LAW OFFICE OF JOHN P. GIVEN
2309 Santa Monica Blvd., #438
Santa Monica, CA 90404
john@johngivenlaw.com
(310) 471-8485

April 23, 2024

CEQA Appeal to Los Angeles City Council

Justification for Appeal

Case No.: ENV-2021-7224-CE
Related case: ZA-2021-7223-CUB-CU-CDP

Subject Address: 1217 Ocean Front Walk (5 Westminster Ave.)

Letters of Determination:
Zoning Administrator: August 28, 2023
West LA APC: April 9, 2024

Deadline to Appeal: April 24, 2024

Appellant Contact Information For All Notices

Keep Neighborhoods First
c/o Law Office of John P Given
2309 Santa Monica Blvd., #438
Santa Monica CA 90404
john@johngivenlaw.com

Citizens Preserving Venice
c/o Robin Rudisill
3003 Ocean Front Walk
Venice, CA 90291
wildrudi@mac.com

Better Neighbors LA
c/o Randy Renick
Hadsell Stormer Renick & Dai LLP
128 N. Fair Oaks Avenue, Suite #204
Pasadena, CA 91103
rrr@hadsellstormer.com
nhanna@hsrlegalfund.com

APPEAL JUSTIFICATION
Appeal to Los Angeles City Council
ENV-2021-7224-CE (ZA-2021-7223-CUB-CU-CDP)
April 23, 2024

I. Introduction and Procedural Posture.

This appeal is filed on behalf of Keep Neighborhoods First ("*KNF*"),[1] Citizens Preserving Venice ("CPV"),[2] and Better Neighbors LA ("BNLA"),[3] all of which filed appeals of the Zoning Administrator's August 28, 2023 determination ("ZA Determination") to the West LA Area Planning Commission. The West LA APC considered and denied the three appeals at its hearing of March 6, 2024, as well as a fourth appeal brought by Margaret Molloy.

The instant appeal is brought pursuant to Los Angeles Municipal Code ("LAMC") Chapter 1A, Article 13, Section 13B.11.1(F) and Public Resources Code section 21151 subdivision (c), which requires the City Council as the elected decision-making body of the City to hear appeals of environmental approvals. As the determination notes: "An appeal of the CEQA clearance for the Project pursuant to Public Resources Code Section 21151(c) is only available if the Determination of the non-elected decision-making body (e.g., ZA, AA, APC, CPC) is not further appealable and the decision is final." (West LA APC Determination, April 9, 2024, p. 2 (emphasis in original removed).) The West LA APC's Determination states: "The decision of the West Los Angeles Area Planning Commission is not further appealable and shall become final upon the mailing of this determination letter.

This appeal is timely under Chapter 1A, Section 13B.11.1(F)(4)(a) of the LAMC, as it has been filed "within 15 days of the date the Project approval is final."

The ZA Determination improperly found that the Project is exempt from the California Environmental Quality Act ("CEQA") under the Class 1 "Existing Facilities" exemption. The uses to which the exemption are being applied are not existing but long-discontinued uses that no longer conform to the City's zoning code. They represent significant expansion of existing *and* former uses. The Project is *not* exempt under the Class 1 or any other CEQA exemption.

The City Council must grant the appeal to set aside the ZA's Determination and overturn the West LA Area Planning Commission's denial of appellants' first-level appeal.

---

[1] Keep Neighborhoods First is a grassroots community coalition of neighbors, tenants, affordable housing advocates, and business owners who began working together in 2014 to solve the problems created by the proliferation of commercial short-term rentals in our neighborhoods and the resulting loss of affordable housing. For more information about KNF see https://www.keepneighborhoodsfirst.org.

[2] Citizens Preserving Venice is a 501(c)3 organization with the goals of preserving the character and scale of Venice as a Special Coastal Community, including its history and its social, cultural, racial, and economic diversity, and of stabilizing affordable housing in Venice. For more information about CPV see https://www.citizenspreservingvenice.org/.

[3] Better Neighbors LA is a coalition of Southern California hosts, tenants, housing activists, hotel workers, and community members who believe the best way to support true sharing for hosts and guests is also the best way to protect jobs and the community: by curbing illegal commercial activity in the short-term rental industry. For more information about BNLA see: https://www.betterneighborsla.org/.

II. How Appellants Are Aggrieved.

KNF, *CPV*, and *BNLA* are all aggrieved by the Zoning Administrator's August 28, 2023 approval of Conditional Use Permits and Coastal Development Permit in Planning Case No. ZA-2021-7223-CUB-CU-CDP, as well as approval of related environmental case ENV-2021-7224-CE, which grants a Categorical Exemption for the Project under CEQA, and also aggrieved by the West LA APC's denial of their appeals.

All three organizations protested the unlawful conversion of the subject property from a 36-unit, long-term, rent-stabilized residential property to a boutique hotel. The City acknowledges the property is subject to the City's Rent Stabilization Ordinance ("RSO"). (See Los Angeles Municipal Code ["LAMC"], Chapter XV, § 151.00 *et seq*.) Units in a building subject to the RSO are *not* eligible for home-sharing or short-term rental under the City's Home Sharing Ordinance ("HSO").

According to a recent presentation made by City agencies to the Los Angeles City Council's Housing and Homelessness Committee, the City's Department of City Planning, the Los Angeles Housing Department ("LAHD"), and the Department of Building and Safety are the City agencies responsible for oversight and administration of the Rent Stabilization and Home Sharing Ordinances. Based on investigations by some combination of these agencies, in September 2021, the City issued ACE citation number HSHCD0209363 for violations of the Home Sharing Ordinance against the property. The applicant appealed.

In June 2022, while the Project application and appeal of the ACE citation were pending, LAHD confirmed 1217 Ocean Front Walk was ineligible for transient / short term rental use.[4]

In November 2023, the Los Angeles City Attorney's office allegedly issued an *unsigned* letter purporting to cancel ACE citation HSHCD0209363 (as well as a second citation issued to a second property also owned by the applicant).[5] The City Attorney letter included no explanation for the cancellation. Appellants have been unable to obtain a copy of the letter directly from the City. Appellant KNF has an open Public Record Act request with several City departments to obtain a copy of the letter and related materials that might shed light on the City Attorney's action, but to date has received no further information than what was provided by ZA Jack Chiang to the West LA APC at its hearing on March 6, 2024.

At the March 6 hearing, ZA Chiang represented that the citation was canceled but further investigation was pending. If further investigation is warranted, a decision to cancel was

[4] Hatim Fatehi, LAHD Principal Inspector, Inter-Departmental Memorandum to Senior City Planner Phyllis Nathanson re 1217 Ocean Front Walk, June 22, 2022. The memo explains that even if the property were eligible for transient use, the HSO precludes short term rental. See **Exhibit A**.

[5] Unsigned letter from Los Angeles City Attorney to Jeffrey T. Harlan re Notice of Cancelled Citations, Nov. 15, 2024. A copy of the letter is attached as **Exhibit B.**

obviously premature.

Appellants respectfully but vehemently object to the outrageous abuse of the City's land use approval process that allowed an unpermitted boutique hotel to continue operating in violation of the City's zoning code, its Rent Stabilization and Home Sharing Ordinances, the Coastal Act, and CEQA, especially while pending violations remained unresolved.

The ACE citation relevant to this case was apparently canceled by the City Attorney with *no* public hearing, *no* written determination, and *no* explanation to allow members of the public, APC members, or even the City's elected officials, to know the basis for cancellation. In a City rocked in recent years by corruption that has led to multiple council members being sentenced to substantial time in prison, the lack of transparency in the apparent dismissal of citations deemed valid by both the Planning and Housing Departments is incomprehensible.

The ZA erred and/or abused his discretion in issuing the original determination, and the West LA APC erred and/or abused its discretion in denying the appeals. Appellants therefore continue with this appeal of the Project's environmental clearance to the Los Angeles City Council.

III. Specific Appeal Points at Issue.

This appeal challenges the ZA's Determination that Categorical Exemption ENV-2021-7224-CE, a Class 1 "Existing Facilities" exemption for the "operation, repair, maintenance, permitting, leasing, licensing, or minor alternation of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use" can be used as the environmental clearance for the Project. (ZA Determination, p. 51.) The ZA's determination correctly notes that "[t]he key consideration is whether the project involves negligible or no expansion of use." (*Ibid.*) Substantial evidence shows this key consideration has been entirely ignored, resulting in numerous CEQA violations.

A. Background on the related Project approvals.

While the instant appeal is with respect to the environmental clearance only, it is necessary to briefly review the related approvals, which are all premised on the approved uses at issue as continuing *existing* uses which is the justification for a Class 1 exemption. Approvals are for:

> a Coastal Development Permit authorizing the renovation of an **existing** 1,276 square-foot ground floor **restaurant** with 43 seats, and a 706 square-foot **basement level theater** with 49 seats located within an historic 5-story over a basement apartment hotel building, on a lot located in the Dual Permit Jurisdiction area of the Coastal Zone; and…
>
> a Conditional Use to permit the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with

> the operation an **existing restaurant** at the ground level and an **existing theater** at the basement level all located within a 5-story over a basement historic apartment hotel building in the C1-1 zone, with the hours of operation from 8 a.m. to 12 a.m., midnight from Sunday to Wednesday, and from 8:00 a.m. to 1:00 a.m. on Thursday, Friday, and Saturday, in lieu of the maximum hours of operation from 7 a.m. to 11 p.m. permitted in a Commercial Corner Development…
> (ZA Determination, pp. 1-2 (emphasis added).)

The applicant's own submissions show the related approvals are not for continuing and existing uses. In fact, they were discontinued for a period of at least six years (the record suggests the discontinuity was far longer, almost certainly decades). When the applicant purchased the property in 2015:

> The ground floor of the building was and continues to be occupied by commercial businesses: a retail store, sandwich shop, juice shop, and coffee shop. The theater was being used as a recording and art studio prior to Mr. Lambert's purchase of the property. It is currently used as storage.[6]

This and other substantial record evidence shows that the restaurant and theater uses were not existing and continuous, and in fact had been discontinued for many years between the applicant's purchase of the property in 2015 and the 2021 application for approvals to re-establish the now nonconforming uses.

In addition, **there is no land use authorization for a hotel at the property**. The record reflects that only long-term rental housing activity had been ongoing (for decades) when the applicant purchased the property. Because the Project is located within 500 feet of residentially zoned parcels, the whole of the action (as CEQA refers to a "Project") must include the unauthorized expansion of use to operate a hotel. Without authorization, the applicant has been operating a boutique hotel in violation of the Rent Stabilization and Home Sharing Ordinances since well before the now-appealed approvals were granted.

Among other issues, the ZA Determination ignored the lengthy discontinuity of uses and that there is no land use authorization for the ongoing operation of a boutique hotel.

B. The Resulting Violations of the City's Municipal Code.

The ZA ignored the issues described above resulting in at least two significant violations of the municipal code raised in the appeals to the West LA APC.

[6] Elizabeth Peterson Group letter to Ira Brown, Oct. 1, 2021 (attached as **Exhibit C**), p. 2.

First, LA Municipal Code section 12.36 (the Multiple Approvals Ordinance) mandates that applicants "file applications at the same time for all approvals reasonably related and necessary to complete the project." A transient hotel use is not permitted in the subject property's C1 zone without a Conditional Use Permit. There is no CUP to allow the hotel use, and both Planning and LAHD found that the property is subject to both the Rent Stabilization and Home Sharing Ordinances, which do not allow transient use in the RSO building. Appellants and former Councilmember Bonin (CD11) communicated these issues to the ZA but were ignored.

Second, appellants further objected to the ZA that because the basement theater use was discontinued for many years, a theater use was now non-conforming (a theater use is no longer a permitted use in the C1 zone and so may not be re-established). Likewise, the long-discontinued restaurant is permitted in the zone but is now nonconforming with respect to parking. These facts trigger LA Municipal Code section 12.23.B(9), which requires nonconforming uses that are discontinued for one year or more to be brought into conformance with "the *current* use regulations of the zone and other applicable current land use regulations." (Emphasis added.) Neither the Project application nor the ZA Determination addressed these issues.

C. The ZA grossly misinterpreted LAMC section 12.23, rendering it surplusage.

At the West LA Area Planning Commission hearing, the ZA opined that under his interpretation of LAMC section 12.23 it didn't matter if uses were discontinued for years if not decades. According to the ZA, so long as the uses were once allowed at the subject parcel they could be re-established even if they had been discontinued for many years.

The ZA's interpretation of the zoning code thus improperly reads LAMC section 12.23 out of existence and allows nonconformities to be re-established indefinitely, contrary to the municipal code and to public policy, which strongly favors discontinuation of nonconforming uses. (See *San Francisco Planning Etc. Assn. v. Central Permit Bureau* (1973) 30 Cal.App.3d 920, 926: "public policy disfavors nonconforming uses;"; see also *County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 687: "Given the objective of zoning to eliminate nonconforming uses, courts throughout the country generally follow a strict policy against their extension or enlargement.")

In construing an ordinance, a reviewing court's purpose is to determine the legislative intent to effectuate the purpose of the enactment. (*Harbor Fumigation, Inc. v. County of San Diego Air Pollution Control Dist*. (1996) 43 Cal.App.4th 854, 859-860.) Courts follow the plain meaning of legislative enactments. "When the words are unambiguous, we presume the lawmakers meant what they said." (*City of Pasadena v. AT&T Communications of California, Inc.* (2002) 103 Cal.App.4th 981, 984 quoting *Curle v. Superior Court* (2001) 24 Cal.4th 1057, 1063.) Words should be considered in their context, and different parts of a legislative scheme should be harmonized, considering individual clauses or sections in the context of the entire framework, and *avoiding interpretations that make some words surplusage*. (*Redevelopment Agency v. Arvey Corp*. (1992) 3 Cal.App.4th 1357, 1362 (emphasis added).)

The ZA failed to consider the facts established by even the applicant's submissions that the restaurant and theater uses were long discontinued. The ZA weakly offers that he may favor a historic (i.e., 50-60 years old) Certificate of Occupancy to establish that uses identified therein may be considered "existing" while ignoring contemporary, reliable substantial evidence showing the uses were clearly discontinued. This includes undisputed evidence directly from the applicant's representative that was detailed in appellant submissions and testimony at the appeal hearing. The ZA's interpretation renders LAMC section 12.23 a nullity. If the ZA interpretation of section 12.23 were correct, it could never apply. Reducing section 12.23 to surplusage in this way is not a permissible interpretation of the zoning code. (*Redevelopment Agency v. Arvey Corp*., 3 Cal.App.4th at 1362.)

D. A Certificate of Occupancy does not convey land use authority.

The ZA relied entirely on the existence of Certificates of Occupancy dating from the 1960s showing that the restaurant and theater had once been permitted, and therefore could be re-established, instead of relying on substantial evidence, including evidence submitted by the applicant, that the uses were clearly discontinued for at least six and more likely 20 or more years. (In fact, the record is vague whether a basement theater ever existed at the property.)

As Appellants noted in their appeals, *a Certificate of Occupancy does not convey land use authority*, it is merely a notice (albeit an important one) issued by the City's Department of Building and Safety documenting that a structure has met the building code requirements necessary to ensure that structures are *safe* for the listed occupancy. See LAMC, Chapter IX (Building Regulations), Article 1 (Building Code), Section 91.109.1:

> **Certificate Required.** In order to safeguard life and limb, health, property and public welfare, every building or structure and every trailer park shall conform to the construction requirements for the subgroup occupancy to be housed therein, or for the use to which the building or structure or trailer park is to be put, as set forth in this article. [¶] No building or structure or portion thereof and no trailer park or portion thereof shall be used or occupied until a Certificate of Occupancy has been issued thereof.

"When a building is constructed, added on to, or altered, a certificate of occupancy is generated *at the conclusion of all inspections to certify that the building meets local building code requirements for occupancy*." (*Burien, LLC v. Wiley* (2014) 230 Cal.App.4th 1039, 1047 (emphasis added.))

The ZA erred and/or abused his discretion by ignoring substantial evidence that uses were discontinued and by relying on historic Certificates of Occupancy to establish uses remain "existing" even though a six-decade-old C of O can provide no such evidence.

E. CEQA violations result from the ZA's errors and abuses of discretion with respect to the Project approvals, which violations the ZA likewise ignored.

1. The Project is not exempt under the Existing Facilities exemption.

Here, allowing re-establishment of nonconforming uses violates CEQA, in that the proffered Class 1 Categorical Exemption relied on is for "**Existing Facilities**:" the "operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of **existing** public or private structures, facilities, mechanical equipment, or topographical features, **involving negligible or no expansion of existing or former use**." (Cal. Code Regs. tit. 14 ("CEQA Guidelines"), § 15301 (emphasis added).) The ZA correctly notes that "[t]he key consideration is whether the project involves negligible or no expansion of use" (ZA Determination, p. 51), but then entirely ignores that the re-establishment of nonconforming uses here cannot be considered negligible.

At the West LA APC hearing, the ZA offered a new rationale to permit the re-establishment of a basement theater, found nowhere in the original determination. The ZA's new speculative theory (for which no substantial evidence was submitted to the record in support) seems to be that the basement theater is merely an accessory use of either the restaurant or of the hotel use (notwithstanding that the hotel is not a permitted use without a required CUP, and also requires an adequate Coastal Development Permit for which no application has been made). If the basement theater is an accessory use to the restaurant, it must be considered an expansion of the restaurant and therefore the Class 1 Categorical Exemption does not apply. Likewise, if the basement theater is an accessory use to the *unpermitted* hotel, it must also be considered an expansion of the illegal hotel use.

Either way, the Class 1 Exemption cannot be seen to apply. The environmental clearance violates CEQA and is inadequate because the project is a *significant expansion* of an "existing or former use," not a negligible one. (CEQA Guidelines, § 15301.)

In addition, the existing facilities exemption does not apply to activities that were never reviewed under CEQA where a new regulatory regime applying stricter environmental standards applies (here CEQA and the Coastal Act). (See *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App. 4th 1165.) Further, the environmental baseline for a project is ordinarily its existing conditions. (CEQA Guidelines § 15125, see also *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 320-325.)

Moreover, even if the previous uses were not being expanded here, to assume that previous discontinued uses can be construed as "existing" requires ignoring the City's Nonconforming Use Ordinance (LAMC section 12.23). As discussed, this is a clear error and abuse of discretion.

2. The project description is inaccurate.

CEQA requires potentially significant land use impacts associated with a project to be identified and if necessary mitigated. A project description used for a categorical exemption must

accurately convey the totality of the project. That is because a CEQA "Project" is "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment…" (CEQA Guidelines, § 15378; see also *San Joaquin Raptor Rescue Ctr. v. Cnty. of Merced* (2007) 149 Cal.App.4th 645, 654-655 (an accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR); *Citizens for a Sustainable Treasure Island v. City & Cnty. of San Francisco* (2014) 227 Cal.App.4th 1036, 1052 (CEQA can only be served through an accurate view of the project for the public decision-makers consideration).)

The project description used for the approved Project includes only the physical changes occurring at the subject address. This is not a complete and accurate project description, because it incorrectly states that the restaurant and theater uses are existing. Substantial evidence shows these uses were long discontinued and the applicant now seeks to re-establish them, not to continue them. As discussed, the City's municipal code requires that to re-establish a use that has become nonconforming (assuming it is still permitted at all, which a theater is not) requires conformity with currently applicable zoning code provisions and other regulations. The subject property does not have adequate parking under the current zoning code and a theater is no longer a permitted use in the C1 zone. To lawfully approve the entitlement requests, correcting nonconformities requires a non-negligible expansion of use, which means the Class 1 Categorical Exemption is not available. Either a mitigated negative declaration or environmental impact report will be required.

3. Displacement of housing uses is a cognizable environmental impact.

Land use conflicts associated with the building's unlawful conversion from a long-term apartment building to a boutique hotel are cognizable environmental impacts under CEQA, as is the resulting pressure of displacement on long-term housing, necessitating construction of replacement housing elsewhere. (See *Muzzy Ranch Co. v Solano County Airport Land Use Comm'n* (2007) 41 Cal.4th 372 (displacement of development pressure as environmental impact).)[7]

4. A categorical exemption cannot be applied if mitigations are imposed.

The ZA Determination provides a conditional use approval to extend the hours permitted in a Mini-Shopping Center/Commercial Corner. There is record evidence that the project will have extended hours relative to zoning code allowances. Community members expressed concern about potentially significant conflicts between the project and nearby residential uses. (Determination, p. 33; see LAMC, § 12.24W(27).) A categorical exemption is not appropriate for

[7] See also CEQA Appendix G, Population and Housing analysis category, which asks: "Would the project…Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?" [or] "Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?"

a Project with significant land use impacts, such as direct conflicts between the Project and applicable zoning code requirements.

Moreover, it is impermissible to use a mitigation measure (for example, altering the proposed project by reducing its hours, or imposing noise mitigations) to avoid studying a potentially significant impact by reducing the likelihood of impact, or to determine that one of the significant effects exceptions does not apply.

Here the ZA mitigated noise impacts by changing permitted project hours, mitigating impoacts by reducing project hours from those requested due to noise concerns. If mitigation measures are necessary to avoid an impact, then a mitigated negative declaration is the minimum appropriate environmental review document. (See *Azusa Land Reclamation Co. v Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1200.)

5. The ZA ignored additional land use conflicts with the City's General Plan and other applicable regulations.

Unpermitted conversion of RSO units from long term rental housing to short term hotel room use is contrary to numerous Goals and Policies of the General Plan and the Venice Community Plan.

For example, under the recently adopted Housing Element, Objective 2.1 seeks to prevent displacement and increase the stock of affordable housing via policies such as Policy 2.1.6 to "[p]romote the use of housing for long-term residents and limit practices such as short-term rentals, conversions to hotels, and prolonged vacancies."[8]

Similarly, under the Venice Community Plan, Policy 1-4.2 seeks to ensure new housing opportunities minimize displacement of residents through programs that require replacement of affordable units that have been demolished or converted in the Coastal Zone.[9]

Finally, because the Project does not provide any additional parking for the change of use from RSO housing to transient hotel use or for the new restaurant and theater, the Project is inconsistent with the Venice Coastal Zone Specific Plan that clearly states a change of use that is more intensive "shall be required to comply" with the Specific Plan's parking standards. (See Venice Coastal Zone Specific Plan, supra note 9, Section 13.C.)

//

[8] See https://planning.lacity.gov/odocument/6fbfbbd0-a273-4bad-a3ad-9a75878c8ce3/Chapter_6_-_Housing_Goals,_Objectives,_Policies,_and_Programs_(Adopted).pdf

[9] https://planning.lacity.gov/odocument/b1ce0423-e344-4dc1-8dfe-3f493eaddf6c/Venice_Community_Plan.pdf.

6. A "fair argument" exists that an environmental impact report is required.

When substantial evidence in the whole record supports a "fair argument" a project *may* have a significant nonmitigable effect on the environment, the lead agency shall prepare an EIR. (*Pocket Protectors v. City of Sacramento* (2004) 124 Cal.App.4th 903, 927, citing Pub. Resources Code, § 21151 and numerous cases.) Based only on the direct and unmitigated land use conflicts described above, as well as the cognizable indirect housing displacement issues, there is a fair argument that the Project may have a significant effect on the environment, requiring an environmental impact report to be prepared.

7. Exceptions in CEQA Guidelines 15300.2 apply, disallowing the use of a categorical exemption as the environmental clearance.

Contrary to the assertion in the environmental finding that there are no cumulative impacts or significant effects as a result of the project, the ZA's determination helpfully lists some of the other nearby projects (including some by the applicant in this case) that show there are clearly significant impacts from successive projects of the same type in the same place.

For example, the ZA Determination states:

> It is understood that the opposing parties asserted that many permanent housing units especially affordable dwellings in the City have been converted into short term rentals. This problem is particularly serious in communities such as Venice where it is famed for its unique attractions and tourism amenities.
>
> Properties in Venice such as Venice Suites (*417 South Ocean Front Walk, Case No. 2015-629-ZV-ZAA-CDP-SPP-MEL-1A, which is also owned by the applicant of this application, Carl Lambert*), Venice Breeze Suites (*2 East Breeze Avenue, Case No. ZA-2012-2841-ZV-CU-CDP-MEL, which is also owned by the applicant of this application, Carl Lambert*), and Ellison Suites (*15 East Paloma Avenue, Case No. DIR-2018-3137-BSA*) have a combined of 115 (31 +32+52) housing units that the property owners were attempting to convert into hotel units in the past few years. There are more apartment buildings in the Venice Community and Citywide being converted legally and illegally to hotel use with many dwelling units subject to Rent Stabilization Ordinance. Many owners utilize Airbnb platform to advertise these apartment units for short term rentals….
> (ZA Determination, p. 27 (emphasis in original).)

Thus, even if a categorical exemption were appropriate here, and clearly it is not, the loss of so many housing units from just one community represents both a cumulative impact and an unusual circumstance exception under CEQA Guidelines section 15300.2. Therefore a categorical exemption may not be used for the Project's environmental clearance.

IV. Conclusion.

Based on all the above, the Zoning Administrator erred and/or abused his discretion in determining that a Class 1 Categorical Exemption could be used for the challenged land use approval, ZA-2021-7223-CUB-CU-CDP, and the West Los Angeles Area Planning Commission erred and/or abused its discretion in denying the appeals.

Appellants have attempted to summarize the most important issues regarding the environmental clearance as presented first to the ZA and the West LA APC on appeal. We note that the record for this case is extensive, however, and we therefore urge the Council to carefully review the ZA Determination and multiple appeals filed to fully understand the nature of the violations described herein. Appellants also reserve the right to further supplement the record on appeal as permitted by Chapter 1A, section 13B11.1(F)(8) of the municipal code.

Appellants respectfully request the City Council grant this appeal of the Project's inadequate environmental clearance and set aside the ZA's Determination that the Project is exempt from CEQA under the Class 1 Existing Facilities exemption (CEQA Guidelines, § 15301).

Sincerely,

John P. Given
Attorney for Appellants

Enclosures:

Exhibit A: Hatim Fatehi, LAHD Principal Inspector, Inter-Departmental Memorandum to Senior City Planner Phyllis Nathanson re 1217 Ocean Front Walk, June 22, 2022.

Exhibit B: Unsigned letter from Los Angeles City Attorney's Office to Jeffrey T. Harlan re Notice of Cancelled Citations, Nov. 15, 2024 (as provided in applicant's appeal defense).

Exhibit C: Elizabeth Peterson Group letter to Ira Brown, Oct. 1, 2021.

EXHIBIT A

Hatim Fatehi, LAHD Principal Inspector, Inter-Departmental Memorandum to Senior City Planner Phyllis Nathanson re 1217 Ocean Front Walk, June 22, 2022.

Ann Sewill, General Manager
Tricia Keane, Executive Officer

Daniel Huynh, Assistant General Manager
Anna E. Ortega, Assistant General Manager
Luz C. Santiago, Assistant General Manager

City of Los Angeles

Eric Garcetti, Mayor

LOS ANGELES HOUSING DEPARTMENT
1200 West 7th Street, 9th Floor
Los Angeles, CA 90017
Tel: 213.808.8808

housing.lacity.org

INTER-DEPARTMENTAL MEMORANDUM

TO:	PHYLLIS NATHANSON
	SENIOR CITY PLANNER
FROM:	HATIM FATEHI, PRINCIPAL INSPECTOR
	LOS ANGELES HOUSING DEPARTMENT - CODE ENFORCEMENT DIVISION
DATE:	JUNE 22, 2022
REGARDING:	1217 OCEAN FRONT WALK, VENICE, CA 90291 (the "Property")

This memo serves as the Los Angeles Housing Department's ("LAHD") determination regarding the transient/short-term rental use of the Property. If you have any questions, kindly reach out to me at hatim.fatehi@lacity.org.

With the passage of the Home-Sharing Ordinance ("HSO") effective July 1, 2019, the Property is **not eligible** for transient /short-term rental use under the HSO. In an alternative, if the Property is eligible for transient /short-term rental use, **it is subject to** the requirements set forth in the HSO.

The current operational certificate of occupancy for the Property was issued on January 27, 1967 ("1967-CofO"). The 1967-CofO indicates that the Property is an Apartment Hotel (H-4 occupancy) with 11 apartments, 22 light-housekeeping rooms, and 3 guest rooms, for a total of 36 units.

1. **Units subject to the City's Rent Stabilization Ordinance ("RSO") are ineligible for home-sharing/short-term rental under the HSO.**
   The 1967-CofO predates the City's RSO and therefore, unless the owner files for exemption, the units at the Property are subject to RSO including RSO registration fee per unit per year. A review of LAHD billings and collection records indicate the Property owner has been paying the RSO registration fees for the past many years. In January of 2021, in response to the Property owner's request, LAHD issued a Unit Count Discrepancy Determination letter detailing building room type inventory and the total number of housing accommodations the building legally contained. In addition, the letter also contained information on how to file an exemption under RSO. The Property owner did not file for any RSO exemptions. On the contrary, the owner paid RSO registration fee for all units at the Property for the year 2021. Recent records indicate that the owner also paid RSO registration fee for all units at the Property for the year 2022. Under the HSO (LAMC Section 12.22.A.32.(c)(2)(ii)b.), units subject to RSO are not eligible for Home-Sharing short-term rental use.
2. **The Property is an Apartment Hotel which is not exempt under the short-term rental definition in HSO.**

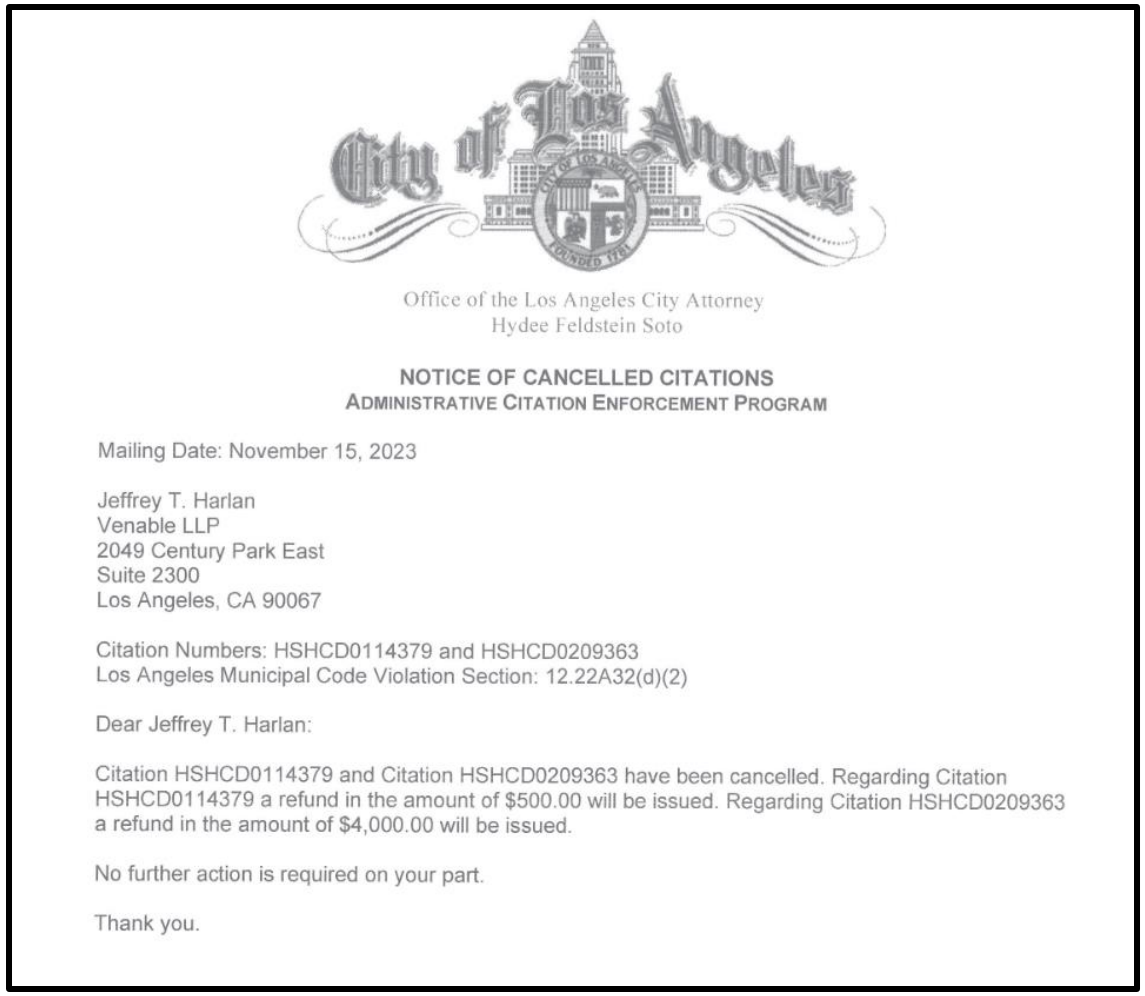
The 1967-CofO describes the building as an Apartment Hotel and therefore it is neither a Hotel/Motel, Transient Occupancy Residential Structure nor a Bed and Breakfast facility, as these terms are defined in the Zoning Code. Under the HSO, short-term rental means transient use of a rental unit for 30 consecutive days or less, however, rental units within City-approved Hotel/Motel, Transient Occupancy Residential Structures and Bed and Breakfasts facilities are not considered a short-term rental. (LAMC Section 12.22.A.32.(b)(11)). In other words, these structures are exempt from the HSO. Since the 1967-CofO indicates that the Property is an Apartment Hotel and Apartment Hotel is not one of the types of structure/use listed in the definition of short-term rental, and the rental units are not within a City-approved Hotel/Motel, the Property is not exempt from HSO and therefore, any short-term rental activity at the building is subject to the requirements set forth in the HSO.

3. **The units at the Property which are planned for short-term rental activity fail HSO's Primary Residence Test.**
   Under the HSO, in order to conduct short-term rental activity, the residence must be registered for Home-Sharing (LAMC Section 12.22.A.32.(c)(1)), which can only be done by a person who resides there for more than 6 months of the calendar year (LAMC Section 12.22.A.32.(b)(9)). Since, no individuals will be residing as their primary residence in units where short-term rental activity is being planned at the Property, under the HSO, short-term rental activity cannot be conducted.
4. **The units at the Property which are planned for short-term rental activity fail HSO's Multiple Home-Sharing Operations Test.**
   Under the HSO, a person cannot obtain more than one Home-Sharing registration or otherwise operate more than one Home-Sharing Rental Unit at a time in the City of Los Angeles (LAMC Section 12.22.A.32.(c)(2)(ii)d.). If the Property owner plans to short-term rent multiple non-occupied units (where there are no primary residence), the owner (one person) would be operating multiple short-term rental activity in violation of the HSO.

EXHIBIT B

Unsigned letter from Los Angeles City Attorney's Office to Jeffrey T. Harlan re Notice of Cancelled Citations, Nov. 15, 2024.

No Violations | Prior Citations Cancelled



Office of the Los Angeles City Attorney
Hydee Feldstein Soto

NOTICE OF CANCELLED CITATIONS
ADMINISTRATIVE CITATION ENFORCEMENT PROGRAM

Mailing Date: November 15, 2023

Jeffrey T. Harlan
Venable LLP
2049 Century Park East
Suite 2300
Los Angeles, CA 90067

Citation Numbers: HSHCD0114379 and HSHCD0209363
Los Angeles Municipal Code Violation Section: 12.22A32(d)(2)

Dear Jeffrey T. Harlan:

Citation HSHCD0114379 and Citation HSHCD0209363 have been cancelled. Regarding Citation HSHCD0114379 a refund in the amount of $500.00 will be issued. Regarding Citation HSHCD0209363 a refund in the amount of $4,000.00 will be issued.

No further action is required on your part.

Thank you.

EXHIBIT C

Elizabeth Peterson Group letter to Ira Brown, Oct. 1, 2021.

EPG

Elizabeth Peterson Group, Inc.

Request for Additional Information – ZA-2021-7223-CUB-CU-CDP – 10.1.2021

SUBJECT: 1217 Ocean Front Walk CDP/CUB/CU filing – request for additional information.

Dear Mr. Brown,

As part of your review of the above-referenced case for the property located at 1217 Ocean Front Walk, you have requested that the following items be provided to assist in your review of the proposed project, which seeks to re-establish the existing ground floor restaurant and basement theater with the on-site sale and dispensing of a full-line of alcoholic beverages.

- Description of building circa 2015 (e.g. uses and number of residents / tenants)
- Narrative of permit history
- Photo documentation of building circa 2015
- Photo documentation of existing conditions
- Records and documents relating to HCIDLA / SRO units
- Records and documents relating to short-term rental
- Operational details of alcohol sales in the theater

As demonstrated in the plans and documents submitted for this project to date, the project entails no change of use from those existing at the property, including the ground floor restaurant and basement theater that are the focus of the subject CUP/CDP request. The information provided below intends to assist and facilitate your review of the proposed project by describing work that has been done to all portions of the building, even as the subject entitlement request does not pertain to the upper floors of the building. Please see responses to your information request below along with supporting documentation in the dropbox folder provided via email along with this response document.

Description of building circa 2015

Applicant and owner Carl Lambert has done considerable work to the building since his purchase of it, upgrading the building's core infrastructure such as its electrical and HVAC systems, as well as restoring, upgrading and rehabilitating the building's units. For instance, the building still used the knob-and-tube electrical system and 100-year old plumbing and steam heating systems. The building had to be shut down on a monthly basis due to issues with the plumbing and electrical systems. Units were operating with only 15 amps of power. The original 1915 elevator would malfunction leaving users stuck once or twice per month. Photos documenting the condition of the building in 2015 when Mr. Lambert purchased it are provided in the "Before" folder at the provided dropbox link.

When applicant and owner Carl Lambert purchased the property in 2015, approximately a third of the units were vacant and others suffered from deferred maintenance work that was long ignored by the previous owner. The previous owner operated the units as short-term rentals and TOT was regularly paid. Empty units were remodeled based on natural turnover with building permit approval from LADBS. In 2017, City

inspectors requested that the entire electrical systems and plumbing be upgraded to current code. At no small, expense, Mr. Lambert installed a new electrical vault, replaced the 100-year old wiring, installed a new HVAC system providing hot and cold air to all units, renovated the units' kitchens and bathrooms and modernized the existing elevator. In order to complete this rehabilitation work, the building had to be vacated.

The ground floor of the building was and continues to be occupied by commercial businesses; a retail store, sandwich shop, juice shop and coffee shop. The theater was being used as a recording and art studio prior to Mr. Lambert's purchase of the property. It is currently used as storage.

Narrative of permit history (LADBS)

As described in the above subsection, Mr. Lambert has completed a substantial amount of work that was left undone by the previous owner in order to rehabilitate this notable historic building making its units and ground floor habitable and usable. None of the work, all of which was completed with permits from LADBS involved a change of any of the building's uses nor has resulted in a decrease in the total number of the building's units. The building continues to be used in a manner consistent with its historic Certificates of Occupancy. The building has been carefully and lovingly restored, breathing new life to this important legacy structure in the heart of Venice.

Over the course of the work needed to upgrade the building's core infrastructure and rehabilitate the units, dozens of permits had to be pulled. The below summary identifies the permits pulled for the major work items. In addition to upgrading the building's core systems and rehabilitating the units, the permits issued by LADBS identify which of the units are apartments, which are light-housekeeping rooms, and which are guestrooms (Permit # 16016-10000-30772).

Permit #: 17041-30001-17621 – Installation of new subpanels and complete rewire of all residential units for a 36-unit apartment-hotel building.

Permit #: 17041-20000-06731 – New 2,000A service and distribution for apartment hotel. (Note that the City and DWP took over two years to approve and then the Coastal Commission took an additional two years to approve the shoring for the underground electrical vault.)

Permit #: 17044-20001-05280 – Install new ac units, ventilation systems in all residential units. Tenant Improvements to existing mixed-use building. General ventilation for apartment hotel.

Permit #: 18016-10000-24446 – Mechanical equipment platform on roof for HVAC equipment, and addition of new framing members to support platform.

Permit #: 17042-30000-30588 – Renovate and install new hot and cold supply lines and waste lines in units. Renovation of Kitchens and bathrooms.

Permit #: 17046-10000-01315 – Modernization of Elevator

Permit #: 20043-20000-04240 – Sprinkler T.I.. Add, replace and relocate heads on existing fire sprinkler system.

Permit #: 17041-10000-42181 – New fire warning system for a 36-unit apartment hotel building. Scope includes 1 fire alarm panel, 2 power supplies and 206 fire alarm devices.

Permit #: 20016-10000-23076 – Interior tenant improvement of hotel basement storage and hotel service areas. No structural work. No Increase in sq. ft. No change of use.

Permit #: 16016-10000-21138 – TI to (e) restaurant on first floor

Since Mr. Lambert purchased the property, he has complied with every permit request from relevant public agencies. The total cost for the remodel is $10 million. In a recent conversation an LADBS manager affirmed to Mr. Lambert that the work done and overall project was "exemplary".

Narrative of permit history (HCIDLA)

When the building was vacated in order to complete the rehabilitation work, HCIDLA required the approval of a Tenant Habitability Plan. The Tenant Habitability Plan was approved on 1/3/2018 as is provided here. During the construction process, many of the tenants requested relocation fees and appropriate documentation was submitted to HCID and approved allowing the tenants to receive relocation assistance. Two tenants have elected to return to the property and have returned to considerably upgraded units. These tenants have been very complementary about their remodeled and improved units. These tenants are supportive of the CUB. There have been no evictions in this property by current ownership. A review of HCIDLA's Property Activity Report demonstrates that complaints received were unfounded as all have been investigated and promptly closed by HCIDLA investigators.

The historic Apartment Hotel is currently being operated in full compliance with the property's Certificates of Occupancy and in compliance with the LAMC. Now known as the Venice V Hotel (https://venicevhotel.com/) , the property is being managed as short-term rentals as part of the renovated, rehabilitated Apartment Hotel building. With 2018 approval of the Tenant Habitability Plan and with zero unresolved complaints either with HCIDLA or with LADBS, the building is operated in a completely legal fashion. Further, the subject CUP/CDP request is not germane to the use of the upper floors of the building, as it involves only the ground floor restaurant and basement theater, both historic and existing uses, which

EPG
Elizabeth Peterson Group, Inc.

Mr. Lambert seeks to reactivate with the sale and service of a full-line of alcoholic beverages for on-site consumption.

Operation Details of Alcohol Sales in the Theater

Alcohol sales, service and consumption in the theater will take place entirely within the 706 SF Basement Theater area. The theater, with its flexible seating will be used for both performances and gatherings. Alcohol will be sold and served from a portable bar that will be brought into the theater. During performances, attendees will be able to purchase drinks from the portabar before or after performances, or during breaks. During non-performance events held in the theater, alcohol sales and service will be available throughout the course of the event.

-

Thank you for your review of the information in this document and attachments. Mr. Lambert and the EPG team are happy to paint the whole picture of the work that has taken place to this notable historic building to restore and make it usable and valuable for Venice residents and visitors alike. The community will be excited to enjoy the reactivated the building's ground floor with its historic restaurant use as well as using the ground floor theater in the historic manner that was established decades ago.

With the provision of the above information and narrative, and in light of the fact that the subject CUP/CDP request pertains to solely the ground floor and basement uses, and that the building's existing uses and how the entitlement request pertains to them has been thoroughly vetted over the past year, we respectfully request that this project be moved forward to a public hearing promptly following your review of this information and the resolution of any follow-up questions. If you should have any questions about the information in this memo, please contact me or Planning Director Nik Hlady (nik@epgla.com).

Elizabeth Peterson

CEO/Founder, Elizabeth Peterson Group

(elizabeth@epgla.com)