

15-0963



Etta Armstrong <etta.armstrong@lacity.org>

Re: LA City PLUM Committee, Agenda Item 7 for the Sept. 1, 2015 Meeting, CF # 15-0963

1 message

Sharon Gin <sharon.gin@lacity.org>

Tue, Sep 1, 2015 at 12:53 PM

To: Bob Blue <camarobob@hotmail.com>

Cc: Sharon Dickinson <sharon.dickinson@lacity.org>, Etta Armstrong <etta.armstrong@lacity.org>

Hello Mr. Blue,

Thank you for your correspondence. Please note that Sharon Dickinson is now the PLUM Clerk and should receive future PLUM submittals. I cc'ed her and her colleague, Etta Armstrong, so they can process your comment. Thank you.

On Tue, Sep 1, 2015 at 12:35 PM, Bob Blue <camarobob@hotmail.com> wrote:

COUNCILMEMBER JOSE HUIZAR, CHAIR
COUNCILMEMBER MARQUEECE HARRIS-DAWSON
COUNCILMEMBER GILBERT A. CEDILLO
COUNCILMEMBER MITCHELL ENGLANDER
COUNCILMEMBER FELIPE FUENTES

City Council File #: **15-0963**

Property address: **5258 Hermitage Ave**

Case Nos.: **TT-72725-CN-1A 2014-2510-MND**

Dear PLUM Committee Members:

Recommendation to accept appeal(s) and deny the applicant for the above referenced project.

This communication is being submitted prior to the start of the September 1, 2015 City of Los Angeles, PLUM Committee meeting.

Via this communication and from previous submittals on the record, you have been made aware of violations City and State laws that

occurred governing the demolition of structures (City of Los Angeles Ord. No. 178,402, Eff. 4-2-07. Sec. 22.171.12.) and should not take any action and instead refer this to an outside law enforcement agency for further investigation of any actions taken by the City and the applicant that violated local or State laws.

Giving any approvals or denying the appeals at this time frame would make you derelict in your duty to protect public health and safety and to uphold the law.

1. Temporary Stay of Demolition was required under Ordinance (Ord. No. 178,402, Eff. 4-2-07. Sec. 22.171.12.): An outside agency needs to investigate who knew about this and who in the City failed to follow the law. The City Attorney's office, Building and Safety, Office of Historic Resources, all may have potential conflicts due to attorney-client relationships.

Ord. No. 178,402, Eff. 4-2-07. Sec. 22.171.12. Temporary Stay of Demolition, Substantial Alteration or Removal Pending Determination to Designate a Monument. Upon initiation by the Council, the Commission or the Director of a proposed designation of a Monument, or upon the Commission's determination that an application for a proposed designation merits further consideration, no permit for the demolition, substantial alteration or removal of that site, building, or structure shall be issued, and the site, building or structure, regardless of whether a permit exists or does not exist, shall not be demolished, substantially altered or removed, pending final determination by the Council that the proposed site, building or structure shall be designated as a Monument. The Commission shall notify the Department of Building and Safety in writing not to issue any permits for the demolition, alteration or removal of a building or structure. The owner of the site, building or structure shall notify the Commission, in writing, whenever application is made for a permit to demolish, substantially alter, or remove any site, building or structure proposed to be designated as a Monument. The Council shall act on the proposed designation within the time limits contained in Section 22.171.10(f) of this article. If, after the expiration of the final period of time to act, the Council has not taken an action on the application or initiation to designate a Monument, then the demolition, alteration or removal of the site, building or structure may proceed.

2. South Coast Air Quality Management District (AQMD) Rule 1403: The structure was demolished without review of materials of construction or existing conditions to determine the presence of asbestos.

AQMD Rule 1403, adopted by the SCAQMD on October 6, 1989, establishes Survey Requirements, notification and work practice requirements to prevent asbestos emissions from emanating during building renovation and demolition activities.

Asbestos is a carcinogen and is categorized as a hazardous air pollutant by the Environmental Protection Agency (EPA). As such, SCAQMD Rule 1403 incorporates the requirements of the federal asbestos requirements found in National Emission Standards for Hazardous Air Pollutants (NESHAP) found in the Code of Federal Regulations (CFR) Title 40, Part 61, Subpart M.

The EPA delegated to SCAQMD the authority to enforce the federal asbestos NESHAP and the SCAQMD is the local enforcement authority for asbestos.

The failure to follow the law should not be rewarded or concealed by taking any action to approve the applicant's request or denying the appeals.

Thank you,

Bob Blue.

Sharon Gin
City of Los Angeles
Office of the City Clerk
213.978.1068
Sharon.Gin@lacity.org



Richard Lee Abrams
1916 North Saint Andrews Place
Hollywood, California 90068-3602
323/957-9588
AbramsRL@Gmail.com

Monday, September 1, 2015

Honorable Members of the PLUM Committee
of the City of Los Angeles
c/o

Sharon.Gin@lacity.org
sharon.dickinson@lacity.org
etta.armstrong@lacity.org

RE: Council File #: 15-0963 ✓
Address: 5258 Hermitage Avenue, Valley Village
Date: Tuesday, September 1, 2015

Dear Honorable Committee Members:

On August 25, 2015, Granes and Stacey LLP, attorneys for the developer in the above referenced case submitted a letter concerning the property and the demolition without satisfying the proper administrative process.

They admit that the South Coast Air Quality Management District [SCAQMD] issued them a Notice to Comply. Nowhere do they show that the developed complied with the Notice. The City of Los Angeles is not the proper entity to adjudicate what ramifications flow from the failure to comply with the Notice. Only the SCAQMD has that power. When primary jurisdiction rests with another agency with more expertise, the city should defer to that other agency and not abrogate the rights of the SCAQMD by making a determination which is within its jurisdiction.

Furthermore, the SCAQMD has not absolved the developer of any wrongdoing. If it had, the developer's attorney would have provided the City of the SCAQMD's determination. When we look at the report which the developer produces, we see that it is legally worthless and why the developer would not present it to the SCAQMD – the samples on which the lab tests were performed were taken **after** the demolition had taken place on June 15, 2015.

“The site **survey** was conducted on **June 16, 2015.**” Hart Laboratory Report date June 24, 2015, page 4 of unnumbered pages. Survey means that they came and looked at the site – without gathering any samples.

The materials which were tested by SanAir Technologies Laboratory Inc were collected on **June 19, 2015.** See Exhibit #1 attached hereto pages 1, 2, 4, 16, 17 from Hart Laboratory June 24, 2015.

There is no knowing what materials SanAir Labs tested since the demolition was on Monday, June 15, 2015 and their samples were taken four days later on Friday, June 19, 2015 after the debris had been cleared and removed from the site.

As a matter of state law, a judge or jury is obligated to evaluate each violation individually and with reference to all relevant facts and circumstances. AQMD considers many factors based upon the California Health and Safety Code including:

- (a) The extent of harm caused by the violation.
- (b) The nature and persistence of the violation.
- (c) The length of time over which the violation occurs.
- (d) The frequency of past violations.
- (e) The record of maintenance.
- (f) The unproven or innovative nature of the control equipment.

- (g) Any action taken by the defendant to mitigate the violation.
- (h) The financial burden to the defendant.

The City's PLUM committee is not the agency which state law has authorized to make the determination, it also has no data on the factors which the state law requires. Since June 2015, the developer could have obtained a clean bill of health from the SCAQMD, if such could be had. (Appellant should not be penalized for the developer's misconduct. The appellant was not cited and lacked standing with respect to this issue before the SCAQMD.)

The city should not invade the province of the SCAQMD in deciding how to dispose of a Notice to Comply. If cities can approve projects which have not been cleared by the SCAQMD, then the cities are significantly interfering with the legislative mandate which has been given to this state agency.

When the developer fails to present his "evidence" to the proper agency and when a cursory glance shows that the "evidence" is worthless since all tested materials were collected after the demolition and removal of the materials, the city may not approve the project. Rather, the City has two options:

(1) deny the project based upon grounds within the city's jurisdiction, as that will not interfere with the SCAQMD

(2) defer the matter until after the SCAQMND has fully adjudicated the matter and an official determination has been provided to the City.

Summary:

The demolition was contrary to law as there was no approval from SCAQMD who cited the developer for non-compliance.

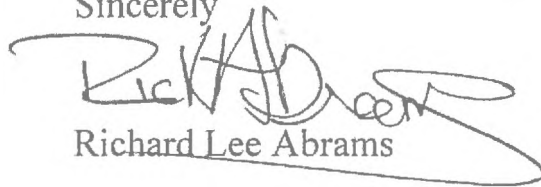
There is no evidence that the SCAQMD has completed the issue.

Developer's evidence is worthless on its face.

Conclusion:

Therefore, the PLUM Committee needs to grant the appeal or at a minimum, it needs to continue this matter until the SCAQMD has verified that it has made its final determination.

Sincerely

A handwritten signature in black ink, appearing to read "Richard Lee Abrams", with a long horizontal flourish extending to the right.

Richard Lee Abrams

RLA:rsm
attached Hart Lab report w/ SanAir Reports

Exhibit #1

Sections of Hart Laboratories June 24, 2015 Report



SanAir Technologies Laboratory, Inc.

1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: <http://www.sanair.com> E-mail: iaq@sanair.com

SanAir ID Number

15017780

FINAL REPORT

Name: Hart Laboratory
Address: 2028 Rt. 66 #103
Glendora, CA 91741

Project Number:
P.O. Number:
Project Name: 5258 Hermitage Valley Village CA

Collected Date: 6/19/2015
Received Date: 6/23/2015 8:00:00 AM
Report Date: 6/24/2015 4:08:41 PM
Analyst: Robertson, Erin

Asbestos Bulk PLM EPA 600/R-93/116

SanAir ID / Description	Stereoscopic Appearance	% Fibrous	Components % Non-Fibrous	Asbestos Fibers
03 / 15017780-001 Drywall	Off-White Non-Fibrous Homogeneous	5% Cellulose	95% Other	None Detected
04 / 15017780-002 Concrete	Grey Non-Fibrous Homogeneous		100% Other	None Detected
05 / 15017780-003 Roof Felt	Black Fibrous Homogeneous	85% Cellulose	15% Other	None Detected
06 / 15017780-004 Stucco, Stucco	Grey Non-Fibrous Homogeneous		100% Other	None Detected
07 / 15017780-005 Stucco, Stucco	Grey Non-Fibrous Homogeneous		100% Other	None Detected
08 / 15017780-006 Stucco, Stucco	Grey Non-Fibrous Homogeneous		100% Other	None Detected
11 / 15017780-007 Roof Felt Center	Black Fibrous Homogeneous	60% Cellulose 30% Glass	10% Other	None Detected

Certification

Signature: *Erin Robertson*
Date: 6/24/2015

Reviewed: *[Signature]*
Date: 6/24/2015



SanAir Technologies Laboratory, Inc.

1551 Oakbridge Drive, Suite B, Powhatan, VA 23139
804.897.1177 Toll Free: 888.895.1177 Fax: 804.897.0070
Web: <http://www.sanair.com> E-mail: laq@sanair.com

SanAir ID Number

15017781

FINAL REPORT

Name: Hart Laboratory
Address: 2028 Rt. 66 #103
Glendora, CA 91741

Project Number:
P.O. Number:
Project Name: 5258 Hermitage Valley Village CA

Collected Date: 6/19/2015
Received Date: 6/23/2015 8:00:00 AM
Report Date: 6/24/2015 5:19:10 PM
Analyst: Tallert, Jonathan G.

Asbestos Soil/Vermiculite PLM EPA 600/R-93/116

Sample Number	Sample ID / Location	Characteristics	Asbestos Fibers
15017781-001	01 / Soil S.W. Corner	Brown Non-Fibrous Heterogeneous	None Detected
15017781-002	02 / Soil N.W. Corner	Brown Non-Fibrous Heterogeneous	None Detected
15017781-003	09 / Soil Center Of Property	Brown Non-Fibrous Heterogeneous	None Detected
15017781-004	10 / Soil Center North	Brown Non-Fibrous Heterogeneous	None Detected
15017781-005	15 / Soil & Rock Pile	Brown Non-Fibrous Heterogeneous	None Detected
15017781-006	19 / Soil East Corner	Brown Non-Fibrous Heterogeneous	None Detected
15017781-007	20 / Soil Rock Pile	Brown Non-Fibrous Heterogeneous	None Detected

Certification

Signature: 
Date: 6/24/2015

Reviewed: 
Date: 6/24/2015