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## VIA HAND DELIVERY

Hon. Herb Wesson, President and  
Los Angeles City Council  
c/o June Lagmay, City Clerk  
City of Los Angeles  
200 North Spring Street  
City Hall - Room 360  
Los Angeles, California 90012

Re: Objections to Millennium Hollywood Project;  
Appeals of VTTM-71837-CN-1A and  
CPC-2008-3440-VZC-CUB-CU-ZV-HD; ENV-2011-0675-EIR

Dear Honorable Wesson and Members of the City Council:

### I. INTRODUCTION.

This firm and the undersigned represent Communities United for Reasonable Development, a coalition of more than 40+ Los Angeles community organizations and Neighborhood Councils representing more than 250,000 residents, all of which oppose the proposed Millennium Hollywood project near Hollywood and Vine in Hollywood.

The manner in which the environmental review and planning entitlements have been processed for the Millennium Hollywood Project by Los Angeles City officials marks one of the most alarming derelictions of legal duties ever seen in the history of the City. These include, but are not limited to, the following:

- 1) Failing to require the Millennium Developer to disclose to the public what project is proposed so that it may be lawfully analyzed for project impacts and enforceable mitigation measures put in place to mitigate all impacts that may be feasibly mitigated;
- 2) Allowing the Millennium Developer to write its own development "regulations" that expressly state that no matter what provision of the Los

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Angeles Municipal Code might restrict land uses or development of the Project Site, the developer-written regulations will “prevail” over all other City laws (even though the City Council does not even know what those provisions might be);

- 3) City officials participating with the Millennium Developer and its licensed geologists in publishing of a fraudulent EIR with materially misleading statements, false supporting maps that move the project 850 feet out of the City’s Fault Rupture Investigation Zone, and omissions of well-known geologic studies which conclude that traces of the Hollywood Fault traverse the Millennium Project site;
- 4) The City’s geologist, in the face of knowledge of these false reports, failing to fulfill his obligations as a licensed professional to rescind the Project’s grading and geologic approvals until a fault investigation of the entire Millennium Project is conducted with trenching to 60 feet and other appropriate measures;
- 5) Allowing the Millennium Developer to directly hire and pay significant funds to Planning Commission President William Roschen when the Developer knew that the project would come before Mr. Roschen for review and approval – in violation of California’s conflict of interest laws;
- 6) When faced with the reality that Mr. Roschen’s conflict of interest barred the City from proceeding with considering and approving any contract or agreement involving the Millennium Project entitlements, the City Attorney contending that upon mere withdrawal of a requested Development Agreement, the City Planning Commission could consider and approve another agreement that makes the project conditions legally enforceable against the Developer and any successors in interest, all in violation of State conflict of interest laws;
- 7) Ignoring repeated and detailed demands of the California Department of Transportation, a responsible agency for the state highway system, to properly study the traffic impacts of the Millennium Project on the Hollywood Freeway, and because of the City’s dereliction of this mandatory duty, trying to shift the cost of the mitigation of the impacts on

the freeway system from the Millennium Developer to the taxpayers of the State;<sup>1</sup>

- 8) Failing to include in the cumulative impact analysis of traffic and other environmental issues dozens of related development projects discussed in EIRs of other Hollywood projects but omitted from the Millennium Project EIR – even after Caltrans itself objected to the omissions;
- 9) Ignoring reports of the City and Los Angeles Grand Jury that the fire department response times used for the analysis in the environmental documents could not be relied upon and needed to be revised and updated before considering project approvals;
- 10) Undertaking a final act of desperation by falsely claiming that the Planning and Land Use Committee of the City Council recommended that all of the Millennium Project entitlement conditions, development regulations, and land use flexibility rules be placed into a new ordinance, when no such thing occurred at the June 18, 2013 PLUM Committee meeting;<sup>2</sup>
- 11) Proposing to enact the new ordinance without complying with the review requirements of the City Charter in Section 558.

This list of actions and omissions by City of Los Angeles officials is a shocking compilation of dereliction of duty, misfeasance and malfeasance by officials elected and appointed to City positions with affirmative duties to protect public health, safety and welfare.

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<sup>1</sup> True and correct copies of our letter and a letter of the South of Santa Monica Homeowners Association addressed to Mr. Malcolm Dougherty, Director of the California Department of Transportation, are attached collectively at **Exhibit 1**.

<sup>2</sup> Such misconduct by City Planning and City Clerk officials constitute fraudulently altering a public record. Such misconduct will entitle any Petitioner in subsequent litigation to conduct depositions to locate records suppressed from any administrative record of the City. In other litigation brought by this office, the City and City Clerk were found by the Los Angeles County Superior Court to have falsified the City's official Journal of Proceedings. We contend the City is violating the law in this regard again.

Accordingly, we adopt and incorporate by reference all prior objection letters and supporting evidence filed or submitted to any and all City officials, whether contained in "official files", any City email address, and any personal email of a City official used to receive or conduct official City business about the Millennium Project without placing it in an official City file. All of this information is before the public agency of the City in accordance with Public Resources Code Section 21167.6(e).

## **II. PUBLIC RECORDS ACT REQUESTS AND INTERPLAY WITH THESE OBJECTIONS.**

As a preliminary issue, we have sought various public documents from the City under the California Public Records Act ("CPRA"). Several of those requests have not been responded to by the City, thus depriving us of a full opportunity to meaningfully respond to the City's contemplated actions.

Attached collectively at **Exhibit 2** hereto are true and correct copies of correspondence regarding this matter as well as copies of currently-outstanding CPRA requests (and City responses) to which the City has, to date, failed to provide responsive documents or has provided incomplete and impermissibly late documents, to our prejudice. Because these documents have not been produced, the City has hampered our ability to object and impaired our ability to submit the most meaningful and comprehensive evidence possible.

The California Supreme Court has stated: "Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process . . . ." CBS, Inc. v. Block (1986) 42 Cal.3d 646, 651. Those precepts apply to the City's actions herein.

As stated by the Supreme Court in Laurel Heights Improvement Assn. v. Regents of University of California (1993) 6 Cal.4th 1112, CEQA's

"purpose is to inform the public and its responsible officials of the environmental consequences of their decisions *before* they are made. Thus, the EIR protects not only the environment but also informed self-government. To this end, public participation is an essential part of the CEQA process."

Id. at 1123 (*italics in original; underline added*).

It has been held that “the whole purpose of the CPRA is to shed public light on the activities of our governmental entities . . . .” Fairley v. Superior Court (1998) 66 Cal.App.4th 1414, 1422. Because the documents requested from the City relate to critical issues as they pertain to, *inter alia*, the City Geologist’s refusal to revoke the grading and seismic approvals for the Project, and his interactions with the Developer and its consultants, we ask that no decision be made until those documents have been produced to us. We will seek to augment the administrative record as appropriate to remedy the violations of our client and the public’s constitutional and due process rights to a fair and impartial hearing, among other violations committed by the City.

**III. THE FAILURE OF THE CITY COUNCIL TO ADOPT PROCEDURAL HEARING RULES AS MANDATED BY GOVERNMENT CODE 65804 DEPRIVED APPELLANTS OF A FAIR HEARING.**

The City Council has been on notice for years that Government Code Section 64804 imposes a mandatory duty upon this City to enact and publish land use hearing procedural rules. Despite knowing of this procedural infirmity to its land use hearings before the City Council, the City persists in its refusal to propose and adopt fair hearing rules that treat land use appellants in accordance with their constitutionally protected due process hearing rights.

The hearing before the City Council’s Planning and Land Use Management (“PLUM”) Committee was fundamentally deficient simply on the ground that the City refuses to adopt fair procedural rules. There exists no procedural rule that limits the PLUM Committee Chair’s discretion regarding the amount of time given to appellants and applicants.

This was the order of presentation at the PLUM Committee hearing:

- 1) Planning Staff Report – 4 minutes
- 2) CURD Appeal – 16 minutes
- 3) PLUM Committee “Rebuttal” of CURD – 3 minutes
- 4) W Hotel Residences Appeal – 2 minutes

- 5) Millennium Developer Presentation – 20 minutes
- 6) Public Comment Severely Restricted to 20 minutes per side – 40 minutes
- 7) Shouts From Audience About Denial of Public Comment – 1 minute
- 8) Announcement of Continuance of Council Hearing Date – 1 minute
- 9) Applicant Called to Further Discuss the Project – 6 minutes
- 10) Council Office Comment – 1 minute
- 11) Motions to Approve the Project – 5 minutes

Thus, the PLUM Committee gave the Applicant more time to present its case than to Appellant CURD or even Appellants CURD and W Hotel combined. Then once the PLUM Committee chair declared that the Public Hearing was “closed” under the Brown Act, the Applicant was returned to the podium and given 6 more minutes to offer previously undisclosed changes to the Project or to make statements for which the land use Appellants, because of the lack of any fair procedural rules enacted under State law, were never allowed to rebut or respond to before the PLUM Committee took action. Even during the Motions to Approve the Project, the Applicant’s attorneys were brought to the podium to further speak, but no response was afforded to the Appellants.

Additionally, because the City has no procedural rules in place that mandate that the Applicant provide written submittals to the City at the same time to the Appellant, a letter of Sheppard Mullin asking for substantial changes to the Project Conditions was not sent to Appellant. During the Motions to Approve the Project, we first learned of the existence of the Sheppard Mullin letter even though no one identified the date of this letter. Due to this unfair process that permits an Applicant to slide into the administrative record documents and materials for which the Appellant is given no opportunity to rebut, we were denied fair hearing as to an opportunity to analyze and submit contrary evidence on these materials. See Section VI for further analysis.

We also object to an administrative hearing process where the PLUM Committee’s vote to forward the matter to City Council occurred without the Committee even having reviewed the various substantial objections, including regarding hitherto unknown defects in the EIR regarding seismic and geological issues on the Project Site.

The dismissal of so many issues that should be of primary concern to the City Council with its lead agency duties under CEQA to fully disclose the Project impacts and mitigate them in good faith, not only because of their importance in the CEQA process but because of actual life, health and property issues regarding undisclosed earthquake faults on the Project Site, is truly distressing. It is also a failure to proceed in accordance with law.

**IV. MILLENNIUM'S COUNSEL MADE NUMEROUS MATERIAL MISREPRESENTATIONS OF FACT TO THE PLUM COMMITTEE TO WHICH CURD WAS GIVEN NO OPPORTUNITY TO REBUT.**

Certain points made by Mr. Jerold Neuman of Sheppard Mullin on behalf of the Applicant before the PLUM Committee were materially false. CURD was denied a fair hearing because it was given no opportunity to rebut the following claims made by the Applicant's attorney:

- 1) Mr. Neuman claimed that there is "no evidence" of a fault on the site. This is fundamentally untrue. As documented in our June 18, 2013 objection letter and Exhibits 15-24 thereto, there is an enormous amount authoritative and credible evidence of active earthquake faults on the Project site. This includes from the California Geological Survey 2010 Fault Activity Map, the 1997 Dolan Study, and the 1992 Crook & Proctor Study. That none of these things were mentioned in the text of the EIR or the May 2012 Langan Engineering Study commissioned by the Millennium Hollywood Project developer, shocks the conscience because any competent and complete geotechnical report would have included this critical information.<sup>3</sup>

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<sup>3</sup> As a demonstration that Langan Engineering actively suppressed substantial evidence of the existence of earthquake fault traces across the Project site, we note that the May 2012 Langan Report fails to list the Dolan and Crook & Proctor studies under the References Section of the report, or discuss any of the maps in those studies that depict active fault traces across the Project site. Only the later November 30, 2012 Langan Report disclosed about 12 additional study references including the missing and well-known geologic studies of Crook & Proctor and Dolan. Even when discussing these studies, Langan geologists attempted to disparage the quality of the work of these respected academic scholars instead of presenting an objective description of their conclusions about the location of the Hollywood Fault on the Millennium Project site.

- 2) Mr. Neuman claimed that the seismic/geologic studies undertaken as part of the EIR process were adequate. For all of the reasons stated above, this is untrue. The City and the Millennium Hollywood Project developer had withheld vital data from the public and decisionmakers. "If CEQA is scrupulously followed, the public will know the basis on which its responsible officials either approve or reject environmentally significant action, and the public, being duly informed, can respond accordingly to action with which it disagrees. [Citations.] The EIR process protects not only the environment but also informed self-government." Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392.
- 3) Further, the claim that the Millennium Hollywood Project developer's consultant adequately tested the Project Site in connection with the report relied upon in the Draft EIR is false. The four borings conducted on the Project Site (two on the West and two on the East Sites) were done parallel to the previous mapped or projected fault trace. Standard engineering practice would be to run borings perpendicular, if one were actually trying to find a fault. The borings were defective and below the standard of care of a professional geologist for other reasons as more fully described in the Wilson Report at Exhibit 19, p. 4, to our June 18, 2013 objection letter, as well as in Prof. Dolan's comments at Exhibit 24 to our June 18, 2013 objection letters (see Prof. Dolan's June 4, 2013 email at 13:27). Later additional borings, only performed on the West Site, were never included in the Draft EIR and never re-circulated consistent with the public's right to participate in the City's decisionmaking. No further borings to explore for a fault were ever conducted on the East Site. Even though the later borings were reported in a Fault Investigation Report dated November 30, 2012 by Langan Engineering, none of the written responses to public comments on the Draft EIR mentioned the existence of this Fault Investigation Report or any of its findings. The Final EIR text was not modified in any way to discuss the November 30, 2012 Fault Investigation Report or make the report available to the public as part of the statutorily mandated public comment process. Instead, the City's Final EIR responses to numerous comments on earthquake faults onsite were deflected with the same false claim that the Hollywood Fault was .4 miles away.



- 4) Mr. Neuman falsely claimed that the oversized exhibits that our office used at the PLUM hearing were internally inconsistent, i.e., that the maps showed different fault locations, suggesting that there is no clarity about where the faults are located. Mr. Neuman's statement was either intentionally distortive of the facts or portrayed a shocking lack of understanding. The first exhibit we used, which is attached for your convenience at **Exhibit 3**, was the "blue polygon exhibit." The two large black lines on that exhibit do not attempt to represent faults. Those black lines are the Earthquake Fault Rupture Study Zone from Exhibit A of the City's Safety Element of the General Plan. Any property within those zones must be subjected to more intensive seismic studies including competent and thorough investigation for earthquake faults. Significantly, as we noted, the Millennium Hollywood Project developer falsified the location of the Project Site in Figure 4 of the EIR by shifting the Project Site as represented in blue polygons about 850 feet north of the actual Project Site so that it could then be north and outside of the City's Earthquake Fault Rupture Study Zone. The actual location places the Project Site through the black line of the City's Earthquake Fault Rupture Study Zone. In comparison, the second exhibit which our office used, attached hereto at **Exhibit 4**, is an enlargement of the California Geological Survey's 2010 Fault Activity Map. That was superimposed upon a scaled City map grid showing the location of the property in relation to the mapped fault trace across the subject property from the California Geological Survey's 2010 Fault Activity Map. The lines in the first exhibit are the City's Earthquake Fault Rupture Study Zone boundary lines. The lines in the second exhibit are actual fault traces mapped on the California Geological Survey's 2010 Fault Activity Map. For Mr. Neuman to argue that the two exhibits showed different fault traces was grossly misleading and inaccurate, and yet given credence by the PLUM Committee in its rush to approve the largest project in Hollywood's history in just over 90 minutes.
- 5) Mr. Neuman also made the nonsensical claim that the decision of the City's Building and Safety Department to require a fault investigation report was triggered solely in connection with review of the Subdivision Map Act entitlements, and had "nothing to do with" CEQA compliance for the Project. Mr. Neuman's claim is inconsistent with the Introduction to the November 2012 Fault Investigation Report prepared by Langan

Engineering and Environmental Services which says: *“The fault investigation was performed because although fault investigations have not been traditionally required by the City of Los Angeles’ (City) Department of Building and Safety within or immediately adjacent to the Site and the Site is not located within a current state or city mandated fault investigation zone, **the City has required a fault investigation** be performed within the Site in accordance with Section 1803.5.11 of the Los Angeles Building Code **since it is located within 500 feet of the Hollywood fault trace** (as mapped by the California Geologic Survey (CGS) and the United States Geological Survey (USGS).”* (Emphasis added.) Thus, the text of the Report states that because the City concluded the Hollywood Fault was much closer than the fraudulent claim of 0.4 miles set forth in the May 2012 Langan Report (and repeated by the City in the Draft and Final EIR), a fault investigation and report had been ordered. Mr. Neuman knows full well this was the reason (which is a critical CEQA issue required to be investigated in an EIR) because the first sentence of the Fault Investigation Report states: *“As requested by Millennium Hollywood, LLC (Millennium) **and Sheppard Mullin Richter & Hampton, LLP (Sheppard Mullin)**, we completed a fault investigation for the proposed Millennium Hollywood Development (Site) in Hollywood, California.”* (Emphasis added.) Thus, it appears that Mr. Neuman and his firm have at least read the Report, and may have participated in “wordsmithing” the evasive language of the Fault Investigation Report submitted to the City. Nowhere does the Fault Investigation Report validate Mr. Neuman’s claim that it was a requirement of only the subdivision parcel map process. And certainly there was no basis in Mr. Neuman’s assertion that preparation of the Fault Investigation Report did not trigger an obligation of the City to disclose and re-circulate the Report as part of the CEQA process.

- 6) Finally, there were repeated claims by Mr. Neuman and others at the PLUM Committee that the EIR remained adequate as to seismic analysis. Throughout the entire CEQA process for the Project, the City staff, passively relying upon environmental reports and geologic reports prepared by the Developer’s consultants, has released Draft and Final EIR reports that falsely claimed the Hollywood Fault was no closer than 0.4 miles (2,112 feet) from the Project Site. Even when the City received the November 2012 Fault Report which states the site is within 500 feet of the Hollywood Fault, no one required the Draft EIR to be revised and re-

circulated for public comment regarding this extremely vital environmental issue. On these facts, the City clearly failed to fulfill its mandatory duty to fully disclose the facts as part of the CEQA public participation process. Manufactured (fraud) and unsubstantiated evidence that the Hollywood Fault was 0.4 miles from the Project Site cannot constitute substantial evidence of anything in the CEQA record. For this reason, a complaint against Millennium's geologists was filed with the California Board of Professional Engineers, Land Surveyors, and Geologists for their shocking material misrepresentation of facts in connection with the May and November 2012 Reports to the City. And in response, the State Board has opened investigations of both the engineer and geologist from Langan Engineering who prepared and placed their professional stamps on those geology reports. A copy of the complaint letter (minus exhibits, which are already in the administrative record for this matter), and the State Board's letters notifying our office of the opening of these investigations is attached at **Exhibit 5**. Mr. Neuman was actively participating in the developer's grossly misleading actions through his baseless denials and materially misleading assertions before the City Council's PLUM Committee.

Because the City allowed no rebuttal to the Developer's substantial and pervasive material misrepresentations of fact, CURD was denied an opportunity to offer this substantial rebuttal into the record before the PLUM Committee voted to approve the Project. On this ground, CURD was not afforded a fair hearing.

**V. EVENTS SUBSEQUENT TO THE PLUM COMMITTEE HEARING  
DEMONSTRATE THE CITY IS ABDICATING ITS DUTY UNDER  
STATE LAW TO PROTECT LIVES OF FUTURE OCCUPANTS OF THE  
MILLENNIUM PROJECT.**

This office has submitted California Public Records Act ("CPRA") requests to both the Los Angeles Building and Safety Department and the City's Information Technology Agency for just the email of a handful of persons in the LADBS regarding communications concerning the Millennium Project. The City is delaying its response in searching for these emails despite the extremely limited time period and handful of persons requested to search their email accounts. Attached at **Exhibit 2** are copies of those requests and the City's delaying tactic of extending the period of response to 24 days to search for a few emails. These actions demonstrate the lengths the City has gone

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to participate in a cover up of the Millennium Developer's fraud concerning seismic issues.

From weeks since the submittal of CURD's evidence of Langan Engineering's defective geologic studies were submitted to the PLUM Committee, CURD representatives have contacted the City's licensed geologist, Dana Prevost, asking him to intervene to halt the consideration of this Project until credible fault investigation of the entire Project site has been conducted. Attached at **Exhibit 6** are copies of email and other exchanges with Mr. Prevost.

Originally, Mr. Prevost told CURD's representatives that he was going to issue a rescission letter on the grading/seismic approval letter. Soon thereafter, he did not do so, and instead told CURD representatives that he would meet with the Millennium representatives the week of July 15, 2013. Mr. Prevost also confessed to CURD representatives that Mr. Prevost had not really read the Langan reports. Due to the failure of the City's licensed geologist to intervene to protect the public health and safety, our office sent a warning letter to Los Angeles Building and Safety Department officials to alert them of their duties to enforce the State law that bars approval of structures for human occupancy on active fault traces. A copy of that letter is attached at **Exhibit 7**. Through the date of this objection letter, the City has taken no action to rescind the grading/seismic approval letter, and has not even deigned to respond to our **Exhibit 7**.

Since the PLUM Committee's recommendation hearing, other licensed geologists, alarmed by the evidence in this matter, have asked the California State Geologist to protect the public health and safety by requiring a more thorough and credible fault investigation. Robert Sydnor, a renowned geologist, not receiving any compensation, has asked Dr. John Parrish of the California Geologic Survey to intervene. A copy of his letter to Dr. Parrish is attached at **Exhibit 8**.

In response to the requests for intervention, Dr. John Parrish, California State Geologist, California State Department of Conservation, on Saturday, July 20, 2013, sent notice to the Los Angeles City Council and submitted to the official EIR administrative record for the Millennium Hollywood Project the letter attached hereto at **Exhibit 9**. This is dramatic new information that should stop the City's approval process in its tracks, and which should further call into question the dereliction of duty (or worse, including complicity) of the City's Building and Safety Department in refusing to issue a rescission letter weeks ago. In his letter, Dr. Parrish states:

- 1) The California Geologic Survey (“CGS”) has notified the Los Angeles City Council – with specific reference to the Millennium Hollywood project and its EIR No. ENV-2011-0675-EIR – that the CGS “has commenced a detailed study of the Hollywood Fault” and its associated splay faults pursuant to the Alquist-Priolo Act, which study includes the Millennium Hollywood project site.
- 2) The City “must withhold development permits for sites within the [Alquist-Priolo] zones . . . .”
- 3) The CGS’s investigation affects the Millennium project and the City’s “reviewing of plans for the prospective Millennium Hollywood Project, which may fall within an Earthquake Fault Zone . . . .”
- 4) The CGS’s “fault-zoning process” is under way and “will provide the City with new information for its consideration of current and future proposed developments all along the Hollywood Fault.”
- 5) The CGS’s “investigation and resultant maps and reports are scheduled for completion by the end of this year or early in 2014.”

In other words, the City should defer any action or approvals for the Millennium Hollywood project until the State’s investigation affecting the proposed Millennium Hollywood project site is complete.

On its website, the California State Geologist’s Office explains that it is illegal under the Alquist-Priolo Act to build on top of an active fault. That website says, in part: “Before a project can be permitted, cities and counties must require a geologic investigation to demonstrate that proposed buildings will not be constructed across active faults. An evaluation and written report of a specific site must be prepared by a licensed geologist. If an active fault is found, **a structure for human occupancy cannot be placed over the trace of the fault and must be set back from the fault (generally 50 feet).**” (Emphasis added.)

Doesn’t it make sense to delay a decision to gather all the facts before subjecting thousands of people to potential death and dismemberment? That would be the reasonable and responsible thing for the City Council to do.

We have contended geologic hazards exist. The CGS has already begun studying faulting at this site in specific response to the flaws discovered in the Millennium Developer's geologists' studies. Why not wait? What is to be lost in keeping the public safe?

The State is now investigating the status of the Millennium Project site, and its earthquake faults. We believe this is in part because of the dereliction of duty by the City's Building and Safety Department and its own State licensed geologist, Mr. Prevost. A responsible government agency would send the Project back to the Planning Department for a full investigation of whether or not active faults run across the Millennium site as concluded by several academic studies of the Hollywood Fault. The City Council must defer any discretionary decisions until after the State's investigation of the Hollywood Fault is complete. To do otherwise under the leadership of the City Council and Councilman Mitch O'Farrell would be wasteful, irresponsible, and a violation of State law. *Let the State complete its investigation before the City approves two skyscrapers on top of an active earthquake fault cutting through this property.*

The new testing by the State has been announced before any approvals have happened. At this point, the current EIR has not been certified as complete. Prior to this, an Alquist-Priolo study, commissioned by the State Agency with regulatory authority over the issue, has commenced regarding this very serious issue of life and public safety. Significantly, this State Agency was NOT consulted by the City during the CEQA process – and that failure alone violates the duty of the City to consult with all responsible agencies during the CEQA consultation process.

This constitutes new information which must alter the EIR process. The existing EIR did not acknowledge the existence of an Alquist-Priolo study or zone. An Alquist-Priolo study has now been commenced by the State Geologist, and the "fault-zoning process" affects this process. Even though the Project site is not currently within an Alquist-Priolo zone, it is within the City's Earthquake Fault Rupture Study Zone (after correcting for the Millennium Developer's fraudulent movement of the project site 850 feet north of its actual location in maps attached to the City's EIR). Thus, there are at least two independent bases for the City Council to protect public safety by sending this Project back for full earthquake fault studies in conjunction with the State's investigation of the Hollywood Fault across the Millennium Project site.

Given the materially misleading nature of the Langan Engineering studies of the geologic conditions of the Project site, the City should be determining who the investors

and the insurers of the Millennium Project are, and *mandate that proof be submitted that the Applicant has fully disclosed these seismic issues and these objections, and the letter from the State Geologist Dr. Parrish, to those who will be asked to invest in and insure the Project.* After all, in the event of any fraudulent representations to investors or insurers, if there is a building collapse that damages City facilities that could have been avoided by designing the Project to avoid the active Hollywood fault zone, the City will be unable to recover losses from the Project's insurers or investors. In fact, the evidence of City participation in this fraud may be a highly unusual circumstance where the City itself could be found liable for injuries and property damage.

Based upon all of the foregoing, any attempt of Councilmember O'Farrell to submit an amending motion at the City Council meeting, any new findings, new information on the seismic issues, or new information regarding other environmental issues from the City or developer being presented at this time, or deferred study and/or deferred mitigation post-City Council approval: 1) denies CURD, its members, and the general public of its due process rights; and 2) violates CEQA because it constitutes substantial new evidence that should have mandated recirculation of the Draft EIR. To the extent that this actually occurs at the City Council hearing, the City has deprived CURD of its right to a fair hearing before the City Council.

The entire Project should immediately be stopped until objective testing of the property is conducted to identify the exact location of faults that are traversing the property. This should be done through trenching at the property with independent geologists under direct supervision of a neutral panel of experts, including any geologists of my client's choosing having simultaneous access to tests and observe. For the sake of the lives of thousands of future residents and occupants of these potential structures, and for the rule of law that "No structure for human occupancy . . . shall be placed across the trace of an active fault. Furthermore, as the area within fifty (50) feet of such active faults shall be presumed to be underlain by active branches of that fault unless proven otherwise by an appropriate geologic investigation and report . . . , no such structures shall be permitted in this area", we demand that the City Council deny all Project applications and the EIR until such time as the property has been properly trenched and investigated on both the West and East Sites so that the existence of faults can be determined with specificity, and that such critical studies be released for public participation as part of a recirculated draft EIR.

If, we, the California Geological Survey map, the California Geologist John Parrish, Professor Dolan, and Crook and Proctor are all wrong, and in fact there are no

faults on the property, then so be it. But if we are right, as all independent evidence indicates, then the law has clear requirements for buildings in relation to earthquakes. Specifically, buildings cannot be built atop earthquake faults and must be set back a specific distance. Those facts must be ascertained prior to any further actions in this regard. Given that Councilman O'Farrell will be able to assert his influence and public stewardship in this matter in his first test of leadership and protection of the public health, safety and welfare, we particularly urge his focus on this critical, life and death matter.

**VI. THE MAY 31, 2013 SHEPPARD MULLIN LETTER ASKING FOR SIGNIFICANT MODIFICATIONS OF THE PROJECT CONDITIONS VIOLATES CEQA AND DUE PROCESS OF LAW.**

Due to what may be City staff misconduct, it appears that a letter dated May 31, 2013 from the Applicant's attorneys regarding changes to the Project's conditions may have been submitted by Sheppard Mullin at a much later date, scanned and posted in the City's online City Council File at a date significantly after the date on the letter. ("May 31 Conditions Letter".) As stated above, the failure of the City to have adopted procedural hearing rules requiring this significant letter to be timely delivered to CURD deprived Appellant of a fair hearing. If this letter was fraudulently submitted to the City's official records after the stated date of the letter (to modify the City's official administrative record), such action would constitute tampering with a public record.

It is facially invalid for the City and Applicant to contend that it is the responsibility of a land use Appellant to check the City Council File every day to see if the Applicant or City tossed something new into the City Council File. To the best of the recollection of CURD representatives, they certainly had not seen the May 31 Conditions Letter at any time leading up to the July 18, 2013 PLUM Committee hearing. To follow up on this issue, CURD has submitted a CPRA request to the City Clerk's office for all communications related to submittal of this letter and to inspect all screen shots of the software of the City that records when each document was uploaded to the City Clerk's Council File system online.

Even worse is that the transcript of the PLUM Committee hearing will reveal that the Councilmembers were materially misled by Mr. Neuman when he asked the PLUM Committee to adopt all of the Applicant's requested Project changes without disclosing to the PLUM Committee, the Appellant, or the commenting public what those proposed project changes were, or even the date of the letter that supposedly contained those substantive changes of the Project.



He represented to the PLUM Committee that all of the modifications were to “conform” the project conditions to the reduced height project offered by the Applicant and accepted by the City at the hearing that day.<sup>4</sup> While that may have been true as to some of the modifications, it most certainly was not true of all of them. Some of the changes are significant and make even more the alleged project benefits or transportation mitigation measures illusory. Thus, the PLUM Committee was asked to and in fact did approve modifications to the largest project in the history of Hollywood without even bothering to find out what those significant changes were. The changes included, but are not limited to, the following:

- 1) The Elimination Of Two TDM Measures And Removal Of Seven Other TDM Mitigation Measures After 15 Years Was Not Analyzed In The EIR For Project And Cumulative Impacts. This change needs to be analyzed and mitigated in a recirculated Draft EIR.
- 2) The Modification of Q Condition 10 To Allow Nighttime Delivery Of Construction Materials And Construction Machinery Was Not Analyzed For New Project And Cumulative Noise Impacts On Sensitive Receptors At Surrounding Hotels And Projects To Be Constructed Adjacent To The Project Site. This change needs to be analyzed and mitigated in a recirculated Draft EIR.
- 3) The Elimination Of Dedicated Guest Parking For The Residential Project Component And Substituting Use Of Commercial Parking Not On The Project Site Required A Variance Not Applied For Or Analyzed In The EIR. This change needs to be analyzed and mitigated in a recirculated Draft EIR.
- 4) The Change of Q Condition 7 To Allow The 6:1 FAR To Be Averaged In Total For All Buildings Instead Of For Each Building Could Result In

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<sup>4</sup> And given that the May 31, 2013 Sheppard Mullin letter supposedly contained these conforming changes to the reduced height project first offered on June 18, 2013, it becomes clear this deal was cut with the Council office long ago and the scripted offer of the reduced project by Applicant at the PLUM hearing, and Councilmember Garcetti office’s congratulations on the Applicant “listening” to the community was a fake compromise representing the planned height of the Project all along.

Density Exceeding 6:1 FAR. This change needs to be analyzed and mitigated in a recirculated Draft EIR.

- 5) The Change Of The Millennium Development Regulations Permits No Limit On The Height Of The Podium Building Along Ivar. This change needs to be analyzed and mitigated in a recirculated Draft EIR.

None of these major changes to the Millennium Project were disclosed to the PLUM Committee, let alone the Appellant. Because those changes were added into the Project without an opportunity for the Appellant to know and reasonably prepare responses and evidence to rebut them, Appellant has been denied due process of law by the City failing to have an adopted set of procedural hearing rules as mandated by Government Code Section 65804.

**VII. THE CITY'S NEW ORDINANCE CANNOT BE APPROVED WITH THE REVIEW MANDATED BY THE CITY CHARTER.**

Section 558 of the Los Angeles Charter mandates that the City Planning Commission review and make a recommendation regarding each ordinance that concern zoning and other land use regulations. Now, at the last second, the City Council is proposing to throw all of the Millennium Project conditions, entitlements, custom Development Regulations, and Land Use Equivalency Program into a new ordinance. Additionally, the City Council proposes to set aside an ordinance to merely amend the zoning map that was recommended by the City Planning Commission.

Now, in what a retired City Planner informs us is unprecedented in their memory, custom-written Millennium Development regulations will be thrown into a proposed ordinance and, on the authority of LAMC 12.04 which is the City's zoning maps, the City Council will propose to elevate every element of the Millennium Project entitlement documents into a City Ordinance. Presumably, all the content of these conditions and Development Regulations will be amended into the text of LAMC 12.04.

On this basis, a provision in the Millennium Development Regulations states that whenever any other provision of the Los Angeles Municipal Code, no matter what it is, and even though the City Council has not been informed what those conflicting provisions might be (which is impossible to know until the Project is known and this also has not been disclosed to the City Council or public in the EIR), the Millennium Development regulations will "prevail" over all conflicting Code provisions.

By this action, the City Council and Mayor Garcetti will elevate the Millennium Project over all other development regulations of the City – without even knowing what provisions the Millennium Developer proposes to override.

What is being hidden by these actions? When the actual Project is submitted to the City Planning Department and Building and Safety Department for building permits, what fundamental policies of the Code will be overridden? Who knows. This is a dereliction of duty of the City Council to know what project it is approving.

One provision that even this appalling act cannot trump is the requirement for the Millennium Developer to apply for and obtain all required variances per the Los Angeles Municipal Code. By purporting to elevate the Millennium Regulations over the Code, the City Council may not and cannot override the City Charter that mandates obtaining a variance, which is a new discretionary decision.

To this end, the City's ongoing failure to disclose the existence of the Advisory Agency's parking rule that mandates 2.5 parking spaces for each condominium remains a fatal flaw of the EIR because it fails to disclose it, analyze the land use impact, and provide findings that justify the grant of this "hidden" variance to the Millennium Project.

Given that the City Council has proposed a new ordinance that was never reviewed by the City Planning Commission, and given the gravity of an unprecedented action to enact all of a project's entitlements into an ordinance, referral of this matter back to the City Planning Commission is required before any such new ordinance may be considered by the City Council.

**VIII. THE ERRATA TO THE EIR SHOWS THE CITY AND DEVELOPER'S  
MOVING OF THE MILLENNIUM DEVELOPMENT  
REGULATIONS/LAND USE EQUIVALENCY PROGRAM FROM THE  
DEVELOPMENT AGREEMENT TO Q CONDITIONS TO THE CITY'S  
NEW ORDINANCE IN A DESPERATE EFFORT TO OVERRIDE THE  
MUNICIPAL CODE AND OUTRUN THE SECTION 1090 CONFLICT OF  
INTEREST VIOLATION.**

When the City Attorney found that Millennium's hiring of the President of the City Planning Commission violated California's conflict of interest statute (Govt. Code § 1090), the City Planning Department declared that the Development Regulations/Land

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Use Equivalency Program could be moved from the unlawful Development Agreement over to the regular project entitlements and imposed under the authority of Los Angeles Municipal Code Section 12.32G.2(a) related to Q conditions. This change to the Project Entitlements was documented for the EIR in the First Errata issued in the period leading up to the hearing before the City Planning Commission. In the First Errata, the City asserted, without any supporting analysis or data, that imposing the Development Regulations/Land Use Equivalency Program as a Q condition triggered no new adverse impacts.

CURD's appeal of the tract map approvals and the City Planning Commission's decision of March 27, 2013 objected on the ground that the improper use of Q Condition authority to purport to override all conflicting Los Angeles Municipal Code provisions was not only illegal, but would trigger a new Land Use Impact because the proposed action was not consistent with the history and purposes of the Q condition authority granted to the City in LAMC 12.32. We renew these objections because the City continues to falsely claim that a law that only allows imposition of more restrictions of a project also entitles the City to use a Q condition scheme to authorize the Millennium Development Regulations/Land Use Equivalency Program that by definition purports to override any conflicting Municipal Code provision and grant greater authority, which is most certainly NOT a restriction on the Millennium Project.

When faced with this correct legal argument, City officials and the Millennium Developer conspired to claim that the PLUM Committee recommended that the City Council enact a new ordinance that includes in it all of the Millennium Project conditions, the Millennium Development Regulations, and the Land Use Equivalency Program. The audio recording of the City's PLUM Committee hearing establishes that no such recommendation was made by the PLUM Committee, yet it appears in the Committee's report to City Council. This record appears to be a false and tampered public record of the proceedings.

Now the City attempts to paper over this continuing new significant land use impact by claiming that using a Q condition authority AND enacting all of the Millennium Entitlements, Development Regulations and Land Use Equivalency Program into a new never-before-seen ordinance will enable the Millennium Development Regulations and Land Use Equivalency Program to "prevail" over all conflicting Los Angeles Municipal Code provisions – whatever they may be. This is documented in the Second Errata to the EIR that makes additional false assertions.

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The Second Errata at page 2 claims that the Development Regulations/Land Use Equivalency Program “were designed to remain independent of the Development Agreement.” This is false. The Development Agreement was written (also in excess of the authority granted in Government Code Sections 65864-65869.5) for the purpose of *making the bogus claim that the City could contract away its entire Municipal Code by allowing the Millennium Development Regulations and Land Use Equivalency Program to override contrary Code provisions.* When the Developer was crazy enough to hire the President of the Planning Commission, he killed the legality of this Project by giving a person with contract-making power (William Roschen) a financial interest in the Project’s contracts.

Now, the Developer and City claim that the Millennium Development Regulations and Land Use Equivalency Program can be severed from the Development Agreement and dropped into a Q condition. This is not legal either because the City’s authority to restrict a development project under a Q condition clearly does not authorize granting flexibility to choose whatever mix of uses the developer wants or overriding any conflicting Code provisions. Yet the City in the Second Errata persists in its unsubstantiated claim that it may use a Q condition for this purpose. And the Second Errata also claims that the enactment of these Q conditioned Millennium Development Regulations and Land Use Equivalency Program into a new City ordinance also entitles the Project to override conflicting Code provisions (perhaps even the Q condition restrictions themselves). But the City claims without substantial evidence in the record that these jaw-dropping project changes are “minor” and trigger no new impacts, and thus no new CEQA review. The emperor has no clothes.

If ever there was a failure to identify significant new impacts triggered by changes to a Project, this is it. The City essentially says: “We don’t care how the Millennium Development Regulations conflict with the Los Angeles Municipal Code; we want Millennium to get anything it wants.” These changes are significant undisclosed land use impacts. Can the Millennium Development Regulations override supergraphics sign laws? What about other basic health and safety laws of the Building Code? Those are provisions contained in the Los Angeles Municipal Code and are not limited to just land use and zoning. The use of Q conditions or the unprecedented enactment of a Project’s entitlements completely into the Municipal Code in order to override all conflicting Code provisions also generates undisclosed growth inducing impacts from the setting of a precedent that would allow all future major projects to be enacted into the Municipal Code to override all other conflicting laws – whatever they may be. This is one more example how this City’s reckless pursuit of this Project is a massive violation of the

fundamental disclosure and public participation rights at the heart of CEQA. All of these new, potentially significant environmental impacts would have to be disclosed, analyzed and mitigated in a recirculated Draft EIR.

**IX. THE CITY'S CONTINUED REFUSAL TO RECIRCULATE THE EIR TO ANALYZE ACCURATE FIRE DEPARTMENT RESPONSE TIMES ALSO VIOLATES CEQA.**

The City and Millennium Developer continue to evade the fact that evidence attached to CURD's June 18, 2013 objection letter shows that the Fire Department Response Time data used in the EIR was unreliable and cannot be used. In further support of this objection, CURD attaches at **Exhibit 10** true and correct copies of Los Angeles County Grand Jury Report on the inadequacy of the City's response time reporting systems, and an academic study that concluded that patient survival regardless of other factors was enhanced with response times of less than 4 minutes.

We also attaching for the record at **Exhibit 11** hereto recent media materials related to the project and the City's ongoing failures to comply with the law in its processing of the project applications.

**X. THE STATEMENT OF OVERRIDING CONSIDERATIONS IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.**

CURD objects to each and every factual claim made in the City Statement of Overriding Considerations. The "findings" are not supported by data cited. Furthermore, to the extent that the EIR and other entitlement documents of the City are based upon falsified data, such data cannot support findings of overriding considerations. As our Supreme Court has held since the founding of this state: Fraud vitiates the transaction.

**XI. CONCLUSION.**


For all of the foregoing reasons in this letter and all materials incorporated by reference into this letter, CURD objects to the Los Angeles City Council considering or approving the Millennium Project today and until full CEQA compliance has occurred. Due to substantial failures of the City to proceed in the manner required by law, indeed due to the City staff's participation in a cover up of the existence of the active Hollywood Fault on the Millennium Project site, the Project cannot lawfully be approved unless or until a sufficient EIR is prepared, real project impacts identified, and meaningful

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mitigation measures imposed to reduce the impacts to the greatest extent possible as required by law, if the project can even go forward in any form, following the results of proper and independent seismic and geologic studies, including those now being conducted by the State of California.

The Millennium Project must not be approved today. There might be a version of a project possible once earthquake faults on site have been identified and all other disclosed Project impacts are properly mitigated. But what is before the City Council today is not that project.

We urge you to unequivocally deny the project, its entitlements and its Final EIR that are before you today. Approving skyscrapers on an active fault, shown in multiple credible studies as bisecting the Project site, cannot be permitted by any responsible and thoughtful Los Angeles City Councilmember, under any circumstance.

Very truly yours,  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr  
Attachments

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July 16, 2013

**VIA EMAIL [caltrans.director@dot.ca.gov](mailto:caltrans.director@dot.ca.gov)**  
**AND U.S. MAIL**

Mr. Malcolm Dougherty, Director  
California Department of Transportation  
P.O. Box 942873  
Sacramento, CA 94273-0001

Re: Millennium Hollywood Project's Disregard of Caltrans and Public's  
Objections; Inadequate CEQA Review of Traffic/Circulation

Dear Mr. Dougherty:

This firm and the undersigned represent Communities United for Reasonable Development, a coalition of more than 40 Los Angeles community organizations and Neighborhood Councils representing more than 250,000 residents, all of which oppose the proposed Millennium Hollywood project near Hollywood and Vine in Hollywood.

We applaud Caltrans' efforts to date to require the City of Los Angeles and the Millennium Hollywood project developer to provide proper analysis in the EIR of the significant impacts to the State's facilities from this proposed twin sky scraper, 1.1-million-square-foot project.

The City and developer have repeatedly disregarded Caltrans' written and oral concerns about the health, safety and welfare of the community and the functioning of the State's facilities, specifically the 101 Freeway. It is imperative that Caltrans continue to insist that the City and developer, *as part of the EIR process*, analyze impacts to the 101 Freeway, its on- and off-ramps and adjacent roadway systems, including regarding cueing and safety issues, all of which requests have been repeatedly identified in writing by Caltrans since at least May 18, 2011, and all of which requests have been repeatedly ignored by the City and Millennium Hollywood developer.

Caltrans' involvement as a "responsible agency" under CEQA is imperative. Caltrans must not simply accept vague assurances by the City and/or developer that Caltrans' concerns will be addressed in the future. Caltrans' concerns must be addressed



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as part of a recirculated Draft EIR now. The purpose of CEQA is to provide critical information so that the decisionmakers and public have adequate data upon which to make informed decisions. CEQA requires disclosure, analysis and mitigation of environmental impacts as part of the EIR process. It is illegal for that analysis to occur after an EIR has already been certified, or as a substitute for the public EIR process.

“Abuse of discretion [by the City of Los Angeles] is established if the agency has not proceeded in a manner required by law or if the determination or decision is not supported by substantial evidence.” (Pub. Resources Code § 21168.5; Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392, fn. 5.) “Noncompliance with substantive requirements of CEQA or noncompliance with information disclosure provisions ‘which precludes relevant information from being presented to the public agency ... may constitute prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions.’ (Pub. Resources Code § 21005, subd. (a).) In other words, when an agency fails to proceed as required by CEQA, harmless error analysis is inapplicable. **The failure to comply with the law subverts the purposes of CEQA if it omits material necessary to informed decisionmaking and informed public participation.**” County of Amador v. El Dorado County Water Agency (1999) 76 Cal.App.4th 931, 946 (emphasis added).

That is exactly what has occurred here. The City and developer have ignored Caltrans’ requests for analysis and studies as part of the EIR process. That subverts the purposes of CEQA because material necessary to informed decisionmaking and informed public participation has been omitted from the EIR.

This is not only a problem related to this project, but it has become chronic in the City’s processing of approvals for other development projects throughout the City which have significant impacts on the State’s facilities, but which are never adequately analyzed or mitigated by the City. The result is dramatically worsening infrastructure and a shifting of the costs and burden of dealing with these projects to Caltrans and the taxpayers.

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It would be improper for the City to promise further testing or studies after project approvals are granted next week. To do so would be to paper over substantial deficiencies in the EIR. As our Supreme Court has repeatedly held:

“Besides informing the agency decision makers themselves, the EIR is intended ‘to demonstrate to an apprehensive citizenry that the agency has in fact analyzed and considered the ecological implications of its actions.’” Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 136, citing No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 86, accord, Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392.

For many reasons, we are an apprehensive citizenry. The Millennium project EIR's total disregard of Caltrans' objections has greatly increased that apprehension.

The Los Angeles City Council is poised to certify the Final EIR on **July 24, 2013**. There is no possible way that Caltrans' concerns can legally and adequately be addressed by the City – as part of the required Draft and Final EIR public disclosure process – prior to July 24, 2013. We urge you to give this matter the utmost attention and not to be lulled into believing that these issues can or will be addressed after July 24, 2013.

Please remember that once the Final EIR is certified by the City Council, there will only be 30 days within which Caltrans can file a lawsuit under CEQA. Caltrans, a responsible agency, must take the issue to court within 30 days after the City as lead agency files a notice of determination, or Caltrans will be deemed to have waived any objection to the adequacy of the EIR. CEQA Guidelines § 15096(e). If you wait until day 31, it is too late. Caltrans will have absolutely no leverage – despite whatever assurances may be offered by the City or developer now.

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The interests of Caltrans and the public it represents require your ongoing vigilant attention to this matter. Please contact me with any questions or if we can be of assistance in any way. Thank you.

Very truly yours,



ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr

cc: Hon. Jerry Brown, Governor of California (governor@gov.ca.gov)  
Will Shuck, Deputy Director, External Affairs (will.shuck@dot.ca.gov)  
Michael Miles, District Director, District 7 (michael.miles@dot.ca.gov)  
Aziz Elattar, Deputy of Planning, District 7 (aziz.elattar@dot.ca.gov)  
Dianna Watson, IGR/CEQA Branch Chief (dianna.watson@dot.ca.gov)  
(all via email and U.S. Mail)

**Westwood South of Santa Monica Blvd.**  
**Homeowner's Association**  
*Incorporated November 8, 1971*  
**P. O. Box 64213**  
Los Angeles, CA 90064-0213

July 19, 2013

Mr. Malcolm Dougherty, Director  
California Department of Transportation  
P.O. Box 942873  
Sacramento, CA 94273-0001

Via Email: [caltrans.director@dot.ca.gov](mailto:caltrans.director@dot.ca.gov)

**RE: Millennium Hollywood Project's Disregard of Caltrans and Public's Objections;  
Inadequate CEQA Review of Traffic/Circulation**

Dear Mr. Dougherty,

It is unfortunate that the City of Los Angeles, particularly in its review of projects in the past couple of years, has abandoned sound transportation planning practices in its zeal to provide approvals to major proposed land use development projects. We would like to take this opportunity to thank you for the persistence that Caltrans has shown in demanding a CEQA compliant traffic study that accurately measures the impact of the Millennium Project on the State Highway System and Hollywood. As you may know, the Mayor has described Hollywood as the "template" for all 35 Los Angeles neighborhoods. What happens now is critical for shaping Hollywood's future.

CalTrans' letters to the City point out that the traffic review in Millennium's plan is unlawful under CEQA because it has failed to conduct a cumulative traffic study including all of the developments in Hollywood, the new Community Plan and the NBC/Universal Project according to State standards. We believe that this is entirely true and not unlike the issues highlighted by CalTrans in the evaluation and comments submitted to an earlier project that sought approval in West Los Angeles known as the "Bundy Village" project. That project would have created massive traffic impacts on the 10 /Santa Monica Freeway and its on and off ramps. Access to that freeway from Bundy Drive would have been seriously compromised. Congestion from nearby City streets would have negatively impacted freeway operations. And yet, the City of Los Angeles acted to discount those impacts in its rush to move the project toward approval. CalTrans' input was extremely important in helping to expose the negative impacts of that project.

The Millennium Project will generate 19,000 daily trips (and even more if you count the nearly 10,000 "trip credits" the developer is claiming and the City is granting). If one were to combine the Millennium Project with just five of the 57 other projects expected in Hollywood, one would find that the record says that there will be 26,000 NET trips - all within blocks of the 101 Freeway - the area's major arterial. Citizens repeatedly asked that a cumulative study be done and were repeatedly ignored by Millennium and the City.

Absent from any Millennium study was the consideration of the impacts of summer season traffic. There are 18,000 patrons at the Hollywood Bowl, and the Greek, Pantages, Arclight, and Dolby theaters, repeated street closings for "premieres," and the tens of thousands of out-of-area visitors to Hollywood's over 300 bars and watering holes masquerading as restaurants in the summer months. Traffic on nights when both the Greek Theatre and Hollywood Bowl are in use can be gridlocked across Hollywood.

We respectfully ask that Caltrans remain steadfast in demanding that the City require and provide a proper traffic study that follows Caltrans standards and that examines backups into the hillsides, cut-through traffic, and the cumulative impact of other developments nearby. An accurate traffic study is critical. It will enable us to understand the true impact of unprecedented density on the communities

health, the ability of residents and businesspeople to get to work, to drive children to school, and to live with adequate police and fire protection.

If freeway access is greatly compromised or shut down, there will be significant impacts on access during emergency situations that may affect evacuation routes from the hillsides directly north of this project. Further, the City has failed to provide any assessment by the Fire Department as to the impact of this building on its already-delayed response times. We have often seen input from LA City Departments ignored or downplayed by other departments and offices involved in the review of projects. There should be no place for political agendas to be played out in the environmental review process.

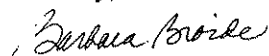
As you may know, the SCAQMD has also told the City that its traffic studies are inadequate, likely underestimating GHG and air pollution against the hillside community.

It is imperative that the City include unbiased and complete factual information in the consideration of its pending development projects. It is troubling enough that the City allows developers to select the land use and traffic consultants that prepare environment impact reports for their projects. Without requiring that those reports be complete and unbiased, communities often review EIR documents that skirt important issues and that "sell" a project rather than analyze its impacts objectively. We must at least have accurate data before forcing incredible density into our town with no attempt whatever to assess the impact on existing quality of life, public safety, residential and business communities—as opposed to creating a document that expedites the construction of luxury residences that will benefit the developer and their residents at great public cost.

For these reasons, the Final EIR must be rejected. There are only days before the City Council will hear this matter. They must not be allowed to ignore and defy Caltrans' authority. We need your voice at this hearing. As a former LA City Attorney once said, it is important that there be some adults in the room. It is especially important now when entitlements are being considered and granted without the City performing its due diligence. The responsibility to do environmental documents is not meant to be a process that meets deadlines and produces paperwork without meaning. The responsibility of doing a thoughtful analysis has been overlooked by the City. It is our hope that CalTrans will continue to be one of the adults in the room insisting on accurate traffic studies and recognition of the cumulative impacts of proposed land use development on our key arterials such as the 101 Freeway nearby.

Thank you for your agency's continuing role in this important process.

Sincerely,



Barbara Broide  
President

# **THE SILVERSTEIN LAW FIRM**

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June 25, 2013

**VIA FACSIMILE (213) 978-3310**  
**AND U.S. MAIL**

Ms. Laura Ito  
Information Technology Agency  
City of Los Angeles  
200 N. Main Street, 14<sup>th</sup> Floor  
Los Angeles, CA 90012

Re: California Public Records Act Requests – Millennium Project

Dear Ms. Ito:

This request is made under the California Public Records Act pursuant to Government Code Section 6250, et seq. Please provide copies of the following from the City (as “City” is defined below).

For ease of reference in this document, please refer to the following **defined terms**:

The “City” shall refer to all officials, employees, consultants, and agents of the Department of Building and Safety, City of Los Angeles, including the City Attorney’s office and any and all outside counsel retained by the City.

“Millennium Hollywood” shall refer to Millennium Hollywood, LLC, all related or affiliated companies, and all principals, including Phil Ahrens, officers, employees, attorneys, agents and/or consultants, including but not limited to Langan Engineering and Environmental Sciences, Inc., and the law firm of Sheppard, Mullin.

“Project” shall refer to the proposed Millennium Hollywood Project at located at 1720-1770 N. Vine Street, 1745-1753 N. Vine Street, 6236-6334 W. Yucca Street, 1733-1741 N. Argyle Street, 1746-1764 N. Ivar Street, Hollywood, California.

“Document,” as defined in Govt. Code Section 6252(g), shall mean any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording

upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

The public records requests include:

- (1) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the May 2012 Langan Engineering and Environmental Science's Preliminary Geotechnical Report for the Millennium Hollywood Project.
- (2) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the November 2012 Langan Engineering and Environmental Science's Fault Investigation Report for the Millennium Hollywood Project.
- (3) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the Millennium Hollywood Project.
- (4) All communications from May 1, 2012 through the date of your compliance with this request between, on the one hand, any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara, and on the other hand, any and all email accounts of Millennium Hollywood, and of its EIR Consultants, or its Geotechnical Consultant Langan Engineering and Environmental Sciences, or any of its attorneys from the law firm of Sheppard, Mullin, Richter & Hampton, LLP, including but not limited to Phil Ahrens, CAJA Environmental Services, Dan Eberhart, Rudolph Frizzi, Alfred Fraijo, and/or Jerry Neuman.

Ms. Laura Ito  
Information Technology Agency  
June 25, 2013  
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I draw the City's attention to Government Code Section 6253.1, which requires a public agency to assist the public in making a focused and effective request by: (1) identifying records and information responsive to the request, (2) describing the information technology and physical location of the records, and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.

If the City determines that any information is exempt from disclosure, I ask that the City reconsider that determination in view of Proposition 59 which amended the State Constitution to require that all exemptions be "narrowly construed." Proposition 59 may modify or overturn authorities on which the City has relied in the past.

If the City determines that any requested records are subject to a still-valid exemption, I request that the City exercise its discretion to disclose some or all of the records notwithstanding the exemption and with respect to records containing both exempt and non-exempt content, the City redact the exempt content and disclose the rest. Should the City deny any part of this request, the City is required to provide a written response describing the legal authority on which the City relies.

Please be advised that Government Code Section 6253(c) states in pertinent part that the agency "shall promptly notify the person making the request of the determination **and the reasons therefore.**" (Emphasis added.) Section 6253(d) further states that nothing in this chapter "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The **notification of denial** of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial."

Additionally, Government Code Section 6255(a) states that the "agency shall justify withholding **any record by demonstrating that the record in question** is exempt under expressed provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Emphasis added.) This provision makes clear that the agency is required to justify withholding any record **with particularity as to "the record in question."** (Emphasis added.)

Please clearly state in writing pursuant to Section 6255(b): (1) if the City is withholding any documents; (2) if the City is redacting any documents; (3) what documents the City is so withholding and/or redacting; and (4) the alleged legal bases for withholding and/or redacting as to the particular documents. It should also be noted that

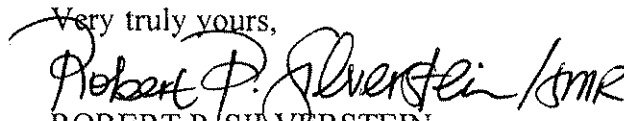


Ms. Laura Ito  
Information Technology Agency  
June 25, 2013  
Page 4

to the extent documents are being withheld, should those documents also contain material that is not subject to any applicable exemption to disclosure, then the disclosable portions of the documents must be segregated and produced.

We request that you preserve intact all documents and computer communications and attachments thereto, including but not limited to all emails and computer files, wherever originated, received or copied, regarding the subject matter of the above-referenced requests, including archives thereof preserved on tape, hard drive, disc, or any other archival medium, and including also any printouts, blowbacks, or other reproduction of any such computer communications.

If the copy costs for these requests do not exceed \$200, please make the copies and bill this office. If the copy costs exceed \$200, please contact me in advance to arrange a time and place where I can inspect the records. As required by Government Code Section 6253, please respond to this request within ten days. Because I am faxing this request on June 25, 2013, please ensure that your response is provided to me by no later than **July 5, 2013**. Thank you.

Very truly yours,  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr

**From:** Laura Ito <laura.ito@lacity.org>  
**To:** Jillian Reyes <Jillian@robertsilversteinlaw.com>  
**Date:** 7/10/2013 2:00 PM  
**Subject:** Fwd: Public Document Request - Robert Silverstein dated 06/25/13  
**Attachments:** Public Document Request - Robert Silverstein dated 062513.pdf

Sent on June 28.

----- Forwarded message -----

From: Laura Ito <laura.ito@lacity.org>  
Date: Fri, Jun 28, 2013 at 2:12 PM  
Subject: Fwd: Public Document Request - Robert Silverstein dated 06/25/13  
To: Robert Silverstein <Robert@robertsilversteinlaw.com>  
Cc: Giovanni Dacumos <giovanni.dacumos@lacity.org>, Mark Wolf <mark.wolf@lacity.org>, Agnes Lung-tam <agnes.lung-tam@lacity.org>, Teresa Abraham <teresa.abraham@lacity.org>, Onesha Steward <onesha.steward@lacity.org>

Mr. Silverstein,

Your request for all correspondence related to the Millennium Hollywood project from certain Building and Safety employees has been forwarded to that Department for coordination and response. Although the fax was transmitted on June 25 at 7:11pm, it was not "found" until this morning, and therefore not transferred to B&S until today.

I am copying Teresa Abraham of Building and Safety who was identified to me as the B&S staff person who would respond to your request. I tried to reach her today to alert her, but she must not be in, so she may not get this email until Monday.

Laura

----- Forwarded message -----

From: sherry taylor <sherry.taylor@lacity.org>  
Date: Fri, Jun 28, 2013 at 10:13 AM  
Subject: Public Document Request - Robert Silverstein dated 06/25/13  
To: Laura Ito <laura.ito@lacity.org>  
Cc: Valerieann Palazzolo <valerieann.palazzolo@lacity.org>

Laura:  
This was found on the copier this morning.

--

-----  
Sherry Taylor, Secretary  
Information Technology Agency  
200 N. Main St., #1400

Los Angeles, CA 90012  
(213) 978-3311  
(213) 978-3310 Fax

--

Laura Ito  
Director of Finance and Administrative Services  
Information Technology Agency  
(213) 978-3322

--

Laura Ito  
Director of Finance and Administrative Services  
Information Technology Agency  
(213) 978-3322

# **THE SILVERSTEIN LAW FIRM**

*A Professional Corporation*

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

ROBERT@ROBERTSILVERSTEINLAW.COM  
WWW.ROBERTSILVERSTEINLAW.COM

June 25, 2013

**VIA FACSIMILE (213) 482-6889**  
**AND U.S. MAIL**

Ms. Hazel Harris  
Office of the Custodian of Records  
Department of Building and Safety  
201 N. Figueroa Street, Suite 782  
Los Angeles, CA 90012

Re: California Public Records Act Requests – Millennium Project

Dear Ms. Harris:

This request is made under the California Public Records Act pursuant to Government Code Section 6250, et seq. Please provide copies of the following from the City (as “City” is defined below).

For ease of reference in this document, please refer to the following **defined terms**:

The “City” shall refer to all officials, employees, consultants, and agents of the Department of Building and Safety, City of Los Angeles, including the City Attorney’s office and any and all outside counsel retained by the City.

“Millennium Hollywood” shall refer to Millennium Hollywood, LLC, all related or affiliated companies, and all principals, including Phil Ahrens, officers, employees, attorneys, agents and/or consultants, including but not limited to Langan Engineering and Environmental Sciences, Inc., and the law firm of Sheppard, Mullin.

“Project” shall refer to the proposed Millennium Hollywood Project at located at 1720-1770 N. Vine Street, 1745-1753 N. Vine Street, 6236-6334 W. Yucca Street, 1733-1741 N. Argyle Street, 1746-1764 N. Ivar Street, Hollywood, California.

“Document,” as defined in Govt. Code Section 6252(g), shall mean any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording

Ms. Hazel Harris  
Office of the Custodian of Records  
Department of Building and Safety  
June 25, 2013  
Page 2

upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

The public records requests include:

- (1) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the May 2012 Langan Engineering and Environmental Science's Preliminary Geotechnical Report for the Millennium Hollywood Project.
- (2) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the November 2012 Langan Engineering and Environmental Science's Fault Investigation Report for the Millennium Hollywood Project.
- (3) All communications to or from any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara from May 1, 2012 through the date of your compliance with this request that relate in any way to the Millennium Hollywood Project.
- (4) All communications from May 1, 2012 through the date of your compliance with this request between, on the one hand, any and all email accounts (including alias accounts set up on the City's email system) of Dana Prevost, John Weight, Pascal Challita, Bud Ovrum, Ray Chan or David Lara, and on the other hand, any and all email accounts of Millennium Hollywood, and of its EIR Consultants, or its Geotechnical Consultant Langan Engineering and Environmental Sciences, or any of its attorneys from the law firm of Sheppard, Mullin, Richter & Hampton, LLP, including but not limited to Phil Ahrens, CAJA Environmental Services, Dan Eberhart, Rudolph Frizzi, Alfred Fraijo, and/or Jerry Neuman.

Ms. Hazel Harris  
Office of the Custodian of Records  
Department of Building and Safety  
June 25, 2013  
Page 3

I draw the City's attention to Government Code Section 6253.1, which requires a public agency to assist the public in making a focused and effective request by: (1) identifying records and information responsive to the request, (2) describing the information technology and physical location of the records, and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.

If the City determines that any information is exempt from disclosure, I ask that the City reconsider that determination in view of Proposition 59 which amended the State Constitution to require that all exemptions be "narrowly construed." Proposition 59 may modify or overturn authorities on which the City has relied in the past.

If the City determines that any requested records are subject to a still-valid exemption, I request that the City exercise its discretion to disclose some or all of the records notwithstanding the exemption and with respect to records containing both exempt and non-exempt content, the City redact the exempt content and disclose the rest. Should the City deny any part of this request, the City is required to provide a written response describing the legal authority on which the City relies.

Please be advised that Government Code Section 6253(c) states in pertinent part that the agency "shall promptly notify the person making the request of the determination **and the reasons therefore.**" (Emphasis added.) Section 6253(d) further states that nothing in this chapter "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The **notification of denial** of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial."

Additionally, Government Code Section 6255(a) states that the "agency shall justify withholding **any record by demonstrating that the record in question** is exempt under expressed provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Emphasis added.) This provision makes clear that the agency is required to justify withholding any record **with particularity as to "the record in question."** (Emphasis added.)


Please clearly state in writing pursuant to Section 6255(b): (1) if the City is withholding any documents; (2) if the City is redacting any documents; (3) what documents the City is so withholding and/or redacting; and (4) the alleged legal bases for

Ms. Hazel Harris  
Office of the Custodian of Records  
Department of Building and Safety  
June 25, 2013  
Page 4

withholding and/or redacting as to the particular documents. It should also be noted that to the extent documents are being withheld, should those documents also contain material that is not subject to any applicable exemption to disclosure, then the disclosable portions of the documents must be segregated and produced.

We request that you preserve intact all documents and computer communications and attachments thereto, including but not limited to all emails and computer files, wherever originated, received or copied, regarding the subject matter of the above-referenced requests, including archives thereof preserved on tape, hard drive, disc, or any other archival medium, and including also any printouts, blowbacks, or other reproduction of any such computer communications.

If the copy costs for these requests do not exceed \$200, please make the copies and bill this office. If the copy costs exceed \$200, please contact me in advance to arrange a time and place where I can inspect the records. As required by Government Code Section 6253, please respond to this request within ten days. Because I am faxing this request on June 25, 2013, please ensure that your response is provided to me by no later than **July 5, 2013**. Thank you.

Very truly yours  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr

BOARD OF  
BUILDING AND SAFETY  
COMMISSIONERS

HELENA JUBANY  
PRESIDENT

VAN AMBATIELOS  
VICE-PRESIDENT

E. FELICIA BRANNON  
VICTOR H. CUEVAS  
SEPAND SAMZADEH

CITY OF LOS ANGELES  
CALIFORNIA



ERIC GARCETTI  
MAYOR

DEPARTMENT OF  
BUILDING AND SAFETY  
201 NORTH FIGUEROA STREET  
LOS ANGELES, CA 90012

RAYMOND S. CHAN, C.E., S.E.  
SUPERINTENDENT OF BUILDING  
INTERIM GENERAL MANAGER

July 11, 2013

PR13-9823 (1-6)

Robert P. Silverstein  
The Silverstein Law Firm  
215 N. Marengo Avenue, 3<sup>rd</sup> Floor  
Pasadena, CA 91101-1504

***{Sent via facsimile to (626) 449-4205 and U.S. Mail on July 11, 2013}***

Re: Public Records Act Request dated June 25, 2013, regarding Millennium Hollywood Project

Mr. Silverstein:

This letter is in response to your Public Records Act Request, dated June 25, 2013, addressed to the Custodian of Records, Los Angeles Department of Building and Safety (LADBS). In your letter you requested documents pertaining to the Millennium Hollywood Project located at 1720-1770 N. Vine Street, 1745-1753 N. Vine Street, 6236-6334 W. Yucca Street, 1733-1741 N. Argyle Street, and 1746-1764 N. Ivar Street, Hollywood, California.

Please be advised that this office finds that "unusual circumstances" exist with respect to your request, as that term is defined in the California Government Code Section 6253(c). Unusual circumstances exist because of:

1. The need to search for and collect the records from field facilities or other establishments that are separate from this office.

We expect to make a determination concerning your request on or before July 19, 2013. If you have any questions, you may reach me at (213) 482-6765. We greatly appreciate your courtesy and cooperation in this matter.

Hazel Harris  
Office of the Custodian of Records

L:\PRA Public Records Request\PR13-9823 (1-6)



# THE SILVERSTEIN LAW FIRM

*A Professional Corporation*

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

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WWW.ROBERTSILVERSTEINLAW.COM

July 11, 2013

**VIA FACSIMILE (213) 482-6889**  
**AND U.S. MAIL**

Ms. Hazel Harris  
Office of the Custodian of Records  
Department of Building and Safety  
201 N. Figueroa Street, Suite 782  
Los Angeles, CA 90012

**VIA FACSIMILE (213) 482-6889**  
**AND U.S. MAIL**

Mr. Dana Prevost  
Office of the Custodian of Records  
Department of Building and Safety  
201 N. Figueroa Street, Suite 782  
Los Angeles, CA 90012

Re: California Public Records Act Requests – Millennium Hollywood Project

Dear Ms. Harris and Mr. Prevost:

This request is made under the California Public Records Act pursuant to Government Code Section 6250, et seq. Please provide copies of the following from the City (as "City" is defined below).

For ease of reference in this document, please refer to the following **defined terms**:

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"Project" shall refer to the proposed Millennium Hollywood Project at located at 1720-1770 N. Vine Street, 1745-1753 N. Vine Street, 6236-6334 W. Yucca Street, 1733-1741 N. Argyle Street, 1746-1764 N. Ivar Street, Hollywood, California.

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Ms. Hazel Harris  
Mr. Dana Prevost  
Department of Building and Safety  
July 11, 2013  
Page 2

upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Continuing from our prior requests, the Public Records requests include:

- (5) All documents, including review documents, by City Geologist Dana Prevost or anyone acting under him, related to any and all geology, geotechnical, and seismology issues and reports for or in connection with the Project, including but not limited to any reports and communications to, from or with Langan Engineering and/or the Project developer, its agents, employees, consultants and/or attorneys, and further including but not limited to any and all staff reports, including drafts and all items in "working files," studies, photographs, memoranda and internal memoranda, agenda items, agenda statements, correspondence, emails, attachments to emails, notes, photos, and audio and/or video recordings.

I draw the City's attention to Government Code Section 6253.1, which requires a public agency to assist the public in making a focused and effective request by:

(1) identifying records and information responsive to the request, (2) describing the information technology and physical location of the records, and (3) providing suggestions for overcoming any practical basis for denying access to the records or information sought.

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Ms. Hazel Harris  
Mr. Dana Prevost  
Department of Building and Safety  
July 11, 2013  
Page 3

Please be advised that Government Code Section 6253(c) states in pertinent part that the agency "shall promptly notify the person making the request of the determination **and the reasons therefore.**" (Emphasis added.) Section 6253(d) further states that nothing in this chapter "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The **notification of denial** of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial."

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Please clearly state in writing pursuant to Section 6255(b): (1) if the City is withholding any documents; (2) if the City is redacting any documents; (3) what documents the City is so withholding and/or redacting; and (4) the alleged legal bases for withholding and/or redacting as to the particular documents. It should also be noted that to the extent documents are being withheld, should those documents also contain material that is not subject to any applicable exemption to disclosure, then the disclosable portions of the documents must be segregated and produced.

We request that you preserve intact all documents and computer communications and attachments thereto, including but not limited to all emails and computer files, wherever originated, received or copied, regarding the subject matter of the above-referenced cases, including archives thereof preserved on tape, hard drive, disc, or any other archival medium, and including also any printouts, blowbacks, or other reproduction of any such computer communications. ***This is a litigation hold and you are on notice that all records requested are subject to this hold. A litigation hold requires legal counsel to take affirmative acts to assure the preservation of documents, including email, against destruction or spoliation.***

If the copy costs for these requests do not exceed \$200, please make the copies and bill this office. If the copy costs exceed \$200, please contact me in advance to arrange a time and place where I can inspect the records. As required by Government Code Section 6253, please respond to this request within ten days. Because I am faxing

Ms. Hazel Harris  
Mr. Dana Prevost  
Department of Building and Safety  
July 11, 2013  
Page 4

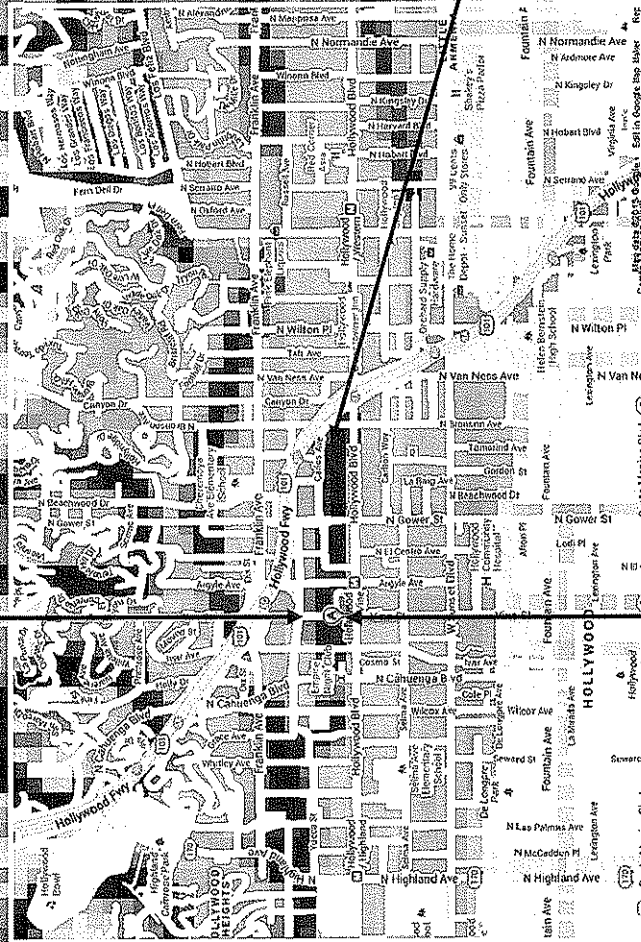
this request on July 11, 2013, please ensure that your response is provided to me by no later than **July 21, 2013**. Thank you.

Very truly yours,  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr

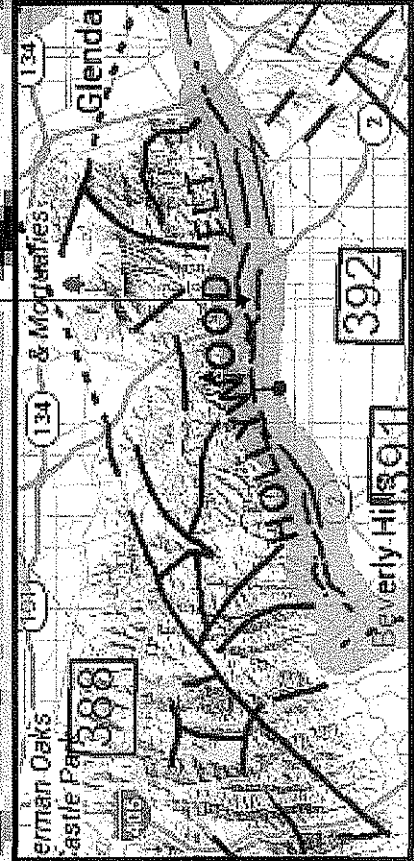


**THE PROPOSED MILLENNIUM  
HOLLYWOOD PROJECT SITE**



The underlying black line is the  
Hollywood fault passing  
through the proposed site

**THE "A" IS HOLLYWOOD  
AND VINE**







# THE SILVERSTEIN LAW FIRM

A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

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WWW.ROBERTSILVERSTEINLAW.COM

June 24, 2013

## VIA OVERNITE EXPRESS

Mr. Richard B. Moore, P.L.S., Executive Officer of the Board  
Ms. Corrine Gray, Enforcement Staff Analyst  
Board for Professional Engineers, Land Surveyors, and Geologists  
Department of Consumer Affairs, State of California  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833-2944

Re: Business & Professions Code Section 7860, *et seq.* Complaint  
Request for Investigation of Langan Engineering and Environmental,  
Rudolph P. Frizzi, PE, GE, and Dan Royden Eberhart, PG, CEG

Dear Mr. Moore and Ms. Gray:

### I. INTRODUCTION.

Under California Business and Professions Code Sections 7870 and 7871, we file this complaint (**Exhibit 1**) asking that your Board investigate, discipline, and refer to the Los Angeles District Attorney for criminal investigation Langan Engineering and Environmental ("Langan"), and its engineers Rudolph Pio Frizzi ("Frizzi") and Dan Royden Eberhart ("Eberhart"), who were in "responsible charge of work" related to two geotechnical/seismic reports prepared for a project known as the Millennium Hollywood Project ("Project") at 1750 N. Vine Street, Los Angeles, California.

The Project calls for the construction of more than a million square feet of space, including two skyscrapers for human dwelling and occupancy, near Hollywood and Vine. We believe that Langan, Frizzi and Eberhart have endangered human life, safety and property through their work, and have violated core standards required of their licensure.

As part of your Board's investigation, Langan should be required to preserve intact and to produce to you all communications, electronic and otherwise, between or among Langan and the Project developer and the developer's representatives and attorneys. The individuals who assisted in preparing the deceptive reports and figures at issue herein should also be deposed under oath.



Mr. Richard B. Moore, P.L.S., Executive Officer of the Board  
Ms. Corrine Gray, Enforcement Staff Analyst  
Board for Professional Engineers, Land Surveyors, and Geologists  
June 24, 2013  
Page 2

## II. THE SUBJECT REPORTS.

The two Langan reports at issue herein are:

1. May 10, 2012 Langan Engineering and Environmental Geotechnical Report for the Millennium Hollywood Project. ("May 2012 Report") (**Exhibit 2.**)
2. November 30, 2012 Langan Engineering and Environmental Fault Investigation Report for the Millennium Hollywood Project. ("November 2012 Report") (**Exhibit 3** [see Exhibit 19A to the June 18, 2013 letter at **Exhibit 3** hereto].)

The May 2012 Report signed by Langan's Frizzi and Eberhart is the source of the seismic analysis in the City's Draft and Final Environmental Impact Reports ("EIRs") for the Project ([www.cityplanning.cityofla.org](http://www.cityplanning.cityofla.org) – go to Final EIR for Millennium Project).

The City of Los Angeles subsequently requested preparation of a fault investigation report for the Project Site, although neither the existence nor the contents of that report were publicly disclosed. We learned of it, and upon a request made to the City of Los Angeles Department of Building and Safety, obtained a copy of the November 2012 Report.

On June 18, 2013, at a public hearing before the Los Angeles City Council's Planning and Land Use Management ("PLUM") Committee, this office presented an analysis of what we believe are gross professional improprieties and violations of the law by Langan concerning its distortion and suppression of evidence of seismic hazards from the Hollywood Fault and the Hollywood Fault's relation to the Project Site. We refer you to the attached **Exhibit 3**, which is that portion of our June 18, 2013 letter concerning seismic issues, plus our Exhibits 15-24 related thereto.

## III. THE MISCONDUCT.

We respectfully request your careful review of the materials attached hereto at **Exhibit 3**. Without attempting to repeat those materials, in summary, we believe the facts show that:

1. Frizzi and Eberhart of Langan violated the standards of their licensure when they failed to report the location of strands of the Hollywood Fault as shown on the official, 2010 California Geological Survey Active Fault Map in both the May and November 2012 Reports. The omission or suppression of the fact that the Millennium Project site has the southern strand of the Hollywood Fault officially mapped as traversing the Project Site was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
2. Frizzi and Eberhart of Langan violated the standards of their licensure when they failed to report the existence of well-known, peer-reviewed studies of Crook and Proctor (1992) and Dolan and others (1997), both of which showed at least one strand of the Hollywood Fault traversing the Millennium Project site. The suppression of these well-respected reports from the May 2012 Report which was made public, and the gratuitous disparaging of the conclusions of those reports in the November 2012 Report which was not made public, but which was relied upon by the City of Los Angeles Planning Dept., was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
3. Frizzi and Eberhart of Langan violated the standards of their licensure when they created, or supervised a subordinate to create, a regional map depicting the Millennium Project Site as physically separated from the Hollywood Fault (Figure 5 in the May 2012 Report and Figure 4 in the November 2012 Report), when this depiction is demonstrably false. As such, it was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
4. Frizzi and Eberhart of Langan violated the standards of their licensure when they created, or supervised a subordinate to create, a local map depicting the Millennium Project Site location as being approximately 850 feet north of where it actually is, to Franklin Avenue and omitting Yucca Street (Figure 4 in the May 2012 Report

Mr. Richard B. Moore, P.L.S., Executive Officer of the Board  
Ms. Corrine Gray, Enforcement Staff Analyst  
Board for Professional Engineers, Land Surveyors, and Geologists  
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and Figure 3 in the November 2012 Report), in order to falsely represent that the Millennium Project site is not within the City of Los Angeles General Plan Safety Element's Fault Rupture Study Zone. As such, it was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).

5. Frizzi and Eberhart of Langan violated the standards of their licensure because they have no credible evidence to support the repeated contention they make in the May and November 2012 Reports that the Hollywood Fault is allegedly 0.4 miles (2,112 feet) from the Millennium Project site. This assertion – which could only be made by denying or ignoring the existence of the 2010 California Geological Survey Active Fault Map, and the Dolan and Crook and Proctor studies, was an act of material misrepresentation, fraud or deceit in violation of Business & Professions Code Section 7860(b)(2) and (c).

As described more fully in **Exhibit 3** hereto, compelling evidence exists to show that Langan elevated the financial interests of its real estate developer client over the paramount interests of truth and protecting the public health and safety. Thousands of lives may have been put at risk because of these actions. Accordingly, we also ask that you refer this matter to the Los Angeles County District Attorney for potential criminal prosecution, including under Business and Professions Code Section 7872(h).

#### **IV. RELEVANT STATUTES.**

Business and Professions Code Section 7860 provides in relevant part:

“(a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional geologist, geophysicist . . . and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder . . . on any of the following grounds:

Mr. Richard B. Moore, P.L.S., Executive Officer of the Board  
Ms. Corrine Gray, Enforcement Staff Analyst  
Board for Professional Engineers, Land Surveyors, and Geologists  
June 24, 2013  
Page 5

\* \* \*

(2) Misrepresentation, fraud or deceit by a geologist or geophysicist in his or her practice.

\* \* \*

(c) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered under this chapter . . . for professional misconduct. Unprofessional conduct includes, but is not limited to, any of the following:

(1) Aiding or abetting any person in a violation of this chapter or any regulation adopted by the board pursuant to this chapter.

(2) Violating this chapter or any regulation adopted by the board pursuant to this chapter.

(3) Conduct in the course of practice as a geologist or geophysicist that violates professional standards adopted by the board.”

Business and Professions Code Section 7872 provides in relevant part:

“Every person is guilty of a misdemeanor and for each offense of which he or she is convicted is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment:

\* \* \*

(h) Who violates any provision of this chapter.”

Mr. Richard B. Moore, P.L.S., Executive Officer of the Board  
Ms. Corrine Gray, Enforcement Staff Analyst  
Board for Professional Engineers, Land Surveyors, and Geologists  
June 24, 2013  
Page 6

Business and Professions Code Section 7810.1 provides:


“Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

V. CONCLUSION.

This is an urgent issue of public health and safety. The currently-scheduled final Project approval date by the Los Angeles City Council is July 24, 2013. The City of Los Angeles and its Planning Dept. are relying on the Langan Reports, as did the PLUM Committee, which approved and advanced the Project.

The Board of Professional Engineers, Land Surveyors and Geologists should immediately take appropriate action regarding what we believe are Langan, Frizzi and Eberhart's serious violations of the law and professional standards regarding their May and November 2012 Reports for the Millennium Hollywood Project.

Please acknowledge receipt of this complaint and advise as to timing and substance of steps to be taken by you and the Board. Thank you.

Very truly yours,  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr  
Attachments



## BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov



July 17, 2013

Robert Silverstein  
The Silverstein Law Firm, APC  
215 N. Marengo Avenue, Third Floor  
Pasadena, CA 91101

RE: Complaint Investigation Case No. CG 2012-20 against Dan Eberhart,  
Professional Geologist License No. PG3340; Certified Engineering Geologist 965

Dear Mr. Silverstein:

The Enforcement Unit of the California Board for Professional Engineers, Land Surveyors, and Geologists has received your complaint against Dan Eberhart, Professional Geologist License No. 3340, regarding alleged violations of the Geologist and Geophysicist Act (Business and Professions Code section 7800, et seq.) and/or the Regulations relating to geology and geophysics. The Enforcement Unit would like to thank you for bringing this matter to our attention.

The purpose of this letter is to inform you that the Enforcement Unit has opened a complaint investigation case regarding the allegations made in your complaint. If you have any additional information or documentation regarding this matter, please send it to my attention at the Board's address referencing the above-mentioned case number.

As the Enforcement Unit's investigation progresses, we will keep you apprised of the status of the investigation and advise you in writing of the outcome upon completion of the investigation.

If you have any questions regarding this matter, please do not hesitate to contact me by telephone at (916) 263-2240 or by email at [Larry.Kereszt@dca.ca.gov](mailto:Larry.Kereszt@dca.ca.gov).

Sincerely,



Larry Kereszt  
Enforcement Analyst

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS**

2535 Capitol Oaks Drive, Suite 300, Sacramento, California, 95833-2944

Telephone: (916) 263-2222 – Toll Free: 1-866-780-5370

Facsimile: (916) 263-2246

www.bpelsg.ca.gov



June 27, 2013

The Silverstein Law Firm  
Attn: Robert Silverstein  
215 North Marengo Avenue, 3<sup>rd</sup> Floor  
Pasadena, CA 91101-1504

RE: Complaint Investigation Case No. 2013-06-147  
against Rudolph Frizzi, Civil Engineer, Geotechnical Engineer License No. C62433,  
GE2780

Dear Robert Silverstein:

The Enforcement Unit of the California Board for Professional Engineers, Land Surveyors, and Geologists has received your complaint against Rudolph Frizzi, Civil Engineer, Geotechnical Engineer License No. C62433, GE2780, regarding alleged violations of the Professional Engineers Act (Business and Professions Code section 6700, et seq.), the Professional Land Surveyors' Act (Business and Professions Code section 8700, et seq.), and/or the Board Rules (Title 16, California Code of Regulations section 400, et seq.). The Enforcement Unit would like to thank you for bringing this matter to our attention.

The purpose of this letter is to inform you that the Enforcement Unit has opened a complaint investigation case regarding the allegations made in your complaint. If you have any additional information or documentation regarding this matter, please send it to my attention at the Board's address referencing the above-mentioned case number.

As the Enforcement Unit's investigation progresses, we will keep you apprised of the status of the investigation and advise you in writing of the outcome upon completion of the investigation.

If you have any questions regarding this matter, please do not hesitate to contact me by telephone at (916) 263-2240 or by email at [Larry.Kereszt@dca.ca.gov](mailto:Larry.Kereszt@dca.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Kereszt", is located below the "Sincerely," text.

For Larry Kereszt  
Enforcement Analyst

From: "ggg@copper.net" <ggg@copper.net>  
To: <Jillian@robertsilversteinlaw.com>  
Date: 7/22/2013 8:33 PM  
Subject: Fwd: Millenium Project -- letter of recension

---

--- Begin forwarded message:

From: "ggg@copper.net" <ggg@copper.net>  
To: <dana.prevost@lacity.org>  
Subject: Millenium Project -- letter of recension  
Date: Fri, 28 Jun 2013 14:31:21 -0700

June 28, 2013

Hi Dana,

Thank you for your conversation with me today in which you stated that LADBS will be issuing a letter of recension for the Millennium Project next week due to the seismic issues we have raised, and your statement that "we want to get it right." Certainly, in a matter of life and death for thousands, nobody wants to get it wrong.

Just to be clear, is the word you used "recension" and not "rescission"? If yes, what exactly does "recension" mean?

Your action is a welcome relief from the discussion in the PLUM hearing. After hearing our presentation of the damning evidence from the California Geological Survey and the two peer-reviewed geological studies showing that the southern strand of the Hollywood Fault is directly under the Millennium Project site, Councilman Englander had this to say:

"Regardless of the underlying geological and soil conditions, in fact, these faults and thresholds whether active or inactive in fact pose a significant risk to the entire city of Los Angeles."

"But you're pointing to this one particular area. I just wanted to show fault in your study that yeah, there's a true threat but it is everywhere in Los Angeles."

Councilman Englander's comments demonstrate a fundamental lack of understanding of the distinction between building to withstand strong ground motions in an earthquake (all buildings in southern California must account for this to varying degrees) vs. building a structure for



human occupancy across the trace of an active fault that may be subject to surface displacements of several meters, which of course cannot be allowed. This project is not something that can be allowed to proceed without a much more thorough review of the potential for active faulting at the site.

I would like to suggest that, in the letter, you require:

- a proper protocol established by Prof. Dolan be imposed for a full, extensive subsurface fault investigation of the site including boreholes, trenching, seismic reflection, etc. to determine the exact location and state of activity of the southern strand of the Hollywood fault extending approximately through the middle of that block, with independent geologists, including Prof. Dolan and our geologist, having full access to the trenches and all testing and inspections.
- that the results of the investigation should be subject to independent peer review by Professor Dolan and other geologists.
- An investigation of the two Langan reports which falsely stated that the Hollywood Fault was .4 miles away from the project location in disregard of all credible data from authoritative sources including the findings of Dolan and Crook & Proctor, which also omitted the data from the USGS the CGS which all agreed that there were fault traces at the project site, and which falsely depicted the project site as being approximately 850 feet north of its actual location.

The study done by Langan is below any professional standards, and we believe, involves fraud.

Please explain exactly what and when the next steps will be from your department specifically and the city generally. Please also confirm that all approval processes, including the currently-scheduled July 24, 2013 City Council hearing, will be halted until proper trenching and investigation of the site has been conducted, with independent experts having access to the site, and with all data and results properly circulated to the public. Finally, please include this correspondence in the administrative record for this matter. Thank you for your courtesy and attention to this extremely important matter.

Regards,

George

**From:** "ggg@copper.net" <ggg@copper.net>  
**To:** <Jillian@robertsilversteinlaw.com>  
**Date:** 7/22/2013 8:33 PM  
**Subject:** Fwd: Millenium Project -- letter of recension

---

--- Begin forwarded message:

From: "ggg@copper.net" <ggg@copper.net>  
To: <dana.prevost@lacity.org>  
Cc: <RAYMOND.CHAN@LACITY.ORG>, <michael.logrande@lacity.org>, <luciralia.ibarra@lacity.org>  
Subject: Fwd: Millenium Project -- letter of recension  
Date: Wed, 3 Jul 2013 11:59:32 -0700

Hi Dana,

Thank you for speaking with me this morning.

I am concerned about your statement that that the letter of recension for the Millennium Project geological report, which report is the foundation for the geologic/seismic/safety "analysis" and conclusions in the EIR, will not be issued this week as you had indicated in our last conversation on the subject and that you plan to meet with the developer in the next week or two. I was surprised that you said that you were not aware of the City Council hearing on the Millennium Project on July 24, 2013. If the letter of recension is not issued for two or more weeks that gives the public very little time, if any at all prior to the planned July 24, 2013 City Council certification of the FEIR, to participate in the process and to view and comment on the letter. All new information must be included in a recirculated Draft EIR as to which the public, other geologic/seismic experts including Dr. Dolan of USC, and decision makers will have a full and fair opportunity to review and comment. I renew the request for a full and transparent seismic investigation of the project's East and West Sites, including incorporating the protocol I noted below. Recall that the Langan geologists committed fraud. I encourage you, as an employee of city government trusted with the ensuring the health, safety and welfare of the public, to act vigorously to expose that deception.

Please provide answers to my questions below and let me know if the suggested requirements I listed will be added to the letter of recension. Please ensure that this email correspondence is included in the administrative record for this matter. Please reply promptly, since the time remaining to act is very limited.

Regards,

George

George Abrahams, director  
Beachwood Canyon Neighborhood Association

--- Begin forwarded message:

From: "ggg@copper.net" <ggg@copper.net>  
To: <dana.prevost@lacity.org>  
Subject: Millenium Project -- letter of recension  
Date: Fri, 28 Jun 2013 14:31:21 -0700

June 28, 2013

Hi Dana,

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Just to be clear, is the word you used "recension" and not "rescission"? If yes, what exactly does "recension" mean?

Your action is a welcome relief from the discussion in the PLUM hearing. After hearing our presentation of the damning evidence from the California Geological Survey and the two peer-reviewed geological studies showing that the southern strand of the Hollywood Fault is directly under the Millennium Project site, Councilman Englander had this to say:

"Regardless of the underlying geological and soil conditions, in fact, these faults and thresholds whether active or inactive in fact pose a significant risk to the entire city of Los Angeles."

"But you're pointing to this one particular area. I just wanted to show fault in your study that yeah, there's a true threat but it is everywhere in Los Angeles."

Councilman Englander's comments demonstrate a fundamental lack of understanding of the distinction between building to withstand strong ground motions in an earthquake (all buildings in southern California must account for this to varying degrees) vs. building a structure for human occupancy across the trace of an active fault that may be subject to surface displacements of several meters, which of course

cannot be allowed. This project is not something that can be allowed to proceed without a much more thorough review of the potential for active faulting at the site.

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- that the results of the investigation should be subject to independent peer review by Professor Dolan and other geologists.
- An investigation of the two Langan reports which falsely stated that the Hollywood Fault was .4 miles away from the project location in disregard of all credible data from authoritative sources including the findings of Dolan and Crook & Proctor, which also omitted the data from the USGS the CGS which all agreed that there were fault traces at the project site, and which falsely depicted the project site as being approximately 850 feet north of its actual location.

The study done by Langan is below any professional standards, and we believe, involves fraud.

Please explain exactly what and when the next steps will be from your department specifically and the city generally. Please also confirm that all approval processes, including the currently-scheduled July 24, 2013 City Council hearing, will be halted until proper trenching and investigation of the site has been conducted, with independent experts having access to the site, and with all data and results properly circulated to the public. Finally, please include this correspondence in the administrative record for this matter. Thank you for your courtesy and attention to this extremely important matter.

Regards,

George

# **THE SILVERSTEIN LAW FIRM**

*A Professional Corporation*

215 NORTH MARENGO AVENUE, 3RD FLOOR  
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

ROBERT@ROBERTSILVERSTEINLAW.COM  
WWW.ROBERTSILVERSTEINLAW.COM

July 15, 2013

## **VIA EMAIL AND U.S. MAIL**

Mr. Raymond S. Chan, Superintendent of Building  
Mr. Bob Steinbach, Chief of Inspection Bureau  
Mr. Dana Prevost, Engineering Geologist  
Department of Building and Safety  
201 N. Figueroa Street  
Los Angeles, CA 90012

Re: ·Objections to Millennium Hollywood Project;  
Inadequate Review of Geology/Seismology

Dear Mr. Chan, Mr. Steinbach, and Mr. Prevost:

This firm and the undersigned represent Communities United for Reasonable Development, a broad coalition of Los Angeles community organizations (and the individuals they represent) in the Hollywood area including, but not limited to: Beachwood Canyon Neighborhood Association, Argyle Civic Association, Hancock Park Homeowners Association, Hollywood Dell Civic Association, Hollywoodland Homeowners Association, Los Feliz Improvement Association, The Oaks Homeowners Association, and Whitley Heights Civic Association. Our position herein is supported by a wide array of Neighborhood Councils and many other associations from across the City representing more than 250,000 residents, all of which oppose the above-mentioned Project.

As you should be aware, critical issues about the inadequate geologic and seismic studies performed by Langan Engineering of Irvine, California on behalf of the Millennium Hollywood project developer have been raised by this office, other members of the public, and independent experts. These issues include:

- (1) The May and November 2012 Langan studies falsely state that the Hollywood Fault is 0.4 miles away from the project site, based upon no cited evidence;

Mr. Raymond S. Chan, Superintendent of Building  
Mr. Bob Steinbach, Chief of Inspection Bureau  
Mr. Dana Prevost, Engineering Geologist  
Department of Building and Safety  
July 15, 2013  
Page 2

- (2) The Langan studies included a falsified map which misidentified the location of the subject property as being 850 feet north of its true location, in order to take it outside of the City's Fault Rupture Study boundary; and
- (3) The Langan studies fail to acknowledge, and accordingly suppress, relevant independent and authoritative data, including the 2010 California State Geological Survey Active Fault Trace Map, Professor Dolan's studies (1997) and Crook & Proctor's studies (1992), all of which indicate the existence of active fault traces across the subject property's East and West Sites.

The Draft EIR and Final EIR upon which the City is relying for its approval of the Project and its various entitlements, including to allow the construction of 1.1 million square feet and two skyscrapers of 39 and 35 stories potentially on top of active earthquake faults, relies on the inadequate and demonstrably biased Langan studies. Langan has breached their professional duties, and, we believe, has engaged with the Millennium developer to commit fraud.

The key issue for purposes of this letter is: What is Building & Safety's role in Langan's actions, and in allowing this fraud to proceed to the point that no corrective action has been taken by your Department to stop the City approval process and to require preparation of new and valid geologic/seismic studies, which should be presented as part of a recirculated Draft EIR? Recall that we are a mere 9 days away from the City Council's planned approval of the project and certification of the Final EIR.

On July 10, 2013, community leaders Fran Reichenbach and George Abrahams paid an unscheduled visit to City Geologist Dana Prevost. At that time, Mr. Prevost stated to Ms. Reichenbach and Mr. Abrahams that he had not yet fully read the underlying Langan studies. How could that be? This is despite the fact that the CEQA process for this Project has been ongoing for approximately a year and a half, and further despite the fact that on June 18, 2013, this office presented substantial evidence of Langan's falsification of data and suppression of relevant information, all of which actions by Langan – and as implicitly adopted by Building & Safety to date – have subverted the purpose of the EIR as an information disclosure document upon which the public and decisionmakers can base their decisions.

Mr. Raymond S. Chan, Superintendent of Building  
Mr. Bob Steinbach, Chief of Inspection Bureau  
Mr. Dana Prevost, Engineering Geologist  
Department of Building and Safety  
July 15, 2013  
Page 3

If it is true that Mr. Prevost has not yet fully read the underlying documents given the human life, health and safety issue involved, then this shocks the conscience. Mr. Prevost has a duty as a professional engineering geologist to act as a responsible gatekeeper, and not simply to rubberstamp clearly inadequate and defective environmental studies.

I further note that on June 27, 2013, as subsequently confirmed in Mr. Abraham's June 28, 2013 email to Mr. Prevost, Mr. Prevost told Mr. Abrahams that Mr. Prevost would be issuing a "rescission letter" to the Millennium Hollywood project and developer in light of the information and objections which this office provided on June 18, 2013. At that time, Mr. Prevost said the rescission letter would be issued the following week. But since then, Mr. Prevost's story has changed, and he informed Ms. Reichenbach and Mr. Abrahams on July 10, 2013 that he first needed to meet with the Millennium Hollywood project developer. One does not need to meet with the project developer to know that their geologic/seismic studies contained falsified data, tampered with evidence/maps, and suppressed critical information from authoritative and independent sources. Mr. Prevost also unbelievably claimed that he did not know the City Council is scheduled to approve the Project and certify the Final EIR on July 24, 2013.

None of these actions of the Building & Safety Department generally, and Mr. Prevost specifically, are acceptable or consistent with Mr. Prevost and the Department's legal and ethical duties.

The enormity of the human life, health and safety dangers implicated by Langan, the Millennium Hollywood developer, and your actions cannot be overemphasized. What, exactly, are you planning to do, when, and what happened to the "rescission letter" that Mr. Prevost earlier said would be promptly issued to stop this dangerous and illegal project?


It would be a further violation of the law for the City now to attempt simply to impose some additional modification of the project approvals or require further testing after project approvals have been granted. To do so would be to paper over substantial deficiencies in the EIR and the CEQA process, and to thereby subvert that process. As our Supreme Court has repeatedly held: "Besides informing the agency decision makers themselves, the EIR is intended 'to demonstrate to an apprehensive citizenry that the

Mr. Raymond S. Chan, Superintendent of Building  
Mr. Bob Steinbach, Chief of Inspection Bureau  
Mr. Dana Prevost, Engineering Geologist  
Department of Building and Safety  
July 15, 2013  
Page 4

agency has in fact analyzed and considered the ecological implications of its actions.”  
Save Tara v. City of West Hollywood (2008) 45 Cal.4th 116, 136, citing No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 86, accord, Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376, 392. For many reasons, we are an apprehensive citizenry, and Mr. Prevost and your actions have greatly increased that apprehension.

Given what appears to be a complete abdication of your duties in connection with the largest project in Hollywood history, and your turning of a blind eye to the overwhelming evidence both of the existence of active fault traces crossing the subject property and the materially misleading Langan studies upon which you are still relying, we request that the City Council continue the July 24, 2013 scheduled approval date until after independent geologic and seismic studies have been performed based upon the recommendation of a neutral board of reviewers, which should be empanelled in an open and transparent process to review this matter.

Please contact us immediately regarding these issues. Please also ensure that this letter is included in the administrative record for this matter.

Very truly yours,  
  
ROBERT P. SILVERSTEIN  
FOR  
THE SILVERSTEIN LAW FIRM

RPS:jmr

cc: June Lagmay, City Clerk  
Hon. Eric Garcetti, Mayor  
Hon. Herb Wesson, City Council President  
Hon. Mitch O'Farrell, Councilman, CD13  
(All via email and U.S. mail)





## DEPARTMENT OF CONSERVATION CALIFORNIA GEOLOGICAL SURVEY

801 K STREET • MS 12-30 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 445-1825 • FAX 916 / 445-5718 • TDD 916 / 324-2555 • WEBSITE [conservation.ca.gov](http://conservation.ca.gov)

July 20, 2013

Honorable Herb Wesson, President  
Los Angeles City Council

c/o June Lagmay, City Clerk  
City of Los Angeles  
200 North Spring Street  
City Hall – Room 360  
Los Angeles, CA 90012

Re: Commencement of Alquist-Priolo Fault Zone Study, Hollywood Fault Zone  
Millennium Hollywood Project; EIR No. ENV-2011-0675-EIR

Dear Council President Wesson:

The Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code, Division 2, Chapter 7.5, Sections 2621 *et seq.*) requires the State Geologist to place Earthquake Fault Zones around faults deemed to be sufficiently active and well-defined. Under this Act, cities and counties affected by the zones must regulate certain development projects within the zones. They must withhold development permits for sites within the zones until geologic investigations demonstrate that the sites are not threatened by surface displacement from future faulting.

Based on a number of independent geological investigations, and recent work by the California Geological Survey (CGS) culminating in the *2010 Fault Activity Map of California*, CGS has commenced a detailed study of the Hollywood Fault and its associated splay faults for possible zoning as "Active" (as defined by the State Mining and Geology Board in the California Code of Regulations, Section 3601(a)) pursuant to the Alquist-Priolo Act. This investigation and resultant maps and reports are scheduled for completion by the end of this year or early in 2014.

It is our understanding that the Los Angeles City Council and the Planning Commission are in the process of reviewing plans for the prospective Millennium Hollywood Project, which may fall within an Earthquake Fault Zone should our investigations conclude that an active portion of the Hollywood Fault lies within the project site. If sufficient information results in the placement of an Earthquake Fault Zone, it will provide the City with new information for its consideration of current and future proposed developments all along the Hollywood Fault.

Robert H. Sydnor  
*Engineering Geologist and Seismologist*  
4930 Huntridge Lane, Fair Oaks, California 95628-4823  
e-mail: RHSydnor@aol.com cell phone: 916-335-1441

Dr. John G. Parrish, *State Geologist*  
California Geological Survey  
801 K Street, MS 12-30  
Sacramento, CA 95814-3531  
916-445-1825 john.parrish@conservation.ca.gov

July 12, 2013

**Subject: Millennium Hollywood Project**, State Clearinghouse # SCH 2011041094  
39-story and 35-story high-rise buildings, City of Los Angeles, EIR Review Phase

Dear Dr. Parrish:

I have been asked to review engineering geology and seismology documents related to a huge project in Hollywood known as the Millennium Hollywood Project that would involve the construction of approximately 1.1 million square feet of space for human occupancy, including two towers of 39 and 35 stories. There is considerable opposition to this project based on seismic safety and active faulting on the Hollywood Fault. Caltrans has firmly opposed the project based on serious mistakes in transportation and infrastructure planning. The Silverstein Law Firm in Pasadena has compiled a 521-page legal document that summarizes the community objections, including pertinent extracts of the geology reports. The project and its Environmental Impact Report are scheduled to be approved by the Los Angeles City Council on July 24, 2013. Therefore, time is of the essence.

It is my belief that the California Geological Survey can perform a valuable public service by scientifically reviewing this EIR, and the May and November 2012 engineering geology reports by Langan Engineering of Irvine, California. The Langan reports appear inadequate and substandard, with significant mistakes in evaluation of active faulting and strong-motion seismology. This conclusion was independently arrived at by Kenneth L. Wilson, Certified Engineering Geologist #928 of Wilson Geosciences. I have read Wilson's written comments and concur with him. Likewise, Dr. James Dolan, professor of geology at the University of Southern California, has significant reservations about the adequacy of the Langan geology reports. Professor Dolan is a published author on the Hollywood Fault (1995, 1997, 2000). Reference is also made to the 2007 Community Fault Model, the 2010 Active Fault Map of the California Geological Survey, and CGS Special Publication 42. In my opinion, and the other experts who have reviewed the reports, it is critical that before any approval by the Los Angeles City Council, more time is needed for a rigorous and comprehensive review by *neutral* licensed experts in engineering geology and seismology.

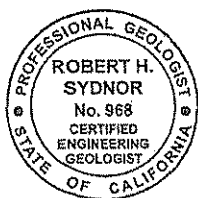
Please note that I have not been paid for my opinion and involvement in this matter, and I have not been offered any type of compensation. I provide my views solely in furtherance of the interests of public safety and the integrity of the scientific process, both of which, unfortunately, appear to have been severely compromised to date in the City's review of the Millennium Hollywood project. For several years, I formerly served on the City of Los Angeles Grading Appeals Board (while I was then Orange County Geologist), and am considered a neutral expert in evaluation of geologic hazards in and for the City of Los Angeles on large complicated projects. In that context, I recommend that the California Geological Survey perform a careful review of the seismic safety issues for the Millennium Hollywood Project. It would be prudent for the City of Los Angeles to convene a neutral-expert panel of engineering geologists and seismologists to review this particular project.

The California Geological Survey is empowered under Government Code Section 8871(c) and Title 14 to perform these kinds of EIR reviews and reviews of the supporting technical documents in engineering geology and seismology. During my 25 years with C.G.S., I performed hundreds of these reviews on a state-wide basis for 58 counties and 482 cities.

The principal seismic safety issues appear to be proximity of active surface faulting and strong-motion seismology, with scaled earthquake time-histories for high-rise buildings, including near-field effects (seismic focusing) from an oblique thrust fault, plus robust long-period ground-motion that adversely affects high-rise buildings from a  $M_w \geq 8$  earthquake at intermediate distances. Active faults are mapped through the site, and that proximity is the immediate concern. The fault zones delineated in 1996 by the City of Los Angeles need to be accurately plotted in competent consulting geology reports for the Millennium Hollywood project. It is my professional opinion that the Langan Engineering data and analyses submitted for the project are incomplete, misleading and substantially below professional standards. If I can be of assistance to your office in any manner, please do not hesitate to contact me.

*Respectfully submitted,*

*Robert H. Sydnor*



Robert H. Sydnor

California Certified Engineering Geologist 968

California Certified Hydrogeologist 6

California Professional Geologist 3267

*Fellow, Geological Society of America*

*Former Chairman, Southern California Section, Assoc. Engineering Geologists*

*Life Member, California Academy of Sciences*

*Life Member, Association of Engineering Geologists*

*Life Member, Seismological Society of America*

*Life Member, American Geophysical Union*

*Member, Earthquake Engineering Research Institute*

*Member, American Society of Civil Engineers*

#### **Published Scientific References:**

- California Geological Survey, 1997, Seismic Hazard Zone Report for the Hollywood 7½-minute quadrangle: CGS Seismic Hazard Zone Report 26, 61 p.
- California Geological Survey, 2002, Guidelines for Evaluating the Hazard of Surface Fault Rupture: CGS Note 49, 4 p.
- Crook, Richard Jr., and Proctor, Richard J., 1992, The Santa Monica and Hollywood Faults and the Southern Boundary of the Transverse Ranges Province, in: Pipkin, B., and Proctor, R.J., *editors*, Engineering geology practice in southern California: Association of Engineering Geologists, Special Volume, p. 233-246.
- Dolan, James F., Sieh, Kerry E., Rockwell, Thomas K., Yeats, Robert S., Shaw, John, Suppe, John, Huftile, Gary J., and Gath, Eldon M., 1995, Prospects for larger or more frequent earthquakes in the Los Angeles metropolitan region: *Science*, vol. 267, p. 199-205.
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Honorable Herb Wesson, President  
July 20, 2013  
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Results of this investigation will be provided to the City of Los Angeles immediately upon their release, and the City will have an opportunity to examine and comment on the Preliminary version of the maps and reports. Please do not hesitate to contact the CGS at any time if you have questions regarding this fault-zoning process.

Sincerely,

A handwritten signature in black ink, reading "John G. Parrish". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

John G. Parrish, Ph. D., PG  
State Geologist

COPY

# LOS ANGELES FIRE DEPARTMENT RESPONSE TIME LAG



## COMMITTEE MEMBERS

Jacqueline Brown – Co-Chair  
Richard Huber – Co-Chair  
Thomas Scheerer - Co-Chair  
James Bradford  
Marie Louise Gutierrez  
John Zehrung

## 8. LOS ANGELES FIRE DEPARTMENT RESPONSE TIME LAG

### EXECUTIVE SUMMARY

Several negative articles in various Los Angeles area newspapers regarding poor response time to 9-1-1 medical emergency calls within the City of Los Angeles prompted this investigation<sup>1</sup>. A committee of the Los Angeles County Civil Grand Jury (Grand Jury) found that response times in the Los Angeles Fire Department (LAFD) began to increase when its budget was decreased. The Grand Jury believes that the Los Angeles City Council may have relied on inaccurate response time data<sup>2</sup> in making its budget reduction decision. The Grand Jury also found that LAFD does not utilize its resources to its best advantage. To be specific, the Grand Jury urges that LAFD's funding be restored, that its engine companies be reinstated, it incorporate civilian call handlers, use a non-proprietary Emergency Medical Dispatch protocol and update technical equipment.

### RECOMMENDATIONS

- 8.1 The City of Los Angeles should reinstate the funding to the LAFD that was cut in 2008.**<sup>3</sup>  
While the Grand Jury acknowledges and commends the Los Angeles City Council for restoring some funding to LAFD, additional funding is crucial to place back into service the multiple engine companies' ambulances idled by previous budget cuts.
- 8.2 LAFD should incorporate civilians as call handlers** in its dispatch center. LAFD has traditionally used sworn firefighters to answer 9-1-1 calls. Other local emergency response departments use civilian call handlers with no apparent decline in service. This would provide economic savings and allow sworn personnel to return to active emergency service.
- 8.3 LAFD should use a customizable Emergency Medical Dispatch Protocol** to allow for call handler flexibility in responding to 9-1-1 calls.
- 8.4 LAFD must update the technical equipment** in its vehicles and dispatch center as outlined in the November 2012 report from the task force on Information and Data Analysis (IDA). Technical innovations are also needed to reduce response times for the LAFD, such as the new Smart911<sup>4</sup> system that has been implemented in other fire agencies.

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<sup>1</sup> <http://www.latimes.com/news/local/la-me-1205-lafd-chief-20121205,0,3100712.story>

<sup>2</sup> <http://www.firehouse.com/news/10654628/lafd-officials-admit-to-exaggerating-response-stats>

<sup>3</sup> LA Times dated December 4, 2012

<sup>4</sup> [http://www.latimes.com/search/dispatcher.front?Query=Smart911&target=adv\\_all](http://www.latimes.com/search/dispatcher.front?Query=Smart911&target=adv_all)

## **METHODOLOGY**

The Grand Jury's Fire Dispatch Committee visited four different fire department emergency centers: Los Angeles Fire Department (LAFD), Los Angeles County Fire Department (LACFD), Verdugo Fire Communications Center (VFCC), which serves thirteen separate fire agencies, and Long Beach Fire Department (LBFD). The Grand Jury also obtained response time data from these four agencies and the National Fire Protection Association (NFPA) standards for emergency medical response times, and attended a meeting of the Los Angeles City Council which focused on the LAFD's response times. The Grand Jury also interviewed senior members of each of the above four agencies as well as a senior leader of the union representing Los Angeles City firefighters. In addition the Grand Jury interviewed many call handlers and observed their work in "real time".

## **BACKGROUND**

Committee members met with senior leaders in the four largest fire departments/agencies in Los Angeles County and discussed their operations and response times. Each department or agency reports response times differently but they have been simplified in the comparison chart below. Grand Jury members were also given a tour of their respective dispatch centers.

### **1. Los Angeles Fire Department:**

- a. Sworn fire fighters are trained as call handlers and rotated through the dispatch center. A call handler's shift is fifty-six hours; they sleep on site so as to be immediately available should there be an unusual spike in calls, such as during a major disaster.
- b. The Emergency Medical Dispatch Protocol to guide the dispatcher is available both in hard copy and on the computer. This script is proprietary and modification or deviation from it is not permitted.
- c. Medical emergency calls are prioritized to determine whether to send an Advanced Life Support (ALS) or Basic Life Support (BLS) unit.
- d. LAFD transports patients as needed to a medical facility.

### **2. Verdugo Fire Communications Center:**

- a. Civilians are trained as call handlers and work a twelve hour shift.
- b. The Emergency Medical Dispatch Protocol to guide the dispatcher is both in hard copy and on the computer. This script is customized by the medical staff, with input from call handlers.
- c. Medical emergency calls are prioritized to determine whether to send an ALS or BLS unit.

- d. Agencies affiliated with VFCC transport patients to a medical facility either with agency ambulances or by private contractors.

### 3. Los Angeles County Fire Department:

- a. Civilians are trained as call handlers and work a twelve hour shift.
- b. The Emergency Medical Dispatch Protocol to guide the call handler is both in hard copy and on the computer. This script is customized by the medical staff, with input from call handlers.
- c. As soon as a call is determined to be a medical emergency, it is dispatched. The caller is advised that units are en route and the dispatcher stays on line to assist as needed. Any update to the call is sent to the responding unit's terminal.
- d. LACFD transports patients to a medical facility through private contractors.

### 4. Long Beach Fire Department:

- a. Civilians are trained as call handlers and work a twelve hour shift.
- b. The Emergency Medical Dispatch Protocol is on hard copy only. This script is customized by the medical staff with input from call handlers.
- c. Medical emergency calls are prioritized to determine whether to send an ALS or BLS unit.
- d. LBFD transports patients as needed to a medical facility.

The following response time chart created by the Grand Jury, shows the various agencies. It is noted that LAFD response time is six minutes, 47 seconds (6:47), which is one minute, 25 seconds (1:25) to 28 seconds (:28) slower than the other agencies.

	LAFD*	VFCC**	LACFD***	LBFD	NFPA
Time Out	1:42	:56	1:19	1:00	1:00
Travel Time	5:05	4:26	4:46	5:19	5:00
Total Time	6:47	5:22	6:05	6:19	6:00

**Time Out:** From call received to dispatch of equipment.

**Travel Time:** From dispatch to arrival on site. This includes turn-out time i.e. the time needed for firefighters to dress and get equipment rolling.

**Total Time:** Time from call being answered to equipment arriving on site.

**Times above are averages.** Agencies leave out times that are far outside the norm (outliers).

\*Times based on Task Force IDA, dated 11/2/2012



**\*\*VFCC** times shown are an average of all the thirteen affiliated agencies. Verdugo Fire has a “seamless” or “no borders” operation for fire and is working on a similar operation for medical responses.

**\*\*\*LACFD** times shown are for urban response

## FINDINGS

The Grand Jury found that the LAFD’s response time, as shown by the chart on the previous page, is noticeably longer than the other agencies reviewed by the Grand Jury. The following factors, which apply to all fire agencies, hamper response times:

1. All 9-1-1 calls go to the primary Public Safety Answering Point (PSAP), which is the local police agency (per state regulations), with the fire department being secondary. The primary PSAP must transfer a fire/medical call to the secondary PSAP within thirty seconds (per NFPA guidelines). The primary dispatcher remains on the line to ensure that the call is transferred and that no police involvement is required.
2. Language can be a major factor as there are up to one hundred different languages or dialects spoken in LA County. According to all four fire agencies, an interpreter may have to be brought on the line to assist.
3. Cell phones, unlike hard-wired home or business phones, do not give an exact address, which is a critical piece of information needed before dispatching a unit. Newer cell phones, equipped with GPS, can now be triangulated to give an approximate location. In the past all cell phone calls went to the California Highway Patrol (CHP); now with more modern technology, 9-1-1 calls go to the nearest 9-1-1 call center. The CHP should still receive calls if the caller is on a freeway, in close proximity to a freeway or the cell phone, for whatever reason, cannot be accurately triangulated.
4. The caller’s state of mind, possibly being in a state of hysteria, could hamper getting needed information. The human factor always plays a part, even something as simple as the caller being unsure as to his whereabouts or being able to give an accurate description of the situation.
5. A principal factor that produces poor response time is the on-going problem of budget cuts.<sup>5</sup> Geography can also affect response time. Calls from hilly communities with narrow roads make it difficult for fire equipment to maneuver. If a caller lives in a relatively isolated location, response time is certain to be greater.

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<sup>5</sup> <http://articles.latimes.com/2012/dec/04/local/la-me-l205-lafd-chief-20121205>

**FINDINGS continued**

**Funding:** Of the above factors, the most crucial and the most obvious impediment to adequate response times is the budget issue. Once funding of the LAFD was reduced, based in part on faulty or outdated data, response times began to rise. Additionally, thirteen ambulances were idled. It is a given that fewer resources would lead directly to increased response time. The Grand Jury strongly recommends that previous LAFD budget cuts be fully restored. The Grand Jury recognizes that the LAFD is currently planning a different, yet controversial solution.<sup>6</sup>

**Civilian Call Handlers:** The Grand Jury was impressed with the use by other large agencies in Los Angeles County of civilians to handle incoming 9-1-1 calls. LAFD has for many years used sworn firefighter personnel for such duty. The Grand Jury recommends that this change. Firefighters should be fighting fires and responding to medical emergencies, not answering phone calls. Moreover, the skill set needed to obtain information from a 9-1-1 caller is not the same skill set as fighting a fire or giving emergency care. The Grand Jury believes it is a better practice to have trained civilians perform call handling functions. This would eliminate the need to rotate firefighters into the Dispatch Center. Further, call handlers should be given a dispatch protocol to follow so that the necessary information is gathered, but that protocol should not be a handicap. Dispatch call handlers should have flexibility in dealing with callers and should not be subject to discipline for deviating from a dispatch protocol.

**Technology:** Improvements are needed in the technology used by the LAFD. These are mentioned in detail by the Task Force that the LAFD commissioned in June of 2012. The Grand Jury learned from several fire officials that the Computer Assisted Dispatch (CAD) is thirty years old. Hardware and software must be brought up to current technology levels. This technology could include software like Smart911. The Smart911 system is designed to create a safety profile for the household, such as medical conditions, mobility, etc. This profile would appear on the call handler's screen, which could expedite response time by avoiding the need to ask certain questions.

**Response Time Reports:** Reports should be easy to read and understand. The Grand Jury was given response times reports in various formats, some of which were confusing. The Grand Jury believes the general public would benefit by having these response times presented in a simplified form, similar to the above chart.

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<sup>6</sup> Los Angeles Times dated April 17, 2013 LAFD to shift staff to medical calls

**Analysis:** Notwithstanding the above criticisms and concerns, the area fire departments are doing the job that is expected. Response times, though, can sometimes be a factor in the difference between life and death. There have been cases where a person has died while waiting for the medical personnel to arrive.<sup>7</sup> With more funding, idle ambulances can be put back into service and there can be an upgrade of technical equipment with a consequent reduction in response times. The Grand Jury acknowledges with great appreciation the dedication and commitment of all emergency responders in Los Angeles County and hopes that responses to this report will result in an enhancement of their service to all members of our community.

## **REQUIRED RESPONSES**

<b>Recommendation</b>	<b>Responding Agencies</b>
8.1	City of Los Angeles
8.2, 8.3, 8.4	Los Angeles Fire Department

## **LIST OF ACRONYMS**

<b>ALS</b>	Advance Life Support
<b>BLS</b>	Basic Life Support
<b>CAD</b>	Computer Assisted Dispatch
<b>CHP</b>	California Highway Patrol
<b>IDA</b>	Information and Data Analysis
<b>LACFD</b>	Los Angeles County Fire Department
<b>LAFD</b>	Los Angeles Fire Department
<b>LBFD</b>	Long Beach Fire Department
<b>NFPA</b>	National Fire Protection Association
<b>PSAP</b>	Public Safety Answering Point
<b>VFCC</b>	Verdugo Fire Communications Center

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<sup>7</sup> [http://www.dailynews.com/news/ci\\_22241825/lafd-probes-response-time-death-teen-playing-soccer](http://www.dailynews.com/news/ci_22241825/lafd-probes-response-time-death-teen-playing-soccer)

## Paramedic Response Time: Does It Affect Patient Survival?

Peter T. Pons, MD, Jason S. Haukoos, MD, MS, Whitney Bludworth, MD, Thomas Cribley, EMT-P, Kathryn A. Pons, RN, Vincent J. Markovchick, MD

### Abstract

**Objectives:** One marker of quality emergency medical services care is measured by meeting an 8-minute response time guideline. This guideline was based on results of paramedic response times for nontraumatic cardiac arrest patients and has not been studied in unselected patients. The objective of this study was to evaluate the effect of paramedic response time on survival to hospital discharge in unselected patients in a large urban setting while controlling for a number of potentially important confounders, including level of illness severity. **Methods:** This was a retrospective cohort study performed in an urban 911-based ambulance service system. Patients transported by paramedics to a single urban county teaching hospital from January 1, 1998, to December 31, 1998, were included. Data collected included patient demographics; paramedic response, scene, and transport times; the nature of the medical complaint; and whether the patient survived to hospital discharge. Multivariable logistic regression models were developed using response time as the primary independent variable and survival to hospital discharge as the dependent variable. Covariates included scene time, transport time, age, gender, and level of illness severity. **Results:** Of 34,111 calls involving emergency response, 11,078 patients (32%)

were transported to the study institution and 10,382 (94%) had response time data available. Of these, 9,559 patients (92%) had data available to categorize them into groups based on their level of illness severity and were thus included in the study. A survival benefit was identified for response times  $\leq 4$  minutes (odds ratio [OR], 0.70; 95% confidence interval [CI] = 0.52 to 0.95). No survival benefit was identified when response time was modeled as a continuous variable (OR, 1.01; 95% CI = 0.98 to 1.04) or when dichotomized at 8 minutes (OR, 1.06; 95% CI = 0.80 to 1.42). **Conclusions:** A paramedic response time within 8 minutes was not associated with improved survival to hospital discharge after controlling for several important confounders, including level of illness severity. However, a survival benefit was identified when the response time was within 4 minutes for patients with intermediate or high risk of mortality. Adherence to the 8-minute response time guideline in most patients who access out-of-hospital emergency services is not supported by these results. **Key words:** advanced life support; ambulance response; emergency medical services; paramedic ambulance; response time; response time guideline; survival. *ACADEMIC EMERGENCY MEDICINE* 2005; 12:594-600.

Paramedic response time to the scene of a call for emergency medical assistance has become a benchmark measure of the quality of the service provided by emergency medical services (EMS) agencies.<sup>1,2</sup> A suggested target response time of  $\leq 8$  minutes for at least 90% of emergent responses has evolved into a

guideline that has been incorporated into operating agreements for many EMS providers.<sup>3</sup>

This response time guideline has its origin in an article published in 1979 that evaluated patient outcomes after out-of-hospital nontraumatic cardiac arrest.<sup>4</sup> The investigators reported that survival decreased significantly if basic life support and advanced life support were initiated in  $>4$  minutes and  $>8$  minutes, respectively. They therefore suggested these times as recommended guidelines for the emergency response of basic and advanced life support providers. Although that study reported exclusively on outcomes from cardiac arrest, the response time guidelines were subsequently generalized to all emergent responses and to any type of illness or injury.

Since the publication of that initial report, much work has been done to evaluate which interventions provided by basic or advanced life support providers positively affect patient outcomes after nontraumatic cardiac arrest. This resulted in the recognition that an important determinant of survival is the time

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elapsed from onset of cardiac arrest to electrical defibrillation<sup>5-8</sup> and has led to the development and implementation of a variety of programs designed to provide rapid defibrillation.<sup>9-17</sup> As a result, the single most important intervention in the management of the cardiac arrest victim may no longer be dependent on the response time of an ambulance with advanced life support providers. In fact, a recent study reported that the addition of advanced life support procedures did not improve patient survival from cardiac arrest beyond that achieved with rapid defibrillation.<sup>18</sup>

Although the response system to cardiac arrest has evolved over the past two decades, little work has been done to evaluate the continued need for a rigid ambulance response time guideline for patients experiencing other types of medical emergencies. In most EMS systems, cardiac arrest accounts for <1% of calls. Only two studies have been published that have evaluated the effect of the 8-minute response time guideline on something other than cardiac arrest.<sup>19,20</sup> Although both studies identified no outcome difference in patients based on the paramedic response time, the first did not control for illness severity and the second only evaluated outcomes in trauma patients.

The objective of this study was to evaluate the effect of paramedic response time on survival to hospital discharge in unselected patients in a large urban setting while controlling for a number of potentially important confounders, including level of illness severity.

## METHODS

**Study Design.** This was a retrospective cohort study performed in an urban 911-based ambulance service system. The study was reviewed by our institutional review board and met criteria for exemption from informed consent requirements.

**Study Setting and Population.** The Paramedic Division of the Denver Health and Hospital Authority is responsible for all 911 emergency ambulance responses for the city and county of Denver, which has a geographic area of approximately 150 square miles and an approximate census of 550,000 based on year 2000 census data. The Paramedic Division responds to approximately 55,000 calls for emergency medical assistance annually using a maximum of 15 paramedic-staffed ambulances at peak staffing and six during lower-demand hours. The division employs approximately 130 paramedics.

We included consecutive patients who required emergent ambulance response to the scene and who were subsequently transported to the emergency department (ED) at Denver Health Medical Center in Denver, CO. Patients were excluded if they were

transported to another receiving hospital or refused transport.

**Study Protocol.** Calls for emergency medical assistance are received via 911 at a centralized communications center. All medical calls are referred to Paramedic Division dispatchers, and the dispatchers assign response priorities (emergent vs. nonemergent) based on information obtained from the caller. A paramedic-staffed ambulance is sent to all calls for medical assistance. In addition to advanced life support ambulances, dispatchers also initiate responses by police and fire department first responders as needed based on preexisting protocols.

Denver paramedics initiate care using standardized protocols and standing orders after initial assessment of the patient. Interventions such as intravenous line placement, fluid administration, endotracheal intubation, defibrillation, and pharmacologic interventions can be performed by paramedics before base-station physician contact. Medical oversight is provided by a full-time EMS medical director who is a member of the physician staff of the Department of Emergency Medicine at Denver Health Medical Center. Base-station physician direction is performed by either full-time emergency physician staff or by senior emergency medicine residents.

Using the computerized dispatch log maintained by the Denver Paramedic Division Dispatch Center, all 911 calls to which an ambulance was sent emergently to the scene were identified from January 1, 1998, to December 31, 1998. Data obtained from the dispatch log included the date and time of the 911 call, the EMS call (run) number, the time of arrival to the scene, the time of departure from the scene, the time of arrival to the hospital, the nature of the call as determined by the dispatcher, and whether returning to the hospital was emergent (defined as returning with red lights and sirens) or nonemergent. Response time was defined as the interval (in minutes) from the initiation of the 911 call to the arrival of the ambulance at the scene. Scene time was defined as the interval (in minutes) from arrival of the ambulance at the scene to departure from the scene. Transport time was defined as the interval (in minutes) from departure from the scene to arrival at the hospital.

Data were collected from the paramedic trip report and included patient age, gender, interventions performed in the out-of-hospital setting, and disposition, including transportation to the hospital or pronouncement of death. The paramedic report was then matched with the ED patient log, and each patient's medical record was reviewed to determine disposition from the ED (discharged, admitted to the ward, admitted to the intensive care unit, or died in the ED) as well as survival at the time of discharge from the hospital. All data were obtained by two abstractors using a closed-response data collection instrument.

Each abstractor was trained by the principal investigator and met with him bimonthly to maintain quality abstraction and to answer questions. Each abstractor was blinded to the purpose of the study.

**Data Analysis.** All data were entered into an electronic database (SPSS release 11.0; SPSS Inc., Chicago, IL) and converted into native SAS format using translational software (dfPower DBMS/Copy; Data-Flux Corp., Cary, NC). All statistical analyses were performed using SAS (version 8.2; SAS Institute Inc., Cary, NC).

Descriptive statistics were performed for all variables. Continuous data are reported as medians with interquartile ranges (IQRs), and categorical data are reported as percentages with 95% confidence intervals (CIs). Bivariate statistical testing was performed using the Wilcoxon rank sum test or Fisher's exact test, where appropriate. Missing values were imputed using multiple imputation procedures in SAS (PROC MI and PROC MIANALYZE). Imputation is a statistical technique that replaces each missing value in a data set with a plausible value based on known characteristics of the data set. This allows all observations, including those that would have been excluded due to missing values, to be included in the analysis and to make an unbiased estimate of the effect measures.<sup>21</sup> Multivariable logistic regression analysis was performed to assess the effect of paramedic response time on survival to hospital discharge, while controlling for age, gender, scene time, transport time, and three levels of medical acuity (categorized as low risk for mortality, intermediate risk for mortality, or high risk for mortality based on the dispatch nature code and the ED diagnosis) as potential confounders. The high-risk group included all traumatic and nontraumatic cardiac arrest patients. The intermediate-risk group included all suicide attempts, accidental exposures (defined by exposure to toxins or environmental exposures), unconscious patients, those with penetrating trauma, those with any respiratory complaints, or those who were hypotensive (defined by a systolic blood pressure  $\leq 90$  mm Hg) in the out-of-hospital setting.<sup>22</sup> All other patients were grouped into the low-risk category. Categories were defined by two investigators (PTP and JSH) using a consensus process before performing the analysis. Three separate multivariable logistic regression analyses were performed. The primary independent variable, response time, was modeled as a continuous variable and then as two categorical variables (one model with a 4-minute cutoff point and another model with an 8-minute cutoff point). To assess the effect of response time on survival in patients not experiencing trauma or cardiac arrest, subgroup analyses of medical noncardiac arrest patients were performed while controlling for the same confounders. Logistic regression model diagnostics

were performed, the need for variable transformation was assessed, and all possible interaction terms were evaluated for inclusion into each model. Odds ratios (ORs) and 95% CIs are reported where appropriate. No adjustments were made for multiple comparisons.

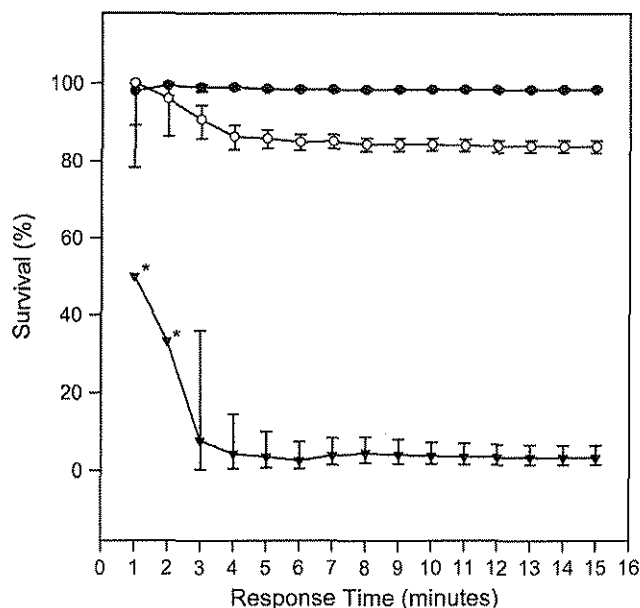
## RESULTS

During the study period, Denver paramedics responded to 49,851 calls for medical assistance. Of these, 34,111 (68%) involved emergent response to the scene. Of the 34,111 calls involving emergency response, 11,078 (32%) were transported to Denver Health Medical Center and 10,382 (94%) had response time data available. Of these, 9,559 patients (92%) had data available to categorize them as low risk ( $n = 6,696$ ), intermediate risk ( $n = 2,619$ ), or high risk ( $n = 244$ ) for mortality and were thus included in the study. Of the 9,559 patients, transport time was missing in 561 cases (6%), age was missing in 83 cases (0.9%), and gender was missing in 12 cases (0.1%). All other variables had complete data.

The median age for the entire cohort was 38 years (IQR, 26–50 years; range, 1–99 years); of 9,547 patients for whom data were available, 5,936 (62%) were male. The median response time was 5.8 minutes (IQR, 4.3–7.7 minutes), the median scene time was 10.8 minutes (IQR, 7.5–14.8 minutes), and the median transport time was 7.7 minutes (IQR, 4.8–11.4 minutes). Of the 9,559 patients, 8,827 (92%) survived to hospital discharge. Of the 6,696 patients categorized into the low-risk group, 6,650 (99%) survived to hospital discharge; of the 2,619 patients categorized into the intermediate-risk group, 2,169 (83%) survived to hospital discharge; and of the 244 patients categorized into the high-risk group, eight (3%) survived to hospital discharge ( $p = 0.0001$ ). Figure 1 shows patient survival percentages by response time when stratified by the three risk groups.

All emergent responses to the scene were evaluated to determine if a response time  $> 8$  minutes resulted in more patients being pronounced dead at the scene and therefore not transported to the hospital. Of the 24,932 patients in which the response time was  $\leq 8$  minutes, 421 (1.7%; 95% CI = 1.5% to 2.0%) were pronounced dead and not transported to the hospital. Of the 9,179 patients in which the response time was  $> 8$  minutes, 159 (1.7%; 95% CI = 1.5% to 1.9%) were pronounced dead and not transported to the hospital.

When response time was modeled as a continuous variable while controlling for scene time, transport time, patient age and gender, and level of illness severity, there was no effect on patient survival to hospital discharge (OR, 1.01; 95% CI = 0.98 to 1.04) (Table 1). Descriptive statistics for variables included in the model in which response time was categorized as  $\leq 4$  minutes or  $> 4$  minutes are shown in Table 2. In this case, a survival benefit was identified when response time was  $\leq 4$  minutes (OR, 0.70; 95%



**Figure 1.** Percentages of survival to hospital discharge by paramedic response time and stratified by risk groups (bars represent 95% CIs). All patients were categorized into low-risk (●), intermediate-risk (○), or high-risk (▼) groups. The high-risk group included all traumatic and nontraumatic cardiac arrest patients. The intermediate-risk group included all suicide attempts, accidental exposures, unconscious patients, those with penetrating trauma, those with respiratory complaints, and those who were hypotensive in the out-of-hospital setting. All other patients were grouped into the low-risk category. \*CIs were not calculated for these response times due to sparse data.

CI = 0.52 to 0.95) (Table 1). This effect is seen graphically in Figure 1. Descriptive statistics for variables included in the model in which response time was categorized as  $\leq 8$  minutes or  $> 8$  minutes are shown in Table 3. There was no effect on patient survival to hospital discharge based on the 8-minute cutoff point (OR, 1.06; 95% CI = 0.80 to 1.42) (Table 1).

After including only medical noncardiac arrest patients ( $n = 5,062$ ) in separate subgroup analyses, the effect of response time did not significantly change when modeled as a continuous variable (OR, 1.01; 95% CI = 0.98 to 1.05), categorized by the 4-minute cutoff point (OR, 0.56; 95% CI = 0.38 to 0.83), or categorized by the 8-minute cutoff point (OR, 1.08; 95% CI = 0.77 to 1.52).

## DISCUSSION

The 8-minute response time recommendation was developed with the goal of optimizing survival from nontraumatic cardiac arrest. Little work has been done to determine if this response time goal is appropriate for the other 99% of emergencies for which EMS providers respond. The results of this study suggest that response times  $> 4$  minutes do not influence mortality in unselected patients while con-

trolling for scene time, transport time, patient age and gender, and varying levels of illness severity, including cardiac arrest. There does appear to be a survival advantage for patients in instances where paramedics respond within 4 minutes. It is unclear, however, which patients besides those experiencing cardiac arrest benefit from such a brief response time, and this was not specifically evaluated in this study.

The results of this study indirectly support those studies that have evaluated the time difference between emergent and nonemergent ambulance response or transport times.<sup>23-28</sup> These studies have demonstrated a relatively modest time savings of 1-4 minutes when comparing emergent responses with nonemergent responses. If, as the results of this study suggest, there is no effect of paramedic response time on patient outcomes, then more ambulances may be sent to calls for medical assistance nonemergently, thus minimizing the intrinsic risk of emergent response without increasing risk for morbidity or mortality for the patient.

The majority of research evaluating paramedic response times has been conducted in two general groups of patients, namely those experiencing cardiac arrest or those with traumatic injuries. Although field times are commonly reported in articles describing studies involving victims of traumatic injury, few studies have attempted to analyze the effect of response time on patient outcomes. Several studies, however, have evaluated the effect of total out-of-hospital time on survival following blunt or penetrating trauma. In each case, no survival advantage was identified for those patients who had shorter out-of-hospital times.<sup>29-31</sup> We previously evaluated a heterogeneous group of consecutive trauma patients for whom an ambulance responded emergently and found no difference in patient outcome based on the ambulance response time.<sup>20</sup>

To our knowledge, only one published study has previously evaluated paramedic response time on survival in a group of patients with unselected medical problems. Blackwell and Kaufman evaluated more than 5,000 patients using the response time criterion in place for their EMS system and found the mortality curve flattened for response times  $> 5$  minutes.<sup>19</sup> This study did not, however, account for potential confounders, including illness severity.

A reevaluation of the current 8-minute ambulance response time guideline is particularly important, because today's EMS systems are significantly different when compared with EMS systems from 10 or 20 years ago. This guideline resulted directly from the desire to improve outcomes from nontraumatic cardiac arrest by decreasing times to defibrillation. In the past, first responders provided basic life support, which consisted of performing closed chest cardiac massage and bag-valve-mask ventilation but involved few, if any, advanced interventions such as cardiac rhythm

**TABLE 1. Logistic Regression Analyses to Model Paramedic Response Time as a Predictor for Survival to Hospital Discharge**

Variables	Response Time as a Continuous Variable*		4-Minute Cut Point†		8-Minute Cut Point‡	
	OR	95% CI	OR	95% CI	OR	95% CI
Response time	1.01	0.98, 1.04	0.70	0.52, 0.95	1.06	0.80, 1.42
Scene time	1.22	1.20, 1.25	1.22	1.20, 1.24	1.22	1.20, 1.24
Transport time	1.06	1.03, 1.10	1.07	1.04, 1.10	1.05	1.02, 1.09
Age	0.95	0.94, 0.96	0.95	0.94, 0.96	0.95	0.94, 0.96
Gender	0.65	0.51, 0.84	0.64	0.50, 0.83	0.65	0.50, 0.83
Intermediate risk§	0.05	0.04, 0.06	0.05	0.03, 0.06	0.05	0.03, 0.06
High risk§	0.001	0.0004, 0.003	0.001	0.0004, 0.003	0.001	0.0004, 0.003

\*Response time as a continuous variable. The Hosmer-Lemeshow goodness-of-fit statistic was 0.97, which indicates an adequate fit.

†Response time categorized as  $\leq 4$  (referent) or  $> 4$  minutes. The Hosmer-Lemeshow goodness-of-fit statistic was 0.97, which indicates an adequate fit.

‡Response time categorized as  $\leq 8$  (referent) or  $> 8$  minutes. The Hosmer-Lemeshow goodness-of-fit statistic was 0.89, which indicates an adequate fit.

§All patients were categorized into low-, intermediate-, or high-risk groups. The high-risk group included all traumatic and nontraumatic cardiac arrest patients. The intermediate-risk group included all suicide attempts, accidental exposures, unconscious patients, those with penetrating trauma, those with respiratory complaints, and those who were hypotensive in the out-of-hospital setting. All other patients were grouped into the low-risk (referent) category.

determination, manual defibrillation, endotracheal intubation, or pharmacologic therapy. These procedures were generally reserved for and provided by paramedics responding on advanced life support ambulances.

Technological advances have changed the paradigm for emergency response to victims of cardiac arrest. The development of automated external defibrillators has permitted the development and implementation of programs that allow first responders and laypersons

with minimal or no training to defibrillate cardiac arrest victims.<sup>5,9,10,12-14</sup> This has allowed the procedure of defibrillation to be moved to a health care delivery point that precedes the direct involvement of the EMS system.<sup>16</sup> This profound change in some ways diminishes the importance of rapid response by advanced life support ambulances. Despite this change, no work has been done to reevaluate the need for the response time guideline currently in use.

**TABLE 2. Characteristics for Paramedic Response Time Groups Based on the 4-Minute Response Time Criterion**

Variables	Response Time (min)		p-value
	$\leq 4$ (n = 2,036)	$> 4$ (n = 7,523)	
Age (yr)	38 (26-49)	37 (25-50)	0.32
Response time (min)	3.2 (2.6-3.6)	6.5 (5.3-8.3)	$< 0.0001$
Scene time (min)	11.0 (7.8-14.9)	10.6 (7.3-14.6)	0.003
Transport time (min)	6.0 (3.8-8.6)	8.3 (5.3-12.1)	$< 0.0001$
Gender (male)	65% (1,327/2,033)	61% (4,609/7,514)	0.001
Survival to hospital discharge	94% (1,909)	92% (6,918)	0.006
Risk group*			
Low	72% (1,465)	70% (5,231)	0.1
Intermediate	26% (524)	28% (2,095)	
High	2% (47)	3% (197)	

All continuous data are reported as medians with interquartile ranges.

\*All patients were categorized into low-, intermediate-, or high-risk groups. The high-risk group included all traumatic and nontraumatic cardiac arrest patients. The intermediate-risk group included all suicide attempts, accidental exposures, unconscious patients, those with penetrating trauma, those with respiratory complaints, and those who were hypotensive in the out-of-hospital setting. All other patients were grouped into the low-risk category.

**TABLE 3. Characteristics for Paramedic Response Time Groups Based on the 8-Minute Response Time Criterion**

Variables	Response Time (min)		p-value
	$\leq 8$ (n = 7,475)	$> 8$ (n = 2,084)	
Age (yr)	38 (26-49)	37 (25-50)	0.23
Response time (min)	5.1 (3.9-6.4)	9.8 (8.8-11.7)	$< 0.0001$
Scene time (min)	10.9 (7.7-14.9)	9.8 (6.2-13.9)	$< 0.0001$
Transport time (min)	7.1 (4.5-10.4)	10.5 (7-14.9)	$< 0.0001$
Gender (male)	63% (4,696/7,467)	60% (1,240/2,080)	0.007
Survival to hospital discharge	93% (6,928)	91% (1,899)	0.02
Risk groups*			
Low	70% (5,241)	70% (1,455)	0.09
Intermediate	28% (2,057)	27% (562)	
High	2% (177)	3% (67)	

All continuous data are reported as medians with interquartile ranges.

\*All patients were categorized into low-, intermediate-, or high-risk groups. The high-risk group included all traumatic and nontraumatic cardiac arrest patients. The intermediate-risk group included all suicide attempts, accidental exposures, unconscious patients, those with penetrating trauma, those with respiratory complaints, and those who were hypotensive in the out-of-hospital setting. All other patients were grouped into the low-risk category.



The survival curve presented in this study raises the question of what should be recommended as the paramedic response time guideline. A number of factors must be assessed and known before this question can be answered. First, we need to know what, if anything, besides defibrillation contributes to patient survival in the out-of-hospital setting. Currently, no evidence exists that documents the benefit of any other out-of-hospital intervention currently provided by emergency medical technicians of all levels. Second, it is necessary to determine where in the sequence of response and care the intervention is best provided. Is it best performed by the first responder, the providers on the transporting ambulance, or, as has become the case with defibrillation, the layperson rescuer? Finally, difficult as it may be, a complete cost-benefit analysis must be accomplished to fully analyze the financial impact of further decreasing the response time interval. Although ambulance response times may be optimized through critical analyses of demand, time of day, traffic flow patterns, and ambulance posting locations,<sup>23,32-36</sup> significant changes usually require additional ambulances and often in significant numbers. At an approximate cost per staffed ambulance of \$500,000 annually, the financial impact may be enormous.

It has been suggested that a better measure of EMS system performance is measurement from onset of the medical incident to the intervention.<sup>37</sup> Unfortunately, this concept has not gained widespread acceptance. Paramedic response time is one component of this longer time interval, which generally begins when the ambulance unit has been assigned and dispatched and ends when paramedics arrive at the patient's side. In reality, the interval for medical response includes the time to discovery of the patient after the onset of the medical incident, the time to recognition that emergency medical assistance is needed, the time to access and communicate with the emergency response system, the ambulance response time itself, and the time from arrival of the ambulance at the scene to direct patient contact.<sup>38-41</sup> Clearly, minimizing the delay involved with each of these steps is essential to maximizing survival from out-of-hospital cardiac arrest; however, the only step measured and commonly reported is ambulance response time.

## LIMITATIONS

This study has a number of limitations. Data collection was performed retrospectively and was dependent on the computerized dispatch program to identify those cases for which an ambulance responded emergently. The accuracy of dispatch coding was not evaluated, and it is possible that cases in which the response mode was changed en route were not identified. In addition, our cohort was composed of patients transported to a single Level 1 trauma

center. The overall study population, therefore, most likely represented a larger proportion of trauma patients. In addition, the cases were stratified into risk categories based on the nature of the emergency as determined by the dispatch call taker and the ED diagnosis. It is possible that the actual nature of the medical emergency was different from that assigned by the call taker or the ED diagnosis. Linkage of the ambulance trip report with patient medical records was dependent on a manual search and matching of demographic information. This resulted in incomplete or missing data in some cases. This study included patients for whom the EMS system responded emergently and who were transported to our hospital. As a result, patients who refused transport were excluded from this study. This exclusion most likely resulted in an overall higher acuity for the patients included in our study, thus potentially biasing our results toward identifying a significant effect on patient survival.

Finally, we used survival to hospital discharge as the primary outcome measure for this study because it is a commonly used outcome measure that allows relatively easy comparisons to be made between studies. Other measures such as functional status, costs of medical care, and intensive care unit or hospital length of stay are also appropriate measures of the benefit of EMS response. These, however, were not evaluated in this study.

## CONCLUSIONS

A paramedic response time  $\leq 8$  minutes was not associated with survival to hospital discharge after controlling for several important confounders, including level of illness severity. However, a survival benefit was identified when the response time was  $\leq 4$  minutes. Adherence to the 8-minute response time guideline in most patients who access out-of-hospital emergency services is not supported by these results. Identification of patients, besides those who experience cardiac arrest, who may benefit from a short response time is required to provide effective and safe out-of-hospital care.

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**Robert Silverstein - Millennium Opponents: Demand Council Stop Tomorrow's Vote**

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**From:** John Schwada <john.schwada@gmail.com>  
**To:** John Schwada <John.Schwada@gmail.com>  
**Date:** 7/23/2013 10:45 AM  
**Subject:** Millennium Opponents: Demand Council Stop Tomorrow's Vote

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**For Immediate Release**

**The Latest News from Stop the Millennium Hollywood Project**

## **MILLENNIUM OPPONENTS DEMAND THE CITY STOP ITS REVIEW OF PROJECT:**

## **MEDIA REPORTS STATE AGENCIES' BIG PROBLEMS WITH MILLENNIUM PROJECT**

After extensive media coverage of the controversial Millennium project on Monday, opponents Tuesday called on the Los Angeles City Council to immediately cancel its review of the Hollywood skyscraper plan until all the new, troubling questions about it are answered.

Opponents of the Hollywood Millennium project obtained wide media coverage of their Monday news conference where they disclosed that two state agencies have raised troubling questions about the project: that the project may sit on top of an earthquake fault and that the developer's experts may have tried to hide this safety risk from the public and the city council. *See the links to the news stories below.*

For the City Council to approve the project tomorrow as scheduled, before these questions are resolved would be irresponsible and "possibly criminally negligent," Robert P. Silverstein, the opponent's environmental attorney, told reporters at the jam-packed news conference. A decision to approve the project would put the council on "shaky legal ground," Silverstein added.

In a subsequent letter to Council President Herb Wesson, Silverstein strongly urged the council to "cancel its currently-scheduled" Wednesday hearing until all the facts are available.

Meantime, Wesson's office told the *Los Angeles Times* Monday afternoon that he intended to go forward with City Council consideration of the project on Wednesday.

"What's the rush?" Silverstein said in response to Wesson. "The public and the council should have all the facts before them before a decision is made. To go forward with Wednesday's hearing would be a blatant attempt to railroad this project through without the deliberate and informed review that the public deserves and the law requires."

"Herb Wesson has apparently decided that the council should ignore the warning bells being rung by state agencies," said Fran Reichenbach, a leader of the coalition of 40 community groups that oppose the project. "He's seems to be saying 'damn the torpedoes, damn the facts, damn the public!! Full speed ahead!! The next question is: will the council go down this irresponsible road?'"

Hollywood Councilman Mitch O'Farrell, who represents the district where the Millennium's 35 and 39 story skyscrapers would be located, told the *Times* he was meeting Monday with stakeholders in his district about the project. But Reichenbach questioned O'Farrell's openness.

"We've tried to meet with him about this project and he's not been responsive," said Reichenbach. "I am concerned that Councilman O'Farrell is only hearing one side of the story." The *Times* did not name the "stakeholders" who were meeting with O'Farrell.

Still, Councilman Mitch Englander, who previously voted for the project as a member of the council's planning committee, told NBC4 News that he wants answers to the new, troubling questions about the project. "Sure I have those questions and I want those answers," Englander told reporter Conan Nolan.

The project's foes at Monday's news conference disclosed that the state of California's top geologist, Dr. John G. Parrish, informed Wesson last Saturday that the California Geologic Survey (CGS) has begun a "detailed study" to determine if the Hollywood Fault bisects the proposed Millennium project property.

In his letter to Wesson, Dr. Parrish warned that the study could conclude that the "prospective Millennium Hollywood Project...may fall within an Earthquake Fault Zone" and if such a conclusion were reached, Dr. Parrish said, it would "provide the

City with new information for its consideration of current and future proposed developments all along the Hollywood Fault."

"It doesn't take a rocket scientist to see what Dr. Parrish is saying," said Reichenbach. "He's saying the city should not approve this project until it has all the facts, including the CGS study."

"Because the city does not have all the facts, the City's Environmental Impact Report is incomplete and defective," Silverstein added. "The city cannot proceed until that report is redone to reflect the findings of the California Geologic Survey's recently commenced investigation. That's the law."

Meanwhile, the *Times* and the *Daily News* also reported that the City's Building and Safety Department is now saying it has asked the Millenium developer to conduct new seismic tests on its property. Neither the *Times* nor the *Daily News* reported if the developer has agreed to do the tests or not.

The *Daily News* further reported that a spokesman for the City's Building and Safety Department said the call for additional seismic studies was prompted by USC seismic expert Prof. James Dolan, who expressed concerns about possible fault lines crossing the project site.

"(Dolan) called and said, 'I think you have reason to be concerned,'" department spokesman Luke Zampirin told the *Daily News*, recounting the conversation between the USC professor and city officials. Zamperini told the *Daily News* that Dolan is the building department's "local expert" on earthquake matters.

But opponents of the project are leery about further tests being done by the developer. "It's like the fox protecting the chickenhouse, said Silverstein.

"Even if new tests are done by the developer, the results won't be known until sometime from now – yet the Council President seems to want the City Council to proceed without knowing the results," said Silverstein. "Again, that would show a complete disregard for the environmental review process which requires that all the facts be on the table before the council acts, not afterward.

"My question is: What's the rush for the council to consider this project?" Silverstein said. "And why should the *developer's* tests be trusted? The real tests – the ones that would have integrity – will be done by the California Geologic Survey."

**Silverstein also disclosed at yesterday's news conference that a separate State agency has opened an investigation to determine if two geologists - hired by the Millennium developer - falsified their reports about the earthquake situation on the Millennium property to mislead the public and the City about the project's proximity to the Hollywood Fault.**

**The state board that licenses geologists opened its probe at the prompting of the opponents. The opponents filed a comprehensive complaint accusing the Millennium developer's geologists of violating their professional duty to provide an accurate and fair picture of the seismic conditions at the site and existing data, including from the CGS itself.**

**"Our detailed complaint clearly provided probable cause for the State Board of Professional Engineers, Land Surveyors, and Engineers to start this probe," Silverstein said.**

#### **Links to Some of the News Reports:**

**Millennium Project** – NBC4 News – Conan Nolan reporting. Click on link below:  
<http://www.hightail.com/download/bWJwTXRUMGNBNkUxZXNUQw>  
(use WMV file for PC's, MOV for Mac's).

**Hollywood Millennium Project Under Scrutiny** - KCAL9 News - Louisa Hodge reporting. Click on link below:  
<http://www.hightail.com/download/bWJyS3d1YStveE1sYzlVag> (use WMV file for PC's, MOV for Mac's)

**Environmental Attorney Warns of 'Millennium Project' Quake Risk** - CBS News Website. [Here's the link](#)

**Millennium Towers Project Draws State Scrutiny** – TalkRadio 790 KABC - Michael Lindner reporting. [Here's the link.](#)

**LA Officials Seek More Earthquake Studies from Millennium Project** – *Daily News*, Dakota Smith reporting.

**City Calls for New Earthquake Test at Hollywood's Millennium Site** – *Los Angeles*

*Times*, Kate Linthicum reporting. Here's the link.

**Millennium Project** – ABC7 Eyewitness News. Click on the link below:

<http://www.hightail.com/download/bWJwTXRRUzgyWGMxZXNUQw> (use WMV file for PC's, MOV for Mac's)

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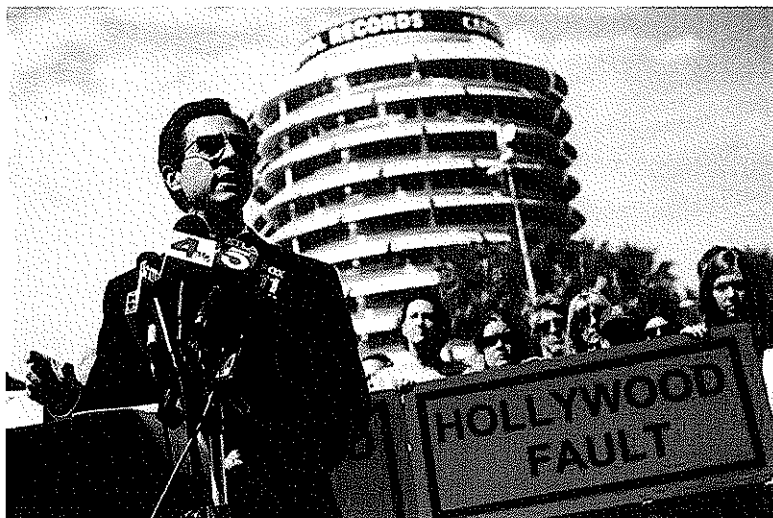


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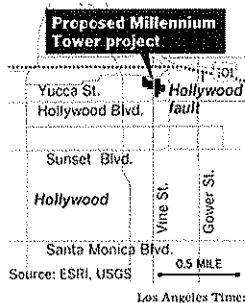
## Hollywood skyscrapers too close to earthquake fault, opponents say

Questions surrounding a nearby fault and the Millennium project's safety come as the City Council is poised to take up a major vote on the proposal.

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Robert Silverstein represents opponents of a proposed pair of office and residential towers that are to be constructed near the Capitol Records building. (Bethany Mollenkof, Los Angeles Times / July 22, 2013)



At Hollywood and Highland, tourists see the good, the bad and the seedy

By Kate Linthicum  
July 22, 2013 | 9:46 p.m.

Los Angeles officials have asked the developer of a controversial Hollywood skyscraper project to conduct a new round of seismic tests to determine whether the project's towers could be at risk in an earthquake. At the same time, state officials are carrying out their own geological study of the area to find out whether a known fault line near the building site is active.

The questions surrounding the project's safety come at a critical time, with the City Council poised to take up a major vote on the proposal Wednesday. If the project is approved, New York-based Millennium Partners would be able to build more than 1 million square feet of apartment, office, hotel and retail space on about 4.5 acres of vacant parking lots surrounding the famed Capitol Records building.

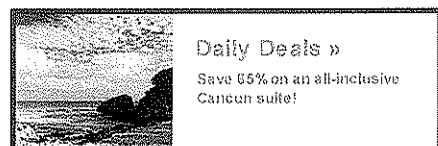
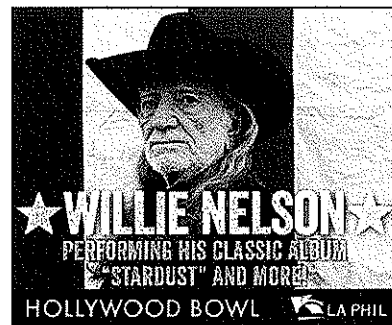
The project's developers say extensive testing has shown that the complex would not be built on an active fault. But critics of the project have seized upon the safety issue.

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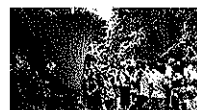
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spokesman, said he didn't believe actions of the engineers in his department were unethical and suggested Silverstein's complaint to the licensing board was strategic.

"When people are trying to stop a project, they will pull out any stops," Zamperini said.

But he added that city engineers recently asked the developer to conduct further tests because of growing concern over earthquake safety.

The state weighed in on the matter on Saturday, when the chief of the California Geological Survey sent a letter to Council President Herb Wesson, notifying him that the Millennium site "may fall within an earthquake fault zone."

In the letter, John Parrish said his agency launched a study of the Hollywood fault after several independent studies suggested it may be active. He said the study may not be completed until 2014, but noted that if the fault is found to be active, the city would be required by state law to withhold permits for new development projects until testing could prove that there is no risk.

Ed Johnson, a spokesman for Wesson, said the Council president plans to go ahead with Wednesday's hearing despite the letter from Parrish. Last month, the Council's Planning and Land Use Management committee signed off on the project after the developer agreed to lower the height of both towers, reducing one from 55 stories to 39 stories and the other from 45 to 35. Many neighbors who oppose the project say that's still too tall.

A spokesman for Councilman Mitch O'Farrell, who represents much of Hollywood, said he has been meeting with stakeholders and will not comment on the project until it comes to the council on Wednesday. In the past, O'Farrell said that he supported new development around the Capitol Records building but believed the towers originally proposed by the developer were too tall.

Millennium Partners and its executives gave at least \$11,400 to help get O'Farrell elected this year, according to city ethics records. The company gave \$10,000 to an independent group supporting O'Farrell, who was locked in a contentious race with former Public Works Commissioner John Choi. Two of the firm's partner's contributed \$700 each.

O'Farrell was not the only politician that benefited from the developer's help this year. Millennium contributed \$10,000 to a committee to help elect Mayor Eric Garcetti. It also gave \$7,500 to a group supporting Garcetti's opponent, then-city Controller Wendy Greuel, as well as \$5,000 to a group supporting City Councilman Gil Cedillo.

Garcetti, who represented Hollywood on the Council for 12 years before becoming mayor earlier this month, also said he opposed the original height of the towers. Since the developer downsized the buildings last month, he has remained mum on whether he supports the current iteration of the project.

On Monday, Garcetti spokesman Yusef Robb noted that the developer had met Garcetti's demands for shorter towers and said the mayor "will continue to monitor public, city department and other input." Robb did not comment on the concerns over earthquake safety or the allegations that engineers in the Department of Building and Safety failed to properly evaluate the project's risk.

A yes vote on Wednesday would give the developer permission to build on the site, although the developer would still need to secure building permits with the city before beginning construction.

Until recently, criticism of the project had focused on its large scale — initial architectural renderings showed two soaring towers, one 55 stories and one 45 stories, before the project was downsized — as well as its potential impact on traffic. Earlier this year, the California Department of Transportation added its concerns, saying the city hadn't factored in how the project would affect travel on the nearby 101 Freeway.

But in recent weeks, an attorney representing community groups that oppose the proposal has launched a campaign warning that the project site is dangerously close to what is known as the Hollywood fault.

At a news conference Monday, attorney Robert P. Silverstein accused Millennium Partners of using phony data to hide the building site's proximity to the fault in geological reports it filed with the city. Philip Arons, a cofounder of Millennium Partners, said Monday that those allegations are false. In a statement, Arons accused Silverstein of "bluster."

Silverstein also blamed engineers at the city's Department of Building and Safety for not doing their diligence in evaluating the risk.

His complaints to the California Board for Professional Engineers, Land Surveyors and Geologists prompted the state licensing board to open an investigation into alleged misconduct by city engineers last month.

Luke Zamperini, a Department of Building and Safety



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## **L.A. officials seek more earthquake studies from Millennium developer**

*By Dakota Smith, Staff Writer LA Daily News*

Posted:

DailyNews.com

Los Angeles officials are asking the developer of a twin skyscraper project in Hollywood for more earthquake studies, saying additional research of nearby fault lines is needed.

The city's request for further geological studies for the Millennium project was prompted by concerns highlighted by a USC earthquake expert who approached officials last week, said Building and Safety spokesman Luke Zamperini.

Zamperini said USC's James Dolan expressed concerns about possible fault lines in Hollywood after studying the area at the request of locals opposed to the project.

"(Dolan) called and said, 'I think you have reason to be concerned,'" Zamperini said, recounting the conversation between the professor and city officials.

State officials are launching their own earthquake study surrounding the project, according to a letter provided Monday by opponents.

Calls for additional fault-line research marks the latest wrinkle for the Millennium, a proposal that would add one 35-story tower and one 39-story tower near the iconic Capitol Records building. Billed by the developer as a "smart-growth" high density project, the matter will be heard by the City Council at its Wednesday hearing. Dozens of neighborhood groups object to the project, citing worries about a possible fault near the site, among other issues. Additionally, Caltrans is concerned about the traffic impact on the nearby 101 Freeway -- worries that are unfounded, say city transportation officials, who have declined to do the further studies requested by the state agency.

In a statement Monday, Philip Aarons, head of Millennium Partners, dismissed concerns about the potential geological hazards. "The findings give us complete confidence that our project site is safe," he said, adding that a final geotechnical report, to the satisfaction of the city's Department of Building and Safety, would be part of the approval process. "There is no evidence of an active fault on the project site."

The city initially cleared the Millennium's geology report, which was conducted by an outside group hired by the New York developer, Zamperini said Monday. It was approved by a subordinate of city geologist Dana Prevost.

After Dolan called Prevost last week, more studies were ordered. While Building and Safety occasionally will ask a developer for more geological studies, the city isn't usually approached by USC professors about developments, Zamperini said. He called Dolan "our local expert" on earthquakes.

Dolan was not available for comment Monday.

The professor recently advised the Metropolitan Transportation Authority on its planned Westside subway project, concluding with Metro officials that the project, which is opposed by some Beverly Hills residents, is safe from earthquake-related risks.

Attorney Robert Silverstein, who represents neighborhood groups fighting Millennium, held a press conference near the site Monday to highlight the risks adversaries say are posed by the fault line. "The Millenium project team tried to illegally hide the truth about the dangers of this project," he said.

A spokesman for City Councilman Mitch O'Farrell, who oversees the Hollywood district, said the councilman wouldn't comment until the Wednesday hearing.

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**HOLLYWOOD  
BOWL 2013**



# Uh Oh, Are the Millennium Skyscrapers Atop the Hollywood Fault?

By **Gracie Zheng**

Published Tue., Jul. 23 2013 at 12:43 PM



via [millenniumhollywood.net](http://millenniumhollywood.net)

***Update: The developer denies its fault study is wrong, see at end.***

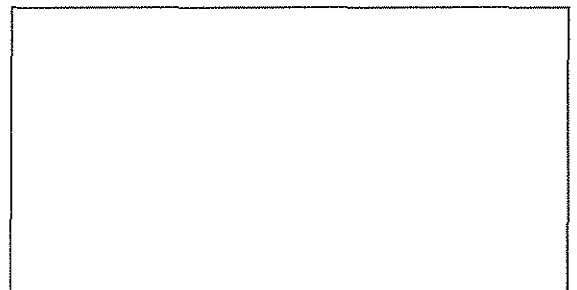
Despite a sharp warning to the L.A. City Council from Gov. Jerry Brown's top geologist on Saturday not to move forward on development permits, the council apparently is

voting tomorrow on whether or not to approve the Millennium Hollywood twin skyscrapers, which many elected leaders embrace as a point of civic pride.

If the council approves Millennium Hollywood, that vote could set up a battle between four key groups: state geologists and the law they uphold, which prohibits new residences next to or atop earthquake faults; thousands of L.A. residents who oppose the towering skyscrapers planned next to Capitol Records; New-York based developer Millennium Partners; and a passel of pro-skyscraper elected officials and their supporters.

The controversial 35- and 39-story towers would dwarf the historic 13-story Capitol Records building, soaring hundreds of feet and containing 492 condos or apartments, a posh hotel, more than a quarter million square feet of offices, a sports club and retail space.

Caltrans is already furious about it because the city has



ignored its reports of a potential massive impact on the adjacent 101 freeway once the dual skyscrapers are shoehorned into congested Hollywood.

Then, just hours after City Council President Herb Wesson on Friday placed a schedule on the city's web page showing that the skyscrapers' approval hearing was set for Wednesday, State Geologist John Parrish fired off an unusual Saturday letter to Wesson.

Parrish, who is appointed by the governor and not exactly a guy to be trifled with, told Wesson to hold off issuing development permits until the City Council knows something incredibly basic: Is the project sitting on an active earthquake fault zone?

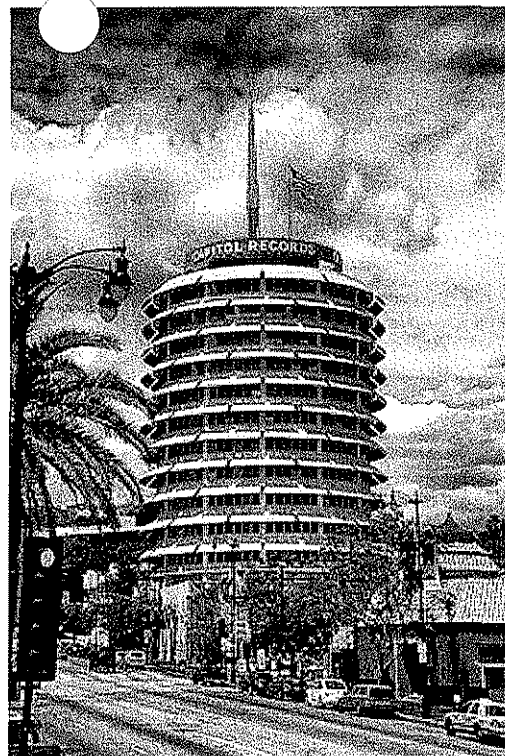
The letter reads, in part (our emphasis):

"They [cities and counties affected by the zones] **must withhold development permits** for sites within the zones until geologic investigations demonstrate that the sites are not threatened by surface displacement from future faulting."

He went on to say that his division is involved in a detailed study of the Hollywood Fault and its associated "splay faults" for possible zoning as "active."

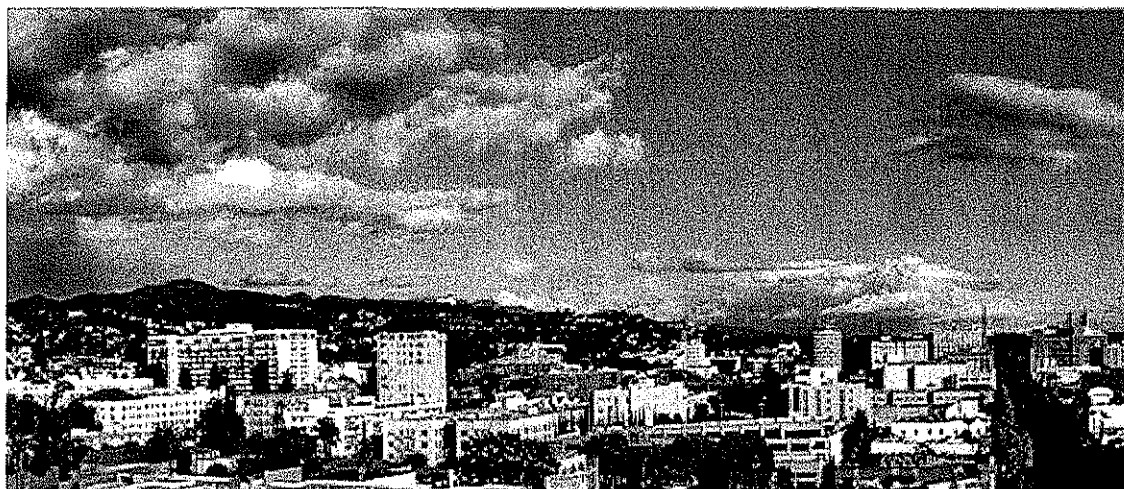
That can't be good news for city boosters who have been pushing this development along for years in the face of fairly intense community opposition.

The state's investigation and mapping of the fault is no small thing. It will take until the end of this year or early 2014 to complete.



Ryan Desiderio

Just too cool to leave it be?



Yet city planners and the City Council seem in a curious rush to go ahead to approve the giant project.

It reminds people of the

Hollywood's history is low-slung, not high-rise.

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Hollywood/Gower project, another skyscraper pushed hard by elected officials and developers for Hollywood, yet hated by many in the community.

In that case, the City Council Planning and Land Use Committee rushed it through a final, highly truncated public hearing and failed to conduct an independent study of the traffic impacts.

The City Council then gave the highly dubious plan a stamp of approval in 2011 -- without bothering to ask or learn that the "traffic impact" study was written not by the city Planning Department, but by the developer.

In a very rare legal ruling, a Los Angeles Superior Court judge found that city leaders had violated the due-process rights of Los Angeles residents, and the Hollywood Gower project died -- for now.

The Silverstein Law Firm is credited with discovering the true authorship of the bogus traffic study in the Hollywood Gower case.

Now, The Silverstein Law Firm is back, representing more than 40 community groups in and around Hollywood who oppose Millennium towers.

The law firm undertook detailed research of the official fault maps from the state's California Geological Survey, according to a spokesman for the firm. It claims it discovered that part of the Hollywood Fault travels right under the project.

The law firm then filed a complaint in June with the Board for Professional Engineers, Land Surveyors, and Geologists against Millennium's private engineers, Langan Engineering. According to the skyscraper's opponents, Langan's engineers reported in their study that the Hollywood Fault is hundreds of feet away from the twin towers.

The complaint letter to the licensing board accuses the engineers of allegedly lying about the location of the Hollywood Fault:

They "failed to report the location of strands of the Hollywood Fault" and "created ... a local map depicting the Millennium Project Site location as being approximately 850 feet north of where it actually is."

John Schwada, a spokesman for the numerous communities fighting the skyscrapers, says, "It doesn't take a rocket scientist to understand what the California Geological Survey is saying."

In addition to the state geologist's study of the fault itself, the state licensing board is investigating-- with its probe focused on the claims made by developer's engineers.

Says Schwada:

"This is so crazy. The city is leading toward a project that the city has serious concerns about. You bet your sweet patootie people will sue if the city approves the project."

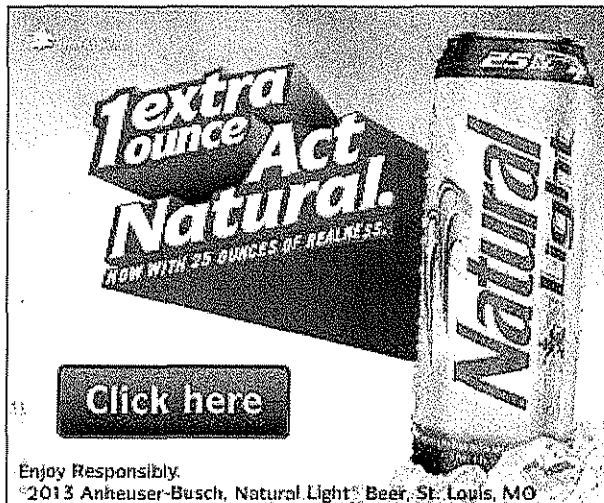
### Update:

In a prepared statement, Millennium Partners denied Silverstein's allegations regarding the environmental review of the Millennium Hollywood project as "false." It did not directly address the discrepancy in the findings between the two camps.

"The only subsurface investigation done to date at this location was completed in connection with the project and found no evidence of an active fault on the project site."

"The findings give us complete confidence that our project site is safe."

"We have always understood that the state may further investigate the location of the Hollywood Fault and we welcome such investigation. However, it is important to note that the most important data is the site-specific investigation that has already been undertaken. No amount of bluster on Mr. Silverstein's part changes that data."





# The Millennium Manhattanization of Hollywood

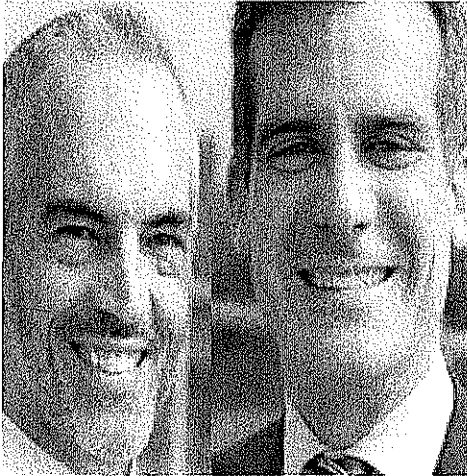
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Written by Jack Humphreville

19 Jul 2013



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LA WATCHDOG - If Mayor Eric Garcetti is looking to remove the heads of the Transportation, Building and Safety, and Planning Departments, he needs to look no further than Millennium Hollywood, a 1.2 million square foot real estate development that will create massive gridlock at Hollywood and Vine and even screw up the traffic on the 101 Freeway.

And the many Hollywood residents who are concerned about the Manhattanization of their community need to look no further than Mitch O'Farrell for the elected official who has the authority to lessen the impact of this highly profitable, \$664 million high rise development.

The Department of Transportation's analysis of the impact on traffic of this parking starved development is deficient. DOT failed to properly analyze the impact of this mega development on the 101 Freeway despite repeated written and oral requests from the California Department of Transportation to the DOT and certain of our elected officials.

Furthermore, Transportation did a poor job of analyzing the cumulative impact of all the 60 to 70 prospective developments in Hollywood which, according to one knowledgeable Hollywood resident, includes 8,800 dwelling units, over 5 million square feet of retail and commercial space, and more than 800,000 square feet devoted to hospitals and schools.

Nor did DOT do an adequate job of determining how the City's Bicycle Plan would mesh with the increased traffic flows from Hollywood Millennium and the 60 to 70 prospective developments.

Nor did DOT take into consideration the impact of the massive NBC/Universal development on the already clogged 101 Freeway despite requests by Caltrans and other impacted parties.

Building and Safety, on the other hand, appears to be asleep on the job. It failed to review and analyze the errors in the independent geologic and seismic survey commissioned by the developer, even after Robert Silverstein, the lawyer for the Hollywood community, pointed out in a public hearing and in writing that Millennium Hollywood's two skyscrapers are most likely sitting on an active earthquake fault.

According to a letter to the General Manager of Building and Safety from Silverstein, the department held off on writing a previously promised "rescission letter" until it had the opportunity to meet with the Millennium Hollywood developer.

Needless to say, the Planning Department was knee deep in this mess, as it has been in many other developments that threaten our neighborhoods.

In this case, the President of the City Planning Commission, Bill Roschen, was hired by the Millennium Hollywood developers, creating a huge conflict of interest that poisoned the entire process. But this did not seem to bother the Planning Commission or the Planning Department as they both blessed this oversized development that will tie up traffic for miles in every direction.

But what is the position of Mitch O'Farrell, the newly elected Council Member who is intimately familiar with Hollywood Millennium real estate development.

On the one hand, his office claims that he has not made up his mind.

Baloney!

On July 11, in an almost unprecedented move, a 51 page "revised" ordinance was placed in the Council File, which, if passed by the City Council, would give the New York based developer a free hand in developing this property with very little oversight by the City and the community.

This ordinance, which was not discussed in the Planning and Land Use Management Committee meeting on June 18, did not even outline the public benefits such as the proposed \$4.5 million donation to affordable housing. Nor did it provide for permanent transportation arrangements, but limited shuttle and parking arrangements to only 15 years. And surprisingly, the ordinance did not provide for a Project Labor Agreement or a Living Wage for hotel workers.

This ordinance would have never seen the light of day if it had not been approved by the local Council Member.

But then again, O'Farrell was the beneficiary of significant campaign contributions by the Millennium gang in early May, a critical time in the election.

Rather than proceeding with this highly controversial development where there are significant disagreements about traffic, geology, and other facts and claims, the Herb Wesson City Council should defer acting on this

matter. Instead, it should establish an INDEPENDENT commission, paid by the developer, to review and analyze in an open and transparent manner the development and report back to the City Council within 90 days.

This independent commission would review the related geology, the impact of Millennium Hollywood and other developments on Hollywood's traffic and the 101 Freeway, its parking and transportation arrangements, its height and the concerns regarding vertical blight, any potential conflicts of interest, the number of full time jobs created, the impact on the local economy, and all campaign and other civic contributions by the developer.

While the New York based developer and his \$1,000 an hour downtown lawyers, lobbyists, and other suits will threaten to walk away from this deal, the projected rates of return of six times on the equity investment is too tempting.

There is no doubt that Millennium Hollywood will have a significant impact on the area surrounding Hollywood and Vine for many generations of Angelenos. 90 days is a New York minute and we need to make sure we are not getting screwed by the fast talking gang from the big city who will be long gone once they have the cash, leaving us with Manhattan style gridlock.

*(Jack Humphreville writes LA Watchdog for CityWatch. He is the President of the DWP Advocacy Committee, the Ratepayer Advocate for the Greater Wilshire Neighborhood Council, and a Neighborhood Council Budget Advocate. Humphreville is the publisher of the Recycler Classifieds -- [www.recycler.com](http://www.recycler.com). He can be reached at: [ajack@gmail.com](mailto:ajack@gmail.com). Hear Jack every Tuesday morning at 6:20 on McIntyre in the Morning, KABC Radio 790.)*

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Article by Jack Humphreville