

**SUPPLEMENTAL MEMO TO THE REGIONAL PLANNING COMMISSION**

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DATE ISSUED: September 12, 2024

MEETING DATE: September 18, 2024      **AGENDA 8**  
**ITEM:**

PROJECT NUMBER: PRJ2023-003193-(1-5)

PROJECT NAME: Tune Up Series 003 Ordinance

PLAN NUMBER(S): RPPL2023004662

SUPERVISORIAL DISTRICT: 1-5

PROJECT LOCATION: Countywide

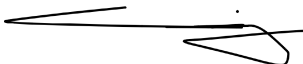
PROJECT PLANNER: Kenneth Warner, Regional Planner  
kwarner@planning.lacounty.gov

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This item is the Tune Up Series 003 Ordinance, amending Title 2 (Administration) and Title 22 (Planning and Zoning) of the Los Angeles County Code to correct errors and make clarifications across 13 subject areas, detailed in the previously issued case materials.

**ADDITIONAL PUBLIC COMMENTS**

Since the posting of the hearing package on September 5, 2024, staff received additional materials in the form of one comment letter, which is attached here. This letter opposed Section 2 of the Draft Ordinance: Volume 1. Staff has already recommended the removal of that Section 2 from the project.

Memo  
Approved By:   
\_\_\_\_\_  
Connie Chung, AICP, Deputy Director

Memo  
Approved By:   
\_\_\_\_\_  
Bruce Durbin, Supervising Regional Planner



**Kenneth Warner**

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**From:** TLC Board <lgkellogg@newspaperlaw.com>  
**Sent:** Thursday, September 5, 2024 2:16 PM  
**To:** DRP Ordinance Studies  
**Subject:** TUNE UP 003 ORDINANCE Public Comment  
**Attachments:** TLC Title 22 Update Comments.pdf

**CAUTION:** External Email. Proceed Responsibly.



Dear Mr. Warner:

Attached, please find public comments submitted by the Triunfo Lobo Community Association regarding the proposed "Tune Up Ordinance."

Sincerely  
Lisa Grace-Kellogg  
Board Member, Triunfo Lobo Community Association

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# TRIUNFO LOBO COMMUNITY ASSOCIATION

Via E-Mail: [ordinance@planning.lacounty.gov](mailto:ordinance@planning.lacounty.gov)

September 1, 2024

Los Angeles County Planning Commission  
500 W. Temple St.  
Los Angeles, CA 90012

Re: Public Comment on Proposed Amendment to Title 22 of the Los Angeles County Code (Hearing On Title 22 Tune Up “Series 002” Ordinance Project No. Prj2021-003909 - (1-5) Advance Planning Case No. Rpp12021010991 (All Supervisorial Districts) (3-Votes)

Dear Commissioners:

We are writing on behalf of the Triunfo-Lobo Community Association regarding the proposed updates to Title 22 of the Los Angeles County Code.

Of particular concern is Section 22.02.070 – Application Where Violation Exists.

While this proposal is presented as a minor update to correct typos and clarify language, it includes a significant revision that would expand the Planning Department's authority to issue "Clean Hands Waivers."<sup>1</sup> This change is particularly alarming due to the unfettered discretion being granted to a sole individual.

Additionally, the proposed elimination of an oversight or accountability through the elimination of an administrative appeal process constitutes a dangerous lack of transparency.

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<sup>1</sup> As part of the package circulated to the public, the Department has included an “Ordinance Summary.” It conveniently omits any reference to the above, which is ironic, in that it represents one of the most significant proposed changes.

## **Background:**

The "Clean Hands Waiver" ("CHW") has already sparked considerable controversy in the Santa Monica Mountains. Section D of the proposed amendment only makes the situation more egregious by granting unfettered discretion and removing any oversight.

While the newly adopted North Area Plan is designed to regulate activities in this region to ensure environmental protection, these CHWs have not only given chronic violators a pass, but, in at least one instance, expand illegal activities far beyond their previous scope, and set standards more than triple the allowable activity and population levels established in the SMMNAP CSD, following intensive public input over 4 years of intensive study.

CHWs should be the exception to the rule and issued judiciously. The proposed code amendment does the opposite. It allows the Director to pick winners and losers, with no public input or transparency.

### **I. Lack of Definition**

The term "Clean Hands Waiver" is vague and ambiguous. Title 22 dedicates pages to setting forth definitions from "whole grain" to "Anaerobic digestion facility." Yet, while the term "Clean Hands Waiver" is referenced in Section 22.02.070 and on the county's fee schedule, no definition is set forth.

What is a CHW? Does it solely allow a violator to apply for a permit? Does it defer enforcement of existing violations? Or does it wipe clean a slate of violations?

Lack of a specific definition leaves it open to be used in any manner according to a bureaucrat's whim. More importantly, it allows for the potential of unequal application and runs afoul of the notion of equal treatment under the law. Simply put, a definition is necessary to ensure that the parameters are clear and applied equally to any member of the public—and not more favorably towards those with resources.

### **II. Community Input Should be Required Prior to the Issuance of any "Clean Hands Waiver"**

While Sections A & B of the revised Code are an improvement by virtue of enumeration of factors to be considered, the fact is that someone in downtown Los Angeles cannot reasonably be expected to have the same intimate knowledge of a community as a resident of the community. As such, public input should be solicited.

For example, a recent CHW issued in Triunfo Lobo Canyon based, in large part, on the contention that the proposed event facility posed no safety threat to residents in light of the subject property being located "near Kanan Road and Lindero Canyon Road, both major highways."

Wrong.

In fact, Lindero Canyon Road (hardly a “major highway” but rather a two-lane street) is over 8 miles away and not accessible from the facility. Rather, the subject property, which pursuant to the CHW would be able to host up to 630 people, is located in a narrow, single ingress/egress canyon where all but three homes are located behind the subject property. In the event of an emergency, all but six of the 300 residents would be stuck behind 600 people heading to the sole exit from the canyon. The only road accessible, Kanan, is an already heavily congested “beach traffic” thoroughfare connecting the 101 Freeway and Malibu. Other than a stop sign, there is no regulated traffic control from Triunfo Lobo, at the T-intersection of Kanan, and its 55MPH posted limit, entered from a dead-stop.

Had public input been solicited, this potentially deadly error would not have occurred.

Additionally, by making the process public, the potential for abuse is mitigated. Currently, the CHW process is entirely done behind closed doors, shielded entirely from the public. There is no formal application required, and a request for a CHW is not assigned a project number and is not searchable on the Department’s website. In fact, a member of the public searching for any documents relevant to a CHW would not be able to locate them. The only parties to the process are the director of Regional Planning, the property owner and his/her representatives. The optics could not be more damning.

The goal of government should be transparency—with all dealings out in the open.

### III. Any Decision Must Have a Mechanism for Appeal

Section D should be eliminated in its entirety.

The idea of granting any government official unchecked discretion without oversight is fundamentally contrary to every principle of good governance. It is, quite frankly, outrageous.<sup>2</sup>

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<sup>2</sup> The granting or denial of a “Clean Hands Waiver” is currently appealable. A fact of which the Department likes to feign ignorance.

The appealability of any discretionary decision by the Director is incontrovertible in light of 22.240.010 (A) which states in relevant part:

“Appeals. To avoid results inconsistent with the purposes of this Title 22, decisions of the Director, unless otherwise specified, may be appealed to the Commission, decisions of the Hearing Officer may be appealed to the Commission, and decisions of the Commission may be appealed to the Board, unless otherwise specified in the permit or review.” (continued on next page)

22.240.020 (A) continues: “Eligibility. Any person dissatisfied with the action of the Commission, Hearing Officer, or Director may file an appeal in compliance with this Chapter, unless otherwise specified or limited by this Title 22.”

Regional Planning, however, seemingly dislikes pesky residents questioning their discretionary decisions and routinely rejects petitions for appeals (Exh. A) leaving a citizen left only with the option of filing a Writ Petition

The absence of an appeal process for "Clean Hands Waivers" raises significant concerns about transparency and accountability in government. Allowing sole individual to exercise discretion without any oversight or opportunity for review undermines the principles of checks and balances that are foundational to a democratic government.

Discretionary decisions, by their very nature, involve subjective judgment. When such decisions are made by officials who are not directly accountable to the public, it becomes even more critical to ensure that they are subject to review and appeal. The ability to appeal a decision is a vital mechanism for ensuring fairness, transparency, and accountability in the administrative process.

Furthermore, the lack of an appeal process could lead to inconsistent application of the law, create opportunities for favoritism, and diminish public trust in the planning process. Transparency in government is not merely a best practice; it is a fundamental requirement for maintaining the public's confidence in the fairness and integrity of governmental actions.

The proposal to eliminate the right to appeal a discretionary decision by the Planning Director is antithetical to the principles of good governance. Government should encourage transparency and provide avenues for recourse when decisions are made that affect the rights and interests of the public. The proposed amendment does the opposite, effectively placing unchecked power in the hands of a single individual.

We urge you to scrap this amendment and to ensure that any discretionary decisions made by the Director are subject to appropriate checks and balances, including the right to appeal, requiring the public notification of pending decisions.

#### IV. Chauvinistic Language Should Be Eliminated

Finally, while we appreciate the usage of the King's English, it is somewhat archaic to reference "his" as a generic pronoun throughout the Code, especially in an era when the Board of Supervisors is composed entirely of women. For example, Section 2.108.020 states, "Each advisory member may designate one of *his* deputies to sit on the regional planning commission in his absence." If the goal is to update the document, bringing the use of pronouns into the 21st century would be a good start. Wouldn't "his/her" or "their" be more appropriate throughout the Code?

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with the Superior Court. Probably recognizing that it's only a matter of time before being caught with its pants down, it is now attempting to specifically remove the issuance of "Clean Hands Waivers" from appeal.

## V. Conclusion

Under no circumstances should any decision by a government entity be without transparency and oversight.

Ever.

For the reasons set forth above, we would encourage you to 1) eliminate Section D of 22.02.070 in its entirety and replace it with a provision clarifying that any issuance of a CHW is appealable or in the alternative, clarify the applicability of 22.040.010 et seq.; and 2) add a provision requiring public comment.

We hope that you will take steps to encourage transparency, accountability, and fairness in Los Angeles County.

Sincerely,

Triunfo-Lobo Community Association