



City of Culver City

Mike Balkman Council
Chambers
9770 Culver Blvd.
Culver City, CA 90232

Staff Report

File #: 23-692, **Version:** 1

Item #: A-4.

CC - ACTION ITEM: (1) Consideration of a Request to Sign Onto the Amicus (Friend of the Court) Brief Prepared by the County of Los Angeles and the City of Los Angeles to Support the Defense of the Federal Deferred Action for Childhood Arrivals (DACA) Program in a Case Pending before the United States District Court for the Southern District of Texas; and (2) Direction to the City Attorney as Deemed Appropriate.

Meeting Date: February 27, 2023

Contact Person/Dept: Heather Baker/City Attorney

Phone Number: (310) 253-5660

Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Attachments: Yes ☐ No ☒

Commission Action Required: Yes ☐ No ☒

Public Notification: (E-Mail) Meetings and Agendas - City Council (02/22/2023)

Department Approval: Heather Baker (02/20/2023)

RECOMMENDATION

Staff recommends the City Council (1) consider a request to sign onto the amicus (friend of the court) brief prepared by the County of Los Angeles and the City of Los Angeles to support the defense of the federal Deferred Action for Childhood Arrivals (DACA) program in a pending case before the United States District Court for the Southern District of Texas; and (2) provide direction to the City Attorney as deemed appropriate.

BACKGROUND

In 2012, the United States Department of Homeland Security (DHS) commenced the Deferred Action for Childhood Arrivals (DACA) program to protect eligible immigrants, who came to the United States when they were children, from deportation. On September 5, 2017, the DHS issued a memorandum rescinding the DACA program. Three district courts enjoined DHS' effort and allowed DACA recipients to apply for renewal. In 2019, the United States Supreme court agreed to hear these cases.

On September 23, 2019, the City Council voted to add an item that arose after the posting of the agenda (A-9) to consider a request sent to former Mayor Sahli-Wells from the County of Los Angeles and City of Los Angeles (collectively, "LA County/City") to sign onto an amicus brief prepared by LA County/City in support of the above-referenced litigation. The City Council considered the request and voted 3-2 (Council Member Fisch recused; Council Member Eriksson absent) to approve support of the DACA amicus brief, which took the position that the request to unwind DACA is unlawful.

On June 18, 2020, the U.S. Supreme Court issued a 5-4 decision finding that the termination of DACA was (1) judicially reviewable; and (2) done in an arbitrary and capricious manner, in violation of the Administrative Procedure Act (APA).

Recently, LA County/City has solicited Culver City's interest in joining an amicus brief they will be jointly filing in support of the DACA program in the case of *Texas vs. United States*, Case No. 1:18-cv-00068, before the United States District Court for the Southern District of Texas. The filing deadline for the amicus brief is March 9, 2023.

Pursuant to Resolution No. 2023-R009, the City Attorney, after consultation with the City Manager, determined that the subject matter of this request for amicus support involves sensitive issues of policy; therefore, this request is being brought to City Council for consideration in accordance with the requirements set forth in the Resolution, and given the City Council's prior interest in DACA-related litigation.

DISCUSSION

This current litigation was originally brought by Texas and other states challenging the DACA program. The District Court in Texas struck down the DACA program and the 5th Circuit Court of Appeal upheld the District Court's ruling. On October 31, 2022, the Biden administration issued a new administrative DACA rule.

Texas and other states have now filed a motion for summary judgment with the District Court seeking to undo the DACA program. LA City/County anticipates that this issue will ultimately be decided by the United States Supreme Court after an appeal to the 5th Circuit Court of Appeal; however, they feel it is important to continue to support DACA at every level of this litigation.

Los Angeles County and Los Angeles City Amicus Brief

LA County/City are going to file an amicus brief supporting the arguments in opposition to Texas's motion for summary judgment. The Los Angeles City Attorney's office has reached out to the City of Culver City to see if there is interest in joining in this amicus brief as a signatory.

The prior amicus brief that was filed in the 5th Circuit Court of Appeal matter, before the case was remanded back to the District Court, was joined by 65 local governments from all across the country plus the United States Conference of Mayors, National League of Cities, the International City/County Management Association, and the International Municipal Lawyers Association.

Legal impact to Culver City

Los Angeles County is home to many DACA recipients. Should the DACA program be struck down, DACA recipients could be subject to immediate deportation or other penalties.

The City Attorney recommends the City Council consider LA County/City's request for support and provide direction as deemed appropriate.

FISCAL ANALYSIS

There is no fiscal impact associated with the City signing onto the amicus brief.

ATTACHMENTS

None.

MOTION

That the City Council:

1. Consider a request to sign onto the amicus (friend of the court) brief prepared by the County of Los Angeles and City of Los Angeles to support the defense of the federal Deferred Action for Childhood Arrivals (DACA) program in a pending case before the United States District Court for the Southern District of Texas (Texas v. United States, Case No. 1:18-cv-00068); and
2. Provide direction to the City Attorney as deemed appropriate.