

PETERSON LAW GROUP

PROFESSIONAL CORPORATION
SUITE 2800
633 WEST 5TH STREET
LOS ANGELES, CALIFORNIA 90070

TELEPHONE (213) 223-2300
FACSIMILE (213) 226-9724

Via E-Mail

February 2, 2015

Planning and Land Use Committee
c/o Sharon Gin – Legislative Assistant
City of Los Angeles
200 North Spring Street
Los Angeles, CA 90012-2601
Sharon.Gin@lacity.org

Re: Los Angeles City Council File No. 15-0111

This office represents Penrose LLC (“Penrose”) owner of the real property located at 8271 Tujunga Avenue in Sun Valley, California, bearing APN 2311-002-001 and APN 2311-002-002 (the “Penrose Property”) and Los Angeles By-Products, Co., Inc. (“LABP”) owner of the real property located at 8216 Tujunga Avenue, Sun Valley, California, bearing APN 2314-001-003 (the “Newberry Property”). The Penrose Property is the subject of the City Council Motion adopted as part of File No. 14-0339 on May 13, 2014 (“Penrose Motion”) and the Newberry Property is the subject of the City Council Motion adopted as part of File No. 14-0056 on April 2, 2014 (“Newberry Motion”) (together, collectively, the “Adopted Motions”). As a result of the Adopted Motions, Penrose and LABP filed a Writ of Administrative Mandate and Complaint for Declaratory Relief against the City of Los Angeles and Los Angeles City Council on July 25, 2014 (Los Angeles Superior Court Case Nos. BS149963 and BS149989). The Writs challenge City of Los Angeles’ decision to approve the Sixth Council District Motion adopted as part of File No. 14-0339 and File No. 14-0056.

File No. 14-0399; Penrose Property

The Penrose Motion is misleading. The Penrose Motion directs the Department of City Planning (DCP) to initiate a General Plan Amendment and zone change from Industrial to Open Space, as the “existing industrial uses are not allowed per the decision in Case Number ZV-82-186, and are incompatible with those of the nearby Wetlands Project..” Not only is this inaccurate, but it fails to take into account that the property included in the Penrose Motion contains privately owned, industrially zoned and utilized property. If the recommended action is taken by DCP, it will be unprecedented and will constitute a taking of economically viable, industrial property. Moreover, if DCP follows the City’s instructions, it will result in bad planning based on the scarcity of industrial land in the City of Los Angeles.

The premise of the Adopted Motion in File No. 14-0339 is misstated. The land now being planned for use as the referenced Wetlands Park Project was acquired from LABP by the Los Angeles County Flood Control District (“LACFCD”) in an eminent domain action (the “Eminent Domain Case”) filed by LACFCD (Los Angeles Superior Court Case No. BC 390776). In that case, LACFCD acted as lead agency for a cooperative acquisition on behalf of LACFCD and the City of Los Angeles. Reliance on the Wetlands Park Project as a basis to convert the industrially zoned Penrose Property to Open Space is contrary to the settlement LABP reached with LACFCD in the Eminent Domain Case. The project was defined as limited to the property acquired. The project excluded use or incorporation of LABP’s property to the west (the Penrose Property owned by Penrose) and yet the inclusion of said property is now approved of in the Adopted Motion in File No. 14-0339. In fact, in the mediated resolution of the eminent domain action, the parties agreed that project related damage to the property to the west would give rise to an inverse condemnation action.

The Adopted Motion is also a violation of the Penrose Recreational Facilities Agreement which has been performed and fulfilled by LABP. As already determined and agreed by the City, the Penrose Property that is subject of the Adopted Motion cannot practically or economically be used as a golf course due to water intrusion issues and attendant problems because the underlying land is a former sanitary landfill. This issue was previously addressed by the City in the 1997 Letter of Clarification from the City. As a result, the existing driving range was approved as an alternate use for the property. LABP fulfilled its obligation by developing and operating the driving range. The driving range remains in place and operational. This use would be prohibited by an Open Space designation.

The Penrose Property has a long history with the DCP, but one thing is certain: it is not and should not be Open Space. Suffice it to say the City and LABP and Penrose may have different understandings of the status of the Penrose Recreational Facilities Agreement. However, that status is not important to this objection; viewing the circumstances most favorably to the City under the terms of the fulfilled Penrose Recreational Facilities Agreement as interpreted by the 1997 Letter of Clarification, the uses contemplated for the Penrose Property include a variety of recreational uses, all of which would be prohibited by the Open Space designation. The City’s adopted action will preclude such recreational uses.

File No. 14-0056; Newberry Property

The premise underlying the Newberry Motion is factually incorrect. The Newberry Property is privately owned and is planned and zoned industrial and it is and has been used for decades consistent with that zoning. As the Adopted Motion was presented, the voting council members were misled into believing the property under consideration in the Adopted Motion was publicly owned for the Wetlands Park Project. The Recitals clearly state, “The Los Angeles County Flood Control District currently owns the property . . .” However, as defined in the Adopted Motion, the study area includes the privately owned Newberry Property.

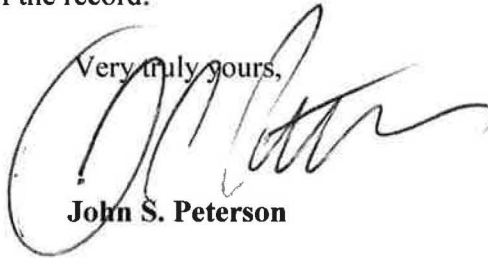
The land now being planned for use as the referenced Wetlands Park Project was acquired from LABP by the LACFD as stated above. In the Eminent Domain Case, LACFCD, on behalf of itself and COLA, defined the project as limited to the property acquired. The project excluded use or incorporation of LABP’s remainder property, including property to the north which is the Newberry Property included in the Newberry Motion. In the mediated resolution of the eminent domain action, the parties agreed that

project related damage to the LABP's remainder property would give rise to an inverse condemnation action.

Settlement Request

The Adopted Motions contain incorrect information that was misleading to the PLUM Committee and the City Council when they approved said Motions. Penrose and LABP propose that the process start over. The PLUM Committee and the City Council must operate with eyes open and with transparency. As adopted, the Motions propose to regulate economically viable, private industrial property into open space, with no economic use. This would amount to a taking, plain and simple. Penrose and LABP request that the PLUM Committee and the Council rescind the Adopted Motions and redraft the Motions with factually accurate recitals and information so that the Council may act based on factually accurate information. We request to appear and be heard at the PLUM hearing. We also request that you make this letter part of the record.

Very truly yours,

A handwritten signature in black ink, appearing to read "John S. Peterson", is written over the typed name below.

John S. Peterson

JSP:swt

cc: City Attorney's Office (via e-mail)
Lawrence F. Meyer (via e-mail)