



**U.S. Department of Justice**

Civil Division

*Washington, DC*

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**APR 28 2016**

Mayor Tom Bates  
Mayor's Office  
2180 Milvia Street, 5th Floor  
Berkeley, California 94704

RE: Berkeley Municipal Code Chapter 23E.98, Civic Center District Overlay to  
Berkeley Main Post Office Parcel

Dear Mayor Bates:

I write with respect to Berkeley Municipal Code Chapter 23E.98, Civic Center District Overlay ("the Ordinance"), which restricts a nine-parcel section of Berkeley's downtown to civic, nonprofit uses (e.g., libraries, judicial courts, museums, parks etc.). In purporting to restrict the Berkeley Main Post Office parcel, located at 2000 Allston Way ("Berkeley Main Post Office" or "the Property"), to such civic or nonprofit uses, the Ordinance prohibits any commercially viable uses for the Property.

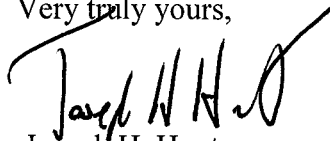
The Postal Service determined that the Berkeley Main Post Office is underutilized and therefore, to reduce costs, decided to sell the Property. The Ordinance, however, has so drastically reduced the value of the Property as to render a sale untenable. The Ordinance therefore impedes and conflicts with the Postal Service's ability to carry out its responsibilities under the Postal Reorganization Act of 1970 to maintain postal facilities consistent with reasonable economies of postal operations; to determine the need for post offices and provide such offices as it determines are needed; and to sell or otherwise dispose of that property or any interest therein consistent with those determinations.

Such interference by the City of Berkeley constitutes a violation of the Supremacy Clause, and, insofar as it conflicts with the Postal Service's disposition of the Berkeley Main Post Office parcel, the Ordinance is preempted by the Postal Reorganization Act and the Postal Powers Clause of the United States Constitution. The Principal Deputy Assistant Attorney General for the Civil Division of the United States Department of Justice, therefore, has authorized the filing of a civil action against the City of Berkeley to enjoin those violations.

We intend to file the action on or about May 27, 2016. As is our practice in civil actions of this kind, however, we are willing to give the City of Berkeley the opportunity to resolve this matter without litigation. Should you wish to discuss this matter, you or your legal

representative should contact Julia Berman, the Civil Division attorney assigned to this case, at (202) 616-8480 or [julia.berman@usdoj.gov](mailto:julia.berman@usdoj.gov). If you wish to resolve this matter without litigation, we must hear from you or your legal representative no later than May 20, 2016.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph H. Hunt", with a stylized flourish at the end.

Joseph H. Hunt  
Director  
Federal Programs Branch  
Civil Division