

Communication from Public

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Date Submitted: 09/16/2022 02:56 PM

Council File No: 21-0777

Comments for Public Posting: Dear Honorable PLUM Committee Members: This law office represents Save Our Canyon. We urge your support for this Motion made by Councilmember Koretz and seconded by Councilmember Blumenfield to rescind the initiation of a General Plan Amendment for The Bulgari Hotel Project in Benedict Canyon. The Motion is based upon and supported by applicable legal precedent. In *Las Lomas Land Co., LLC v. City of Los Angeles* (Sept. 17, 2009, B213637) 177 Cal. App. 4th 837, the Court upheld the long standing rule that a discretionary application may be terminated, that CEQA does not apply to projects rejected or disapproved by a public agency, and that a public agency may reject a project before completing or considering the EIR. In *Las Lomas*, the Court of Appeals for the Second Appellate District made clear that a city may reject a discretionary application midstream without awaiting the completion of a final EIR. This holding allows the City to avoid wasting time and money on a dead-on-arrival project. In May of 2002, *Las Lomas Land Co., LLC* (“*Las Lomas*”) submitted an Environmental Assessment Form (EAF) for the development of a 555-acre site along the 5 Freeway North of Sylmar, in an area to be annexed into the City’s sphere of influence. The City issued a notice of preparation of an EIR for the project, which included the annexation of the site, approval of a specific plan, zoning and development entitlements. *Las Lomas* submitted a draft specific plan and preliminary draft environmental studies to the City. City Councilmember Greig Smith opposed the project and asked the City to cease its work on it. The City Attorney advised that the City was required to continue processing and completing the EIR. Nonetheless, Councilmember Smith introduced a motion to suspend the review process until the City Council made “a policy decision” to resume the process. The City Council ultimately approved a modified motion which called for the City to cease work on the proposed project. *Las Lomas* filed a combined petition for writ of mandate and complaint, alleging, among other arguments: 1) the City had no rational basis to stop processing the project application; 2) the City had a mandatory duty to complete its environmental review before making a decision on the project; 3) the failure to complete the environmental review denied *Las Lomas* procedural and substantive due process and equal

protection; and 4) allowing the objecting council member to substitute a new motion for his original one without notice denied Los Lomas procedural due process rights. The Court rejected all of Las Lomas' claims. It is clearly legal for the City to stop the processing of the General Plan Amendment for The Bulgari Hotel Project in Benedict Canyon given the massive public and Council Office's known opposition to the project. We request that the PLUM Committee recommend that the City Council adopt Councilman Koretz' Motion at the earliest possible date. Thank you for your attention to this matter. Fred Gaines, Esq. Gaines & Stacey LLP 5820 Canoga Avenue, Suite 300, Woodland Hills, CA 91367 Telephone - 818-933-0200
