

MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. _____

REPORT RE:

**DRAFT ORDINANCE ADDING ARTICLE 1.3 TO CHAPTER 1 OF THE
LOS ANGELES MUNICIPAL CODE TO ESTABLISH A PROCEDURE FOR THE CITY
COUNCIL TO REVOKE APPROVALS OF DEVELOPMENT PROJECTS AND
TERMINATE PROJECT APPLICATIONS TAINTED BY CORRUPTION OR FRAUD**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Honorable Members:

The City must take decisive action to address the specter of corruption and fraud that looms over the City's land use decision making process. The enclosed draft ordinance provides the City Council with a new and effective tool to revoke approvals of development projects and terminate project applications tainted by corruption and fraud. I urge the Council to adopt the ordinance as soon as possible and put it to use with respect to the development projects implicated in the ongoing federal corruption probe.

Once it became possible to identify some of the projects tied to the federal probe, my Office took action. On June 15, 2020, I strongly urged the Director of Planning to initiate revocation proceedings of entitlements and approvals within his authority related to the Luxe Hotel Project. This process has begun. My Office then advised the Department of Building and Safety to place holds on the issuance of any permits for projects connected to the probe. The Department imposed those holds.

These were important steps, but the Council should have the clear ability to go further. In particular, the Council should have the capacity to utilize its authority under the City Charter and Los Angeles Municipal Code to revoke and terminate approvals and applications tainted by corruption and fraud.

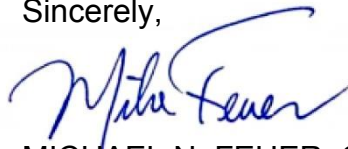
The enclosed draft ordinance accomplishes that objective. It would harness the City's police powers and the authority granted under various City laws to form a single regulation to give the Council an effective and timely tool to address land use, building permits, and related approvals tainted by corruption and fraud. Specifically, the draft ordinance establishes a procedure allowing the Council to revoke project approvals, entitlements, and building permits, and terminate pending project and building permit applications, where there exists the taint of corruption or fraudulent activity. The draft ordinance also allows the Council to impose penalties on those individuals and businesses associated with these developments by prohibiting them from engaging in the City's development process.

Adopting this draft ordinance, and implementing its procedures to tackle those development projects implicated by the federal corruption probe, will help restore the public's faith in the City's land use decision making process. The draft ordinance will also strengthen the City's ability to continue the good and necessary work of granting appropriate approvals of untainted development projects that provide much needed shelter and affordable housing, public amenities, and economic benefits.

The draft ordinance contemplates that the Council will adopt rules and regulations for the conduct of the hearings. Before the Council adopts this draft ordinance, we will make recommendations to the Council as to the content of those rules and regulations.

Please feel free to contact me should you wish to discuss this issue further, or your staff may contact Senior Assistant City Attorney Terry Kaufmann Macias or Deputy City Attorney Adrienne Khorasanee.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mike Feuer", with a stylized flourish at the end.

MICHAEL N. FEUER, City Attorney

MNF:pj
Transmittal

cc: Honorable Eric Garcetti, Mayor
Richard Llewellyn, City Administrative Officer
Sharon Tso, Chief Legislative Analyst
Vincent P. Bertoni, Director of Planning, Los Angeles City Planning
Osama Younan, General Manager, Department of Building and Safety

ORDINANCE NO. _____

An ordinance adding Article 1.3 to Chapter 1 of the Los Angeles Municipal Code to establish a procedure to allow the City Council to exercise its authority to revoke project approvals, entitlements, and building permits, and terminate pending project and building permit applications.

WHEREAS, the City has paramount interests in rooting out and eliminating corruption and fraud in its land use decision making process, ensuring fairness and transparency throughout the process, and enhancing the public's faith in elected leaders and public servants. Further interests also include protecting project benefits to the City and the people of Los Angeles, including jobs, revenues, needed residential units and workforce and affordable housing;

WHEREAS, developers have no vested rights under permits or approvals procured by corruption and fraud and should risk loss of City approvals if they participate in criminal conduct;

WHEREAS, this article subjects developers whose projects may be tainted by corruption or fraud to potential revocation and termination of their project entitlements, approvals, permits, and applications, and provides them a hearing and an opportunity to present their case to the decision makers, thereby guarding against the risk of an erroneous impairment of developers' legal rights;

WHEREAS, some City regulations already authorize rescission or otherwise seek to address land use and related approvals procured by corruption and fraud, and other similar actions. For example, permits issued in violation of this Code are void under Sections 11.00(j) and (l), 11.02 and 98.0601. Conditional use permits and other quasi-judicial approvals issued in violation of the Municipal Code are revocable pursuant to Sections 12.24.Z, 12.24.AA and 12.27.1.B.5;

WHEREAS, this article supplements and consolidates these other provisions of the Code and provides the City Council with an effective and timely means to address land use, building permits, and related approvals that may have been procured by corruption and fraud; and

WHEREAS, this article may be invoked by the City Council at any stage of the development process prior to and including the issuance of a Certificate of Occupancy, whenever it is determined by the City Council that there exists the taint of corruption or fraudulent activity, including unlawfully inducing any public official or employee to streamline, assist, and vote in favor of approvals and entitlements for real estate development projects in the City.

NOW, THEREFORE,

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

Section 1. Article 1.3 is added to Chapter 1 of the Los Angeles Municipal Code to read as follows:

ARTICLE 1.3

**REVOCATION OF APPROVALS OF DEVELOPMENT PROJECTS
AND TERMINATION OF PROJECT APPLICATIONS TAINTED BY
CORRUPTION OR FRAUD**

SEC. 11.3.1. PURPOSE.

It is the purpose of this article to establish procedures by which the City Council can revoke project approvals, entitlements, or permits or terminate pending project or permit applications, for reason of corruption or fraud.

SEC. 11.3.2. DEFINITIONS.

For purposes of this article, the following definitions apply:

(a) "Agent" means any person who purports to represent the Applicant or Owner in any dealings with the City, including, without limitation: members of a partnership or partners of any kind (whether general or limited); officers, directors, employees or shareholders of any corporation; members and employees of any limited liability company; attorneys; lobbyists; brokers; or other authorized representative of any kind.

(b) "Applicant" means a person or entity identified as the applicant on an application filed with the City for any approval, entitlement, or permit provided for in this Code.

(c) "Owner" means a person or entity identified as a property owner on an application filed with the City for any approval, entitlement, or permit provided for in this Code.

SEC. 11.3.3. REVOCATION OR TERMINATION PROCEEDINGS.

(a) **Decision maker.** The decision maker for all hearings pursuant to this article shall be the City Council. The City Council may not delegate this role to any designee, including a subcommittee or hearing officer.

(b) **Rules and Procedures.** The City Council shall promulgate rules and procedures for hearings held pursuant to this article and shall adopt those rules and procedures by resolution.

(c) **Initiation of Proceedings and Temporary Stay.**

1. Proceedings to revoke project approvals, entitlements, or permits, or to terminate pending project or permit applications pursuant to this article shall be initiated by the introduction of a Council motion or upon receipt by the City Council of a written communication from the Mayor or Controller notifying the City Council of information indicating corruption or fraud related to a development project ("Initiation of Proceedings").

2. The Initiation of Proceedings shall set forth with particularity the facts and circumstances showing corruption or fraud that were not known by the original decision makers at the time the matter was before them. Contemporaneously with the presentation of the Initiation of Proceedings, the Council member, the Mayor, or the Controller shall transmit all evidence and information indicating corruption or fraud to the City Clerk. The City Clerk shall promptly place the information or evidence in the corresponding Council File.

3. Upon receipt of the Initiation of Proceedings by the City Clerk, an initial and automatic stay shall be imposed on the project approval, on any permits issued in connection with the project's approval, and any related pending project applications, approvals or permits. The stay shall be 15 calendar days by which time a preliminary hearing shall be held by the City Council unless there is no regular meeting of the City Council within that time frame, in which case the preliminary hearing shall be held at the next meeting of the City Council. Notwithstanding any contrary language in this Code, the time to act on any related project application, approval, or permit shall be tolled until the stay expires or is lifted by the City Council, whichever occurs first.

(d) **Preliminary Hearing to Decide Whether to Proceed With Revocation or Termination Hearing, Extended Stay and Opportunity to Be Heard.**

1. Within five calendar days of the Initiation of Proceedings, the City Clerk shall schedule on a regular meeting agenda a preliminary hearing for the City Council to determine whether to proceed with a revocation or termination hearing pursuant to this article. The preliminary hearing shall be held not more than 15 calendar days after Initiation of Proceedings. If there is no regular meeting of the City Council within that time frame, then the preliminary hearing shall be held at the next meeting of the City Council, or within 30 calendar days from the Clerk's receipt of the Initiation of Proceedings, whichever period is shorter.

2. The Agent, Applicant, and Owner shall be afforded an opportunity to be heard by the City Council during the preliminary hearing.

3. If the City Council by a vote of not less than two-thirds of its members finds the presence of sufficient evidence indicating the likelihood that corruption or fraud impacted the City's decision making process, then the City Council shall schedule a subsequent hearing on revocation or termination within 30 calendar days of the preliminary hearing unless there is no regular meeting of the City Council within that time frame, in which case the hearing shall be held at the next meeting of the City Council. The City Council may extend the stay through the revocation or termination hearing date and up to the date of mailing of the written determination issued pursuant to paragraph (f) of this Section. The hearing date may be extended by the City Council action upon the written request of the Agent, Applicant, or Owner. The City Council may issue a partial stay if, upon the recommendation of a City department, it is determined to be in the best interest of the public health or safety.

4. Notwithstanding any contrary language in this Code, the time to act on any related project approval shall be tolled until the stay expires or is lifted by the City Council acting by majority vote, whichever occurs first.

(e) **Revocation or Termination Hearing.** In any action to revoke any project approvals, entitlements, or permits, or to terminate any pending project or permit applications pursuant to this article, the City Council shall hold a hearing to determine whether a finding of corruption or fraud can be made to revoke any project entitlement or approval previously granted or to terminate any application for project entitlement or approval.

(f) **Decision to Revoke or Terminate.**

1. The decision to revoke an approval, entitlement, or permit, or to terminate an application shall require a two-thirds vote of the City Council based on a finding of corruption or fraud, including but not limited to the following:

A. Falsification by an Agent, Applicant, or Owner of any material record, fact or information required by this Code or any rule or regulation of any City department in granting any discretionary or ministerial approval, entitlement, or permit for a project.

B. Willful omission or misrepresentation by an Agent, Applicant, or Owner of any material fact in an application for any discretionary or ministerial approval, entitlement, or permit for a project.

C. Withholding by an Agent, Applicant, or Owner of any record, material fact or information required by this Code or by rule or regulation

of any City department in granting any discretionary or ministerial approval, entitlement, or permit for a project.

D. Violation by an Agent, Applicant, or Owner of any provision of local, state, or federal laws pertaining to corruption or fraud, including but not limited to racketeering activities, as defined in 18 U.S. Code §1961.

E. Willful, gross, or negligent failure by an Agent, Applicant, or Owner to report to the appropriate authority violations of any state, local or federal law pertaining to corruption or fraud, including but not limited to racketeering activities, as defined in 18 U.S. Code §1961.

F. Willful complicity or aiding and abetting by an Agent, Applicant, or Owner any act designed to circumvent or violate any provisions of the Charter or the Administrative or Municipal Code or of any law, rule or regulation of a City department or local, state or federal authority.

G. Conspiring to secure for self or for another, by misrepresentation, fraud, or deceit, any planning entitlement or discretionary approval or ministerial approval.

2. The revocation or termination shall take effect upon the date of mailing of the City Council's written decision.

SEC. 11.3.4. RECUSAL OF CITY EMPLOYEES AND OFFICIALS.

Any City employee or official who is implicated in the corruption or fraud involving the City's decision making process, shall play no role in the proceedings described in this article.

SEC. 11.3.5. ADMINISTRATIVE PENALTIES.

(a) If the City Council by a vote of not less than two-thirds of its members finds that an Agent, Applicant, Owner engaged in corruption or fraud involving the City's decision making process, the City Council shall prohibit the Agent, Applicant, or Owner from any involvement in any development application for a period to be determined by the City Council, up to and including a permanent ban.

(b) When any project approval, entitlement, or permit is revoked or any pending application for approval, entitlement, or permit is terminated as set forth in Section 11.3.3., no new or other application by the Agent, Applicant, or Owner for a similar or related approval, entitlement, or permit shall be accepted during the period of prohibition established by the City Council.

(c) An Agent, Applicant, or Owner who admits or is convicted of engaging in corruption, fraud, or racketeering activities with a City official involving the City's decision making process, is banned from participating in any capacity in future development projects or permit applications in the City. The City Council shall determine the duration of the ban, which may be permanent.

(d) These administrative penalties do not preclude any other administrative, civil, or criminal penalties.

SEC. 11.3.6. EFFECT ON OTHER AGENCIES.

A City Council determination under this article shall not have a binding effect on another City agency with independent enforcement authority in related matters.

SEC. 11.3.7. SEVERABILITY.

If any portion, subsection, sentence, clause or phrase of this article is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this article. The City Council hereby declares that it would have adopted this article and each portion or subsection, sentence, clause and phrase herein, irrespective of the fact that any one or more portions, subsections, sentences, clauses or phrases be declared invalid.

Sec. 2. **Urgency Clause.** The City finds and declares that this ordinance is required for the immediate protection of the public peace, health, and safety for the following reasons: the United States Department of Justice recently filed several criminal indictments against City officials and others, and has stated that its investigation is ongoing. The indictments contain allegations that real estate developers and others gave cash, cash equivalents, lavish gifts and other benefits to City employees and officials with the intent to induce these employees and officials to violate their duties of trust to the people of Los Angeles regarding development projects. The revocation and termination process provided for in this ordinance will allow the Council to take swift action to root out and address acts of corruption or fraud at the earliest possible stage. For all of these reasons, this ordinance shall become effective upon publication pursuant to Section 253 of the Los Angeles City Charter.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
TERRY KAUFMANN MACIAS
Senior Assistant City Attorney

Date August 6, 2020

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____