



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 2 2 - 0 4 3 1
DEC 0 6 2022

REPORT RE:

**STATUS OF CASE AND COMPLIANCE WITH JUDGMENT IN
YES IN MY BACKYARD, et al. v. CITY OF LOS ANGELES, et al.
LOS ANGELES SUPERIOR COURT CASE NO. 21STCP03883
(COUNCIL DISTRICT 3, BLUMENFIELD)**

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. 21-0808

Honorable Members:

This report addresses the status of the above-referenced lawsuit, *Yes In My Backyard, et al., v. City of Los Angeles, et al.* The case involves a determination by the Department of City Planning (Planning) not to process an application for a 67-unit density bonus apartment (the Project) at 5353 Del Moreno Drive, Woodland Hills (Property), because the application failed to include required information and, therefore, was incomplete. The City Council affirmed the Department's decision on appeal. Notably, the City has not yet made a determination on the merits of the Project. Petitioners, *Yes In My Backyard, et al.*, proponents of the Project, challenged the City's actions on several statutory grounds, including the Housing Accountability Act (HAA), at §65589.5.¹ This Office transmitted a confidential report regarding the lawsuit dated October 20, 2022 (R22-0360). The Property is located in the Canoga Park-Winnetka-Woodland Hills-West Hills Community Plan (Community Plan).

¹ All statutory references are to the California Government Code unless otherwise stated.

Background

The Developer (Janet Jha) submitted applications to the Planning Department (Planning) for a land use approval, and Planning determined the Development Application was incomplete under §65943. The Developer appealed, and Council upheld the incompleteness determination on September 1, 2021 (C.F. 21-0808).

On November 24, 2021, the Developer, along with Yes In My Backyard and Sonja Trauss, a non-profit housing organization and founder (YIMBY), filed their Petition for Writ of Mandate and Complaint for Declaratory Relief (Petition). The Petition claimed violations of: the Permit Streamlining Act at §65920 et seq. (PSA); the Housing Accountability Act at §65589.5 (HAA); State Law Density Bonus at §65915; and the Preliminary Application provision at §65941.1.

The Court ruled against the City and issued a Judgment dated October 17, 2022, attached as Exhibit A. The Judgment, at Section 2.d, requires the City Council to set aside, vacate, and annul its September 1, 2021 appeal determination and associated findings for Council File No. 21-0808.

Recommendation

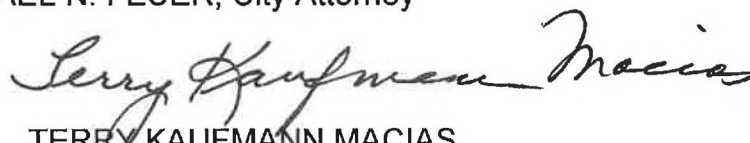
This Office recommends Council act consistent with the Judgment and: (1) set aside, vacate, and annul its September 1, 2021 appeal determination and associated findings for Council File No. 21-0808 (item No. 35 of Council's September 1, 2021, agenda); and (2) remand the Development Application discussed in Council File No. 21-0808 to Planning for further proceedings.

If you have any questions regarding this matter, please contact Deputy City Attorney Donna Wong at (213) 978-8064. A member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By


TERRY KAUFMANN MACIAS
Senior Assistant City Attorney

DW:kh
Attachment

EXHIBIT A

FILED
Superior Court of California
County of Los Angeles

OCT 17 2022

Sherri R. Carter, Executive Officer/Clerk of Court
By: J. De Luna, Deputy

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

YES IN MY BACK YARD, a California
nonprofit corporation; SONJA TRAUSS; and
JANET JHA,

Petitioners and Plaintiffs,

vs.

CITY OF LOS ANGELES; CITY COUNCIL OF
THE CITY OF LOS ANGELES; and DOES 1-
25,

Respondents and Defendants.

) Case No.: 21STCP03883
)
) Assigned to the Hon. James C. Chalfant
) Dept. 85

) ~~PROPOSED~~ JUDGMENT

) Action Filed: November 24, 2021
)
)
)

1
~~PROPOSED~~ JUDGMENT

10/18/2022

1 **WHEREAS**, on November 24, 2021, Petitioners Yes In My Back Yard, Sonja Trauss, and
2 Janet Jha ("Petitioners") filed a Verified Petition for Writ of Mandate and Complaint for Declaratory
3 Relief (the "Petition") against Respondents City of Los Angeles and the City Council of the City of
4 Los Angeles ("Respondents") alleging causes of action under the Housing Crisis Act's Government
5 Code §65941.1 ("SB 330"), the Permit Streamlining Act ("PSA"), and the Housing Accountability Act
6 ("HAA"), arising out of the disapproval by Respondents of Petitioner Jha's proposed 67-unit housing
7 development project at 5353 Del Moreno Drive (the "Project");

8 **WHEREAS**, the Petition came for trial on July 26, 2022, in Department 85 of this Court.
9 Petitioners Yes in My Back Yard and Trauss appeared through their counsel, Ryan J. Patterson of
10 Zacks, Freedman & Patterson, PC; Petitioner Jha appeared through her counsel Daniel Freedman of
11 Jeffer, Mangels, Butler & Mitchell LLP; and Respondent appeared through its counsel, Donna Wong
12 of the Office of the Los Angeles City Attorney;

13 **WHEREAS**, after the conclusion of the trial, the Court adopted a statement of decision
14 regarding the Petition (the "Final Ruling");

15 **WHEREAS**, the Court, having read the submissions of the parties to this action, including the
16 Petition, briefs, and matters judicially noticed, and having read and considered the administrative
17 record and the arguments of counsel;

18 **THE COURT DOES HEREBY ORDER, ADJUDGE, AND DECREE**, as follows:

19 1. Judgment is entered in favor of Petitioners for the reasons set forth in the Final Ruling attached
20 hereto as **Exhibit 1**. However, the complaint for declaratory relief in the Third Cause of Action
21 related to Petitioner Jha's Project applications is dismissed as moot by the grant of mandamus in the
22 First and Second Causes of Action; and the claims related to a pattern and practice, or persons
23 similarly situated, in the First, Second and Third Causes of Action, are dismissed because they were
24 waived.

25 2. A writ of mandate shall issue as follows:

26 a. Petitioner Jha's May 19, 2020 SB 300 preliminary application is declared submitted
27 and complete as a matter of law; and
28

- 1 b. Petitioner Jha's January 21, 2021 development application is declared submitted and
2 complete as a matter of law as of February 21, 2021, and processing under the writ will begin
3 at Gov. Code §65589.5(j)(2) upon payment of required processing fees; and
4 c. The Project site's present RA zoning is declared inconsistent with the site's present
5 General Plan Limited Commercial designation under Gov. Code §65589.5(j)(4); and
6 d. Respondents shall set aside, vacate and annul the City Council's September 1, 2021,
7 appeal determination and associated findings for Council File No. 21-0808, regarding item
8 No. 35 on City Council's September 1, 2021 agenda concerning the Project development
9 application; and
10 e. Respondents shall consider the Project development application in compliance with this
11 Court's ruling, and the HAA, and other applicable laws, within 60 days of service of the writ
12 on the City Clerk; and
13 f. Respondents are prohibited from requiring a rezoning for a housing development
14 project at a residential density allowed on the Project site by the General Plan's Limited
15 Commercial designation.
16 3. This matter shall be remanded for further proceedings in compliance with the writ of mandate.
17 4. As the prevailing parties, Petitioners shall recover their costs of suit from Respondents.
18 Petitioners may bring a motion for attorney's fees pursuant to Gov. Code § 65589.5(k)(1) within 60
19 days.
20 5. The Court hereby reserves jurisdiction in this action until there has been full compliance with
21 the writ.

22
23 **IT IS SO ORDERED.**

24
25 Dated: 10/17/22



Hon. James C. Chalfant
Judge of the Superior Court