

Shareholders
Linda M. Dardarian
Laura L. Ho
James Kan
Andrew P. Lee



**Goldstein, Borgen,
Dardarian & Ho**

Of Counsel
Barry Goldstein
David Borgen
Morris J. Baller

June 13, 2022

Via U.S. Mail & E-Mail
Mayor@longbeach.gov¹

The Honorable Robert Garcia, Mayor
City Council Members
City of Long Beach
411 W. Ocean Blvd
Long Beach, CA 90802

Re: Sidewalk Access for Persons with Mobility Disabilities

Dear Mayor Garcia and Council Members:

We are Class Counsel in *Ochoa et al. v. City of Long Beach*, Case No. 2:14-cv-04307-DSF-FFM (C.D. Cal.). The *Ochoa* matter is a certified class action filed on behalf of persons with mobility disabilities who allege that the City's pedestrian right of way is not accessible as required by state and federal disability anti-discrimination laws. The parties reached a settlement in 2017 that has been entered as a binding order of the federal court, and has a thirty-year term (through 2047). The settlement requires the City to improve the accessibility of its curb ramps, sidewalks, and other pedestrian facilities over that thirty-year period. Class Counsel has a duty to ensure that the City meets its obligations under the settlement and to represent the interests of the certified class of persons with mobility disabilities in the *Ochoa* matter.

We write to address sidewalk access for persons with mobility disabilities as it relates to the City's Temporary and Permanent Parklet Programs. Members of the certified class have provided us with photographs showing tables, chairs, signs, planters, and even semi-permanent structures that reduce the clear width of the pedestrian right of way adjacent to parklets located on and around 2nd Street in the Belmont Shores neighborhood. Those photographs also show bar and restaurant patrons congregating on sidewalks near parklets. Such obstructions deny access to persons with mobility disabilities. The conditions depicted in the photographs are consistent with the May 12, 2022 correspondence sent to you by the Citizen's Advisory Committee on Disability stating that their members have experienced sidewalks adjacent to parklets in which "5 feet of clear pedestrian access is not maintained nor enforced" and is "being crossed and encroached by wait staff, restaurant customers and other members of the public, and sidewalk furniture without regard to pedestrians."

We understand that the City's Temporary Parklet Program is scheduled to sunset on June 30, 2022, and that the City is currently considering whether to extend the program to allow businesses to submit applications to make their parklets permanent. We take no position on

¹ This correspondence was also sent to individual Council Members at their district email addresses.

whether the City should extend the Temporary Parklet Program or allow permanent parklets. We emphasize, however, that the City has a binding, court-enforceable obligation to ensure the accessibility of its pedestrian rights of way. In addition to the requirements of state and federal disability anti-discrimination laws, the *Ochoa* settlement requires the City to “maintain the accessible features of its Pedestrian Facilities so that persons with Mobility Disabilities will be able to use such routes safely and independently.” Settlement Agreement and Release of Claims § 14.1.² Moreover, the *Ochoa* settlement requires the City to “draft and implement written policies and procedures which enforce the City’s current code requirements ensuring access to Pedestrian Facilities that are used by third parties, including but not limited to barriers caused by signage, tables and chairs, and other items installed or erected by third-parties.” *Id.* § 16.2.2. We trust that the City will meet its obligations under the *Ochoa* settlement.

Thank you for your consideration of the foregoing. To the extent Class Counsel may be of assistance to the City in addressing pedestrian right of way issues related to parklets, please do not hesitate to contact us.

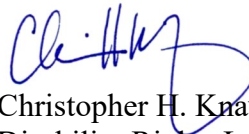
Respectfully,



Andrew P. Lee
Goldstein, Borgen, Dardarian & Ho



Meredith Weaver
Disability Rights Advocates



Christopher H. Knauf
Disability Rights Legal Center

APL/kbm

² A complete copy of the *Ochoa* settlement agreement is available at <https://gbdhlegal.com/wp-content/uploads/cases/Proposed-Settlement-Agreement.pdf>.