

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer:

CARSTENS, BLACK & MINTEER LLP
Douglas P. Carstens, SBN 193439
Michelle N. Black, SBN 261962
Sunjana Supekar, SBN 328663
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
310.798.2400; Fax 310.798.2402
dpc@cbcearthlaw.com; mnb@cbcearthlaw.com
sss@cbcearthlaw.com

Attorneys for Petitioner Strategic Actions for a Just Economy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Strategic Actions for a Just Economy

Petitioner,

v.

City of Los Angeles, a Municipal
Corporation, City Council of the City of Los
Angeles, and DOES 1 to 100,

Respondent,

Bethune Hotel Ventures, LLC; Orion Capital,
LLC; Henry Fan; Wolff Urban Development
LLC; CRA/LA, a Designated Local Authority
and Successor for the former Community
Redevelopment Agency of Los Angeles, and
ROES 1 to 100,

Real Parties in Interest

CASE NO.: 23STCP00702

PETITION FOR WRIT OF MANDATE

(California Environmental Quality Act, Planning
and Zoning Law, Los Angeles Municipal Code)

INTRODUCTION

1. This action challenges the failure of the City of Los Angeles, and its City Council, (collectively, the “City”) to comply with the California Environmental Quality Act (“CEQA”), Planning and Zoning Law, and the Los Angeles Municipal Code in approving a seven-story, 75-foot tall 168-room hotel building totaling 101,928 square feet in floor area (“Project”).

2. The Project site is a parcel of publicly-owned land in South Los Angeles located at 3685 Vermont Avenue. The site is the former home of the Mary McLeod Bethune Library, named after Dr. Mary McLeod Bethune, a prominent African-American leader in the civil and women’s rights movements. The site is currently owned by the CRA/LA (the successor agency to the former Community Redevelopment Agency of the City of Los Angeles), and under option by the City. Though the City is not currently in possession of the land as of the date of this petition, the Project would require the City to transfer the public land to a private entity for a commercial hotel.

3. The City is facing a crisis due to the lack of affordable housing. The crisis is even more acute in the rent-burdened Council District where the Project is located, where 63% of district residents spend over 30% of their income on housing, and 39% of the district’s residents spend over half their income on housing. To address these crucial issues, the City’s General Plan Housing Element enacted the Public Lands program, a strategic plan to create 10,000 units of equitable housing on public land within five years.

4. The City identified the Project site as a candidate site for the Public Lands program. The City has further supported the development of affordable housing at the Project site by issuing several Requests for Proposals (“RFPs”) to develop the site as affordable housing. Community members and community-based organizations vigorously supported the site’s use as affordable housing. The City entered into an exclusive negotiating agreement (“ENA”) with a developer, Nvision, in June 2018 seeking to build a mixed-use development with affordable housing, though it ultimately did not renew that agreement.

5. Despite the City’s long history of designating and planning to develop the publicly-owned parcel for affordable housing, the City accepted a proposal submitted by Real Parties in Interest Bethune Hotel Ventures, LLC and Henry Fan for a 168-room Marriott hotel on the site. The hotel Project required a Conditional Use Permit (“CUP”) and Site Plan Review.

6. After an October 2021 public hearing process at which numerous local residents, community members, organizations, and a neighborhood council voiced their concerns and opposition to the Project based largely on the desire to see community-serving uses on the site, the Zoning

1 Administrator determined that the City could not support findings required by the Los Angeles
2 Municipal Code that the Project provided community benefits and was consistent with applicable land
3 use plans. Accordingly, the Zoning Administrator denied the Project entitlements.

4 7. The Project Applicant appealed the Zoning Administrator’s determination, and after a
5 lengthy appeal process spread over three public hearings, the South Los Angeles Area Planning
6 Commission (“SLAAPC”) upheld the Zoning Administrator’s determination that the Project would not
7 enhance the built environment in the surrounding neighborhood, was incompatible with land use plans,
8 and would not provide community benefits, and denied the appeal.

9 8. Despite overwhelming public opposition and findings by the Zoning Administrator and
10 the SLAAPC that the Project could not be approved, the City Council exercised City Charter Section
11 245 authority to veto SLAAPC’s denial of the appeal and the findings that the Project would be
12 incompatible with the community.

13 9. The Planning and Land Use Management Committee of the City Council (“PLUM”)
14 thereafter reviewed the appeal, and recommended overturning the decisions of SLAAPC and the Zoning
15 Administrator. On February 3, 2023, the City Council adopted the findings and recommendation of
16 PLUM, granting the appeal and approving the Project despite sustained public opposition. Instead of the
17 affordable housing sought by the community, the City approved construction of a hotel on publicly-
18 owned land in contravention of fundamental Community Plan and General Plan policies to prioritize
19 much-needed affordable housing.

20 10. The City abused its discretion in approving the Project, as described below.
21

22 JURISDICTION

23 11. This Court has jurisdiction over the writ action under section 1094.5 of the Code of Civil
24 Procedure and Public Resources Code section 21168.

25 12. This Court also has jurisdiction over the writ action under section 1085 of the Code of
26 Civil Procedure, and sections 21167, 21168.5 of the Public Resources Code and Government Code
27 section 65009.

28 13. This case is properly classified as an unlimited civil case, and therefore within the
29 jurisdiction of this Court, because it is not one of the types of cases listed as limited civil cases in
30 Code of Civil Procedure §§ 86, 86.1 or 87.
31
32

14. Venue is proper in this Court under Code of Civil Procedure § 394 because the Respondent City of Los Angeles is a local agency with territory wholly within Los Angeles County, which is where the Project's environmental effects will be felt.

PARTIES

15. Petitioner Strategic Actions for a Just Economy (“SAJE”) is a nonprofit organization whose mission is to build community power and leadership for economic justice. As an organization that serves the community of South Los Angeles, including the Project site, SAJE has a direct and substantial beneficial interest in ensuring that Respondent complies with laws relating to environmental protection. SAJE and its representatives participated in the administrative process both on its own behalf and through its participation in the UNIDAD coalition, objecting to the approval of the Project.

16. Respondent, City of Los Angeles (“Respondent”), is a charter city incorporated under the laws of the State of California. The City is the lead agency under CEQA. The City is responsible for regulating and controlling land use in the City's territory, including but not limited to implementing and complying with the provisions of CEQA, the CEQA Guidelines, other California laws, and its own General Plan. Respondent City is the lead agency for purposes of Public Resources Code section 21067, with principal responsibility for conducting environmental review for and approving the Project.

17. Respondents named Does 1 to 100 are given fictitious names because their names and capacities are presently unknown to Petitioner.

18. Real Party in Interest Bethune Hotel Ventures, LLC is the entity listed as the Project applicant. Bethune Hotel Ventures, LLC is a joint venture of Orion Capital, LLC and Wolff Urban Development, LLC.

19. Real Party in Interest Henry Fan is the principal of Bethune Hotel Ventures, LLC and is listed as the Project applicant.

20. Real Party in Interest Orion Capital, LLC is an entity listed as a Co-Developer that applied for the Request for Proposal for the Project site.

21. Real Party in Interest Wolff Urban Development, LLC is an entity listed as a Co-Developer that applied for the Request for Proposal for the Project site.

22. Real Party in Interest CRA/LA, a Designated Local Authority and Successor for the former Community Redevelopment Agency of Los Angeles is the current owner of the Project site.

23. Real Parties in Interest named as Roes 1 to 100 are given fictitious names because their names and capacities are presently unknown to Petitioner.

STATEMENT OF FACTS

The Project Site.

24. The Project site is within the South Los Angeles Community Plan Area. The site is within the Community Commercial land use designation that allows the corresponding zones of C2, C4, RAS3, R3, RAS4, and R4, and the property is zoned C2-2D-CPIO.

25. This site is also located within the North University Park-Exposition Park-West Adams Neighborhood Stabilization Ordinance (NSO) District, the Exposition/University Park Redevelopment Plan Project Area, and the South Los Angeles Community Plan Implementation Overlay (CPIO) District. The site is within the TOD High Subarea of the South Los Angeles Community Plan Implementation Overlay (CPIO) District.

History of Project Site, Including Affordable Housing Proposals.

26. From 1975 through 2009, the Dr. Mary McLeod Bethune Regional Branch Library, located at 3685 Vermont Avenue, served as a public community space for the local South Los Angeles community. The site was named after Dr. Mary McLeod Bethune, a prominent African-American leader in the civil and women's rights movements.

27. In 2010, the library was demolished and relocated a few blocks away.

28. Prior to the site's use as a library and community space, the site also served as home to a restaurant and bakery, a gas station, a storage for used cars, a printing facility, and a radiator and battery repair facility.

29. Several of these uses resulted in various contaminations of the Project site, including lead and copper contamination. The Los Angeles County Fire Department, Site Mitigation Unit has oversight of the cleanup of the lead contamination at the site.

30. In 2011, the site was acquired by the City's Community Redevelopment Agency, which issued a Request for Proposal ("RFP") for an affordable housing development. The City approved a proposal from TRUST South LA and partners for a grocery store and 55-unit affordable housing project.

31. In 2012, the State of California dissolved all redevelopment agencies across the state, resulting in the affordable housing project falling through. The CRA/LA became the successor agency to the Community Redevelopment Agency and retained ownership of the site.

32. In 2013, the CRA/LA's Long Range Property Management Plan (LRPMP), which lists its plan for selling all of the former redevelopment agency's land, indicated the City's plan to sell the Bethune site to be used for affordable housing.

33. In 2017, the City released a second RFP for the site, requesting proposals for affordable housing.

34. In 2018, the City selected a developer, Nvision, who proposed a mixed-use development with 100+ residential units, more than half affordable, and a cleantech business incubator. In June 2018 Nvision entered into an exclusive negotiating agreement (“ENA”) with the City to develop a mixed-use project consisting of residential, retail and offices. In November 2018, the firm was notified the ENA had reached its three-month expiration period and would not be renewed.

35. The City had continuously promised the local community and various community-based organizations in the area that the Bethune site would be used for affordable housing or permanent supportive housing. Yet in January 2019, the City’s Economic and Workforce Development Department issued a third RFP with no mention of affordable housing.

36. In March 2019, the City selected a proposal for the Project submitted by Bethune Hotel Ventures, LLC for a 167-room Marriott Courtyard hotel.

The South Los Angeles Community Plan

37. The South Los Angeles Community Plan (“Community Plan”) was the result of an almost decade-long planning process that commenced in 2008 when the City issued a Notice of Preparation of an EIR for the Community Plan. The Community Plan typically used 2008 as the baseline year for analysis, with the exception of census data. The Community Plan was adopted in 2017.

38. The Community Plan is a component of the City’s General Plan and is enforceable as a General Plan.

39. In the Community Plan, the City recognized that city-owned, vacant lots are vital resources that can provide essential services to the local community. Specifically, the Community Plan calls for the creation of a program that will “[s]upport the re-use of former CRA-owned ... in South Los Angeles for community uses, prioritizing affordable housing and park space.”

The Current Project and Administrative Process

40. On January 3, 2020, Real Party in Interest Henry Fan submitted an application to the Department of City Planning for the Project, described in the application as a 168-room hotel project with 4,300 square feet of ground floor retail space.

41. The development application included a request for a Class 32 infill exemption from CEQA.

42. Real Party in Interest Henry Fan sought a Conditional Use Permit to allow a 168-room

Hotel located within 500 feet of a residential zone, as well as Site Plan Review for a development project which creates, or results in an increase of, 50 or more guest rooms, in the C2-2D-CPIO zone.

43. A consultant, ESA, prepared a Class 32 Categorical Exemption technical memorandum for the Project. City staff also prepared a technical memorandum purporting to analyze whether the Project was within the scope of the South Los Angeles Community Plan.

44. A public hearing notice was posted for the Zoning Administrator hearing to review the Project.

45. In anticipation of the Zoning Administrator hearing, there were numerous public comments opposing the Project. Residents objected to the Project on many grounds, including the use of public lands for private gain and the dire need for affordable housing in South LA.

46. SAJE is a member of United Neighbors in Defense Against Displacement (“UNIDAD”), a coalition of residents and organizations in South Central LA dedicated to keeping families in their homes and improving the health and economic well-being of low-income communities of color through responsible development. UNIDAD submitted comments objecting to the Project. UNIDAD commented that the City cannot make the findings required for a Conditional Use Permit or Site Plan Review. UNIDAD raised that the Project was inconsistent with the Community Plan and General Plan Housing Element. UNIDAD also commented that the Project was not within the scope of the Community Plan EIR.

47. Public comments also focused on the need for affordable housing. SAJE, along with CD Tech, Esperanza Community Housing Corporation, Los Angeles Neighborhood Land Trust, Abundant Housing, Physicians for Social Responsibility Los Angeles, and Alliance for Community Transit Los Angeles (ACT LA) submitted a letter to the Zoning Administrator documenting the dire need for affordable housing in the area.

48. Separately from the Project’s review process, the City Council itself recognized the need to direct City-owned land for affordable housing uses. On June 17, 2020, the City Council passed a motion to create a list of surplus property in Council Districts 1, 8, and 10 to donate to community land trusts for the purpose of meeting community needs, including affordable housing. The goal of the motion was to remedy institutionally racist policies that “intentionally left African-Americans, Indigenous people and the Latinx community . . . in perpetuated poverty.” A representative of SAJE commented in support of this motion and urged the City to add the Bethune site to the list of properties to be transferred to community land trusts.

49. Many organizations and local bodies that directly serve, represent, live, or work in the

surrounding community objected to the Project. These organizations included:

- St. Mark’s Lutheran Church, a church adjacent to the Project site;
- North Area Neighborhood Advisory Council, a neighborhood organization empowered by the Los Angeles City Charter;
- Sociedad Organizada de Latinas Activas, group of immigrant women who live and/or work in South Central Los Angeles that work to improve the community through civic engagement, advocacy and electoral participation;
- West Adams Heritage Association, an organization that supports preservation of this community’s important cultural and architectural heritage; and
- North University Park Community Association, a community organization dedicated to protecting and enhancing local architectural and cultural resources.

50. A local labor union also raised concerns with the Project. These included concerns regarding the Project’s new hazardous impacts and vehicle miles traveled (“VMT”) impacts, as well as the Project’s noncompliance with Los Angeles Municipal Code sections 12.24 and 16.05.

51. Commenters also noted that the Project did not comport with the Exposition/University Park Redevelopment Plan.

52. On October 21, 2021, the City’s Zoning Administrator (“ZA”) held a public hearing to hear testimony regarding the Project. The ZA’s hearing was attended by many community organizations like SAJE, residents and representatives of the local neighborhood council to express opposition to the project. Several commentators, including those from St. Mark’s Lutheran Church, detailed the developer’s unwillingness to discuss community benefits and mitigation measures.

53. On March 25, 2022, the ZA issued a 31-page decision denying the requested Conditional Use Permit and Site Plan Review. The Zoning Administrator’s Determination (“ZA Determination”) did not include CEQA findings.

54. Under Los Angeles Municipal Code section 12.24.E, a conditional use permit may not be granted without finding: (1) that the project will enhance the built environment in the surrounding neighborhood or will perform a function or provide a service that is essential or beneficial to the community, city, or region; (2) that the project's location, size, height, operations and other significant features will be compatible with and will not adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare, and safety; and (3) that the project substantially conforms with the purpose, intent and provisions of the General Plan, the applicable

community plan, and any applicable specific plan. The ZA found that the Project met none of the three required findings for a conditional use permit.

55. First, the ZA found that the “project will not enhance the built environment in the surrounding neighborhood nor will it perform a function or provide a service that is essential or beneficial to the community, city or region.” The ZA found that the west side of Vermont Avenue, where the Project site is located, typically includes neighborhood serving uses such as grocery stores. Regional serving uses, such as the proposed Project, are typically located on the east side of Vermont Avenue. The ZA found that the “proposed internationally branded project displaces opportunities for affordable housing, a youth center or any other community serving use.” The ZA also found that “the proposed hotel is intended primarily to benefit the destination and regional attractions located along Figueroa Street.” The ZA concluded that “the proposed hospitality project situated within the center of the Community Commercial district that was established to serve [the] adjacent residential neighborhood, will not enhance the built environment in the surrounding neighborhood. A destination attraction or regional serving use is not essential to the immediate residential community that is located west of Vermont Avenue, nor is the location of such a use essential to the uses that front along Figueroa Street.”

56. Second, the ZA found that the project’s location, size, height, operations and other significant features will not be compatible with and will adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public health, welfare and safety.

- The ZA found that “The proposed hotel is an international brand, which is being sited in a local neighborhood’s Community Commercial land use district. From the proposed location, the project intends to provide regional brands and services to the destination and regional attractions, whose rear-end faces the local community. The proposed hospitality project introduces conflicts, not synergy, between the community serving and regional serving patrons from its community serving location.”
- The ZA also noted that “[t]he proposed seven-story project far exceeds the prevailing height of the neighboring Community Commercial land use designated properties,” which typically are one to two stories tall.
- The ZA found that “[t]he proposed hotel intends to meet the needs and demands perceived to be created by the destination and regional attractions fronting along Figueroa Street, and therefore can be said to displace community serving opportunities which

1 contribute to preserving and stabilizing the character and wellbeing of the surrounding
2 residential neighborhood.”

3 57. Third, the ZA found that the project does not substantially comply with the purpose,
4 intent and provisions of the General Plan or the applicable community plan.

- 5 • Specifically, the ZA found that “The proposed project is not community serving but
6 rather intends to serve destination and regional attractions, it far exceeds the
7 prevailing height limit of community serving buildings and displaces opportunities to
8 allow the publicly owned land to continue to provide community services.”
- 9 • The ZA found that “The project fails in that its frontage is oriented to the rear-end of
10 the destination and regional serving attractions it intends to serve. University of
11 Southern California, the Los Angeles Coliseum, the Banc of California Stadium, the
12 California Science Center and the California African American Museum are regional
13 and national serving uses which have their frontages along Figueroa Street. Also, the
14 rear of the proposed 7-story hotel building faces the adjacent residential
15 neighborhood, which consists predominantly of one-story residential buildings and 2-
16 3 story multi-family buildings. The proposed vehicular ramps, the
17 loading/trash/storage area, and mechanical equipment are situated in close proximity
18 to these adjacent residential uses, which adversely affects their quiet enjoyment.”
- 19 • The ZA found that the Project was not consistent with the South Los Angeles
20 Community Plan Implementation Overlay because “it does not fit within the scale and
21 context of the community commercial district that serves the nearby neighborhood.”
- 22 • The ZA found that the Project was not consistent with the Mobility Plan, the
23 Transportation Element of the Los Angeles General Plan.

24 58. The ZA also found that the applicable Site Plan Review findings could not be made.

25 59. The purposes of site plan review are to promote orderly development, evaluate and
26 mitigate significant environmental impacts, and promote public safety and the general welfare by
27 ensuring that development projects are properly related to their sites, surrounding properties, traffic
28 circulation, sewers, other infrastructure and environmental setting; and to control or mitigate the
29 development of projects which are *likely to have a significant adverse effect on the environment as*
30 *identified in the City’s environmental review process*, or on surrounding properties by reason of
31 inadequate site planning or improvements. (Los Angeles Municipal Code section 16.05.A, emphasis
32

added.)

60. Under Los Angeles Municipal Code section 16.05.F, the decisionmaker may not grant Site Plan Review without finding, inter alia, (1) that the project is in substantial conformance with the purposes, intent and provisions of the General Plan, applicable community plan, and any applicable specific plan and (2) that the project consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent improvements, that is or will be compatible with existing and future development on adjacent properties and neighboring properties.

61. First, the ZA found that the project is not in substantial conformance with the purposes, intent and provisions of the General Plan or applicable community plan.

62. Second, the ZA found that the project was not compatible with existing and future development on adjacent properties and neighboring properties, on the basis that it does not fit within the scale and context of the community commercial district that serves the nearby neighborhood. The ZA identified that “Vermont Avenue functions as a boundary that demarcates the local community and its commercial serving uses, from those destination and regional uses or attractions that serve the broader Los Angeles County. The local community serving uses such as the Los Angeles County Family Services Center, Los Angeles County Re-Entry Opportunity Center and a local prep high school are situated along the west side of Vermont Avenue. Additionally, religious institutions, senior housing, and moderate-income housing and community serving non-profit organizations are also situated along the west side of Vermont Avenue. The building heights range from one to three stories, while the proposed project is seven stories high in the community commercial district.”

63. Nvision Development Group, the developer of the 114-unit mixed-use housing development that included affordable housing that was the subject of the City’s prior RFP, submitted a letter on November 21, 2021 opposing the proposed project. Nvision’s letter described how it entered into an ENA with the City in June 2018 to develop its mixed-use housing project on the Bethune site, but despite assurances that the agreement would be renewed, the City abruptly declined to renew the ENA without providing justification beyond claiming it would be in the City’s “best interest.” Nvision noted that a new RFP was issued immediately after the termination of the ENA. Nvision also described the lack of community support “due to not including a housing component and the lack of a strong community benefits package.” Importantly, Nvision declared that it “remains willing and able to deliver” on the originally proposed mixed use project. An equity partner of Nvision’s affordable housing project also reiterated continued interest in developing that project.

64. On April 8, 2022, Real Party in Interest Henry Fan, on behalf of Real Party in Interest Bethune Hotel Ventures LLC, appealed the ZA's Determination.

65. The public again submitted numerous comments to the South LA Area Planning Commission (SLAAPC) opposing the Project or raising concerns with it. Comments included, among others, concerns that the Project was not within the scope of the Community Plan EIR and would have new land use, traffic, and hazardous impacts, objections to the Project's inconsistency with General Plan requirements for affordable housing, and concerns that the appeal was based on erroneous or irrelevant statements.

66. Commenters also criticized the lack of accountability and transparency for the developer's "community benefits" proposal. In the end, only a few organizations entered into community benefits agreements with the developer.

67. On September 20, 2022, the SLAAPC heard the Developer's appeal of the ZA's decision. The SLAAPC continued the hearing for the appeal to October 18, 2022 without making a decision.

68. On October 18, 2022, SLAAPC held a second hearing to continue deliberations of the appeal. SLAAPC again continued the hearing for the appeal to December 6, 2022 without making a decision.

69. On November 8, 2022, the CRA/LA Governing Board voted to extend the Option Agreement between the City and CRA/LA for purchase of the Bethune site to September 30, 2024.

70. On December 6, 2022, SLAAPC held a third and final hearing to continue deliberations of the appeal. SLAAPC denied the Developer's appeal, agreeing with the Zoning Administrator's analysis and decision. The SLAAPC adopted the findings of the March 25, 2022 Letter of Determination.

71. On December 21, 2022, SLAAPC issued a Letter of Determination, denying the appeal and sustaining the ZA's Determination.

City Council Asserts Jurisdiction Over the SLAAPC Approval.

72. On January 10, 2023, City Councilmember Marqueece Harris-Dawson introduced a motion to invoke Los Angeles City Charter Section 245 to veto the decision of the SLAAPC that denied the appeal of the Zoning Administrator's decision.

73. On January 17, 2023, City Council passed the motion to veto the SLAAPC decision.

74. On January 31, 2023, the City Council's Planning and Land Use Management (PLUM) Committee approved alternative findings and granted a Conditional Use Permit and Site Plan Review to

1 the Real Parties in Interest Henry Fan and Bethune Hotel Ventures LLC. The City claimed the Project
2 was within the scope of the Community Plan EIR, and thus no CEQA review was required under
3 CEQA Guidelines section 15168 and 15162.

4 75. On February 3, 2023, Los Angeles City Council approved the PLUM Committee
5 decision, subject to a concurrence by the City Mayor.

6 76. On February 13, 2023, the City Mayor signed the approval, affirming Council Action.

7
8 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**
9 **AND INADEQUATE REMEDIES AT LAW**
10

11 77. Petitioner objected to the Project in the administrative process by submitting letters
12 during the comment period and providing testimony at the public meetings and hearings regarding the
13 Project. Petitioner and/or other agencies and individuals raised each of the legal deficiencies asserted in
14 this Petition orally or in writing during the Respondent's decisionmaking process.

15 78. Petitioner has no plain, speedy or adequate remedy in the course of ordinary law unless
16 this Court grants the requested writ of mandate and injunctive relief.

17 79. In the absence of such remedies, the City's approval of the Project would form the basis
18 for a development project that would proceed in violation of state law.

19 80. Petitioner complied with Public Resources Code section 21167.7 by filing a copy of this
20 Amended Petition with the California Attorney General. A copy of that notice is attached as Exhibit A.

21 81. Petitioner submitted a notice of commencement of this action to the City of Los Angeles
22 prior to filing the Original Petition. A copy of that notice is attached as Exhibit B.

23 82. Petitioner elects to prepare the administrative record. A copy of that election is attached
24 as Exhibit C.

25
26 **FIRST CAUSE OF ACTION**
27 **(VIOLATION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT)**
28

29 83. Petitioner incorporates all previous paragraphs as if fully set forth.

30 84. An agency may only determine that a project falls within the scope of a prior EIR if there
31 is substantial evidence in the record to support that determination. (CEQA Guidelines § 15168,
32 subd. (c).).

1 85. Further, an agency must prepare a subsequent EIR when new information of substantial
2 importance, which was not known and could not have been known with the exercise of reasonable
3 diligence at the time the previous EIR was certified as complete shows that the project will have one or
4 more significant effects not discussed in the previous EIR. (CEQA Guidelines § 15162, subd. (a)(3).)

5 86. Substantial changes to a proposed project or to the circumstances of a project that require
6 major revisions to an EIR due to the involvement of new significant environmental effects or a
7 substantial increase in the severity of previously identified significant effects also trigger the need for a
8 subsequent EIR. (CEQA Guidelines § 15162, subd. (a)(1) & (a)(2).)

9 87. Further, omissions of information necessary to informed decisionmaking and public
10 participation are reviewed de novo. (*Sierra Club v. County of Fresno* (2018) 6 Cal.5th 502, 512–15.)

11 88. PLUM issued three paragraphs of conclusory, sparse findings concluding that the Project
12 was within the scope of the Community Plan EIR, which the City Council adopted. These findings do
13 not meet the informational requirements of CEQA (See *Sierra Club v. County of Fresno* (2018) 6
14 Cal.5th 502, 515), nor do they bridge the analytic gap between the evidence and the agency's actions.
15 (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)
16

17 **a. Land Use Impacts**

18 89. CEQA requires an analysis and disclosure of a project's conflicts with existing land use
19 plans. (CEQA Guidelines §§ 15063(d)(5), 15125(d).)

20 90. A project is inconsistent with a governing land use plan or policy when it conflicts with a
21 fundamental, mandatory, and specific policy.

22 91. The Project's use of public land long envisioned for affordable housing as a commercial
23 hotel project is new information of substantial importance that would have significant land use impacts,
24 and would constitute an irretrievable commitment of public resources.

25 92. As detailed by many in the community and in the decision by the Zoning Administrator
26 and the South Los Angeles Area Planning Commission the Project would conflict with the City's South
27 Los Angeles Community Plan and Los Angeles General Plan.

28 93. The Project would conflict with the following Community Plan Policies:

- 29 • LU 5.6 Locate Density Appropriately. Locate higher residential densities, senior citizen
30 housing, affordable housing and mixed-income housing, when feasible, near commercial
31 centers, transit stops (e.g., near Expo Line and Green Line station areas) and public
32 service facilities.

- LU 6.9 Land Acquisition for Affordable Housing. Develop strategies to assist community land trusts and affordable housing developers with property acquisition. Coordinate with non-profit developers and community land trusts to take advantage of off-site acquisition options.
- LU 19.3 Mixed-Income Housing. Incentivize the production of affordable and/ or mixed-income housing in Transit-Oriented Districts.
- LU 19.4 Housing for Transit Users. Prioritize new housing for transit users and the transit-dependent community.
- LU 6.10 Strategic Use of Public Property. Encourage the use of public property and joint development to create 100 percent affordable and/ or supportive housing projects.
- LU 6.11 Surplus Land. Prioritize the creation of affordable housing by facilitating below-market sale or lease of surplus and other underutilized property to affordable housing developers or for the creation of new park space where there is a demonstrated need for one or the other, consistent with state law.

94. The Project also conflicts with the following programs outlined in the Community Plan that direct the use of surplus and vacant city owned land to be prioritized for community serving purposes:

- Program Number 84. Vacant Lots, City-Owned. Identify city-owned vacant land and explore the potential to repurpose as open space, 100 percent affordable and/ or supportive housing developments.
- Program Number 136. Surplus Government Land. Support the re-use of former CRA-owned and surplus City-owned property in South Los Angeles for community uses, prioritizing affordable housing and park space.

95. The Project also conflicts with several policies and programs outlined in the General Plan Housing Element:

- General Plan Housing Element Program 1.1.6: Add 500 rental units annually to the City of Los Angeles affordable housing stock[.]...The funding resources will include tax credit proceeds, HOME, CDBG, former CRA assets, *City-owned land* and other intermittent resources.
- General Plan Housing Element Program 1.1.8: Explore the feasibility and appropriateness of creating affordable housing requirements for projects that receive benefits from the

City, including projects that receive City subsidies or City land, projects receiving zone changes that result in significantly more units than otherwise permitted, as well as projects that obtain a Development Agreement.

- General Plan Health Element Program 86: To mitigate displacement, leverage government resources (including land) to preserve the social, cultural and economic diversity of the city. Evaluate best practices to develop criteria to assess the displacement potential of low-income and vulnerable populations; identify and implement an array of mitigation tools that can preserve existing small businesses and affordable housing for low-income households; and create opportunities for low-income and vulnerable populations to access the benefits created by new development and investment in their neighborhoods.

96. The Project conflicts with a number of policies and programs in the General Plan Housing Element that prioritize or require affordable housing on public land. For example:

- Housing Element Policy 1.2.10: Prioritize the development of Affordable Housing on public land.
- Housing Element Program 15: Increase the utilization of public land for affordable housing... the strategy aims to develop at least 10,000 housing units affordable to households earning very low, low, or moderate incomes on public land with limited reliance on public subsidies.
- Housing Element Program 16: Pursue new models and approaches to developing affordable housing on public land...

97. The Project would also conflict with the following policies of the Mobility Plan, formerly the Transportation Element of the General Plan.

- 3.1 - Access for All: Recognize all modes of travel, including pedestrian, bicycle, transit, and vehicular modes - including goods movement - as integral components of the City's transportation system.
- 3.3- Land Use Access and Mix: Promote equitable land use decisions that result in fewer vehicle trips by providing greater proximity and access to jobs, destinations, and other neighborhood services.

98. Neither the City's Technical Memorandum nor the findings adopted by the City Council addressed these numerous conflicts with the Community Plan and General Plan.

1 99. The Project also conflicts with the South Los Angeles Community Plan Implementation
2 Overlay.

3 100. Additionally, the City approved the Project with a condition (Condition No. 29) that the
4 Project must demonstrate compliance with the requirements of Los Angeles Municipal Code section
5 13.14, which requires review of Projects proposed in a Community Plan Implementation Overlay
6 district for compliance with that Overlay. In doing so, the City improperly deferred and segmented
7 analysis of the Project's conflicts with the South Los Angeles Community Plan Implementation
8 Overlay. (See *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47
9 Cal.3d 376, 394 [post hoc environmental review is not allowed].)

10 101. Environmental review is required to analyze all of these land use policy inconsistencies.

11 102. Although the City did not approve a Class 32 exemption for the Project, these
12 inconsistencies would also prevent reliance on a Class 32 CEQA exemption. (CEQA Guidelines §
13 15332, subd. (a).)

14
15 **b. Hazardous Impacts**

16 103. The City engaged Stantec Consulting Services, Inc. to prepare a Remedial Action Work
17 Plan ("RAW") in preparation for redevelopment of the Project site, intended to address lead and copper
18 detected in shallow soils at concentrations in excess of their respective California Department of Toxic
19 Substances Control (DTSC) established screening levels (DTSC-SLs) for residential land use. The
20 report was prepared in July 2021.

21 104. The RAW proposed the excavation, removal, and off-site disposal of approximately
22 4,945 cubic yards of lead and copper impacted soil from the Site. This would require hundreds of
23 heavy truck trips.

24 105. The City's Technical Memorandum contains a very perfunctory analysis of the Project's
25 hazardous impacts. It did not address the RAW prepared by Stantec; instead, it addressed a prior RAW
26 prepared in 2019, stating that "A Remedial Action Workplan (RAW) was prepared by Wood, which
27 would be approved by DTSC, that indicates that remediation would consist of the excavation of 9 feet
28 of soil. Any contaminated soil excavated from the Project Site would be disposed of and remediated in
29 accordance with all applicable regulations."

30 106. Further, public comments noted that none of the Remedial Action Goals and Objectives
31 include elimination to the greatest degree of benzene, despite high levels present at the Site. This
32 should be an objective of the RAW.

1 107. Bore locations reporting high levels of benzene generally correspond to active and/or
2 abandoned utility lines. This may raise an issue of vapor intrusion via preferential pathway (e.g.,
3 offsite source onto the Project Site or onsite source migrating offsite). Assuming bore SG-8 was a false
4 positive, bore SG-4 had the highest reading at 15 feet below ground surface (“bgs”) while all others
5 were measured at 5 feet bgs. This may raise a concern about whether the soil gas plume has been
6 adequately characterized and whether more excavation may be required beyond just the 4,945 cubic
7 yards. Due to the abovementioned issues and in furtherance of public safety, commenters urged
8 adequate vapor sampling be completed during excavation activities to confirm benzene levels are below
9 residential risk screening levels.

10 108. While the City mentioned the Stantec RAW, it failed to address these concerns in its
11 findings.

12 109. These impacts are newly disclosed and were not addressed in any previous environmental
13 review.

14 **c. Traffic Impacts**

15 110. The City concluded that there would be no VMT impacts. Yet, the traffic study provided
16 by the City considered only the small amount of VMTs generated by employees—roughly 15 percent
17 of the more than 7,000 VMTs generated by the Project. That means the study ignored the other 85
18 percent generated primarily by hotel patrons visiting from outside the area and traveling long distances
19 like LAX Airport and elsewhere. This hotel is not local or community-serving as contemplated by the
20 Community Plan EIR but rather a VMT-inducing Project.

21 111. LADOT’s Transportation Assessment Guidelines requires that “VMT impacts of hotel
22 and motel uses should evaluate the VMT impacts of both employee trips and visitor/guest trips, and
23 apply a separate impact threshold to each trip type.” (Emphasis added.) The traffic study failed to
24 comport with these guidelines.

25 112. The City should have undertaken review of these impacts resulting from the new
26 proposed use for the Project site, instead of finding that the Project was within the scope of the
27 Community Plan EIR.

28 **d. Inadequate Project Description**

29 113. CEQA requires analysis of “the whole of an action, which has a potential for resulting in
30 either a direct physical change in the environment or a reasonably foreseeable indirect physical change
31 in the environment.” (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007)
32 155 Cal.App.4th 1214, 1222.)

1 114. The City has claimed that the Project falls within the scope of the Community Plan EIR.
2 An EIR's analysis of environmental impacts is based on the project description. Accordingly, an
3 "accurate, stable, and finite project description is the sine qua non of an informative and legally
4 sufficient EIR." (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 193.) "However, a
5 curtailed, enigmatic, or unstable project description draws a red herring across the path of public input."
6 (*San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655.)

7 115. Without an accurate and complete project description, decisionmakers and the public
8 cannot fully understand a project's likely impacts on the environment.

9 116. The Community Plan EIR failed to disclose the sale of public property to a private entity.
10 Accordingly, the Project is not within the scope of the Community Plan EIR, within the meaning of
11 CEQA Guidelines section 15168.
12

13 **SECOND CAUSE OF ACTION**
14 **VIOLATION OF PLANNING AND ZONING LAW**
15

16 117. Petitioners incorporate all previous paragraphs as if fully set forth.

17 118. The Government Code imposes upon the City a clear, present and mandatory duty to
18 ensure consistency of Project approvals with the General Plan, including the Conditional Use Permit
19 and Site Plan Review.

20 **South Los Angeles Community Plan**

21 119. The South Los Angeles Community Plan (Community Plan) is the portion of the City of
22 Los Angeles General Plan containing land-use specifics for the Project Site. Planning and Zoning Law
23 prohibits the City from approving the Project unless it is consistent with applicable general-plan and
24 specific-plan policies and objectives.

25 120. The City's determination that the Project is consistent with the South Los Angeles
26 Community Plan was in error and not supported by substantial evidence.

27 121. The site is designated Community Commercial. The intent of the Community
28 Commercial land use designation is to provide a variety of retail establishments, services and amenities
29 for residents, employees and visitors of the surrounding area. The Community Plan designates the
30 areas around Vermont Avenue and Exposition Boulevard, such as the Project site, as a Community
31 Center that includes community-serving uses.

32 122. As determined by the Zoning Administrator in his March 25, 2022 determination, the

1 proposed project is not community serving but rather intends to serve destination and regional
2 attractions. It far exceeds the prevailing height limit of community serving buildings and displaces
3 opportunities to allow the publicly owned land to continue to provide community services. The project
4 fails in that its frontage is oriented to the rear-end of the destination and regional serving attractions it
5 intends to serve. University of Southern California, the Los Angeles Coliseum, the Banc of California
6 Stadium, the California Science Center and the California African American Museum are regional and
7 national serving uses which have their frontages along Figueroa Street. Also, the rear of the proposed 7-
8 story hotel building faces the adjacent residential neighborhood, which consists predominantly of one-
9 story residential buildings and 2-3 story multi-family buildings. The proposed vehicular ramps, the
10 loading/trash/storage area, and mechanical equipment are situated in close proximity to these adjacent
11 residential uses, which adversely affects their quiet enjoyment.

12 123. Further, the Project is inconsistent with the Community Plan Objectives and Policies, so
13 the City abused its discretion in approving the Project.

14 124. A number of Community Plan policies and objectives highlight the importance of
15 creating new affordable housing, especially in developments located near transit. For example:

- 16 • LU 5.6 Locate Density Appropriately. Locate higher residential densities, senior
17 citizen housing, affordable housing and mixed-income housing, when feasible, near
18 commercial centers, transit stops (e.g., near Expo Line and Green Line station areas)
19 and public service facilities.
- 20 • LU 6.9 Land Acquisition for Affordable Housing. Develop strategies to assist
21 community land trusts and affordable housing developers with property acquisition.
22 Coordinate with non-profit developers and community land trusts to take advantage
23 of off-site acquisition options.
- 24 • LU 19.3 Mixed-Income Housing. Incentivize the production of affordable and/ or
25 mixed-income housing in Transit-Oriented Districts.
- 26 • LU 19.4 Housing for Transit Users. Prioritize new housing for transit users and the
27 transit-dependent community.

28 125. Developing a luxury hotel on transit-proximate land is in direct conflict with the
29 Community Plan policy of prioritizing new housing for transit users and the transit-dependent
30 community. Developing a hotel on transit-proximate land is in direct conflict with the Community Plan
31 policy of incentivizing the production of affordable and/or mixed income housing in Transit-Oriented
32

Districts.

126. As proposed, the Hotel Project would create 168 hotel rooms, and over four thousand square feet of retail space, but zero affordable units on a site that is less than one-quarter of a mile from a major transit stop. This is counter to planning objectives to maximize affordable housing near transit. The Hotel Project's failure to provide on-site affordable housing directly contradicts the spirit and intent of numerous General Plan policies and programs.

127. There are also several policies listed in the Community Plan that aim to use city owned and vacant lots for community serving purposes, including affordable housing. Some of these policies include:

- LU 6.10 Strategic Use of Public Property. Encourage the use of public property and joint development to create 100 percent affordable and/ or supportive housing projects.
- LU 6.11 Surplus Land. Prioritize the creation of affordable housing by facilitating below-market sale or lease of surplus and other underutilized property to affordable housing developers or for the creation of new park space where there is a demonstrated need for one or the other, consistent with state law.

128. The following programs outlined in the Community Plan also direct the use of surplus and vacant city owned land to be prioritized for community serving purposes.

- Program Number 84. Vacant Lots, City-Owned. Identify city-owned vacant land and explore the potential to repurpose as open space, 100 percent affordable and/ or supportive housing developments.
- Program Number 136. Surplus Government Land. Support the re-use of former CRA-owned and surplus City-owned property in South Los Angeles for community uses, prioritizing affordable housing and park space.

129. Developing a hotel on publicly owned land is in direct conflict with the Community Plan policy of prioritizing the use of public property for affordable housing, especially when it is in close proximity to public transit. Developing a luxury hotel on former CRA-owned land is in direct conflict with the Community Plan Program to prioritize affordable housing on such land.

130. The Hotel Project also conflicts with several policies and programs outlined in the General Plan, which sets development policies for the city of Los Angeles, including South Los Angeles. The General Plan also emphasizes the use of public resources, including land, to provide desperately needed public goods such as affordable housing. For example:

- General Plan Housing Element Program 1.1.6: Add 500 rental units annually to the City of Los Angeles affordable housing stock[.]...The funding resources will include tax credit proceeds, HOME, CDBG, former CRA assets, *City-owned land* and other intermittent resources.
- General Plan Housing Element Program 1.1.8: Explore the feasibility and appropriateness of creating affordable housing requirements for projects that receive benefits from the City, including projects that receive City subsidies or City land, projects receiving zone changes that result in significantly more units than otherwise permitted, as well as projects that obtain a Development Agreement.
- General Plan Health Element Program 86: To mitigate displacement, leverage government resources (including land) to preserve the social, cultural and economic diversity of the city. Evaluate best practices to develop criteria to assess the displacement potential of low-income and vulnerable populations; identify and implement an array of mitigation tools that can preserve existing small businesses and affordable housing for low-income households; and create opportunities for low-income and vulnerable populations to access the benefits created by new development and investment in their neighborhoods.

131. Finally, the City was in the process of adopting a new General Plan Housing Element 2021-2029 at the time the project was reviewed by the Zoning Administrator. The Housing Element was officially adopted on June 14, 2022, prior to SLAAPC's review of the Project. The Housing Element included a number of policies and programs that prioritize or require affordable housing on public land. For example:

- Housing Element Policy 1.2.10: Prioritize the development of Affordable Housing on public land.
- Housing Element Program 15: Increase the utilization of public land for affordable housing... the strategy aims to develop at least 10,000 housing units affordable to households earning very low, low, or moderate incomes on public land with limited reliance on public subsidies.
- Housing Element Program 16: Pursue new models and approaches to developing affordable housing on public land...

132. The City's approval of the Project despite the continued availability of Nvision's

proposal for mixed-use affordable housing development demonstrates the City’s failure to prioritize the development of affordable housing on public land, as required by the General Plan.

133. In addition to programs and policies that call for affordable housing on public land, the Housing Element also describes a “strategic plan to create 10,000 units of equitable housing on public land within five years.” This Public Lands Program is listed as a Program in the Housing Element and the anticipated 10,000 are factored into the Adequate Sites Analysis. The City has released a Potential List of Candidate Sites for Public Lands Program, which includes the Bethune site as one of the sites intended to be used for affordable housing. It is clear that developing a hotel on this site would preclude the City from achieving the necessary goal of creating 10,000 new affordable housing units on public land and is in direct conflict with stated city policy.

Mobility Plan 2035

134. The Mobility Plan 2035 is an element of the Los Angeles General Plan, which replaced the prior General Plan Transportation Element.

135. As found by the Zoning Administrator, the proposed project does not conform with the following policies of the Mobility Plan, including but not limited to:

3.1 - Access for All: Recognize all modes of travel, including pedestrian, bicycle, transit, and vehicular modes - including goods movement - as integral components of the City’s transportation system.

3.3- Land Use Access and Mix: Promote equitable land use decisions that result in fewer vehicle trips by providing greater proximity and access to jobs, destinations, and other neighborhood services.

136. The loss of publicly-owned land for the private use for destination or regional serving purposes results in greater vehicular trips for the residents that live immediately nearby. Therefore, the proposed project is not consistent with the above goals of the Mobility Plan.

South Los Angeles Community Plan Implementation Overlay District

137. As found by the Zoning Administrator, the Project is inconsistent with the South Los Angeles Community Plan Implementation Overlay District.

138. The proposed project is in the subarea G: TOD High of the South Los Angeles Community Plan Implementation Overlay District (CPIO). “The intent of the supplemental development regulations in [the TOD Subareas] is to provide for well designed, pedestrian-oriented projects that are appropriate to the scale and context of each specific transit neighborhood. Use regulations promote the establishment of much needed uses (such as Full-Service Grocery Stores and

1 Banks), as well as incentivize 100 percent affordable housing and mixed-income housing projects to be
2 built near transit.”

3 139. While the proposed project may comply with the TOD Subarea’s limits on height and
4 floor area ratio, it does not fit within the scale and context of the community commercial district that
5 serves the nearby neighborhood.

6 140. The Project is located on the west side of Vermont Avenue. Vermont Avenue functions
7 as a boundary that demarcates the local community and its community-serving uses, and those uses or
8 attractions that serve the broader Los Angeles region that are on the east side. The local community-
9 serving uses such as the Los Angeles County Family Services Center, Los Angeles County Re-Entry
10 Opportunity Center and a local preparatory high school are situated along the west side of Vermont
11 Avenue.

12 141. Additionally, religious institutions, senior housing, and moderate-income housing and
13 community serving non-profit organizations are also situated along the west side of Vermont Avenue.
14 The building heights range from one to three stories, while the proposed project is seven stories high.

15 142. For these reasons, the Project is not consistent with the South Los Angeles Community
16 Plan Implementation Overlay District.

17 **THIRD CAUSE OF ACTION**
18 **VIOLATION OF THE LOS ANGELES MUNICIPAL CODE**
19

20 143. Petitioners incorporate all previous paragraphs as if fully set forth.

21 144. The Project includes an application for a Conditional Use Permit pursuant to Los Angeles
22 Municipal Code Section 12.24.W.24 to allow a 168-room hotel located within 500 feet of a residential
23 zone.

24 145. Under Los Angeles Municipal Code section 12.24.E, a decisionmaker shall not grant a
25 conditional use or other approval specified in Subdivision W of that section without finding: (1) that the
26 project will enhance the built environment in the surrounding neighborhood or will perform a function
27 or provide a service that is essential or beneficial to the community, city, or region; (2) that the project's
28 location, size, height, operations and other significant features will be compatible with and will not
29 adversely affect or further degrade adjacent properties, the surrounding neighborhood, or the public
30 health, welfare, and safety; and (3) that the project substantially conforms with the purpose, intent and
31 provisions of the General Plan, the applicable community plan, and any applicable specific plan.

32 146. In his March 25, 2022 determination, the Zoning Administrator denied the Conditional

1 Use Permit, on the basis that none of these three findings could be made.

2 147. The Zoning Administrator supported his findings with substantial evidence in the record.
3 (*Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506, 515.)

4 148. Real Parties were also required to seek a Site Plan Review approval under Los Angeles
5 Municipal Code section 16.05.C.1 because of the Project's creation of 50 or more guest rooms.

6 149. Under Los Angeles Municipal Code section 16.05.F, the decisionmaker must find, inter
7 alia, (1) that that the project is in substantial conformance with the purposes, intent and provisions of
8 the General Plan, applicable community plan, and any applicable specific plan and (2) that the project
9 consists of an arrangement of buildings and structures (including height, bulk and setbacks), off-street
10 parking facilities, loading areas, lighting, landscaping, trash collection, and other such pertinent
11 improvements, that is or will be compatible with existing and future development on adjacent
12 properties and neighboring properties.

13 150. Los Angeles Municipal Code section 16.05.F also requires a finding that the project
14 provides recreational and service amenities to improve habitability for its residents and minimize
15 impacts on neighboring properties is also required for residential projects; that finding is not applicable
16 here as the Project is not a residential project.

17 151. In his March 25, 2022 determination, the Zoning Administrator denied Site Plan Review,
18 on the basis that that that the project is in not substantial conformance with the purposes, intent and
19 provisions of the General Plan, applicable community plan, and any applicable specific plan and that
20 the project consists of an arrangement of buildings and structures (including height, bulk and setbacks),
21 off-street parking facilities, loading areas, lighting, landscaping, trash collection, and other such
22 pertinent improvements, that is not compatible with existing and future development on adjacent
23 properties and neighboring properties.

24 152. Following appeal by the developer, the SLAAPC agreed with the findings of the Zoning
25 Administrator, denied the appeal and upheld the Zoning Administrator's findings. SLAAPC released a
26 Letter of Determination on December 21, 2022.

27 153. Following the City Council's veto of SLAAPC's decision and assertion of jurisdiction
28 over the appeal, the City Council's Planning and Land Use Management Committee prepared revised
29 conditions and findings for the Project.

30 154. The City Council adopted these findings when it approved the Project on February 3,
31 2023. These findings are unsupported by substantial evidence.

32 155. Los Angeles Municipal Code section 12.24.I.3 requires the appellate body, when

1 considering an appeal of a conditional use determination, to make its decision, based on the record, as
2 to whether the initial decision-maker erred or abused his or her discretion. (See also *West Chandler*
3 *Boulevard Neighborhood Assn. v. City of Los Angeles* (2011) 198 Cal.App.4th 1506, 1520.)

4 156. Further, for all appellate bodies, any resolution to approve must be supported by facts in
5 the record. (Los Angeles Municipal Code § 12.24.I.5.)

6 157. At the PLUM hearing on January 31, 2023, a representative from the City's Economic
7 and Workforce Development Department gave a presentation to PLUM in support of the Project.

8 158. The revised PLUM findings erred because they did not address why the Zoning
9 Administrator's findings were allegedly incorrect pursuant to Los Angeles Municipal Code section
10 12.24.I.3. Instead, PLUM substituted its own findings.

11 159. For example, the revised findings deleted the Zoning Administrator's findings that the
12 Project was not community-serving and thus would not perform a function or provide a service that is
13 essential or beneficial to the community, city, or region. Instead, the revised findings focused on the
14 community benefits agreement proposed by the developer, which only disbursed limited amounts of
15 funds to organizations not previously involved in the administrative process.

16 160. The revised findings relied on assertions that the hotel project would meet the needs of
17 the community, despite overwhelming public testimony from community stakeholders that this project
18 was not community-serving and did not conform to the Community Plan, General Plan, and CPIO
19 district.

20 161. The revised findings in support of City Council's decision to approve Site Plan Review
21 were also in error.

22 162. These revised findings also failed to address why the Zoning Administrator's findings
23 were incorrect. (*West Chandler Boulevard Neighborhood Assn. v. City of Los Angeles* (2011) 198
24 Cal.App.4th 1506, 1520.)

25 163. The City Council's reliance on conclusory findings, without reference to the Zoning
26 Administrator's findings, cannot be the basis for its grant of the appeal.

27 164. The approval also violates Los Angeles Municipal Code sections 13.14 and 12.36. The
28 Project required a Community Plan Implementation Overlay approval pursuant to Los Angeles
29 Municipal Code section 13.14. Under Los Angeles Municipal Code section 12.36.B, an applicant must
30 "file applications at the same time for all approvals reasonably related and necessary to complete the
31 project." The failure to apply for Community Plan Implementation Overlay approval at the same time
32 as the other entitlements constitutes a violation of the Municipal Code.

1
2 **PRAYER FOR RELIEF**

3 WHEREFORE, Petitioner prays for relief as follows:

4 1. For a peremptory writ of mandate ordering the City of Los Angeles to:

5 A. To set aside the Project approvals, including but not limited to the Conditional Use
6 Permit and the Site Plan Review;

7 B. To set aside the determination that the Project is within the scope of the South Los
8 Angeles Community Plan EIR;

9 C. To suspend any and all activities pursuant to the challenged decisions, determinations,
10 and approvals that could result in an adverse change or alteration to the physical
11 environment until the City of Los Angeles has taken all actions necessary to bring the
12 Project's environmental review, decisions, and determinations into full compliance with
13 CEQA;

14 D. To prepare, circulate, review and certify a legally adequate EIR for the Project so that
15 the City will have a complete disclosure document before it, the potential significant
16 impacts of the Project will be identified for the decision-makers and public, and the City
17 will be able to formulate realistic and feasible alternatives and mitigation measures to
18 avoid those impacts;

19 E. To take such further specific action as shall be necessary to bring their decisions,
20 determinations, and approvals into full compliance with CEQA.

21 2. For an order enjoining Respondent and Real Parties in Interest from taking any action to
22 construct any portion of the Project or to develop or alter the Project site in any way that could
23 result in a significant adverse impact on the environment, or to transfer the property to private
24 parties in a way that would commit public resources, unless and until a lawful approval is
25 obtained from Respondent after the preparation and consideration of an adequate EIR and
26 adoption of all feasible alternatives and mitigation measures;

27 3. For costs of the suit;

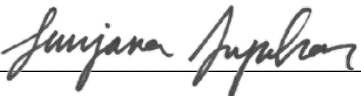
28 4. For reasonable attorneys' fees; and

29 5. For such other and further relief as the Court deems just and proper.
30
31
32

1 Dated: March 3, 2023

Respectfully Submitted,

CARSTENS, BLACK & MINTEER LLP

3
4 By: 

5 Douglas Carstens

6 Michelle Black

7 Sunjana Supekar

8 Attorney for Petitioners

1
2
3 **VERIFICATION**

4 I, Cynthia Strathmann, declare that I am Executive Director of Strategic Actions for a Just
5 Economy, Petitioner in this action, and I am authorized to make this verification. I have read the
6 foregoing Petition for Writ of Mandate and know the contents thereof, and the same is true of my own
7 knowledge.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct. Executed this 2 day of March, 2023, in Los Angeles, California.

10
11 

12
13 _____
14 Cynthia Strathmann
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EXHIBIT A

CBM

Main Office Phone:
310 - 798-2400

Direct Dial:
310-798-2400 Ext. 7

Carstens, Black & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

Sunjana Supekar
Email Address:
sss@cbcearthlaw.com

March 3, 2023

By Electronic Mail
California Attorney General
CEQA@doj.ca.gov

Re: Challenge under the California Environmental Quality Act to
the approval of the hotel project at the former Bethune Library site,
3685 South Vermont Avenue, Los Angeles, California

Honorable Attorney General:

Please find enclosed a copy of the Petition for Writ of Mandate filed to challenge the City of Los Angeles's, and its City Council's, failure to comply with the California Environmental Quality Act ("CEQA"), Planning and Zoning Law, and the Los Angeles Municipal Code in approving a seven-story, 75-foot tall 168-room hotel building totaling 101,928 square feet at the former site of the Mary McLeod Bethune Library ("Project").

This Petition is being provided pursuant to the notice provisions of the Public Resources Code. Please contact me if you have any questions.

Sincerely,



Sunjana S. Supekar

Enclosure

March 3, 2023

Page 2

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254. On March 3, 2023, I served the within documents:

LETTER TO THE CA ATTORNEY GENERAL REGARDING PETITION FOR WRIT OF MANDATE

VIA ELECTRONIC MAIL.

Based on Public Resources Code 21167 of CEQA, I caused the above-referenced document to be sent to the CA Attorney General at the following electronic address: CEQA@doj.ca.gov

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 3, 2023, at Hermosa Beach, California 90254.

Cynthia Kellman
Cynthia Kellman

SERVICE LIST
CEQA Coordinator
Office of the CA Attorney General
CEQA@doj.ca.gov

EXHIBIT B

CBM

Main Office Phone:
310 - 798-2400

Direct Dial:
310-798-2400 Ext. 7

Carstens, Black & Minter LLP
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
www.cbcearthlaw.com

Sunjana Supekar
Email Address:
sss@cbcearthlaw.com

March 2, 2023

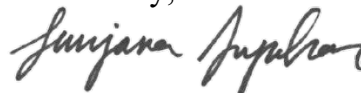
By U.S. Mail
Holly L. Wolcott
Los Angeles City Clerk
200 N. Spring Street City Hall - Room 360
Los Angeles, CA 90012

Re: Challenge under the California Environmental Quality Act to approval of hotel project at former Bethune Library site, 3685 South Vermont Avenue, Los Angeles, California (ZA-2020-55-CU-SPR-1A; ENV-2020-56-EAF)

Dear Ms. Wolcott,

Please take notice that Strategic Actions for a Just Economy plans to file a Petition for Writ of Mandate challenging the failure of the City of Los Angeles, and its City Council, (collectively, the City) to comply with the California Environmental Quality Act ("CEQA"), Planning and Zoning Law, and the Los Angeles Municipal Code in approving a seven-story, 75-foot tall 168-room hotel building totaling 101,928 square feet at the former site of the Mary McLeod Bethune Library ("Project").

Sincerely,



Sunjana Supekar

PROOF OF SERVICE

I am employed by Carstens, Black & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA 90254. On March 2, 2023 I served the within documents:

LETTER TO LOS ANGELES CITY CLERK

VIA UNITED STATES MAIL. I am readily familiar with this business' practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 2, 2023 at Hermosa Beach, California 90254.

/s/ Cynthia Kellman
Cynthia Kellman

SERVICE LIST

Holly L. Wolcott
Los Angeles City Clerk
200 N. Spring Street City Hall - Room 360
Los Angeles, CA 90012

EXHIBIT C

CARSTENS, BLACK & MINTEER LLP
Douglas P. Carstens, SBN 193439
Michelle N. Black, SBN 261962
Sunjana Supekar, SBN 328663
2200 Pacific Coast Highway, Suite 318
Hermosa Beach, CA 90254
310.798.2400; Fax 310.798.2402
dpc@cbcearthlaw.com; mnb@cbcearthlaw.com
sss@cbcearthlaw.com

Attorneys for Petitioner Strategic Actions for a Just Economy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

Strategic Actions for a Just Economy

Petitioner,

v.

City of Los Angeles, a Municipal
Corporation, City Council of the City of Los
Angeles, and DOES 1 to 100,

Respondent,

Bethune Hotel Ventures, LLC; Orion Capital,
LLC; Henry Fan; Wolff Urban Development
LLC; CRA/LA, a Designated Local Authority
and Successor for the former Community
Redevelopment Agency of Los Angeles, and
ROES 1 to 100,

Real Parties in Interest

CASE NO.:

**NOTICE OF ELECTION TO PREPARE
ADMINISTRATIVE RECORD**

(California Environmental Quality Act, Planning
and Zoning Law, Los Angeles Municipal Code)

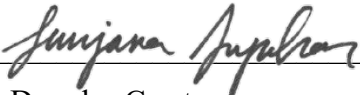
1 PLEASE TAKE NOTICE:

2 Pursuant to Public Resources Code section 21167.6, Petitioner Strategic Actions for a Just Economy
3 hereby elects to prepare the administrative record in this matter.
4

5 Dated: March 3, 2023

Respectfully Submitted,

6 CARSTENS, BLACK & MINTEER LLP
7

8 By: 
9 Douglas Carstens
10 Michelle Black
11 Sunjana Supekar
12 Attorney for Petitioners
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