

**Fwd: Objection re: Agenda Item No. 39 for 12/09/2020 City Council Meeting (Council File No. 18-1005-S1)**

1 message

Izabella Hovhanisian &lt;izabella.hovhanisian@lacity.org&gt;

Wed, Dec 9, 2020 at 9:04 AM

To: City Clerk Council and Public Services &lt;clerk.cps@lacity.org&gt;

Cc: Melinda Novoa &lt;melinda.novoa@lacity.org&gt;, Sharon Gin &lt;sharon.gin@lacity.org&gt;, Erika Pulst &lt;erika.pulst@lacity.org&gt;

----- Forwarded message -----

From: **Jack M. Rubin** <[Jack.Rubin@ndl.com](mailto:Jack.Rubin@ndl.com)>

Date: Tue, Dec 8, 2020 at 7:12 PM

Subject: Objection re: Agenda Item No. 39 for 12/09/2020 City Council Meeting (Council File No. 18-1005-S1)

To: [CityClerk@lacity.org](mailto:CityClerk@lacity.org) <[CityClerk@lacity.org](mailto:CityClerk@lacity.org)>Cc: Charles S. Krolikowski <[Charles.Krolikowski@ndl.com](mailto:Charles.Krolikowski@ndl.com)>

To the City Clerk:

Please include the attached objection letter from our office on behalf of [722-728 S. Broadway, L.P.](#) in the record for Item No. 39 (Council File Number 18-1005-S1) on the agenda for the City Council meeting scheduled for 11:00 a.m. tomorrow (December 9, 2020). We tried multiple times to submit this through the City's public comment portal, but it was not working.

Thank you,

Jack Rubin

Jack M. Rubin

Associate

949.271.7262 | [Jack.Rubin@ndl.com](mailto:Jack.Rubin@ndl.com)

Newmeyer &amp; Dillion LLP

895 Dove Street, 5th Floor

Newport Beach, CA 92660

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4621K

December 8, 2020

Charles S. Krolikowski  
Charles.Krolikowski@ndlif.com

**VIA EMAIL TO CITYCLERK@LACITY.ORG**

Honorable City of Los Angeles Council  
200 North Spring Street, Room 340  
Los Angeles, CA 90012

**Re: Objections to Street Vacation Approval for Vermont Avenue and 85th Street—VAC-E1401352 (for December 9, 2020 City Council Meeting; No. 39 on Agenda; Council File No. 18-1005-S1)**

Dear Honorable Councilmembers:

Our office represents 722-728 S. Broadway, L.P., the owner of property (“Owner”) within close proximity to the proposed street vacations requested by Bridge Housing, and identified as VAC-E1401352 (“Application”).

On behalf of Owner, our office again objects to the proposed street vacation request (the “Street Vacation Project”). Our office previously submitted written objections on behalf of Owner on February 27, 2020 and August 4, 2020, September 4, 2020, and September 7, 2020 prior to other proceedings related to this street vacation approval. On October 21, 2020, our office also filed a petition for peremptory writ of mandate/mandamus challenging the approval on behalf of Owner in the Los Angeles County Superior Court. A copy of that petition/complaint is being submitted as an attachment to this comment. Copies of Owner’s previous objections (without exhibits) are attached to that petition/complaint.

Owner objects to this approval for the same reasons set forth in its attached petition/complaint. This includes, without limitation, violations of the California Environmental Quality Act (“CEQA”), the California Streets and Highways Code, and the City’s land use regulations and local ordinances. Notably, Owner’s counsel did not receive notice that this item had been scheduled for the City Council’s review until 8:00 p.m. last night (December 7, 2020). (Owner’s counsel received the notice at that time via email notification from LACityClerk Connect.) Under the California Streets and Highways Code and the City’s own rules and regulations, this is insufficient notice to

Honorable City of Los Angeles Council

**December 8, 2020**

Page 2

hold a full public hearing on this item. Accordingly, the City cannot satisfy the public hearing requirement for this approval at its December 9, 2020 meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "CSK".

Charles S. Krolikowski

Enclosure (722-728 S. Broadway, L.P.'s Petition/Complaint)

1 NEWMEYER & DILLION LLP  
2 CHARLES S. KROLIKOWSKI, CBN 185177  
3 Charles Krolikowski@ndlfc.com  
4 PHILIP D. KOPP, CBN 90172  
5 Philip.Kopp@ndlfc.com  
6 JACK M. RUBIN, CBN 278011  
7 Jack.Rubin@ndlfc.com  
8 895 Dove Street, 5th Floor  
9 Newport Beach, California 92660  
10 (949) 854-7000; (949) 854-7099 (Fax)

11 Attorneys for Petitioner/Plaintiff  
12 722-728 S. Broadway, L.P.

**FILED**  
Superior Court of California  
County of Los Angeles

10/21/2020

Sherri R. Carter, Executive Officer / Clerk of Court  
By: G. Robinson Deputy

**NEWMEYER**  
  
**DILLION**

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10  
11 722-728 S. BROADWAY, L.P., a limited  
12 partnership,

13 Petitioner and Plaintiff,

14 vs.

15 CITY OF LOS ANGELES, a public entity;  
16 CITY COUNCIL OF THE CITY OF LOS  
17 ANGELES, an elected governing body;  
18 and DOES 1-100 inclusive,

19 Respondents and  
20 Defendants.

21 BRIDGE HOUSING CORPORATION, a  
22 nonprofit public benefit corporation; and  
23 LOS ANGELES COUNTY  
24 DEVELOPMENT AUTHORITY,

25 Real Parties in Interest.

10 CASE NO.: **20STCP03499**

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1 Petitioner/plaintiff 722-728 S. Broadway, L.P., a California limited partnership  
2 (“Petitioner”), hereby petitions this Court for a peremptory writ of mandate/mandamus, pursuant  
3 to Code of Civil Procedure sections 1085 and 1094.5, to be directed to respondents/defendants the  
4 City of Los Angeles (“City”) and its City Council, along with other causes of action alleged  
5 herein, including as to the applicant and real party in interest BRIDGE Housing Corporation, a  
6 California nonprofit public benefit corporation (“Applicant”), and real party in interest Los  
7 Angeles County Development Authority (“Owner”). This petition/complaint alleges conduct in  
8 violation of the California Environmental Quality Act (Pub. Resources Code, §§ 21000–  
9 21189.57) (“CEQA”).

10 **THE PARTIES**

11 1. Petitioner is a California limited partnership and is the fee owner of the properties  
12 8517-8521 S Vermont (APN 6033-026-013), 8529 S Vermont (APN 6033-026-014), and 1057-  
13 1059 W Manchester Ave (APN 6033-026-022) in the City of Los Angeles, California. These  
14 properties are within the close vicinity of the project at issue in this petition, which is the  
15 Applicant’s application for vacation of the public right of way located between 84th Street and  
16 Manchester Avenue in the City of Los Angeles, VAC-E1401352 (the “Project”). For example,  
17 the property at 8517 S. Vermont Ave. is located less than 150 feet from the Project. Accordingly,  
18 Petitioner will be directly affected by the potential environmental impacts of the Project.

19 2. Respondent/defendant City is a public entity located in the State of California.  
20 The City is required to comply with state, local, and federal law, rules, and regulations, including,  
21 without limitation, CEQA.

22 3. Respondent/defendant City Council of the City of Los Angeles (“City Council”) is  
23 the elected governing body of the City and has final decision-making authority, including the  
24 resolution of appeals. Like the City, the City Council is required to comply with local, state, and  
25 federal law, including CEQA.

26 4. Petitioner is informed and believes that Applicant is a California nonprofit public  
27 benefit corporation that is the applicant for the Project.

28 ///

5. Petitioner is informed and believes that Owner is a real party of interest based on it being the alleged owner on whose behalf Applicant applied for the street vacation at issue.

6. Petitioner is ignorant of the true names and capacities of the respondents/defendants sued herein as DOES 1 through 100, inclusive, and therefore sues them by such fictitious names. Petitioner will amend this petition/complaint to allege their true names and capacities when ascertained.

7. Petitioner is informed and believes, and thereon alleges, that at all relevant times mentioned herein, Respondents and DOES 1 through 100, inclusive, were the agents, servants, and employees of each other and in doing the things herein alleged, were acting within the course and scope of their authority as such agents, servants, and employees with the permission, consent, and knowledge of each other. The City, City Council, and DOES 1 through 100 shall be collectively referred to as "Respondents" herein.

## **FACTS AND ALLEGATIONS**

8. CEQA requires that public agencies review potential environmental impacts of a proposal and consider ways to minimize or avoid environmental damage. Under CEQA, a “project” means the “whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Cal. Code Regs., tit. 14, § 15378, subd. (a).)

9. “Approval” of a project under CEQA, means a decision by the public agency “which commits the agency to a definitive course of action in regard to a project intended to be carried out by any person.” (Cal. Code Regs., tit. 14, § 15352, subd. (a).)

10. The Project includes the vacation of approximately 49,500 square feet of streets and/or alleys between 84th Street and Manchester Avenue. The stated purpose of the vacation as set forth in Applicant's application for the street vacation (the "Application") is "to facilitate County of Los Angeles project consisting of up to approx. 418,970 sf of mixed-use affordable housing and community serving commercial retail, a public charter college-preparatory boarding school, a publicly accessible transit plaza, and vehicular parking."

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11. The City form that Applicant was required to utilize for the Application states as follows:

Area (in sq. ft.) of the proposed vacation area is approx. 49,500 sq. ft. If over 10,000 sq. ft. of buildable area, the vacation is not categorically exempt from the California Environmental Quality Act Guidelines and will require a higher level of environmental review. Contact a vacation staff member to discuss the effect of this on the processing of your application prior to submittal. If the applicant is required to have an environmental determination performed by the Bureau of Engineering Environmental Management Group, the applicant must submit an additional \$32,100 fee deposit. This will also increase the processing time by approximately 6 months.

12. On February 27, 2020, while the Application was pending, Petitioner submitted a letter to the City Council and the Public Works and Gang Reduction Committee (“PWGR Committee”) objecting to the Application on multiple grounds. These grounds included, without limitation, that the City needed to conduct an environmental review of the Project in compliance with CEQA. A true and correct copy of the February 27, 2020 letter (without exhibits) is attached hereto as **Exhibit A** to this petition/complaint and is incorporated by reference herein.

13. On August 3, 2020, Petitioner’s counsel learned that the PWGR Committee had included an item regarding the Application on the agenda for its upcoming meeting on August 5, 2020, at 9:00 a.m. On August 4, 2020, Petitioner’s counsel received an email notification from LACityClerk Connect regarding an update to City Council File Number 18-1005-S1, which is the file number for the Application. The update noted that a report from the City’s Bureau of Engineering and several other supporting documents had been uploaded for review by the public prior to the PWGR Committee meeting scheduled for the next day.

14. On August 4, 2020, Petitioner submitted another letter to the City Council and the PWGR Committee objecting to the Application on multiple grounds. These grounds again included, without limitation, that the City was required to conduct an appropriate environmental review of the Project in compliance with CEQA. A true and correct copy of the August 4, 2020 letter (without exhibits) is attached hereto as **Exhibit B** to this petition/complaint and is incorporated by reference herein. Petitioner also noted in the letter that it was unclear whether the City was treating the Application as a separate project from the County of Los Angeles' (the

1       “County”) Vermont and Manchester Transit Priority Project.<sup>1</sup> For example, the letter noted that  
2 the Bureau of Engineering’s report stated that “[t]he transit priority development project **and the**  
3 **associated street and alley vacation** meet all the requirements of sections 21151.1 subdivisions  
4 (a) and (b) and a requirement of subdivision (c) as detailed in the NOE attachments.” (Emphasis  
5 added.) Petitioner emphasized in its letter that the City could not deem the Project to be exempt  
6 under CEQA based on the Vermont and Manchester Transit Priority Project’s alleged satisfaction  
7 of the conditions required for the statutory exemption.

8       15.      On August 5, 2020, the PWGR Committee met to consider the Bureau of  
9 Engineering’s report and recommendation. Petitioner’s counsel appeared telephonically at the  
10 meeting and made additional oral objections. However, the City imposed a strict one-minute time  
11 limit on the comments. On information and belief, the PWGR Committee adopted a  
12 recommendation to the City Council that the Bureau of Engineering’s report be adopted, the  
13 Application be approved, and the Project be found to be exempt from CEQA.

14       16.      On September 3, 2020, Petitioner’s counsel received an email notification from  
15 LACityClerk Connect regarding another update to City Council File Number 18-1005-S1. The  
16 update noted that a report from the PWGR Committee had been uploaded for review. The report  
17 was for a September 8, 2020 City Council meeting to consider the Application.

18       17.      On September 4, 2020, Petitioner submitted another letter to the City Council via  
19 email objecting to the Application on multiple grounds. Again, these grounds included, without  
20 limitation, that Project did not comply with CEQA. A true and correct copy of the September 4,  
21 2020 letter (without exhibits) is attached hereto as **Exhibit C** to this petition/complaint and is  
22 incorporated by reference herein. Petitioner’s counsel also attempted to submit the comment  
23 through the City Council’s online portal, but the portal was not working at the time. The portal  
24 also limited the length of written public comments to 5,000 characters and limited document  
25 submissions to a total of five megabytes. In response to their email, Petitioner’s counsel received  
26 an email from a City employee stating: “The Office of the City Clerk now has a new centralized

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28       <sup>1</sup> The Vermont and Manchester Transit Priority Project, which the County’s Board of Supervisors approved in December 2017, is a planned mixed-use development in the close vicinity of the street vacation sought by Applicant.

1 Public Comment Portal for you to submit your comments on items considered by the Los Angeles  
2 City Council to be added as part of the online Council file.”

3       18. On September 7, 2020, Petitioner submitted an additional public comment to the  
4 City Council via email and through the public portal. A true and correct copy of the September 7,  
5 2020 letter (without exhibits) is attached hereto as **Exhibit D** to this petition/complaint and is  
6 incorporated by reference herein.

7       19. On September 8, 2020, the City Council met to consider the Application.  
8 Petitioner's counsel appeared telephonically at the meeting and made additional oral objections.  
9 However, the City again imposed a strict one-minute time limit on the comments. Petitioner's  
10 counsel objected to these limitations on the record as a violation of due process. On information  
11 and belief, the City Council adopted the PWGR Committee's recommendation and approved the  
12 Application. The official action of the Council for the relevant agenda item states as follows:

Agenda Description: CATEGORICAL EXEMPTION and PUBLIC WORKS AND GANG REDUCTION COMMITTEE REPORT relative to the vacation of Vermont Avenue and 85th Street Vacation District, California Environmental Quality Act (CEQA) analysis and recommendations as set forth in the Notice of Exemption (VAC-E1401352).

## **Council Action: PUBLIC WORKS AND GANG REDUCTION COMMITTEE REPORT - ADOPTED FORTHWITH**

18        20. On September 16, 2020, the City filed a notice of exemption (“NOE”) from CEQA  
19 for the Project. The NOE identifies the City of Los Angeles as the lead agency for the Project.  
20 On information and belief, it also contains the following additional information and descriptions:

**PROJECT TITLE:** Vermont Avenue and 85th Street Vacation District W.O. E1401352

23 PROJECT LOCATION: The approximate 5.2-acre located at  
24 8400-8534 South Vermont Avenue, 927-963 West 85th Street, and  
25 947-963 West Manchester Avenue. The site also includes portions  
26 of the frontage street along South Vermont Avenue, access alleys,  
and portions of West 85th Street. The site is bound by West 84th  
Street to the north, West Manchester Avenue to the south, and  
South Vermont Avenue to the west. The site is in the South Los  
Angeles Community Planning area. T.G. 704-A2.

27 | //

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**DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:** The Street Vacation (the Project) is part of a development known as the Vermont and Manchester Transit Priority Joint Development which consists of a mixed-use development comprised of affordable housing and public-serving retail and community spaces, a career technical education center, a public charter boarding school, and a parking structure. The development also currently includes other community serving uses, such as publicly accessible transit plaza and bus transfer center. The proposed development is designed to revitalize the surrounding neighborhood to bring about positive economic and community development. The street and alley vacations seek to improve mobility and circulation in the development area. See attachment for further details.

EXEMPT STATUS: STATUTORY: IMPLEMENTATION OF THE SUSTAINABLE COMMUNITIES STRATEGY (PRC Secs. 21155 & 21151.1)

**JUSTIFICATION FOR PROJECT EXEMPTION:** The development, including the vacation of street and alley, is exempt pursuant to Public Resources Code sections 21155 and 21155.1. The transit priority development meets all of the requirements of Section 21151.1 subdivisions (a) and (b) and a requirement of subdivision (c) as detailed in the January 2020, Vermont and Manchester Transit Priority Project Memorandum on Project Refinements report prepared by Meridian Consultants (including Figures 1-3 & Attachments A-H); this Project is declared to be a sustainable communities project and shall be exempt.

16        21. As discussed in detail below, the Project does not qualify for the statutory  
17 exemption under Public Resources Code sections 21155 and 21155.1. It is a separate project  
18 from the County's Vermont and Manchester Transit Priority Project and cannot independently  
19 satisfy the criteria for that exemption. Accordingly, under CEQA, the City must conduct an  
20 initial study to determine whether it has any potentially significant environmental effects. The  
21 City's failure to do so violates CEQA.

## **JURISDICTION, VENUE, AND PROCEDURAL HISTORY**

23        22.      Jurisdiction and venue are proper in this Court under Code of Civil Procedure  
24 sections 394, 1085, 1094.5, and Public Resources Code section 21168 et seq. Petitioner is the  
25 owner of property in the close vicinity of the Project and will be directly affected by the Project's  
26 potential environmental impacts.

27        23. Petitioner's counsel submitted written comments at all stages of the public process.  
28 Petitioner's counsel also telephonically appeared and submitted oral comments at both the August

1 5, 2020 PWGR Committee meeting and September 8, 2020 City Council meeting. Unfortunately,  
2 for both meetings, the City limited the length of written public comments to 5,000 characters,  
3 document submissions to a total of five megabytes, and oral comments to one minute.  
4 Petitioner's counsel objected on the record that such limitations violated Petitioner's due process  
5 rights and violated the full public comment and public hearing requirements mandated under the  
6 Streets and Highways Code. Still, by virtue of said written and oral comments, which are  
7 incorporated by reference herein, Petitioner has exhausted all required administrative remedies.

8 24. Prior to filing this action, Petitioner provided the required notice, a true and correct  
9 copy of which is attached hereto as **Exhibit E**.

10 25. As such, Petitioner has performed all conditions precedent to filing this action and  
11 has complied with the requirements of Public Resources Code section 21167.5.

12 26. Petitioner has no adequate remedy at law for the offenses alleged in this petition  
13 and thus petitions this Court for relief as prayed for herein.

14 **FIRST CAUSE OF ACTION**

15 **(Peremptory Writ of Mandate/Mandamus—Against Respondents)**

16 27. Petitioner incorporates all of the allegations contained within paragraphs 1 through  
17 26, inclusive, as if set forth in full herein.

18 28. Petitioner brings this cause of action pursuant to Public Resources Code sections  
19 21168 and 21168.5, the California Constitution, the California Streets and Highways Code, and  
20 the City's land use regulations and local ordinances.

21 29. The Project is considered a "project" as defined by the California Public Resources  
22 Code, as it is an activity that may cause either a direct physical change in the environment or a  
23 reasonably foreseeable indirect physical change in the environment.

24 30. Respondents' consideration and approval of the Project constitutes "approval of a  
25 project" within the meaning of CEQA.

26 31. Approval of the NOE for the Project was discretionary, not ministerial. As such,  
27 the City was required to comply with CEQA with respect to the Project.

28 // /

1           32. Respondents approved the NOE without evaluating whether the Project satisfied  
2 the requirements for the exemption referenced therein. Instead, in approving the NOE,  
3 Respondents relies on the analysis of a completely different project—the County’s Vermont and  
4 Manchester Transit Priority Project. This violates CEQA in multiple respects. Respondents  
5 implicitly admit on the face of the NOE that the Project does not satisfy the numerous stringent  
6 requirements for taking advantage of the cited exemption that are set forth in Public Resources  
7 Code sections 21155 and 21155.1. The project description does not align with the project that  
8 was found to be exempt. The lead agency that purportedly analyzed the Project was not the lead  
9 agency for the Project, but was instead the lead agency for the Vermont and Manchester Transit  
10 Priority Project. The Bureau of Engineering’s report that recommended the approval of the  
11 Project includes recommendations from the City’s Environmental Management Group that  
12 simply do not make sense. Those recommendations include the following language<sup>2</sup>:

13           [F]or compliance with public hearing requirements, EMG  
14 recommends the following language be included in the Council  
Committee Agenda:

15           California Environmental Quality Act (CEQA) analysis and  
16 recommendations (1) that project be determined to be statutorily  
exempt under Public Resources Code Sections 21155 and 21155.1,  
17 and (2) that the transit priority development project and the  
associated street and alley vacation meets all of the requirements of  
18 Section 21151.1 subdivisions (a) and (b) and a requirement of  
subdivision (c) as set forth in the Notice of Exemption . . . .

19           33. The City cannot approve an NOE for the County’s “Refined” Vermont and  
20 Manchester Transit Priority Project<sup>3</sup>—the County’s Board of Supervisors would have that  
21 responsibility. Instead of going through the process required to approve modifications to the  
22 Vermont and Manchester Transit Priority Project, one of which is the inclusion of the street  
23 vacation at issue, the City and County appear to have collaborated to circumvent that process by  
24 instead having Respondents improperly approve an exemption for the street vacation as a separate

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26           <sup>2</sup> (Attachment to Report dated 07/27/2020 - Notice of Exemption, at pp. 2 of the pdf [available at  
<https://cityclerk.lacity.org/lacityclerkconnect/>] under Council File: 18-1005-S1].)

27           <sup>3</sup> The Vermont and Manchester Transit Priority Project Memorandum on Project Refinements submitted in support of  
the Project and NOE uses the term “Refined Project” to refer to the County project as refined to include, among other  
things, the street vacation at issue. (See Attachment to Report dated 07/27/2020 - Notice of Exemption, at p. 6 of the  
pdf [available at <https://cityclerk.lacity.org/lacityclerkconnect/>] under Council File: 18-1005-S1].)

1 project. In doing so, they likely hoped to avoid the public scrutiny over whether the Vermont and  
2 Manchester Transit Priority Project was still on track to satisfy all the requirements of Public  
3 Resources Code sections 21155 and 21155.1.

4 34. Here, Respondents were required under CEQA to perform an initial study to  
5 determine if the Project would have any potentially significant environmental impacts on the  
6 surrounding community. In failing to do so, they have violated CEQA.

7 35. In approving the NOE and failing to conduct the required environmental review  
8 for the project, Respondents also violated the City's own regulations requiring CEQA analysis for  
9 any vacation of over 10,000 sq. ft. of buildable area. The street vacation at issue here included  
10 nearly five times the amount of buildable area, yet Respondents improperly determined it to be  
11 exempt from environmental review.

12 36. Petitioner further alleges that the approval of the Project violates the California  
13 Streets and Highways Code.

14 37. Streets and Highways Code section 8324, subdivision (b) states, in relevant part:  
15 "If the legislative body finds, from all the evidence submitted, that the street, highway, or public  
16 service easement described in the notice of hearing or petition is unnecessary for present or  
17 prospective public use, the legislative body may adopt a resolution vacating the street, highway,  
18 or public service easement."

19 38. Here, the City Council's conclusory determination that the vacation area is not  
20 necessary for present or prospective public use is not supported by substantial evidence. Among  
21 other things, the City did not, for example, evaluate whether the vacated area could be utilized for  
22 future public parking or road widening uses. The City also did not consider that it had initially  
23 considered implementing its own version of the Vermont and Manchester Transit Priority Project  
24 before soliciting the County to undertake the project instead. Should the County's project fail to  
25 finally materialize—a distinct possibility given that construction has not yet even begun nearly  
26 three years after County's Board of Supervisors approved the project—then it stands to reason  
27 that the vacation area could be required for the previously-considered City project. However,  
28 there is no analysis of this possibility in the record.

1           39. It is a matter of public record that there is significant evidence supporting that City  
2 and County may have collaborated in condemning certain other property in the close vicinity of  
3 the vacation area for the purpose of the County's Vermont and Manchester Transit Priority  
4 Project.<sup>4</sup> That history of improper collaboration provides useful context for the lack of  
5 meaningful analysis and consideration giving to this Project, both in terms of compliance with  
6 CEQA and the requirements of the Streets and Highways Code. Additionally, Petitioner alleges  
7 that the general plan functions as a "constitution for all future developments," and land use  
8 decisions must be consistent with the general plan and its elements.

9           40. As noted above, the City's extreme limitations on the ability of the public to  
10 submit written and oral comments and supporting documents also violated Petitioner's due  
11 process rights as well as the public hearing and public comment requirements set forth in the  
12 Streets and Highways Code. (See Sts. & Hy. Code, §§ 8320 & 8324.) The limitations also  
13 violated the City's own regulations and Council Rules. (See City of Los Angeles Bureau of  
14 Engineering Manual, LAND DEVELOPMENT, at § D 717; Rules of The Los Angeles City  
15 Council as Adopted on December 19, 1986 as Amended January 2019 ("Council Rules").) Under  
16 the Council Rules, whereas public comment is limited to one minute per agenda item at regular  
17 City Council meeting (see Council Rules, § 6), "[p]ublic hearing items scheduled for regular  
18 meetings are afforded special notice for a specific Council meeting date and are intended to  
19 receive separate public input on a specific matter." (See Council Rules, § 8.) "Interested persons  
20 (for example applicants, appellants and property owners) shall be given reasonable opportunity to  
21 present oral arguments for or against any proposed action." (*Ibid.*) Here, the City Council plainly  
22 failed to provide the opportunity for public comment required for a full public hearing. Instead,  
23 the City treated the proceedings before the PWGR Committee on August 5, 2020, and the  
24 proceedings before the City Council on September 8, 2020, as a normal meeting agenda item

25 \_\_\_\_\_  
26 <sup>4</sup> "Accepting Sasson Defendants' evidence and reasonable inferences therefrom as true and disregarding the County's  
27 conflicting evidence, Sasson Defendants have shown that the City and County collaborated (to some extent) in  
28 condemning the Property. Given this collaboration and the County's early involvement in addressing blight on the  
Property, the Court concludes that there is a triable issue of fact as to whether the County engaged in unreasonable  
precondemnation conduct." (Minute Order of Hon. Daniel S. Murphy, dated Jan. 6, 2020, *County of Los Angeles v.*  
*8400 S. Vermont Avenue, L.P.* (Super. Ct. Los Angeles County, filed Dec. 8, 2017, No. BC686141).)

1 rather than a full public hearing with a “reasonable opportunity” for impacted property owners  
2 such as Petitioner to “present oral arguments . . . against [the] proposed action.”

3       41. In addition to the above, Petitioner also incorporates all of the arguments set forth  
4 in its multiple objection letters to the City and the other public comments submitted related to the  
5 Project, all of which are incorporated herein by reference. (See, e.g., **Exhs. A–D.**)

6       42. Petitioner, therefore, requests that this Court issue a peremptory writ of  
7 mandate/mandamus directing Respondents to vacate and/or set aside the approvals discussed  
8 herein, including the approvals of the street vacation application and NOE.

9       43. The public interest will suffer from Respondents’ failure to comply with CEQA,  
10 the Streets and Highways Code, and City’s own rules and regulations. Petitioner, therefore,  
11 requests the recovery of its attorneys’ fees pursuant to Code of Civil Procedure section 1021.5.

## 12                   SECOND CAUSE OF ACTION

### 13                   (Declaratory Relief—Against Respondents)

14       44. Petitioner incorporates all of the allegations contained within paragraphs 1 through  
15 43, inclusive, as if set forth in full herein.

16       45. Actual and substantial controversies have arisen between Petitioner and  
17 Respondents.

18       46. Petitioner contends that Respondents have violated CEQA, the Streets and  
19 Highways Code, and the City’s own rules and regulations.

20       47. Petitioner further contends that the Project may not proceed in light of these  
21 violations and potential environmental impacts, whereas Respondents contend that the Project  
22 may proceed as approved.

23       48. Based on the foregoing, without adequate remedy at law, Petitioner seeks  
24 declaratory relief as further requested in the prayer herein.

## 25                   REQUEST FOR HEARING AND BRIEFING SCHEDULE

26       49. Pursuant to Public Resources Code section 21167.4, Petitioner requests that this  
27 Court notice a case management conference and establish a briefing schedule for submission of  
28       ///

1 points and authorities, and that a hearing on the petition be held within 30 days of filing of all  
2 briefing.

3 **WHEREFORE, PETITIONER prays for entry of judgment as follows:**

4 1. For a peremptory writ of mandate/mandamus requiring Respondents to fully  
5 comply with the requirements of the Streets and Highways Code and the City's own local rules  
6 and regulations concerning the holding of a public hearing related to the approval of the Project;

7 2. For a peremptory writ of mandate/mandamus directing Respondents to vacate  
8 and/or set aside the approval of Project;

9 3. For a peremptory writ of mandate/mandamus directing Respondents to vacate  
10 and/or set aside the NOE approval and conduct an initial study in compliance with the  
11 requirements of CEQA;

12 4. For declaratory judgment that Respondents violated CEQA, among other local,  
13 state, and federal laws, rules, and regulations;

14 5. For declaratory judgment that the approval of the Project and the NOE, as  
15 described herein, are void *ab initio*;

16 6. For a case management conference to establish a briefing schedule and hearing  
17 date on this petition pursuant to Public Resources Code section 21167.4;

18 7. For attorneys' fees pursuant to Code of Civil Procedure section 1021.5;

19 8. For costs of suit; and,

20 9. For other and further relief as this Court deems just and proper.

21 Dated: October 21, 2020

22 NEWMEYER & DILLION LLP

23 By:

24 Charles S. Krolkowski  
Philip D. Kopp  
Jack M. Rubin  
25 Attorneys for Petitioner/Plaintiff  
722-728 S. Broadway, L.P.  
26



## **VERIFICATION**

2 I, Eli Sasson, verify that I am a member of Western Holdings LLC, which is general  
3 partner of petitioner/plaintiff 722-728 S. Broadway, L.P. The facts alleged in the above petition  
4 are true to the best of my own knowledge except as to those matters stated on information and  
5 belief and as to those matters I believe them to be true.

6 I declare under penalty of perjury under the laws of the State of California that the  
7 foregoing is true and correct. 

8 || Executed October 21, 2020.

Eli Sasson

# **EXHIBIT A**

**TO VERIFIED PETITION FOR PEREMPTORY  
WRIT OF MANDATE/MANDAMUS AND  
COMPLAINT FO DECLARATORY RELIEF**

February 27, 2020

Charles S. Krolikowski  
Charles.Krolikowski@ndl.com

**VIA CERTIFIED MAIL**

**VIA E-MAIL [clerk.cps@lacity.org](mailto:clerk.cps@lacity.org), [Clerk-ENSLA@lacity.org](mailto:Clerk-ENSLA@lacity.org)**

**VIA POSTING ON CITY CLERK'S COUNCIL FILE MANAGEMENT SYSTEM**

**(<https://cityclerk.lacity.org/publiccomment/?cfnumber=18-1005-S1>)**

Los Angeles City Council  
200 N Spring St, Room 340  
Los Angeles, CA 90012

Public Works and Gang Reduction Committee  
200 N Spring St, Room 350  
Los Angeles, CA 90012

Re: Objections to BRIDGE Housing's Application for Street Vacation  
VAC-E1401352, Council File No.: 18-1005-S1; Council File Title: Vermont  
Avenue / 85th Street / Street Vacation (Accelerated Procedure)

Honorable Mayor Garcetti, Members of the City Council, and Members of the Public  
Works and Gang Reduction Committee:

We are writing on behalf of 722-728 S. Broadway, L.P. to object to BRIDGE  
Housing's application for street vacation on behalf of the County of Los Angeles, VAC-  
E1401352, Council File No.: 18-1005-S1, Council File Title: Vermont Avenue / 85th  
Street / Street Vacation (Accelerated Procedure) (the "Application").

722-728 S. Broadway, L.P. owns the properties located at 8521 South Vermont  
Avenue (APN 6033-026-013), 8529 South Vermont Avenue (APN 6033-026-014), and  
1057-1059 Manchester Avenue (APN 6033-026-022), in the City of Los Angeles,  
California. One or more of these properties is located directly across the street  
(Vermont Ave.)—less than 1,000 feet away—from the street and/or alleys of which the  
applicant seeks a vacation. Thus, 722-728 S. Broadway, L.P. has a direct and  
substantial interest in the outcome of the application for street vacation at issue.

Please include this letter and all accompanying exhibits as part of the permanent  
record related to the Application, including, without limitation, the record regarding any  
agenda item, decision, or hearing by the City Council or the Public Works and Gang

4217.101 / 8585649.1

**February 27, 2020**

Page 2

Reduction Committee concerning the Application. This includes, without limitation, any hearing under Streets and Highways Code section 8320 et seq. (See Sts. & Hy. Code, §§ 8322, subd. (a), & 8324, subd. (a).)

Please also consider this letter to be 722-728 S. Broadway, L.P.'s formal request for advance written notice of any future meetings or public hearings concerning the Application.

**1. Summary of the Application.**

The Application seeks the vacation of approximately 49,500 square feet of streets and/or alleys between 84th Street and Manchester Avenue. (**Exh. A** [Application], at p. 1.) The stated purpose of the vacation is "to facilitate County of Los Angeles project consisting of up to approx. 418,970 sf of mixed-use affordable housing and community serving commercial retail, a public charter college-preparatory boarding school, a publicly accessible transit plaza, and vehicular parking."<sup>1</sup> (*Ibid.*) It is being sought in conjunction with a revocable permit (Council File No.: 18-1005).

**2. Errors in the Application.**

The petitioner/applicant identified in the Application is BRIDGE Housing, which is further identified as a representative of the owner of the properties adjacent to the street and alleys at issue. (**Exh. A** [Application], at p. 2.) The owner of the properties is identified as the Community Development Commission of the County of Los Angeles. (*Ibid.*) As evidence of its ownership of the properties, the Application purports to attach an "April 2018 Court Order" as Exhibit 2 to the Application. However, the publicly available version of the Application does not include an Exhibit 2. (See <https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=18-1005-S1>.) Additionally, to the extent the Application meant to refer to the April 23, 2018 "Order Re Motion for Order For Prejudgment Possession Pursuant to C.C.P. § 1255.460" that Department 32 of the Los Angeles County Superior Court issued in the matter *County of Los Angeles v. 8400 S. Vermont Avenue, L.P., et al.*, Case No.: BC686141, then the Application misrepresents the scope and effect of that order. As the name of the order indicates, it only conveyed a right of prejudgment possession to the properties to the County, not title. These inaccuracies and omissions render the Application invalid on its face.

**3. No Definite Project.**

As part of the City of Los Angeles' ("City") street vacation application process, the Bureau of Engineering ("BOE") must prepare a report regarding the feasibility of the vacation request. To prepare the report, the BOE must solicit comments from the other City agencies who might be utilizing or have an interest in the public right-of-way

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<sup>1</sup> This is hereinafter referred to as the "County Project."

proposed to be vacated. Here, due to the lack of a definite plan for the County Project for which the street vacation is being requested, BOE and the other potentially impacted City agencies cannot provide full and meaningful comments to the Application.

On information and belief, as of September 2019, the County still did not have final design plans, final construction plans, or final funding approval for the County Project. The County Project is so vague and indefinite that, in response to a request for comments to the Application, a City Senior Transportation Engineer was unable to meaningfully distinguish the County Project from the project underlying a different street vacation application by a different applicant five years earlier. (See **Exh. B** [May 22, 2019 Email from E. Guerrero to T. Crocker re: "VAC-E1401352 - DOT Review"].)

In light of the indefinite nature of the County Project for which it is seeking the street vacation at issue, BOE and the relevant City agencies cannot perform a full and meaningful review and analysis of the Application as required by law.

**4. No or Inadequate Finding of Consistency with General Plan and Community Plan.**

Streets and Highways Code section 8313 states:

- (a) If the proposed vacation of a street, highway, or public service easement is within an area for which a general plan is adopted by a local agency, the legislative body of the public entity shall consider the general plan prior to vacating the street, highway, or public service easement.
- (b) The procedure prescribed in Section 65402 of the Government Code shall be followed if that section applies to the proposed vacation. If Section 65402 of the Government Code does not apply to the proposed vacation, the legislative body may submit the proposed vacation to the local planning commission or planning agency and give the commission or agency an opportunity to report upon the proposed vacation.

(Sts. & Hy. Code, § 8313.)

Government Code section 65402 states, in relevant part:

If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be

constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

(Gov. Code, § 65402, subd. (a).)

The street and alleys at issue are located within an area encompassed by City's General Plan (the "General Plan") and the South Los Angeles Community Plan (the "Community Plan"). Before the Application can be approved, the appropriate City agency must evaluate and submit a report on whether the proposed vacation conforms with the General Plan and Community Plan. That report must contain sufficient findings of fact to support the report's conclusions. Here, either the requisite report has not been issued, or it does not contain adequate findings of fact to support the report's conclusions.

**5. No or Inadequate Finding that Rights-of-Way at Issue Are Not Useful as Nonmotorized Transportation Facility.**

Streets and Highways Code section 8314 states:

Section 892 applies to a street, highway, or public service easement vacated pursuant to this part.

(Sts. & Hy. Code, § 8314.)

Streets and Highways Code section 892 states:

(a) Rights-of-way established for other purposes by cities, counties, or local agencies shall not be abandoned unless the governing body determines that the rights-of-way or parts thereof are not useful as a nonmotorized transportation facility.

(b) No state highway right-of-way shall be abandoned until the department first consults with the local agencies having jurisdiction over the areas concerned to determine whether the right-of-way or part thereof could be developed as a nonmotorized transportation facility. If an affirmative

determination is made, before abandoning the right-of-way, the department shall first make the property available to local agencies for development as nonmotorized transportation facilities in accordance with Sections 104.15 and 887.6 of this code and Section 14012 of the Government Code.

(Sts. & Hy. Code, § 892.)

Here, there has been no finding that the rights-of-way at issue are not useful as a nonmotorized transportation facility. If such a finding has been made, than it is not supported by adequate findings of fact supporting the action. Without such a finding and supporting findings of fact, the City Council may not approve the Application.

**6. No or Inadequate Determination that the Vacation Area Is Not Necessary for Present or Prospective Public Use.**

Streets and Highways Code section 8324 states:

- (a) At the hearing, the legislative body shall hear the evidence offered by persons interested.
- (b) *If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use,* the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

(Sts. & Hy. Code, § 8324, emphasis added.) The above-emphasized language implicitly requires that the City Council determine that the vacation area is unnecessary for present or prospective public use.

Here, the City Council has either failed to make such a finding or failed to support it with adequate findings of fact. For example, there has been no evaluation of whether the vacated area could be utilized for future public parking or road widening uses. Without such a finding and supporting findings of fact, the City Council may not approve the Application.

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**February 27, 2020**

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## **7. Failure to Comply with CEQA**

As noted in the Application, the proposed vacation area is 49,500 square feet, and any proposed vacation that is over 10,000 square feet of buildable area “is not categorically exempt from the California Environmental Quality Act Guidelines and will require a higher level of environmental review.” (See **Exh. A** [Application], at p. 1.) Here, the requirements of the California Environmental Quality Act (“CEQA”) have not been satisfied.

The County did not undertake any of the environmental review normally required under CEQA with respect to the County Project. Rather, the County relied solely on a CEQA exemption for sustainable communities projects under Public Resources Code sections 21155 and 21155.1. This Application, however, requires a new approval that would result in the vacation of almost five times the amount of public right-of-way area that is required to trigger “a higher level of environmental review.” (See **Exh. A** [Application], at p. 1.) Under the circumstances, it should not simply be encompassed within the County Project exemption, but should instead be reviewed independently for potentially significant environmental impacts pursuant to CEQA.

Furthermore, even if the County were to assert that the same CEQA exemption applies to the Application, and the City were to accept that such an exemption might potentially apply, the City should not simply accept on faith that the County has satisfied the exemption’s requirements. Rather, the County should be required to demonstrate that it is on track to comply with Public Resources Code section 21155.1’s various environmental (§ 21155.1, subd. (a)), land use (§ 21155.1, subd. (b)), and project benefits (§ 21155.1, subd. (c)) criteria before it can take further advantage of the exemption and continue to avoid the requirements of CEQA.

Very truly yours,



Charles S. Krokowski

Enclosures: **Exhibit A** (Application)

**Exhibit B** (May 22, 2019 Email from E. Guerrero to T. Crocker re: “VAC-E1401352 - DOT Review”)

# **EXHIBIT B**

**TO VERIFIED PETITION FOR PEREMPTORY  
WRIT OF MANDATE/MANDAMUS AND  
COMPLAINT FO DECLARATORY RELIEF**

August 4, 2020

Charles S. Krolkowski  
Charles.Krolkowski@ndlif.com

**VIA EMAIL [KEYONNA.KIDD@LACITY.ORG](mailto:KEYONNA.KIDD@LACITY.ORG)**

Honorable City of Los Angeles Council  
Attn: Public Works and Gang Reduction Committee  
200 North Spring Street, Room 395  
Los Angeles, CA 90012  
Re:

**Re: *Further Objections to Street Vacation Request for Vermont Avenue and 85<sup>th</sup> Street – VAC-E1401352 (for Item No. 18-1005-S1 on Agenda for August 5, 2020 PWGR Committee Meeting)***

Dear Public Works and Gang Reduction Committee:

This office represents 722-728 S. Broadway, L.P., the owner of property (“Owner”) within close proximity to the proposed street vacations requested by Bridge Housing, and identified as VAC-E1401352 (“Application”).

On behalf of the Owner, we hereby object to the proposed street vacation request (the “Street Vacation Project”). Our office previously submitted written objections on February 27, 2020, copies of which are attached hereto as Exhibits 1 and 2. In addition to the attached letters, we are hereby submitting the entire deposition (including exhibits) of Mr. Edmond Yew, Principal Civil Engineer for the City of Los Angeles, as a link to this e-mail. Mr. Yew has been directly involved in all aspects of the proposed street vacations as well as prior requests.

We request that the entire deposition, either in print copy or link, be provided to all members of the Committee and be made part of the permanent record on this agenda item.

As outlined in the prior letters and the attached deposition, any approval of the Application would be an abuse of discretion and violate the various land use and CEQA regulations previously identified. In addition, the Owner asserts the following objections.

**Further CEQA Objections**

It is unclear whether the City is treating the Street Vacation Project as a separate project from the Vermont and Manchester Transit Priority Project (the “Vermont and

Manchester Project") for CEQA purposes. It is also unclear whether the City performed any analysis to determine whether the Street Vacation Project was a separate project. The documents submitted to the Public Works and Gang Reduction ("PWGR") Committee contain contradict each other.

The Bureau of Engineering's report submitted for this PWGR Committee meeting states:

The transit priority development project ***and the associated street and alley vacation*** meet all the requirements of sections 21151.1 subdivisions (a) and (b) and a requirement of subdivision (c) as detailed in the NOE attachments.

(Report from Public Works: Engineering, dated 07/23/2020, at pp. 1–2, emphasis added [available at <<https://cityclerk.lacity.org/lacityclerkconnect/>> under Council File: 18-1005-S1].) In addition, the attachment to the report regarding the CEQA notice of exemption states:

Find the vacation, which is a component of the Vermont and Manchester Transit Priority Project previously approved by the County of Los Angeles Board of Supervisors on December 5, 2017, is statutorily exempt from CEQA pursuant to California Public Resources Code Sections 21155 and 21155.1. The transit priority development project ***and the associated street and alley vacation*** meets all of the requirements of Section 21151.1 subdivisions (a) and (b) and a requirement of subdivision (c) as detailed in the NOE attachments. As such, this project is declared to be a sustainable communities project.

(Attachment to Report dated 07/27/2020 - Notice of Exemption ("Attachment re Notice of Exemption"), at p. 2 of the pdf [available at <<https://cityclerk.lacity.org/lacityclerkconnect/>> under Council File: 18-1005-S1].) The apparently unfiled notice of exemption<sup>1</sup> includes a project title and project description that describe the Street Vacation Project as a separate project. (See Attachment re Notice of Exemption, at p. 1 of the pdf.) However, the analysis included in the Attachment re Notice of Exemption does not appear to analyze the Street Vacation Project as a separate project. Rather, it analyzes the Vermont and Manchester Project as subsequently modified through the addition of the Street Vacation Project and labels them together as the "Refined Project". (See Attachment re Notice of Exemption, at pp.

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<sup>1</sup> Owner requests that the PWGR Committee please address at its August 5, 2020 meeting whether a notice of exemption has actually been filed for the Street Vacation Project.

**August 4, 2020**

Page 3

24–25 of the pdf.) This does not make sense, as the lead agencies for the Street Vacation Project and the Vermont and Manchester Project are entirely different. Is the Bureau of Engineering—the lead agency for the Street Vacation Project—going to be the new lead agency for the Vermont and Manchester Project? These are all questions that the PWGR Committee should address at its meeting before the public.

If, as it appears, the Street Vacation Project is a separate project, then it must independently satisfy all the stringent requirements for the exemption that are set forth in Public Resources Code sections 21155 and 21155.1, or a full CEQA review must be performed for the project. It does not appear that any such analysis has been performed. This violates CEQA.

**Note Regarding Public Comment at Subsequent City Council Hearing**

Owner's understanding is that it will have an opportunity to provide additional comments prior to and during a public hearing on the Street Vacation Project before the City Council that will be taking place at least 30 days after this PWGR Committee meeting. Owner did not receive notice of PWGR meeting at least 14 days prior before the date of the meeting, so the requirement to provide such notice prior to a public hearing with an opportunity for public comment regarding a proposed street vacation has not yet been satisfied. (See [Sts. & Hy. Code, § 8323](#).) Accordingly, the City Council will have to hold a public hearing that satisfies the notice and opportunity for public comment requirements under applicable state and local law.

Very truly yours,



Charles S. Krolikowski

Encl.

CSK:vrf

# **EXHIBIT C**

**TO VERIFIED PETITION FOR PEREMPTORY  
WRIT OF MANDATE/MANDAMUS AND  
COMPLAINT FO DECLARATORY RELIEF**

September 4, 2020

Charles S. Krolikowski  
Charles.Krolikowski@ndlif.com

**VIA EMAIL [KEYONNA.KIDD@LACITY.ORG](mailto:KEYONNA.KIDD@LACITY.ORG)**

Honorable City of Los Angeles Council  
200 North Spring Street, Room 340  
Los Angeles, CA 90012

Re: ***Additional Objections to Street Vacation Request for Vermont Avenue and 85th Street—VAC-E1401352 (for September 8, 2020 City Council Meeting; Item No. 18-1005-S1; No. 2 on Agenda)***

Dear Honorable Councilmembers:

This office represents 722-728 S. Broadway, L.P., the owner of property (“Owner”) within close proximity to the proposed street vacations requested by Bridge Housing, and identified as VAC-E1401352 (“Application”).

On behalf of the Owner, we hereby object to the proposed street vacation request (the “Street Vacation Project”). Our office previously submitted written objections on February 27, 2020 and August 4, 2020, copies of which are attached hereto as Exhibits 1, 2, and 3 respectively. We also objected orally at the August 5, 2020 Public Works and Gang Reduction (“PWGR”) Committee meeting. (See audio of PWGR Committee meeting, at 0:20:25 [available at <[https://lacity.granicus.com/MediaPlayer.php?view\\_id=103&clip\\_id=20113](https://lacity.granicus.com/MediaPlayer.php?view_id=103&clip_id=20113)>].) In addition to the attached letters, we are hereby submitting the entire deposition (including exhibits) of Mr. Edmond Yew, Principal Civil Engineer for the City of Los Angeles, as a link to this e-mail. Mr. Yew has been directly involved in all aspects of the proposed street vacations as well as prior requests.

We request that the entire deposition, either in print copy or link, be provided to all councilmembers and be made part of the permanent record on this item.

As outlined in the prior letters and the attached deposition, any approval of the Application would be an abuse of discretion and violate the various land use and CEQA regulations previously identified. In addition, the Owner asserts the following objections.

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### **Further CEQA Objections**

It is unclear whether the City is treating the Street Vacation Project as a separate project from the Vermont and Manchester Transit Priority Project (the “Vermont and Manchester Project”) for CEQA purposes. It is also unclear whether the City performed any analysis to determine whether the Street Vacation Project was a separate project. The documents submitted to the Public Works and Gang Reduction (“PWGR”) Committee contradict each other.

The Bureau of Engineering’s report submitted for the August 5, 2020 PWGR Committee meeting states:

The transit priority development project ***and the associated street and alley vacation*** meet all the requirements of sections 21151.1 subdivisions (a) and (b) and a requirement of subdivision (c) as detailed in the NOE attachments.

(Report from Public Works: Engineering, dated 07/23/2020, at pp. 1–2, emphasis added [available at <<https://cityclerk.lacity.org/lacityclerkconnect/>> under Council File: 18-1005-S1].) In addition, the attachment to the report regarding the CEQA notice of exemption states:

Find the vacation, which is a component of the Vermont and Manchester Transit Priority Project previously approved by the County of Los Angeles Board of Supervisors on December 5, 2017, is statutorily exempt from CEQA pursuant to California Public Resources Code Sections 21155 and 21155.1. The transit priority development project ***and the associated street and alley vacation*** meets all of the requirements of Section 21151.1 subdivisions (a) and (b) and a requirement of subdivision (c) as detailed in the NOE attachments. As such, this project is declared to be a sustainable communities project.

(Attachment to Report dated 07/27/2020 - Notice of Exemption (“Attachment re Notice of Exemption”), at p. 2 of the pdf [available at <<https://cityclerk.lacity.org/lacityclerkconnect/>> under Council File: 18-1005-S1].) The apparently unfiled notice of exemption<sup>1</sup> includes a project title and project description that describe the Street Vacation Project as a separate project. (See Attachment re Notice of Exemption, at p. 1 of the pdf.) However, the analysis included in the

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<sup>1</sup> Owner requests that the City Council please address at its September 8, 2020 meeting whether a notice of exemption has actually been filed for the Street Vacation Project.

Honorable City of Los Angeles Council

**September 4, 2020**

Page 3

Attachment re Notice of Exemption does not appear to analyze the Street Vacation Project as a separate project. Rather, it analyzes the Vermont and Manchester Project as subsequently modified through the addition of the Street Vacation Project and labels them together as the “Refined Project”. (See Attachment re Notice of Exemption, at pp. 24–25 of the pdf.) This does not make sense, as the lead agencies for the Street Vacation Project and the Vermont and Manchester Project are entirely different. Is the Bureau of Engineering—the lead agency for the Street Vacation Project—going to be the new lead agency for the Vermont and Manchester Project? The PWGR Committee’s recommendation to the City Council, which is dated August 7, 2020, but which was not posted on the Council File Management System until the evening of September 3, 2020, does not address any of these questions. The City Council should address them at its meeting before the public.

If, as it appears, the Street Vacation Project is a separate project, then it must independently satisfy all the stringent requirements for the exemption that are set forth in Public Resources Code sections 21155 and 21155.1, or a full CEQA review must be performed for the project. It does not appear that any such analysis has been performed. This violates CEQA.

**Note Regarding Public Comment at City Council Hearing**

Owner’s understanding is that it will have an opportunity to provide additional comments prior to and during a public hearing on the Application before the City Council. Owner did not receive notice of the August 5, 2020 PWGR Committee meeting at least 14 days prior before the date of the meeting, so the requirement to provide such notice prior to a public hearing with an opportunity for public comment regarding a proposed street vacation has not yet been satisfied. (See Sts. & Hy. Code, § 8323.) Owner requests that the City ensure the City Council’s consideration of the Application at its September 8, 2020 meeting satisfies the public hearing with notice and opportunity for public comment requirements under applicable state and local law.

Very truly yours,



Charles S. Krolkowski

Encl.

# **EXHIBIT D**

**TO VERIFIED PETITION FOR PEREMPTORY  
WRIT OF MANDATE/MANDAMUS AND  
COMPLAINT FO DECLARATORY RELIEF**

## Additional Objections of 722-728 S. Broadway, L.P. (9-8-20 Council Meeting; Council File 18-1005-S1; No. 2 on Agenda)

1 message

Jack M. Rubin <Jack.Rubin@ndlfc.com>

Mon, Sep 7, 2020 at 3:02 PM

Reply-To: jack.rubin@ndlfc.com

To: Keyonna Kidd <keyonna.kidd@lacity.org>, "cityclerk@lacity.org" <cityclerk@lacity.org>

Cc: "Charles S. Krolikowski" <Charles.Krolikowski@ndlfc.com>, Philip Kopp <Philip.Kopp@ndlfc.com>, "Viola R. Fennell" <Viola.Fennell@ndlfc.com>

To the City Clerk & Ms. Keyonna Kidd:

On behalf of **722-728 S. Broadway, L.P.**, we request that the City please also include the attached documents and below linked documents as part of the record for Item No. 2 on the agenda for the City Council's September 8, 2020 meeting (Council File No. 18-1005-S1). One of the two attached documents ("2020.09.04 Objections") is just a second copy of the same document we attached to our below email on September 4, but with a reduced file size. The other attached document and the documents to be downloaded using the below link are new.

We will also attempt to also submit a comment with a link to the documents through the City's Public Comment Portal, but the portal was not working on September 4 when we attempted to do so several times from different computers. Thus, to ensure the documents are included as part of the record, we request that you please process them as well.

Here are two links that can be used to download the additional documents (the documents are the same in both links):

[https://newmeyeranddillion-my.sharepoint.com/:f/r/personal/jack\\_rubin\\_ndlf\\_com/Documents/Sasson%20\(4217.101\)/Further%20Exhibits%20for%202020.09.08%20City%20Council%20Hearing?csf=1&web=1&e=vbDkJUJ](https://newmeyeranddillion-my.sharepoint.com/:f/r/personal/jack_rubin_ndlf_com/Documents/Sasson%20(4217.101)/Further%20Exhibits%20for%202020.09.08%20City%20Council%20Hearing?csf=1&web=1&e=vbDkJUJ)

<https://www.dropbox.com/sh/bi0qmsdjknhhs/AAClv1THR4KOyM2XWScjRsU1a?dl=0>

Here is a list of the documents that should be accessible to download using the above links:

- 2020.09.04 Objections to Street Vacation Request for Vermont & 85th (for 09-08-2020 hrg) [optimized]
- Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Decl of C. Krolikowski ISO Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Decl of E. Sasson ISO Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Decl of J. Duenas ISO Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Decl of M. Waldron ISO Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Decl of P. Kopp ISO Defendants Opp to County Legal Issue Motion re Precondemnation Damages
- Depo of Joanne Kim 09-24-19 Condensed
- Depo of Karly Katona vol. 1 08-16-19 Condensed
- Depo of Karly Katona vol. 2 10-11-19 Condensed
- Depo of Lisa Trifiletti vol. 1 07-18-19 Condensed
- Depo of Lisa Trifiletti vol. 2 07-19-19 Condensed

- Depo of Lisa Trifiletti vol. 3 08-23-19 Condensed
- Exh 05 to Kim Depo - Email from L. Washington to Re Vermont and Manchester
- Exh 06 to Kim Depo - Email chain from A. Jennings Re Vermont and Manchester
- Exh 07 to Kim Depo - Media Advisory - Supervisor Ridley-Thomas and Councilmember Harris-Dawson Urge Action on Homelessness and Blighted Properties
- Exh 09 to Kim Depo - Email chain from A. Thomas Re Talking Points and Briefing
- Exh 11 to Katona Depo - Media Advisory Re Supervisor Ridley-Thomas and Councilmember Harris-Dawson Urge Action on Homelessness and Blight Properties
- Exh 12 to Katona Depo - Email from J. Kim Re L.A. Weekly article re Beverly Hills Developer Eli Sasson
- Exh 13 to Katona Depo - Email from L. Trifiletti Re Draft RFP on VM Boarding School RFP
- Exh 13 to Kim Depo - Email from MHD Re Vermont Entertainment Village
- Exh 14 to Trifiletti Depo - Email chain from W. Lowery Re Sasson Development EIR Docs
- Exh 16 to Kim Depo - Email from J. Kim Attaching A Beverly Hills Developer Has Held 3 Acres of South L.A. \_Hostage\_ for 25 Years
- Exh 16 to Trifiletti Depo - Delegated Authority Agreement for Consulting Services Between the County of Los Angeles and Trifiletti Consulting
- Exh 17 to Kim Depo - Email from M. Dickes Re declarations
- Exh 20 to Katona Depo - Letter from M. Harris-Dawson Re Notice of Proposed Vacation - VAC - E1401197R
- Exh 21 to Katona Depo - Letter from R. Esquivel Re Vermont Avenue and 85th Street Vacation District - VAC - E1401352
- Exh 22 to Kim Depo - Vermont\_Manchester Vacant Lot Memorandum
- Exh 23 to Katona Depo - Email chain from J. Kim Re L.A. Weekly article - Beverly Hills Developer Eli Sasson
- Exh 23 to Kim Depo - Email from A. Jennings Re Eli Sasson
- Exh 25 to Kim Depo - Email from C. Villacorte Re Quote for press release
- Exh 26 to Kim Depo - Email chain from C. Villacorte Re Quote from Councilmember Marqueece Harris-Dawson

Thank you,

Jack

Jack M. Rubin

Associate

949.271.7262 | [Jack.Rubin@ndl.com](mailto:Jack.Rubin@ndl.com)

Newmeyer & Dillion LLP

895 Dove Street, 5th Floor

Newport Beach, CA 92660

[newmeyerdillion.com](http://newmeyerdillion.com)

 | View my bio



**From:** Keyonna Kidd <[keyonna.kidd@lacity.org](mailto:keyonna.kidd@lacity.org)>  
**Sent:** Friday, September 4, 2020 4:13 PM  
**To:** Jack M. Rubin <[Jack.Rubin@ndlfc.com](mailto:Jack.Rubin@ndlfc.com)>  
**Cc:** Charles S. Krolikowski <[Charles.Krolikowski@ndlfc.com](mailto:Charles.Krolikowski@ndlfc.com)>; Philip Kopp <[Philip.Kopp@ndlfc.com](mailto:Philip.Kopp@ndlfc.com)>; Viola R. Fennell <[Viola.Fennell@ndlfc.com](mailto:Viola.Fennell@ndlfc.com)>  
**Subject:** [EXTERNAL]Re: Objections of 722-728 S. Broadway, L.P. (City Council Meeting 09-08-2020 ; Item No. 18-1005-S1; No. 2 on Agenda)

Good Afternoon,

The Office of the City Clerk now has a new centralized Public Comment Portal for you to submit your comments on items considered by the Los Angeles City Council to be added as part of the online Council file.

Please submit all comments to [LACouncilComment.com](http://LACouncilComment.com). Please note that you may type comments or attach files in PDF format. The Public Comment Portal can also be accessed from any [Council file listing](#) by clicking the following icon at the top of each page:



Thank you,

## Keyonna Kidd | Legislative Assistant

City of Los Angeles | Office of the City Clerk | Council and Public Services Division

Office: **213.978.1071** | Mobile: **213.820.2589**

Mail Stop: **160**

As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services, and activities.

*Please consider the environment before printing this email.*

Connect with the Clerk:



On Fri, Sep 4, 2020 at 4:04 PM Jack M. Rubin <[Jack.Rubin@ndl.com](mailto:Jack.Rubin@ndl.com)> wrote:

Ms. Kidd:

Please see the attached objections on behalf of [722-728 S. Broadway, L.P.](#) This is for Council File No. 18-1005-S1, which is item no. 2 on the agenda for the September 8, 2020 City Council meeting. Below is a link that can be used to download the deposition transcript of Edmond Yew and the exhibits thereto that are referenced in the objection letter.

[https://newmeyeranddillion-my.sharepoint.com/:f/r/personal/jack\\_rubin\\_ndl.com/Documents/Transcript%20of%20Depo%20of%20Edmond%20Yew?csf=1&web=1&e=E2BXla](https://newmeyeranddillion-my.sharepoint.com/:f/r/personal/jack_rubin_ndl.com/Documents/Transcript%20of%20Depo%20of%20Edmond%20Yew?csf=1&web=1&e=E2BXla).

Thank you,

Jack

Jack M. Rubin

Associate

949.271.7262 | [Jack.Rubin@ndl.com](mailto:Jack.Rubin@ndl.com)



Newmeyer & Dillion LLP

[895 Dove Street, 5th Floor](#)

[Newport Beach, CA 92660](#)

[newmeyerdillion.com](#)

| [View my bio](#)

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## 2 attachments

[Defendants Opp to County Legal Issue Motion re Precondemnation Damages.PDF](#)  
9286K

[2020.09.04 Objections to Street Vacation Request for Vermont & 85th \(for 09-08-2020 hrg\) \[optimized\].pdf](#)  
4281K

# **EXHIBIT E**

**TO VERIFIED PETITION FOR PEREMPTORY  
WRIT OF MANDATE/MANDAMUS AND  
COMPLAINT FO DECLARATORY RELIEF**



Newmeyer & Dillion LLP  
895 Dove Street  
Fifth Floor  
Newport Beach, CA 92660  
949 854 7000

October 20, 2020

Charles S. Krolikowski  
Charles.Krolikowski@ndl.com

**VIA CERTIFIED MAIL, FAX, & EMAIL**

Office of City Clerk  
Honorable City of Los Angeles Council  
200 North Spring Street, Room 395  
Los Angeles, CA 90012  
Fax: (213) 978-1040  
E-mail: [cityclerk@lacity.org](mailto:cityclerk@lacity.org)

City of Los Angeles & Los Angeles City Council

Re: NOTICE OF INTENT TO FILE CEQA PETITION  
Vermont Avenue and 85th Street Vacation District W.O. E1401352

Honorable Mayor and Members of the City Council of Los Angeles:

This letter shall serve as notice, under Public Resources Code section 21167.5, that proposed petitioner, 722-728 S. Broadway, L.P. ("Petitioner") intends to file a petition under the provisions of the California Environmental Quality Act ("CEQA") commencing an action in the California Superior Court against respondent, the City of Los Angeles (the "City") and its governing body, the Los Angeles City Council (the "City Council").

The petition will seek to challenge the action taken and described in the notice of exemption ("NOE") filed with the Los Angeles County Clerk on September 16, 2020, Recording Number 2020 140069. The action will seek a writ of mandate/mandamus to vacate and set aside the decision of the City Council to adopt the Public Works and Gang Reduction Committee Report regarding VAC-E1401352 (Council File No. 18-1005-S1), certify the NOE for project title Vermont Avenue and 85th Street Vacation District W.O. E1401352 (the "Project"), and approve Bridge Housing's associated street vacation application. The action will further seek an order requiring the City to prepare a legally adequate environmental impact report and to otherwise comply with CEQA and all other applicable state, federal, and local laws, regulations, ordinances, and policies in reviewing the Project.

In addition, Petitioner will also seek an order staying the effects of the certification of the NOE and other possible approvals, an order directing the City Council

City of Los Angeles & Los Angeles City Council

October 20, 2020

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to pay Petitioner's costs of suit and reasonable attorney fees in this action, and order granting such other and further relief as the Court deems proper.

Should you have any questions, please do not hesitate to contact our office.

Very truly yours,



Charles S. Krolikowski

4217.101 / 9003219.1