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Submitted in PLUM

Committee

Council File No: 23-0953

Item No. 4

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March 4, 2024

VIA EMAIL

Planning and Land Use Management Committee
Los Angeles City Council
City Hall
200 N. Spring Street, Room 340
Los Angeles, CA 90012

Re: PLUM Committee Meeting, Agenda Item No. 4: Nomination of 12305 5th Helena Drive as a Historic Cultural Monument (Council File No. 23-0953)

Dear Chair Harris-Dawson and Honorable Committee Members:

On behalf of the Bank family, Roy and Brinah Bank, owners of the private home located at 12305 5th Helena Drive (the "Helena House"), ***we strongly oppose the City's designation of Helena House as a Historic Cultural Monument. Joining us in opposition to the designation are the Brentwood Community Council***—which represents approximately 36,000 stakeholders in the Brentwood community, including 13 homeowners' associations, multi-family residential dwellers, business organizations, schools, religious groups, volunteer service groups, and public safety and environmental organizations.

In addition, the ***Brentwood Homeowners Association, the Brentwood Park Property Owners Association, and the Mandeville Canyon Homeowners Association***, which individually represent thousands of residents in the area, ***strongly oppose designation***.

Further, the ***owners of the Estate of Marilyn Monroe*** have requested that the Helena House ***not be designated***, but rather that the Helena House be relocated to a site that is publicly accessible.

Marilyn Monroe owned the Helena House for less than six months before her tragic death in 1962. The mere fact she purchased the Helena House as a place to stay while working on a film in Los Angeles and died there less than six months later does not make it eligible for Historic Cultural Monument designation. The Helena House has been substantially altered in the intervening 60 years since Ms. Monroe's death, and there is not a single aspect of the House that reflects Ms. Monroe's brief tenure there. As several courts have determined, Ms. Monroe's apartment in New York City was her actual residence.

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Importantly, the Helena House is not visible from the small dead-end street where it is located, as shown below. The Helena House is not—and will not be—accessible to the public.



Designating the Helena House as a Historic Cultural Monument will result in the area becoming a tourist attraction and will endanger the safety and peace and quiet of the Banks and the neighboring community. Designation will put the Bank family at risk to intruders and others seeking to access and see the Helena House. People have already tried to enter the property without permission and have flown drones over the property. The City will bear this potential liability.

The owners of the Marilyn Monroe estate support relocating the Helena House to a publicly accessible site *before* it is considered for Historic Cultural Monument designation. Ongoing discussions between the City, the Bank family, the estate, and other community organizations and stakeholders are already working toward a relocation plan. Historic Cultural Monument designation, on the other hand, would render relocation infeasible and ensure that the house is completely inaccessible to the public—for years to come.

Designation should be denied based on the following reasons:

- (1) The designation will have potentially significant traffic, noise, and air quality impacts on the environment and the City cannot rely on a Categorical Exemption pursuant to the California Environmental Quality Act.
- (2) The Helena House does not satisfy the City's Historic Cultural Monument designation criteria.
- (3) The Planning Department inappropriately delegated investigation of the Helena House as a potential Historic Cultural Monument to a third party actively advocating for the designation in violation of the City Code.

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(4) Because the City failed to follow proper procedure in investigating the eligibility of the Helena House, designation would violate the Bank family's due process rights.

(5) Designation amounts to an unconstitutional taking of the Bank family's property.

Accordingly, and as further described in Attachment A, we respectfully request that the Committee decline to recommend designation of the Helena House as a Historic Cultural Monument meeting.

Very truly yours,



George J. Mhlsten
of LATHAM & WATKINS LLP

Attachment

cc: Mr. Ken Bernstein, City Planning
Mr. Lambert Giessinger, City Planning
Ms. Melissa Jones, City Planning
Honorable Councilmember Traci Park, District 11
Honorable Hydee Feldstein Soto, City Attorney
Mr. Roy Bank
Ms. Brinah Bank
Benjamin J. Hanelin, Latham & Watkins LLP

ATTACHMENT A

A. The City's CEQA Determination is Flawed

Staff has determined that the decision to designate the Helena House a HCM is categorically exempt from the California Environmental Quality Act ("CEQA") under the Class 8 and Class 31 categorical exemptions. (See 14 C.C.R. (the "CEQA Guidelines"), §§ 15308, 15331.) Staff has failed to consider, however, that CEQA Guidelines Section 15300.2(c)'s 'unusual circumstances' exception precludes the application of a categorical exemption to the Helena House's HCM designation. The City must perform environmental review before acting on the HCM designation.

The unusual circumstances exception prohibits the application of any categorical exemption "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." (CEQA Guidelines, § 15300.2(c).) Unusual circumstances include a "feature that distinguishes" the designation from "others in the exempt class, such as its size *or location*." (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1105 [emphasis added].)

Here, the Helena House's location is in the middle of a residential neighborhood and is at the end of a very short and narrow cul-de-sac street. The street is barely 20 feet wide and only 200 feet long. Four houses have access onto 5th Helena Street. There is virtually no street parking available on the narrow street. Two cars can barely pass on the street, and because of the cul-de-sac, it is difficult for cars to turn around on the street. The street cannot accommodate tour buses and other guided tours. Given that the designation will attract tour buses and vehicles following self-guided tours to the property, the impact on the community will be significant.

Moreover, there is a reasonable possibility of potential environmental impacts due to this unusual circumstance. (*Ibid.*) As stated succinctly by the Brentwood Homeowners Association, "[d]esignating the Helena [House] as a [HCM] would have adverse impacts on the safety and peace and quiet of the current residents of the neighborhood due to the traffic on very narrow residential streets from sightseeing and celebrity home tour buses and self-guided celebrity tours." (See Brentwood Homeowners Association, Letter to Cultural Heritage Commission (Jan. 16, 2024).) Heightened traffic and congestion may also result in significant noise and air quality impacts to the surrounding community.

To comply with its obligations under CEQA, the City must consider evidence that the Helena House's location constitutes an unusual circumstance that has a reasonable possibility of causing significant traffic, noise, public safety, and air quality impacts on the environment. Because such unusual circumstances exist, the City cannot rely on a categorical exemption in approving the HCM designation.

B. HCM Designation Would Impede Relocation Efforts

The Bank family has been collaborating with the City and other interested stakeholders regarding the relocation of the Helena House to another site where members of the public can

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access it. The Helena House is currently located on private property, in a cul-de-sac at the end of a narrow residential street, and behind a fence and landscaping. (See Fig. 1 below.) These stakeholders support the relocation and are in ongoing discussions with the Bank family to secure relocation and enhance public access to the home.

Figure 1



HCM designation, however, would frustrate this cooperative community effort to expand public access to the Helena House. Projects that could cause a “substantial adverse change in the significance” of a “historical resource” are considered to potentially have a significant effect on the environment under CEQA, possibly requiring the preparation of an environmental impact report or mitigated negative declaration before the project is undertaken. (Pub. Res. Code § 21084.1.) Following HCM designation, the Helena House would be considered a “historical resource” under CEQA. Compliance with CEQA may cause any future relocation to become so cumbersome and expensive that it never occurs. In that scenario, Helena House will remain completely inaccessible to the public despite its HCM designation.

C. The Cultural Heritage Commission Failed to Establish that the Helena House Meets the Criteria for Designation

The Cultural Heritage Commission (“CHC”) recommended that the Helena House be designated as an HCM because it is affiliated with Marilyn Monroe. As discussed in detail below, the Helena House does not meet the standards for HCM designation.

“In her brief thirty-six years, *Marilyn Monroe lived in fifty-seven different residences.*”¹ During her years as an actor before her death, Ms. Monroe lived at more than seventeen places—over a dozen residences alone during Ms. Monroe’s productive life in film from 1950 to 1961. (See chronology attached as Attachment A-1.) Her time at the Helena House was one of the

¹ Gary Vitacco-Robles, *Cursum Perficio*, p. xi (emphasis added), attached as **Exhibit 1**.

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briefest—occupying the House for at most 157 days, and some of that time she was not even in Los Angeles. While she owned the Helena House, Ms. Monroe spent time in New York, Mexico, Palm Springs, and Lake Tahoe. As the CHC Staff Report acknowledged, Ms. Monroe “moved frequently between east and west coasts of the United States, and abroad, depending on filming locales.” (CHC Staff Report, p. 6.)

Moreover, although she owned the Helena House, it was clear that her actual residence was 444 East 57th Street in New York. The *LIFE* magazine reporter who interviewed her two days before her death at the Helena House was stunned to find the house “bare and makeshift as though someone lived there only temporarily.”² That *LIFE* article did not reveal Ms. Monroe’s ownership of the Helena House, its address, or that it was located in Los Angeles.³ Ms. Monroe even refused *LIFE* any interior pictures as part of the interview.⁴ The Helena House was simply a place Ms. Monroe intended to use when she was in Los Angeles filming a movie. Sworn legal affidavits and court determinations have made this fact beyond question. Multiple state and federal courts in New York and California have all concurred that her residence was 444 East 57th Street in New York.

The Helena House is associated with Ms. Monroe because she died there—not because she lived there during her productive life in film. In fact, the association of Helena House with Ms. Monroe largely occurred after her death, and because of her death. That is not an appropriate basis for HCM designation. Accordingly, the Helena House does not meet the required criteria for HCM designation.

1. **Legal Standard for HCM Designation under Criterion 2 – Association with Lives of Significant Persons**

Properties may be eligible for HCM designation if they are “associated with” the lives of significant persons. (See Admin. Code § 22.171.7.2.)

However, “[t]here are many hundreds of residential properties in Los Angeles associated with persons in the entertainment industry.” (City of Los Angeles, Los Angeles Citywide Historic Context Statement (Oct. 2017), p. 27 (“City of LA Guidance”).) The City acknowledges that “[n]ot all of these resources are significant under this theme.” (*Ibid.* [emphasis added].) Therefore, for properties associated with those in the entertainment industry, the City has provided guidance to inform which properties may actually be eligible for HCM designation, drawing from the National Park Service’s guidelines and bulletins. (See *ibid.*)

First, an individual’s association with the property “*must be connected to the specific period when he or she made his or her contributions.*” (NPS, *National Historic Landmarks*

² Meryman, “A Last Long Talk with A Lonely Girl,” *LIFE* (Aug. 17, 1962), p. 32, attached as **Exhibit 2**.

³ Meryman, “Marilyn Lets Her Hair Down About Being Famous,” *LIFE* (Aug. 3, 1962), pp. 31-38, attached as **Exhibit 3**.

⁴ See **Exhibit 2**, Meryman, “A Last Long Talk with A Lonely Girl,” p. 32.

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*Eligibility*⁵ [emphasis added]; see also NPS, *Bulletin 32: Guidelines for Evaluating and Documenting Properties Associated with Significant Persons* (“NPS Bulletin 32”), p. 16 [“Eligible properties generally are those associated with the productive life of the individual in the field in which (s)he achieved significance”]; City of LA Guidance, p. 28.) Thus, Criterion 2 “is generally restricted to those properties that illustrate (rather than commemorate) a person’s important achievements.” (NPS, *How to Apply the National Register Criteria for Evaluation*, p. 14.) “Associations that, by themselves, would generally not be sufficient to qualify a property as an important representation of a person’s historic significance include ownership . . . or other types of brief or tangential relationships.” (NPS Bulletin 32, p. 15.)

Second, nominations for properties relying on Criterion 2 “must be compared to other similar properties to **identify the one that possesses the strongest association with a person’s contributions.**” (NPS, *National Historic Landmarks Eligibility*; see also NPS Bulletin 32, p. 20.) “The length of residency is often an important factor when assessing similar properties.” (NPS, *National Historic Landmarks Eligibility*.) Under the City of LA Guidance, an eligible residential property must be “[t]he long-term residence, estate, or multi-family property of a significant person in the entertainment industry.” (City of LA Guidance, p. 28 [emphasis added].)

The Helena House meets none of these requirements.

2. **The Helena House Is Not Directly Connected to Ms. Monroe’s Productive Life**

The HCM nomination (“Nomination”) on which the CHC relied asserts that the period of significance for the Helena House is 1962, as “the year in which Marilyn Monroe purchased the property and resided there until her untimely death later that same year.” (Nomination, p. 9.) According to the Nomination, although Ms. Monroe did not appear in any movies released that year, she “nevertheless spent her year offscreen working toward furthering her career” by appearing in photoshoots and interviews. (*Id.* at pp. 11, 15; see also CHC Staff Report, p. 6.)

To the contrary, Ms. Monroe’s productive life within the film industry spans from 1950 to 1960 at the latest—*before* she purchased the Helena House. Thus, the Helena House is not directly connected to the specific period representing Ms. Monroe’s productive life as an actor. At most, the Helena House is associated with Ms. Monroe’s death, which is not a sufficient or adequate basis for designation.

a. **Ms. Monroe’s Productive Life in Film Is 1950-1960**

As shown in Attachment A-1, Ms. Monroe’s career as an actor began in the late 1940s, with the release of *Dangerous Years* in 1947. Ms. Monroe’s breakout performances did not occur until 1950, after signing with 20th Century Fox and starring in *The Asphalt Jungle* and *All About Eve*. Ms. Monroe then starred in multiple films each year from 1951 to 1954. Thereafter, the pace at which Ms. Monroe starred in movies slowed to about a single film released each year. Some of her most notable films include *Gentlemen Prefer Blondes* (1953), *How to Marry a*

⁵ Available at: <https://www.nps.gov/subjects/nationalhistoriclandmarks/eligibility.htm>.

Millionaire (1953), *The Seven Year Itch* (1955), and *Some Like It Hot* (1959). Ms. Monroe completed filming her final film, *The Misfits*, in 1960, which was released early in the following year. Therefore, Ms. Monroe's productive life in film is from about 1950 to 1960. Throughout 1961 and into 1962, Ms. Monroe experienced a series of health and personal issues that led to the decline in her productive life in film.⁶ For instance, she traveled frequently between New York and Los Angeles to spend time with Arthur Miller, her husband, until their divorce in 1961.⁷ Although Ms. Monroe began filming *Something's Got to Give* in April 1962, the studio fired her in June for repeated absences.⁸ Thus, Ms. Monroe owned the Helena House for only six months, after her productive life in film had declined.

b. Ms. Monroe Owned the Helena House After Her Productive Life in Film

The Nomination and CHC Staff Report asserted that, although Ms. Monroe did not star in any films released after 1961, she nonetheless worked to advance her career by participating in magazine interviews and photoshoots and singing Happy Birthday to President Kennedy in New York. (See Nomination, pp. 11, 15; CHC Staff Report, p. 6.) These activities, however, are not related to her productive life *in film*. In fact, interviews and photoshoots are not work product that Ms. Monroe produced herself. Thus, the only significant work Ms. Monroe performed was her iconic rendition of Happy Birthday, which she performed in New York and for which she listed her New York apartment as her contact information, as discussed in Section C.3 below.

Given the status Ms. Monroe had achieved through her film career, Ms. Monroe would always be a sought-after celebrity. The relevant inquiry, in part, is whether the Helena House is directly associated with her productive life *in film*—not as a celebrity generally. (See, e.g., City of LA Guidance, p. 28; NPS, Bulletin 32, p. 16.)

CHC staff took this very approach in 2015, when one of Ms. Monroe's other residences in Los Angeles (Hermitage Avenue) was nominated for HCM designation. (See Case No. CHC-2015-2179-HCM [5258 N. Hermitage, Dougherty House].) Ms. Monroe lived at Hermitage Avenue from April 1944 to the summer of 1945. "Though [Ms. Monroe] did reside at the subject property when she was first discovered in December of 1944, ***she only resided at the property for one year and did not live in the unit during the productive period of her career.***" (*Id.* at p. 3 [emphasis added].) "It was not until a few years later in 1948 when she would successfully break through into the film industry." (*Ibid.*) Ms. Monroe "did not achieve success in the film industry until several years after living at the Hermitage Avenue property." (*Ibid.*)

CHC staff recommended denial of HCM designation in part because there was a disconnect between Ms. Monroe's productive life *in film* and her year at Hermitage Avenue. It is the same here. There is a disconnect between Ms. Monroe's productive life in film – the last

⁶ Donald Spoto, *Marilyn Monroe*, pp. 483-593, attached as **Exhibit 4**.

⁷ *Ibid.*

⁸ See *Greene Archives v. Marilyn Monroe LLC* (9th Cir. 2012), p. 10212, attached hereto as **Exhibit 5**.

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of which was released in February of 1961 – and Ms. Monroe’s six months at the Helena House in 1962. Ms. Monroe did not live at the Helena House during her productive life in film.

Moreover, the Nomination for the Helena House suffers from similar flaws highlighted in NPS guidance for two prime examples of residential nominations that are “not acceptable” for HCM designation. (See, e.g., NPS, Bulletin 32, pp. 16, 20.) For example, NPS declined to accept the nomination of one of scientist Curtis Marbut’s residences under Criterion 2. (*Id.*, p. 16.) NPS explained “[d]ue to the unfortunate circumstances of Marbut’s death the same year [that the house was built], . . . he never actually resided in the house.” (*Ibid.*) “This nomination stresses commemorative and symbolic values, which are not acceptable substitutes for direct associations with Marbut and his life’s work.” (*Ibid.*) Similarly, NPS rejected the nomination of a house built by James Bean Decker. (*Id.*, p. 20.) “The years of Decker’s significant activities are not specified, but appear to have occurred primarily before the construction of this house, since Decker died two years after its completion.” (*Ibid.*) Further, NPS emphasized that “[t]here is also no information on Decker’s residences prior to the construction of this house, or whether he divided his time among more than one residence.” (*Ibid.*)

The Nomination on which the CHC relied lacks concrete documentation demonstrating that the Helena House represents or is directly associated with Ms. Monroe’s significant contributions to the film industry. Therefore, like the unacceptable Marbut and Decker nominations, the Helena House does not satisfy Criterion 2 for HCM designation.

3. Ms. Monroe’s New York Apartment Demonstrates a Stronger Association to Ms. Monroe and Her Productive Life in Film

Conspicuously absent from the Nomination and the CHC Staff Report is any discussion of Ms. Monroe’s New York apartment, her actual residence where she lived. Instead, the Nomination and Staff Report focus on the Helena House as the only real property that Ms. Monroe ever “owned.” (See, e.g., CHC Staff Report, p. 6.) As NPS guidance provides, ownership alone is not sufficient to qualify a property as a historic landmark. (NPS Bulletin 32, p. 15.) Rather, the relevant inquiries are whether the Helena House is “directly associated” with Ms. Monroe’s productive life, and whether other properties demonstrate a stronger, more direct association.

Here, Ms. Monroe’s New York apartment demonstrates a significant association to her productive life and her achievements, as she lived there for six years during the peak of her film career. It is immaterial for designation purposes that she rented the apartment with her then-husband. Millions of people in New York, Los Angeles, and other places rent their homes.

Further, evidence presented in judicial proceedings and accepted by multiple courts shows that Ms. Monroe considered her New York apartment to be her actual residence—not the Helena House. Multiple parties testified Ms. Monroe had no intention of living at the Helena House, other than as a temporary place to stay while Ms. Monroe was filming a movie. In fact, Ms. Monroe was photographed and filmed hundreds, if not thousands, of times coming in and out of 444 East 57th Street. Because Ms. Monroe’s New York apartment is most strongly associated to her productive life than is the Helena House, the House fails to satisfy Criterion 2.

a. Ms. Monroe Maintained Her Primary Residence in New York During and After Her Productive Life in Film

In 1956, Ms. Monroe moved into 444 East 57th Street #13-E, New York, with then-husband Arthur Miller. Ms. Monroe maintained that residence even after the couple divorced in 1961 and until her death in 1962. Newspapers reported at the time that “Marilyn found the apartment she wanted (nine rooms) at 444 E. 57th [Street].”⁹ During her six years there, “the New York apartment would be known as Marilyn’s apartment.”¹⁰

As described in a book on Ms. Monroe’s life:

*At the height of her success, Marilyn maintained a Manhattan apartment on the thirteenth floor of 444 East Fifty-Seventh Street, near Sutton Place, with her third husband, playwright Arthur Miller. The Millers spent weekends and holidays at their restored Nineteenth Century farmhouse in Roxbury, Connecticut. The apartment, however, remained Marilyn’s primary residence until her death.*¹¹

Ms. Monroe took great pride in her New York apartment, furnishing it elegantly with “her most personal possessions.”¹² For instance, “[d]ominating the living room was a white lacquered baby grand piano given to Marilyn in childhood by her mother. When Marilyn’s mother was institutionalized, the piano was sold. As a starlet, Marilyn diligently searched for the instrument and recovered it from an auction house. She carried the piano to each new address, providing continuity to her roving lifestyle.”¹³

While residing in New York, Ms. Monroe experienced the peak of her film career and starred in five movies, including *Some Like It Hot* (1959). By the early 1960s, Ms. Monroe’s New York apartment had “become an almost historic point of interest for New Yorkers and tourists alike. They mill about the building at all hours of the day, hoping to get a peek at Marilyn.”¹⁴

Although her film career had declined by 1962, Ms. Monroe performed with other entertainers at the Democratic Party fundraiser: New York’s Birthday Salute to President John F. Kennedy at Madison Square Garden. For this event, Ms. Monroe listed her address as 444 East

⁹ Winchell, Walter, “Walter Winchell writes...Of New York,” *Buffalo Courier Express*, December 17, 1956, p. 16.

¹⁰ **Exhibit 1**, *Cursum Perficio*, p. 224.

¹¹ *Id.*, p. 6 (emphasis added).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Kilgallen, Dorothy, “Voice of Broadway,” *Shamokin News-Dispatch*, March 10, 1961: 4.

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57th Street, New York.¹⁵ Even after her death, the apartment was still referred to as “the Marilyn Monroe apartment”¹⁶ and “Marilyn Monroe’s former Manhattan residence.”¹⁷

In addition, statements from those closest to Ms. Monroe demonstrate her strong ties to her New York apartment and how she considered New York as her home.

- **Executor of Ms. Monroe’s Estate:** Ms. Monroe was “[r]esiding temporarily in Los Angeles while performing. [Ms. Monroe] had [a] fully furnished apartment in New York City, which was her permanent residence. . . . [Ms. Monroe] was returning to New York after completing motion picture commitment – that she considered N.Y. her residence.”¹⁸
- **Friend:** Ms. Monroe “indicated that her California house would be used only on such occasions when she was in California performing in a motion picture film or otherwise engaged in similar activities. . . . Shortly prior to her death during several conversations, [Ms. Monroe] specifically told me that she intended vacating her California house and was going to return to her New York apartment which she considered her permanent home and residence.”¹⁹
- **Housekeeper in New York:** Ms. Monroe “never indicated to me that she intended to move any of her said treasured possessions, furnishing and furniture out of the said New York residence to her California house. . . . Approximately two days prior to [her] death, [Ms. Monroe] requested that I proceed to her California house to stay with her for approximately one month and then that I return back to New York with [Ms. Monroe]. I was then told that [she] intended to return to her permanent residence in New York City.”²⁰
- **Private Secretary:** “When she left for California in or about September, 1961 for the purposes of appearing in a film, she left all of her furnishings and furniture and a substantial amount of her personal effects and clothing in her New York apartment. . . . It was always my understanding that . . . she considered her said New York apartment as her official and permanent residence.”²¹

¹⁵ Maryrose Lane Grossman, “Happy Birthday, Mr. President,” *National Archives*, May 21, 2020, <https://jfk.blogs.archives.gov/2020/05/21/happy-birthday-mr-president/>.

¹⁶ Wilson, Earl, “It Happened Last Night,” *Camden Courier-Post*, November 2, 1962: 23.

¹⁷ “Residential Notes,” *Newsday (Nassau Edition)*, February 9, 1996: 192.

¹⁸ See *Greene* Dkt. 397, Exh. F (affidavit of Aaron Frosch), attached as **Exhibit 6**.

¹⁹ *Ibid.* (affidavit of Ralph Roberts).

²⁰ *Ibid.* (affidavit of Hattie Stephenson Amos).

²¹ *Ibid.* (affidavit of May Reis).

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- **Close Friend:** “While she was in California for the purpose of performing in the aforesaid film, she purchased a house in West Los Angeles, California. [Ms. Monroe] advised me at the time she purchased the [Helena House], that she acquired same solely for the reason that she disliked living in hotels, and that she desired and preferred the privacy of living in a private home, even though it was a temporary residence. She specifically indicated to me that she had no intention of making her permanent residence in her said California house, but intended leaving California and returning to her New York residence upon the completion of her assignment in said motion picture film.”²²

Following Ms. Monroe’s death, her estate was probated in New York. Her estate asserted that her domicile and residence was New York, specifically 444 East 57th Street. The New York court agreed. The Superior Court of Los Angeles, State of California, concurred. As did the State of California Franchise Tax Board and Ninth Circuit Court of Appeal. Rulings in these litigations confirm that 444 East 57th Street, New York was Ms. Monroe’s permanent residence.²³ It is where Ms. Monroe was most identified during the peak of her career.

Thus, concrete evidence demonstrates that Ms. Monroe considered her New York apartment, which she had lived in for six years by the time of her death, as her true home.

b. Ms. Monroe Owned the Helena House for Only Six Months

In stark contrast to her New York apartment, Ms. Monroe owned the Helena House for only six months and was physically present at the House for even less time. Although Ms. Monroe purchased the Helena House on February 8, 1962,²⁴ she did not move in until sometime in March.²⁵ Moreover, until her death in early August 1962, Ms. Monroe repeatedly traveled back to New York, as well as to other locations:²⁶

- February 17 – Ms. Monroe travelled from New York to Florida²⁷
- February 20 – Ms. Monroe travelled from Florida to Mexico²⁸
- March 2 – Ms. Monroe travelled from Mexico to Los Angeles²⁹

²² *Ibid.* (affidavit of Patricia Newcomb).

²³ See **Exhibit 5**, *Greene Archives v. Marilyn Monroe LLC*, p. 10212-10220.

²⁴ Grant Deed, attached hereto as **Exhibit 7**.

²⁵ Declaration of Laura A. Wytsma, *Greene* Dkt. 416, ¶ 44, attached hereto as **Exhibit 8**.

²⁶ Travel Itinerary, *Greene* Dkt 416, Exh. 40, attached hereto as **Exhibit 9**.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

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- March 24 – Ms. Monroe visited Palm Springs³⁰
- April 13 – Ms. Monroe returned to New York³¹
- April 16 – Ms. Monroe travelled from New York to Los Angeles³²
- May 17 – Ms. Monroe returned to New York³³
- May 20 – Ms. Monroe travelled from New York to Los Angeles³⁴
- July 28-29 – Ms. Monroe visited Lake Tahoe³⁵

Moreover, as the Nomination acknowledges, Ms. Monroe's psychiatrist, Dr. Ralph Greenson, urged Ms. Monroe to purchase the Helena House.³⁶ The Helena House was less than a mile from Dr. Greenson's house. Ms. Monroe met Dr. Greenson in 1960, while Ms. Monroe was filming in Los Angeles.³⁷ Dr. Greenson persuaded Ms. Monroe to work on her last film, *Something's Got to Give*, and tried to intervene when the studio suspended her from the film.³⁸ In fall 1961, Dr. Greenson called upon one of his staff, Eunice Murray, and installed her as Ms. Monroe's housekeeper, companion, driver, and nurse in Los Angeles.³⁹ In 1962, Mrs. Murray found the Helena House, which resembled Dr. Greenson's Spanish-style house.⁴⁰ Ms. Monroe stayed at Dr. Greenson's house before moving into the Helena House.⁴¹

Interestingly, in 1966, Dr. Greenson recalled:

I encouraged her to buy the house. *She had said she had no interest in remaining in California or making it her residence. She said*

³⁰ **Exhibit 4**, Donald Spoto, *Marilyn Monroe*, p. 487.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ **Exhibit 8**, Wytsma Decl., *Greene* Dkt. 416, ¶ 59

³⁶ See Nomination, p. 10; see also **Exhibit 1**, *Cursum Perficio*, p. 11.

³⁷ <http://www.cursumperficio.net/FicheAG22.html>

³⁸ <http://www.cursumperficio.net/FicheAG22.html>

³⁹ See *Greene* Dkt. 416, Exh. 34 (excerpt of *Marilyn: The Last Months* by Mrs. Murray (1974)), attached hereto as **Exhibit 10**.

⁴⁰ <http://www.cursumperficio.net/FicheAM47.html>

⁴¹ *Ibid.*

*that after her next picture she would go back to New York, which she considered her permanent home.*⁴²

However, eventually, Ms. Monroe “was talked into this house . . . by Mrs. Murray and by Dr. Greenson,”⁴³ in part because she was tired of living in hotels and wanted more privacy.⁴⁴ As the Nomination explains, Ms. Monroe moved into the Helena House “with only a bed, a few pieces of occasional furniture,” and some personal belongings.⁴⁵

Further, Ms. Monroe’s ownership of the Helena House was not widely known at the time. *LIFE* magazine interviewed and photographed Ms. Monroe at the Helena House, but the article focused on Ms. Monroe’s career and her thoughts on being famous. The article did not reveal her ownership of the Helena House, its address, or even that it was located in Los Angeles.⁴⁶ The Helena House is not even visible from the street,⁴⁷ and Ms. Monroe refused *LIFE* any interior pictures as part of the interview.⁴⁸ The *LIFE* magazine interviewer remarked that the rooms were “bare and makeshift as though someone lived there only temporarily.”⁴⁹ In comparison, Ms. Monroe expressly refers to her New York apartment during the interview when speaking about the impact fame had on her life.⁵⁰

Given that Ms. Monroe only owned the Helena House for approximately six months (and actually lived there for less time), Ms. Monroe did not have a lasting impact on the House as it stands today. As listed in the Nomination and on Image 1 below, the Helena House has undergone significant renovation since it was constructed in 1929.⁵¹ These alterations include new additions, reroofing, fenestration, and interior remodeling. Several additional buildings and

⁴² **Exhibit 1**, *Cursum Perficio*, p. 11 (emphasis added).

⁴³ *Ibid.*

⁴⁴ See **Exhibit 6**, *Greene* Dkt. 397, Exh. F (affidavit of Patricia Newcomb).

⁴⁵ Nomination, p. 11.

⁴⁶ **Exhibit 3**, Meryman, “Marilyn Lets Her Hair Down About Being Famous,” *LIFE* (Aug. 3, 1962), pp. 31-38.

⁴⁷ Although not relevant to the City’s consideration of the Helena House’s direct association with Ms. Monroe, properties that “may be difficult to observe from the public right-of-way due to privacy walls and landscaping” may lack the requisite integrity for HCM designation. (City of LA Guidance, p. 29.)

⁴⁸ **Exhibit 2**, Meryman, “A Last Long Talk with A Lonely Girl,” p. 32.

⁴⁹ *Ibid.*

⁵⁰ **Exhibit 3**, Meryman, “Marilyn Lets Her Hair Down About Being Famous,” p. 32 (“In the morning the garbage men that go by 57th Street [in New York] say, ‘Marilyn, hi! How do you feel this morning?’ To me it’s an honor, and I love them for it.”).

⁵¹ See Nomination, pp. 4-5.

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structures were constructed, including a recreation room, pool, pool equipment shed, and studio.⁵² None of these occurred during Ms. Monroe's brief period of ownership.⁵³

In fact, because Ms. Monroe owned the Helena House for such a short time, there is no evidence in the Nomination, Staff Report, or elsewhere that she made any lasting changes.⁵⁴ "All the remaining Mexican tiles [Ms. Monroe added to the House] have been removed, and the interior walls have been stripped to the studs and rebuilt."⁵⁵ "Tile floors replace the white wool carpeting. . . . [T]he original scalloped wooden fence purchased by Marilyn . . . is replaced with an electronic steel barrier."⁵⁶ Finally, in 1984, "the [then] owner removed the original gates to make the house less recognizable."⁵⁷

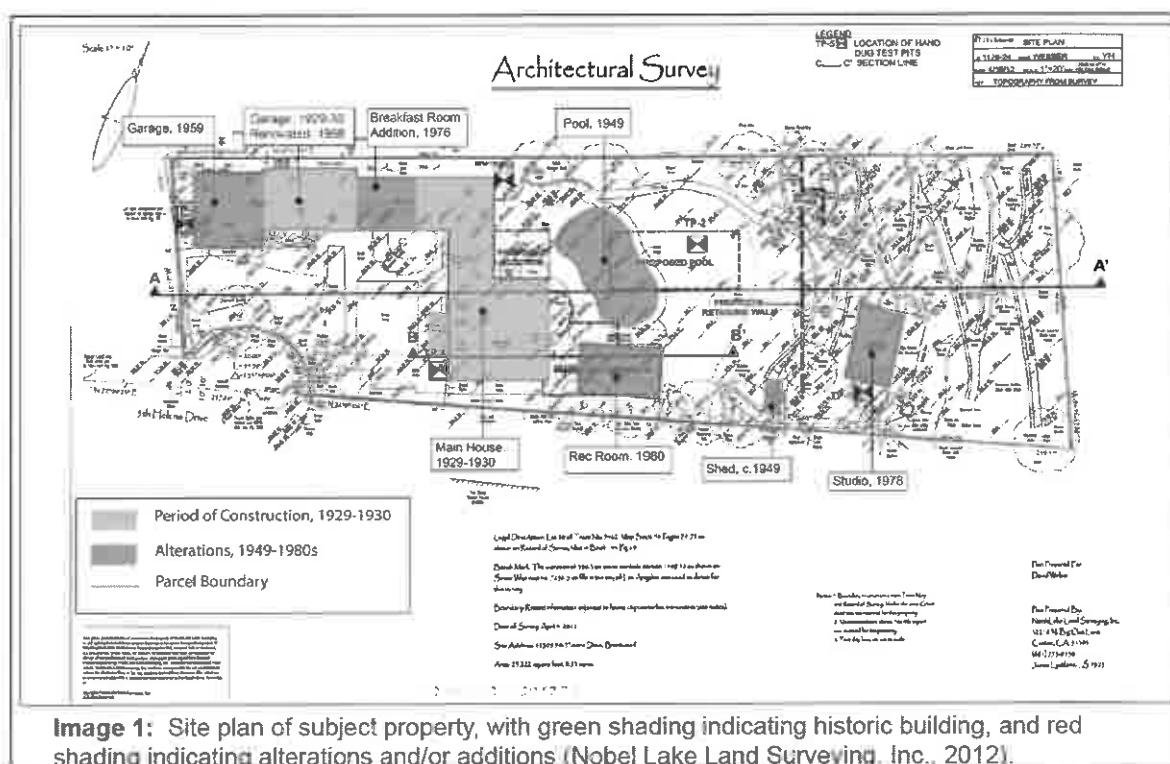


Image 1: Site plan of subject property, with green shading indicating historic building, and red shading indicating alterations and/or additions (Nobel Lake Land Surveying, Inc., 2012).

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ See **Exhibit 1**, *Cursum Perficio*, p. 210 ("It has been forty-one years since Marilyn Monroe resided at 12305 Fifth Helena Drive. The [then] current owners, Henry and Cynthia Rust, are completely renovating the seventy-four year old home.").

⁵⁵ *Ibid.*

⁵⁶ *Id.*, p. 209.

⁵⁷ *Ibid.*

There is not a single element of the Helena House as it exists today that reflects any change that Ms. Monroe may have made to the Helena House, if any. And the House has been substantially changed from the time Ms. Monroe lived there for a brief period before her death.

4. The Commissioners' Comments Confirm the Helena House Does Not Satisfy the Eligibility Standards

During the CHC's January 18, 2024, hearing, the CHC ignored the fact that the Helena House does not satisfy the legal standards for HCM designation.

One Commissioner stated that he would vote in favor of designation because Ms. Monroe is "a little bit different" from other famous people. (CHC Hearing (Jan. 18, 2024), 1:09:23.⁵⁸) The same Commissioner justified designation because he felt "moved" when the CHC conducted a site visit at the Helena House. (*Id.*, at 1:09:40).

Another Commissioner stated that she could not vote against the Helena House's designation because such a vote would be equivalent to voting against designating Walt Disney's home – a comparison that finds no basis in the applicable legal standards for HCM designations. (See *id.*, at 1:11:40.)

A third Commissioner emphasized that she believed Ms. Monroe would recognize the Helena House as it exists today – which is not a factor that is relevant to HCM eligibility. (See *id.*, at 1:12:35; City of LA, "Guidelines for Evaluating Resources Associated with Significant Persons in Los Angeles (Nov. 2018), p. 7; NPS Bulletin 32, pp. 22-23.)

Thus, the Commissioners' deliberations demonstrate that the CHC's recommendation was not based upon the Helena House's satisfaction of the applicable legal standards for HCM designation.

D. The Nomination Violates the City Codes

The Planning Department and CHC have violated the Municipal Code and the rights of the Bank family by inappropriately delegating the inspection and investigation of the Helena House to a biased third-party advocate, whose position in support of the designation is known and documented as discussed in Section E below.

City Council initiated the proposed designation on September 8, 2023.

FURTHER MOVE that the Council initiate consideration of the property located at 12305 5th. Helena Drive, Los Angeles, CA 90049, as a City Historic-Cultural Monument *under the procedures set forth in Section 22.170 .10 of the Administrative Code*, and *instruct the Planning Department to prepare the Historic Cultural*

⁵⁸ https://planning.lacity.gov/plndoc/Audio/CHC/2024/01-18-2024/4_CHC_2023_6134_HCM_Marilyn_Monroe_Residence.mp3

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***Monument application for review and consideration by the
Cultural Heritage Commission.***

(Emphasis added.)

With respect to a Council-initiated Nomination, the Code clearly require the investigation to be done by the Cultural Heritage Commission. Code Section 22.170.10 requires “Upon receipt of any proposed designation initiated by the Council, the ***Commission shall*** . . . inspect and investigate the proposed Council-initiated designation.” (Admin. Code § 22.171.10(c)(2) [emphasis added].) The Code further provides “The ***Commission, its sub-committee or the staff of the Department acting on behalf of the Commission shall inspect and investigate*** any site, building or structure . . . in the City of Los Angeles which it has reason to believe is or will in the future be a Historic-Cultural Monument.” (Admin. Code § 22.171.8 [emphasis added].)

Here, after the City Council initiated the HCM process, however, neither the CHC, a CHC sub-committee, nor Planning staff conducted the inspection and investigation. Nor did the Planning Department prepare the Nomination application as instructed by the Council Motion.

Instead, the Planning Department engaged in a process not authorized by the Code, the City Council Motion, or due process. In complete violation of the Code, the Motion, and the law, the Planning Department coordinated with a biased third-party advocate to prepare the Nomination for review and consideration by the Commission. Further, the Director’s report based the entirety of its report and recommendation on this biased Nomination.

Rather than conducting an independent non-biased review of Helena House and its association with Ms. Monroe as required by Code, the City Council Motion, and the law, the Planning Department and CHC had a Nomination prepared by a biased third party who was not a City employee and who was not under contract to the Planning Department as an unbiased investigator. The City has acted ultra vires by having a Nomination prepared by someone (i) not affiliated with the City and (ii) with a known bias on the issue of designation of the Helena House, instead of conducting an independent review. That is not what the law requires.

E. The Preparation and Adoption of the Nomination Would Violate the Bank Family’s Due Process Rights

The Nomination was prepared by a third party who is a member of the board of Hollywood Heritage and has done extensive work on behalf of the LA Conservancy, which were both actively advocating to preserve the Helena House as a historic landmark *before* the City

Council initiated a nomination.⁵⁹ This is far from the neutral and objective investigation to which the Bank family is entitled and the law requires.⁶⁰

The City has effectively delegated the investigation of Helena House to a third party with a stated bias in a specific outcome—HCM designation. As a result, the City has violated the Bank family's due process rights and the Bank family has suffered substantial damage.

If the Committee accepts the CHC Staff Report based on a Nomination prepared by a biased third party in clear violation of the Council Motion and the Code, the minimum standards of due process will have been violated. The Committee does not have before it any objective evidence to support a designation of the Helena House as an HCM.

F. HCM Designation Constitutes a Taking

Designating the Helena House as an HCM amounts to an unconstitutional regulatory taking under the U.S. and California Constitutions. A court determines whether a partial regulatory taking has occurred by considering (1) the economic impact of the regulation; (2) its interference with the owner's reasonable investment-backed expectations; and (3) the character of the governmental action.⁶¹

HCM designation would result in a severe economic impact on the value and use of the Helena House, which will be subject to strict use restrictions that do not apply to the property today. That diminution in economic value would interfere directly with the Bank family's reasonable expectations when they first purchased the Helena House: that they would be able to use the home and property like every other property owner. Finally, the character of the HCM designation action is manifestly unreasonable because the entire burden of maintenance and use restrictions will fall on the Bank family – even though no members of the public will be able to access the Helena House in its current location.

⁵⁹ Hollywood Heritage submitted a letter to Councilmember Park on behalf "urg[ing Councilmember Park] to take action to prevent the demolition of 12305 5th Helena Drive." (Hollywood Heritage, "New Preservation", Letter from Brian Curran to Councilmember Traci Park (September 6, 2023); available at: <https://www.hollywoodheritage.org/new-preservation>.) Similarly, the LA Conservancy "thanks Councilmember Park for initiating the Historic-Cultural Monument (HCM) process. We will continue working with Park's office to ensure the Cultural Heritage Commission and City Council take this important house under consideration for historic protections." (See LA Conservancy, Marilyn Monroe's House, available at: <https://www.laconservancy.org/learn/historic-places/marilyn-monroes-house/>.)

⁶⁰ The combination of investigative and adjudicatory functions within a single agency can give rise to a due process violation where there is a showing of a probability of bias. (See, e.g., *Cal. DUI Lawyers Assn. v. DMV* (2022) 77 Cal.App.5th 517, 532; *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 92.) Further, evidence demonstrates that the Commission has a substantial relationship with the LA Conservancy that supports an unacceptable probability of actual bias. (See *Woody's Group, Inc. v. City of Newport Beach* (2015) 233 Cal.App.4th 1012, 1021.)

⁶¹ See *Penn Cent. Transp. Co. v. City of New York* (1978) 438 U.S. 104; *640 Tenth, LP v. Newsom* (2022) 78 Cal.App.5th 840, 860.

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ATTACHMENT A-1

CHRONOLOGY

Attachment A-1: Marilyn Monroe – Known Residences During Film Releases

