

JUSTIFICATION/REASON FOR APPEAL

07/20/2020

On the behalf of over five hundred concerned constituents, I am appealing this decision due to numerous procedural violations which occurred at the 14 May 2020 CPC meeting, which serves as the basis for this 30 June 2020 LOD. These violations pertain to the Ralph M. Brown Act, the Americans with Disabilities Act (ADA), and the Civil Rights Act per Executive Order 13166, Title VI. Due to these substantial violations, any determinations or decisions which arose from the 14 May 2020 CPC meeting should be voided and a new meeting which properly follows all required procedures should take place.

Violations are detailed as such:

1. Brown Act Violations

The meeting was not truly publicly accessible as required. Access was restricted to those who could access the internet *and* understand English; no Spanish translation was provided despite it being requested in writing with proper notice given prior to the 14 May meeting. Additionally, blocked phone numbers were not permitted to speak, further limiting accessibility. This means if an individual didn't have a reliable internet connection to listen in but had a phone number that happened to be blocked, they could not participate as a member of the public.

According to the Planning Department's *Virtual Hearing Instructions - Non-Commission Public Hearings and Board Meetings*, "All decision-makers, board members, and hearing officers will be participating from separate locations using remote meeting technology while safer-at-home orders are in place. They will only be visible to each other. Members of the public will be able to listen to the meeting audio and offer public comment via phone when called upon for each agenda item."

In closing visual access between "decision-makers, board members, ...hearing officers" and the members of the public, this meeting was conducted in violation of both the letter and spirit of the Brown Act and does not satisfy the requirements set by the Governor's

Executive Order N-25-20 (3/4/2020) for state and local governing bodies to “make reasonable efforts to adhere as closely as reasonably possible to the provision of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide public access to their meetings.”

2. Discrimination based on Title IV of the Civil Rights Act and ADA

The requirements set forth for accessing this “public” 14 May CPC meeting blatantly exclude and discriminate against Koreatown constituents that lack the necessary technical skills, do not have access to a computer or reliable internet service but could otherwise attend a meeting in person. This is a reasonable, valid, and applicable concern given that “1 in 4 families with school-age children in LA County lack the technology resources” which make it possible for constituents to access the relevant Planning Department information posted online. Furthermore, the report found only half of the K-12 households in the bottom 20% of the income distribution are equipped” with computers and broadband internet access and that non-white students are less likely to have the necessary tech resources “regardless of income.”¹

With 40-50% of families residing in the Wilshire Center-Koreatown district lacking access to basic internet and technology, an average household size of three people, 91% of residents being people of color, and a median household income of just over \$30K per year, reliable internet access and the technology required should not and cannot be reasonably assumed and therefore should have been taken into account in order for the Planning Department to truthfully claim they were able to provide all residents with “meaningful access” to “public” hearings. ²

Access to the 14 May meeting was further constrained in a way that denied full participation and clearly violated the Americans with Disabilities Act; the Planning Department’s *Virtual Commission Meeting Instructions* state “(to) access the live meeting

¹ USC’s Annenberg Research Network on International Communication (Halperin, Wyatt, & Le, 2020) released April 16th, 2020

² Partnership for Los Angeles Schools, 2020

video by clicking on the link at the top of the meeting agenda and entering the Meeting ID.”³ However, no such information or Meeting ID was provided on the agenda, nor were the slides “made available on the live video” as far as can be seen. This lack of visual access goes against the Governor’s mandated right for the public to “observe... the public meeting,” which “includes(ing), but not limited to, the requirement that such rights of access and public comment be made available in a manner consistent with the Americans with Disabilities Act.” As ample visual access was provided to other decision makers by the department but was limited in its accessibility and scope to the public, it is clear the meeting was conducted in violation of the Brown Act, Executive Order N-25-20, and ADA.

In addition to a lack of ‘meaningful access’ to the meeting via the necessary technology, per Executive Order 13166, access to translation services should have been made available as over 5% of the population served by the Planning Department have limited English proficiency. A 2019 report from USC’s Price School of Public Policy states about 40% of households in the census tracts surrounding the Project site have limited English proficiency. Ms. Jennifer Wong and myself provided a written request for oral Spanish translation received and acknowledged by Iris Wan on 8 May 2020; however, no such services were provided nor were basic items such as the agenda or meeting notifications sent to stakeholders and members of the public translated. The *only* translation provided by the Department was a single truncated sentence which formed the title of the *webpage* when one accesses the (English language-only) 14 May CPC agenda online, stating that constituents may request translation services but no guidelines on such a request are given and ignore the sizable Korean-speaking population in the vicinity.

Last but certainly not least was clear confusion and disorganization caused by the lack of the public to properly visually observe the meeting and meaningfully participate due to lax and seemingly discriminatory enforcement of speaking rules and timing. Public comment rules as it pertains to timing and scope (how/when/if individuals may respond) were not followed nor consistently applied to all participating members. Furthermore,

³ <https://planning.lacity.org/about/virtual-commission-instructions>

clear prejudicial preference was shown to the Applicants, who were given virtually unlimited time to speak and were allowed to respond to public and Planning Commission comments and questions on multiple occasions, in stark contrast to Appellants being *told* how much time they were to speak and not being permitted to respond to additional comments or interact directly with the CPC. This was especially egregious due to a representative from Herb Wesson's office (CD-10) claiming (at the very end of public comment) that they were in contact with and were working with the appellants and members of the public, which was blatantly false. (Wesson's office never responded to our repeated requests for contact and in fact had confused our project with an *entirely different* Jamison Properties proposal down the street at 738 Normandie Avenue.)⁴ We as appellants and members of the public had no way to call attention to this blatant lie, which seems to have soothed the CPC into acquiescing to the Applicant's pressure to approve the Project.

An official letter was also sent by the Wilshire Center-Koreatown Neighborhood Council on behalf of its constituents voicing serious ethical and safety concerns regarding Jamison Properties and the slated 3440 Wilshire Project in particular. This letter in turn amplifies concerns raised by Attorney Gideon Kracov, dated 11 March 2020 to Iris Wan on behalf of Service Employees International Union - United Service Workers West (USWW) and its 20,000 members who live and work in Los Angeles. If you cannot locate the copies sent to your department, we will try and provide copies if requested.

We furthermore contend that all luxury development projects should cease until the FBI has concluded their "Pay-for-Play" investigation, at which time each project and developer should be evaluated for conflicts of interest as well as congruence/adherence to the values and goals set for LA's future built environment. The 3440 Wilshire project proposed is not only ill-suited to the neighborhood; it falls far short of the built Los Angeles our children deserve according to today's environmental, ethical, and building standards and as such should not be 'grandfathered' in.

For these reasons stated above, in the cited letters, and our previous appeal, we hereby submit this appeal for your careful consideration.

⁴ Please note the 10 July 2020 Appeal for VTT-74602-1A erroneously listed the address as 739 S. Normandie Ave. That typo has been corrected in this appeal to reflect the correct address.