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September 22, 2022

BY E-MAIL

Sergio Ibarra
Deputy Advisory Agency
Department of City Planning
City of Los Angeles
200 N. Spring St. Suite 750
Los Angeles, CA 90012

Re: Response to September 14, 2022, Request for Extension
Date of Advisory Agency Approval: February 24, 2022
Case No. VTT-83081-SL-HCA

Dear Mr. Ibarra:

Our firm represents Tripalink, Corp., applicant for the above referenced small-lot subdivision approval. As you may recall, our office previously notified the City and the prior appellant that the appeal of the above referenced advisory agency approval, issued on February 24, 2022, was final, and that any subsequent appeals were both (i) untimely; and in the alternative, (ii) deemed denied by operation of law. (See, Exhibit A, Exhibit B, Exhibit C.) While the City elected to proceed forward with a hearing which resulted in the denial of the appeal, this does not change our client's view that the City's approval of the project was final *prior* to that hearing, and that all subsequent administrative appeals were untimely. Accordingly, in consideration of this, our client is unable to agree to any extensions of any statutory deadlines applicable to pending appeals which we maintain are untimely and therefore should not be considered by the City. Thank you for your cooperation and assistance.

Sincerely,



BENJAMIN M. REZNIK of
Jeffer Mangels Butler & Mitchell LLP

cc: Appellant Representative, Jordan R. Sisson, Esq. (Jordan@GideonLaw.net)

Sergio Ibarra
September 22, 2022

EXHIBIT A

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April 29, 2022

VIA E-MAIL

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Re: 1840 –1848 West Adams Boulevard (Case No.: VTT-83081-SL-HCA)

Dear Recipients,

Our office represents Tripalink Real Estate, LLC (“Tripalink”) in connection with its small lot single family subdivision project located at 1840-1848 W. Adams Boulevard (the “Project”). This letter concerns the City’s unlawful *reissuance* of its Letter of Determination memorializing the Advisory Agency’s decision on the Project.

On November 10, 2021, the City of Los Angeles’ (“City”) Advisory Agency approved Tentative Tract No. 83081-SL-HCA for the Project and determined that the Project is exempt from the California Environmental Quality Act (“CEQA”). The City’s Advisory Agency issued a written Letter of Determination memorializing the decision, which identified the “Decision Date” as February 24, 2022, and the “Appeal End Date” as March 7, 2022 (the “Original LOD”).

Attached hereto as Exhibit A is a true and correct copy of the Original LOD. The Original LOD further notified interested parties that any appeal “must be filed within 10 calendar days from the decision date as noted in this letter.” These instructions were consistent with Section 17.06.A.2 of the Los Angeles Municipal Code (“LAMC”) requiring any appeal from a tentative map decision to be filed “within ten days of mailing of the written decision of the Advisory Agency.” The Original LOD also correctly informed interested parties that its issuance triggered the limitations period to seek judicial review pursuant to Code of Civil Procedure Section 1094.6.

On March 10, 2022, Tripalink emailed the assigned planner, Rafael Fontes, to confirm that no appeals had been filed by the Appeal End Date. Having received no response, Tripalink emailed Mr. Fontes again on March 14, 2022, and March 15, 2022, to confirm there were no pending appeals. Finally, on March 21, 2022, Mr. Fontes responded that the City “received reports of mailing delays with respect to the LOD for this project, but we’re not sure how they can be corroborated.” Regardless, Mr. Fontes assured Tripalink that the City “*met [its] LAMC mandated mailing and included interested parties*[.]” which includes “immediate neighbors, the NC [neighborhood council], etc.” Mr. Fontes also attached the mailing list to demonstrate the City’s compliance with its noticing requirements.

That same day, Tripalink responded that it had not heard of any mailing delays and in fact received confirmation from members of the community that they received timely notice. Accordingly, Tripalink notified Mr. Fontes that it would be moving forward with the subdivision pre-conditions as the Project was approved and no appeals had been filed by the deadline of March 7, 2022. Having received no objection from the City, Tripalink proceeded.

Inexplicably, Mr. Fontes emailed Tripalink *twenty days later*, on April 10, 2022, stating that he was instructed “to reissue t[he] LOD in order to meet [the City’s] notification requirements.” Neither Mr. Fontes nor any other City representative sent Tripalink any evidence indicating that the City’s notice of the Original LOD was in some way defective. To the contrary (as noted earlier), Mr. Fontes confirmed that the City had in fact complied with the LAMC’s notice requirements. Attached as Exhibit B are Tripalink’s email correspondences with Mr. Fontes. As it turns out, *one month after the appeal period expired*, the City purported to “reissu[e] the determination letter for the proposed project to ensure noticing requirements [we]re met” (the “Reissued LOD”). Attached as Exhibit C is a true and correct copy of the Reissued LOD.

The City’s sloppiness did not stop there. The Reissued LOD is itself replete with inconsistencies, stating at the top “Decision Date: April 5, 2022; Appeal End Date: April 15, 2022,” but in the substance of the letter that “[t]he new issuance date of the determination letter is April 4, 2022 and the new appeal period is April 14, 2022.” Based upon the City’s purported extension of the appeal period to April 14th or 15th, an appeal was filed on April 13, 2022—i.e., 37 days after the fixed appeal deadline.

The City’s conduct was unlawful, unauthorized, and extrajurisdictional. Principally, nothing in the LAMC authorizes the City to extend the clearly established 10-day appeal period.

LAMC § 17.06.A.2 (Any appeal must be filed “within ten days of the mailing of the written decision of the Advisory Agency.”) Nevertheless, the City purported to *quadruple* the appeal period by extending it *thirty-nine days* (from March 7 to April 15, 2022). The City thus defeated the very purpose of a short appeal period to provide applicants with decision finality before investing substantial time and money into their projects. As the City lacked authority to extend the appeal deadline, the Reissued LOD is null and void.

Relatedly, the Advisory Agency purported to reissue the decision *after* the appeal period had already expired. By that point, the Advisory Agency lacked jurisdiction to make any further decisions on the Project. For this reason as well, the Reissued LOD is of no force and effect.

Finally, even if the City had authority and jurisdiction to extend the appeal period—which it certainly did not—the City’s alleged bases for reissuing the determination are nonsense. The Reissued LOD states that, “[i]n compliance with the Los Angeles Municipal Code (LAMC) Section 19.00, the Department of City Planning is reissuing the determination letter for the proposed project to ensure noticing requirements are met.” First, Section 19.00 of the LAMC has nothing to do with the City’s noticing requirements. Instead, LAMC § 19.00 sets forth the City’s procedures for: (1) handling errors discovered in an *application* or an *appeal* (as opposed to a letter of determination); and (2) how appeal periods are calculated when the deadline falls on a weekend or a holiday. LAMC § 19.00 simply does not grant the City any authority to extend appeal periods.

Second, the City did not purport to reissue the determination because of some kind of discovered error. Mr. Fontes had already confirmed that the City “met [its] LAMC mandated mailing and included interested parties.” Further, the City neither made any allegation in the Reissued LOD that it provided defective notice nor did it circulate any supporting evidence to establish any error. Instead, the City states only that it was reissuing the determination “to ensure noticing requirements are met.” Again, nothing in the LAMC or otherwise authorizes the City to extend appeal periods (and for no apparent reason at all for that matter).

In light of the foregoing, we respectfully request that the City rescind the unauthorized Reissued LOD as it must, deny the appeal as untimely, and cancel any public hearing scheduled for the untimely appeal. Should the City uphold the Reissued LOD and hear the appeal, Tripalink will be forced to pursue all legal remedies available to it.

Sincerely,



BENJAMIN M. REZNIK for
Jeffer Mangels Butler & Mitchell LLP

Sergio Ibarra
September 22, 2022

EXHIBIT B

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June 3, 2022

BY CERTIFIED MAIL

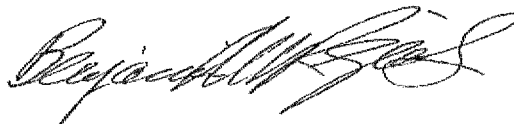
Sergio Ibarra
Deputy Advisory Agency
City of Los Angeles, Department of City Planning
200 N. Spring St. Suite 750
Los Angeles, CA 90012

Re: Notice of Denial of Appeal, LAMC 17.06(A) and Gov. Code Sec. 66452.5
Project Address: 1840-1848 West Adams Boulevard, City of Los Angeles
Case No. VTT-83081-SL-HCA

Dear Mr. Ibarra:

On or about April 5, 2022, the Advisory Agency for the City of Los Angeles ("City") issued the above referenced Advisory Agency Determination for a 10-unit small lot subdivision proposed for 1840-1848 West Adams Boulevard.¹ An appeal was filed on April 15, 2022. Pursuant to Los Angeles Municipal Code § 17.06 and Government Code § 66452.5, the Appeals Board was required to act on the appeal within thirty (30) days after it was filed. If the Appeals Board fails to act within the specified time limits, an appeal is considered deemed denied. We write to advise the Advisory Agency that the Appeals Board was required to hear this appeal by May 15, 2022, but failed to do so. **Having failed to hear or take action on the appeal by this date, the appeal is deemed denied.** Thank you for your cooperation and assistance.

Sincerely,



BENJAMIN M. REZNIK of
Jeffer Mangels Butler & Mitchell LLP

cc: Appellant Tanisha Thomas, West Adams Neighborhood Assoc., P.O. Box 180254, LA 90018

¹ We reserve the right to challenge the legality of this second determination, which was issued erroneously after the appeal period on the original February 2, 2022, determination had already passed without the filing of an appeal.

Sergio Ibarra
September 22, 2022

EXHIBIT C

Daniel Freedman
dff@jmbm.com

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Los Angeles, California 90067-4308
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Ref: 82152-0003

July 14, 2022

BY EMAIL ONLY

President Bates and Hon. Members of the
South Los Angeles Area Planning
Commission
Department of City Planning
City of Los Angeles
200 North Spring Street, Room 272
Los Angeles, CA 90012
E-Mail: apcsouthla@lacity.org

Re: **Project Address:** 1840 – 1848 West Adams Boulevard
Case No(s): VTT-83081-SL-HCA-1A; ENV-2020-3308-CE
Hearing Date: July 19, 2022;
Agenda Item: 6
Letter of Support for Staff Recommendation to Deny Appeal

Dear Hon. Members of the South Los Angeles Area Planning Commission:

On behalf of the applicant, we submit this letter in support of the Department of City Planning's (the "Department") approval of the above referenced ten-unit small-lot subdivision project (the "Project"), and to echo the Department's finding that the appeal is not supported by substantial evidence. As explained in the Department's staff report, the Project was properly approved consistent with all relevant objective and non-objective City requirements and criteria. We therefore join the Department in requesting that the South Los Angeles Area Planning Commission (the "APC") deny the appeal so that our client may proceed forward forward with helping the City achieve its sweeping and legally mandated housing goals.

We also submit into the record our prior correspondence to the Department for this case. (See **Exhibit A** and **Exhibit B**.)

A. The APC no longer has jurisdiction over the appeal as it was deemed denied two months ago.¹

When it processes residential subdivisions, the City must comply with strict timelines of the Los Angeles Municipal Code (“LAMC”) and the Subdivision Map Act. There are consequences for failing to comply. Under LAMC Section 17.06(A)(3), the APC “shall hear [an] appeal within 30 days after it is filed.” If the APC does not act timely, the appeal is denied as a matter of law: “If ... the “Appeal Board fails to act [within the specified time period], the appeal shall be deemed denied...”. A similar rule exists in the Subdivision Map Act. *See* Government Code §66452.5(c)(1). Assuming that the April 15, 2022 appeal was timely filed, the APC needed to act on it no later than May 15, 2022. That deadline expired two months ago. Having failed to act timely, the appeal has been deemed denied by operation of law.² Notice of this result was provided to both the City and the appellant in our June 3, 2022, letter attached as **Exhibit A**. We thus demand that the appeal be dismissed immediately.

B. The appeal fails to establish a basis on which the City can deny the Project at this stage.

What’s more, the appeal fails to state any basis for which this housing development project may be disapproved. In response to California’s ongoing housing crisis, the California legislature has enacted strict laws that limit a local agency’s authority to deny a housing development project that complies with objective general plan, zoning, subdivision, and design standards. Here, the Advisory Agency’s approval of the Project establishes that the Project meets all the City’s objective standards, and nothing contained in the appeal undermines this finding.

Further, Government Code § 65589.5(j)(2) states that a project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or similar provisions, unless the City provides the applicant notice to the contrary within 30 days of the Project application being deemed complete. The City gave the applicant no such notice here. The Project is thus deemed consistent with all City standards, regulations, and policies as a matter of law.

In these circumstances, the City must approve the Project unless it finds, based on a preponderance of the evidence, that:

¹ As the Project approval was final by operation law several months ago, we participate in this hearing under protest and with a full reservation of right to object to any further action on this basis. (*See* **Exhibit A** and **Exhibit B**)

² Because subdivisions are regulated by state law, the City’s local COVID tolling order has no effect on the time limitations provided for the processing of subdivisions. *Building Indus. Legal Defense Found. v Superior Court* (1999) 72 Cal.App.4th 1410 (court found interim ordinance that suspended for 10½ months formal processing of development application invalid).

- The Project would have a specific, adverse impact upon the public health or safety, *and*
- There are no feasible methods available to satisfactorily mitigate or avoid those impacts other than denying the Project. Government Code § 65589.5(j)(1)-(2).

The evidence before the APC cannot sustain these findings. A “specific, adverse impact” is not just any old impact: “a specific, adverse impact” is one this is “significant,” “quantifiable,” “direct,” and “unavoidable” and it must be based on “objective,” “identified,” “written public health or safety standards, policies, or conditions” in effect when the Project application was deemed complete. The Legislature has found that the conditions that would have a specific, adverse impact upon the public health and safety are rare and arise infrequently. Government Code § 65589.5(a)(3). There is no evidence that this Project will have a specific, adverse impact on public health or safety under these exacting standards.

In short, the appeal has already been deemed denied. And even if not, given the evidence before the APC, the appeal must be denied and the Project approved. Any other action would subject the City to significant liabilities.

Thank you in advance for your consideration.

Very truly yours,



DANIEL FREEDMAN of
Jeffer Mangels Butler & Mitchell LLP

DF:df

cc: Albizel Del Valle, Deputy District Director, Council District 8
Michelle Singh, Senior City Planner, Department of City Planning.
Sergio Ibarra, City Planner, Department of City Planning
Rafael Fontes, Planning Assistant, Department of City Planning