

Mr. Michael S. Weiss
Deputy City Attorney
City and County of San Francisco
Office of The City Attorney

Via Email: michael.weiss@sfgov.org

June 26, 2014

Dear Mr. Weiss:

I am in receipt of your Cease and Desist Letter dated June 25, 2014 addressed to ParkModo. As we discussed today via telephone, I was entirely surprised to have found that ParkModo had been accused without investigation by your office for “preparing” to violate ordinance 63 (c) (“The Ordinance”) and “facilitating and encouraging drivers to enter unlawful agreements with users that are looking for parking, and misleading them into believing that their transactions are lawful.” In fact, to date ParkModo has not launched an app to the public and as such has not violated any ordinance whatsoever and therefore the Cease and Desist addressed to ParkModo is not warranted. Moreover, your characterization of the ParkModo business model is grossly inaccurate and potentially damaging as the primary intention of the business is to provide a solution through the use of technology that is designed to reduce the adverse effects of motorists searching for public parking spaces, which multiple studies show are responsible for more than 30% of traffic congestion and carbon emissions in San Francisco and the major cause of pedestrian accidents, loss of productivity, economic losses and the interruption and delay of city services such as fire engines and ambulances. Simply put, ParkModo’s intention is to fix a problem that the city has failed to appropriately address which puts the citizens of San Francisco at great physical and emotional risk, not violate any ordinances, which you would have found out immediately had someone from your office contacted me to discuss our product.

Furthermore, my legal counsel is confident that your interpretation that the ParkModo business model violates The Ordinance is inaccurate, as our technology simply facilitates the exchange of parking departure information between private citizens and in no way would potential ParkModo Users (“Users”) or ParkModo intimate that they or we, would “enter into a lease, rental agreement or contract of any kind, written or oral, with or without compensation, for the use of any street or sidewalk.” As The Ordinance states. Our User Agreement is very specific regarding the use and purpose of the app and clearly states that the “use of the app is solely for the purpose of facilitating the transmission of personal parking departure information and is not to be used for any other purpose.” As the exchange of personal information is not governed by your office in any way whatsoever, we are confident that your interpretation is not accurate and any enforcement of such interpretation potentially violates the rights of ParkModo and any Users that would potentially utilize the application.

Moreover, your accusation that, ParkModo is “facilitating and encouraging drivers to use cell phones and other wireless communication devices in a manner that distracts them, posing a safety hazard to the public and violating state laws that prohibit using cell phones and such other devices while driving” is inaccurate and prejudicial. Once again, had someone contacted me from your office, they would have learned that ParkModo complies with all laws regarding the use of mobile devices while driving. In fact, our User Agreement specifically discourages potential Users from looking at the application while driving and offers a proprietary Hands Free Feature that utilizes GPS and audio cues to alert Potential

Users to the opportunity to purchase parking departure information. Moreover, I find the accusation particularly troubling as the City of San Francisco itself offers multiple applications that encourage drivers to view their mobile device while driving and ubiquitous map applications that encourage drivers to view their mobile devices are not served with the same language as above.

However, as a show of good will and as a responsible individual and business person, I do accept the power of your office to enforce your view and impose your will upon companies and citizens working and or living in San Francisco without the burden of proof, and as such I understand that I have no recourse until there is a clear legal judgment by a higher authority that will clarify our differences regarding the interpretation of the Ordinance.

Therefore, as you requested, and in full respect for the City Attorney's Office, the application, ParkModo will not provide anyone in The City of San Francisco the ability to offer their personal departure information, nor purchase personal parking departure information, until such time when the proper legal authority concludes and enforces ParkModo and its Users right to freely exchange private information.

To enforce such a strategy, the ParkModo App, which will be available to use outside of San Francisco, will be programmed to display a message to anyone that attempts to offer their parking departure information in San Francisco that says: "Unfortunately the City Attorney of San Francisco has interpreted Police Ordinance 63 (c) in a way that prohibits the exchange of parking departure information and as such we are unable to complete your transaction. However, we are confident that with your support and the positive outcome of pending legal action, that our app will be available to use in the future. In the interim, if you would like to support your right to freely exchange private information and protest the city attorney's interpretation of the law, then please click on the "Help Us" button below to send your local representative a message of support for our app. We are sorry for any inconvenience this may have caused and we hope to help you in the future." If the User chooses to click on our "Help Us" button, then they will have the option to send a pre-written email to a variety of city representatives. We are currently making the changes mentioned above and will subsequently re-file our Application with Apple as soon as possible.

Based on our compliance with your request and the transparency of our business model and good intentions to help the city, I would respectfully request that you issue a public statement to this fact and communicate directly with Apple, retracting your request for them to ban our application from their App store. By taking this action, you would show good will and partially repair the damage that your office has caused the ParkModo brand and my personal reputation.

I thank you for your time and consideration and look forward to our continued conversation regarding this matter. Finally, please send confirmation of receipt of this letter and any future correspondence to dan@parkmodo.com

Sincerely,

Daniel Shifrin

A handwritten signature in black ink, appearing to read "David Shiff". The signature is fluid and cursive, with a horizontal line extending from the end.

Co-Founder
ParkModo