



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

REPORT NO. R25-0283
JUN 4 2025

REPORT RE:

**COURT-ISSUED WRIT ORDERING THE CITY COUNCIL TO SET ASIDE
AND INVALIDATE THE MITIGATED NEGATIVE DECLARATION (ENV-2016-2602-
MND) AND ALL PROJECT APPROVALS FOR THE PROPOSED SELMA
WILCOX HOTEL PROJECT (CPC-2016-2601-VZC-HD-CUB-ZAA-SPR) LOCATED
AT 6421- 6429 1/2 WEST SELMA AVENUE AND 1600-1604 NORTH WILCOX
AVENUE; DRAFT ORDINANCE RESCINDING ORDINANCE NO. 186025
THAT AMENDED SECTION 12.04 OF THE LOS ANGELES MUNICIPAL CODE
BY AMENDING THE ZONING MAP
(COUNCIL DISTRICT 13)**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 18-0873

Honorable Members:

This Office transmits for your consideration and action a court-issued Writ of Mandate (Writ) and Judgment (Judgment) issued in *Sunset Landmark Investment, LLC v. City of Los Angeles*, et al. Los Angeles Superior Court Case No. 19STCP01027 [Related to Case No. 19STCP00988] (Litigation); and the enclosed draft ordinance, approved as to form and legality, that would rescind Ordinance No. 186025 consistent with the Writ. The Writ and Judgment are attached as Exhibits 1 and 2, respectively.

The Writ and Judgment require the City Council to “[s]et aside and invalidate” the Mitigated Negative Declaration (MND) adopted by the City Council on March 5, 2019, for the Selma Wilcox Hotel development project located at 6421-6429 1/2 West Selma

Avenue and 1600-1604 North Wilcox Avenue (Selma Wilcox Hotel Project or Project) and all approvals for the Project, including Ordinance No. 186025 that amended the zoning map for the Project site (Council File No. 18-0873). This Office requests the City Council's action to comply with the terms of the Writ as recommended below.

Background

On July 22, 2016, Project applicant, 6421 Selma-Wilcox Hotel, LLC (Applicant) applied for the construction, use, and maintenance of a new 60,568 square foot, eight-story mixed-use building with 114 guest rooms, a 1,993 square foot restaurant, and over 20,624 square feet of existing ground floor commercial space (Project). As part of its application, the Applicant requested a vesting zone change, a conditional use permit (CUP) for the on-site sale and dispensing of alcoholic beverages, a zone variance to permit outdoor dining above the ground floor and on a rooftop, and a site plan review to permit a hotel with greater than 50 guest rooms. The Applicant filed a concurrent request for a vesting tentative tract map to permit an airspace subdivision. In 2017 and 2018, the zone variance and tract map requests were terminated by the Applicant, and the Applicant added a zoning administrator adjustment (ZAA) for yard adjustments.

Prior to the Applicant's initiation of the Project, in 2015, on the same site as the Project site, the City previously approved the development of the Tao Restaurant and a three-level subterranean parking structure (Tao Project). The fact that the Tao Project and the Selma Wilcox Hotel Project were on the same site and would be served by the same parking structure built as part of the Tao Project raised concerns the Project had been impermissibly segmented for purposes of environmental analysis. A "project" in CEQA is defined as "the whole of an action, which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." (CEQA Guidelines Section 15378.) Separating a project into segments in order to use more than one environmental analysis may be evidence of an attempt to "piecemeal" a larger project to reduce impacts and avoid the requirement to prepare an environmental impact report.

To address any potential "piecemealing" claim for the Selma Wilcox Hotel Project, the City conservatively used a "dual baseline approach" for the Project MND. This approach analyzed the Project compared to a baseline of 2015 before the Tao Project was constructed (Original Baseline), and compared the 2017 baseline after the Tao Project was constructed when the application was submitted on the Selma Wilcox Hotel Project (Current Baseline).

On July 12, 2018, the City Planning Commission (CPC) approved the Project, adopting a mitigated negative declaration, approving the site plan, the CUP, and the ZAA, and recommending the City Council approve the vesting zone change and height district change. Approval of the MND, Site Plan, CUP, and ZAA were appealed to the City Council based on, among other things, claims the MND was inadequate and violated CEQA because it: (1) failed to adequately evaluate the Project's air quality impacts, and (2) failed to properly analyze the "whole" of the Project.

On March 5, 2019, the City Council denied the appeal upholding CPC's actions and approved the MND, all entitlements and the CPC's actions on the Project, and approved the zone and height district change. The zone and height district change were memorialized in Ordinance No. 186025.

In April 2019, two petitions challenging the adequacy of the MND by petitioners Sunset Landmark, LLC (LASC Case No. 19STCP01027) and Casey Maddren (LASC Case No. 19STCP00988) were filed. After a briefing and oral argument on January 11, 2021, the Court issued an order denying the Maddren petition in full and found in the Sunset Landmark case that absent a persuasive credibility challenge by the City, the Petitioner had introduced substantial evidence of a fair argument that "the Project may have a significant impact on air quality" and the Original Baseline used in the MND was unclear and did not clearly identify the environmental conditions existing onsite before construction and excavation activities began.

The Court found that the City could potentially remedy the above deficiencies and issued an interlocutory writ remanding the Project to the City to clarify the Original Baseline and air quality analysis consistent with the Court's ruling. Over the next four years, the City worked with an environmental consultant and the Real Party's representatives on a Revised MND consistent with the Court's ruling. There was substantial delay in completing the Revised MND due, in part, to the change in counsel for the Real Party. Before the City was able to release its Revised MND, the Petitioner filed a Motion for Entry of Judgment and Granting the Peremptory Writ of Mandate on the basis the City had taken too long to comply with the Court's order to complete the Revised MND.

On January 31, 2024, the Court ruled against the City and granted Petitioner's Motion for Entry of Judgment and Granting the Peremptory Writ of Mandate finding the City's four-year delay in filing a return of the Interlocutory Writ, and new case law, constituted new circumstances to justify entering judgement.

On March 10, 2025, the Court issued a Peremptory Writ of Mandate ordering the City to: (1) set aside and invalidate the Mitigated Negative Declaration prepared for the Project; (2) set aside and invalidate all Project approvals; (3) refrain from taking any steps to carry out the Project approvals until and unless the City has fully complied with CEQA, the judgment, this Writ and all applicable laws; and (4) provide a return to the Writ, or court update, no later than 90 days after the Writ is served on the City. The City was served with the writ on March 14, 2025.

The City must provide proof to the Court of the steps taken by the City to comply with the Writ by June 12, 2025.

Recommendation

We request your action consistent with the Writ and Judgment. The City Council is requested to place on its agenda a proposed action to set aside and invalidate the Project approvals by taking the following actions:

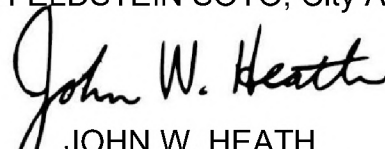
1. VACATE and SET ASIDE, the Mitigated Negative Declaration and mitigation and monitoring program, associated with Planning Case No. ENV-2016-2602-MND, prepared for the Selma Wilcox Hotel Project (Council File No. 18-0873);
2. ADOPT the draft ordinance that would rescind, the zone and height district change in Ordinance No. 186025; and
3. VACATE and SET ASIDE, the Selma Wilcox Hotel Project entitlement approvals associated with Planning Case File No. CPC-2016-2601-VZC-HD-CUB-ZAA-SPR for the Selma Wilcox Hotel Project (Council File No. 18-0873).

If you have any questions regarding this matter, please contact Deputy City Attorney Liliana M. Rodriguez at (213) 978-8143. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

HYDEE FELDSTEIN SOTO, City Attorney

By


JOHN W. HEATH
Chief Assistant City Attorney

JWH:LMR:jr
Attachments

EXHIBIT 1

EXHIBIT 1

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

RECEIVED
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

THE SUNSET LANDMARK
INVESTMENT, LLC, a California limited
liability company,

Petitioner,
vs.

CITY OF LOS ANGELES, a municipal
corporation; the CITY OF LOS ANGELES
CITY COUNCIL; and DOES 1 through 10,
inclusive,

Respondents.

6421 SELMA WILCOX HOTEL LLC, a
California limited liability company; and
DOES 1 through 10, inclusive,

Real Party in Interest.

Case No. 19STCP01027
[related to Case No. 19STCP00988]

[PROPOSED]
PEREMPTORY WRIT OF MANDATE

Hearing Date: January 31, 2025
Dept.: 32

[Hon. Daniel S. Murphy]

1 WHEREAS Petitioner in the above-captioned case filed a Verified First Amended
2 Petition for Writ of Mandamus ("Petition") challenging actions and approvals by the City
3 of Los Angeles and Los Angeles City Council related to the Selma Wilcox Hotel Project
4 located at 6421-6429 ½ West Selma Ave. and 1600-1604 North Wilcox Ave, Los Angeles,
5 California 90028 (the "Project"); and the Court, after Trial, has entered Judgment for
6 Petitioner granting in part and denying in part the Petition for Writ of Mandate;

7 WHEREAS on January 31, 2025, after the hearing on Petitioner's Motion for Entry
8 of Judgment Granting Peremptory Writ of Mandate ("Motion"), the Hon. Daniel S.
9 Murphy granted Petitioner's Motion.

10 **NOW THEREFORE, TO RESPONDENTS CITY OF LOS ANGELES AND**
11 **LOS ANGELES CITY COUNCIL:**

12 You, together with your officials, officers, employees, agents, boards,
13 commissions, other subdivisions, representatives and successors are hereby commanded to:

- 14 1. Set aside and invalidate the Mitigated Negative Declaration prepared for the
15 Project;
- 16 2. Set aside and invalidate all Project approvals; and
- 17 3. Refrain from taking any steps to carry out the Project approvals until and
18 unless the City has fully complied with CEQA, the judgment, this writ, and
19 all other applicable laws, and a return to the writ has been filed by the City.

20 This Peremptory Writ of Mandate further commands that:

- 21 4. If Real Party or any party seeks to pursue the Project anew, then the City
22 shall prepare and publicly circulate a full Environmental Impact Report
23 ("EIR") for the Project in compliance with CEQA, the CEQA Guidelines,
24 and all other applicable laws.

25 **YOU ARE FURTHER COMMANDED** to make a return to the Peremptory Writ
26 of Mandate under oath specifying what you have done to comply with this writ of mandate,
27 and to file that return with the Court, and serve that return by hand or facsimile upon
28

1 Petitioner's counsel of record in this proceeding, no later than 90 days after issuance of the
2 writ and service on you.

3 The Court shall retain jurisdiction in this action to compel your compliance with
4 this Peremptory Writ of Mandate, until there has been full compliance with the writ,
5 including as provided in Code Civ. Proc. § 1097.

6
7 **LET THE WRIT ISSUE.**

8 David W. Staylor, Executive Officer / Clerk of Court

9 Dated: 03/10/2025

K. Encinas

Clerk of the Superior Court



THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

EXHIBIT 2

EXHIBIT 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 32

19STCP01027

January 31, 2025

**THE SUNSET LANDMARK INVESTMENT, LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY,
PETITIONER vs CITY OF LOS ANGELES, A MUNICIPAL
CORPORATION, et al.**

8:30 AM

Judge: Honorable Daniel S. Murphy
Judicial Assistant: S. Luqueno
Courtroom Assistant: M. Navarro

CSR: Michelle Cooper, #13572
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Robert P. Silverstein and James S. Link

For Defendant(s): Andrea Leisy; Elisa Lynn Paster

NATURE OF PROCEEDINGS: Hearing on Motion - Other Petitioner The Sunset Landmark Investment, LLC's Notice of Motion and Motion for Entry of Final Judgment of Peremptory Writ of Mandate; Memorandum of Points and Authorities; Declaration of Robert P. Silverstein

Pursuant to Government Code sections 68086, 70044, and California Rules of Court, rule 2.956, Michelle Cooper, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matter is called for hearing.

After hearing oral argument from counsel, the Court adopts its tentative ruling as the Order of the Court, which is signed and filed this date and incorporated herein as follows:

The Motion re: for Entry of Judgment Granting Peremptory Writ of Mandate; Memorandum of Points and Authorities; Declaration of Robert P. Silverstein filed by The Sunset Landmark Investment, LLC, a California limited liability company, Petitioner on 12/26/2024 is Granted.

BACKGROUND

Petitioner Sunset Landmark Investment, LLC (Petitioner or Sunset) filed a petition for writ of mandate challenging the City of Los Angeles's actions and approvals related to the Selma Wilcox Hotel project, including the City's approval of a mitigated negative declaration (MND). On January 11, 2021, the Court issued a ruling finding that Sunset presented substantial evidence supporting a fair argument that the project may have significant effects on air quality, so that the City's decision to adopt an MND was an abuse of discretion. The court also found the City had

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not chosen a baseline consistent with the California Environmental Quality Act (CEQA).

However, finding that the City may remedy these deficiencies, the Court remanded to the City for further proceedings and for the City to make specific findings to clarify the Project's baseline and resolve the issue of the impact on air quality. On February 8, 2021, the Court issued an interlocutory writ and order of remand accordingly. The February 8, 2021 order stated that "[t]he City shall submit a return to this Court setting forth the clarifications to its analysis and findings regarding the MND's baseline and air quality analysis consistent with the Court's January 11, 2021, Ruling," or "[a]lternatively, the City may elect to prepare an Environmental Impact Report ('EIR') which addresses this Court's concerns as set forth in the January 11, 2021, Ruling."

Sunset appealed the Court's February 8, 2021 order. On August 11, 2021, the Court of Appeal dismissed the appeal as having been taken from a nonappealable order.

On December 26, 2024, Sunset filed the instant motion for entry of judgment granting a peremptory writ of mandate. Respondents (City of Los Angeles and City of Los Angeles City Council) and Real Parties (6421 Selma Wilcox Hotel, LLC) filed their opposition on January 13, 2025. Sunset filed its reply on January 22, 2025.

LEGAL STANDARD

"A party who originally made an application for an order which was refused in whole or part, or granted conditionally or on terms, may make a subsequent application for the same order upon new or different facts, circumstances, or law, in which case it shall be shown by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown." (Code Civ. Proc., § 1008(b).)

Section 1008 applies here because Sunset's petition for writ of mandate was an application for an order. (See Code Civ. Proc., § 17(b)(15) ["'Writ' means an order or precept in writing, issued in the name of the people, or of a court or judicial officer"]; *Merlet v. Rizzo* (1998) 64 Cal.App.4th 53, 61 ["A writ is an order in writing issued by a competent official in a judicial proceeding"].) The application was refused in part or granted conditionally because Sunset did not obtain the full relief sought. Thus, Sunset properly filed the instant motion under Section 1008(b).

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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DISCUSSION

“CEQA requires preparation of an EIR ‘whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact.’ [Citations.] Thus, if substantial evidence in the record supports a ‘fair argument’ significant impacts or effects may occur, an EIR is required and a negative declaration cannot be certified.” (Wollmer v. City of Berkeley (2009) 179 Cal.App.4th 933, 939.) “The fair argument standard is a ‘low threshold’ test for requiring the preparation of an EIR. [Citations.] It is a question of law, not fact, whether a fair argument exists, and the courts owe no deference to the lead agency’s determination.” (Ibid.) “If such evidence exists, the reviewing court must set aside the agency’s decision to adopt a negative declaration or a mitigated negative declaration as an abuse of discretion in failing to proceed in a manner as required by law.” (Id. at pp. 939-40.)

“If a court determines a public agency has not complied with CEQA, it must order or issue a peremptory writ of mandate requiring the agency to do one or more of the following: (1) void the project approval ‘in whole or in part’; (2) suspend any or all project activities that could prejudice consideration or implementation of mitigation measures or project alternatives necessary to bring the determination into compliance with CEQA; or (3) take specific action as necessary to bring the agency’s consideration of the project into compliance with CEQA.” (Save Our Capitol! v. Department of General Services (2023) 87 Cal.App.5th 655, 709.)

In its January 11, 2021 ruling, the Court found that “Sunset has established a fair argument that the Project may have significant impact on air quality and that the Project’s baseline does not comply with CEQA.” This finding warrants a holding that the City abused its discretion in adopting the MND and justifies a peremptory writ of mandate. (See Wollmer, supra, 179 Cal.App.4th at pp. 939-40; Save Our Capitol!, supra, 87 Cal.App.5th at p. 709.)

While the Court gave the City an opportunity to conduct further proceedings and submit a return, the City has not complied with that order. It has been nearly four years since the Court’s ruling, and the City has not returned to the Court with its updated findings. Real Parties’ counsel avers that they have been working on the matter “[s]ince May of 2022” (King Decl. ¶ 10), and the City’s counsel contends that it has been working on a revised MND “[s]ince January 2023” (Leisy Decl. ¶ 4). But the Court’s order was issued in February 2021. Neither the COVID pandemic nor the turnover of some staff within the City justifies a four-year delay. (See King Decl. ¶ 9; Leisy Decl. ¶¶ 5-6.) Even now, the City is not close to completing its court-ordered

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return, because the revised MND will not be released and opened for public review until “spring or early summer 2025.” (Leisy Decl. ¶ 8.) Then, only if the revised MND is approved by the City will Respondents file a return. (Mtn. 15:3-8.) As a result, Respondents request even more time to comply with the Court’s four-year-old order. (Mtn. 14:25-26.)

The City is not entitled to an indefinite period of time to demonstrate the Project’s compliance with CEQA. The Court found four years ago that there was sufficient evidence for a fair argument that the Project would have a substantial impact on the environment. This alone warrants setting aside the City’s MND and issuing a peremptory writ of mandate. (Wollmer, *supra*, 179 Cal.App.4th at pp. 939-40; *Save Our Capitol!*, *supra*, 87 Cal.App.5th at p. 709.) The City’s noncompliance after four years constitutes a new circumstance justifying the relief sought under Code of Civil Procedure section 1008(b).

CONCLUSION

Petitioner The Sunset Landmark Investment, LLC’s motion for entry of judgment granting peremptory writ of mandate is GRANTED.

Petitioner is ordered to give notice.