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June 23, 2015

The Honorable Jose Huizar, Gilbert Cedillo,  
and Mitchell Englander  
Los Angeles City Council PLUM Committee  
200 N. Spring St.  
Los Angeles, CA 90012

Via email to Sharon.gin@lacity.org

RE: Council File 15-0721  
June 23, 2015 Agenda Item #3  
Academy Museum Project

Dear Councilmembers,

I write on behalf of Fix the City, Inc., and Jim O'Sullivan, appellants in the above-referenced matter. This matter is scheduled to be heard by the PLUM Committee today (June 23), and then to proceed to the City Council tomorrow, June 24. The applicant placed in the public record the day prior to the PLUM hearing an 828 page Errata to the Environmental Impact Report, disclosing significant changes to the project before the PLUM committee. In numerous respects, the manner in which my clients' appeal has been handled, and in which the public is being presented with new information on this project, has departed so far from accepted standards to constitute a violation of my clients' and the public's right to due process in handling of the determinations that are the subject of the appeal. The manner in which the Errata has been released also violates the information disclosure provisions that are at the heart of CEQA.

First, as my client has already noted, the PLUM committee's appeal hearing was scheduled with only 11 days notice. The Municipal Code clearly requires the same notice for an appeal hearing as for the original hearing on the approvals, 24 days. So the June 23 hearing date already was overly expedited, and did not permit sufficient time for appellants to prepare and present their case, or for the public to become informed and make arrangements to attend the hearing. The City has already determined that 24 days notice is required for appeal hearings, so giving less than half of that time is significantly prejudicial on its own.

Compounding the injury, appellants learned on Friday afternoon (June 19) that the full City Council would hear the matter in this project on June 24, the day after the PLUM hearing. The PLUM hearing takes place after 2:30 PM; Council meets at 10 AM the next day. How can

appellants or the public possibly respond to any changes made by PLUM to the requested entitlements in between the end of the PLUM meeting and the beginning of the Council meeting? It is nearly impossible. That is precisely the reason why a week is normally afforded between the PLUM Committee determination and the Council's full vote on a project. Frankly, the speed with which this case is progressing casts significant doubt whether the Councilmembers could possibly review the PLUM committee's findings prior to their vote on the item.

As if scheduling the two hearings on top of each other was not enough, the applicant submitted an 828-page Errata to the City on June 22. The Errata makes the following changes to the project:

- (1) Adds viewing balconies to the Sphere, contrary to previous written and oral representations that there would not be members of the public permitted on the exterior of the sphere
- (2) Expands hours of operation of museum café from 9 AM -6 PM to 8 AM -11 PM
- (3) Expands square footage of museum café from 4,000 to 6,000 sq ft.
- (4) Increased hours for matinees from 2 PM to 10 AM
- (5) Increases excavation for basement and more than doubles volume of soil to be removed
- (6) Discloses new information from Bureau of Sanitation (although the letter is over two months old)

The Errata contains over 800 pages of new noise and traffic analysis. The sheer number of changes and magnitude of required analysis require recirculation, or at least more than 24 hours of review.

These extremely late changes to the project and the disclosure of reams of new analysis (a) creates an unstable and shifting project description to which the public cannot adequately respond; (b) renders it impossible for appellants, the public, or, likely, the decision-makers, to actually know what is in the analysis, test its validity, or cogently present objections; (c) creates a clear image that the project in the original DEIR/FEIR was a "bait and switch" involving less intensive requested entitlements; and (d) violates the due process of appellants and the residents nearby the site to review and comment upon the approvals that rely upon the environmental analysis.

Due process in quasi-judicial proceedings requires at a minimum, notice and an opportunity to respond. By releasing an 828-page Errata the day before the rapid-fire two-day back-to-back hearing process on this project, appellants have received insufficient notice and no meaningful opportunity to respond. The late release of the Errata makes a mockery of the CEQA review process by taking new analysis of the two major impacts of the project -- noise and traffic -- and releasing the applicant's consultant's analysis without providing any ability for the public to do their own "double-checking" of the conclusions. There needs to be some limitation, particularly where it is the applicant's own desire to make these changes that drive the need for new impact

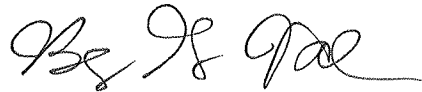
Honorable Jose Huizar, Gilbert Cedillo,  
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June 23, 2015  
Page 3

analysis. Why is the public the one to suffer the burden of late information when there is no evidence that any change to the project was outside of the control of the applicant?

A troubling aspect of all of this haste is the fact that there is no legitimate reason for it. This appeal does not expire until mid-August. The only reason that the schedule is being expedited with such speed is to push this project through before Councilmember LaBonge leaves office at the end of June. These kind of political concerns should not drive the scheduling of appeals in a manner that does not comport with minimal statutory requirements nor should it require Councilmembers to make hasty decisions without understanding the full import of what they are approving.

The Council should not condone this type of last minute behavior. It should remove the PLUM hearing from today's agenda, remove the Council hearing from tomorrow's agenda, and should require the applicant to schedule these hearings when the community has had sufficient time to review the new analysis. Proceeding under the current set of facts risks exposing the project approvals to lengthy and uncertain litigation.

Cordially,

A handwritten signature in black ink, appearing to read "Beverly Grossman Palmer", written in a cursive style.

Beverly Grossman Palmer