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March 5, 2019

## VIA ELECTRONIC MAIL AND FACSIMILE

Honorable City Council  
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c/o Los Angeles City Clerk  
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### **Re: Objection to Lack of Notice and Failure to Hold Hearing Before City Council as Required by Law; CEQA Appeal for Venice Boulevard Great Street Project (Council File 19-0092)**

Dear President Wesson and Los Angeles City Council Members:

This firm represents Westside Los Angeles Neighbors Network, Inc. ("WLANN" or "Appellant"). On or about December 20, 2018 the City of Los Angeles Department of Transportation ("Department" or "City") determined that the project entitled "Venice Boulevard Great Street Project – Finalized Project and Additional Improvements" ("Project") was exempt from the California Environmental Quality Act ("CEQA"). On or about January 25, 2019 WLANN submitted an appeal pursuant to Public Resources Code Section 21151(c).<sup>1</sup> The City scheduled a public hearing for the appeal on February 27, 2019 before the Transportation Committee of the City Council. This letter explain both that the City is required to provide required notice to Appellant of the City Council

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<sup>1</sup> PRA section 21151(c) states as follows: "If a nonelected decisionmaking body of a local lead agency certifies an environmental impact report, approves a negative declaration or mitigated negative declaration, or determines that a project is not subject to this division, that certification, approval, or determination may be appealed to the agency's elected decisionmaking body, if any."

hearing scheduled for March 5, 2019 and that referral of the hearing to the Transportation Committee violated CEQA.

Under Public Resources Code Section 21151(c), the City Council sits as the appellate body. Neither the Los Angeles Municipal Code nor CEQA authorize or direct the City Council to delegate any portion of the public hearing to a subordinate hearing officer or committee. Just like countless provisions of the City's municipal and administrative code, when the City Council is required to conduct a hearing, it does so by scheduling a public hearing on the City Council's regular meeting agenda. Yet for some unknown reason, the Council President has and did make a referral of the land use appeals in this case to the Transportation Committee ("Committee").

The referral in this case was inconsistent with City Council Rule Nos. 8 and 16. Rule No. 16 provides in part: "The Presiding Officer shall cause all matters filed with, or presented to the Council to be referred to the appropriate Council Committee, except as otherwise provided by the Rules **or where required by law to be first presented to the Council.**"(Emphasis added.)

Council Rule No. 8 provides in part: "**Public hearing items scheduled for regular meetings are afforded special notice for a specific Council meeting date and are intended to receive separate public input or a specific matter. Interested persons (for example applicants, appellants and property owners) shall be given reasonable opportunity to present oral arguments for or against any proposed action.**"

In this case, a public hearing is required **by law** to be conducted **by the City Council** to conduct the quasi-judicial hearing of the pending CEQA appeal. Under Council Rule No. 16 such hearing was required to be placed directly on the full City Council's regular meeting agenda, just like a public hearing on imposition of nuisance liens or placement of lighting district assessments whose governing laws or regulations require the City Council to conduct a hearing. Simply having a hearing before the Transportation Committee does not suffice.<sup>2</sup>

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<sup>2</sup> We note that only a fraction of the City Council members heard the improperly referred land use appeals at the PLUM Committee. To the extent that the City's practice fails to list these land use hearings on the portion of the City Council meeting agenda reserved for "Items Noticed for Public Hearing" and that less than a quorum of the full Los Angeles City Council hears these appeals, the land use appellants have been denied constitutional due process, a fair hearing, and a hearing set in accordance with City Council's own rules and its practices related to other matters where the law requires the City Council to conduct a hearing.

## Conclusion

In sum, the Los Angeles Municipal Code, the City Council rules, and CEQA impose a duty on the City Council to conduct a quasi-judicial hearing. Moreover, the law requires a public hearing of the City Council. Because the City has violated the above-cited provisions, we demand that the City cancel and reschedule the March 5, 2019 hearing in accordance with law.

Please include this letter in the City Council File administrative record for this matter. Also, included in the footnote<sup>3</sup> below please find a hyperlink with reference documents supporting Appellant's position that the Project is not exempt from CEQA. Please ensure these documents are made part of the administrative record. *See Consolidated Irrigation Dist. v. Superior Court* (2012) 205 Cal.App.4th 697, 723 [(documents referenced in comment letter that are accessible via website are properly part of the record).

I may be contacted at 310-982-1760 or at [jamie.hall@channellawgroup.com](mailto:jamie.hall@channellawgroup.com) if you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall

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<sup>3</sup> These documents may be downloaded at <https://www.dropbox.com/sh/5je9i276gf3uafc/AACGI-bBWmSRxP3mLUXCswHQa?dl=0>