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California's protection and advocacy system

October 30, 2012

Office of the Mayor and City Council
915 I Street
Sacramento, CA 95814

By Fax: (916) 264-7680

Re: Proposed Change to Sacramento City Code

Dear Mayor Johnson and Council Members:

Disability Rights California is a nonprofit disability rights organization, working since 1978 to advance the human and legal rights of Californians with disabilities. Our services are available throughout the state and we assist thousands of people with disabilities each year. Additionally, hundreds of thousands of Californians with disabilities and their families benefit from our legislative advocacy, class-action lawsuits, and collaboration with other groups.

It has come to our attention that on Tuesday, October 30, 2012, you will be voting on changes to the Sacramento City Code related to parking along the Union Pacific Railroad tracks in central Sacramento. We would like to specifically draw your attention to a proposed amendment to Footnote 63 of the Sacramento City Code. The proposed amendment seeks to exempt an area of land on either side of the Union Pacific railroad tracks from "development standards" required in the Code. While this amendment will exempt the land from local regulations, we are concerned that the amendment falsely suggests that the City is no longer responsible for ensuring that the requirements of the Americans with Disabilities Act (ADA) are observed. We are writing this letter to remind the City of its obligations to comply with Title II of the ADA.

It is our understanding that this proposed amendment would allow Union Pacific Railroad to use unfinished dirt space along the railroad tracks for pay-to-park parking without requiring paving, leveling or other basic improvements to the land. We also understand that in advance of your vote, Union Pacific has agreed to lease the entirety of the exempted land to a single, private corporation that will collect pay-to-park fees on the land. Although the parking lot would be administered by Union Pacific and the party to whom it has leased the land, the City of Sacramento is still responsible for ensuring that the resulting facility is ADA accessible.

Federal law states that “[n]o qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.” 42 USC 12132. Federal authority provides that a public entity may not deny a qualified individual either directly or “through contractual, licensing or other arrangements” equal access to a benefit or service. 28 CFR 35.130(b)(1)(i). The fact that Union Pacific owns the land, or that its leasee administers the parking lots does not remove liability for the City of Sacramento. By exempting Union Pacific from development standards, the City of Sacramento could be participating in discrimination and may, therefore, be liable under federal law as well.

We hope to participate in public comments tomorrow at the scheduled City Council Meeting and we sincerely hope you consider the significant effect that exempting this area from development standards may have on central Sacramento residents and visitors with disabilities. The City of Sacramento should hold itself to the highest standard when ensuring equal access and we hope you act to ensure that this issue is addressed appropriately.

Sincerely,



Taymour Ravandi

Staff Attorney
Disability Rights California