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March 31, 2015

The Honorable Senator Carol Liu
California State Senate
State Capitol, Room 5097
Sacramento, CA 95814

RE: **SB 608 (Liu) The Right to Rest Act
Notice of Opposition**

Dear Senator Liu:

The League of California Cities regrets to inform you of our opposition to your SB 608. While the measure is well-intended, we do not believe it would make a positive contribution to combatting homelessness in our state and within our communities.

The challenge of combatting homelessness has been grappled with for decades by an array of federal, state and local agencies, religious groups, and non-profit organizations. By all accounts the solutions lie in getting the affected people housed and treating underlying causes, not by creating a special set of exemptions, privileges and rights for the homeless to occupy public and private property without complying with laws that apply to all others in society. Such an approach would create social disorder and undermine the ability of all others to access clean and non-threatening public spaces, while jeopardizing property rights and the economic viability of local businesses.

Homelessness is a pervasive problem because both the federal and state government have dropped the ball. They have either withdrawn resources previously dedicated for housing and for treating chronic conditions such as mental health and alcohol and drug addictions, or mismanaged available funding through disorganized bureaucracies. This leaves cities and counties with the difficult challenge of maintaining civil order, public safety and sanitary conditions, responding to the impacts on private property and the economic viability of local businesses.

SB 608 contains no solutions for homelessness. It contains no new programs, no funding for housing, and no effort to improve services. It creates a special set of exemptions and privileges for one group of people and undermines the equal applicability of laws. Should it be enacted it will expand social disorder and deteriorate California's public lands and spaces, quality of life and economy.

Among its provisions it:

- Exempts a homeless person, as expansively defined in the bill, from being guilty of a misdemeanor if they lodge in any building, structure, vehicle or place without permission of the owner or person entitled to the possession and control of it. It also repeals

language in existing law that clarifies this anti-trespassing law applies to both public and private property. (Page 7, Lines 35-39.) This is a major change. Respecting laws and property rights are the foundation of our social order.

- Authorizes fines of \$1000 and attorney's fees for "harassment" conducted by law enforcement, public or private security personnel, or a business improvement district (BID) agent that "a reasonable person would consider alarming, threatening, tormenting or terrorizing." This provision does not apply equally. Besides having a chilling effect on those who are charged with enforcing laws and protecting private property, this definition does not apply should the same conduct by a homeless person have such effects on other members of the public. Cities may incur significant costs if such actions are brought by homeless persons alleging violation of these new rights. (Page 5, lines 5-9).
- Establishes a right to move freely in public spaces without time limitations based upon housing status. (Page 6, lines, 28-30.) Such a change would give anyone meeting the definitions in SB 608 an exemption from time, place and manner" laws and regulations that apply to all others. Also, the bill allows the right to rest in public spaces and protect oneself from the elements. (Page 6, lines 31-32). Collectively, these provisions appear to allow a homeless person to live in any public space for as long as they wish.
- Defines "public space" to include property owned, in whole or in part, by any state or local public entity or any property on which there is an easement for public use and that is held open to the public, including but not limited to plazas, courtyards, parking lots, sidewalks, public transportation facilities and services, public buildings, shopping centers and parks. (Page 6, lines 5-10). This definition, combined with other provisions appear to allow a homeless person to assert that they can live in a public building, on a beach, on a sidewalk in front of a business, in a shopping mall, or on a bus for as long as they wish.
- Provides that "civil and human rights that are amply protected in the home and in other private places be extended to the public areas in which homeless persons live." (Page 6, line 19-23). Such a provision could have expansive interpretations, including the right to protect one's "home" under the Second Amendment with a firearm (*D.C v. Heller, 554 US 570*), and raise questions about the ability to enforce other laws which regulate behavior in public as opposed to the home.
- Defines "homeless persons" on page 5 in the broadest manner, including many types of people who are actually housed: individuals sharing housing of other persons; people living in motels, hotels and trailer parks (line 15); individuals who have moved within the preceding 36 months to obtain temporary or seasonal employment...to a temporary residence." (lines 28-32)
- Declares that the "decriminalization of rest allows municipal government to redirect resources from local enforcement activities to activities that address the root causes of homelessness and poverty." (Page 4, lines 16-18). This statement reveals a fundamental misunderstanding of the role and function of cities in California. In California, cities provide "municipal services" such as police, fire, water, refuse collection, public works, parks and recreation, and libraries. Since the state eliminated redevelopment agencies in 2011, cities also no longer have resources to dedicate to affordable housing. Social service programs are funded and operated by federal, state and county government, not cities.

While we regrettably oppose this approach, we share your interest in addressing the root causes of homelessness. The League believes that addressing homelessness requires working together to provide more affordable housing and resources to do so. League policy in this area states: *"The state should make funding and other resources available to help assure that local governments have the capacity to address the needs of the homeless in their communities."*

That is why we are supporting AB 35 (Chiu and Atkins) which increases affordable housing tax credits by \$300 million and AB 1335 (Atkins) which would provide a permanent source of funding for affordable housing. Other pending legislation we are reviewing focuses on ways to advance "housing first" approaches. We also encourage the Legislature to seriously examine how the billions in state funding for mental health are being deployed. We believe such efforts represent a much more constructive approach to solutions to this chronic problem.

If you have any questions or if I can be of any assistance, please call me at (916) 658-8222.

Sincerely,



Daniel Carrigg
Legislative Director

Cc: Chair and Members, Senate Committee on Transportation and Housing
Chair and Members, Senate Judiciary Committee
Alison Dinmore, Consultant, Senate Committee on Transportation and Housing
Doug Yoakam, Housing Consultant, Senate Republican Caucus
Assembly Member David Chiu
Assembly Speaker Toni Atkins