

Communication from Public

Name: CURE AND CORRECT

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Comments for Public Posting: CURE AND CORRECT ATTACHED.

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CURE AND CORRECT, SPECIAL ITEM 1, RULE 23 MOTION

Council file 23-0953

City Council Regular Meeting of September 8, 2023.

**THREATENED LITIGATION REGARDING THE CITY COUNCIL'S INITIATION OF
PROCESS TO DESIGNATE 12305 5th Helena Drive, Los Angeles, CA. 90049 AS A
CITY HISTORIC-CULTURAL MONUMENT.**

(COUNCIL DISTRICT 11)

Honorable Members
of the Los Angeles Council
City Hall
200 North Spring Street, John Ferraro Chambers
Los Angeles, California 90012

Honorable Members:

On September 8, 2023, the City Council adopted a Rule 23 "urgency" motion (Park, CD11, -Harris-Dawson CD 8) to initiate proceedings to include 12305 5th Helena Drive, Los Angeles, CA. 90049 (the Property) in the list of City Historic-Cultural Monuments (HCMs).

It is my opinion that the Rule 23 urgency motion was improper and I demand that the Council cure-and-correct its action

If the Property be designated as an HCM, the Owner will likely sue the City and may well prevail. The Property Owner will seek to have the Council action declared null and void. If successful, the stay on the Owner's permit to demolish existing buildings on the Property may be lifted by a court, and the City, if it loses, may be required to pay attorneys' fees and costs well as possible monetary compensation for temporarily interfering with the use of the Property

At about 12pm PST, the New York Post BROKE the story that the owners of the home were given a "green light" for a PLAN CHECK on September 5, 2023. The Post even contacted the city "The city of Los Angeles and representatives of the property's current owners did not immediately respond to The Post's requests for comment." Thus, Ms. Park's City had the knowledge of the permit IN PROCESS to tear down the property 3 DAYS BEFORE THE MEETING. Ms. Park therefore easily had Tues, Wed, and Thursday to Agendize the item for A SPECIAL CITY COUNCIL MEETING! Thus, the Rule 23 was improper as well for this reason.

Factual Background

The September 8, 2023 Council motion to initiate proceedings to include the Property in the HCM list was not on the Council's published agenda via, for example, a Rule 16 motion. Rather, Council Member Park introduced the motion pursuant to Council Rule 23¹, which allows the Council to take up urgent matters not on the published agenda. The Council must make certain requisite findings before it may consider and vote on the substance of a Rule 23 motion.

Before Council Member Park introduced the Rule 23 motion to initiate HCM consideration, The City Council opened public comments on all items (15-21) at about The 39:50 mark of the meeting. Then at about 40:50-41:29 the City attorney said in Essence "we will do public comment SEPARATELY on item Rule 23 action."

Then from 41:45-1:01.00 (about 20 minutes of speakers who spoke on general public comment AND ALL ITEMS) the public was paused in their public comment period so that C.M. Park could speak and introduce her Rule 23 motion. After about 6 minutes, the Council passed the FINDINGS for the Rule 23 motion. The Council did NOT open public comment on the ITEM itself. Instead, they continued with the Public comment period. The very next speaker, Stacy Bollinger, asked if the Rule 23 was open NOW for her speak. The City Attorney and the Chair said yes after a brief discussion. Then the last public speaker, on the phone (this was a "hybrid meeting") asked to speak or was told which items were available to speak. The City Attorney stated that items 15-21 were available to speak on. Thus, speaker "Brock Landers, private investigator" was NOT told he could then speak on the Special 1, aka the Rule 23 motion (the City Attorney refers to it as "special 1." Ms. Park also from a look at the public bulletin board did NOT post a copy of the Special 1. I requested extra copies of it and put a copy on the board. The City was required to post this motion FIRST before taking up the FINDINGS.

Members of the Public who spoke on all items BEFORE THE SPECIAL 1 WAS INTRODUCED AND THE FINDINGS VOTED ON signed UP FOR THE SPECIAL 1 ON THE KIOSK. Despite this, the City Council called for the "tally" of the vote WITHOUT CALLING FOR PUBLIC COMMENT ON THE ITEM!

Thus, a cure and correct is requested to RESCIND the action of the Council dated September 8, 2023.

As well, it is unknown if the fact that the owner of the property INTENDED TO Seek a demolition permit was known PRIOR to the posting of the agenda for the City Council meeting. The N.Y. Post and others point out very huge flaws for historical preservation: there have been substantial modifications to the home since it was built in 1929 and after 1962 after Ms. Monroe passed on. Ms. Monroe only just bought the home a few months before passing. There were no long term contacts.

¹ Rule 23 mirrors a provision of the Brown Act at Government Code Section 54954.2.

I. Applicable Law

A. The Council Must Make Two Findings Before It May Consider a Rule 23 Motion.

Government Code Section 54954.2 requires the City Clerk to post an agenda containing a brief general description of each item to be discussed or transacted at the meeting at least 72 hours prior to a regular meeting. An exception exists if the Council finds that two conditions are met: (1) "there is a need to take immediate action," and (2) "the need for action came to the attention of the local agency [the City] subsequent to the agenda being posted." Government Code Section 54954.2(b). This exception is the basis for Council Rule 23. Public Comment must be taken on the Motion for the FINDINGS and if passed THEN public comment must be opened up on the ITEM. The CALLERS ON THE PHONE were also not given SEPARATE INSTRUCTION that they could comment on the Special 1 Rule 23 item. In other words, a defined period of PUBLIC COMMENT was NOT opened up before the Council passed the motion. The Item also was sent "forthwith" without any public comment. The phone callers were on the line to SPEAK ON THE SPECIAL 1 and were not called upon (e.g. Mr. Eric Preven, Daniel Guss, etc.)

B. Actions Based on Impermissible Underlying Activity are Null and Void, and Successful Litigants Challenging Such Activity May Receive an Award of Attorneys' Fees and Costs.

Pursuant to the Brown Act, the Owner could seek an order from the court voiding the City Council's September 8, 2023 action. See Government Code Section 54960.1(a) (providing an interested person may commence an action determining that an action taken in violation of the Brown Act "is null and void"). In addition to the ability to have an action declared "null and void," a successful plaintiff in a civil action to void an action taken in violation of the Brown Act may receive attorneys' fees and costs. Government Code Section 54960.5.

C. Improper Denial of a Demolition Permit Can Constitute a Temporary Taking.

A City action resulting in the withholding of a demolition permit that is "so unreasonable from a legal standpoint as to be arbitrary, not in furtherance of any legitimate governmental objective, and for no other purpose than to delay any development" is "a temporary regulatory taking requiring compensation." *E.g., Ali v. City of Los Angeles* (1999) 77 Cal. App. 4th 246, 249-55 (holding that the City's attempt to enforce its SRO ordinance in violation of the Ellis Act thereby withholding a demolition permit constitutes a compensable temporary regulatory taking, and awarding costs on appeal to plaintiff).

While any interested person normally has 90 days from date of violation to issue a written

demand to the City to cure-and-correct, Government Code Section 54960.1(c)(1) gives the person only 30 days to issue the demand in the case of a violation of Section 54954.2, that is, Rule 23 "urgency" motions not on the regular agenda.

The request is timely because it is being made the same day September 8, 2023.

D. VIOLENCE USED TO ENFORCE THIS ILLEGAL ACTION BY THE COUNCIL

AFTER the vote (without public comment) I verbally objected to this action and demanded that public comment be taken. Rather than do so, the Chair ordered me REMOVED from the meeting and placed possible penalties under "Rule 7,etc." Several heavily armed L.A.P.D. officers removed me from the Council chambers. Thus, the actions by Ms. Park, the City Attorney, and the other Council members was enforced with VIOLENCE. As well, a 2nd member of the public, who signed up like myself for the Special 1 Rule 23 was also removed from the meeting with the same swarm of police officers. This occurred when Councilman Price who is indicted on 10 felony charges currently is allowed to sit on the Council and freely vote and spend officer holder monies, while Councilmember De Leon who HAS NEVER BEEN CHARGED WITH A CRIME is NOT allowed to sit on any active Council Committees.

The City Council might possibly have conspired to violate the Brown Act (a misdemeanor.) However, a CONSPIRACY to commit a misdemeanor can be a FELONY. It is clear that the

City Attorney stated the item HAD TO be taken separately for public comment. The Chair Bob

Bliewbenbield (sic.) pressured the City Attorney to "find" a way around it. It is clear from the record the intent was to do anything to avoid a round of 1 minute speakers (there might have been at least 3 of them, up to 10) from possibly making disparaging remarks about the late Marilyn Monroe.

It is also requested that the ejection of myself and Mr. Herman be REVERSED. There was no "disruption" but rather a protest and request to cure and correct the action.

Sincerely



Wayne Spindler

September 8, 2023 at 11:00 PM PST