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THE FEDERATION
OF HILLSIDE AND CANYON ASSOCIATIONS, INC.

President David H. Ambroz, President and
Honorable Commissioners of the
Los Angeles City Planning Commission
200 N. Spring Street, Los Angeles, CA 90012

May 9, 2016

Re: CPC-2016-1245-CA
Repeal of LAMC Sections 12.24 W.43 and 12.24 W.44

Dear President Ambroz and Honorable Planning Commissioners:

The Federation of Hillside and Canyon Associations, Inc., founded in 1952, represents 45 resident and homeowner associations with approximately 250000 constituents spanning the Santa Monica Mountains. At its meeting of May 4, 2016, the Federation voted to oppose the City's proposed repeal of Los Angeles Municipal Code Sections 12.24 W.43 and 12.24 W.44 and to support retention of the protections embedded within those code sections.

The proposed draft ordinance to repeal the City's long-ignored Second Dwelling Unit ordinance is based on the false premise that the recent invalidation of ZA Memo 120 by the Court in *Los Angeles Neighbors in Action v. City of Los Angeles*, *et al*. (LA Super. Ct., 2016, BS150599) requires the City to take immediate action. Repeal of the City's ordinance would default the City to the second dwelling unit standards codified in California Government Code Section 65852.2(b)(1). These default standards provide little protection against the potential overdevelopment of our City's hillside areas, whereas the City's existing Second Dwelling Unit ordinance provides substantial protections to hillside and other areas.

As noted in the Court's recent decision in *Los Angeles Neighbors in Action*, in passing AB 1866, the legislature acknowledged that many cities had approved discretionary Second Unit Ordinances, but AB 1866 specifically allowed that cities needn't amend those ordinances. *See* Govt. Code § 65852.2(a)(3) ("When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the

application shall be considered ministerially without discretionary review or a hearing. . . . Nothing in this paragraph may be construed to require a local government to adopt or amend an ordinance for the creation of second units."). The *LA Neighbors* Court summarized AB1866's legislative intent as follows: "local agencies may continue to apply their existing adopted second unit standards on a ministerial basis without formally amending their ordinance to delete CUP discretionary procedures." Thus, so long as the standards of the Second Dwelling Unit ordinance are applied ministerially, no City action is required, let alone emergency action.

Further, the immediate repeal of the City's Second Dwelling Unit ordinance is unlikely to resolve any lingering questions about the validity of past approvals. The *LA Neighbors in Action* opinion and judgment say nothing about the validity of any of those approvals, and the City's proposed action would not validate earlier approvals if they were void at inception. Moreover, it is impossible to know without reviewing specific cases whether any are consistent with the City's existing standards. Additional study of these issues is needed before action is justified.

AB 1866 encourages cities to adopt their own customized second dwelling unit standards. The City of Los Angeles did so long ago, and those standards provide significantly greater protections to community members than the default state standards. The recent Superior Court action invalidated only the former Planning Director's memo and one approval, not the existing ordinance. The Court considered but rejected the City's assertion that the City Council's 2013 Housing Element is controlling. Importantly, in 2013 policymakers made their decisions believing that ZA Memo 120 was legally valid, which we now know is wrong. A major policy decision such as regulation of Second Dwelling Units in a City as large as Los Angeles should not be built upon a foundation of erroneous legal advice.

Repeal of the City's Second Dwelling Unit ordinance will require planning and building officials to follow the very lenient default standards of AB 1866, which would remove carefully considered protections to hillside and other areas of the City. If policymakers desire to change the City's Second Dwelling Unit ordinance, this should be considered only after thorough study (including potential negative environmental impacts to hillside areas) and public input.

The Hillside Federation urges the City Planning Commission to recommend that the existing Second Unit Dwelling ordinance be retained, not repealed.

Sincerely,

Charley Mims
Charley Mims

cc: Honorable City Council
Dept. of City Planning: Dir. Vince Bertoni, Ken Bernstein, Claire Bowin, Matt Glesne