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REPORT NO. R02-0457
November 5, 2002

REPORT RE:

Brentwood Community Council

Greg Nelson, General Manager
Department of Neighborhood Empowerment
305 E. First Street
Los Angeles, CA 90012

Dear Mr. Nelson:

You forwarded to our office an e-mail addressed to you from the Brentwood Community Council ("BCC"), dated August 20, 2002, and asked that we respond to the questions contained in that e-mail. This letter is intended to respond to the legal questions and concerns that were raised in that August 20, 2002, e-mail and is being sent to you and copied via e-mail to the BCC so that you may retain this written response from our office in your files.

The BBC sought clarification to our earlier letter dated February 26, 2002, addressed to you regarding the Pacific Palisades Community Council. Our February 26, 2002, letter discussed the rights of a Neighborhood Council with respect to filing an administrative appeal within the City of Los Angeles. BBC requested further clarification and information regarding administrative appeals and the administrative process. BBC's questions, followed by our responses, are discussed below¹:

¹ Please note that the information in this letter is strictly limited to Neighborhood Councils. It does not purport to provide any limitations on any individual acting in their personal capacity, or on any entity acting outside the confines of the Certified Neighborhood Council.

Question Number 1:

Can a Neighborhood Council participate in an appeal which has been filed by another individual or organization?

Response:

This question cannot be answered with any definitive response because the term "participate" is broad and open-ended. It is impossible to respond to such a question by attempting to state every activity that is allowed and every activity that is not allowed by the Neighborhood Council in the administrative proceedings. However, subject to the restriction identified in our February 26, 2002, letter, there are activities that are appropriate and otherwise allow the Neighborhood Council to participate in the administrative appeal of a City decision.

While the following list of activities is not exhaustive, the participation by a Neighborhood Council in the City's administrative process might include: (1) The Neighborhood Council could pass a resolution/take an official position regarding the subject matter of the administrative proceeding and that position could be to completely or partially support, oppose, or remain neutral with respect to an administrative matter; (2) The Neighborhood Council could advocate or express its official position to City Staff, the City Departments, the City Council, or the Mayor; or (3) The Neighborhood Council could appear at any of the City's administrative hearings and express its official position to the City's hearing officers, Board of Commissioners, Committee hearings, or City Council hearings. The role of the Neighborhood Councils, as advisors, in the administrative proceedings is to offer and express their advice and advocate their community concerns. The above-described activities allow Neighborhood Councils to achieve their purposes.

Question Number 2:

Can the NC testify at City appeal hearings?

Response:

Yes, the Neighborhood Council is able to testify in the City's administrative process, including offering testimony before any City hearing officer, Board of Commissioners, Committee hearing, or City Council hearing.

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Question Number 3:

Are there any limitations to the extent of an NC participating in an appeal of a City agency decision?

Response:

Please see the response to Question Number 1, above. If the intent of this question is to ask whether the Neighborhood Council is able to advance an official position that is in opposition or contrary to the position advanced by a City Department during the administrative process, the answer is yes. If there is a specific activity that has not been discussed in this letter, please submit your question to the Department of Neighborhood Empowerment.

Question Number 4:

Can the NC be given the same courtesy at the hearings that the appellant is given? For example, at the West Area Planning Commission hearings, the appellant is given 10 minutes to present their position at the beginning of the hearing, whereas the non-appellant speakers are only allowed 1 to 3 minutes depending on the number of people signed up to speak.

Response:

There is not necessarily a correct legal response to this question. Generally, Commissions, such as Area Planning Commissions, have adopted standing rules that govern the procedures for conducting their hearings. The standing rules may establish the procedure for speaker order and time limits and most standing rules allow the President to exercise discretion to vary from the standing rules. However, these rules certainly could be modified or changed and a Neighborhood Council could, as one example, request additional time by making a direct request to the Board President. Although this question and answer is directed generally toward Area Planning Commissions, other City administrative proceedings may or may not be similar and could vary depending on the jurisdiction of the particular Board or Commission.

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Question Number 5:

What formal City processes/procedures can be established to ensure that Neighborhood Councils have formal input in the City department decisions throughout the decision process including the appeal stages?

Response:

This question is better addressed by the Department of Neighborhood of Empowerment. Some methods for allowing greater input have already been implemented such as the Mayor's directive that requires that City Departments have a liaison for the neighborhood council and that the City Departments conduct regular meetings with the Neighborhood Councils. Additionally, the Neighborhood Councils could decide what areas necessitate more involvement and propose an ordinance to their Council Member that could then be acted upon by the City Council that would achieve the desired results for the Neighborhood Council.

Very truly yours,


DARREN R. MARTINEZ
Deputy City Attorney

DRM/mg

Enclosure

cc: Brentwood Community Council via e-mail
All Members of the Board of Neighborhood Commissioners

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