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6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA
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9 Residents for The Beverly Hills Garden
10 & Open Space Initiative,

11 *Plaintiff,*

12 v.

13 The City of Beverly Hills,

14 *Defendant.*

CASE NO. 2:16-CV-05532-FMO-JEM

**ORDER GRANTING STIPULATED
PRELIMINARY INJUNCTION
AND STAYING PROCEEDINGS**

15
16 The Court, having reviewed the pleadings on file in this case and the
17 stipulation filed by the parties, finds that a preliminary injunction should issue
18 and that these proceedings should be stayed pending the finalization of a
19 settlement between the parties to resolve these proceedings.
20

21 The Court finds that:

22 1. Plaintiff has raised at least serious questions regarding whether Beverly
23 Hills Muni. Code § 1-8-5 (C)-(F) (the “Ordinance”) violates the First Amendment
24 as applied to certain of Plaintiff’s intended advertisements for the upcoming
25 November 8, 2016, City of Beverly Hills ballot measure election.
26

27 2. Due to the time sensitive nature of the political campaign at issue and the
28 Ordinance’s provisions for criminal penalties and substantial civil fines,

1 immediate injunctive relief is warranted to prevent Plaintiff's political speech
2 from being chilled by the possible application of the Ordinance to certain of
3 Plaintiff's intended advertisements and to thereby prevent Plaintiff from suffering
4 irreparable harm.

5 3. The balance of equities and the public interest weigh in favor of protecting
6 Plaintiff's First Amendment rights through issuance of a preliminary injunction
7 containing the terms set forth below.
8

9 4. A preliminary injunction, as provided below and stipulated by the parties,
10 is warranted and adequate to protect Plaintiff's First Amendment rights pending
11 final resolution of these proceedings.

12 5. There is no realistic likelihood of material harm to Defendant from
13 issuance of a stipulated preliminary injunction. Therefore, Plaintiff shall not be
14 required to post a bond pursuant to Fed. R. Civ. P. 65.
15

16 6. A stay of further proceedings is appropriate to conserve judicial resources
17 while the parties negotiate and seek to finalize their settlement of these
18 proceedings.

19 Accordingly, it is hereby **ORDERED** that Defendant, and its agents,
20 representatives, employees, and all persons aiding Defendant or acting pursuant
21 to its direction and control, are hereby **ENJOINED** from taking any steps to
22 enforce Beverly Hills Muni. Code § 1-8-5 (C)-(F) against Plaintiff (including its
23 treasurer, principal officers, and persons primarily responsible for the preparation
24 of its advertisements), **provided that**:

25 **A.** Plaintiff includes the following message on all advertisements for which a
26 disclaimer is required by the California Political Reform Act and the regulations
27 promulgated thereunder:
28

1 “Paid for by Yes on __, Residents for The Beverly Hills Garden & Open
 2 Space Initiative, with major funding by Oasis West Realty LLC / The
 3 Beverly Hilton. See www.beverlyhills.org for campaign funding
 4 information.”¹

5 This message shall be displayed in compliance with the requirements of the
 6 California Political Reform Act and the regulations promulgated thereunder.
 7

8 **B.** Except as otherwise herein provided, Plaintiff includes the following
 9 additional message on all advertisements for which a disclaimer is required by the
 10 State’s California Political Reform Act and the regulations promulgated
 11 thereunder, in no less than 8-point, bold, sans serif type font:

12 “An Initiative measure to amend the Beverly Hilton Specific Plan to
 13 combine the 8 story Wilshire condominium building with the 18 story Santa
 14 Monica condominium building resulting in one 26 story building with
 15 additional height and to replace the Wilshire building with 1.7 acres of
 16 garden open space that is generally open to the public subject to reasonable
 17 restrictions determined by the property owner.”
 18

19 Provided, however, that Plaintiff shall not be required to include the message in
 20 this paragraph in connection with the following: (1) radio/audio advertisements of
 21 60 seconds or less; (2) television/video or other video electronic media, of any
 22 length; (3) paid telephone calls (live and/or prerecorded); (4) “Print Media”—as
 23 that term is used by the California Political Reform Act and the regulations
 24

25
 26 ¹ “___” in the message denotes the official initiative letter as assigned by the Los
 27 Angeles County Registrar of Voters. Until the initiative letter is assigned, the
 28 message will read: “Paid for by Residents for The Beverly Hills Garden & Open
 Space Initiative, with major funding by Oasis West Realty LLC / The Beverly
 Hilton. See www.beverlyhills.org for campaign funding information.”

1 promulgated thereunder—smaller than 60 square inches; and (5) promotional
2 items (*e.g.*, coffee cups, shopping bags, etc.).

3 **C.** Plaintiff includes the message provided in Paragraph B on advertisements
4 that qualify as “Text or Graphic Electronic Media,” as defined by the California
5 Political Reform Act and the regulations promulgated thereunder, when a
6 disclaimer is required for such advertisements by the California Political Reform
7 Act and the regulations promulgated thereunder, in a size that is not less than 8-
8 point font.
9

10 **D.** Plaintiff includes the message provided in Paragraph B on advertisements
11 that qualify as “Over Size Print Media,” as defined by the California Political
12 Reform Act and the regulations promulgated thereunder, when a disclaimer is
13 required for such advertisements by the California Political Reform Act and the
14 regulations promulgated thereunder, in a size that, notwithstanding the font-size
15 requirement in Paragraph (B), constitutes at least two-and-one-half percent (2
16 $\frac{1}{2}\%$) of the height of the advertisement and printed in a contrasting color.
17

18 The preliminary injunction provided by this order shall remain in
19 effect until further order of this Court.

20 These proceedings are now **STAYED** pending finalization of a
21 settlement between the parties or further order of this Court. The parties shall
22 provide a joint status report to the Court no later than November 14, 2016,
23 regarding the status of their settlement.
24

25 **IT IS SO ORDERED.**

26 Date: August 2, 2016

27 _____/s/_____
28 Hon. Fernando M. Olguin
United States District Judge