

West of Twin Peaks Central Council
P.O. Box 27112
San Francisco, CA 94127

March 20, 2008

The Honorable Aaron Peskin
President, Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisor Peskin,

On Monday, February 25, the West of Twin Peaks Central Council passed a motion requesting that the San Francisco Board of Supervisors delay its approval of the *Chambers* settlement agreement for 60 days (until the end of April 2008) to provide sufficient time to amend current language in the *Chambers* settlement agreement to be more responsive to what San Francisco voters were promised regarding the replacement of Laguna Honda Hospital (LHH). We believe San Francisco voters need more time to understand the ramifications of the *Chambers* settlement agreement.

Our Council's 17 homeowner associations believe that the City of San Francisco and its representatives continue to have serious concerns about the manner and the method by which the *Chambers* settlement was presented to the Board.

Again, WTPCC is concerned that voting on a lawsuit rather than legislating responsible public policy is ignoring the interests of the San Francisco voters. The will of six individual plaintiffs from LHH and an "institutional" plaintiff — the Independent Living Resource Center (ILRC), which is located in Oakland — should not supersede the vote of the 139,000 San Franciscans who voted for the 1999 Proposition A Bond measure to rebuild LHH nor supersede the rights of the thousands of residents who have been served by LHH during the past decade. By accepting the *Chambers* settlement the San Francisco Board of Supervisors is shirking its legislative oversight of the City's health budget.

The concerns raised about the effect of the lawsuit were broad and serious.

The *Chambers* settlement will create an open-ended health care and public housing entitlement. Unlike other City lawsuits, the *Chambers* settlement has no dollar amount attached to it. The San Francisco Board of Supervisors has no idea what this lawsuit will ultimately cost the City. Once the *Chambers* settlement is approved, San Francisco will be locked into an irrevocable contract to expend all funds needed to carry out agreed upon community-based housing and healthcare services. The City's discretionary General Fund money will be drained away by the health care and public housing entitlements created by the *Chambers* settlement. The City has failed to do a comprehensive cost analysis of the *Chambers* settlement. The City has failed to do a comprehensive study on the quality, cost, location or minimum standards of housing that are required by the *Chambers* settlement. The City has failed to do a comprehensive study on the quality of the medical care that *Chambers* beneficiaries will receive in the community. Due to budget problems, the City is cutting back community services at the same time that they are placing LHH residents back into the community. Due to housing problems, the City is placing LHH residents out of county.

The agreement between the City and the *Chambers* settlement plaintiffs to circumvent the will of the San Francisco voter's is obvious. On May 19, 2005, San Francisco Controller Ed Harrington released his "Laguna Honda Replacement Program, Where do we go from here?" report. Only two options to rebuild LHH were given. Option number 1) finish the LHH rebuild and pay an additional \$220-million to complete the 1,200 skilled nursing facility (SNF) and 140 bed assisted living beds. Option number 2) Use most funds to complete three buildings at LHH with 780 SNF beds and use the remaining funds plus operational savings to purchase other long-term care services in assisted living, supportive housing, home care or other community-based settings. The *Chambers* settlement agreement is almost identical to Ed Harrington's Option Number 2. Rather than openly discussing the LHH rebuild with San Francisco voters, the City chose to quietly subvert the will of the 1999 San Francisco Proposition A voters by embracing the *Chambers* settlement agreement.

The *Chambers* settlement is City health policy disguised as a lawsuit. This legal settlement agreement involving a major policy change to San Francisco been rushed through without public discussion and approved by the San Francisco Health Commission, the Board of Supervisor's Rules Committee, the Board of Supervisors, the San Francisco Department of Public Health (DPH), and local non-profit contractors seeking lucrative City contracts to provide community-based services. The community living services that the city of San Francisco would be obligated to provide under the *Chambers* settlement certainly could be provided without settling a lawsuit on such unfavorable terms to both the City and San Francisco voters.

WTPCC has been told and concerned that the months of negotiations leading up to the *Chambers* settlement agreement, the City Attorney's office conducted no discovery, made no motion to dismiss the lawsuit, made no motions for a summary judgment, and made no similar motions. The plaintiff's attorney, Protection and Advocacy, Inc. (PAI), made no motions either, so the City's readiness to agree to the proposed *Chambers* settlement cannot have been spurred by an adverse ruling on a critical motion. There were no depositions taken by either side, no requests for admissions were introduced, and no interrogatories were made by the City. The City of San Francisco has made essentially no effort to defend itself from this lawsuit. When PAI handed the *Chambers* lawsuit to the City Attorney's office, the City made a political decision — not a legal decision — to capitulate to PAI's unilateral demands.

In addition to not fighting the *Chambers* lawsuit, San Francisco has opened the floodgates to massive amounts of future health care litigation. The agreement does not waive claims for damages, or any other claims, by the institutional plaintiff ILRC. It is silent regarding damages to ILRC. Therefore, under the proposed settlement agreement, both the individual and organizational plaintiffs are free to pursue damage claims against the City.

The consensus among our delegates was that any settlement of the *Chambers* lawsuit must, among other things, explicitly preserve long-term care as an essential mission of LHH (long-term care is not mentioned even one time in the *Chambers* settlement), preserve the City's option to build more SNF beds at LHH, preserve hospice care and provide current and future LHH residents an option to opt out of the *Chambers* settlement — at the barest minimum. Due to the *Chambers* settlement being a class action lawsuit, LHH residents, and those seeking admission to Laguna Honda, will have no choice but to be required participate in community living, whether they want to or not. The current language of the *Chambers* settlement agreement as currently written is weak, vague, poorly written, not favorable to elderly and disabled San Franciscans who willingly choose to receive care in a skilled nursing facility within San Francisco's borders, and not favorable to San Francisco voters.

Every previous carve out for special programs in San Francisco — for example, the children's baseline set aside, the Library baseline set aside, the Police minimum staffing set aside, the Park and Rec baseline, the Rainy Day Reserve set aside, etc. — have all been approved by voters at the ballot box. In the proposed *Chambers* settlement agreement, plaintiffs will obtain massive set asides the City will be required to fund, regardless of the dwindling discretionary portion of the General Fund, without voter approval.

The West of Twin Peaks Central Council is asking the Board of Supervisors to delay its approval of the *Chambers* settlement until after the end of April 2008, and to change current language in the *Chambers* settlement agreement to be more responsive to what the San Francisco voters have been promised regarding Laguna Honda Hospital. We believe San Francisco voters need more time to understand the ramifications of the *Chambers* settlement and to ensure the will of the voters is considered, along with the elderly, disabled residents of Laguna Honda

Sincerely,

Denise LaPointe
President, West of Twin Peaks Central Council

The Honorable Jake McGoldrick
The Honorable Michela Alioto-Pier
The Honorable Carmen Chu, Supervisor
The Honorable Ross Mirkarimi
The Honorable Chris Daly
The Honorable Sean Elsbernd
The Honorable Bevan Dufty,
The Honorable Tom Ammiano
The Honorable Sophie Maxwell
The Honorable Gerardo Sandoval