May 16, 1995

TO: VG
FROM: GGG
RE: ACLU CONCERNS RE. DOWNTOWN BID

ACLU rep's. came to today's Council meeting re. proposed Downtown BID and raised concerns outlined in attached letter.

JG requests that our office (meaning you I suppose since your dealing w/ the BID) ask Alatorre's office about these concerns. She would also tag base w/ CD 9, but Walters is probably not amenable to open discussions on this or any other matter in general.

JG believes we should be aware and sensitive to these issues when we come forward with our BID.

Talked to ACLU. Filed w/ BID staff.

ACLU

Liberty and Justice for All

...rican Civil Liberties Union of Southern California

1616 Beverly Boulevard
Los Angeles, CA
90026-5752

tel: 213. 977. 9500
fax: 213. 250. 3919

May 16, 1995

ask Alatorres
Office about this.
BID downtown

The Honorable John Ferraro
President, Los Angeles City Council
200 North Spring Street, Room M30
Los Angeles, CA 90012

Dear Councilman Ferraro,

The American Civil Liberties Union of Southern California (ACLU/SC) opposes paragraph five in the proposed Downtown Property Owners Management District that would "control" and "deter" panhandling within the District. Proposals seeking to prohibit panhandling are unconstitutional, and are sure to be ineffective.

The ACLU/SC specifically opposes paragraph 5, section B, clause ii of the Management District plan. This proposal, if adopted, would create bike security patrols, one aim of which is to "control panhandling . . . and other unsuitable street behavior." Customer Service Ambassadors would also be hired to "deter . . . panhandling." The clear aim of these provisions is to, in effect, prohibit panhandling in the proposed district.

The state and federal courts have ruled that panhandling is protected speech in California. In 1983, the California Court of Appeals held that singling out and regulating speech that involves soliciting donations constitutes impermissible discrimination based on the content of speech (Alternatives for California Women, Inc. v. County of Contra Costa (1983)). Case after case follows this opinion (see Blair v. Shanahan, 1991).

Two weeks ago, in a case brought by the ACLU, a Federal District Court struck down an anti-panhandling ordinance. In Berkeley Community Health Project v. City of Berkeley, No. C95-0665, the Court found that begging is protected speech under the Liberty of Speech Clause in the California Constitution. Regulations that unreasonably burden or prohibit panhandling impermissibly "restrict speech based on content; that is, whether or not the speaker conveys the message of seeking contributions" (p.15). A federal court in Riverside made the same finding two months ago.

The courts are clear: the right of a person to say "I am homeless, please help me" is free and protected speech. Thus, the proposed Management District plan to "control" and "deter" panhandling is unacceptably vague and certainly unconstitutional.

Panhandling restrictions involve pragmatic questions as well as constitutional ones. The ACLU believes that restrictions on begging actually worsen the overall business climate.

Potential customers are uncomfortable when police confront a homeless panhandler and order him away. Customers will be especially disturbed when private, unskilled security guards do that job. There is little doubt that many, if not most, of the confrontations between the "Customer Service Ambassadors" and homeless panhandlers will escalate and perhaps require police involvement.

Enacting irresponsible panhandling restrictions also has an unintended consequence: pushing the problem to other nearby neighborhoods. This is no way to handle the problem of poverty. Instead, the first step in dealing with panhandling is to develop a system of outreach, and offer services and other alternatives. We would be happy to meet with representatives of the City Council and of the proposed business district to work out a better solution.

We urge the City Council to amend Paragraph 5 in the proposed Management District to make it constitutional, and effective. Please call me at (213/977-9500 x261) if the ACLU/SC can help.

Sincerely,

Samuel Mistrano

Samuel Mistrano
Legislative Director

cc: City Council Members