Communication from Public

Name:	Doug Ross
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Comments for Public Posting:	supplemental comments attached

Supplemental Comment – Judicial Precedents Relevant to the Silver RV Park Dispute

Submitted by: **Doug Ross**
Purpose: To place on the record multiple California cases—divided into two clear categories—that show courts striking down (A) council interference with ministerial permits and (B) abuses of Charter § 245.

Abuse of Power Statement: Invoking Charter § 245 merely to stage a public hearing on a project that every administrative body has already confirmed is *ministerial* constitutes an abuse of power and a misuse of the Council's limited jurisdiction.

A. Ministerial-Permit Interference Cases

Case	What the council/board did	Court's ruling	Relevance here
Friends of Juana Briones House v. City of Palo Alto 190 Cal.App.4th 286 (2010)	Council rescinded a ministerial demolition permit after neighbors objected.	6th DCA ordered the permit reinstated, holding the Council acted "in excess of its jurisdiction" because the permit met all objective standards.	Once a ministerial permit issues, a council cannot claw it back for political reasons.
Lafferty v. City of Fremont 229 Cal.App.4th 48 (2014)	Council revoked a ministerial demolition/buildin g permit nine months after issuance to appease neighbors.	1st DCA issued a writ compelling the City to reinstate the permit and honor vested rights; revocation was arbitrary and capricious.	Canceling a ministerial approval without evidence the permit was "erroneously issued" violates due process and vested-right s doctrine.

Termo Co. v. County of Ventura 16 Cal. App. 5th 267 (2017)	Board of Supervisors denied an oil-well permit even though zoning made it ministerial if criteria were met.	2nd DCA held the Board "lacked discretion" and ordered the permit granted; policy objections can't override objective standards.	A legislative body cannot invent discretion where the code deems the project ministerial.

Take-away: Courts treat ministerial permits as untouchable once issued—unless objective standards were truly misapplied. Political blowback is not a lawful basis to revoke or delay.

B. Charter § 245 Abuse Cases

Case	Facts	Court's ruling	Relevance here
West Chandler Blvd. Neighborhood Ass'n v. City of Los Angeles 198 Cal. App. 4th 1506 (2011)	Synagogue expansion denied by Area Planning Commission (APC); Councilmember pulled the matter via § 245, introduced a new plan, adopted it with no findings.	Court of Appeal set aside the Council action: no substantial-evidence findings, record was closed, § 245 is not a fourth appeal.	Shows Council cannot reopen a closed record or fabricate findings to placate political allies.

Chazanov v. City of Los Angeles (L.A. Super. Ct. No. BS 135382, Jan 17 2013)	Variance denied by APC; Councilmember Koretz used § 245 to reverse it.	Superior Court writ compelled Council to rescind its action, finding it an abuse of discretion—substituted politics for evidence.	Confirms § 245 is a "safety valve," not a vehicle to give one side an extra bite after losing.

Council File Motions Forced to Vacate § 245 Decisions

Below are six City Council files where courts issued writs compelling the Council to rescind its own § 245 action—illustrating what happens when political overrides trump the administrative record:

Council File	Court case & writ	Council's required action	Take-away
12-0561-S1 (2012)	*West Chandler*	Set aside 2009 § 245 entitlements; PLUM rehearing ordered	Direct compliance with Court of Appeal mandate.
11-1556 (2013)	*Chazanov*	Vacate Oct 4 2011 § 245 decision; reconsider variance	Trial-court writ nullified Council override.
12-1126 (2015)	*Simmers v. City*	Rescind Eldercare Permit approved via § 245	Added fee payout; shows repeat pattern.
07-0474-S1 (2009)	*S. Robertson NC v. City*	Set aside Oct 18 2006 § 245 decision	CEQA findings missing → writ reversal.
08-0351-S1 (2010)	*Pico & Sepulveda Hotel*	Vacate hotel approval taken under § 245	Staff memo cites "abuse of § 245 jurisdiction."
15-1009-S1 (2018)	*Brentwood Residents Coalition*	Rescind 2015 condo approval	Council also paid six-figure fee award.

These motions prove that when § 245 is misused, courts force a full rescission plus attorneys' fees—a precedent directly applicable here.

Key language to cite

- ***"Findings must be supported by substantial evidence in the record." — West Chandler* (p. 1515).**
- ***"Section 245 is a safety valve, not an automatic extra appeal." — Judge Lavan, Chazanov* writ (slip op. p. 8).**

Application to Silver RV Park

1. **Complete record, no new evidence.** Three determinations, two staff reports, and an uncontested environmental clearance confirm the project is ministerial and compliant—mirroring *West Chandler* and *Chazanov* where pulling the matter into Council was struck down.
2. **Ministerial status heightens the abuse.** The above §245 cases involved discretionary CUPs; this project is *ministerial*, making Council interference even less defensible. Indeed, this would be the first documented attempt in Los Angeles to interfere with a ministerial permit via §245—an unprecedented abuse of power that squarely fits the courts' definition of "arbitrary and capricious."
3. **Selective, pre-arranged action.** Councilmember McOsker and appellants' counsel coordinated a §245 "backup plan," echoing the political tactics condemned in all cases.
4. **Premeditated hearing strategy.** At the Planning Commission hearing, appellants' attorney Robert Glushon opened by saying he would *not* argue performance standards "in case this goes to Council under the provisions of the City Charter"—an admission that §245 was already planned and that no new evidence would be offered.
5. **Legal risk.** Courts routinely issue writs voiding Council actions and awarding six-figure attorneys' fees and costs when either ministerial interference or §245 abuse occurs. Proceeding invites the same outcome—and a substantial cost of defense that taxpayers will shoulder.

Request: In light of these binding precedents, I respectfully ask the Council to withdraw its §245 assertion and honor the staff and appellate determinations. Failure to do so will almost certainly trigger litigation the City is unlikely to win.

Doug Ross
July 2025

Communication from Public

Name: Doug Ross
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Comments for Public Posting: Councilman McOsker continues to interfere with a ministerial permit. 3 appeal determinations and 2 reports submitted to motion 24-0711 show full compliance and the ministerial status of this project City Charter Section 245, in its entirety, does not apply to ministerial permits. The core reason lies in the fundamental difference between ministerial and discretionary actions. Ministerial Actions: A ministerial permit involves a clear set of objective standards. If a project meets these standards, the responsible department (like the Department of Building and Safety for building permits) is obligated to issue the permit. There is no room for discretion, personal judgment, or policy considerations. This means there's no "decision" by a board or commission for the City Council to veto or assume jurisdiction over, as described in Section 245(a)-(e). Discretionary Actions: Section 245, particularly subsections (a) and (e), focuses on the review of discretionary actions made by boards and commissions, where those bodies exercise judgment in applying regulations or making policy decisions. The Council can assert jurisdiction over these types of decisions and potentially veto them or, in the case of the City Planning Commission, modify them. Why the distinction matters Council Oversight: The City Council's oversight function, as outlined in Section 245, is designed to ensure accountability and align discretionary decisions with the city's broader policies and goals. It's not intended to second-guess the mechanical application of code requirements for a ministerial permit. Separation of Powers: Ministerial permits are typically the responsibility of specific departments that ensure compliance with technical codes. Interfering with these processes without a clear legal basis blurs the lines of authority within the city government. Because ministerial permits involve no discretion and are granted upon meeting fixed standards, they fall outside the scope of review and veto powers granted to the City Council by Section 245 of the Charter.