



Armando Bencomo <armando.bencomo@lacity.org>

Public Comments Not Uploaded Fair Hearing Violations; 2102 - 2120 S. Pacific Avenue, 116 - 302 E. North Venice Boulevard, 2106 - 2116 S. Canal Street, and 319 E. South Venice Boulevard; VTT-82288-2A and CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1

1 message

Jamie Hall <jamie.hall@channellawgroup.com>

Mon, Nov 1, 2021 at 4:39 PM

Reply-To: clerk.plumcommittee@lacity.org

To: Armando Bencomo <clerk.plumcommittee@lacity.org>

Cc: Ira Brown <ira.brown@lacity.org>, Terry Kaufmann-Macias <terry.kaufmann-macias@lacity.org>

Dear Members of the Planning Land Use Management (PLUM) Committee:

This firm represents Venice Vision with regard to the above referenced project (“Appellant”). I am writing to inform the City that the City has failed to provide Appellant with a meaningful opportunity to review new evidence that was presented by staff this morning at 9:00 am. The attached letter outlines the same.

The law is clear. Appellants challenging adjudicative land use entitlements are entitled to a “fair hearing.” CCP §1094.5. The procedural due process right to an opportunity to be heard has been interpreted to encompass not only the right to a public hearing, but also the right to a fair hearing. See, e.g., *Nightlife Partners, Ltd. v City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90 (“the broad applicability of administrative hearings to the various rights and responsibilities of citizens and businesses, and the undeniable public interest in fair hearings in the administrative adjudication arena, militate in favor of assuring that such hearings are fair.”). Fair hearing requirements include unbiased reviewers and an *opportunity to review the evidence* considered by the agency and to be heard.

Further, due process requires an opportunity to be heard “at a *meaningful* time and in a *meaningful* manner.” *Natural Resources Defense Council v. Fish & Game Com.* (1994) 28 Cal.App.4th 1104, 1126, citing *Mathews v. Eldridge* (1976) 424 U.S. 319, 333. Moreover, as stated in *Natural Resources Defense Council*, **due process “contemplates a meaningful opportunity to present evidence contrary [to an appeal] and a meaningful consideration of that evidence.”**

The assigned planner for the Project confirmed to counsel for Appellant that the Appeal Recommendations Report (“Staff Report”) would be published last week – either on October 28 or October 29th. On October 27, 2021, Mr. Brown stated the following in an e-mail: “The Appeal Recommendation Report should be uploaded to the Council File today or tomorrow depending on the Office of the City Clerk.” See e-mail attached to letter as Exhibit 1. Yet, the 310-page Staff Report was not published until approximately 9:00 am on Monday, November 1, 2021 – just 29 hours before the public hearing before PLUM. While the Staff Report is dated October and shows a “document date” of October 28, 2021, the Staff Report was not uploaded until approximately 9 am on Monday November 1, 2021, as confirmed by Deputy City Clerk Armando Bencomo. See e-mail attached to letter as Exhibit 2. The Staff Report contains no less than three new technical reports relied upon by staff to recommend denial for the appeal. The City also uploaded a Justifications for Exemption, which is 30 pages in length on November 1, 2021.

The City will deprive Appellant of a “fair hearing” if the public hearing is allowed to proceed tomorrow. It is patently unreasonable to expect that a mere 29 hours is adequate time for Appellant to review the new evidence presented by staff.

Jamie T. Hall

Channel Law Group, LLP

8383 Wilshire Blvd., Suite 750

Beverly Hills, CA 90211

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Direct: (310) 982-1760

Fax: (323) 723-3960

Email: jamie.hall@channellawgroup.comWebsite: www.channellawgroup.com******CONFIDENTIAL & PRIVILEGED TRANSMISSION******

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FINAL Letter re Failure to Provide Fair Hearing.pdf
526K

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JULIAN K. QUATTLEBAUM, III
JAMIE T. HALL *
CHARLES J. McLURKIN

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Texas

November 1, 2021

VIA ELECTRONIC MAIL

Members of the Planning Land Use Management Committee
Mr. Ira Brown, City Planner and,
Armando X. Bencomo, Legislative Assistant, City Clerk's staff
City of Los Angeles Department of City Planning
200 North Spring Street
Los Angeles, CA 90012
Clerk.plumcommittee@lacity.org
Ira.brown@lacity.org

Re: Fair Hearing Violations; 2102 - 2120 S. Pacific Avenue, 116 - 302 E. North Venice Boulevard, 2106 - 2116 S. Canal Street, and 319 E. South Venice Boulevard; VTT-82288-2A and CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1

Dear Members of the Planning Land Use Management (PLUM) Committee:

This firm represents Venice Vision with regard to the above referenced project ("Appellant"). I am writing to inform the City that the City has failed to provide Appellant with a meaningful opportunity to review new evidence that was presented by staff this morning at 9:00 am.

The law is clear. Appellants challenging adjudicative land use entitlements are entitled to a "fair hearing." CCP §1094.5. The procedural due process right to an opportunity to be heard has been interpreted to encompass not only the right to a public hearing, but also the right to a fair hearing. See, e.g., *Nightlife Partners, Ltd. v City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90 ("the broad applicability of administrative hearings to the various rights and responsibilities of citizens and businesses, and the undeniable public interest in fair hearings in the administrative adjudication arena, militate in favor of assuring that such hearings are fair."). Fair hearing requirements include unbiased reviewers and an *opportunity to review the evidence* considered by the agency and to be heard.

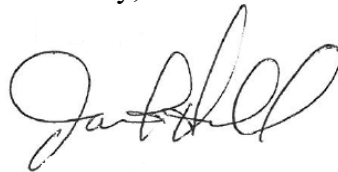
Further, due process requires an opportunity to be heard “at a **meaningful** time and in a **meaningful** manner.” *Natural Resources Defense Council v. Fish & Game Com.* (1994) 28 Cal.App.4th 1104, 1126, citing *Mathews v. Eldridge* (1976) 424 U.S. 319, 333. Moreover, as stated in *Natural Resources Defense Council*, **due process “contemplates a meaningful opportunity to present evidence contrary [to an appeal] and a meaningful consideration of that evidence.”**

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The City will deprive Appellant of a “fair hearing” if the public hearing is allowed to proceed tomorrow. It is patently unreasonable to expect that a mere 29 hours is adequate time for Appellant to review the new evidence presented by staff.

I may be contacted at 310-982-1760 or at jamie.hall@channellawgroup.com if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Jamie T. Hall", written in a cursive style.

Jamie T. Hall

cc: Terry Kaufman-Macias (terry.kaufmann-macias@lacity.org)

Exhibit 1

PLUM Hearing for the Appeal of CPC-2018-7344 (RDC)

Ira Brown <ira.brown@lacity.org>
To: Jamie Hall <jamie.hall@channellawgroup.com>
Cc: "Fight Back, Venice" <fbv@fightbackvenice.org>

Wed, Oct 27, 2021 at 8:18 AM

Hello Jamie

The Appeal Recommendation Report should be uploaded to the Council File today or tomorrow depending on the Office of the City Clerk.

Ira

On Wed, Oct 27, 2021 at 8:15 AM Jamie Hall <jamie.hall@channellawgroup.com> wrote:
Hi Ira:

I will be speaking on behalf of Appellant. I will be calling from 323-845-0933.

Also, when will the Appeal Recommendations Report be issued?

Thanks,

Jamie T. Hall
Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211
Main Number: (310) 347-0050
Direct: (310) 982-1760
Fax: (323) 723-3960
Email: jamie.hall@channellawgroup.com
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On Tue, Oct 26, 2021 at 4:31 PM Ira Brown <ira.brown@lacity.org> wrote:
Hello Jamie

Who on your team will be speaking at the PLUM hearing -- usually provided three minutes for the presentation and limited to one person -- and what are their phone numbers.

Further, see the following information:

Applicants/Appellants:

- Applicants and Appellants are asked to provide staff with the phone number that they will be calling in from during the scheduled PLUM Committee meeting. *Applicants and appellants **must** call in from the same phone number that has been provided to the project's assigned planner or update the planner if a different number is used.* If an applicant or appellant calls in from a different number, there is a chance that they will not be identified during the PLUM meeting and will not be allowed a chance to speak.

Exhibit 2

Re: Public Comments Not Uploaded Re: Public Notice Error; 2102 - 2120 S. Pacific Avenue, 116 - 302 E. North Venice Boulevard, 2106 - 2116 S. Canal Street, and 319 E. South Venice Boulevard; VTT-82288-2A and CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1

Armando Bencomo <clerk.plumcommittee@lacity.org>

Mon, Nov 1, 2021 at 9:55 AM

To: Jamie Hall <jamie.hall@channellawgroup.com>

Cc: Ira Brown <ira.brown@lacity.org>, Terry Kaufmann-Macias <terry.kaufmann-macias@lacity.org>

Good Morning,

The Appeal Recommendations Report was uploaded at approximately 9:00 a.m. this morning.

On Mon, Nov 1, 2021 at 9:40 AM Jamie Hall <jamie.hall@channellawgroup.com> wrote:

When was the Appeal Recommendations Report uploaded to the Council File?

I have been checking the Council File Management System multiple times over the last few days. The Appeal Recommendations Report was certainly not uploaded on Thursday, Friday, Saturday or Sunday. I even checked early this morning - it was not uploaded.

Jamie T. Hall

Channel Law Group, LLP

8383 Wilshire Blvd., Suite 750

Beverly Hills, CA 90211

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Direct: (310) 982-1760

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On Mon, Nov 1, 2021 at 9:17 AM Ira Brown <ira.brown@lacity.org> wrote:

Hello Jamie

Please see my response below in red.

On Mon, Nov 1, 2021 at 8:11 AM Jamie Hall <jamie.hall@channellawgroup.com> wrote:

Dear Ira:

I wanted to follow up with you. I have two questions: (1) Will this hearing proceed tomorrow in light of the public noticing error?,

The hearing will proceed tomorrow.

and (2) What is the status of the Appeal Recommendations Report?

The Appeal Recommendation Report can be found by searching for the council file number at the City Clerk's File Management System. For your convenience, I have included linked to the report here:

https://clkrep.lacity.org/online/docs/2021/21-0829-S1_misc_3_10-28-21.pdf