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May 17, 2011

HONORABLE CITY COUNCIL
Oakland, California

Dear Council President Reid and Members of the City Council,

On February 22, 2011, the Public Safety Committee received a report titled *Joint Informational Report from the City Attorney's Office and the Oakland Police Department on the City's Civil Injunction Cases against the North Side Oakland Gang and the Norteños Gang*.

This letter is intended to provide updates on information in that report, and to answer specific questions submitted by Councilmembers Brooks and Nadel. Although Councilmembers requested a joint response from the Oakland Police Department and the City Attorney's Office, the City Administrator has directed OPD to respond separately.

Question #1: Costs to date of the North Oakland and Fruitvale injunction cases.

A key clarification must be made about the cost of the two current injunction lawsuits. As of May 11, 2011, updated costs for the two cases are as follows:

North Side Oakland case: \$54,356.80 for outside counsel
 10,157.07 for all other expenses (filing fees, service, etc.)

Total \$64,513.87

Norteños case: \$39,999.96 for outside counsel
 5,106.90 for all other expenses (filing fees, service, etc.)

Total \$45,106.86

In both cases, outside counsel agreed to cap fees, so the lawsuits are relatively low-cost to the City of Oakland. The City Attorney's Office routinely relies on outside counsel due to limited in-house resources. To put these two cases in context, the City has litigated several dozen cases in the last three years with higher outside counsel costs.

The Oakland Police Department and the City Attorney's Office have also invested staff time in these cases. All in-house staff working on these cases are existing FTEs and do not represent a new or additional cost to the City.

Question #2: Under California law, are sellers of real estate in a gang injunction Safety Zone required to disclose to buyers that the property is within the an area designated as a Safety Zone?

There is no specific statutory duty in California to disclose that a property is located in a gang injunction area. The residential disclosure form does specifically require disclosure of "neighborhood noise problems or other nuisances," which would seem to include gang activities in the neighborhood (but not necessarily a gang injunction, which is not a nuisance but a response to the nuisance).

There is also a general duty to disclose any facts that could materially affect the value or the desirability of the property. The fact that there is gang activity in a neighborhood should materially affect the value or desirability of the property, so like any other neighborhood nuisance, a seller may be required to disclose that fact whether or not a gang injunction is in place.

If a seller is disclosing the existence of gang activity in the neighborhood, it may be in the seller's best interests to also disclose the existence of a Police Department gang prevention strategy focused on the neighborhood. A buyer would probably feel better knowing that a gang injunction exists, rather than just a gang problem.

Question #3: Impact on property values in designated areas.

There is no evidence to indicate any impact on property values. However, if an injunction leads to less graffiti and less crime on a specific block, property values on that block are likely to go up, as opposed to down.

Question #4: Implementation and enforcement activities to date.

On June 2, 2010 the court held that the North Side Oakland was a criminal street gang under the law and granted the City's first injunction against 15 individual members of the gang. To date, OPD has served 13 of the 15 with the court's order, meaning the injunction is now in effect for those 13 individuals. There have been no reported violations of the injunction and no arrests for violations of the injunction.

Question #5: Analysis for selection of target area.

Geography of the Safety Zones is based on the location of the activities of the gangs themselves, as documented by information obtained from the community, police investigations, and the location of arrests and OPD contacts of the individual defendants in the City's lawsuits. The natural boundaries and relevant thoroughfares surrounding the safety zone are also considered.

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Question #6: Analysis of crime statistics.

The City Administrator's Office has directed the Oakland Police Department to respond to this question in a separate report.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John A. Russo', written in a cursive style.

JOHN A. RUSSO
City Attorney