JAMIE T. HALL (Bar No. 240183)
JULIAN K. QUATTLEBAUM (Bar No. 214378)
CHANNEL LAW GROUP, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211
Telephone: (310) 347-0050
Facsimile: (323) 723-3960

Attorneys for Petitioner,
COALITION FOR SAFE COASTAL DEVELOPMENT

KARA GRANT LAW
KARA E. GRANT (Bar No. 25825)
2010 W. Sumner Wind Drive
Santa Ana, CA 92704
Telephone: (949) 579-9330

Attorney for Petitioner,
LOS INDIOS DE SAN GABRIEL, INC.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – STANLEY MOSK COURTHOUSE

COALITION FOR SAFE COASTAL DEVELOPMENT, a California non-profit corporation; LOS INDIOS DE SAN GABRIEL, INC., a California non-profit corporation,

Petitioner,

vs.

CITY OF LOS ANGELES, a municipal corporation, and DOES 1-25,

Respondent,

HOLLYWOOD COMMUNITY HOUSING CORPORATION and VENICE COMMUNITY HOUSING CORPORATION, California non-profit corporations, LOS ANGELES DEPARTMENT OF TRANSPORTATION, a

Case No. 22STCP00162

VERIFIED THIRD AMENDED PETITION FOR WRIT OF MANDATE

[California Environmental Quality Act (« CEQA ») (Pub. Res. Code § 21000 et seq.) ; Code Civ. Proc. § 1094.5; Subdivision Map Act; Spot Zoning, Coastal Act/PRC Division 20, Mello Act, Measure JJJ [Govt. Code §§ 65590-65590.1 & LAMC § 11.5.11], Fair Hearing [Federal and State Constitutions, § 1094.5]; First Amendment Civil Rights [§ 1983], Tribal Consultation [AB 62], Code Civ. Proc. § 1085.]

division of Respondent CITY OF LOS ANGELES, and ROE 1, an undisclosed entity formed for the purpose of building the public parking garage on the East Site, and ROES 2-25,

Real Parties in Interest.

Petitioner, COALITION FOR SAFE COASTAL DEVELOPMENT ("Petitioner"), alleges through this Verified Third Petition for Writ of Mandate ("Petition"), as follows:

INTRODUCTION

1. Petitioner challenges the Respondent City of Los Angeles' ("City" or "Respondent") adoption of a Notice of Exemption from the California Environmental Quality Act ("CEQA"), and the related discretionary approvals (together, the "Project Approvals") for the Reese Davidson Community Project (the "Project"). As detailed herein, (a) the Project fails to qualify for the CEQA exemption claimed, and (b) because the Project required City approval of a vesting tentative tract map, the Project is not exempt from the environmental review obligations imposed by the Subdivision Map Act. These failures resulted in substantial prejudice by precluding informed public participation and fatally impairing the decision-making of the City's approving bodies, including the Advisory Agency, City Planning Commission, and the City Council itself.

2. Petitioner additionally challenges the City's Project Approvals based upon the City's failure to comply with applicable laws, including but not limited to the Subdivision Map Act, the Mello Act, and fundamental principles of constitutional due process for a fair adjudicatory appeal hearing.

3. The proposed Project Site is located between two one-way streets: North Venice Boulevard on the north, and South Venice Boulevard on the south, and is bounded by Dell Avenue on the east, and South Pacific Avenue on the west. The Project Site is bisected by the historic Grand Canal, a part of the larger Venice Canal system. Public parking is currently

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

located on the western and eastern portions of the Project Site. The eastern portion of the Project Site also contains a two-story, four-unit residential structure and a boat launch area which serves as access for recreational boating and vital maintenance of the entire Venice Canal system.

4. Currently, the Project Site is one of the largest publicly owned City of Los Angeles parking lots for users of the very popular Venice Beach. City records show that the parking revenue from this lot (Lot 731) represents approximately 5% of all parking revenue from all City parking lots. The portion of Lot 731 west of Grand Canal contains approximately 40 percent of the public parking on the Project Site immediately adjacent to Venice Beach. The larger portion of Lot 731 to the east of Grand Canal contains approximately 60 percent of the public parking for the Project Site. The combined area of Lot 731 is low-lying and zoned for Open Space. As a practical matter, Lot 731 functions as a protective containment area for high tidal flooding, and even for tsunami inundation flood waters and, if developed as proposed, could divert flood or tsunami waters into the adjoining Venice Canals area, thus exacerbating property damage and threatening the safety of area residents.

5. The Project requires the demolition of Lot 731 (containing 196 vehicular parking spaces) and demolition of a two-story, four-unit residential apartment structure owned by the City (all units are occupied by senior/low-income residents), and the construction, use and maintenance of a 104,140-square foot, mixed-use, 100 percent affordable housing development (a 36,340 square-foot structure west of Grand Canal (the "West Site") and a 67,800 square-foot, structure east of Grand Canal (the "East Site") consisting of a total of 140 residential dwelling units (136 restricted affordable dwelling units and 4 unrestricted Manager Units), 685 square feet of office uses, 2,255 square feet of retail uses, 810 square feet of restaurant uses with 500 square feet of outdoor Service Floor area, and 3,155 square feet of community arts center/art studio uses distributed in both structures. This only describes the habitable portions of the project. In the middle of the West and East Sites, the habitable portions wrap around two additional parking garage structures. The one on the West Site will house parking for residents, retail users,

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

restaurant users, art studio users, and only two parking spaces for recreational users of the Venice Canal. The one on the East Site will house parking to replace the demolished 196 public parking lot spaces by the destruction of the existing Open Space publicly owned facility, and additional Beach Impact Zone and other parking spaces. The Project is most accurately described as a residential housing/commercial mixed-use Project with approximately 111,800 square feet of parking garages. Thus, the combined effect on the environment is the construction of approximately 215,940 square feet of structures crammed onto the former open space, and without any widening of critical beach access sidewalks.

6. The structure on the West Site would be three stories and 35 feet high with a 59 foot-tall architectural campanile with a roof access structure located at the northwest corner of the Project Site, resulting in a five-story structure at that location in excess of 67 feet in height. The campanile will include a roof top deck of approximately 685 square feet. The structure on the East Site would be three stories and well in excess of 35 feet in height, up to at least 45 feet in places because of the height of automatic lift parking structures and solar panel structures permanently affixed to the roof of the parking structures. The two residential structures would wrap"Texas donut style," around two parking structures located in the center of the West Site and East Site. Real Parties in Interest Hollywood Community Housing Corporation and Venice Community Housing Corporation would develop the residential housing/commercial mixed-use project on a legal subdivision of City-owned land underlying the parking lots on a 99-year land leasehold. The leasehold area would be the "donut" rings of the Project on the West Site and East Site, and the Los Angeles Department of Transportation ("LADOT")-owned land on the East Site will be the "donut" hole of land the public parking garage will be built upon.

7. The precise details of the parking structures to be developed remains shrouded in secrecy, primarily by reason of the ongoing refusal by the LADOT to release public documents related to the development, construction, ownership and operation of the East Site public parking structure. Petitioner is informed and believes, and thereon alleges that the East Site public

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

parking structure would be independently owned, constructed, financed, developed, and operated by or for LADOT. Alternatively, Petitioner is informed and believes, and thereon alleges that an undisclosed public/private partnership entity, would somehow obtain and exercise dominion over the portion of the land use entitlements granted to Real Parties Hollywood Community Housing Corporation and Venice Community Housing Corporation related to the East parking structure. In other words, the Project description in officially released documents grants entitlements to Hollywood Community Housing Corporation and Venice Community Housing Corporation, but, in reality, those entities would not develop, build, own or operate the East Site public parking structure located on the "donut hole" land. Additionally, Petitioner is informed and believes, and thereon alleges that the City and Real Parties have structured the project description and land use entitlement recipients to attempt to rationalize characterizing the "Texas donut" residential/commercial mixed-use buildings and the "Texas donut hole" East Site public parking structure project as a single project completely exempt from environmental review.

8. Plans submitted to the City show that the combined non-public and public parking structures will provide a total of 360 on-site automobile parking spaces comprising of 61 residential spaces, 42 commercial spaces, 196 public spaces (replacing the current parking spaces of Lot No. 731), 23 Beach Impact Zone (BIZ) spaces and 38 non-required spaces; and 136 bicycle parking spaces (19 short-term and 117 long-term).

9. The combined residential project and parking structure project would require the export of 9,100 cubic yards of building material and soil; the removal of 24 on-site trees and 11 non-protected street trees; and substantial modifications to the canal access boat ramp at the Grand Canal. The City's project description fails to distinguish how much soil/debris removal, and what tree removals are attributable to the East Site public parking structure developed by LADOT versus the residential/commercial mixed-use and non-public parking components of the Project developed by Hollywood Community Housing Corporation and Venice Community Housing Corporation throughout the Project Site.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

10. The unit mix of the residential component of the Project underscores that only a portion of the Project is to include housing units occupied by formerly homeless residents receiving supportive housing services. In fact, the Developer is providing the absolute bare minimum of supportive housing units required by law. The Developer provided this summary: "The residential component of the Project will consist of 68 units reserved for low-income formerly homeless households (permanent supportive housing); 34 affordable units for low-income artists, including live/work studios on the ground floor; 34 affordable units for lower-income households; and 4 units for on-site property management staff." Accordingly, a majority of the units of the Project are not committed to permanent supportive housing to help alleviate homelessness, yet it is the homelessness components that are touted to the public, press, and decision makers as rationalizing such additional unnecessary commercial land uses injected into the middle of a formerly residential and open space/public facility community.

11. The City's actions and the Project Approvals come amid alarms rung by the City Controller in two official audits and by others that the City's Proposition HHH affordable housing program is mired in obscenely high costs per unit developed using the ground up construction method chosen by the City, instead of faster and less costly alternatives like adaptive redevelopment of existing hotels, motels, and former commercial or industrial buildings. Indeed, Petitioner estimates, based in part upon the developer's own data, that each 460 square foot unit of Supportive Housing in the Project will cost as much as $824,448, not including possible overage costs common in such construction projects. These high costs undermine the public's confidence in the City's affordable housing strategies, especially when built to house the disabled and formerly homeless persons in a sensitive, high-water table zone, FEMA Special Flood Hazard Zone, Methane Gas Hazard Zone, and tsunami inundation zone without any environmental review showing methane mitigation systems would work if confronted with potentially catastrophic ground water and sea level rise.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

12. In fact, as first reported by the Westside Current website, due to concerns about the boondoggle aspects of the Project, in October 2021, Sonya Reese Greenland, great granddaughter of Arthur Reese, a Black visionary involved with Abbot Kinney in the creation of Venice Beach, demanded in a letter to Venice Community Housing Corporation that her grandfather's name be removed from the Project. Ms. Reese Greenland contended in her letter that "her grandfather would oppose the project, among other reasons, because of its cost and the large amount of space it will occupy, arguing it would create congestion and infringe on public access to the beach."

13. Also as noted by the Westside Current, after Reese Greenland's letter was published, Evan Hines, the son of Gregory Hines – a Tony Award-winning choreographer, dancer and actor who lived in Venice and was intended to be the namesake of the project's commercial land use community arts center –also demanded the removal of that family name. The facile paternalism exhibited by Councilmember Bonin and other proponents of the Project by exploiting the names and legacies of Mr. Reese and Mr. Hines without obtaining (or even seeking) the permission of their families speaks volumes.

14. While Councilmember Mike Bonin and entitlement counsel for the developers claim the opponents to the Project are a "small group," the list of prominent opponents has grown exponentially, with more than 1,000 people submitting objection letters to the Project during the administrative process, and thousands more signing petitions to recall City Council member Mike Bonin due in part to his obsessive efforts to spend nearly $100 million of taxpayer monies to build this Project on one of the lowest and most flood vulnerable sites available within the City. When the City Clerk recently announced the recall allegedly fell just short of enough signatures to trigger a recall election, Mr. Bonin announced he would not run for reelection. If that sounds odd, Petitioner is informed and believes and thereon alleges that actually there were sufficient signatures for a recall and that City Hall operatives agreed to aggressively disqualify more signatures to "save face" if the Council member agreed to not run for reelection. Given

Councilmember Bonin's history of deciding himself to build housing at this valuable City-owned site, his contentious relationship with anyone opposing his "vision" for the site, his pushing through City Council of a motion directing the Los Angeles Department of Transportation to release an RFP to develop affordable housing on the site (when that Department has no jurisdiction over affordable housing, just off-street parking facilities), his baseless accusation that community persons placed bomb-like devices to intimidate his affordable house vision, his likely lobbying council colleagues to support the Project outside the adjudicatory hearing, his conduct at the hearing as advocate for the Project instead of a reasonably impartial and non-interested reviewer, all demonstrate his long embroilment in the Project fatally tainted the fairness of the final Project appeal hearings. Accordingly, the community will be left with the legacy of the "vision" of a failed lame duck politician as he continues to force his ill-conceived ideas about where to site supportive housing in Venice in the face of such vocal objections.

15. Petitioner seeks a Peremptory Writ of Mandate under California Code of Civil Procedure §1094.5 and § 1085 from this Court commanding Respondent to vacate, set aside, rescind and void the adoption of the Notice of Exemption from CEQA, and all of the Project Approvals adopted by the Respondent based upon failures to comply with CEQA, and a failure to proceed in a manner required by law.

PARTIES

16. Petitioner Coalition for Safe Coastal Development is a California non-profit corporation, based in Los Angeles. Petitioner was recently formed out of concerns related to the City of Los Angeles' consideration and potential approval of inappropriate development in the coastal zone that erodes Venice's unique community character, impedes beach access, and imperils the safety of existing residents, including from Sea Level Rise impacts and degraded emergency relief access. Petitioner includes and represents property owners, tenants, renters in the City-owned apartments on-site, business owners, and community organizations composed of persons with constitutionally or statutorily protected rights of procedural due process in the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

City's conduct of hearings on matters including the Project.

17. All of the supporters of the Coalition, whose interests are represented by the Coalition in this litigation, include landowners and tenants who live on site, across the street, within the adjoining Venice Canal area, and all of whom will be affected, displaced, or imperiled by the Project's modification of beach and waterway access facilities, including possible diversion of flood waters and sea level rising into adjacent waterways, street traffic and idling vehicle impacts, including but not limited to the parking garage design, and impaired California constitutionally-guaranteed beach access in the Coastal Zone. During the administrative appeal process before the City, another community group named Venice Vision was the lead land use appellant whose adjudicatory or quasi-judicial hearing at the City Council's December 1, 2021 hearing entitled all affected landowners and tenants represented by the Coalition in this action to the protections of a fair hearing and constitutional due process at that hearing.

18. Petitioner Los Indios de San Gabriel, Inc., a California non-profit corporation, is the tribal entity through which The Gabrieleno Band of Mission Indians – Kizh Nation ("Tribe") conducts monitoring work to protect its tribal cultural resources (TCRs). The Tribe is a Native American tribe recognized by the State of California with ancestral ties to the location of the project at issue and surrounding areas. Through this lawsuit, the Tribe is attempting to protect its rights and its cultural resources because the City and Real Parties propose to dig, trench, and grade without complying with the mitigations requested by the Tribe to mitigate the substantial adverse impacts of the Tribe's TCRs. The City has refused to engage in the required consultation with the Tribe and did not condition the project with the requested mitigation. Absent immediate injunctive relief, Petitioner Los Indios de San Gabriel, Inc. will be irreparably injured and left without any remedy, much less an adequate remedy. Petitioner Los Indios de San Gabriel, Inc. asserts that the City failed to comply with the AB 52 consultation process as outlined in the Eighth Cause of Action.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

19. Petitioner Coalition's supporters, and a coalition of advocacy groups and individuals commented on the City's proposed Notice of Exemption from CEQA, and compliance issues related to other laws, including but not limited to the Coastal Act, State Subdivision Map Act, Mello Act, Tribal Consultation law, publicly harmful spot zoning, and constitutional fair hearing/free speech issues, and accordingly have a direct and substantial beneficial interest in ensuring that Respondent complies with laws relating to environmental protection and all other applicable laws and constitutional matters, particularly in the sensitive areas of the coastal zone. Petitioner and a coalition of advocacy groups and individuals whose interests are represented in this litigation are adversely affected by Respondents' failure to comply with CEQA and all other applicable laws in approving the Project. Petitioner has standing to assert the claims raised in this Petition because Petitioner and a coalition of advocacy groups and individuals' environmental, public health, and safety interests are directly and adversely affected by Respondent's approval of the Project.

20. Respondent, City of Los Angeles, is charter city incorporated under the laws of the State of California. The City is the lead agency under the California Environmental Quality Act ("CEQA") and responsible for full compliance with applicable local, state and federal laws and constitutional provisions in connection with the Project.

21. Petitioner is ignorant of the true names and capacities of additional Respondents sued herein as DOES 1-25, inclusive, and therefore sues these Respondents by such fictitious names. Petitioner will amend this Petition to allege the true names and capacities of fictitiously named Respondents. Petitioner is informed and believes and thereon alleges that each Respondent designated herein as a DOE has some responsibility for the events and failures to comply with law alleged in this Petition.

22. Real Party in Interest Hollywood Community Housing Corporation is a non-profit California corporation.

23. Real Party in Interest Venice Community Housing Corporation is a non-profit California corporation.

24. Petitioner is informed and believes, and thereon alleges that Hollywood Community Housing Corporation and Venice Housing Corporation are co-applicants for the Project and were granted the Project Approvals challenged in this lawsuit ("Named Real Parties").

25. Real Party in Interest City of Los Angeles Department of Transportation ("LADOT") is a division of Respondent City of Los Angeles, and has an interest in this lawsuit because the East Site parking structure will be transferred to ownership and operation of LADOT at the conclusion of the construction of the East parking structure. In addition, some documents released by LADOT suggest that it will be designated "lead agency" among City Departments responsible to construct the East Site public parking garage. LADOT is seeking or has obtained within internal City budgeting processes, a commitment of $19,492,862 over two fiscal years from the Municipal Improvement Corporation of Los Angeles ("MICLA" to construct the public parking garage for itself.) LADOT filed no application for the entitlements for itself to construct the public parking garage, and initiated no environmental review of the parking garage project it seeks to build, yet it appears to be proceeded to either building the East Site public parking garage itself, or using a Public/Private Partnership Entity.

26. Potential Real Party in Interest ROE 1 may be a publicly undisclosed entity proposed in meetings between City officials and representatives of the Named Real Parties in Interest. In an email communication in the administrative record of this case, City officials and the Named Real Parties in Interest discussed formation of a Limited Liability Corporation to provide "turn key services" to build all or a portion of the East Site parking structure. Petitioner is informed and believes, and thereon alleges that upon completion of construction, this Public/Private Partnership may turn the parking facilities over to the LADOT for operation, or may operate the facility for the City under contract.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

27. Petitioner is informed and believes, and thereon alleges that LADOT and ROE 1 were not applicants for the land use entitlements to construct the East Site parking structure because such disclosure would reveal the separate City development, financing, construction and operation of the East Site parking structure from the residential housing/commercial mixed-use project for which the City Planning Department proposed an exemption from CEQA.

28. Petitioner's supporters and other interested organizations and persons made oral and written comments on the Project and raised the legal deficiencies asserted in this Petition, to the extent the City released information to enable informed comment and objections about the Project.

JURISDICTION AND VENUE

29. This Court has jurisdiction over the writ action under section 1094.5 of the Code of Civil Procedure, and sections 21168 and 21168.5 of the Public Resources Code.

30. This Court also has jurisdiction over the writ action under section 1085 of the Code of Civil Procedure.

31. Venue for this action properly lies in the Los Angeles Superior Court because Respondent and the Project are located in Los Angeles County.

PROJECT BACKGROUND, ENVIRONMENTAL REVIEW AND APPROVAL

32. On May 24, 2016, the City Council, in Council File 15-1138-S9, adopted a motion of Council member Mike Bonin to instruct the Department of Transportation, with assistance of the Housing Department, to issue a Request for Proposals to develop City Parking Lot 731 with an affordable housing project. Mr. Bonin's motion directed that any project proposed would comply with the Venice Coastal Zone Specific Plan, which indicated an intent that any project would comply with, not require massive modification to, the City's planning laws – especially the Specific Plan. The motion also required that it "include elements to ensure neighborhoods compatibility" and that the applicant "undertake significant community outreach leading up to and during the project's entitlement process."

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

33. Petitioner is informed and believes, and thereon alleges that during the preparation of the RFP for the Lot 731 site, Councilmember Bonin and his staff engaged in input and revisions to the RFP acting as if the Project was their own because it was located on a City-owned lot within the Council District. Such involvement at the early stages of the RFP process, if it occurred, would be consistent with a long practice at Los Angeles City Hall that Councilmembers are expected to defer to the desires of the Councilmember in whose district a development project lies. In this sense, the Project has been regarded by the Councilmember and his staff as "their Project." Petitioner is informed and believes, and thereon alleges that Councilmember Bonin or his staff provided internal information to some proposers they favored to win the RFP process.

34. Following responses to the RFP on September 15, 2016, the City selected a proposal by Hollywood Community Housing Corporation and Venice Community Housing Corporation for an Exclusive Negotiating Agreement as the selected developer of the affordable housing and associated replacement parking garage.

35. The Project Site is zoned OS-1XL-O and has a land use designation of Open Space. The 1XL designation indicates the project site currently has a building height limitation of 30 feet and two stories. The O designation indicates that it is in an Oil Drilling District. The Project Site is located within multiple hazards zones including: a methane zone, a liquefaction zone, and a tsunami inundation zone. The project site is within the Venice Canals and North Venice Subareas of the Venice Coastal Zone Specific Plan, the Venice Community Plan, and the Certified Venice Local Coastal Program Land Use Plan.

36. During the public outreach process for the Project, Councilmember Bonin was angered by those who questioned the wisdom of appropriating valuable City owned space and parking facilities for the Project due to its low-lying vulnerability to flooding and Sea Level Rise. During this time, Councilmember Bonin clashed with community members and the elected Venice Neighborhood Council about his policy initiatives, including this Project. The public

input process produced little if any change to the Project the developers first proposed.

37. In December 2018, Hollywood Community Housing Corporation and Venice Community Housing Corporation (collectively "Developer") filed as co-applicants for the Project. As proposed, the project is inconsistent with existing site zoning and all three of these existing Plans. The Project therefore required the following approvals:

(A) Pursuant to Los Angeles Municipal Code (LAMC) Sections 17.03, 17.06, and 17.15, a Vesting Tentative Tract Map, VTT No. 82288, for the merger and re-subdivision of 40 existing lots into two master ground lots and seven airspace lots;

(B) Pursuant to Los Angeles Municipal Code Section 17.53-D, a Waiver of Dedication and/or Improvements to waive the requirement to (a) dedicate 20.5 feet to complete a 43-foot half right-of-way along Pacific Avenue, (b) dedicate a 15-foot by 15-foot corner cut at the intersection of South Venice Boulevard and Pacific Avenue, (c) dedicate a 15-foot by 15-foot corner cut at the intersection of North Venice Boulevard and Pacific Avenue, (d) dedicate a 15-foot by 15-foot corner cut at the intersection of South Venice Boulevard and Dell Avenue, and (e) dedicate 10 feet to complete a 30-foot half right-of-way along Dell Avenue;

(C) Pursuant to Los Angeles City Charter Section 555 and LAMC Section 11.5.6, a General Plan Amendment to the: (a) Venice Community Plan General Plan Land Use Map to amend the land use designation of the subject site from Open Space and Low Medium II Multiple Family Residential to Neighborhood Commercial; (b) Certified Venice Local Coastal Program Land Use Plan (LUP) maps to amend the land use designation of the subject site from Open Space and Low Medium II Multiple Family Residential to Neighborhood Commercial, and (c) Certified Venice Local Coastal Program Land Use Plan (LUP) text pertaining to the proposed development;

(D) Pursuant to LAMC Section 12.32 F, a Vesting Zone Change and Height District

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Change from OS-1XL-O to (T)(Q)C2-1L-O;

(E) Pursuant to LAMC Section 11.5.11(e) and California Government Code 65915(k), the following three Developer Incentives to permits (1) reduced residential parking pursuant to AB744, (2) the required residential parking for the building on the East Site to be located in the building on the West Site, and (3) RAS3 side and rear yard requirements per LAMC 12.10.5 in lieu of the yard requirements in the proposed C2 zone;

(F) Pursuant to LAMC Section 11.5.7 G, a Specific Plan Amendment to the Venice Coastal Zone Specific Plan to (1) Create a new subarea "Subarea A" to permit a Permanent Supportive Housing project that includes Restricted Affordable housing units with supportive services and establishes Land Use Regulations and Development Standards and (2) amend the Map Exhibits to add the new subarea and change the zoning from OS-1XL and RD1.5 to C2-1L- O for the new subarea;

(G) Pursuant to LAMC Section 11.5.7 C, a Project Permit Compliance Review for a project within the Venice Coastal Zone Specific Plan;

(H) Pursuant to LAMC Section 12.20.2, a Coastal Development Permit for a Project located within the Dual Permit Jurisdiction of the California Coastal Zone;

(I) Pursuant to Government Code Sections 65590 and 65590.1 and the City of Los Angeles Interim Mello Act Compliance Administrative Procedures, a Mello Act Compliance Review for demolition of four Residential Units and the construction of 140 Residential Units in the Coastal Zone; and

(J) Pursuant to LAMC Section 16.05, Site Plan Review for a Project which creates or results in an increase of 50 or more dwelling units.

Thus, the Project as proposed is inconsistent with almost every applicable City plan and zoning law from the fundamental General Plan down to even routine street dedications.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

38. On December 18, 2018, the City issued an Initial Study and Notice of Preparation of an Environmental Impact Report for the Project. The Initial Study identified sixteen (16) environmental subject areas where the Project could generate significant negative environmental impacts. The NOP observed: "Based on an Initial Study, the Project could have potentially significant environmental impacts in the following topic areas, which will be addressed in the EIR: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Transportation and Traffic, Tribal Cultural Resources, Utilities and Service Systems (including water and wastewater), Energy Conservation and Infrastructure."

39. On January 14, 2019, the City conducted an open house regarding the notice of preparation. Community members expressed concern about the concept of using low lying open space parking lots that provide the most critical beach access to an estimated 10 million people who visit Venice Beach each year. There were immediate concerns expressed about the diversion of tidal flood or tsunami surge waters into the adjoining properties and the historic Venice Canal area with the Project occupying the open space of the surface parking.

40. Thereafter the City and Developer began working on environmental studies that would inform the Environmental Impact Report, the public, and City decision makers about the Project.

41. However, as has been a common strategy at Los Angeles City Hall, particularly in an era of openly corrupt practices that have led to City Councilmembers and Mayoral staff pleading guilty or standing trial for bribery by real estate developers, and high officials in the City Attorney's office pleading guilty to extortion in connection with an effort to hide from taxpayers a collusive class action lawsuit intended to allow the City to "settle on its own terms," Mayor Eric Garcetti asked Assembly Member Miguel Santiago to sponsor legislation to grant a CEQA exemption to projects involving emergency shelters and supportive housing.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

42. The proposal received considerable pushback from the Legislative staff. The state Senate Staff warned the Legislature that the grant of such an exemption would risk a disjointed and ill-informed decision-making process that CEQA provides for complex versions of these types of projects. The Senate bill analysis observed:

> "Often groups will seek a CEQA exemption in order to expedite construction of a particular type of project and reduce costs. In this case, a use by right CEQA exemption is sought to avoid "Not In My Backyard" (NIMBY) opponents of a supportive housing or emergency shelter development. Providing an exemption, however, can overlook the benefits of environmental review: to inform decisionmakers and the public about project impacts, identify ways to avoid or significantly reduce environmental damage, prevent environmental damage by requiring feasible alternatives or mitigation measures, disclose to the public reasons why an agency approved a project if significant environmental effects are involved, involve public agencies in the process, and increase public participation in the environmental review and the planning processes.
>
> Even though the ultimate goal is to build supportive housing and emergency shelters as quickly as possible, and not allow projects to be delayed by NIMBY opponents, CEQA ensures that projects are approved in accordance with informed and responsible decision-making. It ensures that decisionmakers, project proponents, and the public know of the potential short-term, long-term, and maybe permanent environmental consequences of a particular project before it is approved. CEQA gives local governments and project proponents the opportunity to examine the environmental impacts in context of one another and to mitigate, or avoid if possible, those impacts."

43. The exemption was narrowed in negotiations, permitting the exemption for qualified supportive housing projects. However, even after legislators were warned by staff of the potentially disastrous consequences of major shelter and supportive housing projects

impacting other important public policy areas, a modified version was passed as special legislation for only the City of Los Angeles on an urgency basis -- meaning the bill received less than the usual scrutiny by affected members of the public. Accordingly, Mr. Garcetti got the exemption from the benefits of the informed CEQA decision making process when, on September 26, 2019, the Governor signed AB 1197. It added and repealed section 21080.27 of the Public Resources Code.

44. As set forth herein, the Project does not meet all the requirements for the new CEQA exemption. But even if it did, for truly major projects, like the Project in this case that also requires a tract map, the Subdivision Map Act and Coastal Development Permit also mandates that a decision-making body prepare comparable environmental studies to those required under CEQA to evaluate Project environmental impacts, make findings, and impose mitigation conditions. Refusal or failures to study environmental impacts under the Subdivision Map Act and the Coastal Act are equally a failure to proceed in accordance with law. As set forth herein, the City failed to study at all key environmental issues, used outdated data and maps, and skirted accountability for protecting the surrounding community from obvious environmental issues **that should have been studied and mitigated**.

45. The City and Developer halted preparation of a Draft EIR for the Project, and instead drafted a proposed Notice of Exemption claiming that the entire Project, including all the unnecessary commercial land uses, met the requirements for a "supportive housing" exemption of the Project from any CEQA review. Soon thereafter, the City abandoned its tribal consultation obligations, erroneously claiming the CEQA exemption excused consultation.

46. On January 13, 2021, the City conducted a joint Deputy Advisory Agency and Hearing Officer Hearing for the Project.

47. On February 2, 2021, the Deputy Advisory Agency issued an approval of the Vesting Tentative Tract Map No. 82288 for the Project. As set forth herein, the Deputy Advisory Agency decision failed to analyze critical environmental concerns raised, and the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

findings the project complies with the requirements of the Subdivision Map Act are not supported with any evidence, let alone substantial evidence, related to these critical environmental, health and safety issues.

48. On February 16, 2021, a timely appeal of the Deputy Advisory Agency Letter of Determination approving Tract Map No. 82288 was filed by Venice Vision.

49. City emails in late April 2021, reveal that Real Parties Venice and Hollywood Community Housing Corporations and LADOT continued to design and revise plans for the East Site public parking garage after the Advisory Agency approved plans dated January 7, 2020. Petitioner is informed and believes, and thereon alleges that Real Party co-applicants and LADOT knew in May 2021 that the LADOT conceptual garage plans remained unfinished and that the height of the garage building violated the height limits proposed, yet they allowed the City Planning staff to schedule the first hearing on land use entitlements and appeal of the Advisory Agency decision despite the ongoing unfinished state of the conceptual design plans. Thus, using Project conceptual plans dated May 12, 2021 that the Advisory Agency never saw, which, undisclosed to City decisionmakers or the public, were not final plans the co-applicants and LADOT intended to build, the matter was scheduled for hearing at the City Planning Commission.

50. On May 26, 2021, the City Planning Commission conducted a joint hearing of Venice Vision's appeal of the Deputy Advisory Agency's approval of the Vesting Tentative Tract Map and consideration of proposed land use entitlements for the Project. The City Planning Commission, among all things before it that day, approved or recommended the City Council approve, the May 21, 2021 conceptual plans marked as "Exhibit A", a zone change ordinance, and an ordinance amending the Venice Coastal Zone Specific Plan ("VCZSP").

51. On July 13, 2021, the City Planning Commission issued a Letter of Determination denying the appeal of the Vesting Tentative Tract Map and approving the same.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

52. On or about July 13, 2021 the City Planning Commission also issued a Letter of Determination approving the land use entitlements for the Project.

53. On July 22, 2021, Venice Vision filed a timely appeal to the City Council of the City Planning Commission's approval of the Vesting Tentative Tract Map and use of a Notice of Exemption from CEQA.

54. On August 2, 2021, Venice Vision filed a timely appeal of the quasi-judicial land use entitlements to City Council.

55. Upon the filing of the appeals, City Planning transmitted to the City Council file the July 13, 2021 City Planning Commission Letter of Determination with its general plan and land use plan resolutions, the proposed zone change ordinance, the proposed specific plan amendment ordinance, and other related documents.

56. The Planning and Land Use Management Committee scheduled and then did not hear the Venice Vision appeals and public appeal testimony on the following dates: August 17, 2021, October 5, 2021, and November 2, 2021. On November 2, 2021, the PLUM Committee continued the appeal hearing and land use entitlements to December 7, 2021. Petitioner is informed and believes, and thereon alleges that immediately thereafter, Councilmember Mike Bonin personally intervened to request that Councilmember Marquese Dawson-Harris, Chair of the PLUM Committee, waive (i.e., cancel) the appeal hearing out of the PLUM Committee so that the matter could be directly placed on the City Council meeting agenda **where Mr. Bonin would take the lead as the Councilmember in whose district the Project is situated**. On November 9, 2021, the Chair of the PLUM Committee agreed to waive the appeal hearing and land use entitlement items of business out of PLUM Committee.

57. On November 15, 2021, the City Clerk scheduled the matter in City Council for December 1, 2021, but failed to place the hearing in the section of the City Council meeting agenda for Items for Which Public Hearing Is Required. Instead, the items were erroneously treated as any item of Council business that had not had public comment at the Council

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Committee level. Even though the City mailed notice of a public hearing required by law for the land use appeals, the land use appeals were placed in a section of the meeting agenda for items that had no public comment at any City Council Committee.

58. On December 1, 2021, the City Council called the two items of business related to the appeals of the Vesting Tentative Tract Map and the discretionary project entitlements. The Council announced the items would be heard together. As detailed herein, City Council improperly conducted the adjudicatory or quasi-judicial hearing mixed into the general public comments on all other items on the City Council meeting agenda. When the Project item came before the City Council, there was no presentation of the Project by City staff, and the Real Parties made no appearance to defend their Project in the face of the land use appeal. Mr. Bonin was the only Councilmember who spoke at the hearing, and he leapt to his feet to present the Project like an advocate, and denigrate project opponents. That day, Mr. Bonin submitted two motions to deny the appeal and approve the Project. The text of the motions expressly included City Council approval of the two proposed ordinances related to the zone change and the Venice Coastal Zone Specific Plan. Thereafter, the Project was approved by the City Council without a single question, but Council Member Joe Busciano abstained from voting which was consistent with his prior public statements this Project is a wasteful use of public funds due to the high cost of the units.

59. The City filed a Notice of Exemption with the County Recorder on December 9, 2021. This litigation is timely filed.

60. Petitioner is informed and believes, and thereon alleges that pursuant to the mandatory duty imposed upon her by City Charter Section 250(b), the City Clerk signed and presented both the zone change and specific plan amendment ordinances to the Mayor for consideration. Petitioner is informed and believes, and thereon alleges that pursuant to the mandatory duty imposed upon the Mayor to either approve or veto the ordinances, on December 11, 2021, the Mayor signed the zone change ordinance, but to this day took no action on the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

specific plan amendment ordinance. By operation of law, the failure of the Mayor to veto the specific plan ordinance resulted in that ordinance being deemed approved by the Mayor.

61. On December 16, 2021, the City Clerk published the zone change ordinance adopted by City Council on December 1, 2021 in the Daily Journal, but failed to publish the specific plan ordinance adopted by City Council on December 1, 2021 in the same City Council action, and showing that it had been deemed approved by the Mayor.

62. On January 16, 2022, the City Clerk placed the fully executed copy of the zone change ordinance into the City Council File, signed and certified by the Clerk and executed by the Mayor. The zone change ordinance was not and need not have been signed by the City Attorney. Up until the filing of this amended pleading, in dereliction of her duty, the Clerk has failed to publish, certify or promulgate the executed version of the specific plan ordinance also adopted by the City Council on December 1, 2021.

63. On January 25, 2022, Councilmember Mike Bonin submitted in City Council a motion to rescind the December 1, 2021 resolutions related to the General Plan Amendment and Land Use Plan amendment, observing the maps associated with those matters contained alleged errors. The motion proposed to revise the maps following City Charter Section 558's requirement of a referral of any proposed plan amendments to the City Planning Commission for review and recommendation. Mr. Bonin failed to propose any revisions to the specific plan amendment ordinance adopted by City Council on December 1, 2021 and deemed approved by the Mayor when he failed to sign it, even though it also included attached maps related to the Project that may have contained similar map errors.

64. On February 1, 2022, over objections of the community, the PLUM Committee recommended the City Council rescind the General Plan and Land Use Plan amendments adopted by the City Council on December 1, 2021, proposed revisions to the plan maps, and referred consideration of these proposed modified land use entitlements to the City Planning Commission for recommendation. On February 2, 2022, over objections and a "no" vote by

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Councilmember Busciano, the City Council adopted the proposed rescissions of the General Plan and Land Use Plan amendments for the Project. The City Council failed to similarly rescind the specific plan ordinance adopted on December 1, 2021 and allowed to become law without the Mayor's signature, and similarly refer it for revisions and recommendation of the City Planning Commission.

65. Petitioner is informed and believes, and thereon alleges that on February 2, 2022, following the PLUM Meeting, the City Clerk made viewable by the public a City Attorney Report back dated to February 1, 2022, and with a revised specific plan ordinance attached. A comparison of the City Attorney's revised specific plan ordinance to the version of the specific plan ordinance adopted by the City Council on December 1, 2021 reveals they were substantively different, and therefore the City Attorney was proposing approval of additional amendments to the specific plan from the version adopted by City Council on December 1, 2021 and that became final without the Mayor's signature.

66. The City Attorney claimed in his report that his attached specific plan ordinance was brought forward in furtherance of the City Council's actions on December 1, 2021. This claim by the City Attorney, suggesting that on December 1, 2021, the City Council did not intend to adopt the July 13, 2021 version of the specific plan amendment as its final action has no support in the Council File. The specific plan amendment ordinance was adopted as final on December 1, 2021, just as the zone change ordinance was adopted as final. No direction was given by City Council to the City Attorney on December 1, 2021 to modify the July 13, 2021 ordinance version before the City Council. Therefore, the City Attorney's procedural narrative of the course of the specific plan amendment is, at best, erroneous and inaccurate.

67. Petitioner is informed and believes, and thereon alleges that at some time after the December 1, 2021 City Council approval of the July 13, 2021 specific plan ordinance, City officials discovered its exhibits and maps also were deficient, and based upon that, City officials decided to act as though the December 1, 2021 specific plan ordinance adoption was not final, so

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

they could slip the amendments into a City Attorney's Report instead of complying with City Charter Section 558(a)(2)'s mandatory duty to submit proposed amendments of specific plans to the City Planning Commission for recommendation.

68. On February 24, 2022, the City Planning Commission considered the proposed adoption of the revised General Plan Amendment and Land Use Plan resolutions referred to it by the City Council's February 2, 2022 action, and over objections, recommended City Council adopt the new General Plan Amendment and Land Use Plan resolutions. The City Planning Commission did not review or make recommendations regarding the further revised specific plan ordinance attached to the backdated February 1, 2022 City Attorney Report because the City Council failed to refer it to the Commission.

69. Had a proper environmental review been conducted of the Project over the years, the City would have publicly circulated an environmental document containing a copy of the geology and soils reports it relied upon. It was only through public records act requests that in late May 2022, the Coalition obtained an October 2017 soils report for the Project prepared by Geocon West, Inc. It appeared that the last time the Los Angeles Department of Building and Safety had reviewed the Project conceptual plans was August of 2018, more than three years before the City Council's December 1, 2021 and June 2022 project approvals. The Coalition consulted an expert team that concluded the Project soils reports and technical analysis of the risks of the Project being in a liquefaction zone, FEMA flood zone, tsunami inundation zone, methane gas zone, and sea level rise groundwater risk area were obsolete, never updated, and deficient to support a conclusion that the Project was safe or that the hazards at the site had been fully mitigated, or even capable of being mitigated to protect public health and safety in accordance with the most up-to-date standards. The expert team report and supporting evidence was submitted to the PLUM Committee by the Coalition on June 14, 2022 with an urgent request that the matter be postponed until the Project's basic health and safety reports were revised to comply with applicable law and regulations.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

70. On June 14, 2022, the PLUM Committee considered the proposed revisions to the General Plan Amendment and Land Use Plan resolutions, and, also picked up the proposed revised specific plan ordinance attached to the backdated February 1, 2022 City Attorney's Report. Over objections filed, including the Coalition's detailed expert study showing the Project as now proposed (or tentatively designed with publicly undisclosed LADOT garage plans) could not be shown to be safe for human occupancy under current laws and regulations, the PLUM Committee adopted a recommendation to City Council that the General Plan Amendment resolution, Land Use Plan Amendment resolution, and Venice Coastal Zone Specific Plan Amendment ordinance be adopted.

71. On June 17, 2022 and June 24, 2022, the full City Council, over objections of the Coalition and others, voted to approve the General Plan Amendment and Land Use Plan Amendment resolutions, and the Venice Coastal Zone Specific Plan Amendment ordinance, making them part of the final Project approvals, except at both of those City Council meetings two City Councilmembers took the extraordinary action to join thousands of objectors to cast "No" votes against granting further approvals to the Project.

72. On September 1, 2022, the City filed a Notice of Exemption for the June 2022 actions taken on the Project.

73. On September 15, 2022, pursuant to stipulation, Petitioners filed Second Amended Petition challenging portions of the June 2022 actions of the City.

74. On October 5, 2022, Petitioners filed a new action to challenge the June 2022 actions of the City based upon CEQA after an effort to stipulate with the City to amendment of this lawsuit failed.

75. On November 15, 2022 the Court in this action determined the new action was related to the original action.

76. On December 15 2023, the Court ordered this action consolidated with the October 5, 2022 action.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

77. On March 2, 2023, pursuant to meet and confer with Real Parties in Interest, and a decision to focus resources in this case, Petitioner Coalition voluntarily dismissed the Seventh Cause of Action related to the Section 1983 claims. Accordingly, the Seventh Cause of Action is struck through in this Third Amended Petition.

78. On March 24, 2023, after hearing on the City and Real Parties in Interests' Motion for Judgment on the Pleadings, the Court granted leave to amend the Second Amended Petition in response to issues raised in that motion proceeding.

FIRST CAUSE OF ACTION

(VIOLATION OF CEQA)

79. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

80. CEQA requires a three-step analysis to determine the level of environmental review of an activity. The first step is to determine whether CEQA applies because the activity is a project. In this case, the City's proposed issuance of a tract map and various discretionary land use entitlements are a project within the meaning of CEQA Guideline section 15378(a). The actions of the City confirm this conclusion because initially the City issued a Notice of Preparation of an Environmental Impact Report for the Project.

81. The second step of the CEQA analysis is to determine whether despite being a project subject to CEQA, the project meets the requirements of any statutory or categorical exemption where the Legislature waived the benefits of environmental review or the mitigation of impacts. Initially, the City concluded there was no applicable statutory or categorical exemption that applied to the Project in this case, and proceeded to the third step, preparation of an initial study to determine the level of environmental review applicable to the Project (negative declaration, mitigated negative declaration or environmental impact report)

82. Following the passage of AB 1197, the City and Developer stopped preparing environmental studies, acting as if no further studies or mitigation of potential effects of the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Project were required under any law, apparently believing without supporting data that all elements of the Project were exempt from environmental review under A.B. 1197, including the Project elements unrelated to "furtherance of supportive housing."

83. As summarized previously, A.B. 1197 was enacted as "special legislation" solely applicable to the City of Los Angeles, and to make it take effect immediately the Legislature adopted an urgency clause. The bill enacted Pub. Res. Code. Section 21080.27. This new statutory exemption provides that CEQA "does not apply to any activity approved by or carried out by the City of Los Angeles in furtherance of providing emergency shelters or supportive housing in the City of Los Angeles." § 21080.7(b)(1).

84. Under CEQA caselaw, statutory exemptions, especially those obtained through an urgency enactment process, are required to be narrowly construed to prevent any effort to unlawfully expand a limited CEQA exemption to unrelated activities that should be environmentally analyzed **and mitigated**.

85. Petitioner is informed and believes, and thereon alleges the Reese Davidson project was conceived as a vanity project for now lame duck Council Member Mike Bonin. Numerous Project elements were incorporated to please Mr. Bonin, but that have nothing to do with provision of supportive housing.

86. The following Project elements are unnecessary to meeting the urgent needs of supportive housing and its target population defined in state law:

a. The 67-foot lookout tower and 685 square foot rooftop party deck at the northwest corner of the mixed-use complex;

b. The commercial retail spaces for unrelated retailers competing with other retail stores in the nearby commercial zone of Venice Beach;

c. The commercial restaurant competing with other restaurants in the nearby commercial zone of Venice Beach, with piecemealed and undisclosed alcohol permit, and covered outdoor dining area;

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

d. Thirty-four live-work lofts for artists who are not required to be formerly homeless individuals requiring supportive services;

e. Rollup doors for the ground level artist lofts so that they can conduct a commercial oriented art walk land use not sought or authorized in the middle of a residential neighborhood around the perimeter of the Project building;

f. A huge community arts center linked to the artists in the complex, none of whom are required to receive supportive services;

g. Expansion of the onsite parking garages to include required parking for the unnecessary non-supportive housing elements of the Project;

h. Expansion of the overall building envelopes with such extensive unnecessary add-ons that critical beach access sidewalks will not be widened but rather left at about 5 feet wide as persons using the relocated public parking are forced to walk from further away on a substandard beach access sidewalk violating General Plan transportation policies on walkability and pedestrian safety.

87. In correspondence erroneously dated January 12, 2020 (was actually submitted to the Advisory Agency on January 12, 2021) Venice Vision specifically pointed out that the request of the developer to include land uses in the project unrelated to the provision of supportive housing were not qualified for exemption from CEQA. Petitioner is informed and believes, and thereon alleges that other public testimony and correspondence objecting on these grounds occurred throughout the administrative process but were ignored by the City.

88. The extent of the General Plan Amendments were not required for supportive housing. The Project sought a general plan amendment of the Venice Community Plan to change the land use designation on the general plan map from Open Space/Low Medium II Multiple Family Residential to Neighborhood Commercial. But to further the minimal supportive housing

proposed for the Project, the land use designation only needed to be changed to a Residential Land Use Designation – not a commercial one. Thus, to the extent the Project proposed General Plan Land Use Designations greater than that required to "further supportive housing," it exceeded the narrow scope of the statutory CEQA exemption granted by the City.

89. Similarly, the certified Land Use Plan and maps were also amended in order to place the commercial use spot plan amendment into the existing open space and residential uses of the community.

90. Additionally, instead of only changing the base zoning of the property from Open Space to R3 residential to accommodate a typical supportive housing project, the Developer sought, and the City Council granted a base zoning change to C-2 zoning – injecting into the long-established open space residential portion of the community the laundry list of disclosed and undisclosed commercial land uses unnecessary to develop a supportive housing project.

91. The same could be said of the revisions of the Venice Coastal Zone Specific Plan, a more restrictive zoning plan adopted for the sensitive coastal zone where the Project also lies. Not only did the Project as proposed violate the Specific Plan (contrary to community promises made by the City in the RFQ/P process), it constituted a massive spot zone on the plans and maps of the Specific Plan. The special zoning authorized not only the zoning needed to provide the supportive housing, it went far beyond that to authorize the commercial land uses and height exceptions unnecessary to provide residential supportive housing at the Project site.

92. The Project incorporates a meeting room and public party deck in the over height campanile component of the Project. The spot zoning and special height exceptions added to the zoning for the Project are completely unrelated to the residential supportive housing. Large parties are not part of any statutory definition of supportive housing, because supportive housing focuses on provision of sensitive mental health, addiction and substance abuse and similar services. Creating a party space for alcohol use is in fact contrary to the supportive housing activities.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

93. Classic commercial land uses such as retail spaces, restaurant and art studio are not related to the supportive housing aspect of the Project, and they did not qualify for exemption from CEQA as well.

94. In fact, even the live/work units of the Project, allegedly targeted to "low income" artists, are commercial land uses because these lofts, according to the Developer, will include roll up industrial type doors to enable the conduct of coordinated "art walks" along the exterior of the building. Additionally tied to the unauthorized art walk commercial land use is the approximately 3,000 square foot art studio, which is unrelated to the supportive services for mental health and substance abuse rendered at another location in the building complex.

95. The Applicant seeks the sun, moon and stars in commercial uses in the Project, none of which are in furtherance of supportive housing. These commercial land uses can be added to the Project, but they are not exempt from CEQA. Nonetheless, the City claimed all the additional land uses it desires to add in the supportive housing project site are exempt from CEQA review, and no mitigation of the impacts from those non-exempt activities need be provided.

96. The Legislature's CEQA exemption was drawn to assist urgently needed supportive housing in the City of Los Angeles, but not with an intent to exempt from review and mitigation non-supportive housing elements. Based upon the foregoing, the City has failed to proceed in accordance with law and abused its discretion in seeking to cloak non-supportive housing elements of the Project with CEQA exemption.

97. **The Project Obtained No Capital Investment To Build Supportive Housing Prior To The City's Consideration of the Notice of Exemption**As used in section 21080.27(b)(1), "'[s]upportive housing' means supportive housing as defined in Section 50675.14 of the Health and Safety Code, that meets the eligibility requirements of Article 11 (commencing with Section 65650) of Chapter 3 of Division 1 of Title 7 of the Government Code or the eligibility requirements for qualified supportive housing or qualified permanent housing

set forth in Ordinance No. 185,489 or 185,492, and is funded, in whole or in part, by any of the following:

(A) The No Place Like Home Program (Part 3.9 (commencing with Section 5849.1 of Division 5 of the Welfare and Institutions Code).

(B) The Building Homes and Jobs Trust Fund established pursuant to Section 50470 of the Health and Safety Code.

(C) Measure H sales tax proceeds approved by voters on March 7, 2017, special election in the County of Los Angeles.

(D) General bond obligations issued pursuant to Proposition HHH, approved by the voters of the City of Los Angeles at the November 8, 2016, statewide general election.

(E) The City of Los Angeles Housing Impact Trust Fund." § 21080.27(a)(3).

This list of five supportive housing funding sources was the exclusive means by which the Project might become an eligible supportive housing project under the exemption statute. Ordinance No. 185,489, known as the Interim Motel Conversion Ordinance, only applies to the conversion of already constructed motels into supportive housing units. Ordinance No. 185,492, the Permanent Supportive Housing Ordinance, only applies to projects of 120 units or less in areas outside of downtown. Thus, if the Project does not have a funding commitment from one of the five listed funds in Section 21080.27(a)(3), it does not meet the eligibility requirements for exemption.

98. Based upon the plain wording, the statutory exemption in section 21080.27(b)(1) is directly tied to and continent upon investment from one of the capital building funding programs as listed above. While Measure H listed in paragraph (C) includes funding for supportive services, it also has a capital construction funding component. The definition of "supportive housing" requires funding to construct "supportive housing" which is a possible effect on the environment for which the City sought a statutory exemption. The plain language of the "supportive housing" definition contained within Section 21080.27(a)(3) requires a showing

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the project has garnered at least one capital investment from any of these funds to actually build something in the environment prior to eligibility to claim the statutory exemption.

99. Over objections, the City accepted a letter of the County of Los Angeles expressing a willingness to, in the future, enter into a funding contract for "supportive services" costs associated with the 68 units of proposed supportive housing. The letter is not a commitment of future "supportive services" funding until reduced to a legally enforceable dedication of funds, and even it was, it is indisputable that such funding was not for construction costs for the Project's "supportive housing" as required by the plain statutory language of the exemption statute.

100. The Developer offered no funding commitment from any of the five eligible funds that contributed toward the cost of constructing the "supportive housing." Because the County's letter factually offered no capital funding for construction, and only provided a willingness to enter into a future commitment to provide "supportive services" funding, there was no qualifying financial commitment to the Project that made it a "supportive housing" project entitled to a statutory exemption from CEQA review at the time of the City's approval of the Project.

Supportive Housing Eligibility Requirements Are Not Met

101. Government Code Section 65651(a), referenced in the Pub. Res. Code Section 21080.27(a)(3) definition of "supportive housing" includes a list of requirements in order for a project to be eligible for the exemption.

102. Section 65651(a)(4) requires that the developer deliver to the planning agency the "information required by Section 65652." The required information is a Supportive Services Plan. Petitioner is informed and believes, and thereon alleges that at the time of the City's adoption of the Notice of Exemption, the "plan" submitted did not contain all of the required elements mandated by Section 65652 including, but not limited to, "[t]he name of the proposed entity or entities that will provide supportive services," "[t]he proposed funding source or sources for the provided onsite supportive services," or "[p]roposed staffing levels" for

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

supportive services. Due to one or more of these factual matters remaining unresolved at the time of adoption of the Notice of Exemption, the Project was not eligible for the statutory exemption,

103. Section 65651(a)(5) requires: "[n]onresidential floor area shall be used for onsite supportive services in the following amounts: . . . (B) For a development with more than 20 units, at least 3 percent of the total nonresidential floor area shall be provided for onsite supportive services that are limited to tenant use, including, but not limited to, community rooms, case management offices, computer rooms, and community kitchens."

104. According to the project plans, there is 64,280 sq. ft. of residential space, including 13,640 sq. ft. of live/work micro-apartments (i.e., "artist lofts"), 16,675 of studio apartments, 13,375 of 1-bedroom apartments, and 20,590 of 2-bedroom apartments, which sums to 65,280 sq. ft. of residential floor area. The total nonresidential floor area is the total floor area shown on the plans of 104,159 sq. ft minus the total residential floor area of 65,280 sq. ft. The difference is 39,879 sq. ft.

105. The January 7, 2020 Revision 2 plans states that there is 685 sq. ft. of "supporting office" space and that "[s]upporting office areas include office space for tenant supportive services and on-site storage[,] [i]ntended for use by internal staff and tenants only." The Legislature's requirement that only floor area dedicated to rendering supportive services be counted, suggests that the Developer is dedicating something less than 685 sq. ft. of the floor area to on-site delivery of exclusive tenant supportive services. The math shows the dedicated supportive services is something less than 1.7% (685 sq. ft. / 39,879 sq. ft.).

106. Thus, based upon the Developer's own building plans, the floor area exclusively dedicated to delivery to tenants of on-site supportive services does not meet the statutorily required 3% minimum of the nonresidential space in the building. For this additional reason, the record before the City failed to support a conclusion that the Project was eligible for the statutory exemption from CEQA.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

107. Section 65651(a)(1) mandates that all affordable units in the Project, 136 in this case, be subject to a recorded covenant of affordability for 55 years. Section 65651(a)(2) mandates that 100% of the affordable units be restricted to lower income households and are or will be receiving public funding to ensure affordability of the housing to lower income Californians. Section 65651(a)(3) requires not only that at least 25% of the units be restricted to residents in supportive housing service programs "who meet the criteria of the target population." To meet the target population, the units must be restricted to residents "with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act . . . and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people." Pub. Res. Code §21080.27(a)(3), Govt. Code § 65651(a)(3), and 65582(i). Petitioner is informed and believes, and thereon alleges that the City failed to fully condition the Project to meet all of these requirements of Section 65651(a). Accordingly, the record does not establish the Developer was eligible for the CEQA exemption at the time of adoption of the Notice of Exemption and Project Approval.

108. Finally, Government Code Section 65651(a) provides a right to develop a supportive housing project only if the proposed Project is located in a "zone where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development meets all of the [listed requirements]" Since the record establishes the Project failed to satisfy all of the requirements at the time the City considered the Notice of Exemption and Project Approvals, it had no lawful basis to proceed with the General Plan Amendments, and zoning change from Open Space (which does not permit multifamily and mixed uses) to C2 zoning (which is nonresidential zoning that allows multifamily and mixed uses). Accordingly, the zoning for the Project Site remains Open Space and ineligible for the

CEQA statutory exemption to rezone the Project Site.

109. Based upon the foregoing defects in the City's analysis and documentation of the CEQA exemption, the Project was not eligible for exemption. No other exemption applies to the Project. Therefore, the City and Developer had a mandatory duty to complete the environmental impact report it started to prepare, analyze the sixteen topic areas of potential significant environmental impact, analyze a reasonable range of alternatives to the Project, including the already proposed innovative Venice Median Public Parking Garage and Park, and mitigate the Project's impacts to the maximum extent feasible, all as required by law.

110. "[N]oncompliance with the information disclosure provisions of [CEQA] which precludes relevant information from being presented to the public agency, or noncompliance with substantive requirements of [CEQA], may constitute a prejudicial abuse of discretion within the meaning of Section[] ... 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions." Public Resource Code § 21005(a). The City's errors in this case were prejudicial because the failure to comply with the law resulted in a critical deprivation of the benefits of public information and public participation purposes of CEQA. The failure to conclude the Project was not eligible for the CEQA exemption and prepare an environmental impact report deprived the City of information necessary to informed decision-making and informed public participation. The City's error was therefore prejudicial.

111. Petitioner has no adequate remedy at law.

SECOND CAUSE OF ACTION

(VIOLATION OF STATE SUBDIVISION MAP ACT)

112. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

113. Under Government Code Section 66474.61, applicable to the City of Los Angeles, "the advisory agency . . . shall deny approval of a tentative map . . . if it makes any of

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the following findings:

a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.

b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

c) That the site is not physically suitable for the type of development.

d) That the site is not physically suitable for the proposed density of development.

e) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

f) That the design of the subdivision or the type of improvements is likely to cause serious public health problems.

g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the legislative body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

The Map and Subdivision are Inconsistent with the General and Specific Plan

114. The Subdivision Map Act requires that a proposed project be consistent with all applicable general and specific plans. Govt. Code §66473.5; Govt. Code §66474. The City's findings that the Project is consistent with all applicable general and specific plans is not supported by substantial evidence. Multiple letters to the City were submitted during the administrative process explaining in great detail why the City could not make this required finding.

115. The parcel's Open Space land use designation and zoning of OS-1XL-O do not

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

permit the development of any kind of housing project, including a Supportive Housing project. The Project is also inconsistent with the Venice Community Plan and the Venice Coastal Land Use Plan. The Venice median is located on Open Space in the Dual Permit Jurisdiction Coastal Zone, just one block from the beach and the center of the Venice Boardwalk. The Venice community—including the beach, the Boardwalk, the Venice Canals, and the eclectic architectural styles of the neighborhoods—is one of the most popular visitor destinations in California with 16 million people visiting annually.

116. A change of zoning from Open Space to a non coastal-related or non coastal-dependent zone is inconsistent with the certified Land Use Plan, which is a part of the General Plan's Venice Community Plan (VCP).

117. In fact, the General Plan and VCP do not even contemplate the possibility of an elimination of Open Space. The General Plan's Open Space Element, Policy 2 states "There is a deficiency of Open Space in the City," and Policy 6.1.1 requires protection of "significant remaining open spaces for resource protection and mitigation of environmental hazards, such as flooding…" Also, recent government studies have documented that Venice in particular has a significant deficit with respect to parks and other types of Open Space.

118. The VCP has an objective to preserve existing Open Space resources and where possible to develop new Open Space, as the purpose of Open Space is for the preservation of natural resources, managed production of resources and wildlife corridors, outdoor recreation, connecting neighborhoods and people, and the protection of life and property due to natural hazards. The VCP states that communities must have sufficient Open Space in order to balance new urban development in the community, in order to serve the recreational, environmental, health and safety needs of the community, and to protect environmental and aesthetic resources.

119. The VCP states that land designated as Open Space represents only 16% of the Venice Community Plan area, and includes the beach, the canals, Ballona Lagoon and the esplanades, the Venice Blvd median, and the park and that the City should preserve facilities and

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

park space by designating City recreation and park facilities as Open Space.

120. The VCP directs that Open Space function in one or more of the following ways: recreational and education opportunities, scenic, cultural and historic value, public health and safety, preservation and creation of community identity, rights of way for utilities and transportation facilities, preservation of physical resources or ecologically important areas, and preservation of physical resources.

121. In order to force the City's fundamental planning documents to conform to the extremely inconsistent project proposed, the Real Parties and the City sought to amend the various adopted plans, including the City's General Plan in order to authorize the Project. But, the City of Los Angeles lacks the authority to process a single project general plan amendment.

122. Los Angeles City Charter, Section 555 provides: "The General Plan may be amended in its entirety, by subject elements or parts of subject elements, or by geographic areas, provided that the part or area involved has significant social, economic or physical identity." (Emphasis added.)"

123. A City Charter permits all municipal power except those expressly limited. *Domar Electric, Inc. v. City of Los Angeles* (1994) 9 Cal.4th 161, 170. The requirement that the geographic area involved in a proposed general plan amendment be one of "significant social, economic or physical identity" is an express limitation on the City's power to initiate a general plan amendment. It is an instruction that the amendment process, while not including the entire City, must include a significant chunk of the City to avoid piecemeal planning and spot zoning. In other words, the City Charter limitation expressly prohibits that which Real Parties sought.

124. Because the City's general plan amendment was unlawful, the City's determination that the Project is consistent with all applicable general and specific plans is not supported by substantial evidence.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

The Design and Improvements of the Proposed Subdivision are Inconsistent with Applicable General and Specific Plans

125. The City's finding that the Project's design and improvements are consistent with the Public Access policies of the Land Use Plan are not supported by substantial evidence. Multiple letters to the City were submitted during the administrative process explaining in great detail why the City could not make this required finding.

126. The project will not maintain - and even harms - existing Public Access. The Project does not comply with the many Public Access provisions in the certified LUP. For example, the Project will negatively impact beach parking as a result of the Project's proposed automated parking system, which will severely slow and even discourage beach parking at this location. The City also failed to consider the loss of beach parking during the Project's construction (which will be significant). Also, Public Access for Canal boating is a key provision of the Plans and it appears from the current project plans that canal boating will be less accessible. To restrict Access in these ways, especially for the purposes of a non coastal-dependent or non-coastal related use is a violation of the LUP.

127. In addition, regarding Public Access, the Venice Blvd median site was specifically intended and planned for the much needed expansion of beach parking. Venice Coastal Zone Specific Plan Ordinance Section 14. Venice Coastal Parking Impact Trust Fund ("Fund") states: "The Fund shall be used for the purpose of accepting and retaining funds collected by the Department of Transportation pursuant to this Specific Plan for any expenditure only for parking mitigation measures in, adjacent to or serving the Beach Impact Zone. Those improvements shall include but not be limited to: Venice Blvd median public parking facility improvement, including land acquisition and construction."

128. The LUP Parking Policy II.A.1. General states: "It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control."

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

129. The LUP Policy II.A.2. Expansion of Public Beach Parking Supply states: "The construction of new public parking facilities should be implemented, as well as maximizing the use of existing ones by restriping existing parking lots or converting them to multi-level structures where consistent with other Coastal Act policies…the established Venice Coastal Parking Impact Trust Fund, into which in-lieu parking fees shall be paid, will continue to be utilized for expenditure on improvement and development of public parking facilities that improve public access to the Venice Coastal Zone as specified in the LUP."

130. The Venice Median site was also specifically intended for a park. The LUP Coastal Waterways Policy III.D.6. Venice Canals Parks states: "New parks, with parking to the rear, shall be considered on some of the City-owned lots on the canals, provided that such facilities are compatible with the existing residential use of the area."

131. The Project also negatively impacts the public's ability to access the canals by boat. The City failed to consider LUP Policy Coastal Waterways Policy III.D.2. Boating Use of Canals, which states: "…A public boat launch facility was built as part of the Venice Canals Rehabilitation Project at the Grand Canal and North Venice Blvd. The City shall protect the public's ability to access the canals by boat by maintaining public access to the Grand Canal public boat launch. The facility shall provide adequate on-site public parking consistent with the sizes and types of boats to be launched and frequency of launching pursuant to the County Department of Small Craft Harbors standards." The Project will undermine the ability to the public to utilize the public boat launch facility. Based on the aforementioned, the City's conclusions that the design and improvements of the proposed subdivisions are consistent with the applicable general and specific plans is not supported by substantial evidence.

The Site is Not Physically Suitable for the Proposed Type of Development

132. The City's findings that the site is physically suitable for the propose type of development is not supported by substantial evidence. Multiple letters to the City were submitted during the administrative process explaining in great detail why the City could not

make this required finding.

133. The design and improvement of the proposed subdivision is dependent on a 40-lot consolidation. However, neither the VCZSP nor the LUP allow a consolidation of more than 3 lots, thus making the site physically unsuitable for the proposed type of development.

134. The site is also unsuitable for the proposed type of development due to the impacts of sea rise and flooding. The City of Los Angeles, the California Coastal Commission and other authorities, including government engineers, predict that sea level rise and tsunami hazards pose significant threats to the Venice median and surrounding area, and the Venice median, along with other lower-lying areas of Venice, is projected to be underwater in less than 50 years, and in fact due to the impacts of tides on these channels and because the area is already a hazardous area due to its current potential for flooding, the Venice median area adjacent to the canals could be underwater sooner.

135. The City's conclusions that the site was physically suitable for the Project notwithstanding these issues was not supported by substantial evidence.

The Site is Not Suitable for the Proposed Density of Development

136. The location of the site is not physically suitable for the increased density proposed. The City's findings otherwise were not supported by substantial evidence. Multiple letters to the City were submitted during the administrative process explaining in great detail why the City could not make this required finding.

137. As noted above, the City of Los Angeles, the California Coastal Commission and other authorities, including government engineers, predict that sea level rise and tsunami hazards pose significant threats to the Venice median and surrounding area. The Venice median, along with other lower-lying areas of Venice, is projected to be underwater in less than 50 years, and in fact due to the impacts of tides on these channels and because the area is already a hazardous area due to its current potential for flooding, the Venice median area adjacent to the canals could be underwater sooner. Moreover, the Venice Blvd corridor is Venice's primary rescue and

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

emergency escape artery, especially in case of tsunami. In addition, the Coastal Commission has determined that this site is a flood hazard zone. The City's finding that the site is suitable for the proposed density of development is not supported by substantial evidence in light of these facts.

138. In addition, the project site is not physically suitable for the proposed density because it contains physical hazards that render residential uses inappropriate. These include location within: a methane zone, a liquefaction zone, and a tsunami inundation zone. The project site is also anticipated to be subject to flood risk due to sea level rise. The project site is also unsuitable due to the hazards presented by left-turn only site access/egress necessitated by the one-way street system adjacent to the project site. The City's conclusions otherwise are not supported by substantial evidence.

The Project is Likely to Cause Substantial Environmental Damage

139. The Subdivision Map Act mandates denial of a tentative map if the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat." Govt. Code Section 66474(e). As set forth above, the Project is not exempt from CEQA. Moreover, even if it was, an exemption from CEQA does not relieve a public agency from conducting an environmental review as part of the approval of the tentative tract map.

140. In *Topanga Ass'n for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348, the court ruled that Government Code Section 66474(e), which requires a governmental agency to deny a map application if the agency finds that subdivision design or improvements are likely to cause substantial environmental damage, provides for an environmental review separate from and independent of CEQA. The court stated as follows: "Appellants argue that elimination of their CEQA causes of action does not foreclose an environmental challenge to the approval of the project because the Subdivision Map Act, in Government Code section 66474, subdivision (e), provides for environmental impact review separate from and independent of the requirements [of the CEQA. We agree.[T]he finding

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

required by section 66474, subdivision (e) is in addition to the requirements for the preparation of an environmental impact report" or a negative declaration pursuant to the CEQA. (59 Ops.Cal.Atty.Gen. 129, 130 (1976).)" *Topanga Ass'n for a Scenic Cmty. v. County of L.A.* (1989) 214 Cal.App.3d 1348, 1355-1356.

141. The City failed to conduct the environmental review that is required by Government Code Section 66474(e). Further, the evidence in the record demonstrates that the Project will cause substantial environmental damage and serious public health problems. The Initial Study that was conducted by the City for the Project before environmental review was abandoned demonstrates that the Project will cause substantial environmental damage. Additionally, several expert reports were submitted to the City to demonstrate that the design of the subdivision and proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The City's findings to the contrary are not supported by substantial evidence. Multiple letters to the City were submitted during the administrative process explaining in great detail why the City could not make this required finding.

142. For the foregoing reasons, in approving the subdivision map and denying the subdivision map appeals, the City failed to proceed in accordance with law.

THIRD CAUSE OF ACTION

(SPOT ZONING)

143. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

144. Spot zoning is an unlawful, arbitrary, abuse of zoning discretion by which a smaller area is singled out of a larger area or district and specifically zoned for a use classification totally different from and inconsistent with the classification of surrounding land, and not in accordance with the General Plan. Spot zoning can be a re-zoning for private gain designed to favor or benefit a particular individual or group and, on balance, not to the good of

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the community as a whole. Spot zoning has variously been characterized as implicating substantive due process, takings and equal protection concerns. *Buckles v. King County*, 191 F.3d 1127, 1137 (9th Cit. 1999).The City has engaged in an expansive impermissible spot zoning in this case. It is settled law that an amendment to a zoning ordinance that singles out a small parcel of land for a use different from that of the surrounding properties and for the benefit of the owner of the small parcel and to the detriment of other owners is spot zoning.

145. In this case, the City's preferential treatment to the Developer includes, but is not limited to, all of the general plan amendments, certified LUP amendments, rezoning, and creation of maps drawing a separate zone around just the parcels for this Project, and granting for special treatment to develop much more than is required to provide supportive and affordable housing, to the extreme detriment of critical beach access rights of the public and placement of project residents and millions of dollars of taxpayer monies at risk of project-ending sea level rise.

146. These planning and zoning spot changes authorize that which would otherwise not be permitted in conjunction with the affordable housing:

- The 59-foot "architectural" tower (which extends to 71 feet including railings and roof access structures);
- The failure to enforce setback requirements with respect to frontage on Grand Canal;
- The lack of any setbacks above the ground floor;
- The lack of any setbacks surrounding the 59-foot "architectural" tower;
- The protrusion of the 59-foot "architectural" tower over the sidewalks along Pacific Avenue and N. Venice Boulevard;
- The parking tower in the east campus, which will extend to 45 feet in height with double-stacker parking and solar panels on top;

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

- Oversized rooftop features, including roof access structures, turrets, canopies, decks and railings;
- The permanent elimination of any opportunity to expand sidewalks and create designated bike lanes on Venice Boulevard, as called for under the City General Plan, the City's Mobility Plan 2035 and the Coastal Transportation Corridor Specific Plan;

147. The experimental use of robotic or mechanical lift parking and a tiered-pricing scheme for beach parking.Accordingly, the City's creation of the new General Plan Amendment and zoning district especially for this Project site is not in the public interest, and therefore such approvals were arbitrary, capricious and devoid of evidentiary support as being on balance beneficial to the public interest.Three elements of the spot zoning originally adopted by the City Council on December 1, 2021, were the General Plan Amendment, the Land Use Plan Amendment, and the Venice Coastal Zone Specific Plan Amendment (resolutions and ordinance). With the City's February 2, 2022 recission of these fundamental planning documents and the improper substitution of revised Specific Plan amendment ordinance for the one adopted on December 1, 2021, the City Council was required to reconsider all of the evidence and findings in the case before approving these revised land use entitlements. The City Council ignored substantial evidence that established the Project, as proposed and designed, could not meet any of the required findings for a general plan or specific plan adoption/amendment. Thus, the use of these rescinded and modified land use entitlements, as part of the overall spot zone, were unlawful, and accordingly the overall spot zone was unlawful as against the public's interest.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

FOURTH CAUSE OF ACTION

(VIOLATION OF COASTAL ACT AND CERTIFIED LAND USE PLAN)

148. Petitioner, re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

149. The Project is subject to the jurisdiction of the Coastal Commission and is located within the Dual Permit Jurisdiction area of the California Coastal Zone. The Conditions of Approval adopted by the City stated as follows: "The applicant shall file an application for a second (or "dual") coastal development permit with the Coastal Commission and shall submit proof of a valid ("dual") permit issued by the Coastal Commission."

150. The City approved a Coastal Development Permit ("CDP") for the Project and made certain findings. These findings include the following:

a. The development is in conformity with Chapter 3 of the California Coastal Act of 1976.

b. The development will not prejudice the ability of the City of Los Angeles to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.

c. The Interpretive Guidelines for Coastal Planning and Permits as established by the California Coastal Commission dated February 11, 1977 and any subsequent amendments thereto have been reviewed, analyzed and considered in light of the individual project in making this determination.

d. The decision of the permit granting authority has been guided by any applicable decision of the California Coastal Commission pursuant to Section 30625(c) of the Public Resources Code, which provides that prior decisions of the Coastal Commission, where applicable, shall guide local governments in their actions in carrying out their responsibility and authority under the Coastal Act of 1976.

e. The development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, and the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976.

f. An appropriate environmental clearance under the California Environmental Quality Act has been granted.

151. Member organizations and individuals of the Coalition, and other interested persons filed comments and evidence establishing that the required findings for a Coastal Development Permit could not be made for the Project. Among other things, the Project will not maintain and will harm existing Public Access. The Project does not comply with the many Public Access provisions in the certified LUP. The Project's automated parking design will severely slow and even discourage beach parking at this location. The City failed to consider the loss of beach parking during construction. Also, the Project will impair boat access to the canal as well as prevent much-needed expansion of beach parking, which is called for in the certified LUP.

152. The Project is inconsistent with LUP Parking Policy II.A.1 and LUP Policy II.A.2. LUP Parking Policy II.A.1. General states: "It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control." LUP Policy II.A.2. Expansion of Public Beach Parking Supply states: "The construction of new public parking facilities should be implemented, as well as maximizing the use of existing ones by restriping existing parking lots or converting them to multi-level structures where consistent with other Coastal Act policies...the established Venice Coastal Parking Impact Trust Fund, into which in-lieu parking fees shall be paid, will continue to be utilized for expenditure on improvement and development of public parking facilities that improve public access to the Venice Coastal Zone as specified in the LUP." Venice Coastal Zone Specific Plan Section 14.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

The Venice Coastal Parking Impact Trust Fund ("Fund") states: "The Fund shall be used for the purpose of accepting and retaining funds collected by the Department of Transportation pursuant to this Specific Plan for any expenditure only for parking mitigation measures in, adjacent to or serving the Beach Impact Zone. Those improvements shall include but not be limited to: Venice Blvd median public parking facility improvement, including land acquisition and construction."

153. The Venice Blvd median was intended to be used for expanded public parking facilities and a park. Indeed, the LUP Coastal Waterways Policy III.D.6. Venice Canals Parks states: "New parks, with parking to the rear, shall be considered on some of the City-owned lots on the canals, provided that such facilities are compatible with the existing residential use of the area."

154. The Project as proposed impairs attainment of these critical beach access policies applicable to the Project site. Therefore, the City erred and abused its discretion when it concluded that the required findings for a Coastal Development Permit could be made.

155. Additionally, the Project was inconsistent with Coastal Act Section 30224. This section of the Costal Act states: "Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, **increasing** public launching facilities, providing additional berthing space in existing harbors, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land." The Project clearly does not increase recreational boating use or increase public launching facilities – it does the exact opposite.

156. The Project was inconsistent with LUP Policy Coastal Waterways Policy III.D.2. Boating Use of Canals, which states: "...A public boat launch facility was built as part of the Venice Canals Rehabilitation Project at the Grand Canal and North Venice Blvd. The City shall protect the public's ability to access the canals by boat by maintaining public access to the Grand Canal public boat launch. The facility shall provide adequate on-site public parking consistent

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

with the sizes and types of boats to be launched and frequency of launching pursuant to the County Department of Small Craft Harbors standards." However, the Project does not protect the public's access to the canals by boat nor does it provide adequate on-site public parking since it reduces canal access parking from 7 spaces to just two.

157. The City's findings with respect to Coastal Act sections 30250, 30251 and 30253 and its sea level rise policies constitute error because they were not supported by substantial evidence.

158. The City's findings constitute error because approval of the project will prejudice the ability of the City to prepare an LCP that conforms to Chapter 3 of the Coastal Act.

159. As such, the City's findings that the Project met the requirements for issuance of a Coastal Development Permit were not supported by substantial evidence, and the City has failed to proceed in accordance with law.

160. Following the City approval of the Coastal Development Permit on December 1, 2021, the City failed to promptly give notice to the California Coastal Commission that it had made a final decision. Instead, the City embarked on a second administrative approval process lasting from January 25, 2022 to June 24, 2022 to amend various Coastal Zone plans, maps, and ordinances. Meanwhile, the State Planning Code or other statutes of limitation may have been running from the December 1, 2021 approval of the Coastal Development Permit. Accordingly, Petitioner Coalition had no choice but to initiate a timely cause of action challenging the City's Coastal Development Permit. At the time of the filing of the First Amended Petition to include this cause of action, the City's decision was final and no appeal of the final decision had been filed.

161. On or about July 6, 2022, the City filed with the Coastal Commission a notice of final action (NOFA) regarding a Coastal Development Permit for the Project. As a city without a Certified Local Coastal Program, a 20 working day appeal period began to run. By the end of the appeal period, approximately 10 appeals of the City's Coastal Development Permit had been

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

filed. The Executive Director of the Coastal Commission himself filed a timely appeal, as authorized by statute. Within the applicable statutory period, the Executive Director had not determined any of the appeals filed were facially frivolous.

162. However, the mere filing of appeals and failure of the Executive Director to reject them, does not result in the acceptance by the Coastal Commission of jurisdiction to determine the appeals on the merits. Under the unique statutory scheme a further determination must be made: whether or not the appeals initially filed, and not facially frivolous, raise a "substantial issue." Within 49 working days of the filing of the appeals, the Coastal Commission is required to make the substantial issue determination. If the Commission determines appeals do not raise a substantial issue, the City's Coastal Development Permit would be final and indisputably subject to judicial review. If the Commission determines the appeals do raise a substantial issue, the Commission might assume jurisdiction to proceed to a de novo hearing on the merits, but caselaw has held that the local Coastal Development Permit **is not rendered null and void until the Coastal Commission finally acts to substitute its own decision for that of the local entity**: "The Coastal Commission thus 'is required, at a minimum, to make the determination whether a substantial issue exists, i.e., whether the appeal raises a substantial issue meriting an appellate hearing, within the 49-day limitation period.' [Cite omitted.] "On appeal, the commission reviews the matter de novo, and may take additional evidence not received by the local government." [Cite omitted.] Thus, "in effect, the Commission hears the application as if no local governmental unit was previously involved, deciding for itself whether the proposed project satisfies legal standards and requirements." [Cite omitted.] The resulting decision " 'takes the place of and completely nullifies the former determination of the matter.' " *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 274. Thus, the Court of Appeal has held that nullification of the city or county Coastal Development Permit does not occur unless or until the Coastal Commission issues its de novo decision.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

163. In this case, the timing of the final Coastal Commission determinations on substantial issue and the merits of the 10 appeals is unknown to the parties and the Court. The trial court in *McAllister* stayed the pending challenge until final action by the Coastal Commission.

164. One further complicating factor regarding precisely when the local Coastal Development Permit is deemed null and void, is that the Coastal Act does not state that the determination of "substantial issue" and consideration of the merits of the appeal must be performed by the Commission on the same day. The Coastal Commission has a policy, pattern, or practice of often deciding the substantial issue question within 49 working days but ordering it will consider the merits of the appeal at a later date.

165. While the Real Parties in Interest in this case could have obtained a ruling whether the appeals filed raised a substantial issue within 49 working days of the appeals, they waived the usual ruling on substantial issue by filing a waiver form with the Coastal Commission on or about August 31, 2022. This extended the life of the City's Coastal Development Permit because the Real Parties in Interest's action extends indefinitely the determination of the substantial issue question. Thus, at least until the Coastal Commission makes a determination on all of the pending appeals on the substantial issue question, the City's Coastal Development stands as the final decision and subject to judicial review.

166. However, because of the significance of issues raised by the Coastal Commission Executive Director, if the Commission takes action to commence jurisdiction over the appeals, it is possible the Project could undergo such significant changes that conducting judicial review of City's final decision may be a waste to resources of the parties and the Court.

167. Given the current finality of the City's Coastal Development Permit judicial review remains technically ripe, however, given the unfolding record of appeals at the Coastal Commission, and the possibility of major changes to the Project, Petitioner contends a stay of this cause of action on the authority of *McAllister* until the Commission acts finally to dismiss all

the appeals as raising no substantial issue, or takes jurisdiction and makes a final decision that nulls and voids the City's Coastal Development Permit. Until the Coastal Commission takes definite action, this Cause of Action remains technically ripe for judicial review, if review proceeds, it is with the understanding that the Coastal Commission action may eventually moot out this Court review actions.

FIFTH CAUSE OF ACTION

(VIOLATION OF MELLO ACT AND OTHER AFFORDABLE HOUSING REQUIREMENTS)

168. Petitioner, re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

169. The Project violates State Government Code Section 65590-65590.1 ("Mello Act"), as well as the Settlement Agreement Between the City of Los Angeles and the Venice Town Council, Inc., the Barton Hill Neighborhood Organization, and Carol Berman Concerning Implementation of the Mello Act in the Coastal Zone Portions of the City of Los Angeles ("Settlement Agreement") and the City's Interim Procedures for Complying with the Mello Act ("IAP"). In addition, the Project violates Measure JJJ, as implemented by the City in LAMC 11.5.11. The purpose of the Mello Act, Settlement Agreement and IAP is to preserve residential structures in the Coastal Zone, as well as to protect existing affordable housing and new affordable housing. The purpose of Measure JJJ, among other things, is to set affordable housing mandates on residential projects requiring a zoning change or an amendment to the City's General Plan.

170. The Mello Act specifically references the housing elements state law, making it clear that the Mello Act is a law that protects housing for all income levels and certainly not one that would allow non-residential uses to replace residential structures. California courts also have made clear that the Mello Act's purpose is to preserve housing in the Coastal Zone. One of the main avenues the Mello Act prescribes for protecting residential housing is to limit the ability to

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

demolish or convert existing residential structures for purposes of non-residential uses. To allow this would not only violate both the letter and the spirit of the Mello Act, but it would plainly threaten housing by allowing its destruction for purposes of more lucrative office, retail, or restaurant commercial mixed-use projects.

171. IAP Section 1.3 Overview of the Mello Act states: "The Mello Act was adopted by the State Legislature in 1982. The Act sets forth requirements concerning the demolition, conversion and construction of housing within California's Coastal Zone. Each local jurisdiction shall enforce three basic rules:

> Rule 1. Existing residential structures shall be maintained, unless the local jurisdiction finds that residential uses are no longer feasible. A local jurisdiction may not approve the Demolition or Conversion of residential structures for purposes of a non-Coastal-Dependent, non-residential use unless it first finds that a residential use is no longer feasible at that location.
>
> Rule 2. Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced. Converted or demolished Residential Units occupied by Very Low, Low or Moderate Income persons or families shall be replaced on a one-for-one basis.
>
> Rule 3. New Housing Developments shall provide Inclusionary Residential Units. If feasible, New Housing Developments shall provide inclusionary Residential Units affordable to Very Low, Low or Moderate Income persons or families."

172. Rule 1 makes it clear that a residential structure can only be replaced by a residential use and not by a non-residential, non-coastal-dependent, mixed-use residential-commercial project. However, the City ignored this requirement and incorrectly treated the Mello Act as only an affordable housing law. The City's Mello Act Compliance Review determination findings only address Rules 2 and 3 and not Rule 1. By allowing demolition of the 4-unit multi-family housing structure at 204-208 N. Venice Blvd., the City is not in compliance

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

with the first rule, to maintain the existing residential structure unless the project is for a coastal-dependent use or the local jurisdiction finds that residential use is no longer feasible.

173. Before determining compliance with the Mello requirements for replacement affordable units and inclusionary units, the Project must first meet the threshold requirement in Government Code Section 65590(c), which states: "The conversion or demolition of any residential structure for purposes of a nonresidential use which is not "coastal dependent," as defined in Section 30101 of the Public Resources Code, shall not be authorized unless the local government has first determined that a residential use is no longer feasible in that location. If a local government makes this determination and authorizes the conversion or demolition of the residential structure, it shall require replacement of any dwelling units occupied by persons and families of low or moderate income pursuant to the applicable provisions of subdivision (b)." This provision is repeated in IAP Section 4.1 and in Settlement Agreement Section VI.C.1. and is a condition precedent in order for HCID to conduct its determination of whether there are any existing affordable units: "The Mello Act states that the Demolition or Conversion of residential structures for the purposes of a non-Coastal-Dependent, non-residential use is prohibited, unless the local jurisdiction first finds that a residential use is no longer feasible at that location." This required finding was not made for the Project.

174. In addition, IAP Section 4.0 specifically states that one of the purposes of completing a Mello Act Compliance Review is to identify applications to demolish or convert residential structures for purposes of a non-Coastal-Dependent, non-residential use and that these applications shall be denied unless the applicant proves with substantial evidence that a residential use is not feasible at that location.

175. Given that the proposed use is non-residential and not coastal dependent, the question at IAP Section 4.3, which requires feasibility to be assumed, must be answered. If the applicant has not proven with substantial evidence that a residential use is infeasible, the Mello Act Compliance Review stops, and the application shall be denied. The Project is clearly not

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

coastal dependent and, as per the requirements of IAP Section 4.3, continuation of the residential use is feasible because it is adjacent to other existing, viable residential uses and the use has non-conforming rights that permit a continued residential use.

176. It was an act of deception to not include the Government Code Section 65590(c) finding in the Mello Act Compliance Review determination. Only if a local government makes this threshold finding may it proceed to compliance with the replacement and inclusionary requirements for low- and moderate-income dwelling units. Omitting any mention of Government Code Section 65590(c) regarding maintaining residential structures is to omit a significant part of the Mello Act law, one of its three main "rules," and thus is a violation of the act. The City failed to make the required findings as it failed to consider the Mello Act's threshold requirement contained in Government Code Section 65590(c), the Settlement Agreement and the IAP.

177. The City exceeded its jurisdiction because the Project conflicts with the Mello Act. Under article XI, section 7 of the California Constitution: "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." *Sherwin-Williams Co. v. City of Los Angeles*, 4 Cal. 4th 893, 897 (1993). The Mello Act is a state statute; therefore, any attempt to violate it or change its meaning is in excess of the City's authority and exceeds its jurisdiction.

178. The City piecemealed the Project for purposes of the various Mello Act-related findings. On page 1 of the Letter of Determination ("LOD"), the City describes the Project as demolition of an existing surface parking lot and a four-unit residential structure and the merger and re-subdivision of a 115,674 square foot site, for purposes of the construction, use and maintenance of a mixed-use project consisting of 136 dwelling units and four unrestricted manager units, supportive services, retail uses, a restaurant use and art studios. However, for purposes of the Mello Act Compliance Review determination, on page 2 of the LOD the City specifically removes the four commercial uses from the project description and erroneously

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

describes the Project as "…a Mello Act Compliance Review for the demolition of four Residential Units and the construction of 140 new Residential Units within the Coastal Zone." Also, in the Mello Act Compliance Review determination the Project is erroneously described as a demolition of a multi-family structure for purposes of "the development of 10 or more residential dwelling units," "the development of 140 Residential Units," and "a 100% affordable housing project," all omitting the commercial uses included in the Project description.

179. In the May 17, 2021 Mello Act determination of affordable units letter from the Los Angeles Housing Department ("HCID") to City Planning Department the Project was erroneously described as the demolition of four existing residential units and construction of a new 140-unit apartment building. If HCID had considered the Project correctly, as a mixed-use residential-commercial development, it would not have been able to move to the next step of determining affordable units because the threshold requirement of Government Code Section 65590(c) was not met. In past determination of affordable units letters, when a project has entailed a demolition of a residential structure for purposes of a mixed-use residential-commercial project, HCID has indicated that they are unable to issue a Mello Act determination of affordable units because the project is non-residential, referencing IAP Sections 4.0 and 4.3, which require that applications where demolition or conversion of residential structures occur for purposes of non-residential use are denied unless the applicant proves with substantial evidence that a residential use is not feasible at that location. It appears that the applicant misinformed HCID about the project description by leaving out the commercial portions of the Project. HCID should not even have issued their Mello Act affordable unit determination because the demolition of the existing apartment building is for purposes of a mixed-use residential-commercial development, which is not allowed by the Mello Act, Settlement Agreement and the IAP. The City has evaded the Mello Act requirements by piecemealing the project description and preparing the findings based on a project description that only reflects a portion of the Project, the residential portion. Using a piecemealed, partial project description the City claims

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

that the Project meets the Mello threshold requirement because a residential-only use is being replaced with a residential-only use. This piecemealing of the Project is a failure to proceed in accordance with law.

180. IAP Section 1.2.3 states: "Every Discretionary and Non-Discretionary Application for a Demolition, Conversion or a New Housing Development in the Coastal Zone shall be reviewed pursuant to these Interim Administrative Procedures…" This means the entire application must be reviewed and not just a part of the application. IAP Section 6.0 states: "For Discretionary applications, the decision-maker shall issue the determination as written conditions attached to the determination made with respect to the underlying case…" This means the entire case is covered by the determination and not just a part of the case. A Mello Act Compliance Review determination must be based on the same project application that is covered by the related discretionary permits and cannot be based only on the residential portion of the project. The Mello Act Compliance Review determination, as well as the HCID determination of affordable units, are in error because they fail to evaluate the Mello Act-related findings with respect to the entire project.

181. The clear language of the Mello Act, the Settlement Agreement and the IAP does not allow for a project with a partial non-residential use. Words have meaning and terminology in land use law is specific. The Project is in direct violation of the Mello Act, the Settlement Agreement, and the IAP, all of which explicitly prohibit, in clear language, the conversion of a residential structure to a non-residential use. Allowing the demolition of the multi-family residential structure at 204-208 N. Venice Blvd. violates the clear meaning, spirit, and purpose of the Mello Act. Besides violating the Mello Act, the City's approval of any demolition of a housing structure for purposes of a project that has non-residential uses is nonsensical because this would allow a 100% residential structure to be replaced with the smallest possible amount of residential use allowed in the zoning code, with the remainder and much greater portion of the development being non-residential use. This is not the intent of the Mello Act, and it is clear that

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the language of the Mello Act, Settlement Agreement, and IAP does not allow for a partial non-residential use, such as the Project. Government Code Section 65590(c) is a very clear provision of the Mello Act that does not allow demolition or conversion of residential structures for purposes of nonresidential uses unless the use is coastal dependent, a very specific and narrow exception. Furthermore, a mixed-use residential-commercial project is considered a commercial use and is restricted to commercial zones. A "residential use," on the other hand, is permitted in both residential and commercial zones. In addition, municipalities are permitted to take actions that strengthen the local implementation of the Mello Act statute, but not to weaken it. As per Government Code Section 65590(k): "…This section establishes minimum requirements for housing within the coastal zone for persons and families of low or moderate income. It is not intended and shall not be construed as a limitation or constraint on the authority or ability of a local government, as may otherwise be provided by law, to require or provide low- or moderate-income housing within the coastal zone which is in addition to the requirements of this section." Allowing the demolition of a residential structure for purposes of a mixed-use residential-commercial project does not strengthen the Mello Act's requirements, but rather it weakens the effects of the Mello Act. It is not the intent of the clear and carefully chosen language of the Mello Act, the Settlement Agreement and the IAP to allow residential structures to be commercialized and replaced by mixed-use residential-commercial developments.

182. The Project would cause significant adverse cumulative effects on Coastal Zone affordable housing, displacement of existing residents, coastal access for lower-income families, and community character. The Project would not only eliminate Coastal Zone affordable housing for the existing residents of 204-208 N. Venice Blvd., who are low-income and include people of color, causing them to be displaced from the Coastal Zone, but together with similar past, current and probable future projects, the Project would cause a severe and significant adverse cumulative effect on affordable housing and on tenant displacement in the Los Angeles Coastal Zones. For the City to allow demolition or conversion of residential structures for purposes of mixed-use

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

projects, in violation of the Mello Act, would provide an incentive for other owners to demolish or convert existing residential structures, which typically contain lower cost affordable units, for mixed-used projects. That is because the ability to commercialize these residential structures would significantly increase the value of the properties. The ongoing and cumulative effect of this will only serve to cause significant displacement of the lower income and most diverse and vulnerable residents, such as the residents of 204-208 N. Venice Blvd. who would be displaced by the Project, thus harming Venice's social diversity that is a key part of its special coastal community character. Damage to coastal communities by displacement of lower income and working-class families, such as the four families that would be displaced because of the Project, who are already holding on by a thread, is exactly what the Mello Act is intended to prevent. The City's approval of this demolition of a residential structure at 204-208 N. Venice Blvd. and displacement of lower-income tenants and families of color for purposes of building this 40-lot mixed-use residential-commercial project seems to be an unfortunate continuance of the City's practices of institutional racism harkening back to the shameful evictions in Chavez Ravine for a baseball stadium.

183. In addition, the City's actions violated Measure JJJ. LAMC 11.5.11, which implements Measure JJJ, provides that discretionary General Plan amendments, zone changes, and height district changes shall meet applicable replacement requirements of Government Code Section 65915(c)(3), which requires that existing units be replaced with equivalent units. Also, although the City requires a total of four replacement affordable units, it did not make the IAP-required determination of the level of affordability for the existing tenants, for which the City is the landlord and has that information. Thus, the project approval does not indicate the level of affordability for the replacement affordable units. As a result of these failures, the tenants' right to return at the correct level of affordability and in equivalent units is not reflected in the City's approval of the Project. According to the project plans, there are not four comparable replacement units designated for the existing tenants, nor has adequate parking been provided. In

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

fact, the Project's Affordable Housing Referral form, which reviews compliance with Measure JJJ and LAMC 11.5.11, leaves the proposed replacement unit specification columns blank and the only detail provided indicates 85 dwelling units at 275-350 square feet, 32 dwelling units at 500 square feet and 23 units at 750 square feet. The existing units are larger than 750 square feet. The law requires an affirmative showing—as a condition for Project approval—that the affordable units destroyed can be accommodated. The applicant has not made that showing and, thus, the City's Project approval was unlawful. Failure to provide comparable units prior to project approval is a failure to proceed in accordance with law.

184. The City is providing 55 parking spaces for the 136 affordable dwelling units, based on a calculation of .5 spaces for 68 units located within ½ mile of a major transit stop and .3 spaces for 69 units of special needs housing having either paratransit service or unobstructed access within ½ mile to fixed bus route service that operates at least 8 times per day, which equals a total of 55 parking spaces. However, there is no condition on the project that there are 68 units of special needs housing having either paratransit service or unobstructed access within ½ mile to a fixed bus route service that operates at least 8 times per day. Thus, the parking requirement must be .5 spaces for 136 units, or 68 spaces, which is an increase of 13 parking spaces for the affordable units. For this reason as well, the Project Approvals must be set aside and remanded to the City to comply with the Mello Act and other affordable housing legal requirements.

//

//

//

//

//

//

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

SIXTH CAUSE OF ACTION

(VIOLATION OF FAIR HEARING CONSTITUTIONAL DUE PROCESS REQUIREMENTS)

185. Petitioner, re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

Principles of Due Process and Fair Hearing Applicable to Administrative Land Use Appeal Hearings

186. The California Supreme Court observes that "The requirement for a fair hearing under section 1094.5 is grounded in due process." *Today's Fresh Start, Inc. v. Los Angeles County Office of Educ.* (2013) 57 Cal.4th 197, 215. Adjudicatory or quasi-judicial proceedings where an administrative agency exercises discretion to apply laws, regulations and policies to a specific set of facts, and such adjudication makes binding determinations that affect legal rights of individuals, require due process of law under both the U.S. and California Constitutions. *Londoner v. Denver* (1908) 210 U.S. 373, 385-386 (federal due process required opportunity for an oral hearing before street paving assessment could be levied against affected landowner's property); *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 610 ("we consider whether approval by defendant county of a tentative subdivision map is an 'adjudicatory' function which, under principles of due process, requires that **both** appropriate notice and an opportunity to be heard be given to persons whose property interests may be significantly affected. We will hold that such approval is 'adjudicatory,' and that rights to prior notice **and hearing** are accordingly invoked.")(Emphasis added.)

187. In the realm of land use and environmental decisionmaking, the California Supreme Court in *Horn* specifically held that landowners within the potential environmental impact area surrounding a proposed development project who could be affected by access, traffic and air emissions, were owed constitutional due process rights of notice and a meaningful opportunity to be heard to challenge grant of the applicant's proposed subdivision project and the

adequacy of the environmental review. *Horn* at 612-615. The petitioner landowner in the *Horn* case owned an adjacent parcel of land, and was found to have standing to allege that he and all other nearby landowners received no notice or opportunity to be heard. *Id*. at 619 ("the complaint avers that no prior notice or hearing had previously been given to any affected landowner, or to plaintiff or his predecessor.")

188. In analyzing the territorial scope of the right to due process as an affected landowner, the California Supreme Court emphasized that the right to due process expands in land use and environmental matters with the magnitude of the project and its potential impacts on a widening area of affected landowners. *Horn* at p. 618 ("depending on the magnitude of the project, and the degree to which a particular landowner's interests may be affected, acceptable techniques [of notice of a right to be heard] might include notice by mail to the owners of record of property situate within a designated radius of the subject property, or by the posting of notice at or near the project site, or both. Notice must, of course, occur sufficiently prior to a final decision to permit a "meaningful" predeprivation hearing to affected landowners"). Our Supreme Court emphasized the importance of the notice sufficiently prior to the hearing in order to allow affected landowners to prepare evidence and testimony to present to the decision maker so that it would be "meaningful." The larger the project, the larger the number of affected individuals whose property or other substantial rights could be impacted, and such individuals, distinct from others further away from the project site who may only have statutory Brown Act public comment rights, have a constitutionally protected right to appear at the hearing and be allowed meaningful time to present the testimony and evidence they were constitutionally required to be invited by the public agency to have an opportunity to present. And if the project impacts individuals across jurisdictional lines, a City is required to give notice to all potentially impacted landowners in the adjoining jurisdiction. *Scott v. City of Indian Wells* (1972) 6 Cal.3d 541.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

189. In *Horn*, the California Supreme Court specifically observed that in conducting an adjudicatory or quasi-judicial hearing the ability of affected landowners to organize themselves to petition the government, present testimony and evidence, and turn out in numbers could shape the ultimate decision. "Resolution of these issues [of the merits of a subdivision map] involves the exercise of judgment, and the careful balancing of conflicting interests, the hallmark of the adjudicative process. **The expressed opinions of the affected landowners might very well be persuasive to those public officials who make the decisions, and affect the outcome of the subdivision process**."(Emphasis added.) *Id*. at 615. In other words, in California a "meaningful" hearing is one where the affected landowners, who presumably received a notice of hearing (an invitation to present oral testimony and evidence before a decision is made), is entitled to a meaningful opportunity to be heard before the public officials at the noticed public hearing, and to try to affect the outcome of the adjudicative process.

190. In California, such procedural due process is owed not only to landowners but to affected tenants of surrounding properties. *Pillsbury v. South Coast Regional Community* (1977) 71 Cal.App.3d 740, 750-755 (notice required for neighbors of project, not only landowners but also residents whether they own property or not if they could be affected by the project).

191. Just a few months after deciding *Horn*, our Supreme Court held in *People v. Ramirez* (1979) 25 Cal.3d 260, 269 that California due process required a dignitary interest not recognized in federal law: "More specifically, identification of the dictates of due process generally requires consideration of (1) the private interest that will be affected by the official action, (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards, (3) **the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official**, and (4) the governmental interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail."

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

(Emphasis added.) In recognizing under California law a "dignitary interest," our Supreme Court departed from federal case precedent. California requires adjudicative hearings to be conducted so that persons with constitutional interests at stake are treated with dignity.

192. The meaning of the dignitary interest is found also in the *Ramirez* opinion: "[w]e therefore hold that the due process safeguards required for protection of an individual's statutory interests must be analyzed in the context of the principle that freedom from arbitrary adjudicative procedures **is a substantive element of one's liberty**. [Cite omitted.] This approach presumes that when an individual is subjected to deprivatory governmental action, **he <u>always</u> has a due process liberty interest both in fair and unprejudiced decision-making and in being treated with respect and dignity**." *Ramirez* at 268. Our Supreme Court criticized federal constitutional precedents in failing to require treatment of affected persons with dignity: "The federal approach also undervalues the important due process interest in recognizing the dignity and worth of the individual by treating him as an equal, fully participating and responsible member of society. [Citations omitted.] 'For government to dispose of a person's significant interests without offering him a chance to be heard **is to risk treating him as a nonperson, an object, rather than a respected, participating citizen**.' [Citation omitted.] Thus, even in cases in which the decision-making procedure will not alter the outcome of governmental action, due process may nevertheless require that certain procedural protections be granted the individual in order to protect important dignitary values, or, in other words, 'to ensure that the method of interaction itself is fair in terms of what are perceived as minimum standards of political accountability -- of modes of interaction which express a collective judgment that human beings are important in their own right, and that they must be treated with understanding, respect, and even compassion.' [Citations omitted.]" *Ramirez* at 267-268, emphasis added.

193. Thus, in assessing whether the procedural process used by a public agency was a "mode of interaction" that meets "minimum standards of political accountability" that assured those with constitutionally protected dignity interests were identified as such, accorded a

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

respectful hearing where they were given a reasonable amount of time to testify and provide evidence/argument, and were in fact respectfully listened to and the decision making was based upon the record and not extraneous matters, a reviewing court must examine the procedural rules and mechanisms in place to enforce this particularized Californian dignitary requirement.

194. Regardless of whatever process a public agency may adopt, it is required to follow it in the conduct of its adjudicatory process, or due process is denied. *Layton v. Merit System Commission* (1976) 60 Cal.App.3d 58, 63.

195. Both federal and state cases also define an impartial trial as one where the decisionmakers restrict their process to the record and evidence before them, follow the codified process of their own rules, and do not base the decision on information outside the record, including briefings from staff or colleagues lobbying them outside the hearing room. "Due process requires a fair trial before an impartial tribunal. Such a trial requires that the person or body who decides the case must know, consider and appraise the evidence." *Vollstedt v. City of Stockton* (1990) 220 Cal.App.3d 265, 275 citing "'*Hohreiter v. Garrison*, 81 Cal.App.2d 384, 401. . .; *Morgan v. United States*, 298 U.S. 468 . . . .)' (*LeStrange v. City of Berkeley* (1962) 210 Cal.App.2d 313, 325." The U.S. Supreme Court in *Morgan* found the Secretary of Agriculture had not afforded a lawful hearing where he made his decision solely from consultations with subordinates. The *Vollstedt* court cited and summarized "[t]he fundamental principle that 'the one who decides must hear'" as set forth in *Morgan*: "The court noted that the 'hearing' is designed to afford the safeguard that the one who decides shall be bound in good conscience to consider the evidence, to be guided by that alone, and to reach his conclusion uninfluenced by extraneous considerations which in other fields might have play in determining purely executive action. The 'hearing' is the hearing of evidence and argument. If the one who determines the facts which underlie the order has not considered the evidence or argument, it is manifest that the hearing has not been given." *Vollstedt* at 275 analyzing *Morgan*.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

196. One final important requirement of a fair hearing consistent with constitutional due process is the necessity an impartial decision maker. "A biased decisionmaker is constitutionally unacceptable." *Cohan v. City of Thousand Oaks* (1994) 30 Cal.App.4th 547, 559.

197. "[B]ias -- either actual or an "unacceptable probability" of it -- alone is enough on the part of a municipal decision maker is show a violation of the due process right to fair procedure. *Menning v. City Council of the City of Culver City* (1978) 86 Cal.App.3d 341, states the constitutional rule that a City Council or members thereof can be constitutionally barred from participation in an adjudicatory hearing when they either have a pecuniary interest in the outcome or if they have become "embroiled" in the controversy creating an unacceptable risk that decision making will not be based upon an impartial consideration of the record and evidence but rather extra record considerations such as personal animosity or an unusual involvement in the subject matter of the adjudicatory hearing. "The test of the ability of the administrative body to act is whether in light of the particular facts 'experience teaches that the probability of actual bias on the part of the ... decisionmaker is too high to be constitutionally tolerable.' (citation omitted].) Thus 'those with a substantial pecuniary interest in legal proceedings should not adjudicate these disputes.' (*Gibson v. Berryhill* (1973) 411 U.S. 564, 579 [citation omitted].) The decision may not be made by a decisionmaker who has become personally "embroiled" in the controversy to be decided. (*Taylor v. Hayes* (1974) 418 U.S. 488, 501-503 [citation omitted], cited for its applicability to administrative proceedings in *Withrow v. Larkin, supra,* 421 U.S. 35, 47, fn. 15 [citation omitted].) *Menning* at 350-351.

198. Procedural due process in the administrative setting requires that the hearing be conducted "*before a reasonably impartial, noninvolved reviewer*." *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470, 483, citing *Gai v. City of Selma* (1998) 68 Cal.App.4th 213, 219 (italics added). "To establish an unfair hearing based upon bias [the aggrieved party] must establish "'an unacceptable probability of actual bias on the part of those who have actual decisionmaking power over their claims.' (*BreakZone Billiards v. City of Torrance* (2000) 81

Cal.App.4th 1205, 1236.) A party seeking to show bias or prejudice on the part of an administrative decisionmaker is required to prove the same 'with concrete facts: [b]ias and prejudice are never implied and must be established by clear averments.' (*Id.*, at p. 1237; accord *Hongsathavij v. Queen of Angels etc. Medical Center* (1998) 62 Cal.App.4th 1123, 1142." *Nasha* at 358.

199. In addition to *Menning v. City Council of the City of Culver City* (councilmembers personally embroiled unfairly increased Police chief's discipline), numerous California cases overturned adjudicatory actions of municipal bodies where a member was unconstitutionally embroiled in the matter before the hearing. *Clark v. City of Hermosa Beach* (1996) 48 Cal.App.4th 1152 (Councilmember Benz organized opposition to Clark's duplex project that would affect his view of the ocean before he was elected, opposed a later version after he was elected that would still affect his view, and exhibited personal animosity toward Mrs. Clark and her children on the beach and on a Friday night urinated on the Clark's house and planter which led to City Police escorting him home); *Nasha v. City of Los Angeles* (2004) 125 Cal.App.4th 470 (area planning commissioner Lucente ghost wrote editorial opposing development project as a threat to wildlife corridor and worked with opponents outside the hearing room); *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 CA4th 1012 (Councilmember Henn filed unauthorized appeal, led off the hearing following public comment with detailed advocacy prepared prior to hearing that ran 14 pages, made the motion to deny the permit, and lobbied his colleagues outside the hearing to obtain their support of his viewpoint); *Petrovich Development Co. v. City of Sacramento* (2020) 48 Cal.App.963 (Councilmember in time period leading up to the adjudicatory hearing met with homeowners group appealing gas station conditional use permit to strategize how to defeat the gas station, prepared and circulated talking points that advocated denial of the gas station, told others he had the votes to deny the permit, and made the motion to deny the permit.) In all of these cases, the facts established the councilmember or planning commissioner had abandoned the adjudicatory role required by

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

procedural due process ("a reasonably impartial and uninvolved reviewer") and crossed a line into advocacy and embroilment with the issue.

200. These federal and California principles, embedded in the fair hearing requirement of California law, when applied to the facts set forth in this Petition, compel a conclusion that the affected landowners and land use appellant before the City Council were all denied a fair hearing and an order setting aside the December 1, 2021 project approvals and requiring the conduct of a constitutionally proper hearing is required to vindicate the fair hearing requirement.

Summary of the Unfair Elements of the Hearing Afforded By The City

201. In *Horn*, the Supreme Court dealt with the circumstance where the public agency gave no constitutional notice of hearing to landowners potentially affected by the project, and they did not know of their right to attend the adjudicatory hearing to be heard before the decision was made. In the instant case, the City mailed notice that it would conduct an adjudicatory hearing of land use appeals for the Project, but when affected landowners and tenants appeared telephonically, waiting to be called upon with their testimony and evidence, (the hearing was conducted with in-person City Councilmembers and staff but telephonically as to the land use appellant and meeting attendees), most were not permitted to be heard at all, and the five persons lucky enough to get through the public speaking procedural gauntlet, were not accorded the dignity minimum due process requires under the circumstances including being afforded a reasonable amount of time to present their testimony and evidence under City Council Rule No. 8 discussed herein.

202. As detailed herein, some constitutionally affected by the Project may not have learned about the hearing because the City failed to post a hearing notice as required by LAMC section 12.24D3, a fact specifically brought to the attention to the City Council and City Attorney during the appeal testimony, and ignored as a basis to postpone the hearing until proper posted notice could be made.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

203. As detailed herein, although Government Code section 65804 mandates that a zoning decision making body enact procedural zoning hearing rules. In the decades since its enactment, the City Council, unlike other cities in the state and its own planning commissions, has failed to enact and promulgate an adequate set of procedural rules for how a land use appeal under the municipal code will be conducted at City Council meetings. The City Council's failure to comply with section 65804, substantially increases "the risk of an erroneous deprivation of [a constitutionally protected] interest through the procedures used" (*Ramirez* case due process factor) because there is a complete absence of procedures. Land use appeals at the City Council meetings are conducted at the discretion of the chair of the meeting which dramatically heightens the risk of erroneous deprivations due to the lack of procedural rules.

204. As detailed herein, City Council Rule 22(f) sets out a special section of City Council meeting agendas for public hearings required and noticed by law. Presumably, placement of an item in this section of the agenda alerts City staff and officials that affected persons may appear before the City to be listened to and respected in accordance with due process dignity obligations of the *Ramirez* case. In this section, the City routinely notices public hearings required by law in order to assess a landowner a small sum to pay for a street lighting district (consistent with *Londoner v. Denver* (1908) 210 U.S. 373, 385-386), but as a pattern and practice, does not routinely, including in this case, place a land use hearing concerning a $100 million development project required by law for notice and public hearing into this section of the agenda reserved for noticed public hearings (inconsistent with *Ramirez* dignity requirement of due process). Instead, in a routine disrespect of persons with constitutionally protected due process dignity rights, the City ironically places land use appeals later in the meeting agenda under items previously heard under Brown Act public comment or items not previously heard under Brown Act public comment. In doing so, including this case, the City dramatically increases "the risk of an erroneous deprivation of [a constitutionally protected] interest through the procedures used" or failure to follow its own procedures set forth in its own Rules. *Layton v.*

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Merit System Commission (1976) 60 Cal.App.3d 58, 63.

205. As detailed herein, City Council Rule No. 8 says that items noticed for public hearing by the City "are intended to receive separate public input on a specific matter." The City mailed such a public hearing notice for the Project but the City Clerk failed to place the items of business for the Project in the Public Hearing section of the meeting agenda which would have been consistent with the City's obligation to provide "separate public input on a specific matter." The failure to follow its own procedural rules for public hearings required and noticed by law was inconsistent with procedural due process owed to affected land use appellants and affected landowners and tenants on the Project site or in the impact area of the Project. *Layton v. Merit System Commission* (1976) 60 Cal.App.3d 58, 63.

206. As detailed herein, instead of following the mandate of its own City Council Rule No. 8 to provide "separate public input on a specific matter" legally required to be noticed for a public hearing, the City Council President left Council Chambers for approximately 37 minutes, ceding authority to the City Attorney to oversee a Brown Act public comment period lottery process where only 32 minutes of public comment was permitted *for all items on the meeting agenda*, including the two items for the Project which had been noticed by mail for a Public Hearing. Public speakers were instructed by the "presiding" City Attorney that they could have only one minute for each item of business and one minute for "general public comment." The City's act of failing to identify those who attended the hearing with constitutionally protected interests and shoving them into a 32-minute Brown Act public speaking lottery violated our Supreme Court's *Ramirez* rule that persons owed procedural due process be treated with equal dignity as participants in the adjudicatory process.

207. As detailed herein, City Council Rule No. 8 also provides that for items noticed for Public Hearing "[i]nterested persons (for example applicants, appellants and property owners) shall be given reasonable opportunity to present oral arguments for or against any proposed action." Having undertaken no effort to identify those who virtually attended the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

hearing as Project-affected landowners and tenants, having forced landowners and tenants to try to speak in the 32-minute Brown Act speaking lottery, having limited the speaking time to 1 minute per item (*Manufactured Home Communities, Inc. v. County of San Luis Obispo* (2008) 167 Cal.App.4th 705 (A two-minute limit on testimony unduly restricted the evidentiary presentation at a county rent control review board hearing in violation of due process. Administrative efficiency at the expense of due process is not permissible.), having arbitrarily cut off any public comment after 32 minutes without knowing if all affected persons had an opportunity to be heard, the City violated its own rule guaranteeing a reasonable opportunity to present evidence to the City Council by interested persons under Rule No. 8.

208. As detailed herein, not only did the City's process completely prevent affected landowners and tenants waiting to speak from speaking at all, and those who spoke were limited to a facially unreasonable one minute per item, the City Council is observed on the meeting video absent from the room, talking among themselves, reading their phones, and not paying attention to the five persons lucky enough to speak for 1-minute per item. After having not paid attention to the testimony of a few who were allowed to speak, the City Council voted to approve the Project, with one Councilmember abstaining and another one recusing for conflict of interest.

209. As detailed herein, from the start of this Project it was an idea originating from Councilmember Bonin himself, Mr. Bonin made the Project an important element of his policy initiatives, Mr. Bonin demonized those who opposed the Project including the use of the power of his office get the Los Angeles Police Department to distribute a false narrative that those opposed to his policies had planted bomb-like devices near a related homeless facility in Venice, prior to the hearing Mr. Bonin or his staff is believed to have lobbied other Council offices to support denial of the appeal, at the hearing, instead of the developers appearing to defend their project, Mr. Bonin did it himself, reading an 8 minute statement/notes extolling the Project in the place of a presentation of the Planning Department or developers, and excoriating opponents as obstructionists without addressing the merits of the appeals, and he made the two motions to

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

deny the land use appeals and approve the Project. Such facts, pled in detail herein, establish the Project was so closely associated with Mr. Bonin that it had become his own project for which he became a proactive advocate at the adjudicatory hearing instead of conducting himself as a reasonably impartial, non-interested reviewer. Despite a complaint seeking his recusal filed with the City Ethics Commission and City Council, he did not recuse from participation at the hearing.

Persons Entitled To Procedural Due Process In Quasi-Judicial Hearings

210. A community representative group called Venice Vision, filed timely land use appeals of the City's approvals during the administrative proceedings of this case, including before the City Council. A land use appellant who challenges quasi-judicial approvals is entitled to procedural due process protections in any hearing(s) conducted before the City Council as the final decision maker. In addition, any constitutionally affected landowners and tenants living within the project environmental impact area, are entitled to procedural due process in any hearing(s) conducted before the City Council. [*Horn* and *Pillsbury* cases.]

211. Petitioner's supporters include persons who live in the City-owned apartments on the Project Site and persons whose property, tenant, or other rights will be affected by the City's approval of the Project because they live or own property within the environmental impact area of the Project as described by the Supreme Court in the *Horn* case. Petitioner represents the interests of its impacted supporters consistent with the principles of *Property Owners of Whispering Palms, Inc. v. Newport Beach, Inc.* (2005) 132 Cal.App. 4th 666, 673 (An association has standing to bring suit on behalf of its supporters: (1) its supporters otherwise would have standing to sue in their own right; (b) the interest it seeks to protect are germane to the organization's purpose: and (c) neither the claim asserted nor the relief requested requires participation of individual supporters in the lawsuit.)

212. Even though these persons did not separately file land use appeals for hearing before the City Council, they were constitutionally entitled to sufficient advance notice of the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

public hearing and an opportunity to be meaningfully heard at the public hearing before the City may constitutionally approve the Project and impose its potential impacts on their rights and lives consistent with the Supreme Court's directive in *Horn* and *Pillbury*, and their progeny.

The Lack Of Adopted Los Angeles City Council Procedural Quasi-Judicial Hearing Rules

213. In accordance with Government Code Section 65804, the Los Angeles City Planning Commission and Area Planning Commissions have adopted procedural hearing rules for the conduct of quasi-judicial hearings before those bodies. Such rules include an orderly procedural process for the conduct of adjudicatory or quasi-judicial land use appeals before those commissions.

214. Under the procedural rules of the planning commissions, generally speaking, such administrative proceedings include presentation of the Project and appeal points by City Planning staff, then the Appellant presents its case, then the Project Applicant presents its case, then the Public is provided an opportunity to provide hearing evidence and argument testimony (not Brown Act comment), then the Applicant and Appellant have an opportunity to provide rebuttal, then the public hearing is closed, the Commission members deliberate and vote.

215. No similar orderly process is provided in the Rules of the Los Angeles City Council for quasi-judicial land use appeal hearings at City Council Committee or Full Council meetings. Government Code Section 65804 mandates that: "All local city and county zoning agencies shall develop and publish procedural rules for conduct of their hearings so that all interested parties **shall have advance knowledge** of procedures to be followed." (Emphasis added.)

216. At an adjudicatory or quasi-judicial hearing before the Los Angeles City Council a land use Appellant has no advance knowledge of whether or not there will be a staff presentation, what the order of proceedings will be, or how long he or she will be given to present the case to the Council members, or if there is an opportunity to rebut persons who spoke during hearing testimony, or if a power point presentation could be given to the Council

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

members.

217. Although the City Council has adopted Council Rules, they are overwhelmingly concerned with the processing of routine, non land-use appeal matters, Brown Act public comment rules (which are constitutionally distinct from land use hearing testimony by interested persons), quorum, voting, reconsideration, and similar rules of a legislative body. Unlike the City's planning commission operating rules, there is no similar section of the City Council Rules dedicated to giving advance knowledge of the procedures to be followed for a quasi-judicial land use hearing. In fact, the word "quasi-judicial" only appears once in the City Council Rules at Rule 49 which requires that roll call votes are required in "quasi-judicial actions adopting findings and making determinations." That tells a land use appellant little about how the hearing will unfold from beginning to end at City Council as mandated.

218. City Council Rule No. 8 sets forth the City's acknowledgement that a public hearing required to be conducted and noticed by law is supposed to a process separate and apart from mere Brown Act public comment on regular items of business that might appear on a City Council meeting agenda: "Public hearing items scheduled for regular meetings are afforded special notice for a specific Council meeting date and **are intended to receive separate public input on a specific matter.**" (Emphasis added.) In this case, as set forth herein, no "separate public input" process was provided.

> Although City Council Rule No. 8 acknowledges that public hearings are something different than mere Brown Act public comment, but it only vaguely confirms that such hearings are specially noticed (mail or publication, or both) for regular meeting agendas. This provision states a land use appellant, applicant or property owners will be given a "reasonable" amount of time to present their case: "Interested persons (for example applicants, appellants and property owners) shall be given reasonable opportunity to present oral arguments for or against any proposed action. However, no person may present evidence not relevant to the matter which is the subject of the hearing." There is

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

no commitment to an orderly hearing process for land use hearing parties, there is no specified order of the proceedings for any public hearing including those land use appeal hearings required by law, there is no provision actually requiring the hearing to be conducted as a distinct proceeding separate from the other more mundane items of business on the City Council meeting agenda subject only to Brown Act public comment obligations.Because the Los Angeles City Council has failed in the decades since the enactment of Government Code Section 65804 to adopt and publish procedural rules for conduct of its hearings, Petitioner's member organizations and individuals with constitutionally protected rights had no idea how the "hearing" would be conducted as mandated by law. These failures of the City is an omission that constitutionally increases "the risk of an erroneous deprivation of such interest through the procedures used" as set forth by the California Supreme Court in *Ramirez*.

Failure to Place The Noticed Public Hearing On The City Council Agenda For Public Hearings Required By Law.

219. On November 8, 2021, the Chair of the PLUM Committee waived and cancelled any hearing of the land use appeals at Council Committee.

220. On November 15, 2021, the City issued a mailed notice for a Public Hearing on the land use appeals and the Project. This was the City's notice to constitutionally affected landowners and tenants within 500 feet of the Project of an invitation to the City Council meeting to be heard. As it was a hearing and notice required by law to hear and decide adjudicatory or quasi-judicial land use appeals, City Council Rule No. 8 required its separate consideration as outlined herein.

221. Under City Council Rule No. 22, the Public Hearing noticed by the City was required to be listed on the meeting agenda as a "Public Hearing Required By Law." Significantly, the City listed it in a later section of its published meeting agenda for December 1, 2021 entitled "Items For Which Required Public Hearing Has Not Been Held." The terminology

used in Council Rule 22 and used on City Council agendas is a misnomer and misleading. "Items For Which Required Public Hearing Has Not Been Held" is not for any sort of legally required public hearing. Instead, this is the section of the Council's agenda where any routine item of business is placed when it was not heard at the Committee level where Brown Act public comment occurred. The more accurate description of this section of the meeting agenda is "Items For Which No Brown Act Public Comment Was Received At A Committee."

222. Misplacement of the Public Hearing had prejudicial consequences because the Council President, City Clerk staff and others did not apply even Rule No. 8 requiring applicants, appellants and property owners to be give a reasonable time to present arguments to the City Council. The item was treated as if the only rights to be provided was a chance to speak in what has become an unlawful Brown Act speaking lottery.

223. Instead of conducting a segregated public hearing that City Council Rule No. 8 says will be conducted on the "specific matter" of the Project, the City Council severed the Project evidence testimony by members of the public from when the Project was presented to the City Council. In order for a Councilmember to consider the Project, he or she would have to remember persons who were relegated to a Multi-Item or Single Item public comment period conducted at the outset of the meeting. Such a separation in time between what little Project-related evidence and testimony was allowed to be presented (mixed in with all other Brown Act public speakers at the meeting), had the effect of denying property owners and persons within the impact zone of the Project from having a meaningful opportunity to plead their case before the City Council or demonstrate the magnitude of opposition to the Project as proposed.

224. The failure of the City to provide the separate public input required by City Council Rule No. 8 substantially increased 'the risk of an erroneous deprivation of such interest through the procedures used" and constituted a failure to fulfill "the dignitary interest in informing individuals of the nature, grounds and consequences of the action and in enabling them to present their side of the story before a responsible governmental official."

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

The City Required Constitutionally Protected Persons To Speak On The Project Mixed In With All General Public Comment and Multi-Item Brown Act Public Speakers

225. In recent years, the City Council has adopted Council Rule No. 7, a bizarre Brown Act public speaking rule that shuffles all public comment on every item on the meeting agenda to the outset of the meeting. Council Rule No. 7 makes a one-size-fit-all public meeting "finding" that 10 minutes of General Public Comment under the Brown Act is sufficient. The Rule also makes a similar "finding" that regardless of the number of items on a City Council meeting agenda, or the number of persons attending the meeting (in person and now virtually online), the Council will only listen to its constituents for 20 minutes of Brown Act public comment concerning all items of business on the meeting agenda.

226. Setting aside the obvious constitutional problems with such "findings" set forth in a City Council Rule, and violations under the Brown Act that reasonable public comment be permitted based upon the circumstance of each meeting, the City's treatment of the constitutionally-protected persons attending its City Council meeting on December 1, 2021, by treating them as if they were mere Brown Act commenters, violated the fundamental principle of the right to be heard under the due process clause consistent with the dignitary interest and contrary to the City's own rule, City Council Rule No. 8.

227. The December 1, 2021 meeting was conducted under City Council Rule No. 7. All speakers wishing to speak were required to raise their hand virtually so that they could be called upon in the Zoom conducted City Council meeting. This included all property owners (and all other persons with constitutionally protected rights) that Rule 8 guarantees in a public hearing will be given a reasonable period of time to present information to the City Council. The City Council President and City Attorney did not ask that property owners impacted by the Project identify themselves so that they could be separately heard as provided in Council Rule No. 8. Instead, all potential speakers were shuttled into the Rule No. 7 public speaking lottery, guaranteeing that the City would not even know how many people were waiting to speak on the

Project, and therefore also not know how many people the City would completely deny the opportunity to be heard at all.

228. Even though City Council Rule No. 7 makes a finding that general public comment is a separate time period from comments for items on the meeting agenda, the City Council now combines all general public commenters and commenters on agenda items together. When combined with the Council's rule that a public speaker may only speak on two items on a meeting agenda for one minute each and have one minute for general public comment, the new multi-item public speaking period has become a confused jumble of speakers addressing topics out of order and randomly. Each speaker may opt to speak on two items plus general comment. Under this regime, ten public speakers exercising their right to speak for one minute each on two items and one minute on general public comment would consume 3 minutes each. Strict adherence to the "finding" that 30 minutes of listening to the public was enough meant that as few as 10 speakers might be heard. Forcing landowners and tenants affected by the Project into the Rule No. 7 speaking lottery was contrary to City Council Rule No. 8 and the right of such individuals to be treated with equal dignity under California due process requirements stated in the *Ramirez* case.

229. This is how the City Council conducted its meeting on December 1, 2021, except that the City Attorney gave a verbal warning that Appellant and Applicant would speak later on the "fair hearing" items on the agenda. His comments did not indicate that the public speaking segment was part of the "fair hearing." The public speaking segment was limited to 34 minutes of speaking time but took about 40 minutes to carry out due to gaps of time between speakers. A total of 15 persons were able to speak before the City Council that day. Of those, mixed in with the general public commenters and agenda item commenters on other matters on the agenda, only nine (9) persons were permitted to substantively speak about the Project. Four persons spoke in favor of the Project, and five persons spoke against the Project as proposed. Those nine persons who spoke on the Project had their testimony mixed in with Brown Act public comments

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

of certain gadflies of Los Angeles City Council who were making profanity laced comments about other issues for approximately 13 minutes of the 30 minutes of testimony.

230. Petitioner is informed and believes, and thereon alleges that since the implementation of virtual meetings in the pandemic, the City has learned the phone numbers of gadflies and calls upon them with greater frequency, shutting out public speakers trying to have an impact on public decision making on an item they specially attended the City Council meeting to talk about. In this way, the City Council has turned the gadflies into a weapon to diminish the effectiveness of any public comment.

231. During this time period, City Council members can be seen on the meeting video out of their seats, talking to others, **and not listening to the public speakers**, including those few who got called upon to speak about the Project. The video record also establishes that the Council President left Council chambers during the public speaking portion of the meeting, specifically during the first speaker, was out of the room approximately 37 minutes, and scurried back into the room when the final public speaker discussing the Project asked: "Where is the City Council?". The City Council President can be seen sitting down as the final public speaker was wrapping up his remarks. For these minutes, the City Attorney effectively presided over the City Council's meeting although he is not an elected member of that body.

232. At the end of the 34 minutes the City Attorney allowed for public comments on all items on the agenda, including the Project which had been noticed by law as a Public Hearing, **every other property owner, tenant or person waiting on the telephone line within the impact zone of the Project was disconnected and not permitted to speak at all in this Brown Act public comment lottery. They had their hands virtually raised to speak in response to the Public Hearing notice the City Council sent by mail, but they were not called upon and the Brown Act public comment was closed without allowing them to speak.** Under City Council Rule No. 8 these persons were interested persons, within the impact zone of the Project, yet the process chosen by the City denied them an opportunity to present testimony

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

and evidence before the decision was made. Furthermore, they were denied the opportunity to be heard in compliance with the dignitary interest of California due process as set forth in the *Ramirez* case. The Coalition is informed and believes, and thereon alleges that the process of the City failed to capture the number of persons waiting to testify when the City Attorney declared the public comment period over, and the remaining callers were disconnected.

233. By way of example, Juli Schulz, a supporter of the Coalition lives on Ocean Avenue where it intersects Linnie Canal, a block from the eastern boundary of the Project. As an affected tenant impacted by the Project, she prepared her testimony and evidence for that day related to the Project. Ms. Schulz works in the environmental field and she prepared testimony related to environmental issues that no other person would have testified about. She followed the City's instructions to speak telephonically while watching the meeting on the City's youtube.com Channel 34. While in the cue, at least three times she was disconnected and had to call in again to get into the cue. At no time was Ms. Schulz admitted to the meeting to speak. Under City Council Rule No. 8 she was an interested person, within the impact zone of the Project, yet the process chosen by the City denied her an opportunity to present testimony and evidence before the decision was made. Furthermore, she was denied the opportunity to be heard in compliance with the dignitary interest of California due process.

234. Because of the City's new procedure of moving all Brown Act public comment to the beginning of the meeting, City Council members have a pattern and practice of treating this consolidated public comment period as a time for a break to talk to each other or with staff, to read other materials, to look at or talk on their phone, or leave the Council Chambers completely. In other words, their conduct of doing other things instead of giving their undivided attention to the public speakers defeats the purpose of the Brown Act, and even worse in this case, demonstrates a failure to hear from those with a constitutionally protected right to be heard. This meeting, like every meeting under this new public speaking regime, is chaotic with Councilmembers stepping in and out of the room obviously attending to other matters or

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

priorities other than listening to the public commenters.

235. To the best of Petitioner's knowledge upon a careful inspection of the City's official video of the meeting, from the time the first Brown Act public speaker began speaking at time mark 42:21 on the official meeting video, five Councilmembers had already left the meeting room before the public comments commenced: Council President Martinez, Ms. Ramin, Ms. Rodriguez, Mr. Kerkorian, and Mr. Koretz. These five Councilmembers remained out of the room for varying periods of time during the comment period. What followed was a series of City Councilmembers leaving the room and coming back into the room during the 34 minutes of Brown Act public comment: 43:51 Mr. Harris Dawson leaves; 45:17 Ms. Ramin arrives; 48:38 Mr. De Leon leaves; 53:32 Mr. De Leon returns; 56:23 Ms. Rodriguez arrives; 59:28 Mr. Price leaves; 1:01:04 Mr. Koretz arrives; 1:04:59 Mr. Lee leaves; 1:06:14 Mr. Price returns; 1:07:40 Mr. Lee returns; 1:08:12; Ms. Ramin leaves; 1:08:47 Ms. Ramin returns; 1:09:25 Mr. Koretz is reading the newspaper (raises it to turn the page); 1:09:50 Mr. Harris Dawson returns but then walks off camera to over by the wall; 1:10:20 Mr. Bonin leaves; 1:11:10 Mr. Bonin returns; 1:12:50 Mr. Price leaves; 1:14:03 Council President Martinez and Mr. Krekorian return; 1:14:13 Mr. Price returns; 1:15:18 Mr. Price and Mr. O'Farrell leave; 1:17:17 Mr. Harris Dawson sits down from somewhere off camera in the Council room.

236. Based upon this review of the meeting video, it appears that Council President Martinez and Mr. Kerkorian missed approximately 37 minutes of the public comment period. Ms. Ramin missed approximately the first six minutes, and left the room for another minute later. Ms. Rodriguez missed the first 17 minutes of the public comments before returning to the room. Mr. Koretz missed the first 23 minutes of the public comments before returning to the room, and then is observed reading the newspaper within a few minutes of his return to the room. Mr. Harris Dawson left the room for approximately 26 minutes of the public comments and upon returning to the room walked off camera to the wall where he may have been for another 17 minutes before returning to his seat. Mr. De Leon left the room for approximately 5 minutes in

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the middle of the public comment period. Mr. Price left the room for approximately 8 minutes two times during public comment and then left the room for an unknown period of time during the last public speaker. Mr. Lee left the room for 2 minutes during the public comment period. Mr. Bonin left the room for nearly a minute in the middle of a public speaker about the Project. Mr. O'Farrell left the room during the final public speaker. The Councilmembers who appear to have remained in the room during public comment were: Mr. Cedillo, Mr. Blumenfeld and Mr. Buscaino, however Mr. Cedillo and Mr. Buscaino are observed standing out of their seats talking with others for extended periods during the public comment period. At the time City Council was called upon to vote on the Project all of these Councimembers appear to be in their seats and voting to deny the land use appeal many of the were out of City Council Chambers for extended periods of time during the public comment period.

237. The City's actions forcing affected landowners and tenants to speak intermixed with mere Brown Act public speakers, and that fact that a majority of Councilmembers were absent from the room for significant portions of the public speaking segment violated City Council Rule No. 8 that states that noticed public hearings will be conducted with "separate public input on a specific matter," and in complete deprivation of the dignitary interest set forth by the California Supreme Court in the seminal *Ramirez* case. As the *Vollstedt* court observed, it is fundamental that "one who decides must hear." The record in this case establishes the City Council was not sitting in their seats giving their undivided attention to the five persons who opposed the project and got through the Brown Act speaking lottery to actually speak.

The Segregated Public Hearing Was Incoherent and Severely Truncated

238. Next the City Council proceeded through the meeting agenda considering briefly some other items on the agenda and voting on them. Subsequently, the two items on the December 1, 2021 meeting agenda for the Project were called together for consolidated consideration. Mr. Bonin leapt to his feet to speak but he was reminded that first the City Council had to hear the presentations of the parties. At this point, because City Council members

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

could still be seen out of their seats continuing to talk to others and not paying attention, including through the prior public speaking segment, the City Attorney reminded them again to pay attention because this was a "fair hearing."

239. Unlike at a planning commission hearing which has adopted procedural rules under Government Code Section 65804, there was no presentation of the Project to the City Council members by the City Planners, including no power point presentation of even what it looked like. Additionally, there was no identification of the appeal issues raised by Appellant Venice Vision or the City Planning staff's response to those appeal points.

240. Real Parties in Interest, the developers of the Project, did not appear at the hearing to defend the Project in the land use appeal. In fact, the Council President never called for the Real Parties in Interest to speak. Given that the City Clerk prepares a script for each City Council meeting for the Council President to follow, the absence of any call for the developer to speak appears to be intentional - an agreed upon procedure arranged before the hearing.

241. In contrast, Appellant's representative was patiently waiting to present appeal arguments. When he could not be found by staff online in order to bring him into the virtual meeting, instead of calling for the developers to present their project, the Council President turned to Councilmember Bonin to speak.

242. Councilmember Bonin's presentation turned out to be approximately 8 minutes of presentation of the Project to the City Council. Mr. Bonin knew his speech would be the most critical to his colleagues because in the City of Los Angeles, there exists a practice of each City Councilmember deferring to the wishes of the Councilmember in whose district a project lies.

243. Petitioner is informed and believes, and thereon alleges that prior to the hearing, Mr. Bonin and/or his staff engaged in ex parte communications with the other Councilmembers or their staff to seek commitments to support his position. While this type of conduct might be permissible on legislative or political issues, it is forbidden in the context of an adjudicatory hearing where the decision maker is required to make its decision solely on the record and the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

critical public hearing required by law before making a decision.

244. In fact, maintaining his control over the proceedings, Mr. Bonin himself assumed a combined role of what is normally performed by the Planning Department staff and/or the developer. He presented and advocated for approval of the Project and denial of the land use appeals. He did this **before** having heard the evidence and arguments of the land use appellant, therefore his speech cannot be construed as deliberations. Working from his notes about the Project, Mr. Bonin spoke the longest at the hearing, because the Council President imposed no time limit on Mr. Bonin's presentation. As alleged herein, he was the person who conceived of this Project in 2016, and made it his own over the time leading up to the adjudicatory hearing on the appeals.

245. Mr. Bonin's assumption of positive advocacy of the Project, and his demonization of the persons appealing the entitlements before they even were permitted to speak crossed the line from a "reasonably impartial, non-interested reviewer" of the land use appeals. As the multiple cases analyzed at the outset of this cause of action, embroilment of a City Coucilmember in the issues of a land use case to the point that he or she becomes an advocate for one side of the case over the other before hearing the case is constitutionally impermissible.

246. Following Mr. Bonin's comments to City Council, Mr. Hall, the attorney representing Appellant Venice Vision, was told by the City Attorney he would have 5 minutes to present the two appeals – essentially, 2.5 minutes for each appeal. Mr. Hall used a portion of this 5 minutes to raise the procedural due process problems with the City Council's actions. He also tried to convey the magnitude of the problems with the Project. The amount of time to present appeal issues to the City Council, was unreasonable, under Rule No. 8, which was not being applied because of the erroneous placement of the Project on the meeting agenda, and under any fair hearing principle under the constitution.

247. Next, if the City Council followed the procedural rules of its Planning Commissions, it would have been time to hear the Project Applicant's presentation after that of

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the Appellant's. However, as indicated herein, the Applicant offered no presentation to the City Council and no one even called upon the Applicant, suggesting this failure to appear was agreed upon with the Applicant prior to the hearing. Then the "hearing," such as it was, closed.

248. For the City Council deliberations, not a single City Councilmember, including Mr. Bonin, spoke or had a question. There were no deliberations conducted before the observing public. Petitioner is informed and believes, and thereon alleges that Council member Mike Bonin or his staff or the Applicant conducted an ex parte lobbying process outside of the hearing to address questions or concerns of other City Council members or their staff regarding the appeals or Project.

249. Mr. Bonin moved to deny the appeals and approve the Project, and the City Council electronic vote was taken approving his motions.

The Refusal Of Council Member Mike Bonin To Recuse Himself Or City Council To Require Recusal Denied Procedural Due Process

250. The procedural due process right to an opportunity to be heard has been interpreted to encompass not only the right to a public hearing, but also the right to a fair hearing. Fair hearing requirements include unbiased decision makers, an opportunity to review the evidence considered by the agency, and the right to be actually heard by those who make the decision.

> "[T]he broad applicability of administrative hearings to the various rights and responsibilities of citizens and businesses, and the undeniable public interest in fair hearings in the administrative adjudication arena, militate in favor of assuring that such hearings are fair." *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90.

In California, a quasi-judicial decision maker who exhibits an "unacceptable probability of actual bias" must recuse from participating in the hearing and decision before a legislative body. *Nasha LLC v. City of Los Angeles* (2004) 125 Cal.App. 4th 470.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

251. In the case of a city councilmember, while he or she may express opinions about a proposed project proposal prior to public hearings, even a councilmember cannot cross the line to exhibit hostility or personal animus toward participants of an adjudicatory or quasi-judicial hearing.

252. Los Angeles City Councilmember Mike Bonin has pursued a set of homelessness policies that have intensified, and some say, attracted even more homeless persons to Venice. Mr. Bonin's policy initiative included the establishment of a large temporary homeless housing facility, known as a Bridge Housing facility, to house persons experiencing homelessness until they can qualify or move to existing or proposed long-term low-income housing facilities in the community. Recent initiatives of Mr. Bonin included the establishment of a Bridge Housing project on the site of a former bus maintenance division in Venice, and a proposal to lease beach parking lots in the area of the Grand Canal of the Venice Canals to construct the Reese Davidson Project. Ultimately, the Bridge Housing facility will refer clients to the Reese Davidson Project. Records of the City establish Mr. Bonin's positive advocacy for contructing a housing project go back to a Request for Information his office released in 2014.

253. The unacceptable probability of actual bias against the land use appellant and affected landowners and tenants objecting to the Project arose out of a series of actions of Mr. Bonin in connection with the discovery of three CO2 canisters lashed to some pieces of wood or metal found at or on the streets near the Venice Bridge Housing project in December 2019/January 2020, a site under construction by the City's General Services Department. These events occurred while the applications for the Reese Davidson Project were pending before City Planning officials and Mr. Bonin.

254. Venice Vision, the land use appellant in this case, conducted an investigation of the actions of Mr. Bonin and the LAPD by making California Public Records Act requests. The LAPD and Mr. Bonin's office released emails that provided a factual basis to request his recusal, and to set forth in this Petition the particularized factual allegations to establish an "unacceptable

probability of actual bias" of Mr. Bonin toward anyone who dared question Mr. Bonin's policies, including those who publicly question those policies, including the idea to construct housing at such a vulnerable location. What follows are detailed factual allegations of Mr. Bonin disqualifying animus and bias, illustrate by his willingness to levy false charges of domestic terror activity against those questioning the wisdom of his policies, including initially identifying the Venice Boulevard open space area for the Reese Davidson Project when so many other less problematic sites nearby existed. Petitioner is in possession of each email quoted, even though some have been unlawful redacted by City officials to keep Mr. Bonin's false charges circulating through the community.

255. Significantly, the first appearance of one of the devices was on December 30, 2019, **four (4) days before the LAPD bomb squad was called** to the intersection of Sunset and Main Street. Emails exchanged among City General Services Construction Department personnel on January 3, 2021 show: "On 12/30/19, a CO2 cartridge that was taped up with metal scraps and a lag screw was found on the CD 11 Sunset Bridge Home Project."

256. Petitioner is informed and believes, and thereon alleges that CO2 cartridges are commonly used for water carbonization appliances, or smaller ones are used to propel paintball devices, or to propel pinewood derby racer cars by using a nail to puncture the CO2 cartridges of two competing cars at the same time with the expelled gas powering the racecars. (https://auto.howstuffworks.com/auto-racing/motorsports/co2-powered-dragster3.htm) To even the most casual observer, such CO2 cartridges are used for food preparation or recreational purposes in everyday life. Petitioner is informed and believes, and thereon alleges that the CO2 cartridges found at the project site, like those used in everyday life, have virtually no potential for bomb making purposes.

257. Petitioner is informed and believes, and thereon alleges that on December 30, 2019, the first day a CO2 cartridge device was found, no one called the police regarding the device.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

258. In the same email there was a summary of the next day: "On 12/31/19 the site foreman Huntington Woodman, stated he showed security the device. Mr. Woodman then stated that the security guard placed a call after seeing the device." Petitioner does not know where this call was placed. Petitioner is informed and believes, and thereon alleges that no call to LAPD concerning the CO2 cartridge device was made on this day, December 31, 2019.

259. Petitioner is informed and believes, and thereon alleges that there was no call to LAPD about the CO2 cartridge device on January 1, 2020.

260. Petitioner does not know when Mr. Bonin learned of the CO2 cartridge device.

261. Another email from LAPD Department Operations Center ("DOC") shows the Bomb Squad responded to a report of multiple suspicious devices at Sunset and Main Streets in Venice at 5:50 p.m. (17:50 hours) on the evening of January 2, 2020. Petitioner is informed and believes, and thereon alleges that the police were called to the Bridge Housing construction site by the private security firm hired by the City to patrol the construction site.

262. An automated risk assessment email notification was issued on January 2, 2020, 7:02 p.m., reporting that the local police department was responding to reports of several suspicious devices "in the area" of Sunset Avenue and Main Street. The notification listed the incident as "Minor."

263. In an email from Pacific Division Watch Commander Marie Fellhauer at 12:19 a.m., January 3, 2020, the Department issued a notice that the suspicious devices incident involved "3 CO2 canisters," no injuries, and no suspects. Another email reported the Bomb Squad cleared the area at about 12:22 a.m. January 3, 2020, about 6.5 hours after the initial call.

264. Among all the emails released to Venice Vision, the land use appellant in this case, by the LAPD, was the written assessments of LAPD detectives who responded to Sunset Avenue and Main Street, and conclusions by rank-and-file members of the Major Crimes Division of LAPD were all redacted, while selected statements involving Councilmember Bonin, and Police Chief Michel Moore were not redacted.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

265. On the evening of January 2, 2020 as the incident was investigated by the Bomb Squad, no public statements were made by Councilmember Bonin, Police Chief Michel Moore, or General Jeff of Skid Row, a Homeless Advocate in Downtown Los Angeles. Petitioner is unaware of any press coverage on the evening of January 2, 2020. However, on the morning of January 3, 2020, there were a series of statements from these three persons in quick succession.

266. At 9:10 a.m. January 3, 2020, Councilmember Bonin posted the following on his Facebook account:

> "Last night, the Los Angeles Police Department responded to a report of suspicious **devices that looked like bombs at the site of the future bridge housing in Venice**. Streets were closed and nearby homes were evacuated for several hours, while the LAPD Bomb Squad analyzed the devices.
>
> According to LAPD, **there were three separate devices**. While they were apparently **designed to look like explosive devices**, LAPD's bomb squad determined that none of them contained the necessary fuel to cause an explosion. LAPD removed the devices, conducted a safety sweep of the area, reopened streets, and allowed people back into their homes.
>
> LAPD's Major Crimes Division is investigating. Anyone with information that could assist in the investigation should contact 1-877-LAPD 24-7 (1-877-527-3247).
>
> **This is an appalling incident perpetrated by a disturbed and cowardly person or persons. If it was meant to slow or halt progress on providing bridge housing, it failed.** It is unacceptable and inhumane for people to be living and dying in sidewalk encampments in our neighborhoods. It is imperative that we get people off the streets.
>
> **We will not be intimidated, and we will not back down** from providing solutions to our homelessness crisis.
>
> I am grateful to the men and women of the Los Angeles Police Department, especially those in LAPD Pacific Division and the LAPD BOMB Squad, for their quick,

professional and exemplary work last night. And I am grateful to the neighborhood residents, who responded patiently and calmly to **this attempt to frighten and inconvenience them**." (Emphasis added.)

267. Additionally, at 9:08 a.m, on January 3, 2020, David Graham-Caso, Mr. Bonin's Deputy Chief of Staff, distributed the text of the Councilmember's Facebook post to all office staff instructing them to use the statement to respond to constituent inquiries. Coordinated release of Mr. Bonin's statement by his office staff two minutes before the Facebook posting establishes that it was developed among the Councilmember's staff before it was released to the public – the product of deliberation and political calculation.

268. Just two hours and 12 minutes later, at 11:22 a.m. General Jeff of Skid Row sent an email to LAPD Chief Michel Moore, Mayor Eric Garcetti, Councilmember Mike Bonin and many other City officials stating:

"On behalf of "We, the People of Skid Row", I am contacting each of you to voice our collective concerns regarding recent "bomb-like" activity in Venice, California. Attached are the following; 1) A screenshot of LA City Councilmember Mike Bonin publicly speaking to "bomb-like" devices which warranted the attention of LAPD's Bomb Squad, and 2) An official letter from "We, the People of Skid Row", in which we voice our collective concerns and also issue our collective requests. NOTE:...This correspondence will be shared with my fellow Skid Row community leaders."

Thus, an activist from the other side of the City, who was not at the Venice site and had no personal knowledge, distributed an email to many recipients, including the Mayor, Council members and other officials, calling the incident "bomb-like."

269. Just 21 minutes later, at 11:43 a.m., LAPD Chief Michel Moore responded to General Jeff:

"General Jeff. **Last night's event was extremely troubling to all of us and also intolerable.** Our Major Crimes Division investigators were on scene and their

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

investigation, including the forensic examination of the devices, are ongoing. As a Department **we will aggressively pursue this investigation to identify and bring to justice the individual or individuals responsible**.

I am directing Commander Donald Graham to reach out to you to coordinate the appropriate meeting and attendees to answer those questions/concerns that we can at this point. **We have not seen this type of attack at other Bridge Homes sites and I assure you we will take every action possible to ensure this action does not stand.** In closing, let me reiterate that **LAPD will aggressively pursue and seek to prosecute at the State and Federal levels those responsible for these types of attacks on our communities**." (Emphasis added.)

Thus, the Chief of LAPD had issued a public statement placing the credibility of the LAPD behind Mr. Bonin's earlier contention that the CO2 devices were "like a bomb" and motivated by the development of the temporary homeless Bridge Homes site in Venice.

270. Mr. Bonin responded to all on this email chain:

"Chief-Thank you for this message, and for ccing me. I am setting up a meeting with my office, LAPD Pacific Division, the mayor's office, and the service agencies that will operate the Venice bridge housing to discuss security concerns. I have assured Captain Embrich that if we need to identify additional funds for external facing cameras, etc, we will do so. As always, very grateful to you and the department for your vigilance and for your partnership."

271. About five hours later, the Major Crimes Division of LAPD had completed its examination of the Bridge Housing site, and at 2:44 p.m. Chief Michel Moore and Mr. Bonin received an email report from Pacific Division Captain Steve Embrich of the Major Crimes Division investigation of the CO2 devices:

"As Chief Moore mentioned, our Major Crimes Division (MCD) has been pressing forward with their investigation. I have been in contact with Captain Robert Long,

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Commanding Officer, Major Crimes Division who has provided us with timely updates throughout the day. This morning MCD investigators returned to the MTA site and re-canvassed the location in daylight. While conducting their follow-up investigation, they located evidence of similar devices **which appear to be much older and pre-date the bridge housing construction. As a result of their examination of the devices, the investigators determined that there is a high probability that the devices were constructed by the same person and therefore not directly related to bridge housing construction. Although, it appears that we do not have physical evidence of a direct threat to the bridge housing project, your meeting to discuss security concerns is still vital and necessary.** Captain Morrison will be at the meeting to offer our full support." (Emphasis added, bold depicts portions redacted from LAPD emails released to Venice Vision.)

This email was widely distributed in the City to Mayor Eric Garcetti, Councilmembers Herb Wesson and Nury Martinez, and Bonin's staff members. The portions in bold were redacted in all copies of this email released to Venice Vision by LAPD, however, it was not redacted by Mr. Bonin's office staff in their release of the same document. Thus, evidence provided to Venice Vision by Mr. Bonin himself proves that from 2:44 p.m. January 3, 2020 forward, Mike Bonin and Chief Moore had actual knowledge there was no direct evidence of a link between the devices and the Bridge Housing project.

272. At 3:07 p.m. on January 3, 2020, Major Crimes Division Detective Edward Dorroh stated: "Captain, I'm not afraid to put my neck out on this assessment and based upon the facts we have observed at the scene . . ." In the version of this email report to LAPD managers, Detective Dorroh's conclusions were redacted.

273. Consistent with these findings, on January 3, 2020, at 3:09 p.m., the LAPD Media Relations Department sent an email to redacted recipients:

"Around 5:50 PM officers responded to the area of Sunset and Main and requested the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

bomb squad for what appeared to be three suspicious devices. The bomb squad responded and has collected three small devices for further testing. That testing will be done by bomb technicians to determine the capabilities of the devices. Today investigators from our Major Crimes Div followed their standard protocol in these situations and conducted further investigation in the area. **At this time, they do not believe the devices have any correlation to the current Bridge housing construction or homelessness issues**." (Emphasis added.)

274. At 3:41 p.m. on January 3, 2020, Detective Edward Dorroh confirmed the redacted findings of his investigation to Commander Bob Long, but once again the findings of the Detective were redacted in emails produced to Venice Vision.

275. Petitioner is informed and believes, and thereon alleges that the LAPD Media Relations statement was issued because very similar wording of the Major Crimes Division's conclusion was picked up in an LA Magazine online article published that same afternoon. "'We don't believe it's related to the homeless shelter construction,' said Officer Bob Long of the LAPD Major Crimes Division." Similarly wording also appeared that afternoon in a LA Times article citing an anonymous source in LAPD. The fact that LAPD personnel leaked the truth to the LA Times suggests there was already pressure to create a false narrative higher in the chain of command at LAPD.

276. Having received ***actual notice*** that LAPD investigators found "no physical evidence of a direct threat to the Bridge Housing," Petitioner is informed and believes, and thereon alleges that Mr. Bonin personally intervened with LAPD officials to continue to try to weaponize the incident in order to publicly paint opponents to his homelessness strategies, like Venice Vision and other groups and individuals in the community, as guilty of a criminal act.

277. Appellant is informed and believes, and thereon alleges that Mr. Bonin also directed his staff to more widely distribute to the community and press his morning Facebook statement **without modification although at that time he knew LAPD investigators had**

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

found devices older than the Bridge Housing project construction project, severely undermining the legitimacy of his assumption the devices were placed by someone opposed to his homeless policies including the Bridge Housing site and the Reese Davidson Project.

278. At 5:17 p.m. on January 3, 2020, Allison Wilhite, Mr. Bonin's staff director of Bridge Housing, widely distributed in the Venice community Mr. Bonin's Facebook statement with this preface, solely focused on linking the CO2 canisters to opposition to the Bridge Housing project:

"Hello,

As you may have heard, last night, **LAPD responded to a report of suspicious devices that looked like bombs at the site of the future A Bridge Home in Venice**. Streets were closed and nearby homes were evacuated for several hours while the LAPD Bomb Squad analyzed the devices. Fortunately, there were no explosives.

Nevertheless, this incident is unsettling.

The A Bridge Home is intended to be a safe haven for those living on our streets in Venice, providing them stability and security while they seek the services and housing they so urgently need. While our service providers will be working hard to support the clients on site, the City will also be working hard to deliver on its promise of increased public safety to the neighborhood. Dedicated LAPD resources will be added to the neighborhood as well as increased sanitation and street outreach services. The safety of our residents in Venice, housed and unhoused, will continue to be of utmost priority **and not deterred by this senseless act.**

Below you can read a statement from Councilmember Mike Bonin regarding this incident. Thank you for your continued engagement with our office and willingness to participate in tough, but necessary, conversations about the A Bridge Home in Venice."

(Emphasis added.) Then the Facebook statement was reproduced on the same message. This further statement from Mr. Bonin's office at 5:17 p.m. failed to communicate any of the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

conclusions of the Major Crimes Division at 2:44 p.m. that the devices appeared to have been created BEFORE construction of the Bridge Housing project began. Even worse, it persisted in linking the three CO2 cartridges found to a "cowardly" motive to intimidate the Councilmember when Mr. Bonin's office had credible advice from LAPD officials that it simply was not true.

279. Almost immediately, at 5:33 p.m., January 3, 2020, Venice residents decried the Council office's transparent motive in hyping the story contrary to reports in the LA Times:

> "FYI the LA Times reported that "A law enforcement official [...] who spoke on the condition of anonymity, said that the shelter site was NOT the target of the incident but would not elaborate further."
>
> https://www.latimes.com/california/story/2020-01-03/device-made-to-look-like-explosive-discovered-outside-site-of-futurehomeless-shelter-in-venice
>
> It's in quite poor form for Mike Bonin to explicitly direct suspicion at shelter opponents with zero evidence and apparently without even consulting the police first, given the statement they made to the Times." (Emphasis added.)

280. Petitioner is informed and believes, and thereon alleges that Mr. Bonin additionally would not accept the Major Crimes Division report and instead strong-armed LAPD to issue a press release shaped by his own requested edits and embellishments related to an implied criminal motive of his political opponents to harm the Bridge Housing project or homeless persons.

281. By late afternoon, Josh Rubinstein of the LAPD Media Relations Division was working on an "update" media release. The earliest versions of the press release were edited by Chief Moore and others, but all of those versions of the LAPD's statement have been redacted in emails obtained by Appellant. However, at 6:17 p.m. January 3, 2020, Mr. Rubenstein forwarded this proposed version to Mr. Bonin:

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

"Councilman-

Here is the update and statement we are going to issue...

Please reach it [sic] if you have any issues.

The Los Angeles Police Department's Major Crimes Division is investigating the discovery of several suspicious devices found in the area of Sunset and Main Street in Pacific Division. The first devices were discovered around 5:30 on Thursday evening and as the investigation developed more devices were found in the vicinity as well. The devices were found near the construction site of a new Bridge Housing facility and an adjoining street. All were rendered safe and removed from the area.

It is unclear whether the homeless community was a target or what the intended purpose of these devices may have been. We continue to work to identify the individual or individuals responsible for these items and what their motivation may have been. We are asking the public for help if you know anyone who may have been involved, witnessed suspicious activity, or have any video evidence that may help investigators please call Major Crimes Division.

Josh Rubenstein

Public Information Director

Los Angeles Police Department" (Emphasis added.)

Petitioner is unaware of why LAPD would be consulting a City Councilmember to edit its own press release. Petitioner is informed and believes, and thereon alleges that permitting a councilmember to edit an official police department press release is highly irregular from normal processes and procedures of the LAPD.

282. At 6:27 p.m., Mr. Bonin responded that the proposed press release did not sufficiently link the devices to the Bridge Home site or confirm that LAPD was continuing to investigate any link between the Bridge Housing project and finding of the devices:

"Joshua

Thanks for sending this. A couple points.

1/As I understand it, several of the devices were found inside the bridge housing site. The statement says "near" and makes it sound like that was not necessarily the case they were inside

2/In my conversation with Cheif [sic] Moore, he stated that he is taking this very seriously, and was clear he has not ruled out any link to the construction of the bridge housing site. (Nor is he certain or convinced that there is A link.) I think the tone of this email will be perceived as downplaying the significance and dismissing that concern altogether.

Mike"

283. Mr. Bonin asked for these changes to the LAPD press release even though he knew that the Major Crimes Division had already concluded "we do not have physical evidence of a direct threat to the bridge housing project." Petitioner does not know if Mr. Bonin's conversation with Chief Moore occurred before or after the Major Crimes Division had reported its conclusion of no link to the Bridge Home site or Venice's homeless population. Either way, Mr. Bonin was intent to have LAPD state the device(s) were found on site and that the motive of the devices continued to be investigated consistent with his morning Facebook post to the public demonizing persons who questioned his homeless strategies in Venice.

284. From 6:31 p.m. to 6:45 p.m., Mr. Rubenstein sought to discuss these points on the phone. He said to Mr. Bonin: "Great looking forward to it...I did make changes and addressed all concerns accept [sic] the motivation part and that I can discuss with you."

285. After their later conversation, LAPD emails show Rubenstein substituting a new paragraph keeping alive the notion that LAPD was investigating the motivations behind the CO2 devices, and who left them at the locations they were found.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

286. At 8:50 p.m., in time for the 11:00 p.m. television newscasts, LAPD issued this release:

"Los Angeles: The Los Angeles Police Department's Major Crimes Division is investigating the discovery of several suspicious devices found in the area of Sunset and Main Street in Pacific Division. The first devices were discovered around 5:30 on Thursday evening and as the investigation developed more devices were found in the vicinity as well. The devices were found on and near the construction site of a new Bridge Housing facility and an adjoining street. All were rendered safe and removed from the area.

While the motive is unclear the Department continues to work to identify if the Bridge Home Site or the homeless community was a target. We are working to identify the individual or individuals responsible for these devices and we are asking the public for help. If you know anyone who may have been involved, witnessed suspicious activity, or have any video evidence that may help investigators please call Major Crimes Division.

Note: Several media outlets identified the devices as fax machines or parts of fax machines, after misinterpreting the word facsimile. This term is used by our investigators to describe an object resembling an explosive device.

We are asking the public for help if you know anyone who may have been involved, witnessed suspicious activity, or have any video evidence that may help investigators please call Major Crimes Division at 213- 486-7280. During non-business hours, or on weekends, calls should be directed to 1-877-LAPD-24-7 (877-527-3247). Anyone wishing to remain anonymous should call the LA Regional Crime Stoppers at 1-800-222-TIPS (800-222-8477) or go directly to www.lacrimestoppers.org. Tipsters may also visit www.lapdonline.org and click on "Anonymous Web Tips" under the "Get Involved-Crime Stoppers" menu to submit an online tip. Lastly, tipsters may also download the

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

"P3 Tips" mobile application and select the LA Regional Crime Stoppers as their local program." (Emphasis added.)

287. Meanwhile, in the public realm, Mr. Bonin's Facebook page post at 9:10 a.m. January 3, 2020 unleashed a torrent of angry comments on his Facebook account, and inquiries from community leaders, including some supporters of Mr. Bonin, to release more information about the incident.

288. At 3:05 p.m. on January 3, 2020, just minutes after Captain Embrich informed Chief Moore and Mr. Bonin of the Major Crimes Division investigation, Christopher Wrede, a leader of Venice Vision, and member of the Venice Neighborhood Council, sent email communications to Chief Moore alerting him that some comments on Mr. Bonin's Facebook account were leveling charges that members of the Neighborhood Council had placed the devices:

> "I write as a member of the Venice Neighborhood Council Board to request all available information regarding the recent bomb scare at the Bridge Home Venice site on Main Street. Councilman Bonin states on his Facebook page that there were three "suspicious devices that looked like bombs at the site" and that they were placed there by "a disturbed and cowardly person or persons." He also suggests that it was part of an effort to "intimidate" him and "to slow or halt progress on providing bridge housing."
>
> Further, there is an accusation in the comments on Councilman Bonin's Facebook page -- which Councilman Bonin has not removed -- that members of the VNC Board perpetrated the acts in question.
>
> I cannot find any news reports on the alleged incident so I am hoping you can help me fill in the numerous blanks quickly.
>
> Thank you,
>
> Christian Wrede"

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

289. In response, Chief Moore said "I've asked for a statement from our PIO to clarify… apologies for the confusion."

290. By 7:48 p.m., Christopher Wrede, alarmed that Allison Wilhite had just made another mass distribution of Mr. Bonin's Facebook page statement, again contacted Chief Moore asking for the LAPD to release clarifying information, including the pictures of the devices found.

> "As you can see here, Allison Whilhite from Councilman Bonin's office furnished a new release to Venice Update (and perhaps other [media] outlets) today repeating verbatim statements from Councilman Bonin's Facebook post regarding the Bridge Home Venice bomb scare.
>
> https://veniceupdate.com/2020/01/03/venice-deputy-responds-to-venice-bridge-home-bomb-threat/
>
> Notwithstanding your email above, it does not appear that Ms. Wilhite's statement reflects any new information from your PIO [Public Information Officer].
>
> At this point, Councilman Bonin is telling the public that devices intended to look like bombs were placed at the Bridge Home Venice site in an apparent attempt to derail the project and terrorize prospective residents.
>
> Does that accurately reflect the LAPD's view of the situation? If so, what information can you provide to support that assessment or to enable the parents concerned for the safety of their children to draw their own conclusions? If not, what efforts are being made to provide guidance to the Councilman?
>
> A terrorist act in the heart of the second most popular tourist destination in California and one of the most densely populated areas on the Westside strikes me as a big deal, particularly in connection with an issue as contentious as homelessness. And it seems a little odd, frankly, that all public information relating to such an incident would come exclusively through Councilman Bonin's office.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Competent and reliable information from the LAPD -- including pictures of the devices at issue -- is urgently needed. I plan to request an update at the VNC [Venice Neighborhood Council] meeting next month, but obviously Venice residents should not have to wait that long."

291. Although Chief Moore was aware of Major Crimes Division's earlier report of "no physical evidence of any direct threat" he again placed the credibility of himself and the resources of LAPD behind Mr. Bonin's narrative with this terse reply: "Christian - The councilman's remarks are accurate and fair. There is much more work to do to identify the individual(s) responsible for these devices and their motive. Mike"

Soon thereafter, Joshua Rubinstein issued to the public the LAPD press release set forth above, as edited by Mr. Bonin himself.

292. The local NBC affiliate ran a television newscast story that stated the devices were "pipe bombs" and they had the "intent to explode." Other media outlets ran stories stating the devices were not explosive.

293. The next day, at 3:31 p.m. on Saturday, January 4, 2020, Christopher Wrede, concerned of the lack of information from LAPD, sent another email to Chief Moore:

"Dear Chief Moore:

I am writing because I still have not seen a statement from the LAPD setting forth a reliable account of what transpired at the site of the Bridge Home Venice project yesterday. As to the nature of the devices in question, some media are reporting (with attribution to the LAPD) that the devices were "small pipe bombs with carbon dioxide canisters" that were intended to detonate, while other media are reporting (also with attribution to the LAPD) that the devices merely "look[ed] like" explosives.

Needless to say, there is a world of difference (at least in the mind of concerned parents with young children in school just a few blocks away) between actual explosives that failed to detonate, on the one hand, and devices that just happen to look like explosives,

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

on the other, and it is hard to understand why (all these hours and news stories later) the LAPD has failed to provide accurate, consistent information to Venice residents as to the nature of the devices involved.

Similarly, we are getting mixed messages as to what may have been behind the placement of the mystery devices. Most media are running with Councilman Bonin's theory (which is also attributed to the LAPD in some reports) that the devices -- whether or not explosive -- were placed to derail the Bridge Home Venice project and target the homeless community, yet a Los Angeles Magazine article dated January 3 quotes Officer Bob Long of the LAPD Major Crimes Division as stating "We don't believe it's related to the homeless shelter construction."

If the LAPD does not, in fact, "believe" that the placement of the mystery devices was "related to the homeless shelter construction," you should release a statement to that effect immediately. In addition to casting a pall over our community, the stories adopting Councilman Bonin's theory make express reference to the Venice Stakeholder Association's (VSA) recent lawsuit challenging the Bridge Home Venice project -- obviously inviting unwarranted and injurious inferences as to the conduct and character of the VSA and its members.

Similarly, if the LAPD is of the view that actual explosives were placed at the Bridge Home Venice site in connection with an anti-homeless campaign of some sort, a statement should be released to that effect. Virtually everyone in Venice lives within a few blocks of a homeless encampment, shelter or housing project. They have a right to know if they -- and their families -- are in danger."

294. At 3:59 p.m. January 4, 2020, Captain Embrich replied by attaching LAPD's news release of the previous evening, and stating:

"I understand your concern. Please see the attached Department statement. I can assure you that none of the devices recovered from the site would meet the definition of an

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

explosive."

295. To this day, neither LAPD nor Mr. Bonin have released the pictures of the devices so as to enable the community to help determine the source of the devices. In fact, LAPD, when it released documents to Venice Vision pursuant to the Public Records Act, redacted all the pictures of the devices that exist in the emails possessed by LAPD.

296. On Sunday, January 5, 2020, the following response was sent to Allison Wilhite's 5:17 p.m. January 3, 2020 email distributing Mr. Bonin's Facebook post to media outlets and community activists:

"Hi Allison,

I appreciate you sending over this information, **however I have to say that the commentary by the council member, first releasing information that the police did not because this was an ongoing investigation but then making assumptions that the suspicious devices could be an attempt to "slow or halt progress on providing bridge housing" is reprehensible. As an elected official, Mr. Bonin should defer to the police on such matters and refrain from making volatile public comments that do nothing to calm the situation.** While I understand that he is committed to the Bridge Housing, his comments do not help bring the community together but instead continue to divide. **It's sad that someone who is supposed to lead in times of crises is instead pointing fingers**." (Emphasis added.)

297. At 6:51 a.m. on January 8, 2020, a person named "Sheila Harper" sent an email to the entire Board of Directors of the Venice Neighborhood Council:

"https://la.streetsblog.org/2020/01/07/lapd-continues-to-investigate-bombs-left-at-future-bridge-housing-project-in-venice/

This article shows an update into the bridge home bomb scare **and the community vigilantism by VNC members**.

There's two quotes from VNC members **Chris Zonas on lupac is threatening people's lives and is a suspect** as is Mark Ryavec with his multiple violent comments. **Christian Wrede is a major suspect** and has been mass emailing the community lying saying this incident was not serious **trying to cover up his involvement no doubt**.

In case you haven't noticed **you have some violent criminals in board making you organized crime. All suspects on the VNC: Alix, zonas, Wrede, Ryavec and Murez should be removed immediately as they will be prosecuted soon."** (Emphasis added.)

Venice Vision's investigation did not yield anyone in the Venice community who knows or has heard of "Sheila Harper."

298. Frustrated with Mr. Bonin's ongoing refusal to release complete information about the devices or incident, and his refusal to remove or condemn postings on his Facebook account and elsewhere accusing Venice Neighborhood Council board members as criminals and suspects in the criminal investigation, midday on January 8, 2020, Ira Koslow, President of the Neighborhood Council, forwarded the Sheila Harper email to Mr. Bonin and his staff and observed:

"Dear Mike,

I am forwarding this one email as a representative of the type of mail and publicity some of our Board members are getting. The tone of your Facebook post as well as **Matt Fisher's comment has placed a very unfair and possibly dangerous spotlight on a few Board members.** The police are still investigating the bomb scare and have not stated any people of interest, although **Matt Fisher has stated there is video evidence against specific people in a comment on your post**.

I would hope that you and your office would clarify the issue. Is there video evidence, is there any evidence, or are you going to stand by and let innocent people, whether they are your supporters or not, be found guilty by rumor and fear

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

mongering.

Respectfully submitted,

Ira Koslow" (Emphasis added.)

To Petitioner's knowledge, neither Mr. Bonin nor his staff responded, or ever clarified the issue. Apparently, Mr. Bonin remained silent while his political surrogates demonized others in the community, including Venice Vision and its leaders, including allowing such comments to reside on his Facebook page. These words place people in danger, as well as their reputations.

299. On January 9, 2020, Christopher Wrede, followed up with Captain Embrich:

"Dear Captain Embrich:

I see that the LAPD website continues to state -- consistent with Councilmember Bonin's news release, statements to the press and multiple social media posts -- that the "suspicious devices" found in Venice over the New Year's holiday may relate to terror activity targeting the Bridge Home Venice site (and, by implication, members of Venice's homeless community).

As I have already conveyed to you and your colleagues, I find this hard to square with the LAPD's statements on and around January 3 that the devices in question were most definitely not explosive, that they were found in locations other than the Bridge Home Venice site, and that they did not appear to be connected to the Bridge Home Venice project.

Now, I hear reports that many of the devices in question are quite old and that they appear to be CO2 containers modified to release CO2 -- and spin around -- when dropped from a sufficient height.

Can you provide any updates on your investigation? Also, can you tell me whether the LAPD Major Crimes Division is investigating any theories other than antihomeless terror at this point in time? One theory that has emerged recently among Venice residents is that the devices in question are make-shift toys of some sort (albeit not "toys" of the sort any

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

parent would want their kids to come across).

Finally, per our prior exchange, I was wondering if a new Senior Lead Officer was appointed for Venice yesterday as planned. If so, could you provide me with his or her name and contact information? I won't be coy: **I do not believe Councilman Bonin's terror-theory and feel that the media coverage surrounding it has damaged Venice, including, in particular, Venice residents who have expressed opposition to the Bridge Home Venice project in court and elsewhere.** If there is any possibility, however, that Councilman Bonin's view has merit, however, Venice obviously should not go even one more day without a Senior Lead Officer in place.

Thank you and good luck with your investigation.

Christian Wrede" (Emphasis added.)

300. A few minutes later, Mr. Bonin, who was copied on this email, forwarded this email to his staff but, as with each email sent to him by Mr. Wrede and others, **Mr. Bonin himself did not reply or undertake an affirmative act to correct the public record**.

301. On February 12, 2020, in response to two unanswered inquiries from Mr. Wrede dated February 7 and February 11, 2020, concerning the status of the LAPD investigation, Chief Michel Moore, who obviously had moved on, asked his staff: "Horace. Let me know whatever came of our investigation." He received an answer, but consistent with the LAPD's participation in withholding the facts from Venice Vision and persons whose names have been smeared, the answer from LAPD staff was redacted.

302. Based upon the particularized allegations set forth above, there existed an "unacceptable probability of actual bias" of Councilmember Mike Bonin toward Venice Vision as the land use appellant before the City Council hearing on the appeal, and toward property owners, business owners and tenants who opposed the Reese Davison Project owed a fair hearing under the constitution. The unacceptable probability existed because there was substantial evidence supporting these conclusions:

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

(a) Once he became aware of the police call to the Bridge Housing site, and without waiting for the results of the police investigation, Los Angeles City Councilmember Mike Bonin issued a public statement drawing a link between the Bridge Housing project and the discovery of three CO2 cartridges taped to pieces of wood/metal and perhaps a lag screw. Without any reasonable factual basis or awaiting LAPD assessment of them, Mr. Bonin claimed these devices were "bomb like". Mr. Bonin opined that if the placement of the devices on or near the Bridge Housing project was to "intimidate" him it failed. In this action, Mr. Bonin sought to raise the improper innuendo that opponents of his homeless housing policies were domestic terrorists who planted these devices to target new the Bridge Housing project, the homeless in Venice, and the Councilmember's policy initiatives.

(b) Mr. Bonin used this public statement to try to portray himself as courageously standing up to this act, undeterred. It was a political calculation to lionize himself over those who would question the wisdom of his policy program.

(c) Mr. Bonin's Facebook page drew comments that accused members of the Venice Neighborhood Council, including Venice Vision's leaders and members, as having placed these bomb-like devices, yet Mr. Bonin never corrected or condemned these false accusations of criminal conduct when they were specifically brought to his attention as damaging to the names and reputations of community members **he knew to be innocent**.

(d) To bolster the credibility of his premature statements, Mr. Bonin enlisted or pressured LAPD Chief Michel Moore to state it was an attack on the homeless Bridge Housing project, when it was not.

(e) To bolster the credibility of his premature statements, Mr. Bonin obtained improper access to review and suggest edits to an official LAPD press release, and in so doing weaponized official law enforcement public information and records to link the incident to the Bridge Housing project to the CO2 cartridges, all when he had specific contrary information from the Major Crimes Division detectives who investigated the facts.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

(f) The Major Crimes Division investigation was complete within a short period of time, however, Mr. Bonin and Chief Michel Moore continued to publicly state the investigation was ongoing, refused to release unredacted public records that would show the pictures of the devices Mr. Bonin called "bombs" and reveal the entire report and conclusions of the Major Crimes Division investigation.

(g) Because of the failure of Mr. Bonin and Chief Moore to release accurate information about the incident and its investigation, their silence in the face of third parties attacking those who question the intensity and size of related facilities proposed to serve homeless individuals in Venice is to grant permission for allies to continue their baseless attacks on Venice Vision and its leaders and members, and other property owners, business owners, and tenants in public hearings involving issues, including the related Reece Davidson Project.

(h) Due to these actions and inactions of Mr. Bonin, as the Los Angeles City Councilmember to whom his colleagues looked to for guidance whether or not to grant or deny the quasi-judicial land use appeals of Venice Vision represented an unacceptable probability that Mr. Bonin had and exercised continuing actual bias toward Venice Vision and its leaders such that California law required his removal from the quasi-judicial decisionmaking process.

303. In a complaint filed with the Los Angeles City Council and the City Ethics Commission, Venice Vision requested City officials to intervene and demand that Mr. Bonin recuse himself or be removed by the City Council from hearing the quasi-judicial appeals associated with the Reese Davidson Project. Such an order should issue on the basis of actions Mr. Bonin took seeking to improperly divert taxpayer resources and credibility of the Los Angeles Police Department ("LAPD") to issue and propagate a media narrative that falsely assumed, implied, or asserted that opponents of his homelessness policies, including Venice Vision, its leaders and members, planted bomb like devices at the related Venice temporary homeless Bridge Housing site in order to "intimidate" the Councilmember or terrorize the homeless. **This narrative simply was not true and Mr. Bonin had good cause to know it, yet**

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

he has used his power as City Councilmember to prevent persons whose reputations have been sullied by his actions to clear their names. In the words of one Venice community activist reacting to Mr. Bonin's staff widely distributing his false narrative, such actions were "reprehensible" and "pointing fingers" instead of leadership. The City Council and City Ethics Commission took no action to require recusal.

304. Mr. Bonin's personal hostility and animus continued into the land use appeal administrative process. It was Mr. Bonin who asked the Chair of the Planning and Land Use Management Committee to waive and cancel any hearing at the Committee level so the matter could be scheduled for hearing directly in City Council where his colleagues would look to him how to vote on the Project, instead of a recommendation from the Planning and Land Use Management Committee. Petitioner is informed and believes, and thereon alleges that Mr. Bonin, or his staff at his direction, engaged in unlawful *ex parte* lobbying of other City Councilmembers and played a role in the City Clerk placing the land use appeal public hearings on the Project on the section of the Council meeting agenda reserved for routine items of business that had no Brown Act public comment at a Committee, instead of the section reserved for public hearings to which Council Rule 8 applied.

305. At the "hearing" afforded, there was no presentation of the Project to the other City Council members so they would be informed of the issues, anyone with constitutional rights to be heard by the City Council, if they were among the lucky few who called on to speak, had their land use hearing evidence/testimony reduced to 1 minute and incomprehensibly mixed in with multiple item speakers at the outset of the meeting on all other items of business on the agenda, or they had their hand up to speak on the Project and were denied any right to speak at all due to the City Council's unlawful rule limiting Brown Act public comment to a mere 20 minutes.

306. After the Venice Vision and the applicant were given a few minutes to speak, Mr. Bonin took unlimited time to instruct his City Council colleagues to vote with him and to,

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

consistent with his hostility and animus toward those who would challenge his viewpoint on the components of his homelessness plan, belittle, diminish and excoriate them as a small group of persons who were obstructionist: "Let's be very, very clear. This is low hanging fruit. This should be one of the easiest projects in the world to do… We can't allow obstructionists to stop progress and we owe it to Venice and we owe it to Los Angeles to say yes…" In other words, his argument leading his colleagues to not push their "No" button was not focused on an impartial assessment or even acknowledgement of the serious environmental price tag for siting the Project where it was. In his mind, every good planning document and safety requirements of the City and Coastal Commission could be swept away without a second thought because the more than 1,000 property owners and residents asking for a serious look **did not deserve such an opportunity to be heard, or have those issues even discussed in any meaningful way before the City Council.**

307. Under these specific and extraordinary facts, Mr. Bonin possessed such hostility and personal animus toward Venice Vision, the land use appellant, its leaders, and persons with constitutional rights to be heard before the Council Decision, that their rights to a fair and unbiased decision maker and hearing process was denied.

308. Accordingly, individually and collectively, the City failed to proceed in accordance with the Constitutions of the United States and California, Government Code Section 65804, and fair hearing requirements of Code of Civil Procedure Section 1094.5 by refusing to recuse Mr. Bonin due to his embroilment with the Project and his history of trying to falsely attack those with sincere concerns about his policies related to homelessness and affordable housing in Venice.

~~**SEVENTH CAUSE OF ACTION**~~

~~**(Section 1983 Actions As State Actors To Violate First Amendment Rights Of Coalition Members)**~~

~~309. Petitioner re-alleges and incorporates by reference the preceding paragraphs in~~

their entirety, as though fully set forth herein.

310. Petitioner, through its member organizations and individual supporters, has engaged in constitutionally protected federal First Amendment activities related to expressing viewpoints about the flawed RFQ/P process that resulted in the selection of the Developer, the ill-conceived decision of Mr. Bonin to nominate the Venice open space and public parking facility for use as a supportive housing location expanded with inappropriate and unnecessary commercial land uses, the evasion by City officials of appropriate environmental review and mitigation of high water table, coastal flooding, sea level rise, methane hazards, and tsunami inundation, and the waste of millions of taxpayer funds on a project subject to sea level inundation during its useful life.

311. Petitioner, through its member organizations and individual supporters, have engaged in constitutionally protected federal First Amendment activities related to petitioning the City to change its policy direction of investing $100 million of public funds in a site that may soon have its lower levels standing in sea water, and its ongoing refusal to conduct environmental review under CEQA, the Subdivision Map Act, the Coastal Act, or otherwise.

312. Petitioner, through its member organizations and individual supporters, has engaged in constitutionally protected federal First Amendment activities related to petitioning government by filing land use appeals before decision making bodies of the City, including the land use appeal hearing substantially controlled by Mr. Bonin before the City Council on December 1, 2021.

313. Senior elected and appointed officials, Los Angeles City Council Member Mike Bonin and Police Chief Michel Moore, used and continue to use the powers of their public offices to weaponize and perpetuate the false accusations that persons concerned about the inappropriate and unsafe location of homeless serving facilities in Venice were some sort of "depraved" persons who placed "bomb-like" devices on the site of a homeless service center. State action designed to retaliate against and chill political expression strikes at the very heart of

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

the First Amendment.

314. The actions set forth herein of Council Member Bonin and Police Chief Michel Moore, individually and in concert, would chill a person of ordinary firmness from continuing to engage in protected First Amendment activity, and the actions of Coalition member organizations like Venice Vision and individuals speaking out about these issues was a substantial or motivating factor in the conduct of Mr. Bonin and Chief Moore in seeking to falsely accuse these viewpoint opponents as "depraved" domestic terrorists who placed "bomb-like" devices to intimidate the City or members of the homeless community.

315. Mr. Bonin and Chief Moore pursued dissemination of this false information, after specifically learning it was not true, and to this day continue in violation of First Amendment rights, refuse to publicly release documents exonerating those falsely accused, or publicly admit that their allegations and fake "search" for the criminals was a pretext to silence critics of the City's policy direction and actions related to homeless facilities, including the Project at issue in this case.

316. Venice Vision and individuals falsely accused as responsible for the placement of the "bomb-like" materials on a homeless service facility have suffered harm to their reputations in the community in an amount to be determined at trial, and incurred expenses including attorneys' fees to defend against Mr. Bonin and Chief Moore's baseless accusations of criminal activity.

317. For these violations of constitutional rights of the member organizations and individuals tarred by Mr. Bonin and Chief Moore's actions, Petitioner seeks full compensatory and punitive damages, and attorneys' fees.

//

//

//

//

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

EIGHTH CAUSE OF ACTION

(FAILURE TO CONDUCT REQUIRED AB 52 CONSULTATION)

(Cause of Action Brought by Coalition for Safe Coastal Development and Los Indios de San Gabriel, Inc.)

318. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

319. Before adopting or amending a city or county general plan proposed on or after March 1, 2005, a city or county must consult with California Native American tribes on the contact list maintained by the Native American Heritage Commission. This is commonly known as the AB52 consultation process. The purpose of the consultation is to preserve or mitigate impacts on places, features, and objects described in Pub Res C §§5097.9 and 5097.993 that are located within the city's or county's jurisdiction. Govt C §65352.3(a)(1). As part of this consultation, a city or county must "protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects." Govt C §65352.3(b).

320. For purposes of consulting with tribal representatives, the legislature has broadly defined "consultation" as (Govt C §65352.4) the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty.

321. The City published a Notice of Preparation and Initial Study for the Project on or about December 18, 2018. The Initial Study concluded that the Project would result in potentially significant impacts to Tribal Cultural Resources.

322. Thereafter, pursuant to AB 52, the City mailed a Project notification letter to the Gabrieleño Band of Mission Indians – Kizh Nation (the “Tribe”). On December 31, 2018, the

City received the Tribe's request to engage in tribal consultation with the City because the location of this Project is of particular significance to the Tribe and the likelihood that Tribal Cultural Resources ("TCRs") are present, and possibly human remains, is high. The City commenced the tribal consultation process on March 6, 2019 via a conference call between the Department of City Planning staff and the Tribe. On March 7, 2019, the Tribe emailed several pertinent historical documents to City staff to add to the oral history, maps, and other substantial evidence provided during the consultation. The Tribe requested that their proposed mitigation measures be implemented to mitigate the Project's adverse impacts to TCRs. The following day, the Tribe sent a letter via email summarizing the topics that were discussed during the March 6, 2019 consultation call with City staff. The result of the AB 52 consultation was that the City would adopt the Tribe's proposed mitigations for this Project.

323. However, more than a year later, on or about June 15, 2020, the City advised the Tribe via letter that the EIR being prepared for the Project, which would include the essential mitigations for their TCRs, was "no longer being prepared for the [Project] as the Department of City Planning determined that the Project is exempt from CEQA pursuant to Assembly Bill 1197, [PRC] 21080.27(b)(1)."

324. The Tribe wrote to the City's Advisory Agency on or about October 22, 2020 and objected to the Project and the City's failure to comply with the AB 52 consultation requirements. The Tribe specifically noted that "substantial evidence exists that the Project will have significant impacts on the Tribe's TCR pursuant to their AB 52 consultation" and that the City cannot simply "forget" these impacts. The Tribe notes that these resources were "priceless and irreplaceable." The Tribe provided a list of the requested mitigation measures to the City, but received no response. The City failed to condition the Project on compliance with the requested mitigation measures. The City also failed to engage in any further consultation with the Tribe. As such, the City failed to comply with the consultation requirements mandated by AB 52 (codified at Govt C §65352.3(a)). The City's abrupt closure of consultation efforts after the AB1197

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

determination did not comply with the broad definition of consultation found at Govt C §65352.4. Again, the legislation has defined consultation as the "meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement."

As such, the City failed to proceed in the manner required by law when it approved the Project.

NINTH CAUSE OF ACTION

(FAILURE TO PROCEED IN ACCORDANCE WITH LAW IN ADOPTION OF THE JUNE 2022 GENERAL PLAN AMENDMENT, LAND USE PLAN AMENDMENT AND VENICE COASTAL ZONE SPECIFIC PLAN AMENDMENT)

325. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their entirety, as though fully set forth herein.

326. As set forth herein, after the City rescinded its December 1, 2022 General Plan Amendment and Land Use Plan Amendment resolutions, and before it considered revised versions of those fundamental land use entitlements in June 2022, and the City Attorney's revised specific plan amendment ordinance, significant evidence of the City's multiple failures to revise and update its most basic and essential public health and safety reviews of the Project meant the City lacked substantial evidence that the Project could meet any of the mandatory findings to adopt the General Plan Amendment, Land Use Plan Amendment, or Specific Plan Amendment, including but not limited to, the Project could no longer be found to promote public welfare when it exposed its inhabitants and users to serious and unmitigated public health and safety risks. As set forth in the evidence before the City Council, the October 2017 Soils Report warned its conclusions could not be relied upon at all after the expiration of three years, yet the City apparently relied upon the report's expired recommendations both on December 1, 2021 and June 17 and 24, 2022 in approving the latest General Plan, Land Use Plan and Specific Plan amendments.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

327. Additionally, ignoring the fact that the City Council adopted a final specific plan amendment shown in the City Council File on December 1, 2022, the PLUM Committee recommended City Council adopt the specific plan amendment attached to the backdated February 1, 2022 City Attorney's report, even though that further revised version of the ordinance had not been referred to the City Planning Commission along with the General Plan and Land Use Plan Amendments, for review and recommendation as mandated by City Charter Section 558. Charter Section 558(a)(2) expressly mandates that the City Planning Commission review and recommendation is required for an amendment of a specific plan.

328. In adopting the June 2022 General Plan Amendment resolution, the Land Use Plan resolution, and the City Attorney's further revised Venice Coastal Zone Specific Plan amendment ordinance, the City Council's actions on June 17 and 24, 2022, failed to proceed in accordance with law.

NOTICE OF COMMENCEMENT OF CEQA PROCEEDING

329. On January 13, 2022, prior to filing this Petition, Petitioner, through its counsel, served the City with notice of Petitioner's intention to immediately commence a proceeding against Respondents for violation of CEQA in connection with the Project. A copy of the letter providing such notice, together with proof of service, is attached to this Petition as Exhibit A and is incorporated herein by this reference. This letter satisfied Petitioner's duties under Public Resources Code section 21167.5.

330. On January 13, 2022, Petitioner, through its counsel, served the California Attorney General with notice of the commencement of this lawsuit, together with a true and correct copy of this Petition. A copy of such notice (without the copy of this Petition attached to such notice), together with proof of service, is attached to this Petition as Exhibit B and is incorporated herein by this reference. Such notice satisfies Petitioner's duties under Public Resources Code section 21167.7 and California Code of Civil Procedure, section 388.

PREPARATION OF THE RECORD

Pursuant to Public Resources Code, section 21167.6(b)(2), Petitioner elects to prepare the record of proceedings in this action. Concurrently with this Petition, Petitioner is filing a notice of its election to prepare the administrative record. A copy of that election is attached as Exhibit

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for relief as follows:

1. For alternative and peremptory writs of mandate, commanding Respondent:

(A) to vacate and set aside environmental review documents, and approval of the Project;

(B) to vacate and set aside the Notice of Exemption for the Project, or portions of the Project the Court determines ineligible for exemption from CEQA;

(C) to prepare and certify a legally adequate environmental clearance for the Project, or portions of the Project the Court determines ineligible for exemption from CEQA;

(D) to suspend any and all activity pursuant to Respondent's approval of the Project that could result in an adverse change or alteration to the physical environment until Respondent has complied with all requirements of CEQA and all other applicable state and local laws, policies, ordinances and regulations as are directed by this Court pursuant to Public Resource Codes Section 21168.9;

(E) to set aside all Project Approvals and require the City to comply with the duties set forth in the Subdivision Map Act;

(F) to set aside all Project Approvals and require the City to comply with the Mello Act and related affordable housing requirements;

(G) to set aside all or some of the Project Approvals and require the City to eliminate the spot zoning or comply with basic health and safety requirements to demonstrate the Project is in the general welfare;

(H) to set aside the Project Approvals for failure to conduct lawful tribal consultation;

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

(I) to set aside all Project Approvals and require the City Council to provide a fair hearing free of the disqualifying bias of Councilmember Mike Bonin, and affording all persons constitutionally affected by the project a meaningful opportunity to speak before the City Council before it takes new action on the Project.

2. For a stay, temporary restraining order, preliminary injunction, and permanent injunction prohibiting any actions by Respondent pursuant to Respondent's approval of the Project and environmental clearance for the Project until Respondent has fully complied with all requirements of CEQA, the State Subdivision Map Act, the Coastal Act, and requirements of due process, and all other applicable state and local laws, policies, ordinance and regulations.

3. For compensatory and punitive damages under 42 U.S.C. § 1983;

4. For costs of the suit;

5. For attorneys' fees pursuant to Code of Civil Procedure section 1021.5 and 42 U.S.C. § 1988; and

6. For such other and further relief as the Court deems just and proper.

Dated: April 3, 2023

By:_____
Jamie T. Hall
CHANNEL LAW GROUP, LLP
Attorneys for Petitioner, Coalition for Safe Coastal Development

By:_____
Kara E. Grant
KARA GRANT LAW, PC
Attorneys for Petitioner, Los Indios De San Gabriel, Inc.

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

VERIFICATION

I am a member of Coalition for Safe Coastal Development and I am authorized to execute this verification on behalf of petitioner. I have read the foregoing Verified Third Amended Petition for Writ of Mandate and am familiar with its contents. The facts recited in the petition are true and of my personal knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: April 3, 2023

By: _____

Rita Silverman

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

EXHIBIT LIST

Exhibit No.	Exhibit
A.	Notice of Intent to File CEQA Petition
B.	Notice to California Attorney General
C.	Notice of Election to Prepare Administrative Record

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Exhibit A

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

*ALSO Admitted in Texas

January 13, 2022

VIA U.S. MAIL AND ELECTRONIC MAIL

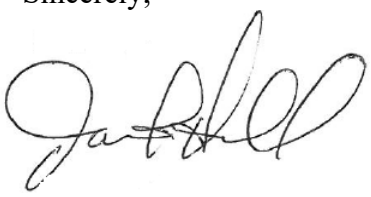
City of Los Angeles - City Clerk
200 N. Spring Street
3rd Floor, Room 395
Los Angeles, CA 90012
CityClerk@lacity.org

Re: Notice of Intent to Commence CEQA Action and Proceeding; VTT-82288; ENV-2018-6667-SE; CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1

Dear City of Los Angeles:

PLEASE TAKE NOTICE, under California Public Resources Code section 21167.5, that Petitioner, Coalition for Safe Coastal Development ("Petitioner"), intends to immediately file a Petition for Writ of Mandate ("Petition") under the provisions of the California Environmental Quality Act ("CEQA") against the City of Los Angeles ("City" or "Respondent"). The Petition will be filed in Los Angeles County Superior Court and will allege, inter alia, that the City incorrectly determined that the proposed development project titled "Reese Davidson Community" ("Project") was exempt from CEQA. The Project is located in the neighborhood of Venice and is located at 2102-2120 S. Pacific Avenue, 116-302 E. North Venice Boulevard, 2106-2116 S. Canal Street and 319 E. South Venice Boulevard. Among other things, the Petition will request that the court direct the City to vacate and rescind the project approvals, the determination that the project is exempt from CEQA and to otherwise comply with CEQA. Also, the Petition will seek Petitioners' cost and attorneys' fees.

Sincerely,



Jamie T. Hall
Attorney for Petitioner

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

*ALSO Admitted in Texas

March 1, 2022

VIA U.S. MAIL AND ELECTRONIC MAIL

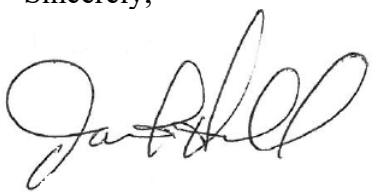
City of Los Angeles - City Clerk
200 N. Spring Street
3rd Floor, Room 395
Los Angeles, CA 90012
CityClerk@lacity.org

Re: Notice of Intent to Commence CEQA Action and Proceeding; VTT-82288; ENV-2018-6667-SE; CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1; *Coalition for Safe Coastal Development v. City of Los Angeles* (Case No. 22STCP00162)

Dear City of Los Angeles:

PLEASE TAKE NOTICE, under California Public Resources Code section 21167.5, that Petitioner, Coalition for Safe Coastal Development ("Petitioner"), intends to immediately file a Verified First Amended Petition for Writ of Mandate ("Amended Petition") under the provisions of the California Environmental Quality Act ("CEQA") against the City of Los Angeles ("City" or "Respondent"). The Petition will be filed in Los Angeles County Superior Court and will allege, inter alia, that the City incorrectly determined that the proposed development project titled "Reese Davidson Community" ("Project") was exempt from CEQA. The Project is located in the neighborhood of Venice and is located at 2102-2120 S. Pacific Avenue, 116-302 E. North Venice Boulevard, 2106-2116 S. Canal Street and 319 E. South Venice Boulevard. Among other things, the Petition will request that the court direct the City to vacate and rescind the project approvals, the determination that the project is exempt CEQA and to otherwise comply with CEQA. Also, the Petition will seek Petitioners' cost and attorneys' fees.

Sincerely,



Jamie T. Hall
Attorney for Petitioner

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Exhibit B

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Main Line: (310) 347-0050
Fax: (323) 723-3960

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

**ALSO Admitted in Texas

January 13, 2022

By U.S. Mail

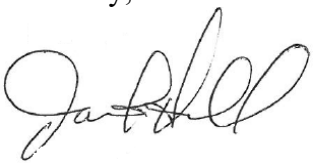
Office of the Attorney General
1300 "I" Street Suite 125
Sacramento, CA 94244-2550

Re: Challenge to Approval of Development Project Known As "Reese Davidson Community" located in Venice Community in the City of Los Angeles; *Coalition for Safe Coastal Development v. City of Los Angeles*

Honorable Attorney General Bonta:

PLEASE TAKE NOTICE, under Public Resources Code §21167.7 and Code of Civil Procedure Section §388, that on January 13, 2022 Coalition for Safe Coastal Development, filed a petition for writ of mandate against the City of Los Angeles ("Respondent" or "City"). The lawsuit has been filed in the Los Angeles County Superior Court. The petition alleges, among other things, that the City incorrectly determined that the proposed development project known as the "Reese Davidson Community" ("Project") was exempt under the California Environmental Quality Act ("CEQA"). The Project is located in the neighborhood of Venice and is located at 2102-2120 S. Pacific Avenue, 116-302 E. North Venice Boulevard, 2106-2116 S. Canal Street and 319 E. South Venice Boulevard.

Sincerely,



Jamie T. Hall

Enclosure: Petition for Writ of Mandate

Channel Law Group, LLP

8383 Wilshire Blvd.
Suite 750
Beverly Hills, CA 90211

Main Line: (310) 347-0050
Fax: (323) 723-3960

JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

**ALSO Admitted in Texas

September 15, 2022

By U.S. Mail

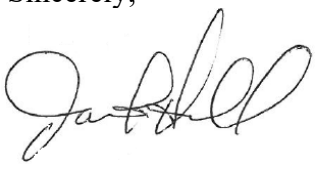
Office of the Attorney General
1300 "I" Street Suite 125
Sacramento, CA 94244-2550

Re: Challenge to Approval of Development Project Known As "Reese Davidson Community" located in Venice Community in the City of Los Angeles; *Coalition for Safe Coastal Development et al. v. City of Los Angeles* (Case No. 22STCP00162)

Honorable Attorney General Bonta:

PLEASE TAKE NOTICE, under Public Resources Code §21167.7 and Code of Civil Procedure Section §388, that on March 1, 2022 Coalition for Safe Coastal Development et al., filed a second amended petition for writ of mandate against the City of Los Angeles ("City"). The lawsuit is pending in Los Angeles County Superior Court. The amended petition alleges, among other things, that the City incorrectly determined that the proposed development project known as the "Reese Davidson Community" ("Project") was exempt under the California Environmental Quality Act ("CEQA"). The Project is located in the neighborhood of Venice and is located at 2102-2120 S. Pacific Avenue, 116-302 E. North Venice Boulevard, 2106-2116 S. Canal Street and 319 E. South Venice Boulevard.

Sincerely,



Jamie T. Hall

Enclosure: Second Amended Petition for Writ of Mandate

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Exhibit C

JAMIE T. HALL (Bar No. 240183)
JULIAN K. QUATTLEBAUM (Bar No. 214378)
CHANNEL LAW GROUP, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211
Telephone: (310) 982-1760
Facsimile: (323) 723-3960

Attorneys for Petitioner,
COALITION FOR SAFE COASTAL DEVELOPMENT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

COALITION FOR SAFE COASTAL DEVELOPMENT, a California non-profit corporation;

Petitioner,

vs.

CITY OF LOS ANGELES, a municipal corporation, and DOES 1-25;

Respondent.

HOLLYWOOD COMMUNITY HOUSING CORPORATION and VENICE COMMUNITY HOUSING CORPORATION, California non-profit corporations, LOS ANGELES DEPARTMENT OF TRANSPORTATION, a division of Respondent CITY OF LOS ANGELES, and ROE 1, an undisclosed entity formed for the purpose of building the public parking garage on the East Site, and ROES 2-25

Real Parties in Interest.

Case No.

PETITIONER'S NOTICE OF ELECTION TO PREPARE THE ADMINISTRATIVE RECORD

[California Environmental Quality Act ("CEQA"), Public Resources Code, sections 2100 et seq.]

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

Pursuant to Public Resources Code Section 21167.6(b)(2), COALITION FOR SAFE COASTAL DEVELOPMENT ("Petitioner") hereby elects to prepare the administrative record and the record of proceedings in connection with this action as provided by Public Resources Code Section 21167.6.

Dated: January 13, 2022

By:_____
Jamie T. Hall
CHANNEL LAW GROUP, LLP
Attorneys for Petitioner

Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed 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 8383 Wilshire Blvd., Suite 750, Beverly Hills, CA 90211.

On April 3, 2023, I served the foregoing document described as **VERIFIED THIRD AMENDED PETITION FOR WRIT OF MANDATE** on the interested parties as follows:

Kathryn C. Phelan, Deputy City Attorney
Marvin Bonilla, Deputy City Attorney
200 North Main Street, 701 City Hall East
Los Angeles, California 90012
kathryn.phelan@lacity.org
marvin.bonilla@lairt.org

Latham & Watkins, LLP
Jim L. Arnone
Benjamin Hanelin
Lucas Quass
Lauren Glaser
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071
James.arnone@lw.com
benjamin.hanelin@lw.com
lucas.quass@lw.com
lauren.glaser@lw.com

Kara E. Grant
KARA GRANT LAW
2010 W. Summer Wind Drive
Santa Ana, CA 92704
949.579.9330
kara@grant-law.net

Andee Leisy
Remy Moose Manley LLP
555 Capitol Mall, Suite 800
Sacramento, CA 95814
aleisy@rmmenvirolaw.com

//

//

[X] BY ELECTRONIC MAIL: I transmitted via EMAIL the document(s) listed above to the parties set forth above on this date.

Executed on April 3, 2023, in Beverly Hills, California.

Jamie T. Hall

Name

Signature