Communication from Public

Name:

Date Submitted: 03/02/2026 10:49 PM

Council File No: 25-1518

Comments for Public Posting: I am uploading a submittal titled "2026-03-01_Barry Building CD 25-1518, Rebuttal of SOC #2" which rebuts the Statement of Overriding Considerations #2 of the 02/19/2026 DCP Report.

Council File 25-1518
Barry Building Demolition Project
Rebuttal of DCP 02/19/2026 Report, SOC #2

To: the Members of the Los Angeles City Council:

Subject: Rebuttal of Statement of Overriding Considerations (SOC) #2 – Case No. ENV-2019-6645-EIR-1A (Council File 25-1518)

I am writing to formally challenge the finding in the Department of City Planning (DCP) report dated February 19, 2026, which cites the need to "remove an attractive nuisance" as a Statement of Overriding Considerations (SOC) for the demolition of the Barry Building (HCM #887).

This characterization is factually unsupported and does not withstand scrutiny.

As established by the attached correspondence from LAPD Senior Lead Officer Matthew Kirk, there is substantial evidence that contradicts the claim that this property is a nuisance.

Official police data from 2020 through February 2026 shows only four calls for service at 11973 San Vicente Blvd. None of these involved vandalism. The documented incidents—a traffic collision, a single trespass, panhandlers outside the property, and a burglary investigation—are isolated events that do not constitute a pattern of chronic neglect or criminal activity.

Furthermore, if the applicant claims the building is an attractive nuisance, they are effectively admitting to a failure of their own legal responsibilities. It is the applicant's duty to maintain and secure the property, a responsibility they explicitly stated they are fulfilling in their "Maintenance Letter" which is part of the Administrative record. They cannot leverage their own failure to maintain the building, or their choice to keep it fenced and locked, as a justification for its demolition.

Finally, it is worth noting that when the Barry Building was designated as a Historic Cultural Monument in 2007, the owner did not oppose the designation. By failing to contest the status at that time, they acknowledged the intrinsic value of the

building. They should not now be permitted to dismantle a

designated Historic Cultural Monument by rebranding the property as a "nuisance" that they themselves are responsible for managing.

Relying on this inaccurate finding as a justification for the destruction of a Historic Cultural Monument is an error in the administrative process. I respectfully request that the Council strike this SOC from the record and vote to uphold the appeal to preserve this monument.

Sincerely,

Bob Blue

RE: 11973 San Vicente Blvd. .... Are there any reports at all?

From: MATTHEW KIRK (34713@lapd.online)

To: ziggykruse2005@yahoo.com

Date: Wednesday, February 25, 2026 at 02:10 PM PST

Good Afternoon, I just checked for all calls for service at that address and since 2020 there were 4 calls for service. 1.a traffic collision in front of the building 2. Trespass on the property 3. Call of panhandlers outside the property 4. Burglary investigation . I had no calls of any vandalisms. Thanks, Matthew Kirk

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From: Ziggy Kruse <ziggykruse2005@yahoo.com>
Sent: Tuesday, February 24, 2026 7:24 PM
To: MATTHEW KIRK <34713@lapd.online>
Cc: Bob Blue <bob.blue@live.com>; Ziggy Kruse <ziggykruse2005@yahoo.com>
Subject: RE: 11973 San Vicente Blvd. .... Are there any reports at all?

Good Afternoon, Officer Kirk:

Can you please let me know if there are any reports since 2020 of vandalism, break ins, or anything like this for the Barry Building at 11973 San Vicente Blvd?

I truly appreciate your help with this.

Thank you!

Sincerely,

Ziggy Kruse Blue

CALIFORNIA

Building that houses Dutton's bookstore given landmark status

By Martha Groves

Oct. 3, 2007 12 AM PT

TIMES STAFF WRITER

To the cheers of Brentwood residents, the Los Angeles City Council voted unanimously Tuesday to grant landmark status to the San Vicente Boulevard building that houses Dutton's Brentwood Books and has served as a community gathering spot for decades.

The designation was approved on a 14-0 vote and was unopposed by Charles T. Munger, the property's billionaire owner. It paves the way for a 180-day period during which the developer and residents can try to negotiate a compromise that could preserve portions of the mid-20th-century structure and, many bibliophiles hope, Dutton's itself.

The designation does not prevent the owner from developing the property or even demolishing the building. But it creates a review process. If the owner requests a permit for demolition or substantial alteration, he would be required to go through an environmental review process.

Among the three dozen supporters in council chambers were Michael Silverblatt, host of the “Bookworm” program on KCRW-FM (89.9), and actress Donna Mills, who told the council: “It’s really important for our children to know we value our history.”

Activists had campaigned for months to gain historic-cultural monument status for the 56-year-old building, which features a courtyard and curved stairways. Leading the charge was Diane Caughey, a Jungian psychotherapist and architect whose late father, Milton, designed the structure.

Her effort began after Munger revealed in January plans to replace the Barry Building with a mixed-use development featuring shops and luxury condos -- and a spot for a bookstore. After encountering strong community resistance, Munger shifted to talk of a smaller retail complex similar to the Brentwood Country Mart.

Attorney William Delvac represented Munger, who did not attend. Delvac drew gasps from the audience when he said Munger would no longer oppose the designation.

Councilman Bill Rosendahl, a staunch proponent of the designation, said he hoped the two sides could resolve their issues. “I appreciate everybody’s attitude about a win-win-win,” Rosendahl said.

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martha.groves@latimes.com

More to Read

Long Beach’s Casita Bookstore relocating after 2025 pushed it to the brink

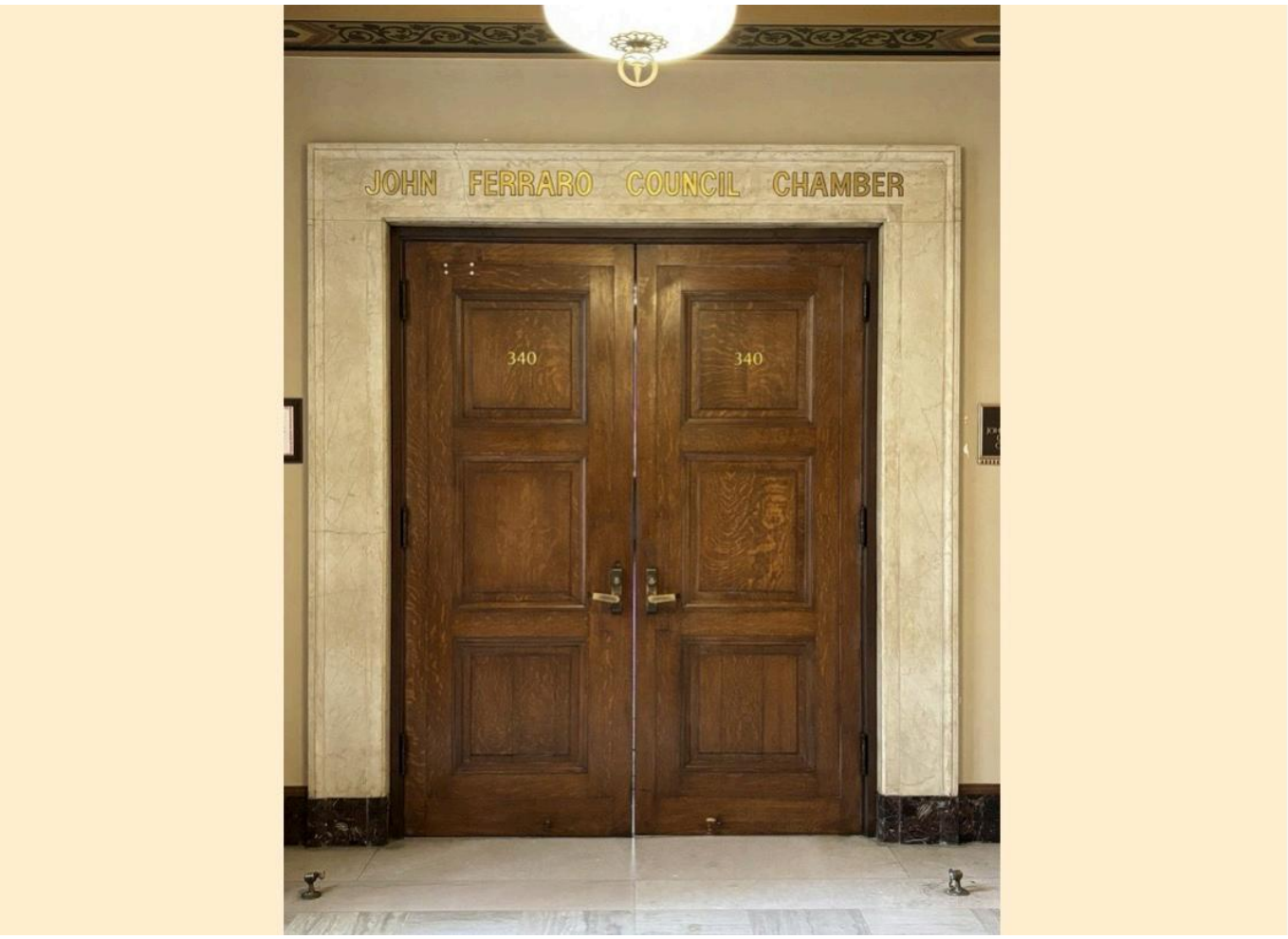
Jan. 7, 2026

Communication from Public

Name:
Date Submitted: 03/02/2026 10:52 PM
Council File No: 25-1518
Comments for Public Posting: I am uploading the CityWatchLA article titled "PLUM: Coffee, Confidentiality, and the Rubber Stamp"

PLUM: Coffee, Confidentiality, and the Rubber Stamp

ZIGGY KRUSE BLUE / MARCH 02 2026



Comments

LA PLANNING - If you blinked during the Planning and Land Use Management (PLUM) Committee hearing on February 24, you might have missed the deliberation on Item 10. Actually, even if you stared unblinkingly at the dais, you wouldn't have seen much.

In what has become a recurring tragicomedy at City Hall, the fate of our historic fabric—specifically the Barry Building (HCM #887) and the sacred ancestral land of the Gabrieleno (Kizh Nation) upon which it stands—was handled with all the importance of a drive-thru order.

The Great Coffee Disappearing Act

Councilmember Nithya Raman is a busy woman. She is a sitting City Councilmember, a member of the powerful PLUM Committee, and is currently auditioning for the city's top job in her run for Mayor. On February 24, she was technically marked as "present." However, in the chambers of City Hall, presence is a relative term.

At one point during the hearing, as critical testimony was being delivered, Raman was seen exiting the chambers, only to return later with what appeared to be a fresh cup of coffee.

One wonders if the caffeine was intended to help her process the complex CEQA and AB 52 arguments being presented, or if the hallway espresso was simply more compelling than the voices of the public she represents. For a candidate for Mayor, the optics were clear: the espresso had her attention; the constituents did not.

Hiding in the Confidential Shadows

Is Raman, much like Mayor Karen Bass, now hiding behind the convenient confidentiality of AB 52 consultation?

AB 52 was designed to ensure that tribal governments are consulted before projects impact their cultural resources. It was not designed to be a "Get Out of Transparency Free" card for politicians. Yet, when advocates for the Gabrielino (Kizh Nation) spoke

on Item 10, they described a process where the City unilaterally slammed the door shut on consultation.

They felt disrespected, and rightly so. While the PLUM session was still in progress, and critically, before the committee members cast their votes, a letter from the Gabrieleno's attorney was added to Council File 25-1518. Lest the committee members claim ignorance, the existence of this eleventh-hour legal filing was explicitly announced by a public speaker at the conclusion of their testimony. The record was updated in real-time and the committee was notified in person, but the minds on the dais were already made up. It was a final, poignant attempt to be heard by a body that had already checked out.

The Deafening Silence of Due Process

Despite being handed a new legal filing and hearing from the First People of this land, the committee's response was a vacuum. When it came time for the three present members, Blumenfield, Nazarian, and Raman, to actually do their jobs, the silence was deafening.

There was no deliberation. No pointed questions for Planning Staff about the unilateral end to tribal consultation. No inquiries directed at the appellant or the applicant regarding the new evidence in the file. They sat through the testimony with a level of indifference that suggests the outcome was baked in long before the first speaker took the mic.

In a city facing a crisis of trust, this lack of curiosity isn't just lazy; it's a red flag. When representatives refuse to ask questions, it's usually because they already have an answer, they aren't willing to defend in public.

A Serial Meeting Problem?

Why was there no discussion? Perhaps because the discussion already happened behind a digital curtain?

During a Google Meet on February 12, CD 10 staff let the cat out of the bag, noting that staff from the five council offices discuss agenda items and defer to the Council Office where the project sits (in this case, Traci Park's CD 11, which has already signaled its blessing for the wrecking ball).

In the world of the Brown Act, this smells suspiciously like a serial meeting. When council offices reach a consensus through back-channel staff coordination before a public hearing, the public hearing becomes nothing more than expensive wallpaper.

The Bottom Line

When our leaders treat a PLUM hearing as a mere pit stop between coffee breaks, and when confidentiality is used as a rug to sweep tribal concerns under, the "City" in City Hall starts to feel very small indeed.

One Last Bite of the Apple

Despite the PLUM Committee's performance, the public has one final opportunity to challenge this rubber stamp process. The full Los Angeles City Council is scheduled to hear this item during its regular meeting on Wednesday, March 4, 2026 (Item 8). You can view the full Meeting Agenda here.

However, don't expect to be heard from the comfort of your home.

In a move that further erodes public accessibility, there is no dial-in or online option for public comments. If you want your voice to reach the ears of the Council, you have only two choices: show up in person at City Hall to look them in the eye, or submit a written comment directly to Council File 25-1518 via the Official Public Comment Portal.

Whether they'll be listening, or just looking for their next cup of coffee, remains to be seen.

(Ziggy Kruse Blue and Bob Blue are freelance contributors to CityWatchLA. They can be reached at ziggykruse@gmail.com)

Communication from Public

Name:
Date Submitted: 03/02/2026 11:22 PM
Council File No: 25-1518
Comments for Public Posting: I am uploading a PDF file titled "2026-03-02_Barry Building Fed Case No 2_26-cv-00747" incorporating this case by reference into Council File No 25-1518.

25-1518; Barry Building Demolition Project
Supplemental Evidence for the Administrative Record

VIA Council File Portal
March 2, 2026
Los Angeles City Council
c/o Office of the City Clerk
200 North Spring Street, Room 395
Los Angeles, CA 90012

RE: COUNCIL FILE NO. 25-1518; Barry Building Demolition Project (11973 San Vicente Blvd)

SUBJECT: Supplemental Evidence for the Administrative Record – Incorporation by Reference (CEQA Guidelines § 15150) of Case No. 2:26-cv-00747

To the Members of the Los Angeles City Council:

As a stakeholder in the above-referenced matter, I am submitting this supplemental evidence for immediate inclusion in the Administrative Record for Council File No. 25-1518.

Pursuant to CEQA Guidelines Section 15150, I hereby incorporate by reference the entire litigation record, including all pleadings, motions, and judicial orders, in the following federal matter:

- **Case Name:** *Brinah Milstein, et al. v. City of Los Angeles, et al.*
- **Case Number:** 2:26-cv-00747 (U.S. District Court, Central District of California)
- **Filing Date:** January 23, 2026

Relevance and Summary:

As required by Section 15150(c), I provide the following summary: The *Milstein* litigation involves a comprehensive challenge to the City of Los Angeles' administrative procedures regarding the Cultural Heritage Ordinance and the revocation/denial of demolition permits.

The incorporation of these documents is necessary to demonstrate pervasive procedural and constitutional irregularities in the City's management of historic resources. It is my contention

that the City's findings in the Barry Building EIR—particularly regarding the feasibility of preservation and the handling of the demolition application—are inconsistent with the legal standards and municipal duties currently being litigated in federal court. The City Council must consider the full scope of this litigation to avoid a prejudicial abuse of discretion and to ensure its decision is supported by the weight of current legal precedent.

Enclosure:

In accordance with Section 15150(b), the initial 37-page Complaint for Declaratory and Injunctive Relief is attached to this email to ensure the core allegations are readily available for public inspection.

Sincerely,

Bob Blue

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Attorneys for Plaintiffs Brinah Milstein, Roy Bank, and Glory of the Snow 1031 Trust

Glaser Weil

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

BRINAH MILSTEIN, individually, and as Trustee of GLORY OF THE SNOW 1031 TRUST, a California trust, and ROY BANK, an individual, Plaintiffs, v. CITY OF LOS ANGELES, a Municipal Corporation and Charter City, and KAREN BASS, in her official capacity as Mayor of Los Angeles, Defendants.	CASE NO. **COMPLAINT FOR:** **1) INJUNCTIVE RELIEF, OR ALTERNATIVELY,** **2) JUST COMPENSATION** **JURY TRIAL REQUESTED**

Plaintiffs Brinah Milstein, Roy Bank, and Glory of the Snow 1031 Trust (collectively, "Plaintiffs"), by and through their undersigned counsel, bring this

Complaint against Defendants the City of Los Angeles, the City Council of the City of Los Angeles, and Karen Bass, in her official capacity as Mayor of the City of Los Angeles (collectively, the "City" or "Defendants"), and allege as follows:

PRELIMINARY STATEMENT

1. This case arises from the unconstitutional taking of private single family residential property by the City of Los Angeles without any public purpose or just compensation paid to Plaintiffs through the use of the City's "Historic Cultural Monument" ordinance.

2. The property, 12305 Fifth Helena Drive, Los Angeles, California 90049 (the "Property"), was owned for about six months in 1962 by Marilyn Monroe—she occasionally occupied a small house that sits on the Property—while traveling extensively during her brief ownership to her permanent home in New York City and elsewhere—before she died at the Property in August 1962.

3. Not a trace of Ms. Monroe's short tenure at the house remains at the Property or in the house—and the house has been substantially altered by successive owners over more than sixty years and with multiple building permits issued by the City without any opposition by the City. For more than sixty years, although keenly aware of the Property's brief association with Ms. Monroe, the City had taken no action to designate the house as a historic monument, until Plaintiffs sought to exercise their rights under lawfully issued City permits to demolish the house in 2023. Over more than sixty years and after 14 different owners, numerous remodels and more than two-dozen building permits issued by the City, the City took no action regarding the house's now-alleged "historic" or "cultural" status, essentially admitting it was neither and that no public good would be served by so designating the house or the Property.

4. Following Plaintiffs' legal application for, and the City's approval and issuance of legal permits issued in 2023, and at the behest of the City, tour guides, and special interests, including those that the City colluded with to achieve its predetermined outcome, the City in June 2024 designated Plaintiffs' entire Property a

"Historic-Cultural Monument." In doing so, the City has turned the Property into a tourist attraction, attracting (as the City wanted and expected) traffic congestion on the short, narrow dead-end street adjacent to the Property along with numerous trespassers leaping over and onto Property walls to get into the "designated" house (which cannot be seen from the public realm due to the Property wall and landscaping). Indeed, Plaintiffs have had to pay security personnel to police the Property, and attempt to keep the adjacent small street free from tour buses that regularly stop and block the ingress and egress of Plaintiffs and their neighbors from and to this street and their homes which take access off of the small residential street. As recently as November 7, 2025, burglars scaled the wall on the Property and broke into the "designated" house apparently searching for memorabilia or other items, whose acts were captured in photographs and video, and which incident is presently under investigation by the LAPD. The City has undertaken no efforts to keep these trespassers off Plaintiffs' property or stem the tide of trespassers, ban tour vans and buses from stopping on and preventing the use of the small street, or otherwise lessen the other expected and intended impacts created by the City designating a "Historic Cultural Monument" that is entirely inaccessible to the public, and cannot even be seen by the public except when the public trespasses on Plaintiffs' property. The neighbors are also adversely impacted (see *infra*, for exemplars of the photographs documenting the interference with the neighbors and their privacy).

5. And though the City has now designated the entire Property (which is comprised of multiple structures, the majority of which did not even exist during Ms. Monroe's brief ownership and were built decades later, not just the small house) a "Historic-Cultural Monument" over the objections of Plaintiffs and others, the house is neither accessible to the public, nor even viewable from a public street or other public space. The City has deprived Plaintiffs of their intended demolition of the house and the use and enjoyment of their Property without any actual benefit to the public—who cannot access or even see the house without trespassing.

6. The City lacked a valid public purpose in taking Plaintiffs' property under the federal Constitution's Takings Clause. Thus, Plaintiffs are entitled to an injunction against the City's continued designation of the Property as a Historic-Cultural Monument and preventing Plaintiffs from demolishing the single-family house on the property solely because the City considers the Property to be a "Historic-Cultural Monument."

7. But even if the City argues it had a valid basis for taking the Property, which it did not, the City has indisputably failed to compensate Plaintiffs for their lost use and enjoyment of their Property. Plaintiffs are therefore at least entitled to just compensation under the Takings Clause.

8. The City also has precluded Plaintiffs from demolishing the single family house on the Property. Demolition or substantial alterations to the Property can only now, post-"designation," be accomplished through Plaintiffs' compliance with a multi-year legal process, including the preparation of an Environmental Impact Report pursuant to the California Environmental Quality Act, the City's express permission to tear down or alter what the City just ostensibly "protected," and years of likely litigation by any third party challenging any change to the Property, all of which will result in the City's pre-ordained denial of any demolition or substantial alteration.

9. Plaintiffs did everything in their power to encourage the City to remove the allegedly historic from the Property and put it on display elsewhere, and thus avoid this and other legal actions, even offering to help pay for that effort, put up a plaque on the wall, and otherwise avoid the losses caused by designation that the Plaintiffs have now suffered. The City ignored all such efforts.

10. The City designated the Property, and the Superior Court denied Plaintiffs' writ petition challenging the designation on September 2, 2025, finding the Councilmember who sponsored and pushed for this designation, Traci Park, unquestionably biased, but finding (incorrectly) that the "process" was legislative and not adjudicative. Accordingly, Plaintiffs have exhausted all administrative remedies

that may have been available, and the City has effectively locked up the Property in the designation the City voted for and successfully sought to maintain and did maintain through State court proceedings.

THE PARTIES

11. Plaintiff Glory of the Snow 1031 Trust is the owner of the property located at 12305 Fifth Helena Drive in Los Angeles, California 90049.

12. Plaintiff Brinah Milstein is the trustee of Glory of the Snow 1031 Trust which owns the property located at 12305 Fifth Helena Drive in Los Angeles, California 90049, and she owns the property immediately adjacent thereto, 12306 Sixth Helena Drive, Los Angeles, California 90049. Her domicile is 12306 Sixth Helena Drive, Los Angeles, California 90049.

13. Plaintiff Roy Bank is an owner of 12306 Sixth Helena Drive, Los Angeles, California 90049. His domicile also is 12306 Sixth Helena Drive, Los Angeles, California 90049. Mr. Bank and Ms. Milstein are married.

14. Defendant City of Los Angeles is a municipal corporation and a charter city organized and existing under its own charter and codes, and under the laws of the State of California. Its headquarters and principal place of business are 200 North Spring Street, Los Angeles, California 90012.

15. The City Council is a fifteen member body of duly elected city council members empowered with certain duties and responsibilities with respect to governing the City of Los Angeles.

16. Defendant Karen Bass is the Mayor of the City of Los Angeles, California, and empowered with certain duties and responsibilities with respect to governing the City of Los Angeles.

JURISDICTION AND VENUE

17. This Court has jurisdiction pursuant to 28 U.S.C. § 1331. This action arises under 42 U.S.C. § 1983.

18. Venue is proper in this District under 28 U.S.C. § 1391(b), because at

least one Defendant resides in this District and the property that is the subject of the action is situated within this District.

19. The City's decision designating Plaintiffs' property a "Historic-Cultural Monument" constituted a final decision.

20. There is no requirement that Plaintiffs seek further administrative relief from the City before bringing suit in this Court.

21. In any event, the City's actions have made clear that any further efforts to persuade the City would be futile.

22. Plaintiffs face an uncompensated loss of their property rights absent intervention from this Court.

FACTUAL ALLEGATIONS

A. The Property

23. Situated at the end of a very short, narrow dead-end residential street in Los Angeles, the Property is approximately 23,222 square feet, and includes a number of deteriorating structures including an approximately 2,300 square foot single-story Spanish-colonial revival single family house, a pool and patio, several detached outbuildings, and a backyard. *See* Ex. A at pp. 3-4. The property's sole claim to fame is that the Property was briefly owned by Marilyn Monroe for about six months before she died in the house on the Property in 1962. Saying that Ms. Monroe "lived" in the house is untrue. While she did own the Property for 157-days, she was not there for nearly that entire time, rather she was traveling and staying in her primary, long-term legal residence in New York City. Indeed, following her death, Ms. Monroe's estate was probated not in California, but in her domicile of New York. New York and California courts agreed her residence was New York. *See* Ex. M at p. 10213. Affidavits and declarations filed after her death confirmed that her residence was New York and that the Property was for her temporary use while filming in Los Angeles, and that she fully intended to go back to her permanent New York residence after her business in California was done, even instructing that her belongings in New York

remain and tended to while travelling. *See* Ex. N.

24. The house itself also retains no trace of Ms. Monroe. Not a single element of the house as it exists today reflects Ms. Monroe's brief use of the Property, not a wall covering, a tile, a light fixture, an appliance, . . . nothing. As indicated in the last (and only) interview of Ms. Monroe in the house, the reporter noted that Ms. Monroe appeared to be camping in the house; he described the rooms as "bare and makeshift as though someone lived there only temporarily."[1] All décor associated with her brief tenure at the house has long been stripped by a succession of no less than fourteen owners since her death. And the house and the Property have been substantially altered including major additions to the house and new outbuildings. The City has issued over two-dozen building permits allowing major changes to the house since 1962 with not a single objection that the house or Property was historic. *See* Ex. A at pp. 16-17 (listing permits granted for remodeling). Although aware of Ms. Monroe's brief use of the house, the City undertook no actions to designate the house as historic during the past sixty years, until Plaintiffs sought to exercise their rights pursuant to demolition and grading permits validly issued by the City.

25. The house itself has been unoccupied since late 2019 and is deteriorating, with large segments of the tile roof missing and leaking, and many elements of the house in disrepair and non-functional. The official report prepared for the City included the following picture showing the state of the house and grounds. The photograph below shows the front, street-facing portion of the house with significant amounts of tile missing from the roof.

[1] Richard Meryman, *A Last Long Talk with a Lonely Girl*, LIFE (Aug. 17, 1962).

26. Plaintiffs purchased the Property with the intent of demolishing the dilapidated structures on the Property. Ex. A at page 55.

27. To accomplish this, concurrent with their acquisition of the Property, Plaintiffs applied to the City for, and were issued, permits to demolish the house and other buildings and grade the Property. Pursuant to City ordinances dealing with any property more than forty-five years old, the permits had been "held" by the City for thirty days prior to issuance to allow for "preservation" and other objections to be made by the City and others for older properties. Pursuant to the City ordinance, assuming there are no preservation objections during the thirty-day period, the permits are released from the "hold." No objections were made during the thirty-day period and the demolition and grading permits were lawfully issued by the City on September 7, 2023. Plaintiffs incurred tens of thousands of dollars in reliance on the issued permits preparing for the work those permits allowed. And Plaintiffs have now had to incur millions of dollars in expenses to defend their rights in relation to the property.

B. Defendants' Actions

28. Unfortunately for Plaintiffs, their plans to proceed with the demolition authorized by the City permits were halted by the City, after Plaintiffs had begun to use the validly issued Permits, without any notice or opportunity to be heard by Plaintiffs. The Councilmember representing the area of the City where the Property is located, Traci Park, together with so-called preservationists and self-interested tour operators and City staff set about a process immersed in back-room deals and admitted bias to designate the Property a "Historic-Cultural Monument," pursuant to Los Angeles Administrative Code §§ 22.171.8–.10, to prevent the house's demolition. On September 8, 2023, without any notice to Plaintiffs, the City Council approved a motion ("Motion") introduced by Councilmember Park to initiate the process to review and consider such a historic-monument designation of the Property, dressed as Marilyn Monroe in a press conference preceding the vote, in Council chambers during the motion and vote, and after the vote in a staged TikTok video on the small residential street just outside the Property. Upon the adoption of the Motion by the City Council to initiate the process, the City, again without any notice or opportunity to be heard to Plaintiffs, unilaterally stayed the validly issued demolition and grading permits.

29. The City's process for designating the Property was also—charitably speaking—irregular. It began with Councilmember Park (dressed in attire and with hair and makeup to appear like Marilyn Monroe) holding a press conference and then proceeding into the City Council chambers to introduce a Motion, without notice or an opportunity to be heard by Plaintiffs, for the City Council to approve that very day the initiation of the City process of considering the Property's historical designation. *See* Ex. A at p. 11. Councilmember Park's statements at the press conference referenced how the house still exhibited details, including tiles and wood beams, that Ms. Monroe had "hand-picked on her Journeys from around the world" and "reflect[ed] her personal character," although Councilmember Park had never requested to see the

house, had never visited the house, let alone been inside the house, and these claims were factually not true. The tiles that she installed were removed during a City-permitted renovation in the 1990s. And, despite the very brief tenure of Ms. Monroe at the house and that not a single artifact remains at the house relating to Ms. Monroe living there, Councilmember Park exclaimed, "I can't imagine any home in the City of Los Angeles more worthy of this designation."[2]

30. After the adoption of the Motion by the City Council on September 8, 2023, Councilmember Park proceeded to the street adjacent to the Property, still dressed as Marilyn Monroe, to make TikTok videos drawing attention to the Property.

31. Following the adoption of the Motion, the Historic Monument law required City officials to inspect and investigate the site and provide an independent, evidence-based report and recommendation on the proposed designation. *See* L.A. Admin. Code § 22.171.10(c).

32. Instead of following the procedure mandated by Historic Monument law or any of the pre-qualified and City retained historic preservation consultants, the City chose to use a biased historic-preservation advocate arranged with the City's full knowledge, to be made available for "free" by one of the very parties advocating for designation of the house, the Los Angeles Conservancy ("Conservancy"), to write the report.

33. Even more appalling, the report preparer was given a plum City job while preparing the report at the request of the head of the Conservancy. *See, e.g.*, Ex. B, Conservancy Email (email from the Conservancy's "Senior Director of Advocacy" to a City official saying, "we have someone good lined up that will write the nomination"); Ex. C, Fine 9/12 Email saying "Heather is able to submit a draft nomination . . . by October 2"; Ex. D, email re head of conservancy arranging job.

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[2] Josh Haskell, *Neighbors Oppose Landmark Status for Marilyn Monroe's Former Home in Brentwood*, ABC 7 EYEWITNESS NEWS (Apr. 2, 2024), https://abc7.com/marilyn-monroe-former-brentwood-home-could-become-historical-landmark/14607966/.

34. Indeed, the report's author also is on the Board of another historic preservation group, Hollywood Heritage, that had publicly advocated for designation of the Property before and in connection with initiation of the designation process. *See, e.g.*, Ex. E, Initiation Email (asking the president of the Conservancy whether there was anything the report's author could do to further the cause of designating the Property a Historic-Cultural Monument), proving the City knew of her bias. And during the drafting of the report on the possible designation, the report writer, who had been arranged to write the report by the Conservancy, actually sought input from the president of the Conservancy, the very group advocating for the designation, including sharing drafts of the "City" report for the Conservancy's input. Ex. F.

35. Unsurprisingly, the report prepared by the Conservancy's hand-picked and biased report writer strongly advocated for the Property's designation. *See generally* Ex. A. Notably, following the report's preparation, the report drafter received an email from the president of the Conservancy, thanking her for "put[ting] together a very compelling case" for the designation. Ex. G.

36. The sole basis for the recommended designation was the house's association with Ms. Monroe and her brief residency there. The report found that but for Ms. Monroe having briefly owned and lived in the house 60 years ago there was no basis for designation. Aside from that, the report found no other historical, architectural, or cultural reasons for preserving the house.

37. On January 18, 2024, despite widespread opposition from virtually every community group in the area,[3] in reliance on the report prepared by the Conservancy's biased report preparer, the City's Cultural Heritage Commission recommended designating the Property a Historic-Cultural Monument. *See* Ex. H, CHC Designation. None of the Commissioners validly addressed the evidentiary requirements for

[3] *See* Haskell, *supra* note 2 ("Many residents are against the designation and fear it will bring more visitors to the neighborhood."); *see also* Exh. I [letters from homeowners associations and neighborhood council].

"designation" under the City's applicable criteria. By way of example only, in an eerie admission, one Commissioner said at the hearing that he felt "moved" in a bedroom he had referred to, when visiting the home, as her "death room." Ex. O at p. 63. However, he offered no actual relevant evidence to support the designation based on the criteria to which he was supposed to be objectively applying. Notwithstanding all the admitted bias driving designation and obvious errors by the Cultural Heritage Commissioners, and following suit from its earlier approval of the Motion to designate the house, the City Council's Planning and Land Use Management Committee (comprised of the same Council members who approved the original Motion) rubber-stamped approval of the recommendation to designate the Property. S*ee* Ex. J at pp. 3-4.

38. Throughout the process, Plaintiffs opposed the City's actions to the best of their ability given that they were regularly not given the legally required notice and an opportunity to be heard. In a letter to the Planning and Land Use Management Committee of the City Council, Plaintiffs explained that designating the Property served no public purpose. *See* Ex. K. Specifically, they explained that the house is not visible from any public thoroughfare and included the below picture.

Id. at 2. (the taller gray structure is not the "designated" house but the home on the adjacent lot).

39. Any member of the public looking to view the single-story "monument" would instead just see a wall and solid gates, and tall hedges behind that. *See id.*

40. Plaintiffs also expressed concern that the designation would turn the house into "a tourist attraction" which would "endanger the safety and peace and quiet of the Banks and the neighborhood community" from both intruders as well as from traffic on a narrow neighborhood street. *Id.*

41. As such, because there was no lawful means for the public to access or view the Property and the City had not taken physical possession of the Property to facilitate public access, Plaintiffs asserted that the City had no valid public purpose in perpetually prohibiting the house's demolition. *Id.*

42. Plaintiffs also explained that neighbors and the local homeowners' associations opposed the designation. *Id.* at 1. Plaintiffs likewise highlighted how the

Estate of Marilyn Monroe disapproved of the designation—instead favoring relocation of the house to a publicly accessible site (understandably, given there is no lawful public access to the existing site). *Id.* at 1–2. And as Plaintiffs explained, paradoxically, the designation would prevent the house's relocation and "ensure that the house would remain completely inaccessible to the public—for years to come." *Id.* at 2.

43. Finally, Plaintiffs maintained that the designation would "amount to an unconstitutional taking of the Bank family's property." *Id.* at 3.

44. Plaintiffs made many efforts to engage with the City to find a solution amenable to everyone. By way of example only, Plaintiffs offered to work with the City to relocate the house to a public property such as a park or another location where the public could visit and enjoy it. *See id.* at 2. The City, however, rebuffed Plaintiffs' overtures and instead charged ahead with designation.

45. Despite Plaintiffs' efforts and the opposition to designating the Property by the Estate of Marilyn Monroe, virtually every local homeowner association in the area, and Plaintiffs, on June 26, 2024, the City Council approved the designation of the entire Property—from property line to property line—despite Ms. Monroe's brief occupancy of the house, and despite that several structures on the property did not even exist during Ms. Monroe's brief ownership, and did so without the legally required notice of final vote to owners. *See* Ex. L [Final Approval]. And as a result of the City Council's action approving the designation of the Property as a Historic-Cultural Monument, the City terminated the previously issued demolition permit and grading permit.

46. At no point in the more than sixty years prior to Plaintiffs' purchase of the Property did the City express any interest in designating the Property a Historic-Cultural Monument and preserving elements "unique" to Ms. Monroe (of which none are left) and her short ownership of the Property. In fact, although the City was clearly aware of the existence of the house as the former residence of Ms. Monroe for

decades, the City took no action to designate the Property as a Historic-Cultural Monument. On information and belief, prior to the introduction of the Motion by Councilmember Park initiating the Historic-Cultural Monument process, there was no designation on the City's zoning files indicating any potential historic designation and on information and belief Councilmember Park never formed or stated an intention to "protect" the house (which sits squarely in her district) until the City issued its valid demolition and grading permits to Plaintiffs.

47. Numerous renovations occurred to the Property in the intervening years between Ms. Monroe's death in 1962 and Plaintiffs' purchase of the Property in 2024, and were issued permits by the City, without a single mention of any historic issues. These included additions to the house and complete renovations of the house's interiors. Thus, there is not a single element of the house existing today that reflects Ms. Monroe's association with it. As the report itself listed, these alterations included an addition to the house and a kitchen remodel in 1976, and an addition of a recreation room in 1980. Ex. A at p. 5; *see also id.* at pp. 16–17, 20 (listing alterations). Not once did the City deny a permit for any of these renovations to "preserve" the Property's ambiance and association with Ms. Monroe.

48. And not once during the sixty years following Ms. Monroe's death did the City seek to designate the Property as a Historic-Cultural Monument.

C. Impact of Historic-Cultural Monument Designation

1. *Plaintiffs Cannot Obtain a Permit to Clear the Property.*

49. Given the City's designation of the Property as a Historic-Cultural Monument and the now statutory mandated multi-year process for obtaining permission to demolish the now designated Property, and the right of the City to deny any demolition permit and the rights of any third parties to challenge any changes to the Property under the mandated process, Plaintiffs' Property has been taken by the City and they have no actual remedies at law or in equity outside this Court.

50. In particular, when the City designates a property a Historic-Cultural Monument, it prohibits any demolition (or substantial alteration) to the Property absent the City's express permission. Any effort to seek permission to demolish or alter the Property involves a lengthy process, including preparation of an environmental impact report as required by the California Environmental Quality Act, and the City's express approval for any alteration or demolition, and the rights of any third party to challenge such approval if ever granted by the City. Such a process would take years and cost hundreds of thousands of dollars (or millions of dollars) all borne by Plaintiffs. The outcome, based on the City's actions in designating the Property as a Historic Cultural Monument, would result in a predetermined outcome, namely, denial of demolition.

51. Attempting to secure a permit to demolish a Property designated by the City as a Historic-Cultural Monument requires enduring a byzantine legal process where, ultimately, the same actors who drove and approved the designation process, namely the City Council member for the area, the City Council, the Mayor, and the Cultural Heritage Commission (appointed by the Mayor), can prevent issuance of the permit altogether. And any third party is given rights to object to any such demolition of the Property and any third party can litigate issues involved in the City's consideration of the request to demolish the Property.

52. The statutorily mandated process requires compliance with the Historic-Cultural Monument ordinance to alter or demolish a Historic-Cultural Monument and compliance with the California Environmental Quality Act, all of which will result in a simple inescapable conclusion—no demolition permit will issue. The very City parties that just designated the Property as a Historic-Cultural Monument would have to reverse their decision as to designation after preparation of an environmental impact report. And that reversal by the City would be subject to legal challenge by any third party, resulting in years of litigation. And Plaintiffs would be required to indemnify the City for all its costs in the process including its legal fees.

53. The process to demolish or make major alterations to the Property begins with seeking a demolition or building permit for any alteration from the relevant City permitting agency, *e.g.*, the Department of Building and Safety. Given that the designation of the Property as a Historic-Cultural Monument, any issuance of a demolition permit (or any permit of alteration of the Property) requires a discretionary approval from the City (namely approval by the Cultural Heritage Commission and ultimately the City Council). Given the requirement of a discretionary process to approve any permit consideration of the issuance of the discretionary approval for a permit is first subject to a multi-year process pursuant to the California Environmental Quality Act ("CEQA") (and preparation of an environmental impact report) before the City can even consider issuing the permit.

54. A designated Historic-Cultural Monument is considered a significant "historical resource" under CEQA. *See Comm. to Save the Hollywoodland Specific Plan v. City of Los Angeles,* 161 Cal. App. 4th 1168, 1187 (2008) (explaining that any action which "could significantly alter the[] physical composition[]" of a Historic-Cultural Monument triggered the California Environmental Quality Act).

55. Hence, the City (which has designated the house as a Historic-Cultural Monument) is required to prepare an environmental impact report ("EIR") before any permit could issue. *See* Cal. Pub. Res. Code § 21082.2(d) ("If there is substantial evidence . . . that a project may have a significant effect on the environment, an environmental impact report shall be prepared."); *id.* § 21084.1 ("A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. . . . Historical resources included in a local register of historical resources . . . are presumed to be historically or culturally significant.").

56. An environmental impact report's importance in the process to secure a permit to alter or demolish a Historic-Cultural Monument cannot be understated; "the [Environmental Impact Report] is the heart of [the California Environmental Quality

Act][,]" serving as an "'alarm bell' . . . to alert the public and its responsible officials to" significant changes before they reach "points of no return." *Cnty. of Inyo v. Yorty,* 32 Cal. App. 3d 795, 810 (1973).

57. Environmental Impact Reports study the potential impact of the action and propose "reasonable alternatives . . . which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." *See* Cal. Code Regs. tit. 14, §§ 15126.2, 15126.6. One such alternative must be the "no project" alternative, which "allow[s] decisionmakers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project." *Id.* § 16126.6(e)(1).

58. Ultimately, the report must analyze "whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record." Cal. Pub. Res. Code § 21082.2(a). Any Environmental Impact Report prepared here would necessarily conclude that demolishing all or part of a Historic-Cultural Monument would qualify as a "significant effect" under the California Environmental Quality Act. *See* Cal. Code Regs. tit. 14, § 15002(g) ("A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project."); *id.* § 15064.5(b)(1)–(2) ("Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired. [Material impairment occurs when a project] [d]emolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources . . . unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant."); *Comm. to Save the Hollywoodland Specific Plan*, 161 Cal. App. at 1187 (concluding that building on

top of a Historic-Cultural Monument "will significantly impact the environment by altering the historic resource[]").

59. Per the California Environmental Quality Act, "no public agency shall approve or carry out a project for which an [Environmental Impact Report] has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out," unless certain stringent conditions are met. Cal. Pub. Res. Code § 21081.

60. One of these conditions, which provides agencies a means of balancing other concerns, would require "find[ing] that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment." *Id.* § 21081(b). Specifically, the agency, in this case the City which had just designated the Property as a Historic-Cultural Monument, would be required to adopt a "Statement of Overriding Considerations" identifying the "specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects," making "the adverse environmental effects . . . 'acceptable.'" Cal. Code Regs. tit. 14, § 15093(a). And the certification of the environmental impact report and the adoption of a Statement of Overriding Considerations by the City even if it were achievable in this case would be subject to challenge by any third party in a multi-year litigation.

61. In the context of the designation of the Property as a Historic-Cultural Monument, the process would begin with an application for a permit for demolition filed with the Department of Building and Safety. The Department of Building and Safety is required to then prepare an environmental impact report to consider the environmental impacts of demolition or significant alteration of the Historic-Cultural Monument. The Historic Resources Commission, the Office of Historic Resources of the Planning Department, the Council office and any third parties interested in the Property all have a right to participate in the process. Given that the demolition would

"significantly effect" a Historic-Cultural Monument, the Department of Building and Safety would be required to conclude that the California Environmental Quality Act foreclosed demolition given the monument designation unless a Statement of Overriding Consideration could be adopted by the City. If the environmental impact report is not certified or the Statement of Overriding Consideration is not approved then the only recourse Plaintiffs would have is appealing to the City Council, the same body that acted to designate the property in the first place. *See* Cal. Pub. Res. Code § 21151(c) (requiring appeals of Environmental Impact Report certifications by unelected bodies to the governing elected body); L.A. Mun. Code art. 4, § 197.01 (implementing the appeal procedure).

62. And even if the Department of Building and Safety acted contrary to the determination of designation by the Cultural Heritage Commission, the Office of Historic Resources of the Planning Department and the City Council and certified the environmental impact report and adopted a Statement of Overriding Consideration finding "specific economic, legal, social, technological, or other benefits" for demolition or alteration of the house and granted the permit, the proponents of the designation would then have an independent right to appeal to the City Council such a determination. *See Vedanta Soc. of S. California v. California Quartet, Ltd.,* 84 Cal. App. 4th 517, 523 (2000) (recognizing the ability of an action's opponents to initiate an appeal). And the City Council would have a right to hear the matter in any event on its own motion. Hence, either way, the City Council which has just designated the Property as a Historic-Cultural Monument would be left to decide whether to allow for the demolition of the Property under the California Environmental Quality Act and then grant a permit for the demolition.

63. The City Council has already heard and rejected (improperly) Plaintiffs' arguments that the Property is not worthy of protection. It still chose to designate the Property a Historic-Cultural Monument. *See* Ex. L. Given that the City Council has only just designated the Property, the Council clearly would not find a "specific

economic, legal, social, technological, or other benefit" that would make granting the demolition permit "acceptable." Cal. Code Regs. tit. 14, § 15093(a). After hundreds of thousands of dollars (or more) incurred by Plaintiffs and multiple years of further process, the City Council would employ the same considerations it used in designating the Property as a Historic-Cultural Monument to decide whether to allow a demolition permit to issue, assuring no City approval for a demolition permit.

64. The Environmental Impact Report required for any consideration involved in the issuance of a demolition permit is prepared by the City, the very party which just designated the Property as a Historic-Cultural Monument. The California Environmental Quality Act process itself can take anywhere from two-to-four years (or more) to complete and costs hundreds of thousands of dollars (or more), all required by the City to be borne by Plaintiffs. And any third party has a right to challenge the California Environmental Quality Act determination (there is essentially no standing requirements for a third party to challenge an approval other than having objected at some point during the process) embroiling the potential issuance of any permit in litigation for another two-to-four years (or longer) and many hundreds of thousands of dollars (or more) in legal costs to be borne by Plaintiffs. And Plaintiffs are required to indemnify the City for all costs, including the City's legal costs. Under California law, if a third party prevails in the litigation challenging an approval, Plaintiffs have to pay their attorney's fees, but if Plaintiffs prevail the third parties are not required to pay Plaintiffs' attorney's fees. At every level the deck is stacked against Plaintiffs.

65. Further, before any action on any requested demolition or alteration permit can be taken, the permit request is referred to the Cultural Heritage Commission for its review and recommendation. Specifically, the City's ordinances prohibit issuing a "permit for the demolition, substantial alteration or relocation of any Monument" and otherwise makes it illegal for a monument to "be demolished, substantially altered or relocated without first referring the matter to the [Cultural Heritage] Commission," unless a public-necessity exception applies (not applicable

here). L.A. Admin. Code § 22.171.14. In other words, the ability to demolish or "substantially alter" a property requires convincing the same body that saw fit to preserve a property that the property is not worth preserving. *See id.*

66. The ordinance itself builds in a strong preference for preservation in establishing standards for the Cultural Heritage Commission's review. Namely, when an owner seeks a permit for "substantial alterations," the ordinance directs consideration of "[w]hether the substantial alteration protects and preserves the historic and architectural qualities and the physical characteristics that make the site, building or structure a designated Monument." *Id.* § 22.171.14(a)(2). If the Commission concludes that the monument warrants continued preservation, it may "object to the proposed demolition, substantial alteration or relocation." *Id.* § 22.171.15. This sets in motion a formal hearing process before the Commission and suspends issuance of a permit for up to "180 days, during which time the Commission shall take all steps within the scope of its powers and duties as it determines are necessary for the preservation of the Monument to be demolished, altered or relocated." *Id.* If the Commission believes that "preservation can be satisfactorily completed," it can request the City Council to grant it an additional 180 days to stay issuance of a permit. *Id.*

67. All told, on its own authority, the Commission can further delay a permit for up to six months and, in conjunction with approval from the City Council, the Commission can extend that delay for up to a year. This is after a multi-year Environmental Impact Report process for a new permit. Even if a property owner holds out through that many years-long process, issuance of the permit is destined for failure. The Commission can ultimately recommend that the permitting agency deny the permit. While the Commission's recommendation is not binding, it could nonetheless persuade the permitting agency—here, the Department of Building and Safety—to deny the permit. *See id.* § 22.171.18 (directing all City agencies to

"cooperate with the Commission in carrying out the spirit and intent of this article" regarding historic preservation).

68. And any decision of the Cultural Heritage Commission or the Department of Building and Safety is subject to review by the City Council.

69. Alas, Plaintiffs have no prospect of any reversal of the designation; therefore the ability to demolish is non-existent.

70. The Property's designation as a Historic-Cultural Monument therefore forecloses Plaintiffs from any means of obtaining a demolition permit the Property, and makes it practically impossible to obtain relief through any other avenue, other than this Court, as described above.

2. *The Designation Has Rendered the Property Useless.*

71. The designation and its incumbent prohibition of demolition to the Property has thwarted Plaintiffs' investment-backed expectations in purchasing the Property, as evidenced by (among other things) their virtually simultaneous close of escrow and demolition permit application. As noted, Plaintiffs purchased the Property with the clear intent of demolishing the dilapidated structures on the Property.

72. But the historic designation prevents demolition of the house and clearing of the Property, and leaves Plaintiffs with a property containing decaying buildings. The house is not rentable to a third party or useable by Plaintiffs because of its deteriorated conditions and because the house has become a security risk due to trespassers seeking access to the Property. The house will continue to deteriorate. And trying to sell the Property offers Plaintiffs no prospect of recovery given (among other things) the dilapidated condition of the structures on the Property, the designation's restrictions, and the security risks to future residents.

73. Plaintiffs purchased the Property for $8.35 million and have expended an additional approximately $30,000 in securing the demolition and grading permits and hundreds of thousands for necessary added security caused by the designation and to defend Plaintiffs' rights and oppose the designation, as well as millions in attorneys'

fees and costs of disputing the designation before the City and the Los Angeles Superior Court.

74. In order for Plaintiffs to rent the house, Plaintiffs would be required to, if and only if they could obtain permission from the City to do so, spend hundreds of thousands of dollars, repairing or replacing the roof, fixing multiple leaks, installing heating and air systems, repairing plumbing and eliminating mold, conditions that have persisted from before the designation and through the present day. Plaintiffs could not rent the house given its physical condition without these repairs. In addition, Plaintiffs would be required to disclose to any such prospective renter the repeated events of trespassing, vans and buses blocking ingress and egress, and the similar burdens "designation" has imposed on any "use" of the property by a renter. Plaintiffs also would be at risk of lawsuits from any renter for harms as a result of trespassers.

75. Given the Cultural Historic Designation and the unrentable condition of the House and other structures on the Property, the market value of the house is zero, or a negative amount.

76. Plaintiffs also must incur other expenses for holding the Property, including property taxes of over $100,000 annually, insurance and utilities. And, despite the City-imposed encumbrances on the Property that render the Property useless to Plaintiffs, Plaintiffs' annual costs for a property that is not rentable or useable exceed six figures.

77. In purchasing the Property, Plaintiffs intended to demolish the decaying structures on the Property. As explained, the City has granted over two-dozen permits for various remodels and additions that have gutted the house of any trace of Ms. Monroe. Not once did the City indicate concern about the impact of these alterations or express interest in preserving the house or its elements. Thus, with no preservation restriction on the Property at the time of purchase and no indication that the City would place such burdens on the Property, Plaintiffs held an objectively reasonable,

distinct investment-backed expectation that they could demolish the structures on the Property, including the house, and grade the Property.

78. The designation also is not in keeping with the Property's single-family residential zoning. The overall property size is approximately 23,222 square feet. The main-house structure is approximately 2,300 square feet. However, current zoning would permit an approximately 10,000-square-foot house to occupy the parcel. The designation, however, blocks any potential redevelopment efforts. The small house's and outbuildings' positions on the lot foreclose any possibility of developing even a portion of the parcel—hampering any realistic potential at recovering some value. And no mechanism exists for Plaintiffs to transfer or sell their development rights from the Property.

3. *The Designation Invites and Encourages Invasion of the Property.*

79. But the burdens placed on the Plaintiffs extend beyond the destruction of the Property's value. The designation and the publicity surrounding it has turned the Property on a narrow neighborhood street into a tourist attraction.

80. The City's designation efforts have incited unwanted visitors to the Property, placing the safety of Plaintiffs, their children, and their neighbors at risk along with any possible tenant of the Property (if the Property were rentable). *See, e.g.*, Haskell, *supra* note 3 (quoting a neighbor as saying "it can be very scary sometimes" noting an incident with "two intruders who came in looking for Marilyn Monroe's site [where] they said where she was murdered").

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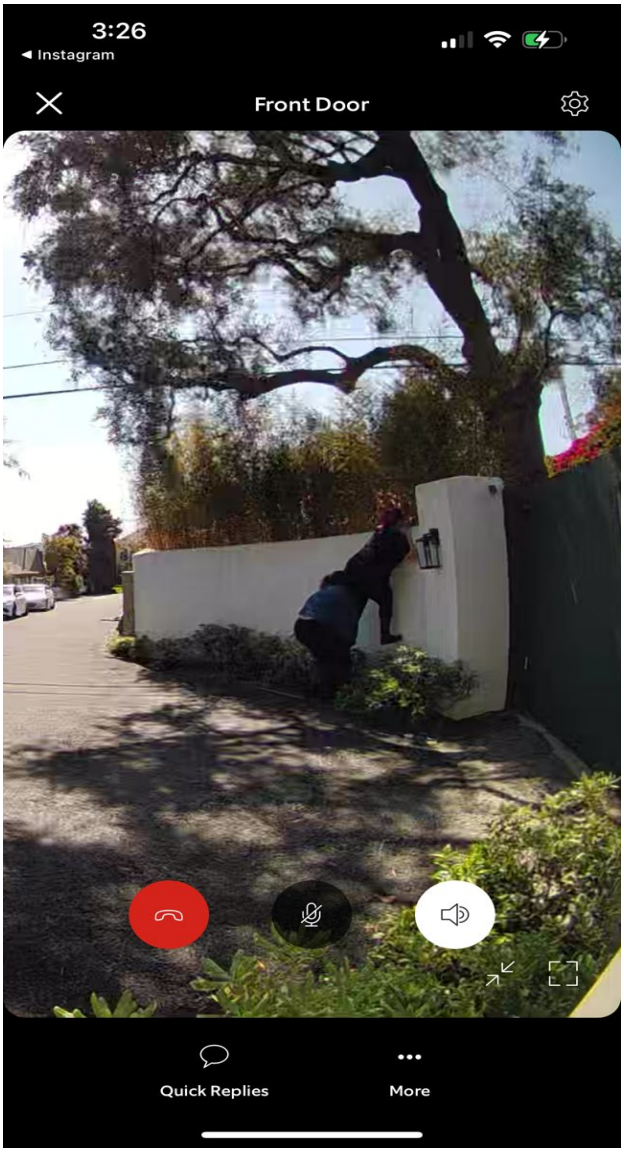
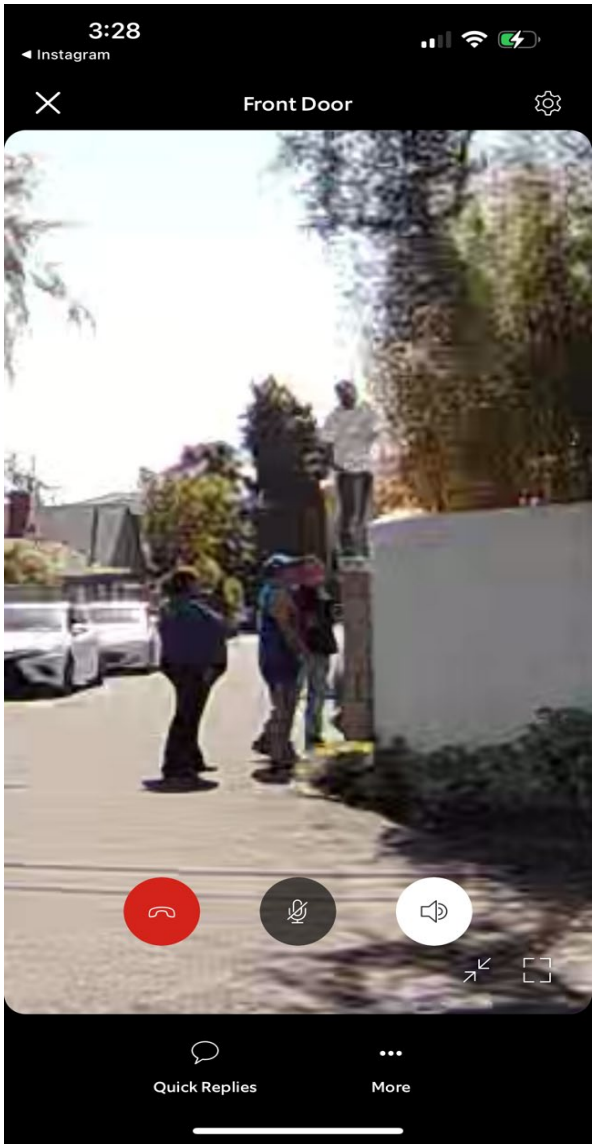
81. Following the designation, numerous people have trespassed and attempted to and *have* burglarized the property, including several people scaling the walls —images of which were captured by Plaintiffs (attached below) and which forced Plaintiffs to call the police. This has happened on multiple occasions, including as recently as November 7, 2025 and has forced Plaintiffs to pay for multiple levels of added security measures at a significant expense. Others have flown drones over the Property or otherwise tried to enter the Property without permission. *See* Ex. K at 2.





82. The designation has generated massive tourism.

83. Even Google Maps now has a monument symbol—akin to that of the "Hollywood" sign and other major tourist attractions around Los Angeles—marked on the Property, inviting yet more trespassing.

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84. Meanwhile, the City has done nothing to prevent the Property from transforming into a tourist attraction.

85. Turning private property into a tourist hotspot is plainly a foreseeable result of expressly inviting tourism by officially naming something a "Historic-Cultural Monument" due to the short ownership by Marilyn Monroe. The phrasing itself evokes images of places to be visited and commemorative edifices meant to be viewed by the public. And the Property shares the designation with a list of quite-public buildings, including Grauman's Chinese Theatre and the Griffith Observatory. Likewise, it is entirely foreseeable that at least some members of the public would be so anxious to view the "monument," that when met with the view of only a wall and shrubs, they would take trespassing actions to get their look, and often get angry when access is denied. These actions and illegal invasions of Plaintiffs' property were entirely predictable, were in fact predicted by Councilmember Park and her supporters as part of their campaign to designate the Property, and thus the City knew of and fully expected, indeed encouraged, such unlawful trespassing on Plaintiffs' Property.

86. As such, not only has the City's action deprived the Property of any value, but the City caused the public invasion of the Property. So long as the designation remains, the stream of visitors and trespassers will continue. And such

designation has caused Plaintiffs to incur the enormous burden and cost of employing private security forces to attempt to guard against trespassers that the City knowingly invited and encouraged by this designation.

D. Absence of a Public Purpose

87. In designating a property that the public cannot see or access as a Historic-Cultural Monument, the City lacked a public purpose.

88. The house is not visible from the public realm; it cannot be accessed by any member of the public. No person can see the house or visit it without trespassing on the Property. As noted, any member of the public looking to view the single-story "monument" would instead travel down and likely block a very small residential street, just see a perimeter wall, a solid gate, and tall hedges. *See* Ex. K. Given the total visual obstruction of the house, there is no legal means for the public to view it.

89. The report itself even conceded that the "an evaluation of eligibility could not be completed as the subject property is not fully visible from the public right-of-way." Ex. A at p. 6.

90. Preserving the Property from significant change given its incredibly limited association with Marilyn Monroe was the purported motivating force behind the designation. *See* Ex. A at p. 7. No other potential purpose supports the City's actions. The Property, for example, was not designated as an ecologically sensitive area, as a proposed route for a highway, or as part of a pond built up behind a dam. Nor was it condemned and handed over to private developers to spur economic growth in a given area.

91. All that the City has done is ordered a property to stagnate out of the public's sight. In other words, the only thing the designation accomplishes is preventing Plaintiffs from demolishing or altering a property that the public cannot enjoy.

92. And public enjoyment of the house is now impossible. Any possibility of relocating the house to a public place is insurmountable; obtaining a relocation permit

would require overcoming the same impediments as a demolition permit. *See* LA. Admin. Code. § 22.171.14(b). As such, the City's designation has only stifled, not furthered, a public-preservation interest. And the City had the opportunity to avoid all that when the Plaintiffs proposed such a relocation, and even offered help in doing so, an offer the City rejected.

93. Finally, the designation has created public burdens instead of benefits. The designation and resultant public disturbance have created traffic congestion and community nuisance—on a street not meant to handle excessive traffic of tour buses or trespassers, let alone the actual residents of that street and their guests. The street is only about 16-feet across and 200-feet long. Average-sized cars cannot pass each other on the street. This creates problems for residents who rely on the street to enter and exit their properties and even threatens access by emergency vehicles.

94. Thus, the designation does not further a public purpose or use.

CLAIMS FOR RELIEF

CLAIM I

(Violation of the Fifth Amendment's Takings Clause; 42 U.S.C. § 1983)

95. The foregoing paragraphs are incorporated by reference as if set forth in full herein.

96. The Fifth Amendment to the United States Constitution prohibits a taking of private property without a public use. *See Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 539 (2005) ("[I]f a government action is found to be impermissible—for instance because it fails to meet the "public use" requirement or is so arbitrary as to violate due process—that is the end of the inquiry. No amount of compensation can authorize such action."); *Monongahela Navigation Co. v. United States*, 148 U.S. 312, 325 (1893) ("[F]or in this fifth amendment there is stated the exact limitation on the power of the government to take private property for public uses.").

97. As explained, the City has no public purpose in preserving an edifice that the public cannot see or enjoy. Nor is there any artifact left of Ms. Monroe's at the

Property to even see if access were available. Yet, the City has still taken Plaintiffs' property.

98. By designating the Property a Historic-Cultural Monument, the City has induced members of the public to view the house while trespassing on Plaintiffs' property. This amounts to a physical taking. *See Cedar Point Nursery v. Hassid*, 594 U.S. 139, 149–50 (2021) (holding that interference with the property owner's right to exclude amounted to a per se taking); *Lingle*, 544 U.S. at 539 ("A permanent physical invasion, however minimal the economic cost it entails, eviscerates the owner's right to exclude others from entering and using her property—perhaps the most fundamental of all property interests.").

99. And it was foreseeable to the City that the designation would "produce intermittent invasions by [visitors] without identifiable end into the future." *See Ideker Farms, Inc. v. United States*, 71 F.4th 964, 979 (Fed. Cir. 2023).

100. The designation also effects an improper regulatory taking. By foreclosing the demolition, clearing, and grading of the Property, the designation both vitiates Plaintiffs' clear and announced investment-backed expectations in purchasing the Property and renders the Property worthless. *See Murr v. Wisconsin*, 582 U.S. 383, 393 (2017) (recognizing that "when a regulation impedes the use of property without depriving the owner of all economically beneficial use, a taking still may be found based on 'a complex of factors,' including (1) the economic impact of the regulation on the claimant, (2) the extent to which the regulation has interfered with distinct investment-backed expectations, and (3) the character of the governmental action.").

101. Here, Plaintiffs desired to clear the Property. Instead, they are now left with a parcel occupied by deteriorating buildings (with no proper roofing or plumbing) that are useless to them and that they cannot tear down. But Plaintiffs must continue to pay costs on the Property, including property taxes, insurance, and utilities. For this reason, the Property is now worthless—in no way did Plaintiffs invest $8.35 million in the Property to be left with no possibility of renting it to someone, after disclosing the

dilapidated nature of the structures and all the trespassing and security breaches. And, the designation's burden will follow the Property, making it impossible for Plaintiffs to recover their losses.

102. In light of the complete destruction of the property's value, the City-imposed servitude on the property has created a situation where no buyers would purchase the property given that they, in effect, cannot make improvements to the parcel.

103. The City, therefore, has engaged in a categorical regulatory taking. *See Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1018 (1992) ("[R]egulations that leave the owner of land without economically beneficial or productive options for its use—typically, as here, by requiring land to be left substantially in its natural state—carry with them a heightened risk that private property is being pressed into some form of public service under the guise of mitigating serious public harm."). The City's regulation mandating no significant changes to the Property on pain of violating City ordinances has devastatingly impacted the Property's value. Meanwhile, the designation leaves Plaintiffs with a worthless parcel. Hence, the City's regulatory interference with the Property, by itself, sufficiently creates a taking.

104. Even if the Property retained some resale value despite the impediments to a hypothetical future owner's use and enjoyment of it, the designation still created a taking because its encumbrances have so greatly reduced the Property's value and destroyed Plaintiffs' objectively reasonable distinct investment-backed expectations for the Property. *See Penn Cent. Transp. Co. v. City of New York*, 438 U.S. 104, 124-25 (1978); *see also Del Monte Dunes at Monterey, Ltd. v. City of Monterey*, 95 F.3d 1422, 1432-33 (9th Cir. 1996) (recognizing that even if a property "retained significant value," the government's action could still create a taking given economic loss), *aff'd*, 526 U.S. 687 (1999).

105. And still, the destruction of the Property's value serves no public purpose. Imposing a regulatory servitude on the Property that prohibits its substantial alteration

does nothing to advance public welfare broadly, or allow the public to enjoy the "monument" specifically. *Cf. Penn Cent.*, 438 U.S. at 118-19 (recognizing how the preservation of Grand Central Station served a public purpose).

106. In addition, the City's revocation of the previously issued demolition and grading permits, illegally and without due process, is also a taking. By revoking Plaintiffs' right to engage in the demolition, clearing, and grading of the Property, the revocation of the permits both vitiates Plaintiffs' clear and announced investment-backed expectations in purchasing the Property and renders the Property nearly worthless.

107. For the foregoing reasons, the City's actions in designating the Property and revoking and preventing the issuance of a demolition permit solely because the Property they later turned into a Historic-Cultural Monument are unlawful and subject to an injunction.

CLAIM II

(Violation of the Fifth Amendment's Just-Compensation Clause; 42 U.S.C. § 1983)

108. Paragraphs 1 through 106 are incorporated by reference as if set forth in full herein.

109. The Fifth Amendment requires the City to pay "just compensation" when it takes private property for public use. U.S. Const. amend. V; *see also Cedar Point*, 594 U.S. at 148 ("The government must pay for what it takes.").

110. Even if the City can articulate some public purpose in designating the Property as a Historic-Cultural Monument, it has still taken Plaintiffs' property without just compensation.

111. Concluding that the City has a public purpose here would require acknowledging that the designation has "'appropriate[d] for the enjoyment of third parties' the [Plaintiffs'] right to exclude." *Darby Dev. Co. v. United States*, No. 2022-1929, 2024 WL 3682385, at *13 (Fed. Cir. Aug. 7, 2024) (first alteration in original)

(quoting *Cedar Point*, 594 U.S. at 149).

112. By effectively creating "government-authorized invasions of property," the City has undertaken a "physical taking[] requiring just compensation." *Cedar Point*, 594 U.S. at 152.

113. And even if the City has not induced a physical invasion of the Property, the designation's requiring that the Property be left in its current condition renders the Property useless and, hence, entirely diminished its value to zero. *See Lucas*, 505 U.S. at 1018.

114. For the foregoing reasons, the City must pay Plaintiffs just compensation in the amount of the present value of their 2023 investment absent designation for the taking of the Property.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray this Court issue judgment in their favor against Defendants as follows:

a. A declaration pursuant to 28 U.S.C. § 2201 that:

i. Defendants have taken the Property without a public purpose in violation of the Fifth Amendment as incorporated through the Fourteenth Amendment to the United States Constitution; or alternatively

ii. Defendants have taken the Property from Plaintiffs without providing just compensation as required by the Fifth Amendment as incorporated through the Fourteenth Amendment to the United States Constitution;

b. An order permanently enjoining Defendants from prohibiting Plaintiffs' demolishing, grading, or otherwise improving any portion of the Property solely on the basis of Defendants' designating the Property a Historic-Cultural Monument;

c. An order permanently enjoining Defendants from prohibiting Plaintiffs' demolishing, grading, or otherwise improving any portion of the Property solely on the basis of Defendants' revocation of the demolition permit;

d. Alternatively, an order directing Defendants to provide Plaintiffs with compensation in the amount of the present value of their 2023 investment absent designation;

e. An order pursuant to 42 U.S.C. § 1988(b) and other applicable law awarding Plaintiffs their reasonable attorneys' fees and costs of prosecuting this action; and

f. An order awarding Plaintiffs such other further relief as this Court deems just and appropriate.

Dated: January 23, 2026

GLASER WEIL FINK HOWARD JORDAN & SHAPIRO LLP

LATHAM & WATKINS LLP

By: _____

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Attorneys for Plaintiffs
Brinah Milstein, Roy Bank, and
Glory of the Snow 1031 Trust

Glaser Weil

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand a trial by jury.

Dated: January 23, 2026

GLASER WEIL FINK HOWARD JORDAN & SHAPIRO LLP

LATHAM & WATKINS LLP

By: _____

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Attorneys for Plaintiffs
Brinah Milstein, Roy Bank, and
Glory of the Snow 1031 Trust

Glaser Weil

Communication from Public

Name:
Date Submitted: 03/02/2026 09:50 PM
Council File No: 25-1518
Comments for Public Posting: Please add document "2026-03-02_ZKB_RE_Formal Submittal of Video Evidence" to LA City Council File 25-1518.

Sieglinde Kruse Blue
Los Angeles, CA 90049
ziggykruse2005@yahoo.com

March 2, 2026

VIA Online Portal Only

Los Angeles City Council
City Clerk's Office
Los Angeles City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012

Subject: Submission of Video Evidence for the CEQA Administrative Record

Council File No. 25-1518
Case No. ENV-2019-6645-EIR-1A
Barry Building Demolition Project

To the Los Angeles City Clerk and City Council:

In accordance with California Public Resources Code Section 21167.6, please find the following video recordings submitted for immediate inclusion in the formal Administrative Record for the Barry Building (11973-11975 West San Vicente Boulevard).

These recordings constitute essential testimonial and documentary evidence regarding the historical integrity of HCM #887 and the environmental impacts of the proposed demolition. I submit these to ensure a complete and accurate record of the proceedings for the City Council's final determination.

1. **Cultural Heritage Commission (CHC) Hearing**

- **Date:** September 5, 2024
- **Agenda Item:** 4 (HCM #887)
- **Significance:** Primary record of the Commission's expert findings on the architectural integrity of the monument.

- **Dropbox Link:** https://www.dropbox.com/scl/fi/gyvv2flhnmaab2nccfhrv/1.-2024-09-05 CHC-Hearing Barry-Bldg with-city-audio.mp4?rlkey=5ygn7nbhw2kzfn79bxurf1lee&st=9rcyfi9y&dl=0

- **YouTube Link:** https://youtu.be/QISOSxOuakw

2. Board of Building and Safety Commissioners (BBSC) Hearing

- **Date:** November 18, 2025
- **Board File No:** 250851
- **Significance:** Critical evidence of technical and structural assessments presented during the public hearing.

- **Dropbox Link:** https://www.dropbox.com/scl/fi/v4st0kg6n9pmnlr93u4y6/2.-2025-11-18_LADBS-BBSC-Hearing_Barry-Bldg_with-city-audio.mp4?rlkey=8s2g5s3jiv44yfiu28pe1w8rl&st=2wyltf8l&dl=0

- **YouTube Link:** https://youtu.be/Z28RWxbHrvk

3. Planning and Land Use Management (PLUM) Committee Hearing

- **Date:** February 24, 2026
- **Agenda Item:** 10
- **Significance:** Record of the Committee proceedings, public testimony, and the recommendation made regarding the Environmental Impact Report (EIR) and demolition appeal.

- **Dropbox Link, 1 of 3:** https://www.dropbox.com/scl/fi/6qijbqaing368ldban3fx/3.-2026-02-24_LA-City-PLUM-Hearing_Item-10.MP4?rlkey=47lg4omc9y70184lvv9x5vmdu&st=slq9q618&dl=0

- **Dropbox Link, 2 of 3:** https://www.dropbox.com/scl/fi/kl8e050djhxdld5wunq4g/4.-2026-02-24_LA-City-PLUM-Hearing_Public-Comments-multi-items-and-others-incl.-Item-10.MP4?rlkey=5rijefe6mwkw9nijayypfy6fx&st=wue5z06g&dl=0

- **Dropbox Link, 3 of 3:** https://www.dropbox.com/scl/fi/o20fp0tar01vzjxnkdmsz/5.-2026-02-24_LA-City-PLUM-Hearing_Public-Comments-multi-items-LA-Conservancy.mp4?rlkey=x61swxy1c6hhvuddnb6inkg2o&st=sws68a0m&dl=0

- **YouTube Link:** https://youtu.be/H7HlDquXMpQ

I respectfully request that the City Clerk confirm receipt and verify that these links are active and accessible within the electronic record for Council File No. 25-1518.

Sincerely,
Sieglinde Kruse Blue
Sieglinde Kruse Blue

Communication from Public

Name:	Edward Casey
Date Submitted:	03/02/2026 03:23 PM
Council File No:	25-1518
Comments for Public Posting:	Applicant's Representative's Letter in response to the February 24, 2026 Letter submitted by the Gabrieleno Band of Mission Indians–Kizh Nation (“Tribe”)

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Edward J. Casey Email: ed.casey@alston.com Direct Dial: +1 213 576 1005

March 2, 2026

Los Angeles City Council
Los Angeles City Hall
200 N. Spring St., Room 340
Los Angeles, CA 90012
Attn: Office of the City Clerk

Re: Council File No.: 25-1518 - Appeal of Building and Safety Commission's Approval of Demolition Permit for Barry Building Located at 11973 San Vicente Boulevard

Dear City Council Members:

As land use counsel for the owner of the subject property located at 11973 San Vicente Boulevard ("Subject Property") and applicant ("Applicant") for a permit to demolish (the "Demo Permit") the two-story former commercial building on the Subject Property commonly referred to as the "Barry Building," I submit this letter in response to the letter dated February 24, 2026 (the "February 24th Letter") submitted by the Gabrieleno Band of Mission Indians–Kizh Nation ("Tribe"). The Tribe's letter raises a number of claims concerning the sufficiency of the analysis in the EIR prepared by the City for the Demo Permit concerning the potential impact to tribal resources, as well as the legal adequacy of the City's consultation with the Tribe. However, the substantive nature of these claims was previously raised in the Appellant's letters dated January 5 and 8, 2026 and February 5, 2026. On behalf of the Applicant, I submitted letters responding to those prior letters, which letters were dated January 20, 2026 and February 13, 2026. (Copies of my prior two letters without exhibits are attached hereto as Exhibit A.)

Since the Applicant's prior two letters provided a detailed analysis concerning the issue of tribal resources, we will not repeat that analysis in this letter. Instead, we note the following key points—

--The Tribe's February 24th Letter fails to address the substantive analysis of tribal resources potentially at the Subject Property that was prepared by the consulting firm of SCWA Environmental Consultants ("SCWA"), which was the basis for the EIR's evaluation of tribal resources. (Refer to pages 1 to 3 of my January 20th letter, and pages 1 to 3 of my February 13th letter.)

--The February 24th Letter fails to recognize that SCWA reviewed multiple databases concerning tribal resources and that those databases did not identify any tribal land or artifacts on the Subject Property. (Refer to page 2 of my January 20th letter.)

-- The February 24th Letter fails to state the fact that the City did provide the Tribe's information concerning the soil at the Subject Property. (Refer to pages 3 to 4 of my February 13th letter.)

--The February 24th Letter fails to acknowledge the fact that the City Planning Department did engage in consultation with the Tribe's representative, and that representative did not respond to the City's November 2020 emails or the City's Pre-Closure of Consultation letter dated July 6, 2022. (Refer to my February 13th letter at pages 3 to 4.)

--Finally, the February 24th Letter takes issue with the scope of the City's standard condition concerning the potential inadvertent discovery of tribal resources at a property at which construction is occurring. However, that condition is more than adequate since there is substantial evidence confirming the EIR's conclusion that there is little to no potential for discovery of tribal resources in the first five feet of soil below grade surface, which is the extent of the subsurface excavation that would occur with demolition of the building. Further, the City's standard condition has been proven throughout the years to be legally adequate.

For these reasons and all of the reasons set forth in the Applicant's prior letters to the PLUM Committee, we urged the City Council to adopt the PLUM Committee's recommendation on this matter.

Sincerely,

Edward J. Casey

cc: Craig Bullock, Planning Director, Council District 11
(craig.bullock@lacity.org) - via email only
Jason McCrea, City Planner, Department of City Planning
(jason.mccrea@lacity.org) – via email only

EXHIBIT A

ALSTON & BIRD

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Edward J. Casey Email: ed.casey@alston.com Direct Dial: +1 213 576 1005

January 20, 2026

Planning and Land Use Management Committee
Los Angeles City Hall
200 N. Spring St., Room 340
Los Angeles, CA 90012
Attn: Candy Rosales – PLUM Legislative Assistant
Email: clerk.plumcommittee@lacity.org

Re: Council File No.: 25-1518 - Appeal of Building and Safety Commission's Approval of Demolition Permit for Barry Building Located at 11973 San Vicente Boulevard

Dear Committee Members:

As land use counsel for the owner of the subject property located at 11973 San Vicente Boulevard ("Subject Property") and applicant ("Applicant") for a permit to demolish (the "Demo Permit") the two-story former commercial building on the Subject Property commonly referred to as the "Barry Building." I am sending this letter to respond to the letter submitted by the appellant Angelenos for Historic Preservation ("Appellant") dated January 5 and 8, 2026 (the "New Submittal") in support of their appeal ("Appeal") of the Building and Safety Commission's approval of the Demo Permit. That recent submittal concerns the issue of tribal resources. (We note that the Appellant has never raised this issue before, not in its comments on the EIR prepared by the City of Los Angeles ("City") for the Demo Permit or in its written and verbal testimony to the Board of Building and Safety Commission.)

I. The EIR Analysis of Potential Tribal Resources at the Subject Property

Before addressing the specific assertion raised in the New Submittal, namely the legal adequacy of the consultation between the City and the one tribe which responded to the City's consultation notice, we first summarize the analysis provided in the EIR of the potential existence of tribal resources in the subsurface at the Subject Property. In reviewing that analysis, it is important to note the limited subsurface work that will be carried out pursuant to the Demo Permit. That subsurface work will only entail removing the Barry Building and the limited foundation previously built for that two-story building.

Based on a geology report proposed for the Initial Study,[1] that work will be limited to two to five feet below grade. (Initial Study, Appendix C-1, p.56-57.) When addressing the likelihood that such subsurface work would encounter archaeological and paleontological resources, the Initial Study concluded that "As the Project Site would only be excavated to remove the existing utilities (approximately two to five feet underground) and would only disturb soils that have been previously disturbed by past development activities, it is unlikely that paleontological resources would be discovered during demolition." (Id.)

The same holds true for tribal resources that may be in the subsurface at the Subject Property. As discussed at page IV.G-11 of Section IV-G of the Draft EIR,

> "Most or all of the sediments below the modern surfaces at the Project Site have been subject to at least some amount of ground disturbance, which, in most cases, diminishes the likelihood of encountering tribal cultural resources. A geotechnical study conducted by Geocon (included as Appendix C-1 of the Initial Study) indicates that the Project Site is underlain with artificial fill to depths of approximately two feet below the existing ground surface; the artificial fill included evidence of construction debris, including brick and asphalt fragments. According to Geocon, the artificial fill was determined to be the result of previous grading and construction activities within the Project Site, and deeper artificial fill underlying the Project Site may exist. Older alluvial fan deposits were encountered beneath the artificial fill. Because the construction of the existing building and parking lot required excavation within the entirety of the Project Site, the depth and extent of the disturbances reduce the preservation potential for unknown tribal cultural resources within the alluvium."

Even though the site conditions at the Subject Property are not conducive at all to finding buried tribal resources, the EIR still conducted additional studies to confirm the very low likelihood of tribal resources at the Property. A third party consultant (SCWA) prepared a technical study entitled *Tribal Cultural Resources Assessment*. (A copy of that report is provided at Appendix F-3 of the Draft EIR.) In preparing that technical analysis, "records searches were conducted with the NAHC (Sacred Lands File Search) and the California Historical Resources Information System (CHRIS)." (Draft EIR, p. IV.G-9.) "The CHRIS records search did not identify any known tribal cultural resources within the Project Site or within a 0.5-mile radius, and the NAHC search of the SLF did not identify any traditional lands or sites. In addition, consultation with the Gabrielino Band of Mission Indians – Kizh Nation did not identify any known tribal cultural resources." (Draft EIR, p. IV.G-10; emphasis added.)

[1] The Initial Study is provided at Appendix A to the Draft EIR.

Based on this substantial evidence, the EIR correctly concluded that the Demo Permit would not cause any impact to tribal resources because there are none in the soil below the Barry Building which would be disturbed by the work authorized by the Demo Permit.

II. The City Engaged In Adequate Tribal Consultation

Since the Appellant has provided no evidence of tribal resources at the Subject Property, the Appellant instead fashions a process claim in its New Submittal. Citing to an appellate court decision dated March 2025, Appellant claims that the City failed to engage in legally adequate consultation with the one tribe which responded to the City's consultation notice sent to ten tribes in the year 2020. In support of that new argument, Appellant only points to an email dated July 2022 from a City planner (James Harris) to the tribe's representative, and a one-paragraph email dated August 2022 from the tribe to Mr. Harris.

But Appellant leaves out all of the facts concerning the consultation between the City and this tribe that took place in the year 2020. As reported in the tribal resources section of the Draft EIR –

> On July 31, 2020, the City received a consultation request pursuant to AB 52 from the Gabrielino Band of Mission Indians – Kizh Nation. None of the other nine tribal contacts that were sent notification requested consultation. The City began the consultation process via phone call on October 7, 2020. The City sent an email to the Gabrielino Band of Mission Indians - Kizh Nation summarizing the call's discussion points. As part of the subsequent consultation, Chairman Salas submitted six maps and general information about the Gabrielino Tribe in Southern California. Chairman Salas also submitted suggested mitigation measures to avoid potential impacts. The measures include retaining a Native American monitor, protocols for unanticipated discovery of tribal cultural resources, human remains, and associated funerary objects, treatment measures, and professional standards. The mitigation measures also included an attachment showing the Kizh Nation tribal territory. As requested by the Gabrielino Band of Mission Indians - Kizh Nation, the City sent additional information regarding the Project's existing soil conditions via email on November 20, 2020, with subsequent correspondence through November 25, 2020.[2] The Gabrielino Band of Mission Indians - Kizh Nation has

[2] Pursuant to California Government Code Sections 6254 and 6254.10, and Public Resources Code Section 21082.3(c), information submitted by a California Native American tribe during consultation under AB 52 shall not be included in the environmental document or otherwise disclosed to the public by the lead agency, project applicant, or the project applicant's agent, unless

> not responded via email or phone call since this email correspondence. On July 6, 2022, the City sent a "Pre-Closure of Consultation" letter to Chairman Salas summarizing the consultation efforts that took place and also sent a link to review the Tribal Cultural Resources Report prepared for the Project (this letter is contained in confidential Appendix D to the Tribal Cultural Resources Report).10 The City did not receive a response to this letter, and on July 21, 2022, sent a letter officially closing consultation (this letter is also contained in confidential Appendix D to the Tribal Cultural Resources Report).

(Draft EIR, p. IV.G-8.)

That level of consultation with the tribe stands in stark contrast to the inadequate tribal consultation that the lead agency undertook in the recent appellate court decision cited by the appellant, *KOI Nation of Northern California v. City of Clearlake*[3] (referred to herein as the "KOI Decision"). The more notable differences between that case and the appeal in the instant case include—

--The KOI case involved a project site that included a large area of undisturbed land that consisted primarily of wooded areas and grassland. In contrast, the Subject Property at which the Barry Building is located involves only disturbed land, including the disturbed five feet of soil below grade surface that would be the extent of the subsurface work that would be carried out pursuant to the Demo Permit.

--Only a mitigated negative declaration was prepared by the lead agency in the KOI case for the proposed project. In contrast, a full Environmental Impact Report was prepared by the City of Los Angeles for the Demo Permit, including an Initial Study that examined 17 different impact areas and an EIR that examined seven potential impact areas in great depth (which were based on dozens of technical reports).

--In the KOI case, the lead agency received the tribe's proposed mitigation measures at the consultation meeting, "but did not engage in any further discussion with the KOI nation about the requests even after the tribe representatives sent to follow up communications." (KOI Decision, page 27.) In contrast, the City of Los Angeles sent information to the tribe's representative after the consultation meeting and also agreed to

---

written permission is given. Therefore, the confidential documents are included in confidential Appendix D to the Tribal Cultural Resources Report and are on file with the City Planning Department.

[3] For ease of reference, this response letter will cite to the pages of this decision that was included in the New Submittal, instead of the official court reporter citation (which is 109 Cal. App. 5th 815).

impose a condition of approval addressing the potential for an inadvertent discovery of a tribal resource in the subsurface at the Subject Property.[4]

--In the KOI case, the CEQA document (which was a MND) did not inform decision makers or the public of the mitigation measures requested by the tribe or what measures the city decided to implement. (KOI Decision, p. 26.) In contrast, the EIR for the Barry Building and Demo Permit described the consultation process as well as the relevant condition of approval. (Refer to p. IV.G-8 of the Draft EIR.)

--In the KOI case, the tribe never received a letter or statement from the City that consultation was closed. (KOI Decision, p. 27.) In contrast, the City of Los Angeles sent such letters to the tribe dated July 6 and 21, 2022 confirming that consultation had closed based on a lack of response from the tribe to the City's correspondence from November 2020.

--In the KOI case, the MND failed to discuss the city's basis for determining that consultation had concluded. (KOI Decision, p. 26.) In contrast, that information was expressly provided in the tribal resources section of the Draft EIR for the Barry Building (refer to p. IV.G-8).

III. Conclusion

As demonstrated above, neither the law nor the facts support the Appellant's new legal argument concerning tribal resources. And the Appellant's other arguments made in their Appeal are equally untenable. Most of those arguments were previously made in their appeal of LADBS staff's original decision to approve the Demo Permit. Those arguments were addressed in City staff's report to the Board of Building & Safety Commission. The Appellant's letter submitted in response to the Appeal dated July 22, 2025 provided further rebuttal to Appellant's prior claims. (A copy of that response letter

[4] As stated in the Draft EIR, "while no tribal cultural resources are anticipated to be affected by the Project, the City has established a standard condition of approval to address inadvertent discovery of tribal cultural resources. As required by this standard condition of approval, in the event a potential tribal cultural resource is encountered on the Project Site during ground-disturbing activities, all ground-disturbing activities would be temporarily halted and the City and Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area would be notified. If the City determines that the potential resource appears to be a tribal cultural resource (as defined by PRC Section 21074), the City would provide any affected tribe a reasonable period of time to conduct a site visit and make recommendations regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources. The Project Applicant would be required to implement the tribe's recommendations if a qualified archaeologist reasonably concludes that the tribe's recommendations are reasonable and feasible. The recommendations would be incorporated into a tribal cultural resource monitoring plan and ground disturbance activities may resume once the plan is approved by the City." (Draft EIR, p. IV.G-12.)

is attached hereto as Exhibit A.) Finally, the Appellant's new "expert" report concerning the structural deficiencies in the Barry Building is addressed in the Applicant's additional response letter submitted concurrently with this letter.

Therefore, for all these reasons, we urge the City Council to deny the Appeal.

Sincerely,

Edward J. Casey

cc: Craig Bullock, Planning Director, Council District 11
(craig.bullock@lacity.org) - *via email only*
Jason McCrea, City Planner, Department of City Planning
(jason.mccrea@lacity.org) – *via email only*

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February 13, 2026

Planning and Land Use Management Committee
Los Angeles City Hall
200 N. Spring St., Room 340
Los Angeles, CA 90012
Attn: Candy Rosales – PLUM Legislative Assistant
Email: clerk.plumcommittee@lacity.org

Re: Council File No.: 25-1518 - Appeal of Building and Safety Commission's Approval of Demolition Permit for Barry Building Located at 11973 San Vicente Boulevard

Dear Committee Members:

As land use counsel for the owner of the subject property located at 11973 San Vicente Boulevard ("Subject Property") and applicant ("Applicant") for a permit to demolish (the "Demo Permit") the two-story former commercial building on the Subject Property commonly referred to as the "Barry Building." I am sending this letter to respond to the number of misstatements made in the letter submitted by the appellant Angelenos for Historic Preservation ("Appellant") dated February 5, 2026 ("Appellant's February 5th Submittal") concerning the potential for tribal resources to be found at the Subject Property during demolition. (The February 5th Submittal was made in support of Appellants' appeal ("Appeal") of the Board of Building and Safety Commissioners' approval of the Demo Permit.) This latest submittal is directly contrary to the EIR prepared by the City of Los Angeles ("City") for the Demo Permit, as well as my prior response letter on this subject dated January 20, 2026 (a copy of which (without enclosures) is attached here to as Exhibit A).

1. SCWA'S Independent Evaluation of the Potential Tribal Resources at the Site

Appellant first claims that the consultant (SCWA Environmental Consultants) who prepared the technical report on tribal resources that was included in the EIR "formally deferred the assessment of TCR impacts to the expertise of the Tribe(s)." (February 5th Submittal, page 3.) Appellants provide no support for that assertion, and nor can they since SCWA undertook an extensive and independent evaluation of trial resources at the subject site. In their report dated November 2022 (a copy excluding the lengthy exhibits is attached hereto as Exhibit B) that was attached as Appendix F-3 to the Draft EIR, SCWA details the numerous databases that they researched. That research is summarized at page 2 to 3

of my January 20th letter. Appellant's February 5th Submittal does not address that substantial evidence. Based on that database search and SCWA's own site inspection, SCWA reached the following conclusion concerning the potential for significant impacts to tribal resources—

CONCLUSION

A previous CHRIS summary letter and an SLF search revealed that no known tribal cultural resources are present within or within the vicinity of the project site. SWCA requested a supplementary confidential search of the CHRIS at the SCCIC; the supplemental search included a request for detail lists for the results summarized in the summary letter, as well as for copies of previous studies intersecting the project site and of archaeological resources within the search radius. The supplemental CHRIS records search results identified one previously documented historic building within a 0.4-km (0.25-mile) radius of the subject property, which does not intersect the project site. The supplemental records search also identified two Los Angeles Historic-Cultural Monuments (LAHCMs) within a 0.4-km (0.25-mile) radius of the project; one of these is the subject property, the Barry Building (LAHCM No. 887), and the other is the collection of coral trees (*Erythrina caffra*) that are situated within the median directly south of the project site (LAHCM No. 148). Neither LAHCM No. 148 nor the historic Comerica Bank, Brentwood Branch building would be impacted by the project.

The City submitted notification letters to the tribal parties listed on the City's AB 52 notification list. To date, the City has received two responses to the notification letters. In one response, the Fernandeño Tataviam Band of Mission Indians deferred consultation for the project to members of the Gabrielino Indian Tribe. The second response the City received was from the Gabrieleño Band of Mission Indians–Kizh Nation, requesting consultation with the City. A telephone consultation occurred on October 7, 2020, and was attended by the City and Chairman Salas. On November 2, 2020, the Tribe presented the City with an email providing information on tribal history and traditional land uses associated with the project site and noted that resources may exist below existing developments; the email included a number of attachments as supporting evidence. After tribal consultation, the City concluded there is no substantial evidence of a tribal cultural resource within the project site. SWCA finds that the Project would have no impacts to known tribal cultural resources. Although the deepest level of excavation proposed is estimated to be 1.5 m (5 feet), the project site was further assessed for the potential to contain deeply buried, previously unidentified tribal cultural resources and was found to be low. As such, no tribal cultural resources are anticipated to be affected by the project. Though unlikely, if present, any unidentified tribal cultural resources have the potential to be significant under CEQA. However, the Project is subject to the City's standard Condition of Approval for the inadvertent discovery of tribal cultural resources. Based on the condition of approval, any potential impacts would be reduced to less than significant. Therefore, SWCA finds that the Project will have less-than-significant impacts to tribal cultural resources.

There were no tribal cultural resources identified within the project site, and SWCA finds that the project site is not likely to contain undocumented tribal cultural resources beneath the surface. Therefore, no mitigation measures are recommended for impacts to known tribal cultural resources, although the City's standard Condition of Approval for the inadvertent discovery of tribal cultural resources, replicated in the Regulatory Setting section of this report and included in the City's AB 52 Pre-Closure of Consultation letter sent to the Tribe on July 6, 2022 (see Confidential Appendix D), will apply."[1]

(SCWA Report, pages 31 to 32.)

Again, Appellant's February 5th Submittal does not address this detailed evaluation by SCWA in the EIR.

2. SCWA Properly Accounted for the Amount and Nature of Soils That Would Be Excavated

Appellant next claims that "The FEIR claims 'no impact' to TCRs based on the premise that native soils will not be disturbed." (February 5th Submittal, p. 3,) Again, Appellant misstates the analysis in the EIR. First, SCWA's report expressly recognized that the proposed demolition of the Building may go to five feet below grade. (SCWA Report at page 6), but that the known artificial fill at the site may only go to two feet below grade (SCWA Report at page 13.) Recognizing that difference, SCWA accounted for the potential of tribal resources in alluvial soil below the artificial fill. The nature of the soil at the subject property was expressly recognized in the Draft EIR at page IV.G-11 (which is quoted at page 2 of my January 20th letter). As stated at page 13-14 of its November 2022 technical report, SCWA confirmed that it based its conclusions about the nature of the soil at the site on a geotechnical report dated June 2020 by Geocon. (A copy of that soils report is provided at Appendix C to the Initial Study prepared by the City before it began the preparation of the Draft EIR. A copy of that Initial Study and its supporting technical reports is provided at Appendix A to the Draft EIR.) Therefore, despite Appellant's inaccurate accusation, the EIR's and SCWA's evaluation of the potential for tribal resources at the site was based on a technical analysis of the actual soil conditions.

3. The City Engaged In Legally Adequate Consultation with the Tribes

Finally, the Appellant once again claims that the City failed to engage in legally adequate consultation with the tribes during the EIR process. That unfounded claim was addressed in detail at pages 3 to 5 of my January 20th letter. In response, the Appellant now asserts that the City ended the tribal consultation process with the one tribe that requested consultation too early because the City did not provide that Tribe with information about the soil conditions at the site. (February 5th Submittal, pp. 3-4.)

[1] This standard condition is included in the Mitigation and Monitoring Program, Section 1.5, Regulatory Compliance Measures

Appellant again ignores the facts. As reported at page IV.G-8 of the Draft EIR, the City provided that information to the tribe in 2020 when the consultation process began—"As requested by the Gabrieleno Band of Mission Indians – Kizh Nation, the City sent additional information regarding the Project's existing soil conditions via email on November 20, 2020, with subsequent correspondence through November 25, 2020." Having received no response, "on July 6, 2022, the City sent a "Pre-Closure of Consultation" letter to Chairman Salas summarizing the consultation efforts that took place and also sent a link to review the Tribal Cultural Resources Report prepared for the Project." (Id. at page IV.G-8.) As discussed above the Tribal Cultural Resources Report prepared by SCWA contained a detailed discussion of the soil conditions at the site.

Finally, having received no response to that July 6, 2022 letter, the City sent a closure notice to the Tribe on July 21, 2022, which stated that "As indicated in the AB 52 Pre-Closure of Consultation letter sent to you on July 6, 2022, the City's tribal cultural resources analysis for the Project is set forth in the Draft EIR Tribal Cultural Resources Section and associated Appendix. Although no evidence was found identifying any tribal cultural resources on the Project Site, and the analysis in the Project's Draft EIR concludes that there would not be a potential significant impact on tribal cultural resources, we recognize the Tribe's concerns noted in your November 2, 2020, email. As discussed and analyzed in the Tribal Cultural Resources Section of the Draft EIR, the City's Condition of Approval - Tribal Cultural Resource Inadvertent Discovery would be imposed under the City's police powers to protect any potential inadvertent discovery of tribal cultural resources during construction activities. … The Tribe may submit written comments on the adequacy of the Draft EIR, to be made public and incorporated in the Final EIR."

The Tribe's August 30, 2022 email response did not claim that it had not received information about the subsurface soil at the site. And nor did the Tribe ever submit comments on any aspect of the Draft EIR.

Accordingly, we urge the City Council to deny the Appeal.

Sincerely,

Edward J. Casey

cc: Craig Bullock, Planning Director, Council District 11
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Jason McCrea, City Planner, Department of City Planning
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