

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

9 Residents for The Beverly Hills Garden  
10 & Open Space Initiative,

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

11 || Plaintiff,

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

## 13 || The City of Beverly Hills,

14 || *Defendant.*

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

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

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

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

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

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](http://www.beverlyhills.org) for campaign funding  
 4       information.”<sup>1</sup>

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

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

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

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

22       

---

  
 23       <sup>1</sup> “\_\_” in the message denotes the official initiative letter as assigned by the Los  
 24      Angeles County Registrar of Voters. Until the initiative letter is assigned, the  
 25      message will read: “Paid for by Residents for The Beverly Hills Garden & Open  
 26      Space Initiative, with major funding by Oasis West Realty LLC / The Beverly  
 27      Hilton. See [www.beverlyhills.org](http://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 **D.** Plaintiff includes the message provided in Paragraph B on advertisements  
10 that qualify as “Over Size Print Media,” as defined by the California Political  
11 Reform Act and the regulations promulgated thereunder, when a disclaimer is  
12 required for such advertisements by the California Political Reform Act and the  
13 regulations promulgated thereunder, in a size that, notwithstanding the font-size  
14 requirement in Paragraph (B), constitutes at least two-and-one-half percent (2  
15  $\frac{1}{2}\%$ ) of the height of the advertisement and printed in a contrasting color.  
16

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

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

24 IT IS SO ORDERED.  
25

26 Date: August 2, 2016

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