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CF 13-0593
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Items 21-22

July 23, 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:

By now you must have seen the July 20, 2013 letter from California State Geologist Dr. John Parrish regarding the State's commencement of an Alquist-Priolo investigation which will include the Millennium Hollywood Project site. I am attaching a copy of that letter.

It is obvious from independent and authoritative data, including the California Geological Survey's 2010 Active Fault Map, Professor Dolan's studies (1997) and Crook & Proctor's studies (1992), that the Hollywood Fault bisects the Millennium Hollywood Project site. Unfortunately, it is equally obvious that your Department, and Mr. Prevost in particular, have utterly failed in their duties to the public and to the City Council by enabling the Millennium Hollywood Project developer and its consultants to proceed almost to the point of no return, with the City Council on the verge of voting to approve this Project tomorrow, July 24, 2013, despite the fact that the developer's studies are completely below professional standards.

Each of you should have dismissed and condemned those studies as grossly inadequate. Each of you should be informing the City Council that the City Council should cancel the hearing tomorrow, and should certainly not vote to approve any Project entitlements based on this faulty EIR. This is especially true in light of the State Geologist, Dr. Parrish's clear statements to the City Council in the Millennium matter regarding the State's significant new actions and investigation.

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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 full disclosure, analysis and mitigation of environmental impacts as part of the EIR process before a project is approved by the City Council.

“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 is occurring here. The City is omitting critical material from the State Geological Survey’s ongoing Alquist-Priolo mapping investigation process, which will be complete in approximately 6 months. That subverts the purposes of CEQA because material necessary to informed decisionmaking and informed public participation has been omitted from 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

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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 Hollywood Project EIR's total disregard of truthful analysis, the State of California's concerns, and ongoing State investigations directly pertaining to the Millennium Hollywood Project site have greatly increased that apprehension.

Each of you and your Department should have long ago recommended to the City Council that they reject the developer's geologic and seismic studies as false, misleading and inadequate, and derivatively, must reject the final EIR.

I also note that you have failed to respond to my July 15, 2013 letter to you. Inexplicably, you appear to be ignoring State Geologist Dr. Parrish's July 20, 2013 letter as well.

It would be a relatively simple matter to require trenching across the site of at least 30-60 feet deep to definitively define this issue. That is exactly what you should be ordering a neutral and impartial geologist or geologists, appointed by responsible officials, including from the State, before any further review and processing of the Millennium Hollywood Project's applications and entitlements occurs. Why would you allow this to proceed in the face of all of the independent evidence, and now the California State Geologist's involvement? Why would you not immediately insist on proper trenching of the property?

If the City Council and developer proceed tomorrow, then they do so at their own peril. When things fall apart in this matter, as they will, I believe there will be a seismic shift within your Department because of your inexcusable failures to date.


I am also copying the Millennium Hollywood Project developer's attorney, Jerold Neuman, on this correspondence. I assume that he has informed his client about all of these developments, and in turn that his client has fully disclosed all of these developments to its investors, insurers and all appropriate governmental regulatory

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agencies both in California and its home state of New York. If not, I urge them to do so immediately.

To new City Attorney Feuer: You should be advising your client, the Los Angeles City Council, of their liability in this matter if they approve this Project and proceed based on its grossly inadequate EIR.

Please ensure that this letter and the attached letter from State Geologist Dr. Parrish are included in the administrative record for the Millennium Hollywood project. Thank you.

Very truly yours,

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM

RPS:jmr

Attachment

cc: June Lagmay, City Clerk
Hon. Eric Garcetti, Mayor
Hon. Herb Wesson, City Council President
Hon. Mitch O'Farrell, Councilman
Hon. Gilbert Cedillo, Councilman
Hon. Paul Krekorian, Councilman
Hon. Bob Blumenfield, Councilman
Hon. Tom LaBonge, Councilman
Hon. Paul Koretz, Councilman
Hon. Felipe Fuentes, Councilman
Hon. Bernard Parks, Councilman
Hon. Curren D. Price, Councilman
Hon. Mike Bonin, Councilman
Hon. Mitchell Englander, Councilman
Hon. Jose Huizar, Councilman
Hon. Jose Buscaino, Councilman
Hon. Mike Feuer, City Attorney
Jerold Neuman, Esq.
(All via email)



DEPARTMENT OF CONSERVATION CALIFORNIA GEOLOGICAL SURVEY

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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.

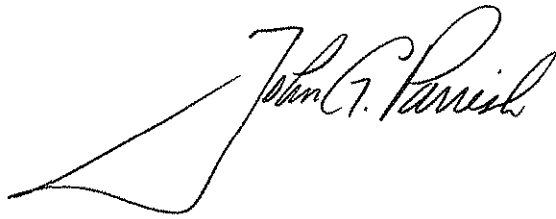
It is our understanding that the Los Angeles City Council and the Planning Commission are in the process of reviewing plans for the prospective Millennium Hollywood Project, which may fall within an Earthquake Fault Zone should our investigations conclude that an active portion of the Hollywood Fault 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.

The Department of Conservation's mission is to balance today's needs with tomorrow's challenges and foster intelligent, sustainable, and efficient use of California's energy, land, and mineral resources.

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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 written in a cursive style with a large, sweeping initial "J".

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

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