

CITY OF LOS ANGELES  
PLANNING DEPARTMENT

MASTER APPEAL FORM

APPEAL TO THE: West LA Area Planning Commission  
REGARDING CASE NO.: ZA-2004-1415(CDP)(SPP)(ZAD)(MEL)

This application is to be used for any authorized appeals of discretionary actions administered by the Planning Department. Appeals must be delivered in person with the following information filled out and be in accordance with the Municipal Code. A copy of the action being appealed must be included. If the appellant is the original applicant, a copy of the receipt must also be included.

**APPELLANT INFORMATION: PLEASE PRINT CLEARLY**

Name People Organized for Westside Renewal (POWER)  
Mailing Address 235 Hill Street  
Santa Monica, CA 90405 Zip: 90405  
Work Phone: (310) 392-9700 Home Phone: ( ) \_\_\_\_\_

- a) Are you or do you represent the original applicant?  
(Circle One) YES  NO
- b) Are you filing to support the original applicant's position?  
(Circle One) YES  NO
- c) Are you filing for yourself or on behalf of other parties, an organization or company?  
(Circle One) SELF  OTHER
- d) If "other" please state the name of the person(s), organization or company (print clearly or type)

People Organized for Westside Renewal

**REPRESENTATIVE**

Name SUSANNE BROWNE  
Mailing Address LEGAL AID FOUNDATION OF LOS ANGELES  
110 PINE AVE, SUITE 420  
LONG BEACH, CA 90802 Zip 90802  
Work Phone: (562) 304-2520 Home Phone: ( ) \_\_\_\_\_

**APPEAL INFORMATION**

A complete copy of the decision letter is necessary to determine the final date to appeal, under what authorizing legislation, and what, if any, additional materials are needed to file the appeal.

Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the City (Area) Planning Commission must be filed within 10 days of the written determination of the Commission.

Final Date to Appeal: June 26, 2007

**REASONS FOR APPEALING**

Are you appealing the entire decision or parts of it?

Entire       Part

Indicate: 1) How you are aggrieved by the decision; and 2) Why do you believe the decision-maker erred or abused their discretion? If you are not appealing the whole determination, please explain and specifically identify which part of the determination you are appealing.

Attach additional sheets if necessary.

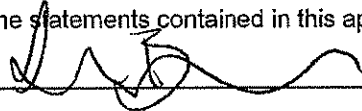
See Attachment.

**ADDITIONAL INFORMATION**

- Original receipt required to calculate 85% filing fee from original applicants.
- Original applicants must pay mailing fees to BTC and submit copy of receipt.
- Any additional information or materials required for filing an appeal must be provided in accordance with the LAMC regulations as specified in the original determination letter. **A copy of the determination/decision letter is required.**
- Acceptance of a complete and timely appeal is based upon successful completion and examination of all the required information.
- **Seven copies and the original appeal are required.**

I certify that the statements contained in this application are complete and true:

Appellant \_\_\_\_\_



**OFFICIAL USE ONLY**

Receipt No. \_\_\_\_\_ Amount \_\_\_\_\_ Date \_\_\_\_\_

Application Received \_\_\_\_\_

Application Deemed Complete \_\_\_\_\_

Copies provided:

Determination

Receipt (original applicant only)

Determination Authority Notified (if necessary)

# LEGAL AID FOUNDATION OF LOS ANGELES

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June 26, 2007

## **ATTACHMENT TO MASTER APPEAL FORM: APPEAL OF LETTER OF CLARIFICATION RE: 1046-1048 W. PRINCETON DRIVE**

**CASE NO. ZA-2004-1415(CDP) (SPP)(ZAD)(MEL)**

### **I. Background**

The Legal Aid Foundation of Los Angeles submits this appeal on behalf of its client, People Organized for Westside Renewal, and its colleagues at the Western Center on Law and Poverty.

The Mello Act, CA Government Code § 65590 *et seq.*, is a state law that requires developers, where feasible, to include low and moderate income housing in new housing developments in the coastal zone. The Legal Aid Foundation of Long Beach (now the Legal Aid Foundation of Los Angeles) and the Western Center on Law and Poverty represented the Barton Hill Neighborhood Organization, amongst other plaintiffs, in a 1993 lawsuit against the City of Los Angeles alleging that the City failed to comply with its affordable housing obligations pursuant to the Mello Act. (Venice Town Council, et al. v. City of Los Angeles, L.A. Super. Ct. No BC089678). In 1996, a California Court of Appeal found in favor of Plaintiffs (47 Cal.App.4th 1547). A Settlement Agreement was drafted and signed by all parties in January 2001. Pursuant to the Settlement Agreement, the City agreed to comply with very specific Interim Administrative Procedures that implement the Mello Act and the terms of the Settlement Agreement. The Settlement states that the Interim Administrative Procedures shall remain in effect until a Mello Ordinance is adopted. Because the City has not yet adopted a Mello Ordinance, the Interim Administrative Procedures remain in effect. Under the terms of our Settlement, the Legal Aid Foundation of Los Angeles and the Western Center on Law and Poverty monitor and enforce the City's compliance with the Mello Act, our Settlement and the Interim Administrative Procedures.

## II. PLUM's Prior Decision re: 1046-1048 W. Princeton Drive

In the course of seeking land use approvals for 1046-1048 W. Princeton Drive, the developer also sought to be released from Mello compliance as required by our Settlement and the Procedures. Our Settlement and the Procedures require that new coastal zone developments include 10% very low income units on-site, unless it is infeasible to do so. If a developer proves that on-site compliance is infeasible, a developer may request approval to provide affordable Mello units off-site. Our Settlement and the Procedures require that off-site units be net new units provided through either new construction or adaptive re-use.<sup>1</sup>

Despite the clear terms of our Settlement and the Procedures, the developer for 1046-1048 W. Princeton repeatedly sought permission to satisfy its Mello obligations through means that were prohibited by our Settlement and the Procedures. The developer sought to satisfy its Mello obligations by paying an in lieu fee or by buying an existing apartment building and subsidizing 3 units in the building. Both the WLAAPC and PLUM rejected the developer's proposed means of Mello compliance, as they did not comply with the terms of our Settlement and the Procedures.

On September 13, 2005, the Planning and Land Use Management Committee (PLUM) of the Los Angeles City Council issued a decision regarding Mello compliance at the subject property and ordered the developer to comply with our Settlement and Procedures by *providing 3 net, new very low income units off-site in the coastal zone in Council District 11*. PLUM further required that the very low income units be in service (certificate of occupancy obtained) by the time the certificate of occupancy was obtained for the 25<sup>th</sup> market rate unit. (PLUM's decision was issued on appeal from a decision of the WLAAPC.)

## III. The Letter of Clarification Violates the Terms of Our Settlement Agreement, the Interim Administrative Procedures and PLUM's Decision.

We appeal the Letter of Clarification, dated June 12, 2007, because it allows the developer to pay a fee in lieu of providing the required 3 off-site very low income units in violation of our Settlement Agreement and the City's Interim Administrative Procedures. Neither our Settlement nor the Procedures allow for payment of in lieu fees as a means of satisfying Mello obligations. Pursuant to our Settlement and the Procedures, Mello compliance must be satisfied only through the provision of net, new units, either on or off-site, through adaptive re-use or new construction. See Settlement Sec. V.D.; Procedures Sec. 7.4.1. The letter of clarification, therefore, violates the terms of our Settlement and the Procedures.

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<sup>1</sup> While our Settlement and the Procedures do not allow for payment of in lieu fees as a means of satisfying Mello obligations, both documents anticipate that such fees may be considered and adopted in the Permanent Mello Ordinance.

The Letter of Clarification, moreover, is entirely inconsistent with PLUM's prior decision regarding Mello compliance for this project. It is of great concern that a Planning Department employee unilaterally issued a letter that summarily nullified PLUM's decision, without any public hearing on the matter. The Letter of Clarification, does not "clarify" PLUM's decision, but rather *reverses* it. We strongly object to the use of a Letter of Clarification for such an action.

Although the City is currently in the process of drafting a proposed Mello Ordinance that contemplates the use of in lieu fees in limited circumstances, the proposed Ordinance is not currently in effect and does not entitle a developer to apply for payment of in lieu fees. The in lieu fee levels contemplated by the proposed Ordinance, moreover, are *ten times higher than the in lieu fees set forth in the Letter of Clarification*. The proposed Ordinance, in limited circumstances, allows for in lieu fees of *\$296,959.00 for each affordable unit that would have been required on-site* for projects of this size in Venice. In stark contrast, however, the Letter of Clarification allows the developer to pay an in lieu fee of *only \$29,696.00 per affordable unit, for a total of \$89,088.00*. It appears that the Planning Department has grossly miscalculated the way in which in lieu fees are to be calculated under the proposed Ordinance. *Under the proposed Ordinance, in lieu fees are set \$296,959 per affordable unit, or \$29,696.00 for each market rate unit in the development*. The Planning Department appears to have mistakenly calculated the \$29,696.00 as a fee to be charged per affordable unit. This results in a fee that is 10 times lower than the fee that would be charged under the proposed Ordinance.

#### IV. Conclusion

The June 12, 2007 Letter of Clarification for the subject property should be reversed because it violates the terms of our Settlement, the Interim Administrative Procedures and PLUM's prior decision regarding Mello compliance for this Project. The decision of the PLUM Committee should be reinstated.