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November 28, 2022

VIA E-MAIL (clerk.plumcommittee@lacity.org)

Hon. Chair Marqueece Harris-Dawson and
Members of the Planning and Land Use Management Committee
Attention: Candy Rosales, Legislative Assistant
200 North Spring Street, Room 272
Los Angeles, CA 90012

Re: Property Address: 6480 W. Santa Monica Boulevard
Council File 22-1263
Agenda Item No. 3
Hearing Date: November 29, 2022
NOTICE OF BROWN ACT VIOLATION

Hon. Chair Harris-Dawson and Hon. Members of the PLUM Committee:

Our office represents Betty Spivak, the 92 year old widow who has owned the property at 6480 W. Santa Monica Boulevard for over three decades. We submit this letter on her behalf in vigorous opposition to Councilman O'Farrell's motion directing the City Council to initiate a Historic Cultural Monument ("HCM") designation process for the subject property at tomorrow's Planning and Land Use Management ("PLUM") Committee meeting. We have several substantive and procedural objections to this process, which have tainted this proposed nomination before it has even been presented.

First, the proponent behind this nomination is Matt Chait, the current tenant of the subject property whose lease is about to expire on December 31, 2022, and whose efforts to obtain a lease extension have been rejected by Mrs. Spivak. Mr. Chait has publicly acknowledged that he is pursuing an HCM designation in order to force Mrs. Spivak into giving him a lease extension. In emails to Mrs. Spivak and in multiple public statements, Mr. Chait has been explicit about his strategy to use this HCM nomination to "lower [the] 'high rise price'" of the property so different "real estate investors... would want to buy the building and keep it as a theater complex" instead of potentially redeveloping the site for housing. Mr. Chait has gone so far as to extort Mrs. Spivak by stating that if she would agree to a lease extension allowing him to continue to operate the theater he would not pursue Councilman O'Farrell for the HCM designation. This is an obvious abuse of the City's HCM procedures, and should not be permitted to move forward.

Second, this item is agendized for the PLUM hearing without identifying the applicable California Environmental Quality Act ("CEQA") clearance. on the agenda. The City Council's

action of designating a building as a historic cultural monument is a discretionary action that is subject to CEQA. Moreover, even the initial nomination will have a possible impact on the physical environment, as the HCM process immediately impacts ongoing and/or future construction activities. Recent case law has made it clear that the applicable CEQA clearance must be clearly identified on the agenda, and a failure to do so constitutes a violation of the Ralph M. Brown Act ("Brown Act"). See *G.I. Industries v. City of Thousand Oaks*, 2d Civ. No. B317201, October 26, 2022. Accordingly, if this item is heard at tomorrow's PLUM meeting, it will constitute a violation of the Brown Act.

Third, as the initiation of the HCM process will operate to deprive our client of the ability to obtain building permits or improve the property without permits, our client is entitled to due process at tomorrow's hearing. This includes a requirement that our client be given reasonable notice and an opportunity to be heard, as well as the right to present and rebut evidence. Government Code §11425.10(a)(1). Here, our client has not been given reasonable notice, nor has our client been given an adequate opportunity to prepare rebuttal evidence in advance of tomorrow's hearing. This is yet another reason tomorrow's hearing of this proposed HCM initiation may not proceed as currently proposed and agendized.

Finally, considering the fact that in a few days a new Council Member will be sworn into office to represent this district, it is both inappropriate and unreasonable for the City Council to rush and initiate this HCM nomination without providing the new Council Member an opportunity to participate in this important decision.

Thank you in advance for your consideration, and we look forward to answering any questions you may have at the upcoming hearing.

Very truly yours,



BENJAMIN M. REZNIK and
DANIEL F. FREEDMAN of
Jeffer Mangels Butler & Mitchell LLP

CC: Craig Bullock, Legislative Director, Councilmember O'Farrell
Elizabeth Ene, Director of Planning and Land Use, Councilmember Blumenfield
Paola Bassignana, Dir. of Planning, Councilmember Rodriguez
Albizaal Del Valle, Deputy District Director, Councilmember Harris-Dawson
Hannah Lee, Chief of Staff, Councilmember Lee