

# FIX THE CITY

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TO: PLUM COMMITTEE

FROM: FIX THE CITY, [Laura@FixTheCity.org](mailto:Laura@FixTheCity.org), [Mike@FixTheCity.org](mailto:Mike@FixTheCity.org)

**RE: ITEM 9, ENV-2023-209-EAF: CEQA ERRORS AND OMISSIONS  
10285 MISSOURI**

FTC challenges the proposed project on CEQA grounds as well as under the AP Act. The ability to challenge under the AP Act is demonstrated by our previous, successful challenge to the 10400 Santa Monica study.

In short, the City seems to have forgotten that its most important duty is to protect the public from harm. The Alquist-Priolo Act says it best: Cal. Pub. Resources Code § 2621.5 (“The Legislature declares that this chapter is intended to provide policies and criteria to assist cities, counties, and state agencies in the exercise of their responsibility to prohibit the location of developments and structures for human occupancy across the trace of active faults. Further, it is the intent of this chapter to provide the citizens of the state with increased safety and to minimize the loss of life during and immediately following earthquakes”).

CEQA requires analysis of environmental conditions that may be exacerbated by a project. In this case, a project sited above the Purple Line right of way which is laced with active faults established by Metro and included in the official California Map for the Santa Monica Fault Zone.

Newer studies have extended our knowledge of nearby active faults. Thus, the dismissal of the faults found on the project site as inactive is not supported by substantial evidence, which includes new studies of active faults.

A Class 32 exemption is only available when “(a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.”

The current project is inconsistent with city and state policies with regard to locating projects on active fault traces as well as **ZI-1117**. “Metro ROW Project Area: Consultation with the Los Angeles County Metropolitan Transportation Authority (Metro) is required prior to the issuance of any building permit for projects within 100 feet of Metro-owned Rail or Bus Rapid Transit (BRT) right-of-way (ROW).”

## FIX THE CITY

### EAF 2023-209 FAILED TO COMPLY WITH ZI-1117

The environmental clearance for this project is based on EAF 2023-209, which contains incorrect information: this property is within the Right of Way for the Purple Line and requires clearance from Metro under ZI-1117. The Parcel Profile for 10285 Missouri clearly shows that this property is subject to ZI-1117.

**DCP's environmental review ignored substantial evidence in the record** (the Parcel Profile and the answer to Question 1.B in the EAF). Specifically, on page 2 of EAF-2023-209, "Project Description B" asks:

"Will the project require certification, authorization, clearance or issuance of a permit by any federal, state, county or environmental control agency, such as Environmental Protection Agency, Air Quality Management District, Water Resources Board, Environmental Affairs, etc.?"

The Applicant's response was "No." Under ZI-1117, the mandatory answer is Yes. Attached is Figure 1, a map showing the Right of Way over this project site.

DCP Staff did not require compliance with ZI-1117 and instead relied on a false claim that the project did not require such clearance. Therefore, the EAF for this project has a false claim, and the CEQA appeal must be granted.

### METRO SEISMIC STUDIES ARE INCLUDED IN THE 2015 STATE MAP OF THE SANTA MONICA FAULT ZONE

Fix The City has twice successfully litigated inadequate testing and compliance with seismic testing: 10400 Santa Monica Blvd. and 1751 Malcolm. This CEQA and AP Act appeal is our third challenge. As with 10400 Santa Monica Boulevard, we included the official state maps showing active faults in the vicinity of the project site on Missouri. This testimony was clearly ignored.

The state fault map is the authority for seismic studies. The 2011 Metro seismic studies, which are included in the official state map for the Santa Monica Fault Zone published in 2015, cannot be lawfully dismissed. The City is required to utilize this map for its seismic evaluations.

Please note that at the time this CEQA appeal was filed, the seismic studies were not available to the public for an extended period of time. The original LOD was issued on Dec. 7, 2023, when the seismic studies were not available. Fix The City asked the Planner assigned to the appeal if she had the studies. She referred us to LADBS, where the studies were not posted. A PRA was required to obtain those studies.

**This means that DCP's analysis was incomplete because it did not review the full administrative record and failed to enforce ZI-1117.** Therefore, the assertion that the determination was based on substantial evidence regarding seismic safety is false, since the project planner did not have the records and directed us to LADBS, which

continued not to post the studies. Thus, the DCP environmental determination was not be based on substantial evidence in the city's possession.

### **Staff Report Appeal Points**

#### Re Staff Appeal Point No. 1:

Staff fails to grasp that compliance with ZI-1117 precludes a class 32 exemption. Class 32 is not applicable when Cal. Code Regs. tit. 14 § 15300.2 (“(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.”). Proximity to subway and potential impacts on the subway line were not addressed.

We also point out that Cal. Code Regs. tit. 14 § 15332 only applies when “(The site can be adequately served by all required utilities and public services.)” There were no findings of adequate police and fire.

#### Re Staff Appeal Point No. 2:

Staff states:

“The appellant claims that the project does not meet the Findings of Approval established in the LAMC, and, therefore, should not be granted. Specifically, they assert that the requested TOC Affordable Housing Incentives will have an “adverse impact upon public health and safety.” However, the required measures were taken by the applicant team, LADBS, and the Planning Department—as described under Appeal Point No. 1 above—to ensure the protection of public health and safety, and no evidence has been provided to the contrary nor have any public health and safety impacts been alleged.”

There are no findings of adequacy of police and fire response. The Project is in the first-in area of LAFD Station 92, which was reduced in manpower from a task force to a light force. Further, the project is close to the northern boundary of the first-in area.

We also highlight the City's numerous acknowledgements of staffing issues with both police and fire, with the number of sworn officers being at a generational low.

Finally, constructing a building over active fault traces will clearly have “an adverse impact upon public health and safety.”

#### Re Staff Appeal Point No. 3:

Staff commented as follows:

“The appellant alleges that there is “ample existing substantial evidence” that indicates active faulting under the proposed project site. In support of this unsubstantiated claim, the appellant references the 2011 Metro Study—a document over 10 years old—throughout their justification to demonstrate that

## FIX THE CITY

the proposed project site sits on top of an active branch of the Santa Monica Fault. As previously noted, the existence of a fault line, which constitutes a reverse impact for purposes of CEQA, is not substantial evidence that the project would have any geologic impacts. Furthermore, the appellant asserts that the information in the 2011 Metro Study, and the studies at the project sites located at 10400 and 10488 Santa Monica Boulevard, are inconsistent with the above-mentioned LADBS Geology and Soils Report Approval Letter dated July 14, 2023 (LOG No. 126230-01) but fails to provide the referenced studies for the record.”

First, the claim is not “unsubstantiated.” Staff acknowledges the Metro study but seems to discount the study because it is 10 years old. The Metro Study cannot be ignored simply because it is 10 years old. Seismic studies are performed and then relied on for years or decades later – the applicant’s own study did so, and a simple review of the literature will demonstrate this fact. The Metro study has withstood numerous court battles. In addition, the findings of the Metro Study are corroborated by the 10400 and 10464 Santa Monica studies. Furthermore, the Metro Study is included in the State’s official map for the Santa Monica Fault Zone, the designated authority for seismic investigations, under Publication 42, which is also the authority for LADBS 2023-129.

Staff states:

“Moreover, the studies referenced by the appellant are not site-specific and are based on pure speculation.”

The studies provided are along the same fault structure as those below the Project. City Bulletin (2023-129) specifically allows offsite studies as evidence of faulting (“Data from adjacent or nearby sites can be used to possibly reduce a property line setback”).

Staff fails to acknowledge the 10400 Santa Monica study, which conclusively found active faulting, as well as the 10464 Santa Monica Study, which found active faulting. The above-mentioned studies both include a projected path of the located faults towards the subject property.

It is also important to note that the Project study found ample evidence of faulting (FTC 10285 MIS-000269, 000270, 000282, 000283). They arbitrarily dismissed it as inactive. The faulting, combined with the proven faults just 800 feet away, represent substantial evidence of active faults on the project site.

In fact, Staff goes on to state:

“The fact that a project lies within a designated EFZ does not necessarily indicate that a hazard requiring mitigation is present at that site. Instead, it indicates that regional (that is, not site-specific) information suggests that the probability of a hazard is great enough to warrant a site-specific investigation.”

FTC is providing regional information showing substantial evidence that the faulting under the property is active. Finally, the city may not adopt rules which are less

## FIX THE CITY

restrictive than state rules. Cal. Pub. Resources Code § 2624 (“Notwithstanding any provision of this chapter, cities and counties may do any of the following:(1) Establish policies and criteria which are stricter than those established by this chapter. (2) Impose and collect fees in addition to those required under this chapter. (3) Determine not to grant exemptions authorized under this chapter.”).

Staff also fails to grasp that appellant’s claim is both of a CEQA nature and an AP Act nature.

### Re Staff Appeal Point No. 4:

Staff states:

“The appellant cites an arbitrary setback requirement of 50 feet as part of its appeal. This assertion is not based on any technical documentation or guidance.”

We cite 14 CCR § 3603(a):

“(a) No structure for human occupancy, identified as a project under Section 2621.6 of the Act, shall be permitted to be placed across the trace of an active fault. Furthermore, **as the area within fifty (50) feet of such active faults shall be presumed to be underlain by active branches of that fault** unless proven otherwise by an appropriate geologic investigation and report prepared as specified in Section 3603(d) of this subchapter, no such structures shall be permitted in this area.” (emphasis added)

### Declaration of Daniel Schneidereit

The declaration of Daniel Schneidereit should be disregarded for at least two reasons. First, the AP-Act issues, including the 50-foot requirement, are before the appellate court. Second, Mr. Schneidereit’s credibility with regard to diligence in requiring proper studies to locate active faulting is doubtful.

Mr. Schneidereit accepted the 10400 Santa Monica Study despite clear flaws. FTC sued and won additional testing. That testing proved the existence of faulting where Mr. Schneidereit had previously claimed there was no such fault and that no further study was required. Mr. Schneidereit’s credibility should also be questioned as he provided the listed declaration AFTER becoming aware of the 10464/Byers study, which proved the existence of faulting.

### Additional Comments

#### The Westfield Study

The Westfield study should be discounted with regard to a central finding, specifically that “Both Kenney (2012) and Parsons (2011) indicate there is no direct evidence that SMFZ faults south of Santa Monica Boulevard are active.” (FTC 10285 MIS-000311). This is demonstrably false per the 10400 and 10464 Santa Monica Blvd studies which conclusively determined the existence of an active fault.

### Trenching

The validity of trenching should be questioned per the Westfield Study (FTC 10285 MIS-000313): “**Trenching was not considered practical** as the primary method of our subsurface investigation at the Century City Mall because of unfavorable geologic conditions. In the eastern portion of the site, trenching is not practical because the base of **the young Holocene age sediments are on the order of 25 feet below grade and groundwater is shallow**. These adverse conditions were confirmed by drilling 2 borings to a depth of approximately 10 feet within a potential trench location in the 1801 Avenue of the Stars basement.”

We note that a trench of 9 feet as performed would not reach the Holocene deposits 25 feet below grade. Holocene deposits are evidence of active faults.

### Metro

The applicant has indicated that the Metro study did not indicate active faults. They are wrong. We cite:

- The Metro Study (FTC 10285 MIS-595):  
“Conclusions: Analysis of borings, CPT data, and seismic reflection profiles along 7 transects, in conjunction with mapped topographic landforms, have identified two active fault zones in the Century City area.” (emphasis added)
- The Metro Study (FTC 10285 MIS-000621):  
“In summary, this investigation has shown that both the Santa Monica fault zone and WBHL are active fault zones. Each fault zone is capable of generating earthquakes of M7 or greater with average surface displacements of 3 to 6 feet.” (emphasis added)
- The Metro Study (FTC 10285 MIS-000592):  
“The purpose of this fault investigation was to determine the location of active faults in the vicinity of the Century City station options and tunnel alignments. The tunnel alignment options in the Century City/West Beverly Hills area cross two mapped fault zones—the Santa Monica fault zone and the West Beverly Hills Lineament (WBHL) fault zone. The Santa Monica fault zone is known to have had zones of ground rupture within the last 11,000 years (Holocene age). A prominent scarp (step in the topography) can be traced continuously from Century City to Pacific Palisades. It marks the active strand of the Santa Monica fault zone and provides the most definitive evidence of the fault’s Holocene activity. However, until this study was undertaken, the location of the active strand(s) of the Santa Monica fault zone in the Century City/West Beverly Hills area had not been specifically evaluated through subsurface geologic investigations.” (emphasis added)

All of the pages cited above are found in a Bate-stamped copy of the DCP record: [https://ci3.googleusercontent.com/meips/ADKq\\_NakbZe\\_YcarsXKRLaICNfi88uKn7bvA2ZhWW](https://ci3.googleusercontent.com/meips/ADKq_NakbZe_YcarsXKRLaICNfi88uKn7bvA2ZhWW)

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In conclusion, the proposed project at 10285 Missouri must comply with all relevant safety and environmental regulations. The evidence clearly indicates that the project site lies within an active fault zone and has not adequately addressed seismic safety concerns. Therefore, the CEQA appeal should be granted, and further investigation is necessary to ensure the protection of public health and safety.

Sincerely,  
Laura Lake and Mike Eveloff  
FIX THE CITY