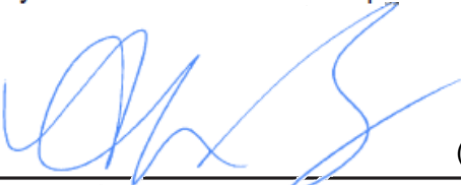


TRANSMITTAL		0220-05851-0000
TO The City Council	DATE 06/18/21	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT 13
<p>PARK FEES – REFUND FOR VESTING TENTATIVE TRACT 66044</p> <p>Approved and transmitted for your consideration. See the City Administrative Officer report attached.</p> <div style="text-align: center;"> _____ ERIC GARCETTI MAYOR</div> <div style="text-align: right; margin-top: -50px;">(Ana Guerrero for)</div>		
RHL:JSS:08210060t		

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: May 20, 2021

CAO File No. 0220-05851-0000

Council File No.

Council District: 13

To: The Mayor

From: Richard H. Llewellyn, Jr.,  City Administrative Officer

Reference: Letter to the Mayor from the Board of Recreation and Parks Commissioners dated April 15, 2021; referred by the Mayor on May 5, 2021

Subject: **PARK FEES – REFUND FOR VESTING TENTATIVE TRACT 66044**

RECOMMENDATION

That the Council authorize the President and Secretary of the Board of Recreation and Parks Commissioners to issue Park Fee refunds to the following requestors totaling \$2,494,833 for Vesting Tentative Tract (VTT)-66044:

- 1) 5545 Virginia Ave Owner, LLC (\$137,016)
- 2) 5544 Virginia Ave Owner, LLC (\$216,942.00)
- 3) 5637-5667 SM BI Member LLC (\$2,140,875)

SUMMARY

At its meeting of April 15, 2021, the Board of Recreation and Parks Commissioners approved the refund claim (Claim No. 154475) from the current owners/applicants of the Project (VTT-66044) for a refund of Park Fees totaling \$2,494,833. The funds for the reimbursement will be decommitted from the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project.

The provisions of Los Angeles Municipal Code (LAMC) Section 17.12 require most residential developments to either dedicate park land or pay an in-lieu fee (Park Fees) as a condition of recording a final subdivision map.

The requestors paid Park Fees totaling \$2,494,833 to the Department of Recreation and Parks on February 24, 2017 for a residential project located at 5661 Santa Monica Boulevard (Department of City Planning Case No. VTT-66044) in the Hollywood Community Plan Area of the City.

LAMC 17.07 (N) requires the Department to process a refund of Park Fees if the final tract map is not recorded. The Department of City Planning has confirmed that all applications for a Final Map recordation associated with the Park Fee refund request have been terminated.

FISCAL IMPACT STATEMENT

There is no negative impact to the General Fund inasmuch as the Department of Recreation and Parks received \$2,494,833 in Park Fees and will be required to return such fees to the payer.

FINANCIAL POLICIES STATEMENT

To the extent applicable, the recommendation above complies with the City's Financial Policies in that one-time revenue will be used to meet one-time expenditures.

RHL:JSS:08210060c

DEPARTMENT OF RECREATION
AND PARKS

BOARD OF COMMISSIONERS

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MATTHEW RUDNICK
ACTING ASSISTANT GENERAL MANAGER

(213) 202-2633 FAX (213) 202-2614

April 15, 2021

Honorable Eric Garcetti, Mayor
City of Los Angeles
Room 303, City Hall

Attention: Ms. Heleen Ramirez

Dear Mayor Garcetti:

In accordance with Executive Directive No. 3, attached herewith is a proposed refund claim from 5545 Virginia Ave Owner, LLC for a refund in the amount of One Hundred Thirty-Seven Thousand, Sixteen Dollars (\$137,016.00), a proposed refund claim in the amount of Two Hundred Sixteen Thousand, Nine Hundred Forty-Two Dollars (\$216,942.00), and a proposed refund claim from 5637-5667 SM BI Member, LLC for Two Million, One Hundred Forty Thousand, Eight Hundred Seventy-Five Dollars (\$2,140,875.00) in Park Fees.

Also attached is Board Report No. 21-064, which was adopted by the Board of Recreation and Park Commissioners at its Regular Meeting held on April 15, 2021. After your review and recommendation, the proposed Agreement will be submitted to the Board for final action.

If you have any questions with regard to the proposed refund claim, please contact Meghan Luera, Management Analyst, Planning, Maintenance and Construction Branch, at (213) 202-2669.

Very truly yours,

BOARD OF RECREATION AND
PARK COMMISSIONERS

HAROLD ARRIVILLAGA
Commission Executive Assistant II

Attachments: Report No. 21-064

cc: Meghan Luera, Management Analyst, Planning, Maintenance and Construction Branch



APPROVED
APR 15 2021
BOARD OF RECREATION
AND PARK COMMISSIONERS

BOARD REPORT

NO. 21-064

DATE April 15, 2021

C.D. 13

BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PARK FEES – REFUND FOR VTT-66044 AND RELATED CASE CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR – DECOMMITMENT OF PARK FEES FROM LAS PALMAS SENIOR CITIZEN CENTER – NEW SENIOR CITIZEN AND CHILD CARE CENTER (PRJ21175) (PRJ21176) PROJECT

AP Diaz	_____	M. Rudnick	_____
H. Fujita	_____	<i>for</i> C. Santo Domingo	<i>DE</i> _____
J. Kim	_____	N. Williams	_____



General Manager

Approved X Disapproved _____ Withdrawn _____

RECOMMENDATIONS

1. Approve the refund of payment from 5545 Virginia Ave Owner, LLC for One Hundred Thirty-Seven Thousand, Sixteen Dollars (\$137,016.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
2. Approve the refund of payment from 5544 Virginia Ave Owner, LLC for Two Hundred Sixteen Thousand, Nine Hundred Forty-Two Dollars (\$216,942.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
3. Approve the refund of payment from 5637-5667 SM BI Member LLC for Two Million, One Hundred Forty Thousand, Eight Hundred Seventy-Five Dollars (\$2,140,875.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
4. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit this report to the Mayor in accordance with Executive Directive No. 3 (Villaraigosa Series);
5. Approve the decommitment of Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) in Park Fees from the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project;
6. Direct the Department of Recreation and Parks' (RAP) Chief Accounting Employee or designee to, upon receipt of the necessary approvals, issue a refund check for each refund approved in Recommendations No. 1 through 3 from Fund 302, Department 89, Account 89716H WO# QT066044; and

BOARD REPORT

PG. 2 NO. 21-064

7. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

SUMMARY

RAP is in receipt of a request for refund of park acquisition and development fees paid to RAP pursuant to Los Angeles Municipal Code (LAMC) Section 17.12 in connection with Vesting Tentative Tract (VTT) project number 66044. A refund claim (Claim No. 154475) was filed on February 22, 2021 by the current owners/applicants of the Project with VTT-66044 and related Case No. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR ("Claimant") in the amount of Two Million, Four Hundred Ninety-Four Thousand, Eight Hundred Thirty-Three Dollars (\$2,494,833.00). On February 24, 2017, RAP received three (3) checks totaling Two Million, Four Hundred Ninety-Four Thousand, Eight Hundred Thirty-Three Dollars (\$2,494,833.00) for VTT-66044, which was for a residential project located at 5661 Santa Monica Boulevard.

The three (3) checks received by RAP were in the following amounts from the following entities:

- One Hundred Thirty-Seven Thousand, Sixteen Dollars (\$137,016.00) from 5545 Virginia Ave Owner, LLC
- Two Hundred Sixteen Thousand, Nine Hundred Forty-Two Dollars (\$216,942.00) from 5544 Virginia Ave Owner, LLC
- Two Million, One Hundred Forty Thousand, Eight Hundred Seventy-Five Dollars (\$2,140,875.00) from 5637-5667 SM BI Member LLC

The provisions of LAMC Section 17.12 which was in effect at the time these Park Fee payments were made required that no final subdivision map be approved or recorded unless land within the subdivision has been dedicated to the City for park or recreational purposes, and that, as an alternative to land dedication, a fee in-lieu (Park fee) could be paid within one year after Council approves the final map.

Further, then LAMC Section 17.07 (N) instructed RAP to process and approve refunds of Park fees, upon written request of the project subdivider, if the final subdivision map was not recorded. However, it did not establish any procedures relative to how a Park fee refund request was to be reviewed, processed, and approved by RAP, nor did it describe what documentation the refund claimant would need to provide to RAP in order to guarantee that the final subdivision map would not be recorded. Additionally, it did not require that the refund request be filed on any specific form nor that it be filed by a certain date.

The City's refund provisions and procedures for certain fees are found in LAMC Sections 22.12 and 22.13. LAMC Sections 22.12(a) and 22.13(a) authorize the head of the Department to approve refunds of tax, license fees, permit fees, or application fees without the prior approval of the City Council, if such refund does not exceed a certain monetary limit. That monetary limit is subject to adjustment at the beginning of each fiscal year and the amount of the adjustment is calculated by the City Controller. The current limit of Department head refund authority is

BOARD REPORT

PG. 3 NO. 21-064

Fifty-Two Thousand, Three Hundred Seventy-One Dollars (\$52,371.00). All refunds request over that limit are subject to the prior approval of the City Council.

The Claimant has indicated that the map proceedings on VTT-66044 and related case no. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR have been terminated, as confirmed in letters from the Department of City Planning (Attachment 2) confirming such termination. Thus, in accordance with LAMC 17.12 and the previous provisions of LAMC Section 17.07 (N) which was in effect at the time the Claimant made the Park Fee payment at issue, RAP staff recommends the approval of the claim for refund of Park Fees paid to RAP.

Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project

Previously, the Board approved the allocation and commitment of Four Million, Seven Hundred Forty-Eight Thousand, One Hundred Seventy-Nine Dollars and Six Cents (\$4,748,179.06) in Quimby and Park Fees to the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project (Report No. 18-234). The commitment of Park Fees to the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project included Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) paid in connection with VTT-66044 and CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR.

The previously approved scope of work of the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) includes the demolition of the existing senior center and the construction of new senior center and child care center (Report No. 18-234). The Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project is currently in the design phase. Design of the Project is being managed by the Architectural Division of the Bureau of Engineering (BOE).

Upon approval of this Report, Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) in Park Fees will be decommitted from the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project.

The total amount of funding available for the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project will be Two Million, Three Hundred Thousand, Three Hundred Nineteen Dollars and Sixty-Nine Cents (\$2,300,319.69).

ENVIRONMENTAL IMPACT

The proposed action consists of a financial transaction. By its nature, such transaction will have no effect on the environment. Section 21065 of the California Public Resources Code (PRC), as well as Section 15378, Chapter 19 of California Environmental Quality Act (CEQA) Guidelines define “Project” as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, no CEQA clearance is required for this action.

BOARD REPORT

PG. 4 NO. 21-064

FISCAL IMPACT

The approval of this Report will not have an impact on RAP's General Fund.

STRATEGIC PLAN INITIATIVES AND GOALS

Approval of this Board Report advances RAP's Strategic Plan by supporting:

Goal No. 7: Maintain a Diverse and Dynamic Workforce

Outcome No. 3: Excellent customer service provided to all park users

Result: RAP's commitment to excellent customer service extends beyond the park user experience to RAP's interactions with the development community. Being responsive and expeditious regarding all Park Fee and Quimby requests is paramount to excellent customer service.

This Report was prepared by Meghan Luera, Management Analyst, Planning, Maintenance and Construction Branch.

ATTACHMENTS

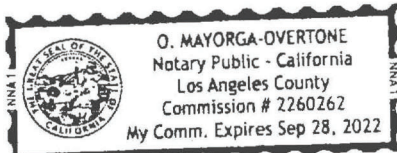
- 1) Claim for Refund Form – Claim #154475
- 2) Termination Letters for VTT-66044 and CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 22nd
day of February, 20 21, by Shaul Kuba
Vice President

proved to me on the basis of satisfactory evidence to be the
person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in blue ink, appearing to read 'Shaul Kuba', written over a horizontal line.

Attachment A

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

February 23, 2021

VIA EMAIL

Mr. Darryl Ford
Department of Recreation and Parks
221 North Figueroa St., Suite 400
Los Angeles, CA 90012

Re: Claim for Refund Attachment A: Marketplace Project – Park Fees Reimbursement Request

Dear Darryl:

As we discussed during our call on January 5, 2021, 5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC, and 5545 Virginia Avenue (LA) Owner, LLC (collectively, “Owner”) is seeking a refund of the Park Fees (aka Quimby Fees) previously paid for the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue (“Property”) located in the Hollywood area of the City. The Park Fees were paid for the Marketplace project, which was approved by the City Council on August 17, 2007 (case numbers CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044; CF 07-1824) (the “Project”).¹

The Project proposed the development of 437 residential units and approximately 377,900 square feet of commercial uses. In the process of clearing conditions for the Project, Owner paid to the City a total of \$2,494,833 in Park Fees on February 24, 2017. The receipt for the Park Fees is enclosed at Exhibit 1.

As a result of changing market conditions, Owner did not develop the Project and is now selling the Property and terminating the Project approvals. Owner has not obtained any building permits for the Project, has not recorded VTT-66044, and has not otherwise effectuated the Project’s Zone Change. Because the Project included a Vesting Tentative Tract Map (“VTTM”), the Project is vested under the Los Angeles Municipal Code (“LAMC”) version in effect when the application was deemed complete, which did not include a requirement that a claim for refund of Park Fees be submitted within any particular timeframe so long as the final map is not recorded.

¹ Prior to the application of any extension related to the tolling of deadlines as a result of COVID-19, the Project’s approvals do not expire until August 17, 2021.

Owner is making this Claim for Refund request and concurrently has requested that the Department of City Planning terminate case numbers CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 pending confirmation from the City Attorney's Office that terminating the Project's cases will not affect Owner's right to the Claim for Refund by virtue of terminating the cases. A copy of this contingent termination request is enclosed at Exhibit 2.

A detailed justification for the refund of Park Fees is provided below.

A. Park Fees Background

The Project includes two conditions that provide for Park Fees. One condition is related to the VTTM and the other is related to the Zone Change:

VTT Condition C-3 provides: Prior to the recordation of the final map, the subdivider shall pay or guarantee the payment of a park and recreation fee based on the latest fee rate schedule applicable. The amount of said fee to be established by the Advisory Agency in accordance with Section 17.12 of the Los Angeles Municipal Code and to be paid and deposited in the trust accounts of the Park and Recreation Fund.

(T) Condition 10 provides: Recreation and Parks. Per Section 12.33 of the Municipal Code, the applicant shall dedicate land for park or recreational purposes and/or pay the applicable Quimby fees for the construction of condominiums, or Recreation and Park fees for construction of apartment buildings.

In satisfaction of these conditions, on February 24, 2017, Owner paid \$2,494,833 to the Department of Recreation and Parks ("RAP").

B. Vested Version of LAMC Entitles Owner to Refund of Park Fees

Because the Project approved in 2007 includes a VTTM, the Project is vested under the prior LAMC version in effect when the application was deemed complete. The prior LAMC did not include the City's Park Fee Ordinance 184,505, which imposed a requirement that Park Fee refunds must be requested within one year of payment and did not take effect until January 11, 2017 (*see* LAMC Section 12.33). Accordingly, the LAMC as vested and applied to the Project allows an applicant to request a refund of Park Fees at any time prior to the recordation of a final map, and if the request is made in that period, requires RAP to issue the refund. Specifically, LAMC Section 17.07(N) (as vested) provides: "[i]f the final map is not recorded, then, upon the written request of the subdivider, the Department of Recreation and Parks shall process and approve the refund of such fees to the subdivider."

LAMC Section 22.12(a), which provides that a claim for refund must be filed within 12 months of payment, does not apply to fee refunds processed under 17.07(N). It is a well settled principle of statutory construction that a general provision is controlled by one that is more specific, the more specific being treated as an exception to the general. (*See e.g. San Francisco*

Taxpayers Assn. v. Board of Supervisors, 2 Cal. 4th 571, 577 (1992).) Because LAMC Section 17.07(N) provides a specific rule for refunds of Park Fees prior to the recordation of a final map, Section 17.07(N) controls. Processing a refund for the Project after the 12-month period in Section 22.12(a) is consistent with how RAP processed the refund request for the Sunset & Gordon project in 2019 (CPC-2007-515-GPA-ZC-HD-CU-CUB-ZV-ZAA-SPR-SPE-SPP, VTT-68501) (discussed further below). There, RAP processed a refund request that was submitted 7 years after the developer made its Park Fees payment.

Further, the LAMC (as vested) explains that the Park Fees required “may be used *only* for the purposes of providing park or recreational sites and facilities which will serve such subdivision and the future residents therein.” (LAMC Section 17.12(E), emphasis added.) Without a subdivision for the Project or any future residents, the City lacks a basis to retain the Park Fees. Accordingly, consistent with the vested version of LAMC Section 17.07(N) the Owner is entitled to a refund of the Park Fees.

Importantly, LAMC Section 12.33.A (as vested) applies the same procedures regarding the administration of Park Fees for a subdivision to a Zone Change:

“No zoning ordinance which permits a multiple residential use shall immediately and finally rezone any property . . . until a dedication of land has been made or assured or a payment in lieu thereof made or guaranteed. The land dedicated or the payment received shall be used for park or recreational purposes and *shall be subject to the restrictions, conditions, exemptions and credits of . . . Section 17.12 of this chapter* . . . The required dedication or payment shall be in an amount calculated in the same manner as provided in Section 17.12 . . .” (emphasis added).

Therefore, when a subdivision project also involves a Zone Change and a refund is required under LAMC Section 17.00, et seq. for the subdivision, such a refund also would be required for the Zone Change. Further, since the Project’s Zone Change remains subject to a “T” Tentative classification it has never been effectuated, as discussed further below in Section E. Now that the Owner is terminating the VTTM and Zone Change, the fees that would have been required for the Zone Change under (T) Condition 10 are no longer required and should be refunded consistent with the process for subdivisions.

C. Processing a Refund for the Project is Consistent with Prior RAP Actions

As noted above, processing a Park Fees refund for the Project is consistent with how RAP processed such a refund request for the Sunset & Gordon project in 2019 (CPC-2007-515-GPA-ZC-HD-CU-CUB-ZV-ZAA-SPR-SPE-SPP, VTT-68501), which was in a similar procedural position to this Project. Specifically, both projects vested under the same version of the LAMC, both projects include a VTTM and Zone Change, and both projects sought to terminate the VTTM and Zone Change and receive a refund of the Park Fees. The Sunset & Gordon project requested its Park Fees refund and terminated that project’s VTTM and Zone Change over seven years after the Park Fees payment, and the City Council approved that project’s refund.

The RAP Board Report (No. 19-158) to the Board of Recreation and Parks Commissioners makes clear that because the Sunset & Gordon project vested under a prior version of the LAMC, a refund would be processed because the VTTM had been terminated. Specifically, the RAP Board Report notes that the applicable LAMC Section 17.07(N):

“... instructed RAP to process and approve refunds of Quimby fees, upon written request of the project subdivider, if the final subdivision map was not recorded. However, it did not establish any procedures relative to how a Quimby fee refund request was to be reviewed, processed, and approved by RAP, nor did it describe what documentation the refund claimant would need to provide to RAP in order to guarantee that the final subdivision map would not be recorded. Additionally, it did not require that the refund request be filed on any specific form or that it be filed by a certain date.”

Accordingly, the RAP Board Report followed the LAMC Section 17.07(N) (as vested) provisions that are specific to the refund of Park Fees rather than the more general refund provisions that are included elsewhere in the LAMC. Since the Planning Department had terminated the Sunset & Gordon entitlements, RAP recommended approval of the claim for refund of Park Fees. Similarly, once the Marketplace Project's VTTM and Zone Change are terminated, RAP should process the refund for the Project.

D. The Quimby Act and Case Law Support the Issuance of a Refund

In addition to a refund of the Project's Park Fees being consistent with the LAMC, issuing a refund also is consistent with the Quimby Act. The Quimby Act (Cal. Gov. Code Section 66477) authorizes local governments to impose fees for park or recreational purposes as a condition of approving a tentative tract map. (*Id.* at 66477(a).) The fees “are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.” (*Id.* at 66477(a)(3)(A).) Further, the fees “shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.” (*Id.* at 66477(a)(5).) Courts have found that when a tentative map has been approved but a final map has not been filed or recorded, and a project is abandoned, the subdivider is entitled to a refund of Park Fees. (*See e.g. Wright Development Co. v. City of Mountain View*, 53 Cal. App. 3d 274, 375 (1975) where the court determined that because the subdivision did not come into existence, the requirement to pay the fee did not apply, and the fee should be returned.) Here, the Owner is abandoning the Project, has not recorded the final map, and has formally requested that the VTTM and Zone Change be terminated. Accordingly, because there will not be a subdivision or inhabitants on the Project site under the Project's previously approved entitlements, the Quimby Act and case law support the issuance of a refund for the Park Fees paid for the Project.

E. The City Restores Property to its Prior Zone when a Zone Change is not Effectuated

When we spoke on January 5, you inquired into the process the City has to restore a property to a prior zone when a Zone Change is not effectuated, such as the Project's Zone

LATHAM & WATKINS LLP

Change. Pursuant to LAMC Section 12.32.G, the (T) Tentative Classification remains on the property subject to the Zone Change until the recordation of a final parcel or tract map or by posting of guarantees through the B-permit process of the City Engineer. While such a property remains in the (T) Classification the property only can be used "for the purposes permitted in the zone applicable to the property prior to its T Tentative classification." (LAMC Section 12.32.G.1.d.) No other purpose is permitted. If the Zone Change is later terminated or expired, LAMC Section 12.32.G.1(h) provides that "the zoning authorized thereby shall become null and void, the rezoning proceeding shall be terminated, and the property thereafter may only be utilized for those purposes permitted prior to the commencement of the rezoning proceedings and shall be so redesignated." LAMC Sections 12.32.G.1(j) and (k), provide the procedures for the City to restore property to its prior zoning when a (T) Tentative classification is terminated or expired.

Accordingly, once the Project's Zone Change has been terminated the City has a process to restore the property to its prior zoning.

As detailed herein, the Owner is entitled to a refund of the Park Fees. Should you have any questions about processing the refund please do not hesitate to contact me at 213.891.7758.

Very truly yours,



Duncan Joseph Moore
of LATHAM & WATKINS LLP

Attachments

cc: Mr. Craig Bullock, Planning Director, Council District 13
Adrienne Khorasanee, Esq., City Attorney's Office
Mike Dundas, Esq., City Attorney's Office

Exhibit 1

**BOARD OF RECREATION AND
PARK COMMISSIONERS**

SYLVIA PATSAOURAS
PRESIDENT

LYNN ALVAREZ
VICE PRESIDENT

MELBA CULPEPPER
PILAR DIAZ
MISTY M. SANFORD

ARMANDO X. BENCOMO
COMMISSION EXECUTIVE ASSISTANT II

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

**DEPARTMENT OF
RECREATION AND PARKS**

EXECUTIVE OFFICE
P.O. BOX 86328
LOS ANGELES, CA 90086-0328

(213) 202-2833

MICHAEL A. SHULL
GENERAL MANAGER

February 21, 2017

Oliver Baker
CIM Group
4700 Wilshire Boulevard
Los Angeles, CA 90010

Oliver Baker
CIM Group
4700 Wilshire Boulevard
Los Angeles, CA 90010

Case/Tract No: VTT-66044
Council District No: 13
Future Zone: (T)(Q)RAS4-2D
Site Address: 5661 Santa Monica
Boulevard

PARK FEE CALCULATION

In accordance with the provision of Section 17.12 of the Los Angeles Municipal Code, the Department of Recreation and Parks on the above date, determined that a fee in the following amount be paid or suitably granted with the Department of Recreation and Parks prior to the recordation of the final tract map or parcel map.

No. of dwelling units/lots approved	437 (375 and 62)
Units/Lots being requested	437 (375 and 62)
Existing zone/Future zone within project	C4-1VL & R4-1VL/(T)(Q)RAS4-2D
Fee per unit	\$5,709.00
SUB TOTAL	\$2,494,833.00

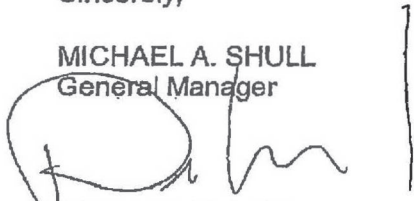
TOTAL FEE TO BE PAID **\$2,494,833.00**

This calculation is based upon the current year Quimby rates. Fees may be paid prior to recordation of the final map, or may be guaranteed to be paid within one year after Council approval of the final map. If this fee is not paid by March 1st, 2017 the amount of the fee shall automatically be subject to recalculation by Recreation and Parks.

If provision to guarantee payment is desired, arrangements must be made with the Department of Recreation and Parks. In the event that final map approval does not occur within six (6) months of receipt of a guarantee of payment, the amount of the fee is subject to recalculation. Checks should be made payable to the Department of Recreation and parks and may be mailed to 221 N. Figueroa St., 4th floor. Los Angeles, CA 90012. Please attach a copy of this letter to your payment.

Sincerely,

MICHAEL A. SHULL
General Manager

A handwritten signature in black ink, appearing to read 'Ramon Barajas', is written over the typed name and title. The signature is stylized with a large initial 'R' and a long horizontal stroke.

RAMON BARAJAS
Assistant General Manager

MAS/RB:wc

Cc: Reading file



City of Los Angeles
DEPARTMENT OF RECREATION AND PARKS

No. 27197

Date 02-24 2017

Received from 5637-5667 SANTA MONICA, LLC

ONE HUNDRED FORTY-THOUSAND EIGHT HUNDRED SEVENTY DOLLARS \$148,870.00

for VTT 66044 CD 13 TR RAS4-20
5661 SANTA MONICA, BLVD.

DEPARTMENT OF RECREATION AND PARKS

Account Comma Bank 1167

By [Signature]

Form 21



City of Los Angeles
DEPARTMENT OF RECREATION AND PARKS

No. 27696

Date 02-24 2017

Received from 5545 VIRGINIA AVE OWNER, LLC

ONE HUNDRED THIRTY-SEVENTH THOUSAND SIX HUNDRED SIXTY DOLLARS \$137,016.00

for VTT 66044 - CD 13 TR RAS4-20
5545 VIRGINIA AVE, BLD.

DEPARTMENT OF RECREATION AND PARKS

Account Comma Bank 1024

By [Signature]

Form 21



City of Los Angeles
DEPARTMENT OF RECREATION AND PARKS

No. 27198

Date 02 24 2017

Received from 5544 VIRGINIA AVE OWNER, LLC

TWO HUNDRED SEVENTY-THOUSAND NINE HUNDRED FORTY TWO DOLLARS \$279,402.00

for VTT 66044 CD 13 TR RAS4-20
5544 VIRGINIA AVE, BLD.

DEPARTMENT OF RECREATION AND PARKS

Account Comma Bank 1028

By [Signature]

Form 21

Exhibit 2

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

February 23, 2021

Ms. Jane Choi
City of Los Angeles Department of City Planning
200 N. Spring Street, Room 621
Los Angeles, CA 90012
jane.choi@lacity.org

Re: Termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044

Dear Jane:

Our clients 5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC, 5545 Virginia Avenue (LA) Owner, LLC are the current owner/applicants ("Owner") of the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue.

Owner is submitting a conditional request that the Director of Planning terminate the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR¹ and VTT-66044 following a confirmation we have requested from the City Attorney's Office that is described below. Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 were previously approved by the City Council on August 17, 2007 (CF 07-1824). Enclosed is a letter from the Owner confirming that Latham & Watkins, LLP is Owner's agent for purposes of requesting the termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044. In addition, we also have enclosed a sample termination letter.

Owner will not develop the project contemplated by Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 and is seeking a refund of previously paid Quimby/Park Fees. However, the Department of Recreation and Parks will not process the Owner's Refund Request of Quimby/Park Fees until the project has been terminated with the Department of City Planning. Accordingly, Owner is seeing termination of the prior cases subject to confirmation from the City Attorney's Office on a single issue. Specifically, Owner's

¹ The General Plan Amendment related to Case No. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR resulted in the addition of a footnote to the General Plan Map. As the footnote has already been added to the General Plan Map, Owner is not requesting that the footnote be removed.

LATHAM & WATKINS LLP

termination request is contingent upon the City Attorney's Office confirming that terminating the Project's cases will not affect the application of the 2007 Los Angeles Municipal Code to Owner's Refund Request under the vested rights provided by VTT-66044. Once confirmation has been received from the City Attorney's Office, we respectfully request the termination of the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044.

Should you have any questions or if you would like any additional information please do not hesitate to contact me at (213) 891-7758.

Very truly yours.

A handwritten signature in blue ink, appearing to read "Duncan Joseph Moore".

Duncan Joseph Moore
of LATHAM & WATKINS LLP

Enclosures

cc: Mr. Craig Bullock, Planning Director, Council District 13
Adrienne Khorasanee, Esq., City Attorney's Office
Mike Dundas, Esq., City Attorney's Office

5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC,
5545 Virginia Avenue (LA) Owner, LLC
4700 Wilshire Boulevard
Los Angeles, CA 90010

February 22, 2021

Jane Choi
City of Los Angeles Department of City Planning
200 N. Spring Street, Room 621
Los Angeles, CA 90012
jane.choi@lacity.org

Re: Termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and
VTT-66044)

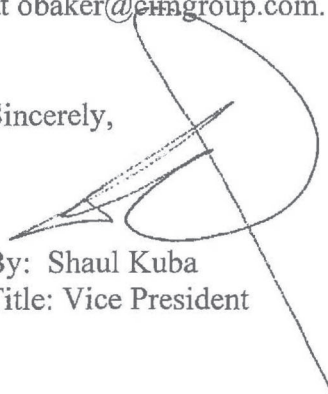
Dear Jane:

5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC,
5545 Virginia Avenue (LA) Owner, LLC are the current owners ("Owner") of the properties
located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542
W. Virginia Avenue.

This letter confirms that DJ Moore of Latham & Watkins, LLP is authorized to act as Owner's
agent with respect to terminating Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR
and VTT-66044.

Should you have any questions or if you would like any additional information please contact me
at obaker@eingroup.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Shaul Kuba', with a large, sweeping loop at the end.

By: Shaul Kuba
Title: Vice President

[], 2021

Previous Owner/Applicant

St. Andrews - Santa Monica, LLC
c/o Juri Ripinsky
4114 Sepulveda Blvd., Suite L – 2nd Floor
Culver City, CA 90232

Previous Representative

Iacobellis and Associates
11145 Tampa Avenue, Ste 10 B
Northridge, CA 91326

Current Owner/Applicant

David Thompson, Vice President and Chief
Financial Officer
5601-5667 Santa Monica Blvd. (LA) Owner, LLC,
5544 Virginia Avenue (LA) Owner, LLC, 5545
Virginia Avenue (LA) Owner, LLC
4700 Wilshire Boulevard
Los Angeles, CA 90010

Current Representative

DJ Moore
Latham & Watkins LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560

Case Number: CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR & VTT-66044

Address: 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue

Plan Area: Hollywood

C.D.: 13 – O'Farrell

CEQA No: ENV-2005-7720-EIR; SCH 2005111018

TERMINATED

The current Owner/Applicant of the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue has requested that the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 be terminated. Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 were previously approved by the City Council on August 17, 2007 (CF 07-1824).

Accordingly, the Director of Planning hereby terminates the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044, and directs that the cases be Terminated and the matter filed. Any portion of your fees paid to the City, if available for refund, is subject to submittal, review and approval of an appropriate claim refund application which is available online at the Department of City Planning's website: <http://cityplanning.lacity.org> or at the Department's public counters.

If you have any questions regarding this matter, please contact Jane Choi at (213) 978-1379 or jane.choi@lacity.org.

Vincent P. Bertoni, AICP
Director of Planning

Jane Choi
Principal City Planner

OFFICE OF THE CITY CLERK

City of Los Angeles

Claim for Refund Form

(Over \$5,000)

Please mail the original signed form to (copies and faxes not accepted):

Address: Office of the City Clerk
200 North Spring Street
Room 395, City Hall
Los Angeles, CA 90012

Hours: 8:00 am to 4:30 pm, Monday – Friday

Phone: (213) 978-1133

You may also bring the form to our Public Counter at the above address during regular business hours.

Reminder: Please make a copy for your own records.

DEPARTMENT OF
CITY PLANNING

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

DAVID H. J. AMBROZ
HELEN LEUNG

KAREN MACK

DANA M. PERLMAN

YVETTE LOPEZ-LEDESMA

AJAY RELAN

JENNA HORNSTOCK

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

March 26, 2021

David Thompson, Vice President and Chief
Financial Officer (O)(A)
5601-5667 Santa Monica Blvd. (LA) Owner,
LLC, 5544 Virginia Avenue (LA) Owner,
LLC, 5545 Virginia Avenue (LA) Owner, LLC
4700 Wilshire Boulevard
Los Angeles, CA 90010

DJ Moore (R)
Latham & Watkins LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560

RE: Vesting Tentative Tract No. 66044
Related Case: VTT-66814 / CPC-2006-4392-
GPA-ZC-ZV-HD-ZAA-ZAI-SPR
CPC-2006-4401-GPA-ZC-ZV-HD-ZAA-ZAI-
SPR

Council District: 13
Community Plan: Hollywood

WITHDRAWAL AND TERMINATION
RECEIVED AND FILED

Vesting Tentative Tract Map No. 66044 for the project located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue in the Hollywood Community Plan area was approved by the Advisory Agency on April 30, 2007. The Map was appealed twice, and the second level of appeal of VTT-66044 was denied and the map approved by the City Council on August 17, 2007 (CF 07-1824). The Tract Map expires on August 17, 2021.

On February 23, 2021, the Applicant through their Representative submitted a written request to terminate Vesting Tentative Tract Map No. 66044 as the Applicant is no longer pursuing the project. The Owner/Applicant has also requested that the related case (Case No. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR) be terminated.

In view of the above, and in accordance with provisions of the State Subdivision Map Act and Section 17.03 of the Los Angeles Municipal Code, the Advisory Agency on March 26, 2021 agreed to terminate all proceedings relative to Vesting Tentative Tract No. 66044 and directed that the map be received and filed.

VINCENT P. BERTONI, AICP
ADVISORY AGENCY

Deborah Kahan

Deborah Kahan, AICP
Deputy Advisory Agency

**DEPARTMENT OF
CITY PLANNING**

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

DAVID H. J. AMBROZ
HELEN LEUNG

KAREN MACK

DANA M. PERLMAN

YVETTE LOPEZ-LEDESMA

AJAY RELAN

JENNA HORNSTOCK

**CITY OF LOS ANGELES
CALIFORNIA**



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES

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VINCENT P. BERTONI, AICP
DIRECTOR

KEVIN J. KELLER, AICP
EXECUTIVE OFFICER

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

March 26, 2021

Owner/Applicant

David Thompson, Vice President and Chief
Financial Officer
5601-5667 Santa Monica Blvd. (LA) Owner,
LLC, 5544 Virginia Avenue (LA) Owner,
LLC, 5545 Virginia Avenue (LA) Owner, LLC
4700 Wilshire Boulevard
Los Angeles, CA 90010

Representative

DJ Moore
Latham & Watkins LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560

Case No. CPC-2006-4392-GPA-ZC-ZV-HD-
ZAA-ZAI-SPR

Related Case: VTT 66044, VTT-66814,
CPC-2006-4401-GPA-ZC-ZV-HD-ZAA-ZAI-
SPR

Addresses: 5661 W. Santa Monica Boulevard,
5539 – 5545 W. Virginia Avenue, and 5536 –
5542 W. Virginia Avenue
Council District: 13
Community Plan: Hollywood

WITHDRAWAL AND TERMINATION
RECEIVED AND FILED

Case No. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR for the project located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue in the Hollywood Community Plan area was approved by the City Council on August 17, 2007 (CF 07-1824). The project also included the approval of Vesting Tentative Map No. 66044. The Tract Map and the CPC entitlements expire on August 17, 2021.

On February 23, 2021, the Applicant through their Representative submitted a written request to terminate the CPC case, relative to the Zone and Height District Change, Zone Variance, Zone Adjustment, Zoning Administrator's Interpretation and Site Plan Review entitlements and VTT-66044, as the Applicant is no longer pursuing the project.

In view of the above, and in accordance with provisions of Los Angeles Municipal Code, the Planning Department on March 26, 2021 agreed to terminate all proceedings relative to the CPC case relative to the Zone and Height District Change, Zone Variance, Zone Adjustment, Zoning Administrator's Interpretation and Site Plan Review and directed that the matter be received and filed.

VINCENT P. BERTONI, AICP
Director of Planning

Deborah Kahan

Deborah Kahan, AICP
Senior City Planner