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May 29, 2009

Ms. Pam Elias
Department of Planning and Land Use
5201 Ruffin Rd., Suite B
San Diego, CA 92123

Re: Citation No. DPLU-40576, Case No. 09-50536

Dear Ms. Elias:

I understand Dean Broyles of the Western Center for Law and Policy has written to you by letter dated May 26, 2009 about the above-referenced citation issued to David and Mary Jones. The citation apparently alleges that their home bible study violated the County's zoning code. I am writing independently of Mr. Broyles, and I do not represent the Joneses. However, the ACLU shares the concern that the citation is not justified by the zoning code, and even assuming otherwise, we are concerned that it unlawfully infringes the Joneses' constitutional and/or statutory rights.

I will not recap Mr. Broyles's detailed analysis. I note only that singling out a religious gathering in a private home for zoning enforcement on terms and conditions not applicable to a similarly situated non-religious gathering is likely unlawful. Mr. Broyles raises substantial concerns that issuance of the citation discriminates against the Joneses' religious expression in violation of the state and federal constitutions.

For similar reasons, the citation may well violate the Religious Land Use and Institutionalized Persons Act. *See, e.g., Konikov v. Orange County*, 410 F.3d 1317, 1328 (11th Cir. 2005) ("Groups that meet [in homes] with similar frequency are in violation of the Code only if the purpose of their assembly is religious. This treatment of religious assemblies on less than equal terms than nonreligious assemblies constitutes an equal terms violation" of RLUIPA).

For all of these reasons, I strongly urge the County to rescind or dismiss the citation. As Mr. Broyles explains, the County has less restrictive and more narrowly

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tailored means to address any legitimate concerns about parking or congestion. Please contact me if you have any questions.

Sincerely yours,

David Blair-Loy
Legal Director