

March 17, 2017

VIA E-MAIL AND U.S. MAIL

Leonard Shaffer, President
Joy Atkinson, Vice President
Eli Lipmen, Commissioner
Josh LaFarga, Commissioner
Debbie Wehbe, Commissioner
Maggie Darett-Quiroz, Commissioner
Eve Sinclair, Commissioner
City of Los Angeles
Department of Neighborhood Empowerment
200 North Spring Street, Suite 2005
Los Angeles, California 90012

RE: Downtown Neighborhood Council Separation

Dear President Shaffer and Honorable Commissioners:

This firm represents United Downtown LA ("United Downtown"), a group founded on the principle that a united Downtown Los Angeles is fundamental to making each neighborhood stronger and improving the quality of life for all of us. United Downtown is focused on preventing the resurgence of a decades-long failed policy of community isolation in Downtown Los Angeles and ensuring high standards of integrity for the City's democratic election process. This unity is ever more important in the wake of the passage of Measures HHH and H which should provide a once-in-a-lifetime funding opportunity for generational change to benefit the residents of a united Downtown Los Angeles. In this regard, on behalf of United Downtown, we wish to bring to the attention of the Board of Neighborhood Commissioners ("Commission"), in its role as the policy-setting and oversight commission for the City's "Neighborhood Councils" and the Department of Neighborhood Empowerment ("DONE"), the submitted material deficiencies relating to the hastily produced subdivision petition and election process to form what would be a new, separate subdivision Neighborhood Council called the Skid Row Neighborhood Council ("SRNC"). These procedural defects, outlined in detail in this letter, left uncured, would result in a violation of Los Angeles Municipal Code ("LAMC") Section 22.819 and a misinformed, exclusionary and unrepresentative election for the proposed SRNC.

On this basis we strongly urge the Commission to delay any election approving the SRNC subdivision under the LAMC Section 22.819(b) until a proper and fair election process can be ensured. As the first ever exercise of the right to petition for a Neighborhood Council "subdivision" in the City of Los Angeles ("City"), it is critical that the Skid Row Neighborhood Council Formation Committee's ("SRNC Formation Committee") follow, and that the Commission enforce, those regulations and policies applicable to neighborhood council subdivision applications.

I. **DONE LACKED AUTHORITY TO APPROVE THE SRNC SUBDIVISION PETITION AS THE PETITION FAILS TO COMPLY WITH THE REQUIREMENTS OF THE PLAN FOR A CITYWIDE SYSTEM OF NEIGHBORHOOD COUNCILS**

Under LAMC Section 22.819(a), DONE only possesses authority to approve a subdivision petition for a separate certified Neighborhood Council within the boundaries of existing certified Neighborhood Councils if "the subdivision petition complies with the components of a Certification Application stated in Article III, Section 2 of the Plan for a Citywide System of Neighborhood Councils..."

The Plan for a Citywide System of Neighborhood Councils ("Plan") provides that "a certification application shall, *at a minimum*, include" (Plan, Article III, Section 2, italics added) the following components, among others:

- A detailed description of proposed boundaries. (Plan, Article III, Section 2 (a).)
- Proof the proposed boundaries would represent a population greater than 20,000 residents within the desired neighborhood boundary, or, if less than 20,000, that additional specific criteria are met. (Plan, Article III, Section 2 (a).)
- Signatures from 200-500 community stakeholders. (Plan, Article III, Section 2 (b).)
- Prepare a complete set of bylaws. (Plan, Article III, Section 2 (c).)

As described in this section, the materials submitted to DONE in connection with the subdivision petition for the SRNC were not complete based on these requirements. Accordingly, DONE was prohibited from approving the incomplete petition pursuant to LAMC 22.819(a).

A. SRNC FORMATION COMMITTEE'S SUBDIVISION PETITION DID NOT IDENTIFY SPECIFIC BOUNDARIES FOR THE PROPOSED SRNC

A clear requirement set forth in the Plan for subdivision petitions is a "detailed description of proposed boundaries." (Plan, Article III, Section 2 (a).) Here, the SRNC Formation Committee submitted an application ("SRNC Application") describing the boundaries of the proposed SRNC as follows (see SRNC Application, Section 2):

- North: 3rd Street
- South: 7th Street
- East: Alameda Street
- West: Main Street

A map depicting these boundaries was also provided (attached hereto as Exhibit A). Neither the description nor the map shows which sides of 3rd, 7th, Alameda and Main Streets are included within the boundaries. Instead a rough line is drawn over the street and the public is left to wonder whether both sides of the streets are included or just one. This runs contrary to the "detailed description" mandated by the Plan and the clear example provided on DONE's application form: "North: Main Street (*south side of the street*) between Maple Avenue and 43rd Street." (Italics added.)

United Downtown is concerned based on the fact that the initial SRNC Application did not describe specific boundaries and that we understand Wikipedia was the primary source being relied upon to determine the boundaries. Not only does this render the entire SRNC Application incomplete, it also leaves incredible uncertainty as to who the stakeholders are for the upcoming voter election. DONE did not have the

authority to approve the SRNC Application without specific boundaries and the SRNC Application process should be delayed to protect the integrity of any election.

B. THE BOUNDARIES WOULD REPRESENT A POPULATION OF LESS THAN 20,000 RESIDENTS AND THE SRNC FORMATION COMMITTEE'S SUBDIVISION PETITION DID NOT INCLUDE PROOF OF THAT CRITERIA UNDER ARTICLE III, SECTION 2 (A) OF THE PLAN IS SATISFIED

As part of providing a detailed description of the boundaries, the Plan requires that a subdivision petition demonstrate the proposed boundaries contain "no less than 20,000 Neighborhood Council Community Stakeholders." (Plan, Article III, Section 2 (a).) A proposed area that consists of less than 20,000 Neighborhood Council Community Stakeholders may only be approved if the following criteria are established:

- The proposed area is separated from adjacent communities by significant geographic features; or,
- The proposed area is identified by name within any of the 36 adopted Community Plan Areas of the City Planning Department; or,
- The proposed area represents a historic, identifiable neighborhood or community that is serviced by City service providers, such as a public library, park, recreation center, fire or police station, or a public school.

The SRNC Application states that the SRNC area contains at least 20,000 stakeholders (see SRNC Application, Boundaries.7.), while at the same time failing to provide an estimate of the total as required, instead simply writing "unknown." (See SRNC Application, Boundaries.9.) This does not comply with the Plan. At the very least, government approved census tracts should be referenced in demonstrating compliance with the minimum population size requirement.

C. WHETHER OR NOT THE SRNC FORMATION COMMITTEE PROVIDED A SUFFICIENT NUMBER OF COMMUNITY STAKEHOLDER SIGNATURES IS IN QUESTION DUE TO THE LACK OF A TRANSPARENT VERIFICATION METHOD AND A NUMBER OF POSSIBLE DUPLICATE SIGNATURES

As part of the outreach process, the Plan requires the collection of “no less than 200 and no more than 500 signatures from stakeholders that have an interest within the proposed Neighborhood Council boundaries.” (Plan, Article III, Section 2 (b).) Such signatures must “reflect the **broadest array** of Community Stakeholders who will actively participate in the proposed Neighborhood Council.” (*Id.*)

United Downtown understands that a total of 500 signatures were submitted on a rolling basis in connection with the subdivision petition for the SRNC. The SRNC, however, provides no specific procedure for verifying that these are indeed stakeholders in the proposed SRNC boundaries, an area where many people lack addresses, phone numbers and email addresses. Rather, the SRNC Formation Committee claims to have used a “‘self-affirmation’ outreach process to determine each of [its] community’s stakeholders” and “use ‘advance knowledge’ in knowing [its] neighbors.” Of the submitted signatures, an overwhelming majority merely state “6th & San Pedro” as the address with no email, phone number, or any kind of description identifying the basis of their stakeholder eligibility. Consequently, since there exists a substantial number of business and property owners in the proposed SRNC boundaries, we find it difficult to confirm that the signatures “reflect the broadest array of Community Stakeholders who will actively participate in the proposed Neighborhood Council” required under the Plan. We find this verification process less than adequate.

Our research also highlights an additional fact that calls into question the legitimacy of the signatures collected by the SRNC Formation Committee. Our research identifies at least 16 duplicate signatures which should be removed from the count total. (See Exhibit B). In light of the Plan requirements for providing valid signatures, and the existence of multiple duplicate signatures, the Commission should require a demonstration that the provided signatures meet the requirements of validity.

D. SRNC FORMATION COMMITTEE'S SUBDIVISION PETITION DID NOT INCLUDE A VALID SET OF BYLAWS

As part of the subdivision petition, the SRNC Formation Committee provided draft bylaws dated 11-2-16. However, the SRNC Formation Committee informed legitimate stakeholders that these bylaws are just a placeholder and will be substantially changed. As bylaws are a key component of Neighborhood Councils, the SRNC Formation Committee should be required to submit a draft which is indicative of the ultimate set of bylaws to be adopted. As the draft stands now, we have almost no certainty as to how this subdivided Neighborhood Council will be governed. The governance issues remain critical to an informed electorate of stakeholders eligible to vote in this election.

II. THE ELECTION AS PROPOSED IS NOT IN COMPLIANCE WITH WELL-ESTABLISHED ELECTION PROCEDURAL REQUIREMENTS IN THE CITY FOR NEIGHBORHOOD COUNCIL ELECTIONS

The proposed election process for the SRNC election was discussed in detail at the City meetings on February 15 and March 9, 2017, as shown on the meeting Agendas attached hereto as Exhibit C. At the meeting the DONE officials present at the meeting stated that the election would be held on April 6, 2017, following a series of three informative community meetings concerning the election and the proposed SRNC (the third and final meeting is set for March 29, 2017). For the reasons set forth below, we are concerned the election process as proposed would violate the election procedures under the Plan and LAMC.

A. IDENTIFYING ELIGIBLE VOTERS BASED ON THE LACK OF SPECIFIED BOUNDARIES IS IMPOSSIBLE

To form a "subdivision" an election must be held in which a "majority of the voters from the entire Neighborhood Council or Neighborhood Councils being subdivided must approve the subdivision in order to create the new Neighborhood Council." (LAMC Section 22.819(b).) To qualify as an eligible voter, an

individual must be “a stakeholder in the proposed area for subdivision *or in any of the Neighborhood Councils that are proposed for subdivision.*’ (*Id.*, italics added.)

As discussed above, since we do not know the true boundaries of the proposed SRNC, it is impossible to determine the eligible voter pool. Because the stakeholders within the entire area of any Neighborhood Council whose boundaries are affected by the SRNC would be entitled to vote, a slight deviation in the boundaries of the SRNC could trigger multiple other Neighborhood Council areas which would be entitled to a vote. To proceed with an election without knowing who qualifies as an eligible voter would be a violation of the LAMC and Plan.

B. THE ELECTION AS PROPOSED WOULD NOT BE EQUITABLE AND WOULD RESULT IN AN EXCLUSIONARY EFFECT ON MANY ELIGIBLE VOTERS

As set forth in DONE’s Report to City Council, dated February 28, 2017 (“DONE Report,” attached hereto as Exhibit D), relative to improving the Neighborhood Council elections voting environment, there are a multitude of serious deficiencies in the current election scheme. To remedy the situation, for the 2017/2018 fiscal year Neighborhood Council Elections, the City Clerk will be administering the elections, including the training of polling location staff and the processing of election challenges, while DONE focuses on outreach to candidates and voters. The DONE Report makes clear our concerns in this instance over an election which is proposed to be administered by DONE, with inadequate resources. This is especially troubling for the first-ever Neighborhood Council subdivision petition in the City’s history. In line with the DONE Report, we believe it is necessary to postpone the election on the SRNC formation until after the implementation of the improvements outlined in the DONE Report to ensure a fair and equitable election.

Per the City's March 9th SRNC Formation Committee/Town Hall meeting, the location for the election has been determined by the SRNC Formation Committee to be: James Wood Community Center, 400 East 5th Street, Los Angeles, CA, 90013. The hours for the election have been strictly limited to 3pm – 7pm on Thursday, April 6th. Unlike other Neighborhood Council elections, no Vote by Mail or online voting is permitted.

For many reasons, the current arrangement will not properly serve the anticipated number of voters (coming from multiple different Neighborhood Councils and stakeholder groups) and would have a material exclusionary effect on eligible voters. This is further compounded by the fact that the selected location, which was unilaterally determined by the SRNC Formation Committee, is not an easily accessible polling site and will likely result in many voters opting not to vote in person at the location. Based on a large number of anticipated voters, we believe it is critical that multiple facilities be provided on election day and that they remain open for longer than four hours. Such facilities might include the Los Angeles Public Library at 630 W. 5th St., Los Angeles, CA 90071 which has been used in past Neighborhood Council elections due to its central location and ease of accessibility. Additionally, as expressed at the March 9th meeting, the selected time of 3pm – 7pm, which excludes the lunch hour and morning, will make it extremely difficult for employees who work during standard hours to vote. The hours should be adjusted to include the morning and lunch hours so that employee stakeholders in the area have the opportunity to participate in the election.

For this election, in addition to the improvements to be implemented under the DONE Report, we ask that the Commission request resources from the City to offer on-line voting as well as Vote by Mail. According to the City Clerk, online voting and Vote by Mail have proven to be great voting mechanisms to increase participation in these important elections. Such additional resources are necessary to ensure a fair and proper election. The Commission should also institute specific procedures to certify that voters provide proof of eligibility, that proof of stakeholder status for community interest stakeholders is consistent and substantially equivalent to the evidentiary proof required of stakeholders who live, work, or own property in the area.

United Downtown's concerns over this particular election have been echoed by others in the community (See Handal, *Skid Row Voting: It's Time for President Wesson to Keep His Word and Fix the NC System*, CityWatch (Mar. 6, 2017)). For the aforementioned reasons, holding the election on April 6 is rushed, premature and will necessarily call into question the legitimacy of any election result. The prudent course is to postpone this election until the City Clerk can ensure this election of first-impression in the City is conducted in an equitable and just manner and that the SRNC, should it be formed, is not later subject to challenge.

C. THE CITY HAS NOT BEEN A NEUTRAL ACTOR IN THIS ELECTION PROCESS

The Neighborhood Council Election Manual (revised April 29, 2016) states the following in connection with campaigning for elections: "The use of the City of Los Angeles Seal, the Department, City Clerk or Neighborhood Council logo or any other official Neighborhood Council designation created by the Department is prohibited for use on candidate materials." (Neighborhood Council Election Manual, Election Procedures, Section IX.A.) The express purpose of this prohibition is to prevent campaigning under the "expressed or implied endorsement or authorization of the City, a City department, or a Neighborhood Council and prevent voter confusion." (Neighborhood Council Election Manual, Election Procedures, Section IX.A.3.) Nonetheless, a member of the Mayor's Office of Economic Opportunity has issued a strong statement of support for the SRNC using City resources and declaring "[w]e support the efforts of this endeavor (SRNC)." (See quoted message from Alisa Orduna, the Mayor's Homeless Policy Director attached hereto as Exhibit E.) The SRNC Formation Committee proudly uses this City statement as an endorsement of this process. Such biased support from the City violates the requirement that the City maintain an impartial and neutral position in Neighborhood Council elections. The City's interference thus far in this election will result in voter confusion and a skewed election.

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Based on the foregoing, we are hopeful that upon reconsideration you will determine the subdivision petition filed in connection with the proposed SRNC does not comply with the clear requirements of the Plan and LAMC. As such the subdivision petition should be reconsidered, denied and the election delayed until these issues are resolved. We want to ensure the integrity of the voting process and prevent questions of legitimacy, should this hastily developed election process go forward as currently proposed.

Should you have any questions or require additional information, please do not hesitate to call the undersigned.

Respectfully,

LINER LLP

Rockard J. Delgadillo

RJD:MN

Attachments

cc: The Honorable Eric Garcetti, Mayor, City of Los Angeles
The Honorable Mike Feuer, City Attorney
The Honorable Jose Huizar, Councilmember, 14th District
Darren Martinez, Supervising Attorney, Neighborhood Council
Grayce Liu, General Manager, DONE