.g., floor and wall coverings), to market-rate dwelling units, including total square footage, bedrooms size, closet space, amenities, number of bathrooms, etc. The design of restricted dwelling units should generally reflect the average number of bedrooms per dwelling unit in the development.

Restricted dwelling units shall not be confined to one type of dwelling unit within a development.

- Location of Restricted Units Within Mixed-Income Projects:

Restricted dwelling units must be interspersed among market-rate dwelling units within the same building. They may not be grouped together on one level or in one or more "less desirable" corners or areas of the building. In multiple building developments, restricted dwelling units must be reasonably dispersed among the buildings.

- Noise

Common recreational uses, such as swimming pools and barbecue areas, shall not be located immediately adjacent to neighboring residential uses.

Any building within 500 feet of a railroad, major highway or freeway, airport or aircraft pathway shall be constructed so as to provide a Sound Transmission Class of 50 or greater as defined in the Uniform Building Code.

- Wall

A decorative masonry wall 6 feet in height shall be constructed along any common property line between the subject property and any adjoining property containing a single-family use.

• Lighting

Lighting shall be located so as not to shine onto any adjacent residential property.

B. Equal Distribution of Amenities

Residents of restricted dwelling units may not be charged for amenities that are provided at no cost to other residents including, but not limited to, access to recreational facilities, parking, cable TV, and interior amenities such as dishwashers and microwave ovens.

Optional services provided must be optional for all residents, and available to all under the same terms and conditions.

All incentives (e.g. one month free rent specials) must be offered to all new residents, not only residents of market rate dwelling units.

C. Affordability, Eligibility and Monitoring Requirements

Affordability Requirements:

1. All restricted dwelling units shall comply with the affordability restrictions on household income as established by the Los Angeles Housing Department ("LAHD") in conformance with the U.S. Department of Housing and Urban Development.
2. The affordability restrictions for income and rent are subject to change periodically. The owner can contact LAHD to receive the periodic changes in the affordability restrictions.
3. For the purpose of a density bonus incentive, State law requires that households with incomes between 60% and 80% of the median income be assigned rents that do not exceed 60% of the median rent.
4. For developers seeking a parking reduction without a density bonus, dwelling units must be restricted to low income households (80% of median) with rent levels set at the rates for households with incomes at 60% of median.
5. The project shall reserve and maintain the number of dwelling units designated as restricted dwelling units for a period of not less than 30 years from the issuance of any Certificate of Occupancy.

Below is the Affordable Housing Incentives Program maximum rent schedule by bedroom size.

MAXIMUM RENTS EFFECTIVE MAY 5, 1995

No. of Bedrooms	Affordable Accessible SSI Levels	Very Low Income up to 50% Median	Lower Income up to 60% Median
SRO	\$181	\$332	\$398
0	\$181	\$372	\$427
1	\$181	\$426	\$488
2	\$330	\$479	\$549
3	\$330	\$579	\$659
4	\$330	\$660	\$756

These rents are the upper limits that may be charged to "lower", "very low" income and Disabled households. The actual rents charged to households of restricted dwelling units may be lower to reflect actual market conditions.

Eligibility of Seniors and Disabled Persons:

Each dwelling unit so designated shall be occupied by at least one person who is disabled or 62 years of age or older. Disabled persons are those persons having a physical or mental impairment which seriously restricts that person from operating a motor vehicle, is expected to be of long-term and indefinite duration, which substantially impedes his or her ability to live independently, and is of a nature that such ability could be improved by more suitable housing conditions.

Below are the Affordable Housing Incentives Program Household Income eligibility criteria.

HOUSEHOLD INCOME TABLE EFFECTIVE MAY 5, 1995

Household Size	Affordable Accessible SSI Levels	Very Low Income* 50% Median	Lower Income* 80% Median
1	\$ 7,236	\$17,950	\$28,150
2	\$13,200	\$20,500	\$32,150
3	\$13,200	\$23,100	\$36,200
4	\$13,200	\$25,650	\$40,200
5	\$13,200	\$27,700	\$43,400
6	\$13,200	\$29,750	\$46,650
7	\$13,200	\$31,800	\$49,850
8	\$13,200	\$33,850	\$53,050

*Above limits are adjusted for Los Angeles and based on the 1995 HUD-determined County Median Family Income of \$45,200.

Monitoring Requirements:

All projects shall comply with the annual monitoring requirements established by the Los Angeles Housing Department (LAHD) by means of a covenant and agreement.

It is the responsibility of the owner to notify LAHD of any changes in the building that may affect compliance, such as change of ownership, management agent or on-site manager, vacancies in restricted dwelling units, or changes in compliance with the performance standards approved by the Department of Building and Safety.

The following are LAHD requirements (a complete list is found in the LAHD covenant):

1. LAHD must complete initial reviews of new tenants eligibility for restricted dwelling units prior to occupancy.
2. LAHD must annually review tenants eligibility for restricted dwelling units.
3. LAHD must receive an annual review letter from the owner about the number of restricted dwelling units, household income and size, rent levels, dwelling unit size and verification of vacancies. LAHD may at any time audit the building occupancy to monitor restricted dwelling units.
4. LAHD may make annual site visits to ensure that the restricted dwelling units are maintained in decent, safe and sanitary condition and that they are provided with the same level of services, including security and maintenance, as are applied to the other dwelling units in the development.

Violations of the regulatory agreement will be levied against the building owner for non-compliance including legal proceedings. It is the responsibility of the owner to adhere to all program requirements.

VI. PROCEDURE FOR OBTAINING A BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY

In addition to the standard requirements of the Building and Safety Department, the following clearances must be obtained to ensure compliance with the Affordable Housing Program Ordinance:

Prior to the issuance of a building permit, the following clearances must be obtained:

- Housing Department pre-qualification of application for conformity to Options 1 or 2 of the Affordable Housing Incentives Program Ordinance. Applications must include location and floor plans of the restricted affordable units. (Applications may be obtained at the public counters of the Building and Safety and Planning Departments as well as at the Housing Department.)
- Planning Department approval of complete development plans, including landscaping and irrigation plans.
- Proof of recordation of Agreement Containing Covenants Affecting Real Property for the project satisfactory to Housing Department. This Agreement shall reflect the information provided in the Affordable Housing Incentives Program Application, including the Performance Standards.

Prior to the issuance of any Certificate of Occupancy, the following clearances must be obtained:

- Final clearance from the Housing Department that all conditions of Agreement Containing Covenants Affecting Real Property have been met.
- Planning Department clearance for payment of deferred fees.

Addresses:

Building & Safety Department
201 N. Figueroa Street, 4th Fl.
Los Angeles, CA 90012
Telephone (213) 888 LA-4-BUILD

Los Angeles Housing Dept. t
111 N. Hope Street
Los Angeles, CA 90012
Telephone (800) 994-4444

City Planning Department
201 N. Figueroa Street, 3rd Floor
Los Angeles, CA 90012
Telephone (213) 977-6083

Telephone (213) 977-6083

BY-RIGHT* APPLICATION PROCESS FOR DENSITY BONUS PROJECTS

*Projects (applying for) a maximum of 25% density bonus. Projects applying for greater density bonus shall file a Conditional Use permit application. Applicants may obtain an Instructions for Filling a Conditional Use Permit application form at the Planning Counter RM-460-S.

I. PROJECTS CONTAINING AFFORDABLE UNITS EXCLUSIVELY:

A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

II. PROJECTS CONTAINING A MIX OF MARKET RATE AND AFFORDABLE UNITS

A. APPLICANT MUST COMPLETE AN APPLICATION AT THE BUILDING & SAFETY COUNTER

Building & Safety staff will verify compliance with all applicable zoning regulations including uses, yards, density, height, parking, etc.

B. PROJECTS USING PARKING REDUCTION INCENTIVE BASED ON PROXIMITY TO TRANSIT

Applicant has to submit a site plan drawn to scale, showing the proximity of the development site to the transit route or transit station to the satisfaction of Building & Safety staff or City Planning Counter staff who will verify if project qualifies using MTA's selected bus lines list, transit system map, or any other document deemed applicable.

C. APPLICANT NEEDS TO OBTAIN CLEARANCE FROM LOS ANGELES HOUSING DEPARTMENT FOR:

1. Qualifying restricted units
2. Obtaining proof of recordation of Agreement Containing Covenants Affecting Real Property for issuance of building permit.

D. PRIOR TO FINAL PLAN CHECK, APPLICANT HAS TO OBTAIN CLEARANCE FROM PLANNING DEPARTMENT TO VERIFY THAT PERFORMANCE STANDARDS ARE SATISFIED:

Applicant shall submit final set of floor plans to Plan Approval Unit staff who will evaluate the project for compliance with development standards spelled out in the Guidelines especially design and allocation of amenities.

MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
1	Hollywood BI-Fairfax Av	7	10
2	Sunset BI-Beverly Dr	5	12
3	Sunset BI-Beverly Dr Branch of Line 2	5	10
4	Santa Monica BI	7	9
10	Melrose Av-Virgil Av-Temple St	14	24
11	Melrose-Vermont-Temple Branch of 10	14	24
14	Beverly BI-West Adams BI	8	12
16	West Third St	3	10
18	West Sixth St-Whittier BI	4	10
20	Wilshire BI-Santa Monica	12	27
21	Wilshire BI-UCLA Branch of Line 20	12	27
22	Wilshire BI-Century City-Brentwood Br of Line 20	12	27
26	Seventh St-Virgil Av-Franklin Av	8	24
27	W. Olympic BI-Burton Way Br. of Line 28	12	24
28	W. Olympic BI	12	24
30	W. Pico BI-E. First St-Floral Dr	5	10
31	W. Pico BI-E. First St Branch of Line 30	4	8
33	Venice BI	8	10
37	W. Adams BI-Branch of Line 14	7	12
38	W. Jefferson BI-City Terrace	12	20
40	Hawthorne-Downtown Los Angeles	6	10
42	LA-Westchester-LAX-Branch of Line 40	6	10
45	Broadway-Mercury Av	6	10
46	Broadway-Griffin Av-Branch of Line 45	6	10
48	Maple Av-S. Main St-Branch of Line 10	9	24
51	San Pedro St-Avalon BI-Branch of Line 51	4	12
53	Central Av	8	15
55	LA-Compton Av-Imperial Sta.	4	16
60	Long Beach BI-Santa Fe Av	3	8
65	Washington BI-Indiana St-Gage Av	15	45
66	East Olympic BI-West 8th St	3	10
67	East Olympic BI-Branch of Line 66	3	0
68	West Washington BI-Chavez Av	9	12
70	LA-El Monte via Garvey Av	8	14
71	City Terrace-Sybil Brand-Branch of Line 38	15	21
76	LA-El Monte via Valley BI	12	15
78	LA-Alhambra-South Arcadia	14	34
79	LA-Arcadia-Branch of Line 78	14	34
81	Figueroa St	7	15
83	Pasadena Av-York BI-Branch of Line 28	8	15
84	Cypress Av-Eagle Rock BI-Branch of Line 28	15	32
85	Verdugo Rd-Glendale Col-Branch of Line 28	15	32
92	LA-Glendale-Burbank-San Fernando via Glendale BI	11	20
93	LA-Glendale-Burbank-San Fernando via Allesandro-Branch of Line 92	11	20
94	Los Angeles-San Fernando	8	17
96	LA-Riverside Dr	15	30

MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
105	Vernon Av-La Cienega Bl	9	15
108	Slauson Av	10	20
110	Gage Av-Centinel Av-Fox Hills Mall	12	30
111	LAX-Florence Av-Leffingwell Rd	10	15
112	Florence Av-Otis St-Branch of Line 111	10	15
115	Manchester Av-Firestone Bl	7	15
117	Century Bl	15	20
120	Imperial Hwy	12	20
121	Imperial Hwy	12	20
125	Rosecrans Av	15	30
152	Fallbrook Av-Roscoe Bl-Vineland Av-Burbank	12	30
161	Westlake-Canoga Park	15	60
163	Sherman Wy-Hollywood	15	20
164	Victory Bl-Branch of Line 165	15	30
165	Vanowen St	15	30
175	Fountain Av-Talmadge St-Hyperion Av	15	60
180	Hollywood-Glendale-Pasadena via N. Lake	8	12
181	Hollywood-Glendale-Pasadena-PCC	8	12
200	Alvarado St-Echo Park Av	9	10
204	Vermont Av	4	5
206	Normandie Av	10	17
207	Western Av	5	17
210	Vine St-Crenshaw Bl	10	16
212	La Brea Av	8	20
217	Fairfax Av-Hollywood-Branch of Line 1	7	10
230	Laurel Canyon Bl	15	30
232	Long Beach-LAX	12	30
233	Van Nuys Bl-Branch of Line 561	10	12
234	Sepulveda Bl-Brand Bl-Sayre St	15	20
243	Desota Av-Ventura Bl-Winnetka Av	15	50
251	Soto St-Daly St-Seville Av-103rd Station	12	24
252	Soto St-California Av-Huntington Dr-Branch of Line 251	12	24
260	Artesia Sta-Pasadena-Altadena via Atlantic Bl	10	20
304	Santa Monica Bl Limited-Branch of Line 4	4	7
320	Wilshire Bl Limited-Branch of Line 20	5	9
322	Wilshire Bl-Century City-Brentwood Limited Br of Line 20	15	43
328	W. Olympic Bl Limited-Branch of Line 28	8	0
333	Venice Bl Limited-Branch of Line 33	9	0
345	Broadway Limited-Branch of Line 45	8	12
354	Vermont Av Limited-Branch of Line 204	7	15
357	Western Av Limited-Branch of Line 207	10	0
378	LA-Alhambra-So Arcadia Ltd-Branch of Line 78	13	0
379	LA-Arcadia Limited-Branch of Line 79	13	0
401	LA-Pasadena-No. Allen Express	12	30
402	LA-Pasadena Park-n-Ride-Branch of Line 401	15	0
420	LA-Van Nuys-Panorama City Express	6	10

MTA LINES OPERATING ON A FREQUENCY OF 15 MINUTES OR BETTER

Line No.	Line Name	Frequency	
		Peaks	Midday
424	LA-Ventura BI Express	9	10
425	LA-Ventura BI Exp. Limited-Branch of Line 424	6	0
426	San Fernando Valley-Wilshire Express	15	0
434	LA-Santa Monica-Malibu Express	10	30
442	LA-Hawthorne Exp.-Branch of Line 40	14	0
470	LA-Whittier-La Habra-Brea Mall Express	12	30
471	LA-Whittier-Puente Hills Mall Exp-Branch of Line 470	12	30
483	LA-Altadena via Fair Oaks Express	11	20
484	LA-El Monte-La Puente-Pomona Express	12	30
485	LA-Altadena via Lake Ave Exp-Branch of Line 483	11	20
487	LA-San Gabriel-Sierra Madre Express	8	20
489	LA-Hastings Ranch Express	8	0
490	LA-El Monte-Covina-Brea Express	15	30
497	LA-Pomona Park-n-Ride Express	9	0
522	LACC-Ventura BI-Reseda BI	12	20
561	Green Line-LAX-Van Nuys BI Ltd. Exp.	15	30
620	Boyle Heights Shuttle	0	12
801	Metro Blue Line	6	12
802	Metro Red Line	5	8
803	Metro Green Line	7	12

SETTLEMENT AGREEMENT

**BETWEEN THE CITY OF LOS ANGELES AND
THE VENICE TOWN COUNCIL, INC., THE BARTON HILL NEIGHBORHOOD
ORGANIZATION, AND CAROL BERMAN**

**CONCERNING IMPLEMENTATION OF THE MELLO ACT
IN THE COASTAL ZONE PORTIONS OF THE CITY OF LOS ANGELES**

August 29, 2000

I.	<u>FINAL SETTLEMENT AGREEMENT AND RELEASE</u>	8
II.	<u>RECITALS</u>	8
A.	PARTIES	8
B.	PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES	8
III.	<u>DEFINITIONS</u>	9
IV.	<u>GENERAL PROVISIONS</u>	14
A.	COVERAGE	14
B.	PRINCIPLES	14
V.	<u>CITY POLICIES</u>	14
A.	CATEGORICAL EXEMPTIONS	14
1.	<u>Owner-Occupied One-Family Dwellings</u>	15
2.	<u>Residential Structures Declared a Public Nuisance</u>	15
3.	<u>Small New Housing Developments</u>	15
B.	DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE	15
C.	AFFORDABILITY COVENANTS	16
D.	METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS	16
E.	AFFORDABLE HOUSING INCENTIVES	16
F.	AFFORDABLE REPLACEMENT UNITS	17
1.	<u>Income Targeting Standards</u>	17
2.	<u>Location</u>	17
3.	<u>Timing Requirement</u>	18
4.	<u>Performance Standards</u>	18

G.	INCLUSIONARY RESIDENTIAL UNITS	18
1.	<u>Standards</u>	18
2.	<u>Location</u>	19
3.	<u>Timing Requirements</u>	19
4.	<u>Performance Standards</u>	20
H.	IN-LIEU FEES	20
1.	<u>Interim Ordinance</u>	20
2.	<u>Permanent Ordinance</u>	21
3.	<u>Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees</u>	21
4.	<u>Timing of Payments</u>	22
I.	DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE	22
VI.	<u>CITY PROCEDURES</u>	22
A.	OBJECTIVES	23
B.	INITIAL SCREENING AND ROUTING	23
1.	<u>Step one. Determine Coastal Zone location.</u>	23
2.	<u>Step two. Identify Conversions, Demolitions and New Housing Developments.</u>	23
3.	<u>Step three. Identify Categorically Exempt Applications.</u>	23
4.	<u>Step four. Send notice of Categorically Exempt Applications.</u>	24
C.	DEMOLITIONS AND CONVERSIONS	24

1.	<u>Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?</u>	24
2.	<u>Question #2. Is the proposed non-residential use Coastal-Dependent?</u>	25
3.	<u>Question #3. Is a residential use feasible at this location?</u>	25
4.	<u>Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?</u>	26
5.	<u>Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?</u>	28
6.	<u>Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?</u>	29
7.	<u>Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?</u>	29
8.	<u>Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?</u>	29
D.	NEW HOUSING DEVELOPMENTS	30
E.	IN-LIEU FEES	30
F.	DETERMINATIONS	30
1.	<u>Demolitions and Conversions</u>	30
2.	<u>New Housing Developments</u>	31

G.	AFFORDABLE HOUSING PROVISION PLAN	31
1.	<u>Methods to Provide Required Affordable Units</u>	32
2.	<u>Operational Details</u>	32
H.	APPEALS	32
1.	<u>General Information</u>	32
2.	<u>Burden of Proof and Findings</u>	33
3.	<u>Notice</u>	33
4.	<u>Discretionary Applications</u>	33
5.	<u>Non-Discretionary Applications</u>	33
6.	<u>Department of Building and Safety Actions</u>	33
I.	MONITORING AND ENFORCEMENT	33
1.	<u>Approval of Applications</u>	33
2.	<u>Monitoring</u>	34
3.	<u>Affordability Covenants</u>	34
4.	<u>Financial Assurances</u>	35
5.	<u>Certificates of Occupancy</u>	35
6.	<u>Right of First Refusal</u>	35
VII.	<u>FOLLOW-UP ACTIONS</u>	35
A.	MAPPING	35
1.	<u>Coastal Zone Maps</u>	35
2.	<u>Three Mile Radius Maps</u>	35
B.	LEGISLATIVE ACTIONS	35
1.	<u>Motions</u>	35
2.	<u>Ordinances</u>	36
C.	CONSULTANT CONTRACTS	36
1.	<u>Interim Study</u>	37
2.	<u>Longer-Term Study</u>	37
D.	ANNUAL REPORT	37
E.	WORK PROGRAM	38
VIII.	<u>AGREEMENT</u>	40
A.	DISMISSAL OF ACTION WITH PREJUDICE	40

B.	PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES	40
C.	GENERAL RELEASES	40
	1. <u>Claims Defined</u>	40
	2. <u>Releases</u>	41
	3. <u>Waiver of Civil Code Section 1542</u>	41
D.	FURTHER ASSURANCES	41
E.	OWNERSHIP OF CLAIMS	41
F.	INDEPENDENT ADVICE AND INVESTIGATIONS	41
G.	MISTAKE	42
H.	GOVERNING LAW	42
I.	ENTIRE AGREEMENT	42
J.	SEVERABILITY	42
K.	AGREEMENT NEGOTIATED	42
L.	HEIRS, SUCCESSORS AND ASSIGNS	42
M.	EXECUTION IN COUNTERPARTS	43
N.	MODIFICATIONS	43
	1. <u>Time Limit Extensions</u>	43
	2. <u>City Procedures</u>	43
O.	ENFORCEMENT OF AGREEMENT	43
P.	NOTICES	43
	1. <u>Plaintiffs</u>	44
	2. <u>City of Los Angeles</u>	44
Q.	NOTICE REQUIRED	44

EXHIBITS

- A. Interim Administrative Procedures
- B. Scope of Work for Interim Study
- C. Affordable Housing Incentives Guidelines
- D. Draft Coastal Zone Maps:
 - Northwest Brentwood Subarea
 - Northeast Brentwood Subarea
 - Southwest Brentwood Subarea
 - Southeast Brentwood Subarea
 - Venice Subarea
 - Westchester Subarea
 - Northwest San Pedro Subarea
 - Northeast San Pedro Subarea
 - Southwest San Pedro Subarea
 - Southeast San Pedro Subarea
- E. Draft Map: Areas Within Three Miles of the Coastal Zone

I. FINAL SETTLEMENT AGREEMENT AND RELEASE

This Final Settlement Agreement and Release (Agreement) is entered into this _____ day of September, 2000, between the City of Los Angeles (City) and the Venice Town Council, etc. (Plaintiffs). The City and the Plaintiffs are collectively referred to in this Agreement as the "Parties" and sometimes individually referred to as "Each Party."

II. RECITALS

A. PARTIES

Plaintiffs/Petitioners ("Plaintiffs") are the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, and Carol Berman. Defendant/Respondent (Defendant) is the City of Los Angeles.

B. PROCEDURAL BACKGROUND AND INTENT OF THE PARTIES

In September, 1993, Plaintiffs filed a Petition for Writ of Mandate and Complaint for Injunction and Declaratory Relief. On October 22, 1993, the City demurred and moved to strike. The trial court granted the City's motion to strike and sustained the City's demurrers with leave to amend.

The Court also granted the City's motion to strike and sustained its demurrers with leave to amend to the Plaintiffs' First Amended Complaint and Petition for Writ. On November 18, 1994, the trial court granted the City's demurrers to the Second Amended Complaint and Petition for Writ of Mandate.

On February 24, 1995, the Plaintiffs appealed the decision sustaining the City's demurrers. The court in Venice Town Council, v. City of Los Angeles, et al., 47 Cal. App.4th 1547, 55 Cal.Rptr.2d 465 (July 31, 1996), held that the complaint stated a cause of action and the demurrers should be overruled. A significant dispute existed as to whether Defendant complied with its affordable housing obligation under the Mello Act, Government Code Section 65590 et seq. This Agreement is entered into with the intention of resolving all issues pending prior to or on the Date of Execution of this Agreement among the parties regarding the Defendant's practices under the Mello Act. However, the Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001 whichever occurs first, with regard to the following three policy areas: (1) Categorical Exemption for Small New Housing Developments (See Section V A 3); (2) Affordability Covenants (See Section V C); and Income Targeting Standards (See Section V F).

III. DEFINITIONS

“Administrative Fees” are the fees the City charges Applicants to recover the City's costs of administering the Mello Act and City Policies and City Procedures.

“Affordable Housing Incentives Guidelines” means the guidelines adopted by the City Planning Commission on December 14, 1995, as amended, pursuant to Ordinance No. 170,764, which implement California Government Code Section 65915 in the City of Los Angeles.

“Affordable Replacement Unit” means a Residential Unit built or provided that has the same number of bedrooms as the Affordable Existing Residential Unit that has been demolished or converted, with an Affordable Monthly Housing Cost.

“Affordable Monthly Housing Cost” refers, for ownership units, to the current definition contained in Health and Safety Code Section 50052.5, as further defined in 25 California Code of Regulations Section 6920. For rental units, “Affordable Monthly Housing Cost” refers to the current definition contained in Health and Safety Code Section 50053, as further defined in 25 California Code of Regulations Section 6918.

“Affordable Existing Residential Unit” means an existing Residential Unit proposed for Conversion or Demolition that is occupied by a Very Low, Low or Moderate Income Household, as determined by the Housing Department General Manager, following the occupant income determination process set forth in Section VI C 4 of this Agreement.

In the event that an existing Residential Unit is occupied by more than one person or family, and if at least one such person or family (excluding any dependents) is of Very Low, Low or Moderate Income, then the existing Residential Unit is defined as an Affordable Existing Residential Unit.

“Agreement” means this Agreement and all exhibits to the Agreement.

“Appellant” means the Applicant, current occupant, former occupant evicted within the last year, or other aggrieved person who files an appeal.

“Applicant” means the person, partnership, corporation, governmental organization, or other entity submitting a Discretionary Application and/or a Non-Discretionary Application to the City of Los Angeles.

“Application, Discretionary” means the original application for, or submission of a subsequent non-minor modification to, one or more of the following entitlements: approval-in-concept, coastal development permit, conditional use

permit, condominium conversion, development agreement, plan approval, specific plan exception, subdivision or tract map, variance, zone change or any other action that first requires the discretionary approval of the Director of Planning, the City Planning Commission, the Zoning Administrator, the Advisory Agency, or an Area Planning Commission.

“Application, Non-Discretionary” means an application for a building permit, demolition permit, or change of use permit that requires the ministerial approval of the Department of Building and Safety.

“Categorical Exemption” means an Application that the City has determined is categorically exempt from providing either Affordable Replacement Units or Inclusionary Residential Units, consistent with the Mello Act, City Policies, and the terms of this Agreement.

“City” means the City of Los Angeles and its officers, agents and employees.

“City Policies” means all interim and permanent policies, ordinances, and resolutions the City adopts to implement the Mello Act and the terms of this Agreement.

“City Procedures” means all interim and permanent administrative procedures the City adopts or issues to implement City Policies, the Mello Act, and the terms of this Agreement.

“Coastal Commission Guidelines” means the California Coastal Commission Interpretive Guidelines on Construction of New Housing adopted by the California Coastal Commission on May 5, 1981.

“Coastal-Dependent Non-Residential Use” means any non-residential development or use which requires a site on, or adjacent to, the sea to be able to function at all.

“Coastal Development Permit” means a permit for any development within the Coastal Zone that is required pursuant to Subdivision (a) of Section 30600 of the California Coastal Act.

“Coastal-Related Nonresidential Use” means any nonresidential development or use that is dependent on a Coastal-Dependent Non-Residential Use.

“Coastal Zone” means the Coastal Zone, as defined in California Public Resources Code, Division 20 (commencing with Section 30000), including, but not limited to, the Coastal Zone portions of Venice, San Pedro, Pacific Palisades, Playa

Vista, Wilmington, Fort MacArthur/White Point, Palms/Marina Freeway Area, and Del Ray Lagoon, as depicted on the City of Los Angeles Coastal Zone Maps, as prepared and maintained by the Department of City Planning. In the case of any discrepancy, the Public Resources Code shall control.

“Coastal Zone Affordable Housing Trust Fund” is the reserve account kept separate from the General Fund into which In-Lieu Fees received from Applicants shall be deposited, and which shall only be used to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to the Mello Act, City Policies and City Procedures.

“Complaint” means the Second Amended Complaint for Injunctive and Declaratory Relief and Petition for Writ of Mandate in this action.

“Conversion” means a change of one or more existing Residential Units to a condominium, cooperative, or similar form of ownership; or a change of one or more existing Residential Units to a non-residential use; or a reduction in the existing number of Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Date of Execution” means the date this Agreement is completely executed by all parties.

“Defendant” refers to the City of Los Angeles and its officers, agents and employees.

“Demolition” means the demolition of one or more existing Residential Units. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Director’s Determination” means a determination issued by the Director of Planning of the Department of City Planning, or his or her designee.

“Density Bonus” means a minimum density increase of 25 percent over the otherwise maximum allowable residential density granted pursuant to California Government Code Section 65915.

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.

“Household, Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code

Section 50079.5, as further defined in 25 California Code of Regulations 6928 and 6932.

“Household, Moderate Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50093 (b), as further defined in 25 California Code of Regulations 6930 and 6932.

“Household, Very Low Income” means a person or family with an income that conforms to the current definition contained in California Health and Safety Code Section 50105, as further defined in 25 California Code of Regulations 6926 and 6932.

“Housing Department General Manager” means the General Manager or his or her designee, of the Los Angeles Department of Housing or successor agency.

“Inclusionary Residential Unit” means a Residential Unit with an Affordable Monthly Housing Cost.

“In-Lieu Fees” means fees charged to an Applicant in-lieu of the Applicant providing Affordable Replacement Units or Inclusionary Residential Units, and that are deposited into the Coastal Zone Affordable Housing Trust Fund.

“Interim Administrative Procedures” means the Interim Administrative Procedures developed by the Departments of Building and Safety, City Planning and Housing pursuant to instruction of the City Council on January 19, 2000, and included as Exhibit A.

“Interim Ordinance” means the Interim Ordinance that on January 19, 2000, the City Council directed the Department of City Planning to prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Interim Study.

“Interim Study” means the study that consultants shall complete to assist the City in implementing the Mello Act; complying with the terms of this Agreement; updating the Interim Administrative Procedures; and preparing the Interim Ordinance.

“Local Coastal Program” means the Land Use Plan and Local Implementation Plan that a local government has adopted to implement the provisions and policies of the California Coastal Act, and that has been certified by the California Coastal Commission pursuant to Public Resources Code Section 30512.

“Longer-Term Study” means the study that consultants shall complete to assist the City in developing permanent City Policies and City Procedures.

“Mello Act” means California Government Code Sections 65590 and 65590.1

“Monthly Housing Cost” means the monthly rent or mortgage for a Residential Unit, as determined by the Housing Department General Manager.

“New Housing Development” means the development of one or more Residential Units for rent or for sale, through either construction of new structures, additions to existing structures, or the adaptive reuse of existing, non-residential structures. The structure or structures which contain these Residential Units are located on either a single lot or two or more contiguous or tied lots; or conform to the definition of a Unified Development.

“Permanent Ordinance” means the ordinance that the Department of City Planning shall prepare and submit to the City Planning Commission for approval, and that shall be based on the results of the Longer-Term Study.

“Plaintiffs” means the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, referred to in the Complaint as the Barton-Hill Neighborhood Association, Carol Berman, and their attorneys, agents and successors in interest.

“Public Nuisance” means a residential structure that has been declared a public nuisance pursuant to Division 13 (commencing with Section 17000) of the California Health and Safety Code; or any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

“Residential Unit” means a dwelling unit, efficiency dwelling unit, or joint living and work quarters as defined in Section 12.03 of the Los Angeles Municipal Code (LAMC); a mobilehome, as defined in Section 18008 of the California Health and Safety Code; a mobilehome lot in a mobilehome park as defined in Section 18214 of the California Health and Safety Code; or a residential hotel as defined in paragraph (1) of subdivision (b) of Section 50519 of the California Health and Safety Code.

“Unified Development” means a development of two or more buildings which have functional linkages such as pedestrian or vehicular connections, with common architectural and landscape features which constitute distinctive design elements of the development, and that appears to be a consolidated whole when viewed from adjoining streets. Unified Developments may include two or more contiguous parcels or lots of record separated only by a street or alley.

IV. GENERAL PROVISIONS**A. COVERAGE**

This Agreement shall cover all property within the Coastal Zone portions of the City.

B. PRINCIPLES

1. The City shall adopt City Policies and City Procedures requiring all City departments, staff, offices, agencies and employees to comply with the Mello Act and this Agreement.
2. All City Policies and City Procedures, and all other ordinances, programs, plans, and policies in the Coastal Zone, shall be consistent with the Mello Act and this Agreement. All future zoning, land use, development and planning regulations, ordinances, resolutions and policies adopted by the City shall be consistent with the Mello Act and this Agreement. City Policies and City Procedures pursuant to this Agreement may be modified based on any future amendments to the Mello Act.
3. In the case of conflict between this Agreement, City Policies, City Procedures, any geographically specific plan, Local Coastal Program, or any other regulation, the requirement which results in the provision of the largest number of Affordable Replacement Units or Inclusionary Residential Units shall apply. This Agreement and City Policies and City Procedures shall not, however, abrogate any existing development agreement executed between a property owner and the City prior to May 30, 2000.
4. Nothing in this Agreement, or any City Policies or City Procedures, shall require the City to violate any state law or to violate the rights of any person under the federal or state constitution or state law.
5. Discretionary and Non-Discretionary Applications pending as of the date of execution of this Agreement are subject to the requirements of the Mello Act.

V. CITY POLICIES

The City shall develop City Policies, which shall apply equally to Affordable Replacement Units or Inclusionary Residential Units that the Applicant provides directly, or that the City subsidizes with In-Lieu Fees. City Policies shall include the following provisions:

A. CATEGORICAL EXEMPTIONS

City Policies shall include the following Categorical Exemptions:

1. **Owner-Occupied One-Family Dwellings**

Applicants who propose to demolish the existing one-family dwelling in which they currently reside, and replace it with another one-family dwelling in which they plan to reside, are Categorical Exempt.

2. **Residential Structures Declared a Public Nuisance**

The Demolition of residential structures declared a public nuisance pursuant to the following state and local codes are Categorical Exempt:

- 2.1 Division 13 (commencing with Section 17000) of the California Health and Safety Code; or
- 2.2 Any provision of the Los Angeles Municipal Code adopted pursuant to Division 13 of the California Health and Safety Code.

3. **Small New Housing Developments**

Small New Housing Developments consisting of nine or fewer Residential Units are Categorical Exempt until the Interim Ordinance is adopted and becomes effective.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that Categorical Exempts small New Housing Developments consisting of nine or fewer Residential Units.

B. DEMOLITIONS AND NEW HOUSING DEVELOPMENTS ON THE SAME SITE

City Policies shall provide that if Affordable Existing Residential Units are proposed for Demolition, and a New Housing Development is proposed on the same site, then the requirements set forth in City Policies concerning Affordable Replacement Units and Inclusionary Residential Units are both triggered.

City Policies shall specify that the requirements concerning Inclusionary Residential Units shall only apply to the number of new Residential Units which exceeds the total number of required Affordable Replacement Units. For example, if the City's Mello Act compliance review determines that 20 Affordable Replacement Units must be provided, and the proposed New Housing Development consists of 50 new Residential Units, then the requirements concerning Inclusionary Residential Units shall only apply to the 30 excess Residential Units. If the number of excess Residential Units is Categorical Exempt pursuant to City Policies, no Inclusionary Residential Units are required.

C. AFFORDABILITY COVENANTS

City Policies shall require, at a minimum, that affordability covenants shall guarantee that Affordable Replacement Units and Inclusionary Residential Units shall remain available at an Affordable Monthly Housing Cost for not fewer than 30 years from the date the City issues the Certificate of Occupancy. Based on the results of the Interim Study, the City shall consider including a provision in the Interim Ordinance which increases this requirement from 30 years to 55 years.

The plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that does not require that affordability covenants for Affordable Replacement Units and Inclusionary Residential Units remain available at an Affordable Monthly Housing Cost for not fewer than 55 years from the date the City issues the Certificate of Occupancy.

D. METHODS TO PROVIDE REQUIRED AFFORDABLE UNITS

City Policies shall permit the provision of required Affordable Replacement Units or Inclusionary Residential Units through one or any combination of the following methods:

1. New construction;
2. Adaptive reuse (conversion of existing non-residential structures to Residential Units); and
3. Other methods permitted by the Mello Act and approved by the City Council by ordinance or resolution.

City Policies shall specify that Affordable Replacement Units or Inclusionary Residential Units may be either ownership units or rental units. City Policies shall not express a preference for one over the other type of unit.

E. AFFORDABLE HOUSING INCENTIVES

City Policies shall apply the incentives set forth in the Affordable Housing Incentives Guidelines, including a Density Bonus, to the provision of Affordable Replacement Units or Inclusionary Residential Units.

F. AFFORDABLE REPLACEMENT UNITS**1. Income Targeting Standards**

City Policies shall specify standards concerning the Affordable Monthly Housing Cost required of Affordable Replacement Units. Until the Interim Ordinance is adopted and becomes effective, Affordable Replacement Units may be provided at any Affordable Monthly Housing Cost. The Interim Study shall evaluate the following candidate standards, which the City is considering for inclusion in the Interim Ordinance:

- 1.1 Deep Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household.
- 1.2 Deep Targeting Standard, Based on Feasibility: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income Household, unless the Applicant demonstrates that deep targeting is infeasible.
- 1.3 Intermediate Targeting Standard: A Residential Unit occupied by a Very Low Income Household may only be replaced by a unit affordable to a Very Low Income or Low Income Household.
- 1.4 No Targeting Standard: A Residential Unit occupied by a Very Low Income Household may be replaced by a unit affordable to a Very Low, Low, or Moderate Income Household.

The scope of work for the Interim Study is included as Exhibit B.

The Plaintiffs reserve the right to bring legal action against the City after the Interim Ordinance is adopted and becomes effective, or January 31, 2001, whichever occurs first, with regard to any City Policy or action that does not require deep targeting as specified in Section V F 1.1 above.

2. Location

City Policies shall include standards for the required location of Affordable Replacement Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Affordable Replacement Units shall be located on-site, or elsewhere within the Coastal Zone.

- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units within three miles of the Coastal Zone by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City is considering for inclusion in the Interim Ordinance:

- 2.3 On the same site as the Conversion or Demolition;
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. **Timing Requirement**

City Policies shall require that Affordable Replacement Units be provided within three years of the date that work commenced on the Conversion or Demolition.

4. **Performance Standards**

If Affordable Replacement Units are included as part of mixed-income New Housing Developments, City Policies shall require compliance with the following portions of the performance standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

- 4.1 Project design (Section 4A, page 7); and
- 4.2 Equal distribution of amenities (Section 4B, page 8).

For all other Affordable Replacement Units, City Policies shall require compliance with the project design and amenities requirements promulgated by the Housing Department General Manager.

G. INCLUSIONARY RESIDENTIAL UNITS

1. **Standards**

City Policies shall include standards for the provision of Inclusionary Residential Units in New Housing Developments. These standards shall be based on the City's factual findings of feasibility. Until the Permanent Ordinance is adopted and becomes effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 1.1 Inclusionary Requirement Option #1. Reserve at least 20 percent of all Residential Units for Inclusionary Residential Units for Very Low or Low Income Households; or
- 1.2 Inclusionary Requirement Option #2. Reserve at least 10 percent of all Residential Units for Inclusionary Residential Units for Very Low Income Households.

City Policies shall specify that the provision of Inclusionary Residential Units for seniors or disabled persons who do not have a Very Low Income or Low Income shall not comply with these standards.

2. Location

City Policies shall include standards concerning the required location of Inclusionary Residential Units, in compliance with the Mello Act.

Until the Interim Ordinance is adopted and effective, the standards shall be the following standards set forth in the Interim Administrative Procedures (Exhibit A):

- 2.1 Inclusionary Residential Units shall be located on-site.
- 2.2 Applicants claiming it is infeasible to comply with this requirement may request permission to provide the required units elsewhere within the Coastal Zone, or within three miles of the Coastal Zone, by submitting an appeal pursuant to City Procedures.

The Interim Study shall evaluate, at a minimum, the following candidate standards which the City shall consider for inclusion in the Interim Ordinance:

- 2.3 On the same site as the New Housing Development:
- 2.4 Anywhere within the Coastal Zone;
- 2.5 Anywhere within three miles of the site, but within the Coastal Zone; and
- 2.6 Anywhere within three miles of the Coastal Zone.

3. Timing Requirements

If City Policies permit Inclusionary Residential Units for off-site provision, then City Policies shall require that these units be provided within three years of the date that the Housing Department General Manager approves the Affordable Housing Provision Plan. City Policies shall require that a New Housing Development's

required Inclusionary Residential Units and market-rate Residential Units be made available at the same time.

4. Performance Standards

City Policies shall require compliance with the following portions of the Performance Standards set forth in the Affordable Housing Incentives Guidelines (Exhibit C):

7.5.1 Project design (Section 4A, page 7); and

7.5.2 Equal distribution of amenities (Section 4B, page 8).

H. IN-LIEU FEES

City Policies shall include provisions concerning payment of In-Lieu Fees by Applicants otherwise required to provide Affordable Replacement Units or Inclusionary Residential Units. The City shall deposit In-Lieu Fees into the Coastal Zone Affordable Housing Trust Fund. Administrative Fees shall be handled separately from In-Lieu Fees.

1. Interim Ordinance

Interim In-Lieu Fees shall be deposited into an escrow account to be used solely for the purpose of providing Affordable Replacement Units and Inclusionary Residential Units. After the Permanent Ordinance is adopted and becomes effective, any amounts remaining in the escrow account shall be deposited into the Coastal Zone Affordable Housing Trust Fund.

1.1 Interim Study

The Interim Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Interim Study. The scope of work for the Interim Study is included as Exhibit B.

1.2 Affordable Replacement Units

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

1.3 Inclusionary Residential Units

The In-Lieu Fee payment schedule for New Housing Developments shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of

Inclusionary Residential Units which would otherwise be required by Inclusionary Requirement Option #1 (See Section V G 1.1); or Inclusionary Requirement Option # 2 (See Section V G 1.2).

2. **Permanent Ordinance**

2.1 **Longer-Term Study**

The Permanent Ordinance's In-Lieu Fee dollar amounts shall be based on the results of the Longer-Term Study.

2.2. **Affordable Replacement Units**

The In-Lieu Fee payment schedule for Demolitions and Conversions shall be based on dollar amounts sufficient to provide, in aggregate, the same number and type of Affordable Replacement Units which would otherwise be required by the Mello Act and this Agreement.

2.3 **Inclusionary Residential Units**

The City may adopt one or a combination of the following policy options:

2.3.1 If the City determines that some or all Inclusionary Residential Units are feasible either on-site or off-site, the City shall permit the Applicant to pay In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units which would otherwise be required by City Policies, the Mello Act and this Agreement.

2.3.2 If the City determines that some or all Inclusionary Residential Units are infeasible both on-site or off-site, but that payment of some amount of In-Lieu Fees is feasible, the City may charge such In-Lieu Fees.

3. **Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees**

City Policies shall include the following provision: If In-Lieu Fees, Los Angeles Rental Housing Production Fees, or any similar affordable housing fees all apply to an Application, the greatest of these fees shall apply. Any fees collected shall first be deposited in the Coastal Zone Affordable Housing Trust Fund to provide Affordable Replacement Units or Inclusionary Residential Units. Then, to the extent that there are fees above and beyond those required pursuant to City Policies, those additional fees shall be deposited into the Rental Housing Production Fund.

4. Timing of Payments

City Policies shall require that In-Lieu Fees shall be paid in full as follows:

- 4.1 New Housing Developments: prior to issuance of the building permit;
- 4.2 Demolitions: prior to issuance of the demolition permit; and
- 4.3 Conversions: prior to recordation of the tract or parcel map, issuance of the building permit, or issuance of the change of use permit, as applicable.

Alternatively, the City may allow the Applicant to post a bond by the dates specified in Sections V H 4.1, 4.2, and 4.3 above, guaranteeing payment of all In-Lieu Fees in full within one year. The City may provide for a short-term deferral of any In-Lieu Fees if necessary to facilitate the development of any Affordable Replacement Units or Inclusionary Residential Units being built as part of a New Housing Development.

I. **DEMOLITION OR CONVERSION OF EXISTING RESIDENTIAL STRUCTURES FOR PURPOSES OF A NON-COASTAL-DEPENDENT, NON-RESIDENTIAL USE**

City Policies shall include a City presumption that a continued residential use is feasible. City Policies shall specify that the City shall deny these Applications unless the Applicant proves with substantial evidence that a residential use is not feasible on the site of the residential structure or structures proposed for Demolition or Conversion.

VI. CITY PROCEDURES

The City shall develop and implement City Procedures binding on City departments and City staff for processing Applications pursuant to the Mello Act and City Policies. The City may revise and amend City Procedures if the City Council determines that doing so advances the goals of the Mello Act, is beneficial or appropriate for administrative efficiency, and is in compliance with State law.

Attached to this Agreement are Interim Administrative Procedures (Exhibit A). These procedures shall remain in effect until the Interim Ordinance is adopted and effective.

A. OBJECTIVES

City Procedures shall accomplish the following objectives:

1. Each Application in the Coastal Zone that conforms to the definition of a Demolition, Conversion or New Housing Development shall be identified.
2. Each residential structure proposed for Demolition or Conversion for purposes of a non-Coastal-Dependent, non-residential use shall be identified.
3. Each Application in the Coastal Zone identified as being subject to the Mello Act shall receive the proper Mello Act compliance review and determination based on that review, pursuant to City Policies and City Procedures, regardless if the Application is regulated by any geographically specific plan or Local Coastal Program. This requirement shall also apply to any Application exempted from the requirement to obtain a coastal development permit.
4. Each determination which requires findings shall be supported by such written findings, which in turn shall be supported by evidence in the file which contains the determination.

B. INITIAL SCREENING AND ROUTING

The City shall develop and implement a procedure to identify each Application subject to the Mello Act. The procedure shall consist of the following steps:

1. **Step one. Determine Coastal Zone location.**

The City shall determine which Applications are located in the Coastal Zone. If an Application is located in the Coastal Zone, the City shall go to step two.

2. **Step two. Identify Conversions, Demolitions and New Housing Developments.**

The City shall identify Applications that involve one or more Residential Units, and determine if any of these Applications conform to the definition of a Demolition, Conversion or New Housing Development. If Demolitions, Conversions or New Housing Developments are identified, the City shall go to step three below.

3. **Step three. Identify Categorically Exempt Applications.**

The City shall identify Applications which are determined to be Categorically Exempt from providing either Affordable Replacement Units or Inclusionary Residential Units

as set forth in City Policies and the Mello Act. If the City identifies Applications as Categorically Exempt, the City shall go to step four. If the City identifies Applications as not being Categorically Exempt, the City shall review these Applications for compliance with the Mello Act as set forth in City Procedures.

4. **Step four. Send notice of Categorically Exempt Applications.**

The City shall simultaneously send notice of determinations that an Application is Categorically Exempt pursuant to step three above, within five working days of the date the determination is made, to the Applicant and to other parties specified in City Procedures. In addition, the City shall simultaneously send notice to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective. Notice of determinations that an Application is Categorically Exempt because the residential structure has been declared a public nuisance shall also be simultaneously sent to all building occupants.

Determinations that a proposed Demolition, Conversion or New Housing Development is Categorically Exempt are appealable pursuant to City Procedures.

C. DEMOLITIONS AND CONVERSIONS

For each Discretionary and Non-Discretionary Application determined not to be Categorically Exempt, the City shall complete a Mello Act compliance review to determine the total number of Affordable Replacement Units the Applicant is required to provide pursuant to the Mello Act and City Policies.

The compliance review shall be structured to answer the questions and follow the procedures and steps listed below. The City shall prepare and use a worksheet to complete each Mello Act compliance review. The City shall attach supporting documentation to each completed worksheet.

1. **Question #1. Will residential structures be demolished or converted for purposes of a non-residential use?**

If the answer to question #1 is "yes," and existing residential structures are proposed for Demolition or Conversion for purposes of a non-residential use, then the City shall go to question #2 to determine if the proposed use is Coastal-Dependent.

If the answer to question #1 is "no," the City shall skip to question #4 to determine if any of the Residential Units proposed for Demolition or Conversion are Affordable Existing Residential Units.

2. **Question #2. Is the proposed non-residential use Coastal-Dependent?**

If the answer to question #2 is "yes," the City shall skip to question #4. If the answer to question #2 is "no," the City shall go to question #3.

3. **Question #3. Is a residential use feasible at this location?**

The City shall presume that a continued residential use is feasible. Applicants may challenge the City's presumption by presenting substantial evidence to the contrary. The City shall consider the following in reviewing an Applicant's challenge to the City's presumption:

- 3.1 The Applicant has the burden of proof. Proximity to other existing, viable residential uses is strong evidence that a residential use is feasible.
- 3.2 An Applicant may not claim infeasibility merely because the site is zoned commercial. Commercial zones in the City of Los Angeles generally permit residential uses. However, in some cases a "Q" or "D" limitation may be imposed on a particular property which prohibits residential uses.
- 3.3 If the existing, underlying zoning or any other applicable regulation prohibits all residential uses, then the Applicant may cite those facts if the Applicant is challenging the City's presumption. If an Applicant has non-conforming or other rights which permit a continued residential use, then the Applicant may not contend that the existing zoning renders a residential use infeasible.
- 3.4 An Applicant may not initiate and obtain approval for a zone change which prohibits residential uses and subsequently claim infeasibility based on that zone change.
- 3.5 An Applicant may not claim infeasibility merely because the site is zoned industrial if a Zoning Administrator had previously approved joint living and work quarters for that site. A Zoning Administrator's grant runs with the land.
- 3.6 An Applicant may not claim financial infeasibility unless it can clearly document an inability to rent or sell the current premises based on the site's unique characteristics or circumstances. Unique characteristics or circumstances include proximity to noxious and incompatible existing uses that are likely to remain, and that render a continued residential use infeasible. If challenging the City's presumption, an Applicant may not cite mere proximity to commercial or industrial uses.
- 3.7 An Applicant may claim infeasibility due to the site's unique geologic or other topographical features which render it unsafe for human habitation. Applicants must provide supporting documentation.

- 3.8 An Applicant may not claim infeasibility because the current premises are dilapidated or are in a state of disrepair due to the Applicant's failure to make reasonable repairs or to adequately maintain the site. The City may require the Applicant to correct substandard conditions before it will further consider an Applicant's challenge of the City's presumption.

The City may require that an independent analysis of the alleged risks of other uses or hazards be performed by an expert acceptable to the City, at the Applicant's expense.

If the Applicant has proved with substantial evidence that a residential use is infeasible, the City shall record a "no" answer to question #3, and go to question #4.

If the Applicant has not proved with substantial evidence that a residential use is infeasible, the City shall record a "yes" answer to question #3. The City shall stop the Mello Act compliance review process and deny the Discretionary or Non-Discretionary Application to demolish or convert a residential structure for purposes of a non-Coastal-Dependent, non-residential use, regardless of the income of current or past occupants; the form of ownership; or rents charged, for-sale prices, or appraised value.

4. **Question #4. Are any Affordable Existing Residential Units Proposed for Demolition or Conversion?**

City Procedures shall identify occupants in structures proposed for Demolition or Conversion who may have a Very Low, Low or Moderate Income. City Procedures shall follow the steps below:

- 4.1 Step one. Send general notice to all occupants of structures proposed for Demolition or Conversion. This notice shall contain the following: (a) a description of the proposed Demolition or Conversion; (b) an explanation of the purpose of the Mello Act and the City's Mello Act compliance review process; (c) a description of the rights that building occupants determined to have a Very Low, Low or Moderate Income shall have, including a right of first refusal on an Affordable Replacement Unit; (d) a referral to a specified source of further assistance, to be selected by Western Center on Law and Poverty, Inc.; and (e) a City telephone number to call for additional information.
- 4.2 Step two. Identify long-term vacant residential units. A Residential Unit shall not be classified as an Affordable Existing Residential Unit if it has been unoccupied for more than 365 consecutive days prior to the Application's filing. The Applicant has the burden of proving long-term vacancy. If the Applicant has established long-term vacancy, then the City shall not classify the Residential Unit as an Affordable Existing Residential Unit.

4.3 Step three. Determine occupant income based on Monthly Housing Cost or actual income data. The City may determine occupant income using Monthly Housing Cost as a substitute for actual income, or by collecting and verifying actual income. If current Monthly Housing Cost data indicate that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If not, the City shall collect prior Monthly Housing Cost data for at least the previous three years. If the average Monthly Housing Cost over this period indicates that the existing Residential Unit is affordable to a Very Low, Low or Moderate Income Household, then that Residential Unit shall be presumed to be occupied by a person or family with a Very Low, Low or Moderate Income. If three years of Monthly Housing Cost data is not available or readily obtainable, then the City shall determine occupant income through the direct collection and verification of actual income data.

If occupant income is based on Monthly Housing Cost, the City shall go to step four. If occupant income is based on actual income, the City shall: (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

4.4 Step four. Verify accuracy of occupant income based on Monthly Housing Cost data. The City shall provide occupants and Applicants with the opportunity to verify the accuracy of occupant income determinations based on Monthly Housing Cost. The City shall provide persons and families presumed not to have a Very Low, Low or Moderate income with the opportunity to submit data verifying actual income. Likewise, the City shall provide Applicants with a roster of occupants presumed to have a Very Low, Low or Moderate Income, who may then submit data verifying actual income.

The City is responsible for verifying the accuracy of any submitted income data. The City shall use actual income data to correct any incorrect occupant income determinations based on Monthly Housing Cost. Based on this review, the City shall (a) go to step five if the person or family does not have a Very Low, Low or Moderate Income; or (b) go to step six if the person or family does have a Very Low, Low or Moderate Income.

4.5 Step five. Identify and determine if any evictions were for the purpose of evading the Mello Act. The City shall conduct an investigation to carry out the following provision set forth in Government Code Section 65590 (b): For purposes of this subdivision, a residential dwelling unit shall be deemed occupied by a person or family of low or moderate income if the person or family was evicted from that dwelling unit within one year prior to the filing of an application to convert or demolish the unit, and if the eviction was for the

purpose of avoiding the requirements of this subdivision. If a substantial number of persons or families of low or moderate income were evicted from a single residential development within one year prior to the filing of an application to convert or demolish the structure, the evictions shall be presumed to have been for the purpose of avoiding the requirements of this subdivision and the applicant for the conversion or demolition shall bear the burden of proving that the evictions were not for the purpose of avoiding the requirements of this subdivision. The City shall identify those Residential Units presumed to have a Very Low, Low or Moderate Income based on its investigation. After completing step five, the City shall go to step six.

4.6 Step six. The City shall prepare a report summarizing the results of the occupant income determination process for occupants of structures proposed for Demolition or Conversion. This report shall contain the following information for each structure:

4.6.1 One-family dwellings: total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.2 Two-family dwellings: Total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.3 Triplexes and other structures that contain three or more Residential Units: total number of Residential Units and total number of Affordable Existing Residential Units.

4.6.4 Summary: total number of Residential Units and total number of Affordable Existing Residential Units.

The report shall also provide the following information for each identified Affordable Existing Residential Unit:

4.6.5 Address;

4.6.6 Names of occupants; and

4.6.7 Number of bedrooms.

5. **Question #5. Is the Application for Coastal-Dependent or Coastal-Related Non-Residential uses? Are these non-residential uses consistent with the land use plan of a certified Local Coastal Program?**

If the answer to both questions is "yes," the City shall skip to question #8. If the answer to either question is "no," the City shall go to question #6.

6. **Question #6. Are eleven or more Residential Units proposed for Demolition or Conversion?**

If the total number of Residential Units proposed for Demolition or Conversion is ten or fewer, the City shall record a "no" answer to question #6 and go to question #7. If the Applicant is proposing to demolish or convert eleven or more Residential Units, the City shall record a "yes" answer to question #6, and require that all of the Affordable Existing Residential Units identified by the answer to question #4 be replaced as a condition of Application approval.

7. **Question #7. Are any Affordable Existing Residential Units in one-family or two-family dwellings?**

If the answer to question #7 is "yes," the City shall go to question #8. If the answer to question #7 is "no," and all of the Affordable Existing Residential Units identified by the answer to question #4 are in triplexes and other structures that contain three or more Residential Units, the City shall require that all of these units be replaced as a condition of Application approval.

8. **Question #8. Is it infeasible for the Applicant to replace any of the Affordable Existing Residential Units identified by answers to questions #5 and #7?**

If the answer to question #8 is "yes," the City shall determine the number of Affordable Replacement Units it is infeasible for the Applicant to provide, and record this number on the worksheet. The City shall then subtract this number from the number of Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

If the answer to question #8 is "no," then it's feasible for the Applicant to replace all Affordable Existing Residential Units identified by the answer to question #4. This is the total number of required Affordable Replacement Units. The City shall require the Applicant to provide this number of Affordable Replacement Units as a condition of Application approval.

City Policies and City Procedures with regard to question #8 shall include the City's consideration of typical public subsidies, and other affordable housing incentives available by-right. Until the Interim Ordinance is adopted and becomes effective, the City shall answer question #8 pursuant to the provisions set forth in the Interim Administrative Procedures (Exhibit A). Thereafter the City shall answer question #8 by following the provisions set forth in those City Policies and City Procedures in effect after the Interim Ordinance is adopted and becomes effective. After January 31, 2001 the City shall not use Attachment 3 to Exhibit A (Form CP-6391) to answer question #8.

D. NEW HOUSING DEVELOPMENTS

City Procedures shall implement the standards concerning the provision of Inclusionary Residential Units in New Housing Developments set forth in City Policies.

E. IN-LIEU FEES

City Procedures shall implement the provisions concerning In-Lieu Fees set forth in City Policies.

F. DETERMINATIONS

City Procedures shall specify that a determination shall be issued for each Demolition, Conversion, and New Housing Development determined not to be Categorically Exempt.

For Discretionary Applications, the City shall issue the determination as written conditions attached to the determination made with respect to the underlying case. All completed forms, correspondence received and sent, and other supporting documentation shall be attached to the file the City creates for the underlying case.

For Non-Discretionary Applications, the City shall issue the determination as a Director's Determination. The City shall prepare a file, and attach all completed forms, correspondence received and sent, and other supporting documentation.

The City shall simultaneously transmit a copy of each determination to the Applicant, all building occupants, and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of each determination to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

1. Demolitions and Conversions

Each determination shall include the following:

- 1.1 Results of the Mello Act compliance review process completed pursuant to City Procedures;
- 1.2 Total number of identified Affordable Existing Residential Units;
- 1.3 Total number of required Affordable Replacement Units;
- 1.4 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures;
- 1.5 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan prepared pursuant to City Procedures; and
- 1.6 Information for Appellants pursuant to City Procedures.

2. New Housing Developments

Each determination that includes a requirement that the Applicant provide Inclusionary Residential Units shall include the following:

- 2.1 A requirement that the Applicant comply with the requirements concerning Inclusionary Residential Units set forth in City Policies.
- 2.2 Total number of required Inclusionary Residential Units.
- 2.3 A requirement that the Applicant comply with the requirements set forth in City Policies and City Procedures.
- 2.4 A statement that the City shall not approve the Application until the City has approved the Affordable Housing Provision Plan pursuant to City Procedures.
- 2.5 Information for Appellants pursuant to City Procedures.

G. AFFORDABLE HOUSING PROVISION PLAN

City Procedures shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units to prepare and submit for the City's review and approval an Affordable Housing Provision Plan which specifies

how the Applicant shall comply with City Policies. The City's approval of the Affordable Housing Provision Plan shall be a condition of Application approval.

The City shall require the Affordable Housing Provision Plan to include the following elements:

1. **Methods to Provide Required Affordable Units**

The Affordable Housing Provision Plan shall specify the methods by which Applicants shall provide required Affordable Replacement Units or Inclusionary Residential Units, as permitted by City Policies.

2. **Operational Details**

The Affordable Housing Provision Plan shall contain the following operational details:

- 2.1 Address where Affordable Replacement Units or Inclusionary Residential Units will be provided, if the determination permits these units to be provided off-site.
- 2.2 General description of the Affordable Replacement Units or Inclusionary Residential Units to be provided, including the number and type of habitable rooms; square footage; and parking.
- 2.3 Affordable housing incentives and subsidies that will be utilized.
- 2.4 Methods for complying with the Performance Standards set forth in City Policies, including a dispersal plan if Affordable Replacement Units or Inclusionary Residential Units shall be provided on-site. Affordable Replacement Units or Inclusionary Residential Units may not be segregated from market-rate units, but shall be reasonably dispersed throughout the building; and
- 2.5 Financing; construction plan; and project timetable for complying with the timing requirements set forth in City Policies for Affordable Replacement Units and Inclusionary Residential Units.

H. APPEALS

The City shall permit determinations to be appealed. City Procedures shall include the following requirements and provisions:

1. **General Information**

Each determination issued pursuant to City Procedures shall identify deadlines, filing fees, the appellate body, and other necessary procedures and requirements for considering the appeal.

2. **Burden of Proof and Findings**

Appellants shall have the burden of proof. Applicants shall present substantial evidence to support their appeal supported by specific facts. In granting an appeal, the appellate body shall find that the appeal is consistent with the Mello Act.

3. **Notice**

The City shall simultaneously transmit a copy of the results of each appeal to the Applicant, all building occupants and any other parties specified in City Procedures. In addition, the City shall simultaneously transmit a copy of the results of each appeal to the Plaintiffs specified in Section VIII P starting from the date the Interim Administrative Procedures (Exhibit A) went into effect, and ending two years after the Permanent Ordinance is adopted and becomes effective.

4. **Discretionary Applications**

The appeals procedures and appellate body shall be those connected to the underlying case.

5. **Non-Discretionary Applications**

Appellants may appeal a Director's Determination using the forms and following the City Procedures promulgated by the City. Until July 1, 2000, the appellate body shall be the Board of Zoning Appeals. After July 1, 2000, the appellate body shall be the Area Planning Commission.

6. **Department of Building and Safety Actions**

Appellants may appeal Department of Building and Safety decisions and determinations to the Board of Building and Safety Commissioners pursuant to Los Angeles Municipal Code Section 98.0403.1.

I. MONITORING AND ENFORCEMENT

The City shall monitor and enforce compliance with all conditions set forth in determinations.

1. **Approval of Applications**

The City shall not issue any permits or other approvals for any Applications determined not to be Categorically Exempt until the Applicant has satisfied all conditions set forth in the determination and City Policies and City Procedures.

2. **Monitoring**

2.1 If the determination requires the provision of Affordable Replacement Units or Inclusionary Residential Units, the City shall require the Applicant to comply with the monitoring requirements set forth in Section IV C of the Affordable Housing Incentives Guidelines (page 10 of Exhibit C).

2.2 The City may require Applicants to submit periodic progress reports which describe the progress the Applicant is making in implementing the approved Affordable Housing Provision Plan.

2.3 The City shall conduct annual monitoring of all Affordable Replacement Units and Inclusionary Residential Units to insure that they continue to be available at an Affordable Monthly Housing Cost and occupied by Very Low, Low and Moderate Income Households. The City's monitoring procedures may include a requirement that owners of Affordable Replacement Units and Inclusionary Residential Units submit tenant income information to the City that has been verified by third party sources, and that meets the same standards for income verification as the requirements set out in the City's HOME and Community Development Block Grant (CDBG) programs.

3. **Affordability Covenants**

3.1 The City shall require Applicants required to provide Affordable Replacement Units or Inclusionary Residential Units pursuant to an approved Affordable Housing Provision Plan to record a covenant with the Los Angeles County Recorder guaranteeing that these units shall remain available at an Affordable Monthly Housing Cost for not fewer than the number of years specified in City Policies, from the date the City issues the Certificate of Occupancy. The covenants recorded with the County Recorder's office shall run with the land and be enforceable by the City.

3.2 Tenants, rental applicants, purchasers and prospective purchasers of the Affordable Replacement Units or Inclusionary Residential Units shall have the right to seek an injunction to enforce the affordability criteria, or to raise the affordability criteria as a defense or counterclaim to a claim for rent or possession directly against the owner, manager, and/or their successors in interest, of those units.

4. **Financial Assurances**

The City may require Applicants to post a bond or make other financial assurances to assure compliance with the final approved Affordable Housing Provision Plan.

5. **Certificates of Occupancy**

The City shall not issue final certificates of occupancy for any of the buildings in a New Housing Development or Conversion until all of the conditions set forth in the determination have been satisfied in full, and all required affordability covenants have been recorded.

6. **Right of First Refusal**

The City shall require Applicants to provide notice to the City when an Affordable Replacement Unit becomes available for occupancy. The City shall then require the Applicant to provide notice to the occupants of the Affordable Existing Residential Unit that was demolished or converted. The notice shall explain that if the occupants have a qualifying income, they shall have a right of first refusal on the Affordable Replacement Unit.

VII. FOLLOW-UP ACTIONS

A. MAPPING

1. **Coastal Zone Maps**

The City shall prepare maps which identify those lots and properties that are located in the Coastal Zone portions of the City of Los Angeles. A draft of these maps is attached as Exhibit D.

2. **Three Mile Radius Maps**

The City shall prepare maps which depict those areas of the City of Los Angeles that are located within a three mile radius of the inland boundary of the Coastal Zone. A draft of these maps is attached as Exhibit E.

B. LEGISLATIVE ACTIONS

The City Council has agreed that it shall take the following legislative actions:

1. **Motions**

The City Council shall adopt the following motions:

- 1.1 A motion which rescinds the Board of Zoning Appeals policy set out in the July 24, 1990 memo regarding presumptions on appeals; and
- 1.2 A motion which supersedes the March 20, 1984 report from the Planning and Environment Committee adopted by the City Council (File No. 81-6299).

2. **Ordinances**

2.1 Mello Act Implementation Ordinances

The City Council shall adopt Interim and Permanent Ordinances to implement the Mello Act and the provisions of this Agreement; and to establish Administrative Fees which shall be charged to Applicants to recover the City's costs in administering the Mello Act, City Policies, City Procedures, and the provisions of this Agreement.

2.2 Coastal Zone Affordable Housing Trust Fund Ordinance

The City Council shall adopt an ordinance which establishes the Coastal Zone Affordable Housing Trust Fund.

2.3 Simultaneous Application of Rental Housing Production Fees and In-Lieu Fees

The City Council shall adopt an ordinance amending Los Angeles Municipal Code Section 12.95.2(K) providing for the simultaneous application of Rental Housing Production Fees and In-Lieu Fees, as specified in Section VI G 4 of this Agreement.

2.4 Rent Stabilization Ordinance and Condominium Conversion Provisions

The City shall evaluate its Rent Stabilization Ordinance (RSO) and condominium conversion provisions to determine if any amendments are needed to make them consistent with City Policies and City Procedures. If so, the City shall prepare the necessary amendments and submit them to the City Council for review and possible action.

C. **CONSULTANT CONTRACTS**

The City shall enter into one or more consulting contracts to complete studies to assist it in implementing the provisions of this Agreement and the Mello Act; and to develop City Policies and City Procedures. These studies shall be made available to the Plaintiffs and the public within five working days of the City's receipt of these studies from the consultants. Consultants shall be available for reasonable consultations with the Plaintiffs and the Plaintiffs' attorneys during and following any study.

1. **Interim Study**

The City shall enter into a contract with the consulting firm of Hamilton, Rabinovitz & Alschuler (HR&A) to complete the Interim Study. The scope of work for this contract is included as Exhibit B.

2. **Longer-Term Study**

The City shall enter into a contract with a qualified consultant to complete the Longer-Term Study. Among other provisions, the contract scope of work shall require the consultant to:

- 2.1 To take into consideration the public subsidies and other incentives the City typically utilizes to encourage affordable housing in evaluating proposed City Policies regarding the feasibility of Affordable Replacement Units and Inclusionary Residential Units, as required by the Mello Act; and
- 2.2 Determine the amount of In-Lieu Fees sufficient to provide, in aggregate, the same number and type of Inclusionary Residential Units otherwise required by City Policies, the Mello Act and this Agreement.

D. ANNUAL REPORT

The City shall prepare and annually release to the public a report which contains, at a minimum, the following information for the preceding year:

1. The number of new Residential Units for which the City issued building permits in the Coastal Zone;
2. The number of Inclusionary Residential Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone;
3. The number and location of new Inclusionary Residential Units for which construction was completed, either within the Coastal Zone or within three miles of the Coastal Zone;
4. The number and location of Affordable Existing Residential Units approved for Demolition or Conversion;
5. The number of Affordable Replacement Units that the City required to be provided either within the Coastal Zone, or within three miles of the Coastal Zone; and

6. The number and location of Affordable Replacement Units for which construction was completed either within the Coastal Zone, or within three miles of the Coastal Zone.

Information concerning Affordable Existing Residential Units, Affordable Replacement Units, and Inclusionary Residential Units shall be organized by the following sub-categories:

7. Very Low Income Households;
8. Low Income Households; and
9. Moderate Income Households.

E. WORK PROGRAM

Upon the date this Agreement is executed, the City shall initiate a work program to implement the terms of this Agreement. The City shall submit to the plaintiffs quarterly progress reports which describe the reasonable further progress the City is making. The City shall complete the following work program tasks by the dates referenced below, with the understanding, however, that there may be minor and reasonable delays in completing these tasks by these dates:

Task	Date
1. Prepare and release Interim Administrative Procedures (Exhibit A).	The Interim Administrative Procedures were released on May 17, 2000.
2. Execute consultant contract with HR&A to complete Interim Study (VII C 1).	The consultant contract was executed on July 7, 2000.
3. City Council rescinds Board of Zoning Appeals policy. (VII B 1.1).	Within 60 days of Date of Execution of this Agreement.
4. City Council rescinds March 20, 1984 report from the Planning and Environment Committee. (VII B 1.2).	Within 60 days of Date of Execution of this Agreement.
5. Prepare and release final Coastal Zone maps (VII A 1).	October 5, 2000.
6. Prepare and release final Three Mile Radius maps (VII A 2).	October 5, 2000.

7.	Prepare and submit to the plaintiffs the first required quarterly progress report covering the period from the Date of Execution through and including September 30, 2000.	October 16, 2000. Thereafter quarterly progress reports shall be submitted no less than 10 working days after the end of the quarter.
8.	Complete Interim Study (Exhibit B).	October 1, 2000.
9.	Prepare and submit Interim Ordinance to City Planning Commission (VII B 2.1).	December 2, 2000.
10.	Prepare and submit ordinance establishing the Coastal Zone Affordable Housing Trust Fund to City Council (VII B 2.2).	December 2, 2000.
11.	Prepare and submit to the City Council an ordinance concerning the simultaneous application of Rental Housing Production and In-Lieu Fees. (VII B 2.3).	February 2, 2001.
12.	Review Rent Stabilization Ordinance and condominium conversion provisions, and prepare any necessary amendments. Submit ordinance (s) to City Council. (VII B 2.4).	February 2, 2001, if the City determines any amendments are necessary.
13.	Revise and release Interim Administrative Procedures. Complete related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Interim Ordinance.
14.	Select consultant to complete Longer-Term Study (VII C 2).	June 1, 2001.
15.	Prepare and release the first annual report (VII D) covering the period from the Date of Execution through and including June 30, 2001. Thereafter, the annual report shall be prepared covering the period from July 1 through June 30 of the following year.	September 17, 2001. Thereafter the annual report shall be prepared and released within 60 working days of June 30.
16.	Execute contract with selected consultant to complete Longer-Term Study (VII C 2).	October 1, 2001.

17. Complete Longer-Term Study (VII C 2).	October 1, 2002.
18. Prepare and submit Permanent Ordinance to City Planning Commission (VII B 2.1).	January 10, 2003.
19. Prepare and release Permanent Administrative Procedures. Revise related administrative forms and documents (Exhibit A).	Within 30 working days of effective date of Permanent Ordinance.

VIII. AGREEMENT

NOW THEREFORE, the Parties agree as follows:

A. DISMISSAL OF ACTION WITH PREJUDICE

Within 28 business days after the City executes this Agreement, the Plaintiffs agree to file with the Court a Request for Dismissal of the Action with prejudice.

B. PAYMENT OF PLAINTIFFS' ATTORNEYS' FEES, COSTS AND EXPENSES

Within 28 business days after the parties execute this Agreement, the City shall deliver a check in the amount of \$_____ [to be inserted later] made payable to Western Center on Law and Poverty, Inc., as payment for all claims by Plaintiffs in this action for attorneys' fees, costs and expenses. Western Center on Law and Poverty, Inc., shall assume responsibility for distributing this payment to the different attorneys and law firms that represented Plaintiffs in this Action.

C. GENERAL RELEASES

1. Claims Defined

For purposes of this Agreement, the term "Claims" shall be defined as any actions, claims, demands, suits, liens, debts, dues, damages, judgments, bonds, executions, and liabilities of whatever kind, nature or description whatsoever, known or unknown, suspected or unsuspected, arising out of, or in any way related to the City's implementation of the Mello Act prior to the Date of Execution of this Agreement.

2. **Releases**

Except as otherwise set forth in this Agreement, the Parties hereby fully, finally, and forever release and discharge each other of and from all manner of Claims.

3. **Waiver of Civil Code Section 1542**

The Parties acknowledge that if they hereafter discover facts in addition to or different from those which they may now know or believe to be true with respect to the subject matter of this Agreement, it is nevertheless their intention to fully and forever settle and release any and all Claims. In furtherance of this intention, the Parties, acknowledge that they are familiar with section 1542 of the California Civil Code which provides:

"A general release does not extend to [Claims] which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties hereby waive and relinquish any rights and benefits they may have under section 1542, and represent that section 1542 has been fully explained to them by their attorneys.

D. FURTHER ASSURANCES

The Parties agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and shall perform any and all acts and things reasonably necessary in connection with the performance of the obligations under this agreement and to carry out the intent of the Parties.

E. OWNERSHIP OF CLAIMS

The Parties hereby warrant that they are the owners of, and the Party legally entitled to settle and release, every Claim referred to in this agreement.

F. INDEPENDENT ADVICE AND INVESTIGATIONS

Each Party represents and warrants that it has received independent legal advice from its attorneys with respect to the execution of this Agreement and that it has read this Agreement and understands its contents. Each Party represents and warrants that it has made such investigation of the facts pertaining to the settlement set forth in this Agreement and of all matters pertaining thereto as it is independently deemed necessary and appropriate. Each Party further represents and warrants that it has relied solely upon facts obtained from its own investigations and upon the advice of its own attorneys and legal representatives in executing this

Agreement and that it has not relied upon any statement or representation of any other Party or their attorneys or representatives.

G. MISTAKE

In entering into this Agreement, each Party assumes the risk of any mistake. If any Party should subsequently discover that any fact relied upon by it in entering into this Agreement was untrue or that its understanding of the facts or the law was incorrect, that Party shall not be entitled to relief in connection herewith and including without limitation on the generality of the foregoing, no Party shall have any right or claim to set aside or rescind this Agreement. This Agreement is intended to be and is final and binding between the Parties to the agreement regardless of any claims of mistake of fact or law.

H. GOVERNING LAW

This Agreement shall be governed by and construed under the laws of the State of California.

I. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to its subject matter. All prior and contemporaneous conversations, negotiations, possible or alleged agreements, covenants, releases, representations and warranties in respect of the subject matter of this Agreement are integrated herein and superseded by this Agreement.

J. SEVERABILITY

In the event any part of this Agreement should be found invalid, unenforceable, or nonbinding, the remaining portion will remain in force and fully binding.

K. AGREEMENT NEGOTIATED

The text of this Agreement is the product of negotiation among the Parties and their counsel and is not to be construed as having been prepared by one party or the other.

L. HEIRS, SUCCESSORS AND ASSIGNS

This Agreement shall bind and inure to the benefit of the Parties and their heirs, successors and assigns.

M. EXECUTION IN COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument.

N. MODIFICATIONS**1. Time Limit Extensions**

Any time limit contained in this Agreement may be extended by the mutual agreement of the parties in writing, which agreement will reasonably be given.

2. City Procedures

In addition to the authority for modification set forth in Part VI, the parties may also agree to modify the City Procedures contained in this Agreement; however, any such modification must be in writing and signed by the parties' respective counsel.

O. ENFORCEMENT OF AGREEMENT

If any party allegedly breaches this Agreement, then the party alleging the breach shall notify the breaching party in writing. The notice shall set forth, with reasonable particularity, the alleged breach. The party alleged to have breached this Agreement shall meet with the party giving notice and attempt to resolve the alleged breach within 30 days of the mailing of the notice of alleged breach. If the parties cannot resolve the alleged breach, either party may seek judicial relief by filing a new action in Los Angeles Superior Court to enforce the terms of this Agreement. The aggrieved party may seek judicial relief prior to the expiration of 30 days if necessary to prevent the expiration of any rights, claims, or causes of action or to prevent irreparable harm. The following individuals or entities shall be entitled to enforce this Agreement as assignees of the Plaintiffs specified in Section VIII P:

Venice Community Housing Corporation;
Dan Tokaji; and
Linda Lucks.

P. NOTICES

Any notices, reports or other documents required to be provided pursuant to this Agreement shall be sent by first class mail to the parties at the following addresses, or any subsequent address or person provided by a party:

1. Plaintiffs

Richard A. Rothschild
Western Center on Law and Poverty
3701 Wilshire Boulevard, Suite 208
Los Angeles, CA 90010

Robert Jacobs
Law Office of Robert Jacobs
12240 Venice Boulevard, Suite 25A
Los Angeles, CA 90066

2. City of Los Angeles

Franklin P. Eberhard, Deputy Director
Department of City Planning
221 North Figueroa Street, 16th Floor
Los Angeles, CA 90012

Q. NOTICE REQUIRED

In addition to any notices otherwise required by this Agreement, Defendants shall provide Notice to Plaintiffs until two years after the Permanent Ordinance is adopted as follows:

1. Notice shall be given no less than 24 days prior to:
 - 1.1 Any proposed change in any City Policies or City Procedures regarding the Mello Act;
 - 1.2 Any proposal to adopt or amend any ordinances or resolutions implementing the Mello Act, including any ordinances proposed as a result of any of the consultant studies referenced in this Agreement;
 - 1.3 Any submission of any local coastal plan or any land use portion of a Local Coastal Program to the Coastal Commission for approval, pursuant to Public Resources Code Section 30512.
2. Notice shall be given within 15 days of any changes to the maps defining or describing the Coastal Zone, or the description of such boundaries.
3. Notice shall be given within five days of receipt of any studies, including interim reports (deliverables), commissioned by the City in conjunction with the Mello Act.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Date: CITY OF LOS ANGELES
By _____
Its _____

Date: VENICE TOWN COUNCIL, INC.
By _____
Its _____

Date: CAROL BERMAN

Date: BARTON HILL NEIGHBORHOOD ORGANIZATION
By _____
Its _____

Date: APPROVED AS TO FORM:
CITY OF LOS ANGELES
JAMES K. HAHN, City Attorney
By _____
Its _____

Date:

WESTERN CENTER ON LAW AND
POVERTY, INC.
LAW OFFICES OF ROBERT JACOBS
LEGAL AID FOUNDATION OF LONG
BEACH

By _____

**Los Angeles Office**

3701 Wilshire Boulevard
Suite 208
Los Angeles, CA 90010-2809
Telephone: (213) 487-7211
Fax: (213) 487-0242

Deborah J. Cantrell
Executive Director

Richard A. Rothschild
Director of Litigation

Robert D. Newman
Attorney at Law

Clare Pastore
Attorney at Law

Yolanda C. Vera
Attorney at Law

Emma Leheny
Skadden Fellow

Paula Gaber
Liman Fellow

Sacramento Office

1225 Eighth Street, Suite 415
Sacramento, CA 95814-4879
Telephone: (916) 442-0753
Fax: (916) 442-7966

Casey McKeever
Directing Attorney

Christine Minnehan
Legislative Advocate

Holly J. Mitchell
Legislative Advocate

Oakland Office

449 Fifteenth Street, Suite 301
Oakland, CA 94612-2038
Telephone: (510) 891-9794
extension: 125
Fax: (510) 891-9727

Dara L. Schur
Attorney at Law

<http://www.wclp.org/>

August 28, 2000

Via Facsimile and U.S. Mail

Claudia Culling
Deputy City Attorney
1800 City Hall East
200 North Main Street
Los Angeles, California 90012-4130

Re: The Venice Town Council, Inc., et al. v. City of Los Angeles
Case No. BC 089678

Dear Ms. Culling:

After protracted negotiations, the parties have reached agreement on every issue in this case with the exception of attorneys' fees, costs and out-of-pocket expenses. You recently informed us that you would recommend that the City Council make a counter offer to us that is less than half of our settlement offer concerning fees, costs and expenses. As will be discussed more below, we cannot accept your counter offer. Nevertheless, in a good faith effort to resolve this case, we are willing to deduct nearly \$50,000 from our earlier proposal. If the City Council is willing to accept our revised proposal, then we have a deal. Alternatively, we would be willing to enter into an agreement with the City Council which resolves every issue in this case except for fees, costs and expenses. The parties would also agree to continue their negotiations over fees, etc. (perhaps using a mediator or the assistance of our settlement judge) and, failing such agreement after a reasonable period of time, submit the matter to the court for resolution.

Summary of Fee Negotiations to Date

To recap the fee negotiations, plaintiffs, by letter dated May 26, 2000, offered to settle for \$465,586.44 in fees and \$10,560.44 in reimbursement for out-of-pocket expenses. The fee figure was based on the number of hours documented by each attorney and law clerk times a reasonable hourly rate. In addition, we subtracted hours that we did not believe should be billed to the City, and then took a voluntary 5% across-the-board reduction to account for any other arguably unproductive time.

Your letter of July 28 reports that the City retained an auditor to review our fee request. Based on the auditor's analysis, you stated that you will recommend to

Claudia Culling
August 28, 2000
Page 2

the City Council a \$225,000 settlement. In a later telephone conversation with plaintiffs' counsel Bob Newman, you said that you had no intention of negotiating, but would present the \$225,000 figure to the Council. You said you would permit plaintiffs an opportunity to respond.

Why the City Should Continue to Negotiate

We hope that you will reconsider your refusal to negotiate. The Western Center on Law and Poverty, which will receive the major portion of any fee award, is a non-profit legal services program that receives no federal funding and is thus dependent in large part on court awarded attorneys' fees in successful cases like this one. The work of the Center benefits poor people throughout the City. We have litigated along side the City, as we did in *City of Los Angeles v. County of Los Angeles*, which resulted in reforms preventing the County from arbitrarily terminating people from General Relief, often at City expense. We have worked directly for the City, as we did a few years ago when we studied the effects on poor communities of redlining by financial institutions. Similarly, co-counsel Robert Jacobs has devoted most of his private practice to representing poor people, often in *pro bono* cases, work that is beneficial to the residents of this City.

Even in this case, where we were adversaries, the work that counsel did will benefit the City. The settlement agreement will ensure that for the first time when developers propose to tear down low income housing in the Coastal Zone there will be a decent opportunity to save that housing, or at least to insure that replacement housing will be built. In addition, there is a much greater chance as a result of this suit that new housing in the Coastal Zone will include affordable housing. In the midst of an ongoing housing crisis, this can only benefit the City.

While none of this means that the City should accept our fee request regardless of its merits, it does militate against presenting plaintiffs with a "take it or leave it" offer of less than 50 cents on the dollar. The parties should negotiate in good faith based on the merits of the fee request. With that hope in mind, we will respond as best we can to your letter and make a counter-offer.

Claudia Culling
August 28, 2000
Page 3

Responses to Concerns Raised Concerning Fee Request

Unfortunately, you have not shared with us the auditor's report, making a rebuttal rather difficult. The best we can do is respond to the general concerns raised in your letter.

Preliminarily, the fact that a document is labeled an "auditor's" report does not confer added legitimacy to the contents of the report. Unlike in the accounting field where auditors are licensed and have to conform to certain standards, here an "auditor" is simply a person hired by a defendant to critique a plaintiff's fee request. The auditor may or may not know anything about the case, and may nor may not know much about the governing substantive law or attorneys' fees case law. The only certainty is that unless the auditor recommends major reductions in the fee request, he or she is unlikely to find future work in this field. In cases my colleagues and I have litigated, judges have never put great stock in "auditors'" reports generated by defendants.

This auditor's report, as summarized by you, should fare no better. First, you question the extent to which plaintiffs were prevailing parties. Contrary to your characterization, the Court of Appeal completely reversed the judgment against plaintiffs. *Venice Town Council v. City of Los Angeles*, 47 Cal.App.4th 1547 (1996). Far from being satisfied with the language of the opinion, the City unsuccessfully petitioned for rehearing in the Court of Appeal and later review in the California Supreme Court.

While the Court of Appeal opinion did state that a court could not order the City to enact a particular ordinance or program (*id.* at 1561), it does not follow that plaintiffs failed to achieve prevailing party status. "The critical fact is the impact of the action, not the manner of its resolution. A prevailing party should not be penalized for seeking an out of court settlement, thus helping to lessen docket congestion." *Folsom v. Butte County Assn. of Governments*, 32 Cal.3d 668, 685, 186 Cal.Rptr. 589 (1982) (citation and internal quotation marks omitted) (awarding fees to plaintiffs who achieved favorable settlement). While there may have been limits to what a court would have ordered, we were confident of obtaining some declaratory and injunctive relief requiring the City to comply with the Mello Act. If the City did not then implement appropriate procedures, and the Act continued to be ignored, we would have continued to litigate until achieving compliance. By settling the suit instead, the parties achieved the same result. This does not disqualify plaintiffs from a fee award.

Claudia Culling
August 28, 2000
Page 4

Your suggestion that we achieved our goals merely through “successful constituent lobbying of elected officials” is simply wrong. As our time records show, only a handful of the many hundreds of hours in the settlement phase could were spent contacting Council members. The remaining hours were devoted to hammering out draft after draft of settlement documents, meeting with you and City staff (there were at least 18 face-to-face meetings) and all the other tasks needed to resolve this lawsuit. Plaintiffs are entitled to fees.

As for the appropriate amount, you contend first that “various charges would be unrecoverable even if brought before the court as they are insufficiently documented or not recoverable as appropriate categories. . . .” The “insufficiently documented” claim is incorrect. Plaintiffs have documented their hours to a *greater* degree than required by California law. *See, e.g., Best v. California Apprenticeship Council*, 193 Cal.App.3d 1448, 1470 (1987) (“an award under [42 U.S.C.] section 1988 does not require contemporaneously recorded time sheets, although they are preferred.”) (emphasis in original); *Dunk v. Ford Motor Co.*, 48 Cal.App.4th 1794, 1810 (1996) (where counsel did not keep time records “they should be able to produce estimates based on the functions performed that will allow the court to properly calculate the lodestar amount.”); *Martino v. Denevi*, 182 Cal.App.3d 553, 559 (1986) (“an attorney need not submit contemporaneous time records in order to recover attorney fees”).

In this case, the hours are all documented by detailed descriptions of the date work was done and the services performed, based on contemporaneous time records. You suggested in a conversation with Mr. Newman that some of the conversations recorded do not indicate the subject matter, but these are a rather small minority of the entries, and since most of them took place in the midst of settlement negotiations it is not difficult to ascertain “the functions performed” *Martino*, 182 Cal.App.3d at 559. We cannot respond to your other claim concerning “appropriate categories” because you have not explained it.

Next, you contend that the billing rates are not prevailing rates for the size of plaintiffs’ counsel’s firms. Declarations I have gathered in recent cases indicate that the rates we seek are consistent with rates charged by private firms of varying sizes. The top rate we seek is \$375 per hour for John Huerta, who started practice in 1970, and was, at the time of his participation in the suit, the former number two attorney int the Justice Department’s Civil Rights Division and a well respected civil rights litigator. A 1974 or 1975 graduate—four or five years *less experienced* than Mr. Huerta—would be billed at \$450 per hour at Feder & Mills, a *two-person* bankruptcy

Claudia Culling
August 28, 2000
Page 5

firm; \$500-\$600 per hour at Trope & Trope, a 25-lawyer firm; and \$450 per hour at O'Neill, Lysaght & Sun (17 lawyers). A 1971 graduate is billed at \$495 per hour at Ross, Sacks & Glazier, a ten-attorney probate litigation firm.

Moreover, as the Council can see from the Mello Act procedures it previously approved and the settlement agreement before it now, the *quality* of the work performed is easily equivalent to the work done by large private law firms. The rates we seek are reasonable.

Finally, you question compensating travel time for Dara Schur. In Davis v. City and County of San Francisco, 976 F.2d 1536, 1543 (1992), the court affirmed an award that included full compensation for travel time where "counsel have submitted evidence establishing that local attorneys customarily bill their clients for travel time" Declarations I have gathered in recent cases indicate that the prevailing custom in Los Angeles is to bill fully for time necessarily spent traveling on a case.

You state that Ms. Schur's participation was "for the convenience of the plaintiffs, but not necessary for the litigation . . ." Once Mr. Huerta left the Western Center, there were very few attorneys we could call upon with the expertise of Ms. Schur in the intricacies of low income housing, inclusionary requirements and other land use issues. That expertise was critical to forging a settlement that would actually lead to affordable housing opportunities. We tried to associate in local counsel with that kind of expertise—Carlyle Hall—and he agreed to participate in the suit. Unfortunately, *the City* refused to permit Mr. Hall to do so on the ground that he was representing the Airport Commission in an unrelated matter, so we were forced to turn to Ms. Schur. The City is not in a position now to complain about paying for Ms. Schur's travel time.

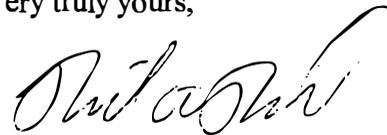
Plaintiffs' Counter-Offer

Nonetheless, as travel time is not an issue that has been decided yet in California state courts, for purposes of settlement we will reduce our claim by \$25,000, one half of your estimate of how much was billed for travel time. That would bring our claim to \$440,000.

Claudia Culling
August 28, 2000
Page 6

In addition, as we cannot rule out the possibility that the auditor might have found legitimate, or at least arguable reasons for a reduction, we are willing to reduce our claim by another 5%. We are willing to settle for \$418,000 in fees and \$10,560.44 in out-of-pocket expenses.

Very truly yours,



Richard A. Rothschild
Attorney for Plaintiffs

cc: Robert Jacobs
Dara Schur
Robert Newman
Deborah Cantrell

PRINT-VIEW RECORD(S) ▼

Previous Record

Next Record

*Record 2 of 3***DOCID**

98-0255

STATUS

c

CHNGDATE

1/26/00

TITLE

VENICE TOWN COUNCIL

AUTHOR

City Atty R98-0036

SUBJECT

Req Ccl consider settlement offer for Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678

DATEREC

2/6/98

DEPT

City Atty

ACTIONS

2-6-98 - For Ccl - File to B&F Comt Clk

9-16-98 - MEMORANDUM TO FILE - The City Council held a Closed Session on Wednesday, 9-16-98, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to litigation case entitled Venice Town Council, vs City of Los Angeles, LASC Case No BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq; considered by B&F Comt on 3-10-98].

The purpose of this memorandum is to note for the record that action was taken by the City Council in Closed Session on the above date, and instructions given to the City Attorney relative to the subject lawsuit.

6-1-99 - For Ccl - City Atty R99-0149 - Req Ccl consider rept re: Venice Town Council v. City of Los Angeles La Superior Court Case No. BC 089678.

6-1-99 - File to Minute Clk - Attn: K. Carter

7-27-99 - Closed Session - Withdrawn from Ccl agenda - Referred to the City Atty

7-28-99 - File to City Atty

12-9-99 - File & City Atty R99-0409 rept received re: Settlement discussion on Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 - to Cal Clk

1-5-00 - MEMORANDUM TO FILE - The City Council held a Closed Session on Wednesday, January 5, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. The entire matter was continued to 1-19-00, to be considered in Open Session

1-19-00 - File in files

1-19-00 - MEMORANDUM TO FILE - The City Council recessed to Closed Session on Wednesday, January 19, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. Action was taken in Closed Session

1-26-00 - File in files

Simple Search

Advanced Search

PRINT-VIEW RECORD(S) ▼

Previous Record

Next Record

98-0255

January 19, 2000

PLACE IN FILE

JAN 26 2000

DEPUTY *gc*MEMORANDUM TO FILE

The City Council recessed to Closed Session on Wednesday, January 19, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. Action was taken in Closed Session.

Maria Kostrencich
MARIA KOSTRENCICH
Council Clerk

980255.mem

dated December 3, 1999.

2. PRESENT and ADOPT accompanying ORDINANCE OF INTENTION setting the date of MARCH 15, 2000 as the hearing date for maintenance of the following lighting districts, in accordance with Proposition 218, Articles XIIIIC and XIIIID of the California Constitution and Government Code Sections 50078.6, 54954.6 and 54960.1:
 - a. Noeline Avenue and Ventura Boulevard Lighting District
 - b. Osborne Place and Foothill Boulevard Lighting District
 - c. Platt Avenue and Saticoy Street Lighting District

(Board of Public Works Hearing Date: March 6, 2000)

ITEM NO. (17) - COUNCIL RECESSED TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a) - ACTION TAKEN IN CLOSED SESSION

98-0255 - CONTINUED CONSIDERATION OF PLANNING DEPARTMENT RECOMMENDATIONS
CD 6 relative to case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 (alleged violation of Mello Act, Government Code 65590, et seq.).

(City Council may recess to Closed Session pursuant to Government Code Section 54956.9(a) to discuss the above matter)

(Continued from Council meeting of January 5, 2000)

ITEM NO. (18) - CONTINUED TO FEBRUARY 9, 2000

00-0005 - RESOLUTION accepting the inclusion of property at 1810 West 12th
S1 Street into the Rent Escrow Account Program [REAP], (Case No. 2847
CD 1 - waterproofing, plumbing/gas violations, with the effective date of August 9, 1999), as recommended by the REAP Committee on December 14, 1999, based upon the evidence provided during the Formal Conference, pursuant to Ordinance No. 164205; and ADOPT the Findings contained in the Los Angeles Housing Department's Report of November 19, 1999. Assessor I.D. No. 5137-027-006
Registration No. 0339341

ITEM NO. (19) - ADOPTED

00-0005 - RESOLUTION accepting the inclusion of property at 4478 1/2 West
S2 Rose Hills Drive into the Rent Escrow Account Program [REAP],
CD 1 (Case No. 2857 - waterproofing, plumbing/gas, heating, electrical, cleanliness, floors/stairways, unapproved use and smoke detectors violations, with the effective date of May 13, 1999), as recommended by the REAP Committee on December 14, 1999, based upon the evidence provided during the Formal Conference, pursuant to Ordinance No. 164205; and ADOPT the Findings contained in the Los Angeles Housing Department's Report of November 19, 1999.

98-0255

January 5, 2000

PLACE IN FILES

JAN 21 2000

DEPUTY

M E M O R A N D U M T O F I L E

The City Council held a Closed Session on Wednesday, January 5, 2000, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel relative to settlement discussion in the case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Cast No. BC 089678.

The purpose of this memorandum is to note for the record that the City Council discussed this matter on the above date in Closed Session. The entire matter was continued to January 19, 2000, to be considered in Open Session.


MARIA KOSTRENCICH
Council Clerk

98-0255.mem

not signed

98-0255

CITY OF LOS ANGELES SPEAKER'S BOARD

Date 1/19/00

Council File No., Agenda Item, or Case No. 17

I wish to speak before the Council
Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal
() Against proposal
Name: Don Jacobo General comments

Business or Organization Affiliation: Counsel for Plaintiffs

Address: 1240 Venice #25A LA CA 90066
Street City State Zip

Business phone: 213 296 6600 Representing: Plaintiffs

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

Client Name: _____ Phone #: _____

Client Address: _____
Street City State Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

CITY OF LOS ANGELES SPEAKER BOARD

Date

1/19/06

Council File No., Agenda Item, or Case No.

17

I wish to speak before the

City Council

Name of City Agency, Department, Committee or Council

Do you wish to provide general public comment, or to speak for or against a proposal on the agenda? () For proposal

() Against proposal

Name:

Dara Schor

(x) General comments

Business or Organization Affiliation:

Western Center on Law & Poverty

Address:

3701 Wilshire Blvd

Los Angeles

CA

90010-90010

Street

City

State

Zip

Business phone:

213 487 7211 x21

Representing:

Plaintiffs in Venice Town Council v LA

CHECK HERE IF YOU ARE A PAID SPEAKER AND PROVIDE CLIENT INFORMATION BELOW:

Client Name:

Phone #:

Client Address:

Street

City

State

Zip

Please see reverse of card for important information and submit this entire card to the presiding officer or chairperson.

NOTICE OF LOBBYING REGISTRATION

If you are receiving compensation to make this appearance, the City's municipal lobbying ordinance (L.A.M.C. Section 48.01 et seq., as amended) may require you to register and report your lobbying activity. For more information about the City's lobbying law, contact the City Ethics Commission at (213) 237-0310, by fax at (213) 485-1093 or at 201 N. Los Angeles St., L.A. Mall, Suite 2, Los Angeles, CA 90012.

Information about lobbying the City of Los Angeles may also be found on the Internet by accessing the Ethics Commission site on the City of Los Angeles "home page" located at <http://www.ci.la.ca.us>

JAN 19 2000

Date: _____

Council Item No. 17

PLEASE PRINT

*PERSONS SEATED AT CENTER TABLE
TO ANSWER QUESTIONS AND
PROVIDE INFORMATION TO COUNCIL MEMBERS*

	NAME	TITLE	ORGANIZATION
1.	Alan Bell	PLANNING ASSOC	L.A. CITY PLANNING
2.	Frank Eberhard	Deputy Director of Planning	L.A. City Planning
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			

CLOSED SESSION - ITEM 32**ITEM NO. (32) - MEETING HELD - NO ACTION TAKEN**

99-2277 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9 (a), to confer with its legal counsel relative to the communication from the City Attorney with respect to discussion in case entitled Hernandez v. Gates, et. al., United States District Court Case No. CV 99-11696-TJH (alleged violation of civil rights).

(Budget and Finance Committee considered this matter on December 7, 1999)

CONTINUED CLOSED SESSIONS - ITEMS 33-34**ITEM NO. (33) - MEETING HELD - CONTINUED TO JANUARY 19, 2000**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Case No. BC 089678.

(Continued from Council meeting of December 14, 1999)

ITEM NO. (34) - MEETING NOT HELD - CONTINUED TO FEBRUARY 2, 2000

99-1792 - The City Council shall recess to Closed Session pursuant to Government Code Sections 54956.9(a) and 54956.9(b) to confer with its legal counsel relative to litigation in case entitled Korean-American Grocers Association, et al. v. City of Los Angeles, United States District Court Case No. 99-08560 (challenge to City's Ordinance restricting alcohol advertising on on-site and off-site signs) and implications of Lindsay v. Tacoma Pierce County, United States Court of Appeal 98-35416 (health-based Ordinance restricting tobacco outdoor advertising held preempted by federal law).

(Continued from Council meeting of December 15, 1999)

CLOSED SESSIONS - ITEMS 38-39**ITEM NO. (38) MEETING NOT HELD - CONTINUED TO JANUARY 5, 2000**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Case No. BC 089678.

ITEM NO. (39)

The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to the following cases:

- 99-2269 - A. Anthony L. Ogden, et al., v. City of Los Angeles, Los Angeles Superior Court Case BC 180347 (automobile accident at the intersection of 2nd and San Pedro Streets on April 30, 1997 involving a Los Angeles Police Officer).
- 99-2255 - B. Leslie De La Cruz v. City of Los Angeles, Los Angeles Superior Court Case EC 025581 (hit and run accident on October 16, 1997 in the intersection of Lankershim Boulevard and Armintha Street in a marked crosswalk, by a vehicle operated by a Los Angeles Police Officer).
- 99-0591 - C. John A. Francois v. City of Los Angeles, Los Angeles Superior Court Case BC 186536 (police officer alleging race harassment and discrimination in employment, and retaliation for activity protected under state and federal civil rights laws).

ADJOURNING MOTIONS**COUNCIL ADJOURNMENT**

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

COUNCIL RULE NO. 53 - If an Agenda item or other item has been duly placed before the Council at a Council meeting and the Council has failed by sufficient votes to approve or reject the item, or the Council has not by its vote placed the item beyond its jurisdiction at the meeting, or by operation of law, or by passage of time the Council has not lost the power to act thereon, the item is continued to the next regular meeting unless the Council affirmatively votes to continue the item beyond such next meeting. Each Council Agenda shall indicate that if the Council has not lost jurisdiction over an item voted upon at the meeting, or caused it to be continued beyond the next regular meeting or placed in the archives, the item is continued to the next regular meeting for the purpose of permitting reconsideration of the vote. Any item so continued to the next regular meeting shall be considered at said meeting. The Clerk shall provide the Council with, and post a notice of, a list of such items.

98-0255



WRITER'S DIRECT DIAL: (213)847-0562
FAX: (213) 485-8899
TTY: 38

Office of the City Attorney
Los Angeles, California

JAMES K. HAHN
CITY ATTORNEY

REPORT NO. R99-0409

DEC 09 1999

~~CONFIDENTIAL REPORT~~ ^{ke}

SETTLEMENT DISCUSSION ON
VENICE TOWN COUNCIL V. CITY OF LOS ANGELES
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council
of the City of Los Angeles
Room 615, City Hall
200 North Main Street
Los Angeles, California 90012

Re: Council File No. 98-0255 - not transmitted

BY CITY CLERK
99 DEC -9 PM 12:36
RECEIVED
CITY CLERK'S OFFICE

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, *et seq.*). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

As you may recall, the City successfully demurred to the complaint on the ground that the complaint did not allege that the City violated any mandatory duty. The petitioners appealed, and the Court of Appeal reversed, holding that the plaintiffs sufficiently alleged duties under the Act which the City was obligated to perform. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing those duties.

AN EQUAL EMPLOYMENT OPPORTUNITY — AFFIRMATIVE ACTION EMPLOYER

1800 CITY HALL EAST • 200 N. MAIN STREET • LOS ANGELES, CA 90012-4131 • (213) 485-6370

Honorable City Council
of the City of Los Angeles
Page 2

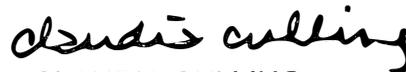
On January 15, 1998, this office received a settlement offer in this case which we forwarded to you for your consideration. On September 16, 1998, you instructed us to prepare a counter-offer and submit it to the plaintiffs. The plaintiffs' response prompted us to report back to you on August 27, 1999, at which time you gave us further instructions. As a result, we have worked with City staff and negotiated with the plaintiffs and come to you with the results of that work and negotiation. We seek your guidance as to how you wish to proceed. You may wish to discuss this matter in *closed* session pursuant to California Government Code § 54956.9(a).

We will be available to answer any questions you may have with regard to this matter.

Very truly yours,

JAMES K. HAHN, City Attorney

By



CLAUDIA CULLING
Deputy City Attorney

J. MICHAEL CAREY
City Clerk

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

CITY ATTORNEY
LAND USE/ENVIRONMENTAL
RECEIVED

AUG - 2 1999

AUG 2 - 1999

When making inquiries
relative to this matter
refer to File No.

98-0255

City Attorney (w/file)

At the meeting of the Council held July 27, 1999, a motion was adopted that the Closed Session relative to settlement discussion in the case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.] BE WITHDRAWN from Council agenda and REFERRED BACK TO City Attorney for further consideration.



J. MICHAEL CAREY
City Clerk

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES

CALIFORNIA



RICHARD J. RIORDAN
MAYOR

Office of the
CITY CLERK
Council and Public Services
Room 615, City Hall
Los Angeles, CA 90012
Council File Information - (213) 485-5703
General Information - (213) 485-5705

AUG 2 - 1999

98-0255

City Attorney (w/file)

At the meeting of the Council held July 27, 1999, a motion was adopted that the Closed Session relative to settlement discussion in the case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.] BE WITHDRAWN from Council agenda and REFERRED BACK TO City Attorney for further consideration.



CLOSED SESSION - ITEM 30**ITEM NO. (30) WITHDRAWN FROM COUNCIL AGENDA - REFERRED TO THE CITY ATTORNEY**

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Roos Act, Government Code 65590, et seq.]

CONTINUED CLOSED SESSION - ITEM 31**ITEM NO. (31) RECEIVED AND FILED, INASMUCH AS THIS MATTER HAS BEEN ACTED ON BY COUNCIL PREVIOUSLY**

The City Council shall recess to Closed Session, pursuant to Government Code Section 54957.6, to consider recommendations of the Executive Employee Relations Committee concerning further bargaining instructions to the City Administrative Officer, and other issues involving employee wages and benefits with respect to the following:

Special Memorandum of Understanding regarding City employee parking and commute options.

(Continued from Council meeting of April 27, 1999)

ADJOURNING MOTIONS**COUNCIL ADJOURNMENT**

EXHAUSTION OF ADMINISTRATIVE REMEDIES - If you challenge a City action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to, the public hearing. Any written correspondence delivered to the City Clerk before the City Council's final action on a matter will become a part of the administrative record.

COUNCIL RULE NO. 53 - If an Agenda item or other item has been duly placed before the Council at a Council meeting and the Council has failed by sufficient votes to approve or reject the item, or the Council has not by its vote placed the item beyond its jurisdiction at the meeting, or by operation of law, or by passage of time the Council has not lost the power to act thereon, the item is continued to the next regular meeting unless the Council affirmatively votes to continue the item beyond such next meeting. Each Council Agenda shall indicate that if the Council has not lost jurisdiction over an item voted upon at the meeting, or caused it to be continued beyond the next regular meeting or placed in the archives, the item is continued to the next regular meeting for the purpose of permitting reconsideration of the vote. Any item so continued to the next regular meeting shall be considered at said meeting. The Clerk shall provide the Council with,

ITEM NO. (27)

99-0993 - MOTION (MISCIKOWSKI - HERNANDEZ) relative to a personal services contract with Michael A. Jimenez to provide services to the Eleventh Council District.

Recommendations for Council action:

1. APPROVE the personal services contract with Michael A. Jimenez to provide services to the Eleventh Council District from May 10, 1999 to June 30, 1999, in an amount not to exceed \$1,800 from funds available in the Council Office Budget.
2. AUTHORIZE the Councilmember of the Eleventh Council District to execute said contract on behalf of the City.
3. INSTRUCT the City Clerk to encumber the necessary funds against the Contractual Services Account of the Council Fund for the Fiscal Year 1998-99.

ITEM NO. (28)

98-1627 - FINAL MAP OF TRACT NO. 52495 lying southwesterly of Fenton Avenue and southeasterly of Astoria Street
(Approve Subdivision Improvement Agreement and Contract with attached security documents)
(ADOPT Bond No. C-98139)
(Quimby Fee: \$73,334.00)
(Expiration Date: May 29, 2001)
Applicants: Kaufman & Broad of Southern California, Inc.
Pace Engineering, Inc.

ITEMS CALLED SPECIAL

PUBLIC TESTIMONY ON NON-AGENDA ITEMS

MOTIONS FOR POSTING AND REFERRAL

COUNCILMEMBERS' REQUESTS FOR EXCUSE FROM ATTENDANCE AT COUNCIL MEETINGS

CLOSED SESSION - ITEM 29

ITEM NO. (29) MEETING NOT HELD - CONTINUED TO JULY 27, 1999

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq.]

For Wednesday, June 9, 1999 - Konrad

CLOSED SESSION - ITEM

ITEM NO. ()

98-0255 - The City Council will recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to settlement discussion in the case Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq.]

98-0255.age

JUL 27 1999 - Mtg Not Held - Withdrawn from Council Agenda - Referred to the City Atty

CF 98-1760

September 16, 1998

PLACE IN FILES
OCT 15 1998
MEMORANDUM TO FILE

The City Council held a Closed Session on Wednesday, September 16, 1998, pursuant to authority provided in California Government Code Section 54956.9(a) to confer with its legal counsel with respect to litigation case entitled Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678 [alleged violation of the Mello Act, Government Code 65590, et seq; considered by the Budget and Finance Committee on March 10, 1998].

The purpose of this memorandum is to note for the record that action was taken by City Council in Closed Session on the above date, and instructions given to the City Attorney relative to the subject lawsuit.


MARIA KOS TRENCICH
Legislative Assistant I/Assistant Minute Clerk

**PLEASE SCHEDULE THE FOLLOWING ITEM FOR CLOSED SESSION ON
WEDNESDAY, SEPTEMBER 16, 1998, per B&F Comte:**

Tks,

mk

CLOSED SESSION

ITEM NO. () -

98-0225 - The City Council shall recess to Closed Session, pursuant to Government Code Section 54956.9(a), to confer with its legal counsel relative to litigation case entitled, Venice Town Council v. City of Los Angeles, Los Angeles Superior Court Case No. BC 089678, [Alleged violation of the Mello Act, Government Code 65590, et seq; considered by Budget and Finance Committee on March 10, 1998].



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

CRIMINAL BRANCH
(213) 485-5452

CIVIL BRANCH
(213) 485-6370

WRITER'S DIRECT DIAL

(213) 485-6420
NUMBER

FAX: (213) 485-8899

REPORT NO. R98 0036

FEB 05 1998

REPORT RE:

SETTLEMENT OFFER

VENICE TOWN COUNCIL V. CITY OF LOS ANGELES
LOS ANGELES SUPERIOR COURT CASE NO. BC 089678

Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

On September 23, 1993, Venice Town Council, *et al*, sued the City alleging a violation of the Mello Act (Government Code § 65590, et seq.). That Act requires, among other things, replacement of demolished and converted low and moderate income housing and provision of affordable units when new housing is developed in the Coastal Zone.

The City successfully demurred to the complaint on the ground that the complaint did not allege that the City violated any mandatory duty. The petitioners appealed, and the Court of Appeal reversed, holding that the plaintiffs sufficiently alleged duties under the Act which the City was obligated to perform. The matter was remanded to the trial court to determine if the City actually violated the Act by not performing those duties.

On January 15, 1998, this office received the attached settlement offer in this case. We are forwarding that offer to you for your consideration. You may wish to discuss this matter in *closed* session pursuant to California Government Code § 54956.9(a).



RECEIVED
CITY CLERK'S OFFICE

98 FEB -6 AM 9:09

BY CITY CLERK
DEPUTY

Honorable City Council
of the City of Los Angeles
Page 2

We will be available to answer any questions you may have with regard to this matter.

Very truly yours,

JAMES K. HAHN, City Attorney

By *Claudia Culling*
CLAUDIA CULLING
Deputy City Attorney

CC:rp
Attachment

(56717)