



September 27, 2022

The Honorable Congressman Mike Garcia  
1008 West Avenue M14, Suite E  
Palmdale, CA 93551  
[CA25MGIMA@mail.house.gov](mailto:CA25MGIMA@mail.house.gov)

The Honorable Senator Scott Wilk  
848 W. Lancaster Blvd, Suite 101  
Lancaster, CA 93534  
[Senator.Wilk@senate.ca.gov](mailto:Senator.Wilk@senate.ca.gov)

The Honorable Assemblyman Tom Lackey  
41301 12th Street West, Suite F  
Palmdale, CA 93551  
[assemblymember.lackey@assembly.ca.gov](mailto:assemblymember.lackey@assembly.ca.gov)

The Honorable Supervisor Kathryn Barger  
Los Angeles County Board of Supervisors  
Kenneth Hahn Hall of Administration  
500 West Temple St., Suite 869  
Los Angeles, CA 90012  
[kathryn@bos.lacounty.gov](mailto:kathryn@bos.lacounty.gov)

Subject: Request that Federal, State, and Local Agencies Collaborate to Address and Remove the Unlawful Uses Established at 3740 Smith Street in Acton.

Dear Ms. Barger and Messrs. Garcia, Wilk, and Lackey;

The Acton Town Council is writing to express our deep concern regarding the unlawful uses that have been allowed to persist for decades at 3740 Smith Street in Acton, California. These uses:

- Grossly violate the Federal Safe Drinking Water Act and threaten to contaminate local drinking water supplies.
- Grossly violate the California Porter Cologne Act and threaten the Santa Clara River.
- Grossly violate the California Mobilehome Parks Act.
- Grossly violate countless ordinances adopted by the County of Los Angeles.

Yet federal, state, and local agencies have not collaborated or cooperated with each other to curtail the unlawful uses established at 3740 Smith Avenue; in fact, many agencies have “siloed” their enforcement activities to such an extent that it has allowed the property owner to maintain the unlawful uses established thereon ***with impunity***.

---

*"Our lives begin to end the day we become silent about things that matter"* Martin Luther King, Jr.

The Acton Town Council respectfully submits this letter for the twofold purpose of setting forth factual matters demonstrating the extent to which federal, state, and local regulations are continuously being violated by the uses established at 3740 Smith Street and requesting that you jointly take action to curtail these violations as quickly as possible.

**Uses Established at 3740 Smith Street Violate the Federal Safe Drinking Water Act and Threaten the Local Drinking Water Supply.**

The uses established at 3740 Smith Street include two cesspools that are maintained and operated in direct violation of the Federal Safe Drinking Water Act (“the Act”); the Act required the cesspools to be closed and abated by 2005, but they never were. Worse yet, these illegal cesspools are located within the primary protection zone (referred to as “Zone A”) of Municipal Water Well #37-01 in Acton. This zone was established pursuant to the Act to protect drinking water sources in the community of Acton, and the continued operation of these illegal cesspools poses an ongoing and serious threat to the viability of our community’s drinking water system. In fact, Well #37-01 has become impaired and according to testing conducted by Los Angeles County Waterworks District #37, water produced by Well #37-01 routinely contains nitrate levels that exceed the 10 mg/l safe drinking water standard; thus, Well #37-01 is not being protected in the manner envisioned by the Act and it continues to be substantially threatened by the unlawful uses established at 3740 Smith Street.

**Uses Established at 3740 Smith Street Violate the California Porter-Cologne Act and Threaten the Santa Clara River.**

The uses established at 3740 Smith Street do not have, and have never had, a waste discharge permit issued for the human waste disposal facilities located on the property; therefore, these uses do not comply with California’s Porter Cologne Act intended to protect groundwater and surface water resources. According to records obtained from the Los Angeles Regional Water Quality Control Board (“LARWQCB” - the state agency tasked with enforcing the Porter-Cologne Act), the owner of the property at 3740 Smith Street was directed to submit a Report of Waste Discharge in 2019 and in 2022; yet, nothing has been submitted and LARWQCB has failed to follow through on enforcement. Moreover, the adjacency of the human waste facilities operated at 3740 Smith Street to the Santa Clara River floodplain poses an ongoing and substantial threat to Santa Clara River water quality. The ATC is aware that the “property manager” at 3740 Smith Street told the LARWQCB that the portion of the Santa Clara River lying within 1,000 feet of the property is dry and that it has not had flowing water for more than 20 years<sup>1</sup>. These statements are categorically false. Every rainstorm in Acton results in flowing water throughout the river floodplain in Acton including within 1000 feet of the property; in fact, most rainstorms cause flooding in downtown Acton along Crown Valley Road and very near the property itself. In the rainstorm that occurred on August 3, 2017, the entire downtown area was completely engulfed in 4 feet of water and even 3740 Smith Street was flooded. In other words, during a typical rainstorm, the Santa Clara River flows very close to the property and the “distance to groundwater” at this location is actually negligibly small. There is no question that the cesspools operated at 3740 Smith Street pose a very real and significant threat to the Santa Clara River.

---

<sup>1</sup> According to the LARWQCB inspection report, the “property manager” who was interviewed on December 23, 2019 told LARWQCB staff that “he had never seen water in that portion of the river in the past 20 years”.

### **Uses at 3740 Smith Street Violate the California Mobilehome Parks Act.**

Under Section 18500(d) of the Mobilehome Parks Act, it is unlawful for any person to operate a mobilehome park without a valid operating permit. The owner of the property located at 3740 Smith Street in Acton advertises the property as a mobilehome park and even collects \$500 in rent every month from the “tenants” who live in recreational vehicles placed at this address, yet the owner does not have a valid operating permit and is thus acting in direct violation of the Mobilehome Parks Act. Incredibly, HCD has not taken any enforcement action against the property owner for unlawfully operating a mobilehome park without a valid permit, and though HCD inspected 3740 Smith Street in 2017, 2018, and 2022, the inspection reports do not even mention that the property owner has no valid permit to operate a mobilehome park. HCD even issued a permit to construct to the property owner to make modifications to the facilities at 3740 without any regard for the fact that the location was operating unlawfully without a valid permit.

### **Uses Established at 3740 Smith Street Violate the County Code.**

The uses that are established at 3740 Smith Street and which are collectively referred to as a “mobilehome park” by various local, state, and federal agencies are subject to the Los Angeles County Code and require a valid Conditional Use Permit (“CUP”) issued by the Los Angeles County Department of Regional Planning. A CUP is a discretionary action that is subject to environmental review pursuant to the California Environmental Quality Act (“CEQA”), and no CUP can be issued for any mobilehome park which does not comply with applicable zoning standards and land use policies established in adopted planning documents. The owner of 3740 Smith Street does not have, and has never applied for, a CUP; therefore, the uses established at this location are operating unlawfully and have never demonstrated compliance with zoning regulations or consistency with adopted plans. Moreover, the uses established at 3740 Smith Street require sanitary sewer permits from the County Health Department, but no such permits have been secured or even applied for. The uses also require weekly trash services pursuant to the County Code, but neither the occupants of the property nor the property owner have secured such services;<sup>2</sup> as a result, refuse, yard waste, debris, appliances, and trash continually accumulate and pose very real and very significant vector and fire risks<sup>3</sup>. The County is aware of all of these code violations; yet, as of the time of this writing, the property is not under any Notice of Violation issued by any County agency. Because County agencies have not collaborated with each other or with HCD or with the California Waterboards or with the Federal Environmental Protection Agency (“EPA”), all the violations of federal, state, and local regulations ongoing at 3740 Smith Street have never been brought to light, and the adverse environmental impacts resulting from these violations have been allowed to persist for decades.

### **The California Superior Court Ordered Uses at 3740 Smith Street to Cease.**

In 2016, the California Superior Court declared the uses at 3740 Smith Street to be unlawful and in violation of the code. It also issued a permanent injunction enjoining the owner and his successors from maintaining these unlawful uses. The Court Order also directed the owner to cease all operations at the site and close the park because he did not apply for or obtain a CUP<sup>4</sup>.

---

<sup>2</sup> On March 31, 2022, the “property manager” informed County staff that the site has no trash service.

<sup>3</sup> Inspection reports dating from 2017 consistently describe the premises as being covered in trash, yard waste, toilets, appliances, lumber scraps, debris, etc.

<sup>4</sup> Case No. MCo25620.

### **3740 Smith Street is Not a Mobilehome Park.**

The Acton Town Council understands that various federal, state, and local agencies persistently refer to the collective uses established at 3740 Smith Street as a “mobilehome park”. We are also aware that HCD believes 3740 Smith Street was issued an operating permit (though HCD has never produced a copy of any such permit<sup>5</sup>) which was subsequently suspended, and on that basis, HCD concludes that a mobilehome park is operating at this address. Respectfully, HCD’s conclusions are contrary to law: 1) Pursuant to Section 18500(d) of the California Mobilehome Parks Act, a mobilehome park cannot be operated without a valid permit; because the uses established at 3740 Smith Street do not have a valid permit, this location is not operating as a mobilehome park; and 2) Under Section 18506 of the Mobilehome Parks Act, no permit to operate shall be issued for a park when the previous operating permit has been suspended until the violations which were the basis for the suspension have been corrected; consistent with this language, 3740 Smith Street *is not* operating as a mobilehome park and it *shall not be* operated as a mobilehome park until all violations are abated and the suspension is lifted. HCD has also concluded that the property can be issued a permit to operate as a mobilehome park if the property owner pays a few fees and penalties and submits an MP500 form and an Emergency Preparedness Plan<sup>6</sup>. However, this conclusion is also contrary to law given that the uses established at 3740 Smith Street are not eligible for a “mobilehome park” permit because 1) HCD is preempted by the Federal Safe Drinking Water Act from issuing a permit to operate for any mobilehome park that utilizes illegal “large capacity cesspools” to dispose of human waste; 2) The Porter Cologne Act precludes HCD from issuing a permit to operate any mobilehome park that does not have a valid waste discharge permit<sup>7</sup>; 3) The Mobilehome Parks Act precludes HCD from issuing a permit to operate any mobilehome park that is in violation of local land use policies and zoning code provisions; and 4) A Superior Court judge has ordered that the uses at 3740 Smith Street cease and that the so-called “mobilehome park” be closed.

### **LARWQCB has Been Aware of Violations at 3740 Smith Street for Many Years.**

The Los Angeles Regional Water Quality Control Board (LARWQCB) has known for many years that two cesspools were operating illegally at 3740 Smith Street and that no waste discharge permit applications were ever submitted for the unlawful human waste disposal facilities at this address. In fact, the Acton Town Council learned of the existence of the cesspools just 3 months ago via information obtained from the LARWQCB pursuant to a California Public Records Act request. As the agency responsible for implementing the Porter Cologne Act, LARWQCB was uniquely positioned to take the actions necessary to protect Acton’s groundwater and curtail illegal discharges from 3740 Smith Street; instead of doing so, LARWQCB simply ignored them.

### **The California Department of Housing and Community Development has been Aware of the Violations Maintained at 3740 Smith Street for Many Years.**

HCD has allowed the unlawful uses established at 3740 Smith Street to continue without a valid operating permit for many years and has allowed the property owner to impermissibly collect

---

<sup>5</sup> The Acton Town Council has sought copies of HCD permits for nearly 15 years; none were provided.

<sup>6</sup> Email from Stephanie Tran-Houangvilay ([Stephanie.Tran-Houangvilay@hcd.ca.gov](mailto:Stephanie.Tran-Houangvilay@hcd.ca.gov)) on April 18, 2022.

<sup>7</sup> § 13263 (g) of the Porter Cologne Act establishes that waste discharges are privileges, not rights. LARWQCB is granted “independent authority” to impose waste discharge requirements regardless of whatever statutory authority is vested in HCD or any other agency.

rent for occupancy of the vehicles on the property. Nonetheless, HCD has **never** taken any enforcement action against the property owner. And, though HCD inspected 3740 Smith Street in 2017, 2018, and 2022, the inspection reports fail to even mention the fact that the property owner has no valid operating permit. HCD has even issued at least one permit to construct<sup>8</sup> to the property owner to make facility modifications at 3740 without any regard for the fact that the location was operating without a valid permit and in direct violation of the Mobilehome Parks Act. The ongoing failure to uphold and enforce the California Mobilehome Parks Act that has persisted for decades is, frankly, appalling.

### **Multiple County Departments Have Been Aware of the Violations Maintained at 3740 Smith Street for Many Years**

For decades, the Los Angeles County Department of Regional Planning has known that the uses established at 3740 Smith Street violate the County Code and it has taken action to address these violations. For instance, the Department of Regional Planning, along with the County Counsel's Office, brought the lawsuit described above against the property owner in an attempt to curtail the existing, unlawful encampment on the property. However, the County did not pursue this matter by informing HCD of the judgement and court order; had the County done so, HCD could have initiated an enforcement action to implement the Court's directives.

The Los Angeles County Health Department has known for years that illegal "large capacity cesspools" were operating at 3740 Smith Street; it was also aware that no sanitary sewer permits or other waste disposal permits had ever been issued for the unlawful encampment at this location. Yet, and incredibly, the Health Department *did nothing*: it did not reach out to LARWQCB to address the lack of a waste discharge permit; it did not contact the EPA to address the illegal cesspools; it did not even contact the property owner to notify him of his obligation to establish a properly permitted septic system. Instead, Public Health ignored the unlawful human waste discharges from 3740 Smith Street by complaisantly choosing to not interfere based on the incorrect presumption that the property operates as a permitted "mobilehome park" under HCD jurisdiction. Ironically, it is the ATC's understanding that the Health Department *does* have jurisdiction over septic permits at mobilehome parks because HCD has granted this authority to the Health Department via a Memorandum of Understanding.

### **The Federal Environmental Protection Agency Was Recently Made Aware of the Safe Drinking Water Act Violations Maintained at 3740 Smith Street.**

In June, 2022, the Acton Town Council notified the EPA's Region IX office that two cesspools were operating at 3740 Smith Street in violation of the Safe Drinking Water Act; we also informed Region IX that these cesspools are located within the protected zone of our local municipal water well and that this well has become impaired with high nitrate levels. The Acton Town Council understands that Region IX has launched an investigation, inspected the wastewater facilities at 3740 Smith Street, and concluded that they are indeed cesspools and are operating in violation of the Safe Drinking Water Act. It is our hope that this investigation will result in a swift closure of these cesspools.

---

<sup>8</sup> HCD issued permit to construct No. 9834087 on August 22, 2017 to modify electrical facilities at 3740 Smith Street with full knowledge that this location did not have a valid Permit to Operate. And, when the property owner submitted the Application for a Permit to Construct, he did not inform HCD of the Court Order to cease all uses on the property that was issued the previous year.

**Conclusion.**

The purpose of this letter is not to merely chronicle the numerous statutory violations embodied in the existing uses established at 3470 Smith Street or catalogue the spectacular agency failures that have occurred and which have allowed these unlawful uses to persist; rather, it is intended to demonstrate the need for cooperation and cross collaboration among and between federal, state, and local agencies to bring these unlawful uses to an end. Accordingly, the Acton Town Council respectfully requests that you, as elected officials, reach out to the various agencies mentioned herein and urge them to act jointly and with haste to achieve this outcome. If you have any questions or require further information regarding the any of the matters raised above, please do not hesitate to contact us at [atc@actontowncouncil.org](mailto:atc@actontowncouncil.org).

Sincerely;

\_\_\_\_\_  
Jeremiah Owen, President

\_\_\_\_\_  
Tom Costan, Vice President

\_\_\_\_\_  
Pamela Wolger, Treasurer

\_\_\_\_\_  
Kelly Teno, Recording Secretary

\_\_\_\_\_  
Jacqueline Ayer, Correspondence Secretary

\_\_\_\_\_  
Troy Pieper, member

\_\_\_\_\_  
June Perkins, member