

November 23, 2004

Santa Monica, California

**AGENDA INFORMATION ITEM**

TO: Mayor and City Council

FROM: City Staff

SUBJECT: Item 12-A: Request of Andrew Duff Parker, from Upward Bound House, Requesting a Waiver for an Encroachment Fee for an Alleyway Bordered by Washington, California, 11<sup>th</sup> and 12<sup>th</sup> Streets to Reinstall Underground Conduit, as Requested by the City.

Introduction

This Information Item describes the history related to the installation of underground fiber optic conduit in Eleventh Court that serves Upward Bound House buildings located at 1104 Washington Boulevard and 1020 California Avenue.

Discussion

In May 2003, the City’s Utility Inspector discovered a non-permitted and substandard fiber optic installation in Eleventh Court. The installation was placed through a water meter box and the excavation was improperly backfilled and repaired. City subsequently notified Upward Bound House that before any facility installation can take place in the public right of way, a City permit must be issued along with the payment of all required fees. Upward Bound House was informed that the substandard installation must be re-done to comply with the current Santa Monica Municipal Code provisions and City standards.

On July 23, 2003, Upward Bound House submitted a permit application for the installation of the fiber optic conduit. Following review of the application, the City issued a letter to Upward Bound on August 13, 2003, notifying the applicant that since the applicant did not have a local, state, or federal franchise; a long term encroachment permit was required for the facility. The encroachment permit fee amount is \$5,256 based on the expected life of the facility. The applicant is also required to pay an excavation permit fee of \$211.14 to cover permit processing costs and undergo plan check approval to ensure that the installation would be completed in a manner that does not interfere with other facilities or uses of the alley. Additionally, the applicant is required to join Dig Alert, the State mandated underground utility marking service, so as to prevent accidental damage to the fiber optic cabling in the facility from future excavations.

Since August 13, 2003, staff from the Department of Environmental and Public Works Management have been in contact with Upward Bound House on several occasions regarding the fiber optic installation in Eleventh Court. Staff researched alternatives to address the communication needs of Upward Bound, to avoid crossing the alley, and has identified wireless options that may cost less than the costs of the encroachment permit fee and correct installation of the underground conduit. The installation of a wireless communication system between the two buildings would allow the violating installation to be removed and address the needs of Upward Bound.

On July 20, 2004, since Upward Bound had still not submitted payment for the permit fees,

corrected the installation to meet code, or taken any further action to correct the violating installation, a letter was sent to Upward Bound House ordering them to correct the installation within fifteen days. To date, the installation has not been corrected. Staff has stayed any enforcement actions pending Council review of the fee waiver request from Upward Bound House. If Council wishes to waive encroachment permit fees for this category of applicant, a modification to the Municipal Code would be required.

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