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TO: Carmen Trutanich, City Attorney
FAX #: 213/978-8312

TO: Councilmember Tom LaBonge
FAX #: 213/624-7810

RE: Unlawful Street Closures in Council District #4

DATE: Tuesday, October 25, 2011

NOTE

This fax consists of FIVE [5] pages including this cover page. If you do not receive all pages or experience trouble with the transmission, please call 310/273-5464.

Dear Sirs:

Faxed herewith please find a copy of my letter of this date, Tuesday, October 25, 2011, to the City Attorney's Office concerning unlawful street closures in Council District #4.

Very truly yours,

Richard MacNaughton

Richard MacNaughton
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Tuesday, October 25, 2011

Carmen Trutanich, Esq.
City Attorney for City of Los Angeles
200 North Main Street, 8th Floor
Los Angeles, California 90012

Via fax, email and US mail

RE: Unlawful Closure of Streets in CD #4 North of Franklin Ave
including Council Motion 11-1222, Vehicle Codes §§ 21101.4,
21101.6, Citizens Against Gated Enclaves v. Whitley Heights
Civic Assn. (1994) 23 Cal.App.4th 812, 28 Cal.Rptr.2d 451)

Dear Mr. Trutanich:

The right to travel is based on the inalienable and constitutional right to Liberty. A restriction on travel is a restriction of Liberty. Thus, the state of California finds travel on public roads, including public stairs, sidewalk, cul de sacs, to be a fundamental right.

Citizens Coalition of Los Angeles [CC-LA], Hollywoodians Encouraging Logical Planning [H.E.L.P.] and various Hollywood residents have asked that this office contact the City Attorney to rectify the unlawful closure of streets north of Franklin Avenue in Hollywood.

Enclosed for your convenience please find a copy of Council Motion 11-1222 introduced on July 13, 2011 and passed on September 16, 2011. Council-member La Bonge is using Council Motion 11-1222 and some other closures as precedent to close various streets in the hills and allow only the residents to have access. In alluding to the Runyon Canyon streets closures as precedent, Council District #4 announced at a meeting concerning problems caused by tourism beneath the Hollywood Sign that cul de sacs in the hills may be closed.

Carmen Trutanich, City Attorney
Tuesday, October 25, 2011

While City Attorney's Office represents the City and not the public at large, an attorney's duties do include helping its client to avoid litigation. Motion 11-1222 needs to be repealed or else the City and the homeowners will be sued and other homeowners will similarly be misled to take unwise action.

Vehicle Code, § 21101.4 requires, *inter alia*, that the street experience **serious and continual criminal activity**. As council Motion #11-1222 shows from its face, there is not even an allegation of serious criminal activity. Serious criminal activity means felonies and not inconvenience, disturbing the peace or potential problems. Thus, there is not even an argument that Council Motion #11-1222 satisfies the strict requirements of Vehicle Code, § 21101.4.

Other closures such as upper Deronda and of Dorcas in the Beachwood Canyon - Hollywoodland area do not satisfy the criteria to vacate a street, and the streets are still in use, nor do they satisfy the requirement of serious criminal activity. The allegations were loitering, prostitution, littering, etc. These are misdemeanor nuisances, which do not qualify as serious criminal activity.

Furthermore, another vehicle code, Vehicle Code, § 21101.6, states that "local authorities may not place **gates** or other selective devices **on any street** which deny or **restrict the access of certain members of the public** to the street, while permitting others **unrestricted access** to the street."

Council Motion #11-1222 states:

3. Keys to the gates be provided to all adjoining property owners and affected City departments and public utility companies

On its face, the motion is an unlawful violation of Vehicle Code, § 21101.6.

Carmen Trutanich, City Attorney
Tuesday, October 25, 2011

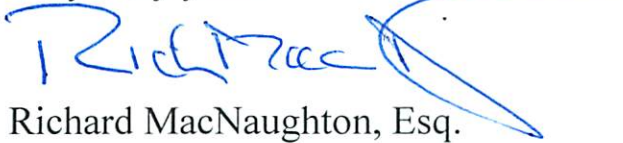
There is a pressing need for the City Attorney to take action. Unless the City Attorney's client forthwith begins to follow the law, hostilities and lawsuits will beak out pitting neighbor against neighbor.

To this end, the City Attorney is hereby requested to review any and all streets closures in CD #4 north of Franklin Avenue and take immediate steps to ask its client to repeal any council motion which is contrary to Vehicle Code, §§ 21101.4 and/or 21101.6. More importantly, however, the City Attorney should require that all work related to Council Motion 11-1222 cease and desist and that all work on any other council motion authorizing closure also cease and desist. Stopping work now will save the homeowners considerable money.

We know that one resident, whose street CD #4 approved for closure, had expressly asked CD #4 about the possibility of her and her neighbors being sued. Council District #4's response to a Gov't Code § 6250 Request for Documents show no response was made to her, but our investigation suggests that her question was not answered and she was directed to follow the procedure of a prior street closure. Thus, it appears that she was misled to believe that she and her neighbors could not incur financial liability. Citizens Against Gated Enclaves v. Whitley Heights Civic Assn. (1994) 23 Cal.App.4th 812, 28 Cal.Rptr.2d 451) shows that the risk of being sued is substantial. Failure to speak when one has a duty to speak can be fraud and one might argue that when the residents are sued, they will have a basis to counter-sue the city.

Thank you in advance for your prompt attention to this matter.

Very truly yours



Richard MacNaughton, Esq.

RMN:ra

cc: Tom LaBonge; Councilmember CD #4
bcc

11-1222
CD4

MOTION

JUL 13 2011

CITY PUBLIC WORKS

The Hollywood Hills area is a very popular overlook area with great City views. Given this popularity, large numbers of people access this area throughout the day and night by driving through the local residential neighborhoods.

Unfortunately, as a result of the traffic and the constant presence of visitors, the residential neighborhoods are facing security issues such as loitering, littering, drinking and smoking in a Very High Fire Severity Zone.

Given these chronic problems, residents of the community are willing to pay for the installation and maintenance of a gate that would restrict the automotive access to residents only, but would allow pedestrian access.

I THEREFORE MOVE that the City Engineer, with the assistance of the Los Angeles Police Department and Department of Transportation, be instructed to report with recommendations for the temporary closure of Astral Drive/Solar Drive located before Runyon Canyon Road for reasons of public safety.

I FURTHER MOVE that upon Council approval of the temporary closure, that Solar Drive at the intersection of Astral Drive be closed pursuant to Section 21101.4 of the State Vehicle Code for a period of 18 months, subject to the following:

1. Gates to be installed to effectuate the closure of the area through a permit issued by the City Engineer.
2. The gates to be installed at no cost to the City.
3. Keys to the gates be provided to all adjoining property owners and affected City departments and public utility companies
4. Routine clean up of the closed area be provided by the adjoining property owners and/or residents.
5. The petitioners agree to remove the gates/fences at the termination of the allowed closure period.

I MOVE FURTHER that the City Council find that this action is similar to a minor vacation and is categorically exempt under Article 7, Class 5 (3), of the Los Angeles City Guidelines for the implementation of CEQA of 1970.

13 2011

PRESENTED BY:

Tom LaBonge
Councilmember, 4th District

SECONDED BY:

ORIGINAL

BROADCAST REPORT

TIME : 10/25/2011 11:33
 NAME : LAWOFFICE
 FAX : 3234640135
 TEL : 3239579588

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DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
10/25	11:26	12139788312	03:07	05	OK	ECM
10/25	11:30	12136247810	03:06	05	OK	ECM

BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE