

CITY OF OAKLAND



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March 2, 2010

Dan Lindheim
City Administrator
City of Oakland
One Frank H. Ogawa Plaza
Oakland, CA 94612

Dear Mr. Lindheim –

I was deeply concerned when I read the San Francisco Chronicle's reports about a directive to enforce parking laws in some neighborhoods, but not in others.

As you know, the Chronicle's reports were based on a July 24 memo that directs parking officers to spare Montclair, Broadway Terrace and other neighborhoods (areas 651 and 643) from tickets for parking on sidewalks and parking in the wrong direction.

The memo does not mention enforcement of these laws in other parts of town, but it appears that parking officers continued to write tickets for those violations in neighborhoods such as East Oakland while giving courtesy notices for the same violations in the hills neighborhoods.

I understand that the City historically has not enforced these violations in hills neighborhoods with a high number of narrow streets, where it may be safer to park in the wrong direction, and where it may be difficult for emergency vehicles to get through unless parking on the sidewalk is allowed.

From the information you provided to me, from July 24 to at least August 7, 2009, courtesy notices were issued to residents in the 651 and 643 neighborhoods to warn that the City planned to start ticketing cars for these violations. Courtesy notices were given only to cars parked on narrow streets – which the Parking Division has defined as a street 30 feet wide or less – while cars parked on wider streets continued to receive tickets in every neighborhood – both in the flatlands and the hills.

I realize that we're talking about a very short time period and a relatively small number of courtesy notices. However, under no circumstances can any City department choose to enforce a law in some neighborhoods and ignore it in others. Such unequal

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enforcement is not only unfair by definition – it also sends an invitation to litigate against the City. If we have a policy regarding ticketing on narrow streets, it must apply citywide to all narrow streets.

To make up for any unfair actions and to protect taxpayers against a class action lawsuit based on differential treatment, I strongly recommend that your office investigate all tickets issued for parking on the sidewalk (Vehicle Code Section 22500[f]) and parking in the wrong direction (Vehicle Code Section 22502) between July 24 and the end of the courtesy notice period in August 2009, and that you expedite the following:

- Refund payments for tickets issued for these violations on narrow streets in all neighborhoods during the above time period.
- Void all other tickets issued for these violations on narrow streets in all neighborhoods during the above time period – including any late fees that may be owed.

The cost of forgiving these tickets will ultimately be far less than the expense of defending a class action lawsuit, even if the City is ultimately successful.

I also want to point out that the decision to selectively enforce the law by area smacks of unlawful administrative interference by members of the City Council on behalf of specific neighborhoods. As you know, the Charter expressly prohibits Councilmembers from directing individual members of your staff. I also ask that you review this matter with your staff to avoid future problems due to administrative interference from Councilmembers, and to determine whether that was the case here.

Sincerely,



John Russo
City Attorney

cc: Ron Dellums, Mayor
City Councilmembers
Courtney Ruby, City Auditor
Dwight McElroy, SEIU Local 1021