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November 30, 2021

VIA ELECTRONIC MAIL

Hon. Nury Martinez, Council President and
Los Angeles City Council
c/o City Clerk
200 North Spring Street
Los Angeles, CA 90012
armando.bencomo@lacity.org

Re: Response to Appeal Report dated October 28, 2021 (VTT-82288; ENV-2018-6667-SE; CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP-1A; Council File Nos. 21-0829 and 21-0829-S1)

Dear Council President Martinez and Members of the Los Angeles City Council:

The firm represents land use appellant Venice Vision. This letter responds to the staff Appeal Report dated October 28, 2021 prepared by Senior City Planner Juliet Oh. The staff Appeal Report was dropped into the City Council file on or about October 28, 2021, in advance of the November 2, 2021 Planning and Land Use Committee meeting originally scheduled for this appeal. After first announcing the matter would be continued to the December 7, 2021 PLUM Committee meeting, we are informed and believe that Council Member Mike Bonin intervened requesting the PLUM Committee Chair to waive hearing of this case so that the matter can be taken directly to City Council. Instead of a hearing before the PLUM Committee on December 7, 2021, the item was advanced on the City Council meeting agenda to December 1, 2021.

Venice Vision objects to the Project. Moreover, Venice Vision hereby adopts all project objections, comments, and all evidence/studies submitted in support of project objections, and specifically requests that the City print out or attach to the Council file each and every hyperlinked document cited in all comment letters in the administrative record for this Project. Additionally, please confirm that the City Clerk has placed an accurate and complete copy of all

of our correspondence, including this letter, in each of the following City Council Files: Council File No. 21-0829 and Council File No. 21-0829-S1.

Land use appellant Venice Vision sets forth each appeal point addressed in the staff Appeal Report dated October 28, 2021, and includes its response and analysis for the City Council's consideration:

Appeal Point No. A-1: The City failed to provide a Fair Hearing at both the Advisory Agency and City Planning Commission levels and violated the Brown Act at the City Planning Commission meeting.

The individual and cumulative violations of procedural due process are thoroughly analyzed *infra* at Appeal Points C-1 through C-11 in relation to the City Planning staff's response to the content of the July 29, 2021 notice of intent to sue over procedural due process violations at the Advisory Agency and City Planning Commission meetings.

The staff Appeal Report admits that substantial public records request documents were withheld for almost a year in some cases until they were all simultaneously released on October 6, 2021. In fact, eight different public records requests were pending. (See **Exhibit 1**, Letters of City Planning Records Custodian) By the time of disclosure, the records could not be used to prepare testimony or provide evidence in support of hearings before the Advisory Agency and the City Planning Commission – which is an obvious result of the City's unexplained months long delay in the production of responsive documents in violation of the California Public Records Act's mandate for prompt release of public records. The City Planning staff admission that records were not produced until October 6, 2021 requires return of the cases to the Advisory Agency and the City Planning Commission so that the unfair hearing violations may be corrected, and Venice Vision may use the previously withheld documents to prepare full analysis of the proposed project.

The City Planning staff offers the same arguments that are fully rebutted in Appeal Point No. C-8 regarding the City Planning Commission's violations of the Brown Act in conduct of its meeting. Staff fails to report to the City Council that Brown Act litigation was initiated against the City in August 2021 over the City Planning Commission's deficient public meeting. The case is stayed until such time there may be litigation over the Project itself.

Appeal Point No. A-2: The map and subdivision are inconsistent with the General and Specific Plan.

The staff Appeal Report absurdly claims that "it has been a long-standing practice for the Advisory Agency to approve subdivision cases contingent on related and concurrent cases." Just because the City has been pursuing an unlawful practice of conditionally approving tract map cases seeking general plan amendments, does not make it legal over time. The Subdivision Map Act contains an express provision permitting an advisory agency to conditionally approve a tract map on obtaining a zone change. However, the Legislature made no similar provision authorizing an Advisory Agency to conditionally approve a tract map on obtaining a general plan amendment.

Under the principle of "inclusio unius est exclusio alterius", a rule of statutory interpretation that states that 'including one excludes another,' the Legislature authorizing

conditional approvals for zone changes without including general plan amendments, means that no Advisory Agency is authorized under state law to conditionally approve a tract map on obtaining a general plan amendment. Thus, because the project does not yet have a general plan amendment changing the Land Use Element and Map of the City to allow the project, it remains inconsistent with the general plan, and under the Subdivision Map Act must be denied approval.

The City staff also cites Los Angeles Municipal Code Section 17.03.A, as if it can authorize something the Subdivision Map Act does not. The tail of the puppy does not wag the dog. California courts have held that the Legislature preempted local legislation regarding subdivision maps. Local ordinances must be consistent with the state law in this realm of the law. In the absence of an authorizing state statute, the City cannot enact a local ordinance provision giving to itself that which the Legislature has not authorized – conditional approval of tract maps based upon a not yet obtained general plan amendment.

The fact that the Project as proposed is not authorized by the General Plan is indisputable. The Subdivision Map Act imposes a mandatory duty to deny a subdivision tract map that is not consistent with the General Plan. The City says it can “cure” this defect by making a conditional approval for a general plan amendment. Basic statutory construction principles say otherwise. The staff Appeal Report’s contention that “Appellant does not offer any support for the contention that the finding by the Advisory Agency is not supported by substantial evidence is wrong. The finding is simply unlawful as not permitted by state law. Thus, the Advisory Agency acted *ultra vires* when it approved the tract map inconsistent with the current general plan, the City’s agreement regarding the project and the specific plan.

Appeal Point No. A-3: The design and improvements of the proposed subdivision are inconsistent with applicable General and Specific Plans.

The staff Appeal Report evades most of the issues raised by Venice Vision in its appeal materials. The report focuses on objections based upon inconsistency with Public Access provisions of the Land Use Plan of the Coastal Plan which is how the design of the tract map relates to public facilities and infrastructure. The staff Appeal Report’s insinuation that Venice Vision raised an issue with building design or architectural compatibility under this finding is incorrect. In any event, “other specific requirements in the plan and configuration of the entire tract map to ensure consistency with general plan or specific plans” is a reference to the project’s tract map design in relation to essential public access requirements.

The staff Appeal Report suggests that the tract map conditions Nos. 23 and 24 assured public access, but both conditions are dependent on as yet unobtained Coastal Development Permit conditions. Therefore, as of the approval of the tract map, it was and remained inconsistent with the Coastal LUP, a form of specific land use plan. This also was a failure to proceed in accordance with law.

Appeal Point No. A-4: The site is not physically suitable for the proposed type of development

The City argues that the site is physically suitable for the proposed type of development, despite the fact that it is inconsistent with current zoning and relevant land use plans, because of proposed changes to existing zoning and the relevant land use plans that would be approved to

permit approval of the proposed Project. This is circular reasoning. As acknowledged on page 6 of the October 28, 2021 memo to the PLUM Committee (PLUM memo):

The proposed C2 zone and development regulations of “Subarea A” would allow the development of Qualified Permanent Supportive Housing Projects and the density permitted in the R3 zone, one dwelling for each 800 square feet of lot area. The proposed Amendments to the Specific Plan include changes to remove limitations of lot consolidations for Qualified Permanent Supportive Housing Projects. . . As conditioned in the Deputy Advisory Agency’s Determination, the Project is required to obtain approval of the concurrent CPC case before approval and recordation of the final Tract Map.

Therefore, in the absence of impermissible spot zoning (see discussion under B-2), and amendments to the zoning and applicable land use plans, the proposed Project would be deemed not suitable for the project site.

As acknowledged on page 6 of the October 28, 2021 staff Appeal Report to the PLUM Committee (PLUM memo): the “site is in an area identified as having potential for liquefaction, within a Methane Zone, and approximately 5.48 kilometers from the Santa Monica Fault. The site is also located in a flood hazard zone, tsunami inundation area, and in an area that may be affected by sea level rise.” These facts are not in dispute.

The project site is also bisected by a canal which is subject to flooding events when the canal’s tidal gates do not operate properly.¹ As noted in the Moffat & Nichol (May 2018) in their Venice Sea Level Rise Vulnerability Assessment (VSLRVA) included as Attachment B to our October 21, 2020 letter: “As important flood prevention infrastructure for the coastal zone area, any failure in the operation of both tide gates can result in flooding.” No evidence has been presented to dispute these facts.

Page 7 of the PLUM memo states that: “Prior to the recordation of the final tract map and issuance of any permits the project would be required to comply with the requirements of the various Departments outlined in the Conditions of Approval and the regulations already in place for development in the above referenced hazard areas.” However, the Conditions of Approval² fail to address these acknowledged site hazards. Although Condition 9 does require compliance with the conditions in the Geology and Soils Report Approval dated August 10, 2018, the failure of the City to set out the conditions from the Geology and Soils Report means that LADBS plan checkers do not have a stable and finite list of project conditions. Often Geology and Soil Reports do not contain a well-defined list of recommended project conditions and City Planning should have defined the conditions so that they are known. Also, there are no Conditions of Approval which address the project’s location in a Methane Zone and the design of the Methane Hazards abatement system for the proposed Project remains unknown and has not be subject to review for efficacy. Furthermore, there has been no demonstration that the proposed Project can comply with Methane Zone mitigation requirements, given its location in a flood hazard zone, on a site with a high water table and which is subject to sea level rise, or that it can comply with

¹ We have provided previous documentation regarding problems with the tidal gate and canal system.

² http://clkrep.lacity.org/onlinedocs/2021/21-0829_misc_2_07-26-21.pdf

Methane Zone requirements without making design changes inconsistent with the proposed C2 zone and development regulations.

In terms of the flood hazards and sea level rise (SLR), the PLUM memo at page 6 acknowledges that: “the proposed development could potentially be affected by flooding as a result of SLR, however, the potential for such flooding in severe storm events is likely to increase towards the end of the project life (based on a typical development life of 75 years).” So, the potential for flooding is undisputed. What is disputed is the nature, amount, timing and frequency of such flooding events.

In dismissing the fact that the potential for flooding makes the site unsuitable, the City relies on the Sea Level Rise Report prepared by GeoSoils, Inc., dated December 28, 2020. The GeoSoils Report, which is included as an attachment to the staff Appeal Report, notes the base flood elevation (BFE) levels for the project site, stating: “FIRM has the majority of the site to the east of the Canal in the FEMA AE Zone with a BFE of +8 feet NAVD88.”³

The area of the Project site in the AE Zone is also the area of the site which the existing Project plans show as having the lowest finished first floor (FF) elevations, as noted in the GeoSoils Report:

The proposed finished first floor (FF) elevations of various buildings vary based upon the adjacent grades (sidewalks, driveways, and canal front). The proposed projects lowest FF will be at or above elevation ~+8.25 feet North American Vertical Datum (NAVD88) and will be to the northeast of the Grand Canal. The higher FF elevations will be at or above elevation ~+10.5 feet NAVD88 and will be to the west of the Grand Canal.⁴

Thus, the project plans show that a portion of the development has a FF level of ~+8.25 feet NAVD88, while located in a FEMA AE Zone with a BFE of +8 feet NAVD88, without consideration of the amount of sea level rise projected over the project life.

As noted on page 5 of the GeoSoils Report:

Based upon the 2018 OPC SLR report, probable SLR for the project over the design life is 3.0 feet or less. Figure 3 also shows that there is a 0.5% chance the SLR could be in the range of 5.05 feet to 6.15 feet in the year 2095. The average of this range is 5.6 feet of SLR in the year 2095.

So, as designed, portions of the project would have a FF level which is only approximately 0.25 feet above the base flood elevation. Given the projected SLR of 3 and possibly up to 6.15 over the life of the project, flooding is largely guaranteed, without modification of the project design. This is why GeoSoils recommended:

The lowest finished floor (FF) elevation (not garage floor) should be 2 feet, or more, above the street flow line until reaching elevation 11 feet

³ GeoSoils, Inc., dated December 28, 2020 at page 2-3.

⁴ GeoSoils, Inc., dated December 28, 2020 at page 2.

NAVD88, and for street flow lines above + 11 feet NAVD88 the FF elevation should be a minimum of 1 foot above the flow line, unless other adaptive waterproofing alternatives are incorporated in the design.

However, this and the other recommendations in the GeoSoils Report have not been made Conditions of Approval. In the absence of such a requirement, flooding impacts would occur. Furthermore, this would require modification of the project design, to raise the finished floor level, particularly on the northeastern portion of the Project Site. This is not reflected in the Project plans, and no information has been provided on the amount of fill required to accomplish this increase in elevation, or whether it would be accomplished by raising the understory garage roof height, and thus the height of the development as a whole, in a manner which is not consistent with the proposed C2 zone and development regulations. The amount of grading and fill required to raise the proposed Project out of the flood zone is likely to result in significant air quality impacts, and may affect water quality in the canal system.

Not only would the habitable area be subject to flooding without design modification, portions of the parking structure would also be subject to flooding both during construction and over the life of the Project. As noted on page 9 of the GeoSoils Report:

With up to 6 feet of SLR in 75 years, the future maximum groundwater elevation at the site would be the typical groundwater elevation plus at most .06 feet (1% of 6 feet SLR) which is still about elevation 5 feet to 6 feet below grade. The proposed lowest garage floor will be below this elevation. Groundwater may impact the garage foundation during construction. To prevent future groundwater issues, we recommend that all below grade foundations be waterproofed.”

This is without consideration of shoaling, storm-induced flooding, or possible failure of the canal flood gate system at some point over the life of the proposed Project, or the fact that the eastern garage structure is located in the FEMA AE Zone with a BFE of +8 feet NAVD88. In fact, the GeoSoils study underestimates SLR-related impacts by failing to adequately consider shoaling on a parcel with a groundwater elevation of less than 6.6 feet. As explained on page 9 of the Venice Sea Level Rise Vulnerability Assessment (VSLRVA) by Moffatt & Nichol (25 May 2018), included as Attachment B to our October 21, 2020 letter:

3.6 Groundwater

When a low-lying coastal area has intermediate to shallow groundwater level (<6.6 feet below the surface) SLR can cause what is known as shoaling. Shoaling is caused when a rise in sea level causes groundwater to rise as well. It can cause groundwater to emerge at the surface, resulting in chronic flooding (Hoover et al., 2016). Additionally, even if groundwater is relatively deep in the low-lying area, existing lower groundwater can rise to shallow elevations causing challenges to existing infrastructure or new development (Hoover et al., 2016). For example, construction projects requiring excavation may encounter the water table at higher elevations causing a need for the pumping of water out of a construction site. In a study of select sites in California by Hoover et al. in

2016, Marina del Rey was identified as a site, noting that little was known about the groundwater elevations and citing extensive groundwater pumping as a factor limiting its vulnerability to SLR. However, a report in 2011 about the feasibility of groundwater extraction in the area describes that the basin once had a deep groundwater table due to extensive pumping, but recently experienced groundwater elevations rising to above sea level and progressing seaward. It also describes the groundwater as having areas of gravel with enough permeability to allow infiltration of saltwater into the groundwater, citing recent increases in salinity (Kennedy/Jenks Consultants, 2011). **This suggests that the vulnerability of Venice to groundwater shoaling may be higher than previously thought.** (Emphasis added).

Furthermore, there has been no analysis of the ability of the canal flood gate system to cope with the projected SLR of 3 and possibly up to 6.15 over the life of the project, or a tsunami, or its ability to cope with SLR in combination with storm or earthquake events. As noted in the following sections of the VSLRVA:

6.3.1 Exposure

...

The primary source of exposure to property in Venice is vulnerability to flooding from a tide gate malfunction or from reduced stormwater capacity with SLR. The hazard scenario used to quantify impacted parcels includes a malfunction of the tide gate during an extreme monthly high tide (~6.5 feet tide) in addition to each increment of SLR as described in Section 5.2. Under this hazard scenario, flooding could enter through the failed marina tide gate, into the Ballona Lagoon, under/over Washington Blvd and into the low-lying areas north and east of the Venice Canals. At current sea level, this hazard scenario could impact over 750 parcels, the majority of which are residential. The exposure increases significantly with each SLR increment due to the low and flat topography surrounding the Canals. Over 4,000 parcels are affected under this hazard scenario combined with +6.6 feet SLR.

As noted in Section 6.1.2 of the VSLRVA:

6.1.2 Vulnerability

When discussing the vulnerabilities of a community like Venice, it is critical to consider the concept of cascading impacts. For example, **Venice currently relies on the Marina del Rey tide gates to prevent tidal flooding in its low-lying areas. A failure of this singular piece of infrastructure can have cascading impacts on the infrastructure systems that keep both Venice and the region operating safely.** Flooding from a tide gate malfunction could result in temporary outages in the area. These outages require emergency services and utility repairs that rely on access to the sites via the road network. Roads flooded at depths

greater than 1.6 feet can reduce or completely block access from large vehicles and trucks, resulting in potentially delayed service repairs (Pregolato et al., 2017). Reduced service or repairs could result in further failures of key infrastructure, such as utilities and pump stations, and could magnify the damages and danger of a flood event.

We have previously documented problems with the tidal gate and canal system. Even without SLR, large rainfall events can pose a hazard to properties adjacent to the canal. As noted on page 4 of the VSLRVA:

During large rainfall events, stormwater in the areas around the canals is gravity-drained to the canals. This runoff is then drained to the ocean during low tide. **When ocean water levels are high, the canals are mechanically closed off from the ocean. This means that stormwater can accumulate in the canals and cause stormwater-related flooding.**

This problem will only increase with SLR over the life of the proposed Project. An aging tidal gate system, SLR and storm events poses clear and present flooding hazards for the proposed Project. In fact, the VSLRVA rated the short-term (SLR less than or equal to 1.6 feet) risk associated with failure of the tidal gate system as R4 - “High: Permanently damaged, large impact on system, large loss of value or life.

The staff Appeal Report dismisses flooding potential as a reason why the site is not suitable stating, on page 6 that: “No subterranean levels are proposed, and the project is conditioned to require the lowest finished floor (FF) elevation (not garage floor) to be 2 feet or more, above the street flow line until reaching elevation 11 feet NAVD88, and for street flow lines, above +11 feet NAVD88 the FF elevation, should be a minimum of 1 foot above the flow line or that the first floor and foundations be waterproofed.” However, this requirement and the requirement for waterproofing of the below grade foundations, appears nowhere in the Conditions of Approval. As currently designed and Conditioned, the proposed Project would be subject to flooding.

Given the proposed Project’s location on the banks of a canal, in an area identified as having potential for liquefaction, within a Methane Zone, approximately 5.48 kilometers from the Santa Monica Fault, in a flood hazard zone, tsunami inundation area, bisected by a canal dependent on proper operation of an aging tidal gate system, in area that will be affected by Sea Level Rise and storm surge events, the site is not physically suitable for the proposed type of development. The proposed Project must therefore be rejected under the Subdivision Map Act.

Appeal Point No. A-5 – The site is not physically suitable for the proposed density of development

See discussion of Appeal Point No. A-4 above.

As noted in our October 20, 2021 letter, the density of development is not appropriate for the site. When it comes to the West Garage, future with project queuing at the intersection of Pacific and North Venice Boulevards would impact operation of the West Garage. The existing left turn pocket on North Venice Boulevard at this intersection is 115 feet long. The entrance to

the West Garage would be located less than 70 feet from the intersection, interrupting stacking in the left turn lane. The westbound left turn movement at the Pacific Avenue and North Venice Boulevard intersection exceeds the design storage length under existing conditions. The longest queuing occurred during the weekday PM peak hour. Assuming approximately 25 feet per vehicle, a maximum queue of 164 feet is anticipated to result in the future with project.

Additionally, as detailed in our October 20, 2021 letter, turning movements into and out of site, poses hazards to pedestrians walking to the beach and other attractions in the Venice area.

Appeal Point No. A-6 - The Project is likely to cause substantial environmental damage; The Project is not eligible for an exemption from CEQA; The Project will result in a number of significant environmental impacts

As detailed in our letter dated November 2, 2021, the design of the proposed Project will interfere with the ability of Mariposa Landscape Inc., to clean and maintain the health of the Canals. The design of the proposed Project does not allow for proper access to the boat ramp, or for algae to be removed. Currently large containers of algae are pulled from the Canals, at a rate of 15-20 loads per year. A sanitation truck is required to bring in the container and remove it once full of algae. On a weekly basis, there is a 3-yard container that is emptied 2-3 times a week and is used for garbage collection throughout the canals. The Mariposa crew also gathers abandoned watercraft at this site which is removed monthly by sanitation. According to the developers' plans, the area for maintenance will not be practical if available at all. Algae cannot be moved and temporarily stored inside a parking structure (due to practicality and odor). The ability for large vehicles to access the containers and the boat ramp will be jeopardized. The project clearly interferes with the ability to haul the Algae in and out. Trucks will be unable to remove garbage from canals to preserve this Environmentally Sensitive Area. Pollution in the canal system would also have the potential to impact the Ballona Lagoon.

The staff Appeal Report tries to downplay the significance of the Grand Canal as a resource for fish and wildlife. The staff relies on a Biological Technical report of Glenn Lukos Associates. While Appellant objects to the due process impacts of release of this report so close to the final City Council hearing, Appellant retained Biological Resource expert Scott Cashen, M.S.—Independent Biological Resources Consultant. In his report dated November 30, 2021 and attached hereto at **Exhibit 2**, he concludes that the City has failed to demonstrate that unmitigated aspects of the Project will not cause significant environmental harm:

“Nesting Birds

The Project has the potential to impact active bird nests if vegetation is removed during the nesting season (March 15 to August 31).⁹ Impacts to nesting birds are prohibited by the Migratory Bird Treaty Act and California Fish and Game Code. As a result, the BTR recommended a Project-specific mitigation measure that would avoid impacts to nesting birds.

The City has not adopted the mitigation measure recommended in the BTR, nor has it adopted any other mitigation measure(s) to avoid impacts to nesting birds. As a result, potentially significant impacts to nesting birds remain unmitigated.

Grand Canal and ESHA

My previous comment letter discussed the City's failure to adopt mitigation measures for:

1. Direct and indirect impacts on wetlands and water quality due to accidental or intentional discharge of sediment (besides airborne dust), pollutants (e.g., oil, lubricants, chemicals, cement residue and wash water), construction debris, and fill materials into the Grand Canal.
2. Direct and indirect impacts on the ESHA due to increased shading, night lighting, and human activity.
3. Direct and indirect impacts on the ESHA due to changes in the quality and quantity of storm water runoff entering the canal.
4. Wildlife entrapment in pipes and trenches.

The City's Staff Report fails to rectify this issue.

Based on the forgoing, it is my professional expert opinion that the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage and will substantially and avoidably injure wildlife and their habitat."

See discussion of Appeal Points B-5.

Appeal Point No. A-7 - The design of the subdivision and proposed improvements are likely to cause serious public health problems.

See discussion of Appeal Point No. A-4, A-5 and A-6 above.

As acknowledged on page 6 of the October 28, 2021 memo to the PLUM Committee (PLUM memo): the site is in an area identified as having potential for liquefaction, within a Methane Zone, and approximately 5.48 kilometers from the Santa Monica Fault. The site is also located in a flood hazard zone, tsunami inundation area, is bisected by a Canal, and is in an area that may be affected by Sea Level Rise. These facts are not in dispute. Flooding along the Canal system is controlled by the tide gate system. As noted in the VSLRVA study on page:

The tide gate system is subject to functional and operational vulnerabilities identified in Section 6.1.2 that could lead to cascading impacts that affect infrastructure and other resources in the low-lying areas of Venice. Assets like the VPP/VAPP provide a critical service to the Venice community, and impacts to the operations **would result in significant consequences for public health and the environment.** (Emphasis added).

Section 7 of the VSLRVA provides a risk assessment and classifies the consequence of tidal gate failure as High.

7. Risk Assessment Matrix

For this study, risk was determined to be a product of both consequence and urgency. A simple scoring matrix was developed to assess the risk to coastal resources, presented in Table 7.1. The risk scores range from R1 (lowest risk) to R4 (highest risk). Risk can be difficult to define because consequences are subjective and the accuracies of the probabilities are unknown. The goal of this section is to organize the findings of the VA in a way that can help focus the adaptation planning efforts on short-term impacts that have a high consequence.

Consequences were determined for each asset qualitatively based on the vulnerability of each asset category. Consequences were determined to be either “low,” “medium-low,” medium-high or “high” based on criteria outlined in Table 7.1.

Urgency was determined by distinguishing between long-term and short-term SLR thresholds. Short-term SLR thresholds refer to impacts identified for the current sea level or +1.6 feet SLR scenario, which represents a conservative estimate of SLR by mid-century. Long-term thresholds refer to impacts identified for the +3.3 feet and higher SLR scenarios expected to occur toward the end of the century or beyond. This approach focuses on specific SLR increments so the study can be interpreted and updated with future and more accurate projections about the timing of each increment.

Table 7.1: Definition of Risk Assessment Scoring System

Consequence	Risk Score	
	Short-term SLR Threshold SLR ≤ 1.6 ft	Long-term SLR Threshold SLR ≥ 3.3 ft
High: Permanently damaged, large impact on system, large loss of value or life	R4	R3
Medium: Temporarily damaged but moderate impact on system, medium loss of value	R3	R2
Low: Temporarily damaged, low impact to system, small loss of value	R2	R1

R1 = Low Risk, R2 = Medium Low Risk, R3 = Medium High Risk, R4 = High Risk

7.1 Infrastructure

Infrastructure systems throughout Venice provide important services to the community. In general, all assets in this category have some degree of exposure either currently, or with SLR of +1.6 feet. Most infrastructure has a limited adaptive capacity to accommodate the evolving hazards identified in this study. **The tide gate system is subject to functional and operational vulnerabilities identified in Section 6.1.2 that could lead to cascading impacts that affect infrastructure and other resources in the low-lying areas of Venice.** Assets like the VPP/VAPP provide a critical service to the Venice community, and impacts to the operations **would result in significant consequences for public health and the environment.** The VPP and VAPP service both a large area and amount of sewage making any damage to the facility, its power supply, or increased demand felt throughout the system. Over 20% of the parcel of

the facility intersects with the inland flood zone for present day sea level, with increased potential flood depths as sea level rises. . .

The results of this analysis are shown in Table 7.2 below.

Table 7.2: Infrastructure Resource Risk Assessment Matrix

Asset	SLR Threshold	Consequence	Justification	Risk Score
Tide Gates	Short-term (SLR ≤ 1.6 ft)	High	Critical facility & potential for cascading impacts	R4
VPP/VAPP	Short-term (SLR ≤ 1.6 ft)	High	Large regional impact, potential for damaging pollution	R4
VSP and Westward Pump Stations	Short-term (SLR ≤ 1.6 ft)	High	Large impact on drainage area	R4
Boone & Olive PP	Short-term (SLR ≤ 1.6 ft)	High	Large impact on drainage area	R4
Outfalls	Short-term (SLR ≤ 1.6 ft)	Medium	Moderate impact, easier to adapt/repair	R3
Electric Infrastructure	Short-term (SLR ≤ 1.6 ft)	Medium	Temporary impact on communities and emergency services	R3
Waste and Stormwater Collection Network	Short-term (SLR ≤ 1.6 ft)	Medium	Temporary impact on communities and emergency services	R3
Transportation Infrastructure	Short-term (SLR ≤ 1.6 ft)	High	Large impact on communities and emergency services	R4
Coastal Infrastructure	Short-term (SLR ≤ 1.6 ft)	Medium	Loss of function gradual but important for beach system	R3

The proposed Project is thus located in an area where failure of the tidal gate system would result in both on-site flooding as well as cascading effects that could **“result in significant consequences for public health.”** The proposed site is thus not appropriate for a facility that will serve, in part, a vulnerable population.

Appeal Point No. A-8: The design of the subdivision and proposed improvements will conflict with easements at large for access through the use of property within the proposed subdivision.

It is unclear which of our appeal’s points are being addressed in the staff Appeal Report. The staff Appeal Report fails to address our appeal contention that the Project’s design and improvements are inconsistent with public access policies particularly those in the Certified LUP and current use of the site. The Project will not maintain and even harms existing Public Access. The project does not comply with the many Public Access provisions in the certified LUP. For example, the Finding does not consider the impact of the design aspect for the beach parking to be automated, which will severely slow and even discourage beach parking at this location. The Commission failed to consider the loss of beach parking during construction. Also, Public Access for Canal boating is a key provision of the Plans and it appears from the current project plans that canal boating will be less accessible. To restrict Access in these ways, especially for the purposes of a non-coastal-dependent or non-coastal related use is unacceptable and in

violation of the LUP.

In addition, regarding Public Access, the Venice Blvd median site was specifically intended and planned for the much-needed expansion of beach parking. Venice Coastal Zone Specific Plan Ordinance Section 14. Venice Coastal Parking Impact Trust Fund ("Fund") states: "The Fund shall be used for the purpose of accepting and retaining funds collected by the Department of Transportation pursuant to this Specific Plan for any expenditure only for parking mitigation measures in, adjacent to or serving the Beach Impact Zone. Those improvements shall include but not be limited to: Venice Blvd median public parking facility improvement, including land acquisition and construction."

The LUP Parking Policy II.A.1. General states: "It is the policy of the City to provide increased parking opportunities for both visitors and residents of Venice, and improve summer weekend conditions with respect to Venice Beach parking and traffic control."

The LUP Policy II.A.2. Expansion of Public Beach Parking Supply states: "The construction of new public parking facilities should be implemented, as well as maximizing the use of existing ones by restriping existing parking lots or converting them to multi-level structures where consistent with other Coastal Act policies...the established Venice Coastal Parking Impact Trust Fund, into which in-lieu parking fees shall be paid, will continue to be utilized for expenditure on improvement and development of public parking facilities that improve public access to the Venice Coastal Zone as specified in the LUP."

The Venice Median site was also specifically intended for a park. The LUP Coastal Waterways Policy III.D.6. Venice Canals Parks states: "New parks, with parking to the rear, shall be considered on some of the City-owned lots on the canals, provided that such facilities are compatible with the existing residential use of the area."

Coastal Act Section 30224 states: "Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, **increasing** public launching facilities, providing additional berthing space in existing harbors, limiting non-water dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land;" It is not clear from the Finding that the Advisory Agency has considered LUP Policy Coastal Waterways Policy III.D.2. Boating Use of Canals, which states: "...A public boat launch facility was built as part of the Venice Canals Rehabilitation Project at the Grand Canal and North Venice Blvd. The City shall protect the public's ability to access the canals by boat by maintaining public access to the Grand Canal public boat launch. The facility shall provide adequate on-site public parking consistent with the sizes and types of boats to be launched and frequency of launching pursuant to the County Department of Small Craft Harbors standards."

For these reasons, Project is not consistent with the public necessity, convenience, general welfare and good zoning practice. It is also does not confirm to the California Coastal Act of 1976.

Appeal Point No. A-9: The City's Approval of the VTT was based on erroneous flood information and must be remanded to the Advisory Agency in light of new FEMA maps showing that the Site is in a Special Flood Hazard Area.

As noted on page 13 of the staff Appeal Report:

The DAA's decision was issued on February 2, 2021, using the National Flood Insurance Program rate maps that were available at the time. Subsequently, the new FEMA flood hazard maps were adopted on April 21, 2021. Further, as explained in the Decision Letter the proposed subdivision and subsequent improvements are subject to the provisions of the Flood Hazard Management Plan. Per Government Code Section 66474.2 as a Vesting Tentative Tract, the project will be subject to the regulations that were in place when the application was deemed complete.

It is therefore not in dispute that the Vesting Tentative Tract map was approved on February 2, 2021 by the Deputy Advisory Agency (DAA) based on outdated FEMA flood hazard maps. The DAA did this despite the fact that it was on notice, at least as early as December 28, 2020 of the pending change in the flood hazard map for the site and the nature of the change. As noted on page 2-3 of the GeoSoils, Inc Report dated December 28, 2020: "The preliminary FIRM has the majority of the site to the east of the Canal in the FEMA AE Zone with a BFE of +8 feet NAVD88." The DAA was also on notice via the GeoSoils Report that flood-related mitigation was required for the proposed Project.

Furthermore, as noted on page 1-2 of the staff Appeal Report:

On February 2, 2021, the Deputy Advisory Agency ("DAA") approved Vesting Tentative Map No. VTT-82288 for the merger and re-subdivision of land to create two (2) ground lots and seven (7) airspace lots, with a maximum of 140 residential dwelling units and 6,905 square feet of commercial uses. On February 16, 2021, the Department of City Planning received a timely appeal of the entire decision.

On May 26, 2021, the Los Angeles City Planning Commission ("CPC") determined pursuant to Assembly Bill 1197 that the project is statutorily exempt from the California Environmental Quality Act (CEQA), denied the appeal, sustained the Deputy Advisory Agency's determination, and recommended that the City Council approve a General Plan Amendment, Vesting Zone Change and Height District Change and Specific Plan Amendment and approved a Coastal Development Permit, Project Permit Compliance Review, Mello Act Compliance Review and Site Plan Review, related to case no. CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP.

On July 22, 2021, the Department of City Planning received a timely second level appeal of the entire decision for Vesting Tentative Map No. VTT-82288 from Venice Vision, represented by Jamie T. Hall of Channel

Law Group, LLP. Further on August 2, 2021, the Department of City Planning received a timely appeal of the entire decision for case no. CPC-2018-7344-GPAJ- VZCJ-HD-SP-SPP-CDP-MEL-SPR-PHP from Venice Vision, represented by Jamie T. Hall of Channel Law Group, LLP.

The VTT approval was thus the subject of a timely appeal, and by the time of the appeal, the updated FEMA flood hazard maps had been adopted. As noted in LAMC Section 17.06.A.2.(a), a VTT may be disapproved by the Advisory Agency “because of the **flood hazard, inundation**, lack of adequate access, lack of adequate water supply or fire protection, **insufficient sewerage facilities, potentially hazardous geological conditions** or non-compliance with the requirements of this article, the Subdivision Map Act, or the standards, rules or regulations adopted by the Commission pursuant to the provisions of Section [17.05](#) of this Code.” The City Council has the same ability to grant the appeal and deny the VTT based on those same factors, many of which are addressed in Appeal Points A4-A7.

Furthermore, even if the VTT was approved, pursuant to LAMC Section 17.15.C.2(a):

2. Notwithstanding Subsection C 1 of this section, a permit, approval, extension or entitlement may be conditioned or denied if the Advisory Agency, or the City Planning Commission **or the City Council on appeal determines:**

(a) A failure to do so would place the occupants of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both; or **(Amended by Ord. No. 163,944, Eff. 10/8/88.) (Bold emphasis added.)**

As part of the appeal, Council must consider the undisputed fact that, as noted in the Sea Level Rise Report prepared by GeoSoils, Inc., dated December 28, 2020: “FIRM has the majority of the site to the east of the Canal in the FEMA AE Zone with a BFE of +8 feet NAVD88.”⁵ Failure to consider this information on appeal would constitute malpractice by the City Council, particularly since location in a flood zone requires mitigation, which has not been required as one of the Condition of Approvals⁶ (see Appeal Points A4 – A7), may necessitate changes to the Project design, and may result in a proposed Project which is not consistent with the proposed C2 zone and development regulations. More importantly, failure to adequately consider and mitigate for location in a flood hazard zone on a site subject to SLR, will place vulnerable residents at risk due to potential flood hazards, and as detailed more fully under Appeal Points A4 and A5, result in conditions dangerous to their health or safety or both. The Council has the option to deny the VTT, and should so do.

The response to the Appeal Point makes reference to Staff Response to Appeal Point B-7. There is no such response.

⁵ GeoSoils, Inc., dated December 28, 2020 at page 2-3.

⁶ The Conditions of Approval dated 7/26/21 are available at: http://clkrep.lacity.org/online/docs/2021/21-0829_misc_2_07-26-21.pdf

Appeal Point No. B-1: The City failed to provide a Fair Hearing at both Advisory Agency and City Planning Commission levels and violated the Brown Act at the City Planning Commission meeting.

This appeal point is identical to Appeal Point A-1. See response above and at Appeal Point Nos. C-1 to C-11.

Appeal Point No. B-2: The Project is inconsistent with the general and specific plan.

The staff Appeal Report has no response to the contention and evidence that the project is a giant square peg for a round hole of planning and zoning laws. In order to authorize the Project, the City Council is called upon to amend its general plan, zoning, specific plan, coastal land use plan, to jam the square peg into the round hole with a planning and zoning hammer – destroying the planning integrity of the City’s laws. As a result, in the words of the Professional Volunteer Program architects, the Project looks like “a large barge come ashore.” In other words, legally and aesthetically, the Project will look and feel out of place because it is. It is nothing but an unlawful spot zone.

The staff Appeal Report also offers no response to the fact that the Project violates a condition of the City Council agreement requiring it to comply with the Venice Coastal Zone Specific Plan. Instead of complying, the Applicant takes a hammer to the Specific Plan too. Almost every planning and zoning law applicable to the site will be violated by the Proposed project. This is unlawful spot zoning that cannot be sustained.

Appeal Point No. B-3: The Project is not consistent with public necessity, convenience, general welfare and good zoning practice; the Project does not conform to the California Coastal Act of 1976.

This appeal point is covered in multiple other points. See Appeal Point Nos. A-3, A-4, A-5, A-8, A-9, and B-2.

Appeal Point No. B-4: Mello Act compliance review was faulty.

The staff Appeal Report makes an unsubstantiated claim that Finding 10 of the City Planning Commission Letter of Determination is sufficient because the Applicant agree to replace all four units lost on the project site. But that is evasive of the requirement that the new units be comparable, which they are not. Appellant raised this issue in the appeal and the City failed to address it all. The failure to provide comparable units prior to project approval is a failure to proceed in accordance with law.

LAMC 11.5.11 requires that the Project meet the applicable replacement requirements of California Government Code Section 65915(c)(3), which states that dwelling units occupied on the date of application shall be replaced with units of equivalent size.

The applicant and the City erred on the Affordable Housing Referral Form because the required information on the existing units, including number of dwelling units, number of bedrooms, and approximate square footage, was not provided. In addition, the applicant and the City erred in stating that the existing 4-unit apartment building is on one parcel. In fact, the 4-unit apartment building is located on two parcels. The City has all of this information as it is the

landlord and owner of the 4-unit apartment building.

The sizes of the existing units are:

- three 2-bedroom units at approximately 925 square feet each with one window in each bedroom, one window in the bathroom, one window in the kitchen, one window in the dining room, and one window in the living room. There are two designated parking spots adjacent to the structure for each unit. One of the units has two private entrances and a front patio.
- one 3-bedroom unit at approximately 1,150 square feet with one window in each bedroom, two bathrooms with a window in each, a kitchen with one window, a dining room with one window and a living room with one window. The unit has a closet in the hallway and washer/dryer hookup in the kitchen. There are three private entrances to the unit, a front door, back door, and side door. There are front and back yard patios and two designated parking spots adjacent to the building.

See tenant declarations attached at **Exhibit 3** herein for proof of the size and character of the units being destroyed by the City. Also, the total square footage provided here approximates the amount shown for the building on the City's ZIMAS website, Assessor information.

These features making the units comfortable, family-friendly and easily accessible for children, the elderly and disabled, while offering residents a great deal of autonomy. As set forth in the Plans attached at **Exhibit 4**, the largest units called for in the operative set of plans for the Project (Revision 5, March 31, 2021) are: 2 bedroom / 1 bath unit at 829 s.f. and a 2 bedroom / 1 bath unit at 812 s.f. on the ground floor (see Sheet No. A2.02, Rev. 5, Mar. 31, 2021); and 2 bedroom / 1 bath unit at 903 s.f. and a 2 bedroom / 1 bath unit at 902 s.f. on the second floor (see Sheet No. A2.21). There are no 3-bedroom units provided by Applicant at all. Therefore, the Project as proposed is unable to provide comparable replacement units.

In addition to being smaller in square footage, the proposed replacement units appear to have fewer bedrooms and bathrooms and entry points than the existing affordable units at 204-208 N. Venice Blvd in addition to lacking having both a dining room and a living room. Further, the existing structure is a 100% residential fourplex with private entrances, closet space, washer-dryer hook up, exposure to light on three sides and private, surface parking directly adjacent to the units. The proposed replacement units, by contrast, are wedged into a mixed use residential-commercial restaurant and retail megaplex with light on two sides, at most. Moreover, at least two of the 2-bedroom units in the project plans do not have private entrances directly accessible from the street, and parking for all four units is unreserved in a multi-level parking tower 500 feet or more away. These simply are not comparable replacement units within the meaning of applicable law.

The City Planning Department has indicated that the size and configuration (including number of bedrooms) of the replacement units for the existing affordable housing units at 204-208 N. Venice Blvd. will be determined by HCIDLA *after* the Project is approved. This is incorrect because the law requires an affirmative showing—**as a condition for approval**—that the affordable units destroyed will be accommodated. The developers have not made that

showing and, thus, approval cannot be granted here.

Further it is implausible for the Project to provide 4 units comparable to the sizes of the existing units because of the obvious space constraints associated with the project (which has an average unit size of just 460 s.f.), which is due to the need to dedicate two thirds of total project area to parking towers and to the decision to include commercial and community space (as well as a large observation tower) in the design.

In addition, the increased replacement unit bedroom count would also have implications for parking requirements that should be set forth by the developers and addressed by the City Council prior to any project approval.

Without correctly addressing replacement requirements, the project does not comply with LAMC 11.5.11 and Finding 10.d. is in error. Thus, failure to comply with the law relating to the replacement of the existing affordable units precludes approval of the Project as proposed.

Lastly, the City is in violation of its own Rent Stabilization Ordinance (RSO) as it is the landlord for the 4-unit apartment building and it has not posted the required notice at the site. See attached for example of required notice. Presumably, the City does not want its tenants to know of their rights under the RSO.

NOTICE	
THIS PROPERTY IS SUBJECT TO THE RENT STABILIZATION ORDINANCE	
TENANTS: You are hereby notified that this building is subject to the Los Angeles Rent Stabilization Ordinance (RSO), LAMC Chapter XV.	
The RSO regulates rent increases:	
<ul style="list-style-type: none">Landlords may only collect rents of units registered with the Los Angeles Housing + Community Investment Department (HCIDLA).Generally, a landlord may not raise the rent in excess of the annual allowable rent increase unless otherwise permitted by HCIDLA or the Los Angeles Municipal Code (LAMC).A reduction in services may also constitute an unlawful rent increase.	
The RSO limits the reasons for which a tenant may be evicted:	
<ul style="list-style-type: none">The landlord may be required to pay relocation assistance for certain evictions.Foreclosure or sale of a property is not an allowable reason of eviction.	
All rental properties in the City of Los Angeles must meet the minimum habitability requirements set forth in the Building Code and the California Health and Safety Code.	
For further information, or to file a complaint, please contact HCIDLA's Hotline at (866) 557-7368 or log on to: http://hcidla.lacity.org .	
AVISO	
ESTA PROPIEDAD ES SUJETA A LA ORDENANZA DE STABILIZACION DE ALQUILER	
INQUILINOS: Están notificados que esta propiedad es sujeta a la Ordenanza de la Estabilización de Alquiler (RSO) de la Ciudad de Los Ángeles, Capítulo XV del Código Municipal (LAMC).	
El RSO regula los aumentos de renta:	
<ul style="list-style-type: none">El dueño solamente puede recibir pagos de renta si su unidad está registrada con el Departamento de Vivienda e Inversión Comunitaria de los Ángeles (HCIDLA, siglas en inglés).Por lo general, no se le permite al dueño subir la renta más del porcentaje anual sin el permiso del HCIDLA, o si es permitido por el Código Municipal (LAMC).Una reducción en los servicios también podría constituir un aumento de renta ilegal.	
El RSO pone límites en las razones para desalojar a los inquilinos:	
<ul style="list-style-type: none">El dueño podría ser sujeto a pagar asistencia de reubicación por ciertos desalojos.La ejecución hipotecaria, el remate, o la venta de una propiedad no son razones aceptables de desalojar a inquilinos.	
Todas las propiedades de renta en la Ciudad de Los Ángeles tienen que cumplir con los requisitos mínimos de habitabilidad expuestos por el Código de Edificios y el Código de Salud y Seguridad de California.	
Para obtener más información o entablar una queja, comuníquese con HCIDLA llamando al (866) 557-7368 o por la red a http://hcidla.lacity.org .	
OWNERS OWNERS ARE REQUIRED TO POST THIS NOTICE IN A CONSPICUOUS LOCATION LIKE THE LOBBY OR NEAR A MAILBOX USED BY ALL PROPERTY RESIDENTS, OR IN, OR NEAR A PUBLIC ENTRANCE TO THE PROPERTY.	DUEÑOS DUEÑOS DEBEN FIJAR ESTE AVISO EN UN LUGAR VISIBLE COMO EL VESTÍBULO O CERCA DE LOS BUSONES DE TODOS LOS RESIDENTES, O DENTRO O CERCA DE LA ENTRADA PÚBLICA DE LA PROPIEDAD.

Appeal Point No. B-5: The Project is not eligible for an exemption from CEQA.

See Channel Law letters dated: May 25, 2021, February 16, 2021, January 12, 2020, October 21, 2020 regarding the fact that the proposed project is not eligible for the Section 20180.27 exemption.

As noted in Channel Law's May 25, 2021 letter:

A. The Project Does Not Meet the Requirements for A PRC Section 20180.27 Statutory Exemption Under the Environmental Quality Act (CEQA)

As detailed in our February 16, 2021 letter documenting the basis for our appeal of the Vesting Tentative Tract Map approval and our October 21, 2021 comment letter, we document that the proposed project includes uses that do not meet the definition of supportive housing and are thus not eligible for the Section 20180.27 exemption. These uses include:

- 2,255 square feet of retail uses,
- 810 square feet of restaurant uses with 500 square feet of outdoor Service Floor area,
- 3,155 square feet of community arts center/art studio uses (philanthropic uses).
- Parking in excess of the 61 residential spaces, including: 42 commercial spaces, 196 public spaces (replacement), 23 Beach Impact Zone (BIZ) spaces and 38 non-required spaces; and 136 bicycle parking spaces (19 short-term and 117 long-term).

Just because these uses share a site with a supportive housing functions does not make them exempt from CEQA evaluation. If they were located off-site, they would be clearly subject to CEQA review. These proposed uses on the project site do not become immune from environmental review requirements by virtue of their proximity to proposed "supportive housing."

The staff Appeal Report fails to address these facts under either Appeal Point A-6 or B-5. The non-permanent supportive housing uses, including the new City public parking structure are not eligible for exemption from CEQA. This is undisputed.

The staff Appeal Report also fails to address the following fact included in Channel Law's February 16, 2021 letter, which further disqualifies the proposed Project from the CEQA exemption:

Government Code 65650 et. seq. sets out various requirements that a project must meet to be considered a "supportive housing" project. Gov. Code 65651 essentially provides a compliance checklist. As demonstrated

in the analysis contained in our February 16, 2021 appeal letter, the proposed project is not a by right development, and fails to satisfy all of the requirements of Government Code Section 65651. Most importantly, it fails to provide at least 3 percent of the total nonresidential floor area for onsite supportive services that are limited to tenant use. The proposed project includes a total of 64,280 square feet of residential uses. The proposed project includes a number of uses that are not limited to tenant use including: retail (2,225 sf), restaurant (810 sf), and art studio (3,155 sf). The project plans indicate the project has a FAR of 1.15:1 or 104,140 square feet. This means that the 685 square feet dedicated to supportive services would represent only 1.72% of the non-residential floor area. If exterior walkways are excluded from the calculation, then the 685 square feet dedicated to supportive services would represent only 2.62% of the non-residential floor area.

This disqualifying feature of the proposed Project has also not been addressed in the staff Appeal Report. Given these undisputed reasons why the proposed Project is not eligible for the PRC Section 21080.27 Statutory Exemption, the City cannot proceed with consideration of the proposed Project without first completing the Environmental Impact Report (EIR) for the Project.

Also see response above for the response to Appeal Point A-6.

Appeal Point No. C-1: Venice Vision, as representative of constitutionally affected persons, is entitled to procedural due process of law.

Land use appellant Venice Vision set out principles of procedural due process in its Intent to Sue Letter as follows:

“Members and supporters of Venice Vision own property or are tenants directly within the area affected by the Reece Davidson Project located at 2102-2120 South Pacific, 116-302 E. North Venice Blvd, 2106-2116 South Canal, 319 E. South Venice (“Project”). Some of the members or supporters of Venice Vision reside across the street from the proposed Project site, or are tenants of affordable housing currently located on the site who may be evicted as a result of the Project.

Additionally, in accordance with the standard articulated by our California Supreme Court that the area of constitutional due process protection expands depending up the size and breadth of impacts from a Project, Venice Vision members, supporters and leaders reside within the area impacted by the Project. (See *Horn v. County of Ventura* (1979) 24 Cal.3d 605, 618 (“We do observe, however, that **depending on the magnitude of the project**, and the degree to which a particular landowner's interests may be affected, acceptable techniques might include notice by mail to the owners of record of property situate within a designated radius of the subject property, or by the posting of notice at or near the project site, or both. Notice must, of course, occur sufficiently prior to a final decision to permit a "meaningful" pre-deprivation hearing to affected landowners.” Emphasis added.) This impact area includes, at a minimum, all

persons owning property and living in the Venice Canal network, because replacement of the project site's open space with the Project's massive building would displace an area capable of holding flood water or tsunami inundation water and diverting flood and inundation waters into the Venice Canals at greater volumes than without the Project. It also includes those who would be affected by a diminution in parking availability and traffic flow due to the Project, as well as all persons who rely on Venice Boulevard and/or the existing surface parking lot at the proposed building site for access to Venice Beach.

Constitutional procedural due process requirements indisputably apply to quasi-judicial proceedings such as approval or appeal of a subdivision map. *Horn, supra* at 24 Cal. 3d 614. It also applies to all other quasi-judicial matters sought by the Applicant. Venice Vision, as Appellant in land use cases involving the Project represent the constitutional due process interests of all such persons described herein."

The staff report is non-responsive to the content of this section of the notice of intent to sue letter. However, in setting forth facts related to how the City Planning Commission meeting was noticed and general members of the public were afforded Brown Act public comment of 1 minute each up to one hour for each side, the City implicitly acknowledges that quasi-judicial hearings require due process for those property owners and tenants whose substantial rights may be impacted by this large project. Accordingly, the City must be taken to have admitted Venice Vision and all property owners and tenants within the impact area of this project are entitled to full procedural due process, including not only proper notice and opportunity to be heard, but also to be heard by decision makers who are impartial without conflicts of interest or bias.

Appeal Point No. C-2: Venice Vision, as a land use appellant, is also entitled to procedural due process of law.

Land use appellant Venice Vision set out principles of procedural due process as follows:

"Venice Vision has filed administrative land use appeals from the Advisory Agency decision to the City Planning Commission, and recently, from the Commission to the Los Angeles City Council. Provisions of the Subdivision Map Act and the City's municipal code set forth a right of persons aggrieved by land use decisions to file an appeal of the decision, and for that appeal to be heard in an administrative hearing process.

It goes without saying that a land use appellant who activates the City's administrative appeal process by the filing of an appeal is entitled to reasonable and timely notice of a hearing, and a meaningful public hearing separate and independent from any statutory obligations under the Brown Act. The Brown Act is not the measure of constitutional rights to a fair hearing, rather the U.S. and California constitutions as construed by applicable caselaw developed outside the Brown Act define the parameters of minimum due process of law. Indeed, if the Brown Act did not exist, constitutional due process would still mandate reasonable actual notice to affected property owners and tenants, and a fair and meaningful hearing before the City's decisionmakers.

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. *Nightlife Partners, Ltd. V. City of Beverly Hills* (2003) 108 Cal.App.4th 81, 90. Fair hearing requirements include unbiased decision makers, an opportunity to review the evidence considered by the agency, and the right to be actually heard by those who make the decision.”

The staff Appeal Report is non-responsive to the foregoing principles of procedural due process. Venice Vision also summarized the due process violations in this section with details in later sections of the Notice of Intent to Sue letter:

“As detailed herein, the May 27, 2021 meeting of the City Planning Commission afforded virtually none of these procedural protections. At least two Planning Commission members are a Board member or Executive Director of LA-Más, Inc., an organization that receives monies directly from members of Los Angeles City Council to organize public engagement campaigns on real estate development in the City, and has worked with Applicant Venice Housing Corporation during the pendency of the Project application at issue in the matter before them as Planning Commissioners. Venice Vision has been substantially denied access to non-exempt public records to submit to the administrative record for this case related to bias of City decision makers, environmental studies withheld from the public, and even accurate basic information about the Project. Additionally, when it was time for the Commission to listen to public comment, it lacked a staff report that accurately summarized who attended the due process hearing conducted by the Hearing Officer and the details of their testimony, the hearing process failed to identify persons within the Project impact zone to speak to the Commission so that some with a constitutional right to be heard were not heard at all, the Commission limited speaking time to only 1 minute per person, and as persons observing the Commission’s Zoom virtual meeting space saw, many Commissioners were not shown as present during consideration of the Project, turned their cameras off, or simply walked away from their cameras showing an empty chair. Individually and cumulatively, these practices of the Commission and inherent bias of at least two of the Commission members failed to meet even minimal procedural due process requirements.”

The foregoing paragraph was a summary of all of the cumulative procedural due process violations inflicted on Venice Vision as a land use appellant, and property owners and tenants with constitutionally protected rights trying to be heard. The staff Appeal Report focuses only on the conflict of interest issue between Renee Dake Wilson and Helen Leung, setting forth facts that confirms that Dake Wilson is a vice-president of the LA-Mas Board of Directors. Then in a one sentence dismissal, the City Planning staff refuse to admit or deny whether Ms. Dake Wilson is one of the largest financial contributor to LA-Mas, or whether Dake Wilson sets Ms. Leung’s compensation and conducts her performance review.

Instead, the City staff states “The claim commissioners Wilson or Leung have bias toward this project or applicant because of their professional association is innuendo and speculation.” The failure to mention the potential conflict of interest of one City Planning Commissioner being the supervisor and major donor to the organization employing another City Planning Commissioner is left with no answer by the City. Such a failure to offer countervailing

information is an admission that such potential conflict of interest exists and that the City refuses to address the conflict by removing one or both Commissioners from the City Planning Commission.

Appeal Point No. C-3: Commission member Renee Dake Wilson failed to disclose her board membership and major donor status to commission member Helen Leung’s employer, LA-Mas, Inc., an organization that has worked on issues, possibly linked to the project, with applicant Venice Housing Corporation.

Land use appellant Venice Vision set out in the notice of intent to sue these detailed facts about two City Planning Commissioners who have a troubling inherent conflict of interest:

“Public records obtained by Venice Vision show that during the time frame of this Project, City Planning Commissioner Helen Leung, in her capacity as Co-Executive Director of LA-Más, Inc., submitted a bid to Council Member Mike Bonin’s office for economic development work along Venice Boulevard under the Great Streets Program, and that Commissioner Leung herself praised Mr. Bonin for his “progressive positions amidst a NIMBY constituency.” This email betrays Commissioner Leung’s public proclamations of objectivity. She stated as follows at the May 27, 2021 hearing regarding the Project:

“Before I share my comments, I want to just clarify on the record, that neither I or the non-profit where I work, LA- Más has any conflict of interests with this project and LA- Más has collaborated in the past with Venice Community Housing over two years ago. I’m just doing resident outreach for an affordable housing program but no funds have ever been exchanged between our two organizations and we don’t have any formal partnerships and we have no stake in this project.”

Ms. Leung’s comments raise more questions than answers regarding the nature of LA- Más’s relationship with Applicant Venice Community Housing. The Project has been in development for well over five years. Commissioner Leung’s admission that LA- Más has worked directly with the Applicant to advance affordable housing **in that timeframe** evidences a potential conflict, regardless of whether the Applicant compensated LA- Más directly or the extent to which Commissioner Leung fully and completely disclosed all aspects of the relationship between LA-Más and the Applicant.

The LA-Más website states that LA-Más has an “alternative housing program” aimed at “increas[ing] the number of neighborhood-scale affordable rental units in gentrifying urban neighborhoods” and that it serves as an “economic development consultant” in connection with LA’s Great Streets Program. In fact, substantial contributions have been made to LA-Más by Los Angeles City Council Members, but it is unclear if the source of funding of LA-Más is from City coffers or political campaign coffers. It therefore appears that Commissioner Leung has bias against residents of Council District 11, and may be using her position on the Planning Commission to advance the financial interests of LA-Más.

But there is an ever more troubling and blatant conflict of interest Ms. Leung failed to disclose. The LA-Más website also reveals that City Planning Commissioner Renee Dake Wilson's architecture firm was the highest financial donor to LA-Más within the last two years, and that Renee Dake Wilson serves as Vice President of the Board of Directors of LA-Más. While Ms. Leung at least disclosed something about her relationship with Venice Community Housing, Ms. Dake Wilson disclosed nothing to the public that she is Ms. Leung's direct work supervisor, sitting on the Board of Directors that makes decisions about Ms. Leung's compensation package, and performance evaluation. The existence of this relationship places Ms. Leung in a wildly inappropriate conflict. As a Commissioner, Ms. Leung is expected to exercise independent judgment in the public's interest, yet her employment relationship with another Commission member, undisclosed to the public, may impel her to vote in agreement with her direct employment supervisor, Renee Dake Wilson.

The existence of this troubling and undisclosed conflict of interest from both Commissioners Dake Wilson and Leung require intervention and remand of this case to the Advisory Agency and City Planning staff, and conduct of a fair hearing free of conflicts of interest."

The staff response is incomplete and evasive, particularly on the issue of conflict of interest of one City Planning Commissioner, Renee Dake Wilson, being the largest financial contributor to LA-Mas, and sitting as Vice President of the Board of Directors of LA-Mas where she, as a matter of corporate governance, has a duty to review performance and set compensation of fellow City Planning Commissioner, Helen Leung. The staff report offers no discussion of this inherent conflict of interest. Instead the staff report confirms that Ms. Leung worked with Venice Community Housing on residential outreach about two years ago, confirming she worked with Venice Community Housing during the five year pendency of this Project proposal and application.

Appeal Point No. C-4: The Los Angeles City Planning Department refused and continues to refuse to produce to Venice Vision all disclosable public records in its files relevant to the evaluation of the vesting tentative tract map and other quasi-judicial land use entitlements.

On the issue of the City Planning Department intentionally withholding responsive and disclosable public records from Venice Vision which prejudicially deprived it of the ability to develop land use appeal issues and support them with evidence, Venice Vision set forth these facts:

"Venice Vision has filed public records requests to obtain copies of records the City purposely excludes from its paper planning and environmental files it allows the public to view and copy. This firm has learned recently that the City Planning Department has a written policy to create a "shadow file" on an electronic drive used by City planners to save not only electronic versions of what the City shows the public as the "planning or environmental file", but also saved internal and external communications, staff meeting notes and memoranda, and draft versions of documents. As we understand the procedure, the assigned City planner is tasked with determining how much of the Project-related documents

possessed electronically by the City will be printed out and fastened into the paper file made available to the public.

As a result of this City policy, unknown quantities of documents related to the Project are currently held by the City Planning Department but are not made available to members of the public for review, even though they are public records. Instead, the public is told it may only review the paper project files containing only documents a City Planner has determined should be made available to the public. The California Public Records Act does not operate this way. In enacting the Public Records Act, the Legislature declared: “In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” Govt. Code § 6250. Similarly, the State’s open meeting law declares in part: “The people of this State do not yield their sovereignty to the agencies which serve them. **The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.** The people insist on remaining informed so that they may retain control over the instruments they have created.” Govt. Code § 54950, emphasis added.

Under this City Planning Department policy, City planners are deciding what information will be good for the public to know about the Project and what information is not good for them to know. The City’s policy is inconsistent with the goals of open and accountable government. With the series of federal indictments and guilty pleas of City of Los Angeles City Councilmembers, their staff, City Planning Commission members, the General Manager of LABDS and the Mayor’s Economic Development advisor, there is more reason to end practices like the City Planning Department failing to disclose to the public that it holds significant other Project-related documents other than the paper files its planner assembles, and deems “good enough” for the public to know.

Venice Vision, since the outset of the Project has submitted several Public Records Act requests trying to obtain copies of non-exempt documents in possession of the City related to vital topics. These topics include the actual description of the Project, the actual plans for ownership of the property, who will own, construct and operate the parking garage to be erected to replace the existing surface parking lot, the environmental reviews conducted related to the Project site, the elements of the Project that do or do not qualify for any exemption from environmental review under CEQA, the selection of the Project over other proposals, the details of the Exclusive Negotiating Agreement (“ENA”) between the City and Applicant, and the factual basis or lack thereof surrounding a public claim made by Council Member Bonin and corroborated by LAPD Chief Michel Moore that domestic terrorists planted bombs on the site of a related bridge housing project (and the extent any such claim was used to create a false narrative to discredit Venice Vision, its leaders and supporters).

The City has not produced all non-exempt public records so that Venice Vision, or any other records requester, could conduct a proper investigation of the

Project or the parking garage to be erected to replace the existing surface parking lot. Further, the City has withheld documents necessary to rebut highly prejudicial allegations—coming from the highest level of City government—that Venice Vision and others legitimately concerned about the overconcentration of homeless shelters and housing in Venice, engage in domestic terrorism. The City’s strategy seems to be to hide many key relevant documents so the public will not know or understand the Project or the replacement parking tower, and will therefore be unable to place into the record of proceedings evidence relevant to the Project and parking tower.

We provide one example of the extreme prejudice to Venice Vision in its effort to understand the Project and prepare materials to assist decision makers concerning the Project. This example is based upon the City deliberately withholding records related to environmental review that has already been performed for the Project. On December 18, 2018, the City issued a Notice of Preparation (“NOP”) of an Environmental Impact Report (EIR) for the Project under the California Environmental Quality Act (“CEQA”). As part of the Notice of Preparation, an Initial Study was released to the public (<https://planning.lacity.org/eir/nops/ReeseDavidson/InitialStudy.pdf>) identifying the potential for significant environmental impacts in a number of environmental issue categories including: “Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Transportation and Traffic, Tribal Cultural Resources, Utilities and Service Systems (including water and wastewater), and Energy Conservation and Infrastructure.” As part of the initiation of environmental review, the City and/or Applicant hired numerous expert consultants to conduct environmental analysis of the Project and its potential impacts. These reports are in the possession of the City and/or environmental experts under the City’s control.

At some point, the City decided to stop preparation of an EIR and instead claim that the entire project, including a separate parking tower to be constructed by the City and not the Applicant, is exempt from any environmental review at all on the basis of a statutory exemption from CEQA. On this apparent basis, the City has refused to produce for public inspection all of the environmental documents it possesses concerning investigations of potential environmental impacts of the Project.

However, the Subdivision Map Act has its own independent requirement to analyze a project’s environmental impacts.

In *Topanga Ass’n for a Scenic Community v. County of Los Angeles* (1989) 214 Cal.App.3d 1348, the court ruled that Government Code Section 66474(e), which requires a governmental agency to deny a map application if the agency finds that subdivision design or improvements are likely to cause substantial environmental damage, provides for an environmental review separate from and independent of CEQA. The court stated as follows: “Appellants argue that elimination of their CEQA causes of action does not

foreclose an environmental challenge to the approval of the project because the Subdivision Map Act, in Government Code section 66474, subdivision (e), provides for environmental impact review **separate from and independent of the requirements [of] CEQA**. We agree.” “[T]he finding required by section 66474, subdivision (e) **is in addition to the requirements for the preparation of an environmental impact report or negative declaration pursuant to the CEQA**. (59 Ops.Cal.Atty.Gen. 129, 130 (1976).”) *Topanga Ass'n for a Scenic Cmty. v. County of L.A.* (1989) 214 Cal.App.3d 1348, 1355-1356 (emphasis added.)

Government Code section 66474.61, applicable to the City of Los Angeles as a city with a population exceeding 2.8 million people, applies the same legal requirements as those of Government Code section 66474, including the requirement that a subdivision not cause significant environmental damage, or harm fish and wildlife. Therefore, even with an exemption from CEQA, the **Project is not exempt from the independent environmental analysis required under the Subdivision Map Act**.

Venice Vision has filed several requests for copies of the contents of the City's environmental review files, including all expert studies and draft environmental documents. The City Planning Department has improperly refused to produce all of these documents, citing among other reasons that they are draft documents. These documents, even those that might be draft, are responsive public records to Venice Vision's requests. Even though the preparation of a CEQA administrative record does not include draft environmental documents not circulated to the public, the standard for preparation of an administrative record for CEQA litigation is NOT the standard for determining the right of Venice Vision to obtain these records, review them, and develop comments on environmental issues that are relevant to the separate environmental review of the Subdivision Map Act issues.

Additionally, the City Planning Department has a pattern and practice of withholding any and all draft documents, falsely claiming that the public interest in withholding such documents outweighs the public interest in their release. Often the City tries to make a claim that the public might be “confused” if draft documents that were not ultimately used by the City were released. This claim is bogus, and particularly bogus here because the Subdivision Map Act mandates that a full environmental review of the subdivision occur. Nevertheless, the City is refusing to release all of the documents it developed in conducting that review. Here there is a paramount public interest in release of all of the City's documents, including all studies, reports, drafts, staff meeting agendas/notes, internal emails communications, and communications with experts and other consultants to determine if potentially significant safety and environmental concerns (including concerns relating to the historic significance of the Venice Canals) were initially identified as significant, and then ignored by the City when it decided to wrap the Project, including the separately owned and constructed Parking Tower, with a CEQA exemption claim.

The improper withholding of environmental public records to prevent

Venice Vision from fully developing the administrative record before the Advisory Agency, the City Planning Commission, and now the City Council denies procedural due process rights to the ability to have a fair hearing before City decision makers.

The prejudicial nature of the inability to submit environmental documents in the possession of the City is illustrated by statements made by City Planning Commissioner Dana Perlman at the hearing:

“This belongs as a categorically exempt project and we have no evidence, zero, or any reasonable possibility that there would be any significant impact on the environment here. It’s all just conjecture people throw out while we’re losing an open, a surface parking lot?” (Emphasis added.)

Mr. Perlman did not have attached to the Planning Department Recommendation Report the prior Initial Study of the Project identifying a slew of potentially significant environmental issues. The inability of Venice Vision to obtain and submit the City’s own existing environmental studies to document those potential significant impacts illustrates the prejudice. The City’s decision makers themselves were deprived of the information they needed to make an informed decision – rather one based upon an incomplete record.

The withholding of environmental records is only one example of prejudice. Similarly, the City has refused to produce records regarding submissions received in response to the RFQ/RFP for the development of the proposed building site and the selection of the Project, as necessary to address the destruction of four existing affordable housing units on the proposed building site; the Applicant’s request for waiver of dedications and improvements required to comply with the City’s Circulation Element of the General Plan (Mobility 2035) and other aspects of the General Plan; and the Applicant’s public statement—contrary to the plain language of the RFQ/RFP itself—that development of the entire 2.65-acre parcel was required.

On many critical aspects of the Project, the City has used its power of possession of non-exempt public records to prevent Venice Vision from making a robust administrative record. These actions are prejudicial to a fair hearing, and warrant remand of the case to the Advisory Agency and Planning Department for full development of the record.”

The Appeal Staff report offers two sentences in response. In the first sentence, the staff claims that it made the “case file” available prior to the hearing. This statement is false and evasive. It is false because, as outlined above, the City maintains a dual record keeping system, one of paper and one electronic, but routinely only makes available to the public the paper “case file.” The paper case file only contains that which the planner or other City staffer has decided the public can see. The full file is maintained on an electronic drive, where all project related documents are stored. Therefore, even if the paper file was made available prior to the hearing, it does not contain all of the records related to the project, including many that were responsive to public records requests that remaining pending for as much as one year. Furthermore, the City refused to make available to Venice Vision or any affected property owner or tenant, access to

documents in the paper or electronic “environmental file.” Thus, making the case file available prior to a hearing is an empty gesture if the City, as it did, withheld documents in the environmental file.

In the second sentence of the City’s response, it admits that it withheld documents from pending public records requests until October 6, 2021. The City staff failed to tell the City Council how many pages of disclosable documents were withheld from Venice Vision, and the interested property owner, tenants and public. The number of pages produced on October 6, 2021 was between one and two thousand pages of materials. Thus, the City admits that substantial quantities of responsive documents, including some of the environmental documents outlined above, were withheld during the Hearing Officer Hearing Phase, the Advisory Agency Hearing Phase and the City Planning Commission phase. Accordingly, the City’s withholding of responsive public records deprived Venice Vision and all interested property owners, tenants and others affected by the Project from assembling testimony and evidence in support of appeals before all the subordinate decision making bodies.

Accordingly, the City has admitted it withheld documents, and such improper delay in release of documents was prejudicial to a fair hearing at the subordinate administrative hearings.

Appeal Point No. C-5: Venice Vision was denied the opportunity to submit the withheld documents to the administrative record before the Advisory Agency in order to fully develop all issues, including environmental impacts of the project.

On July 29, 2021, land use appellant Venice Vision set forth particularized examples of how the City’s refusal to produce documents prejudiced the ability to submit analysis and evidence in support of its appeals:

“The first negative impact of the City’s refusal to produce non-exempt public records about the Project occurred during the initial Project review at the Advisory Agency decision making level. While Venice Vision worked in good faith to develop and submit evidence relevant to the Advisory Agency’s determination, there is no question that the City withheld environmental documents it possessed related to the Project, and in so doing prevented Venice Vision from fully investigating the Project and its potential significant environmental impacts, or to submit such relevant public documents to the public record.

The City Planning Department relied upon a claim that the Project was exempt from CEQA review in part as a basis to claim that the Project could not have potential significant environmental impacts. But as previously set forth, a CEQA exemption does not apply to the legally distinct environmental review required as part of a tract map approval under Government Code section 66474.61. The Subdivision Map Act imposes a comparable environmental review **for which no legal exemption is available.**

As a result of the City withholding the records related to the topics listed above, the City has denied Venice Vision the ability to develop a full administrative record to enable decision makers at the Advisory Agency to fully understand serious and legitimate concerns, including environmental concerns,

about the Project. Those issues may be known to the City Planning Department but remain undisclosed to the public, including Venice Vision.

In so doing, Venice Vision did not receive a fair hearing before the Advisory Agency, and the Advisory Agency did not have the benefit of full environmental analysis because the City refused to perform it as part of the tract map review. Venice Vision was prevented from obtaining environmental documents that it could have submitted before the Advisory Agency hearing. And without fully informed decision making of the Advisory Agency, its decision was so fatally flawed that the taint of unfair hearing infects the ongoing administrative appellate process before the City. This fundamental unfairness of the City continues to this day as the City refuses to produce Project-related public records relevant to the development of a complete and fair record of proceedings.”

The staff Appeal Report repeats the same two sentences as the City’s response to Appeal Point No. C-4. The admission by the City that it did not release requested records until October 6, 2021, is an admission that Venice Vision, and anyone else who might have reviewed these released documents, were deprived of a meaningful opportunity to develop appeal arguments and evidence for consideration by the Advisory Agency and the City Planning Commission.

Even the attachments to the Appeal Staff report confirm the due process violation. Attached to the Appeal Staff Report is the following never before seen environmental study: a 60-page Biological Technical Report dated March 2021. The staff Appeal Report attaches this and other reports without disclosing when the Project Applicant gave these reports to the City. The release of a new Biological Technical Report only a few days before the originally scheduled PLUM Committee hearing date establishes the City’s intent to withhold from Venice Vision and other property owners and tenants, long ago prepared environmental analysis so that no community group could feasibly retain experts to analyze and comment upon the credibility of the report.

Appeal Point No. C-6: On appeal of the tract map to the City Planning Commission, the commission refused to remand the case to the Advisory Agency to require record production and fair opportunity to supplement the administrative record.

Land use appellant Venice Vision set forth continuing violation of procedural due process rights when it was forced to appeal the Advisory Agency decision to the City Planning Commission:

“Given the faulty Advisory Agency decision, Venice Vision was forced to appeal approval of the tract map to the City Planning Commission. But because the City continued to refuse to produce all of the non-exempt public records which Venice Vision is entitled to review as it prepared for its appeal to the City Planning Commission, Appellant continued to be unable to fully develop an administrative record, particularly related to the environmental issues.

Despite this ongoing fatal gap in the administrative proceedings, the City Planning Commission ignored objections and denied the appeal which would have remanded the case back to the Advisory Agency to enable correction of the

administrative record of proceedings with the missing public records.”

Once again, the staff Appeal Report merely repeats the two sentence response that the “case file” was made available and more responsive public records were released to Venice Vision on October 6, 2021 when it was too late to include at the critical lower administrative hearings on the Project.

Appeal Point No. C-7: On the new quasi-judicial entitlements considered for the first time, the City Planning Commission itself was denied the benefit of a complete administrative record before it, including the ability of constitutionally protected persons to impact decision making.

Land use appellant Venice Vision set forth in its notice of intent to sue detailed examples how its and interested property owners and tenants were prejudiced by the fatally flaws procedures:

“As outlined above, procedural due process attaches to all quasi-judicial proceedings. In addition to the tract map appeal, the City Planning Commission is responsible for considering and acting as the initial decision maker on other quasi-judicial matters such as Site Plan Review, and similar matters. The City Planning Commission does NOT conduct the hearing on such quasi-judicial matters. Instead, it delegates to a Hearing Officer the obligation to conduct a public hearing on the proposed quasi-judicial entitlements.

Inability Of Venice Vision To Obtain Public Records Impaired The Record.

Just like at the Advisory Agency level, at the City Planning Commission level, the ongoing refusal of the City to disclose project-related documents continued to impair the ability of Venice Vision to submit to the record of proceedings evidence and analysis regarding the true nature of the Project, its qualification for exemption from environmental review, and the adequacy of its environmental review in connection with the Site Review Process, which is also intended to identify, condition, and fully mitigate environmental impacts.

Accordingly, Venice Vision was deprived of the ability to assure a complete administrative record due to the City’s own misconduct in continuing to refuse to produce non-exempt public records, including those related to potential significant environmental impacts, Mello Act determinations involving the displacement of four existing affordable housing units, and waivers of dedications and improvements for compliance with Mobility Plan 2035 and other aspects of the General Plan.

The Planning Commission Hearing Process Is Fundamentally Unfair.

Under the City Planning Commission hearing process, the Commission relies upon the Hearing Officer to summarize testimony at the public hearing. If the Hearing Officer fails to fully and accurately summarize the testimony for the City’s decision makers, how has the City provided a right to be **heard** by the

decision makers? Historically, City planners listed the names of organizations or persons testifying and summarized their testimony in the Planning Recommendation Report. The Commission relied upon the testimony summary as a key element of understanding the Project and issues of concern by persons constitutionally impacted by the Project. But in recent years, the City Planning Department has abandoned any identification of who testified at the public hearing or the substance of their testimony. Instead of summarizing testimony, the City Planner bullet point issues without any factual testimonial context.

Due to this practice, there is a fatal disconnect between the act of delegating the public hearing to a Hearing Officer, and the Commission's role as the constitutional decision maker. The Commission no longer is provided a written summary of who testified and what their particular testimony concerned. Instead, at best, the City planner might insert a list of topics raised at the hearing, often not even in full sentences. As a result of this significant change in procedure, the written report given to the Commission weighs heavily on the Planning staff's opinion and very little information about the hearing testimony is given to the Commission – who is the decision maker who delegated the hearing and testimony summary task to the Hearing Officer.

This disconnect is illustrated by the Staff Recommendation Report prepared in this case. **Forty-nine (49) people provided live testimony at the Hearing Officer Hearing in opposition to the Project and hundreds more submitted lengthy emails setting forth, in detail, why the Project should not be approved as proposed. All of that information was reduced to a handful of generic bullet points, completely stripped of underlying facts regarding the cost of the housing units, flood risk, parking, beach access and other matters of undeniable relevance to the Commission's consideration of the Project's compliance with basic laws and merits.**

While lack of any detailed summary of who testified at the hearing and what the substance of their Project concerns were deprives Commission members of knowing the content of the constitutional hearing conducted by the Hearing Officer, this paucity of testimony is exacerbated at the public meeting conducted by the Commission itself on the proposed quasi-judicial entitlements. At the Commission's meeting, the agenda states that the Public Hearing has "already been conducted," and the only thing the Commission is entertaining is public comment required by the state's opening meeting law, the Brown Act.

Historically, the City Planning Commission followed the norms of other cities across this state affording public commenters (including those with constitutionally protected rights because of their proximity to the Project) up to three minutes each. Within the past few years, the City Council and its planning commissions, including the City Planning Commission, have adopted procedures allowing restrictions on the time persons can comment from 3 to 2 minutes, and now from 2 minutes down to just 1 minute.

Additionally, the Commission has set arbitrary time limits to limit the total number of persons it will even hear public testimony from. Making no effort to

assure that persons whose constitutional property and other interests are given priority to speak before the Commission, instead persons are randomly called by City staff until the arbitrary time limit is exhausted, and even though others may be left without any opportunity to speak, including those who have a constitutional right to be heard.

Individually and collectively, these changes in City policy frustrate the ability of constitutionally affected owners and tenants from their right to heard by the decision making body. The City often claims that persons are also “heard” by the Commission in the form of written comments and evidence submitted, however, unless the Hearing Officer attaches to the Planning Recommendation Report all correspondence received so the Commission members have an opportunity to see it, constitutionally affected persons may not have their written materials seen at all by the Commissioners.

Collectively, the City’s administrative processes have made it nearly impossible to affect the outcome of the constitutionally required hearing because (1) written materials of constitutionally affected persons are not routinely attached to the Planning Recommendation report, (2) each particular person who testified at the hearing conducted by the Hearing Officer is not identified and summarized in any reasonable way so that Commission members can know their testimony details, (3) public comment under the Brown Act is often restricted as to total time on an item, and reduced to one minute to those randomly selected to be allowed to speak, so that constitutionally affect persons may be denied any ability to speak at all. Under these individual and collective circumstances, Venice Vision, its members and supporters, all entitled to procedural due process, were denied due process by the City Planning Commission procedures, and as actually implemented.

In this case, the Hearing Officer’s Recommendation Report did not include written submissions of all persons with constitutional fair hearing rights and, as noted above, reduced extensive testimony and written submissions in opposition to the Project to a handful of generic bullet points, completely stripped of underlying facts. At the Commission meeting, the Planning Department’s presentation before the Commission contained affirmative misrepresentations regarding the type and amount of parking that would be provided, as well as the height of the Project, and made use of Project plans known by the Planning Department to be out of date and inaccurate. These inaccuracies were compounded by similar inaccuracies in the Applicant’s presentation, which also contained statements regarding the housing mix that were contradicted the very next day by a City Planning newsletter. Consequently, it is not currently known—to the public, at least—whether the Project (which is already half-way through the City approval process) will set aside 68 units for homeless housing with supportive services (as the Applicant claims) or whether 130 of the 136 affordable units will be pegged at 60% AMI (as the Planning Department has twice stated). This information is vital for a number of obvious reasons, including, of course, any CEQA exemption determination pursuant to A.B. 1197.

Further, the Brown Act public comment on the tract map appeal and other

land use entitlements were combined into one public comment opportunity under the Brown Act. Then, despite knowing that the Project had tremendous public interest, the Commission President announced that the Commissioners would only hear one hour of public comment from each of the Project supporters and opponents, limited to one minute per person. The City gave no priority to persons whose property or other interests were directly affected, thus, one hour of testimony was accorded to Project supporters a significant portion of which were housing activists from other parts of the City with no constitutional rights to be heard. Moreover, there was no time on the agenda for comment regarding the parking tower to replace the existing surface parking lot, which is plainly a separate project unto itself.

Accordingly, the proceedings before the City Planning Commission were so fundamentally flawed, including the ongoing refusal to produce Project-related documents for inclusion in the record of proceedings, Venice Vision and its members and supporters were deprived of procedural due process.”

The staff Appeal Report evades the detailed factual allegations of unfair procedure at hearing officer hearings and the City Planning Commission. Instead, the staff Appeal Report asserts without substantial evidence that “all salient points”⁷ were presented to the City Planning Commission in the Hearing Officer Recommendation Report and the truncated one-minute Brown Act testimony the City now imposes on even persons with constitutional hearing rights.

Appeal Point No. C-8: During the City Planning Commission Meeting, commissioners violated due process and their own rules by failing to demonstrate their objective virtual presence in the online meeting room, including times when the virtual meeting lacked a quorum.

Land use appellant Venice Vision set forth in its notice of intent to sue documentation of how the City Planning Commission virtual meeting was conducted by the City without establishing that the meeting maintained a quorum or that the Commissioners in fact heard all testimony they were required by law to hear before taking action on the land use appeals before them:

“Venice Vision timely submitted a Brown Act cure and correct demand to the City related to the failure of the City to maintain all City Planning Commissioners on screen of the Zoom meeting during consideration of the two items related to the Project. Additionally, Venice Vision submitted a cease and desist demand to the City regarding the failure of its planning commissions, including the City Planning Commission, to maintain full objective virtual presence in the online meeting room in order to fully comply with the Brown Act as implemented during the pandemic by the Governor’s Executive Order. The City on July 20, 2021 sent written notice from a Planning Department Management Analyst that the City does not intend to take any action in response to the cure and correct demand or

⁷ This is an ironic claim by City Planners because Appeal Point C-9 documents factual misrepresentations made to the City Planning Commission by the City’s planners who signed the Planning Recommendation Report. Presentation of “salient points” does not legitimately include City employees providing known false information to decision makers.

the cease and desist demand.

However, beyond the minimum requirements of the Brown Act as implemented under the authority of the Governor's Executive Order, the Commission also violated minimum due process requirements by (1) failing to maintain an online virtual presence of even a quorum of Planning Commissioners, and (2) even when a Commissioner's online screen was visible, some Commissioners had turned their cameras off so that their virtual presence in the online meeting room could not be objectively observed, or they visibly walked away from their computer/camera confirming they were not present to hear the case before them.

Under the Operating Rules of the City Planning Commission, commissioners are required to be present and to hear all of the case before them in order to vote upon the matter. Operating Rule 8.2 states:

“Voting – A Member is not qualified to participate in, or be present for, a vote on an agenda item unless the Member **was present for the entire hearing before the Commission**, or has listened to the audio recordings of the prior relevant proceedings prior to his or her participation in a vote. If an agenda item is continued to, or scheduled for a motion to reconsider at, a future meeting, a Member who was absent from any portion of the Commission hearing on the agenda item when it was initially considered may participate in a subsequent vote provided he or she has listened to the audio recordings of the prior relevant proceedings. **These voting provisions shall only apply to quasi-judicial approvals.**”

The Commission's own rules acknowledge that the constitutional right to be heard in quasi-judicial proceedings requires Commissioners to be present for the “entire hearing.”

During hearing of the Project before the Commission, at least one commenter confronted the Commission President with the fact that not all of the Commissioners were present in the virtual meeting and that some whose screens were observable showed the Commissioner had turned off the camera such that the Commissioner's presence for the “entire hearing” could not be observed, or Commissioners left the camera on and just walked away for periods of time.

The President claimed that the Commission had “maintained” a quorum throughout the meeting. The Planning Commission has failed to substantiate that assertion, despite being given three opportunities to do so, and in any event, mere quorum is not the standard set by the Commission's own rules. The rules require presence throughout the entire meeting. This meeting could not be conducted with Commissioners trading in and out of the room merely to keep a bare quorum present. They were all required to be present for the “entire meeting.” In fact, the online display of City Planning Commissioners' screens failed to show all of the Commissioners present for the “entire meeting,” but at the end of consideration of the item, the screen filled with all of the Commissioners' screens for a vote. This demonstrated to the observing public that the City had the technology to display

the virtual presence of all Commissioners throughout the meeting, but failed to do so consistent with its own Operating Rules, and principles of due process.

At times, documented with screen shots of the meeting, there was not even a quorum of City Planning Commissioners visible to the public in the virtual meeting. Where were they during consideration of the items? The Commission President had no credible explanation.

The Commissioner President expressly admitted that some Commissioners had turned off their cameras or walked away in order, she said, to use the bathroom. How the Commission President from her own home could definitively know that multiple commissioners were gone from the meeting for overlapping periods of time merely for bathroom breaks was not revealed. Were they in the bathroom or conducting other business, or talking to each other off line? Any of these scenarios are equally plausible because the commissioners failed to maintain consistent virtual presence in the online meeting room provided by the City.

There is no “bathroom exception” in the Commission’s rules or the due process right to be heard. Due process and the rules require a Commissioner to be present for the “entire hearing.” In other cities of this state, planning commissions take brief recesses for such comfort purposes. But in the practice of the Los Angeles City Planning Commission, such breaks rarely occur, and did not occur during the hearing of the items related to the Project.

In response to Venice Vision’s cure and correct letter of June 25, 2021, the City offered some kind of log for the Zoom Commission meeting showing the log on and log out time for various Commissioners to the Commission’s Zoom meeting. It hardly requires observation that logging into a meeting is not evidence of virtual presence of the commissioners themselves.

Accordingly, the failure of the City Planning Commission to maintain a bare quorum during consideration of the items related to the Project, the failure of the Commission to maintain online virtual presence of all Commissioners voting on the item, and the multiple acts of Commissioners stepping away from or turning their cameras off, individually and cumulatively with all over unfairness outlined herein, that Venice Vision, its members and supporters with constitutional interests were systematically deprived of a fair hearing in accordance with fundamental due process of law, including violation of minimum meeting presence requirements of Government Code Section 54953 and the Governor’s Executive Order directing virtual meetings replicate in person meetings as closely as feasible.”

The staff Appeal Report only addresses the question of whether the City Planning Commission meeting maintained a quorum. The City only offers evidence of the time the commissioners logged into the Zoom meeting and when they logged out. This is not determinative evidence of maintenance of a quorum. The City has the technology to show all members on the Zoom virtual meeting space and failed to provide it. Moreover, screen shots taken during the meeting show Commissioner cameras turned off so that their presence in the virtual meeting cannot be visually confirmed, and other screens showed Commissioners who

walked away from their cameras showing an empty chair. And at times, the Zoom virtual meeting screen showed less than a quorum of the Commission present and listening.

The staff Appeal Report has no response at all to the Commission's rule that mandates that no Commissioner can vote on a matter unless they were present for the "entire hearing before the Commission". Pictures of empty seats are proof that numerous commissioners were permitted to vote even though they were not present for the "entire hearing before the Commission" as required by its own rules. Accordingly, the City Planning Commission meeting violated Commission rules and state law by not demonstrating virtual presence at all times during the meeting.

Appeal Point No. C-9: City Planning staff engaged in misconduct in the proceedings before the City Planning Commission by, after confrontation by Venice Vision, knowingly misrepresenting to the commission the number of letters of support; misrepresenting design review by volunteer architects: such misrepresentation is fraud on the Commission and denied a fair hearing.

Land use appellant Venice Vision set forth in its notice of intent to sue documentation of the City Planning staff's misconduct in knowingly misrepresenting before the City Planning Commission the level of support for the Project, and the fact that City Planning staff inserted false information regarding the Professional Volunteer Program assessment of the Project:

"During the proceedings before the Advisory Agency on January 13, 2021, Ira Brown of the City Planning staff stated that there had been fewer than 500 submissions in opposition to the Project and 2,000 submissions in support of the Project.

In response to the City Planning staff's statements regarding this alleged support for the Project, Venice Vision filed a Public Records Act request on January 14, 2021 seeking copies of all letters of support for the Project. The City Planning Department produced only about 1,000 non-duplicative letters of support.

On January 23, 2021, Venice Vision brought to the City Planning Department's attention that it had significantly overstated the number of letters of support for the Project in the proceedings before the Advisory Agency by about 1,000 more letters than the City Planning Department could actually produce. Venice Vision said:

"Mr. Brown stated that there were 2,000 letters in support of the project.

You only sent me about 1,000 letters (some of which may be duplicates).

Also, as you can see from the attached letter, Venice Community Housing Corporation only claims to have collected -- and submitted -- 1,048 letters in support of the project as of January 13, 2021, and you did not provide me with letters from any other source.

Moreover, you failed to produce "[t]he documents labeled 'RDC

Supporter Tracking- Venice,' 'RDC Supporter Tracking- Non-Venice,' and 'RDC Supporter Tracking- Letterhead' including the names and addresses of every individual who submitted a letter."

Please send me those, as well as all other records (including all documents and communications) in the possession of Los Angeles City Planning regarding the receipt, processing, review and tabulation of letters, emails and phone calls in support of or opposition to the Reese-Davidson Community.

Finally, I would like all letters and emails submitted in opposition to the project so I can check them against our records and get the confusion sorted out."

This specific and particularized notice was sent to Ira Brown, as well as the City's custodian of Public Records, Beatrice Pacheco.

On appeal of the tract map to the City Planning Commission, the Planners who signed the Staff Recommendation Report, repeated this false information before the City Planning Commission. The Report said: "Over 2,000 letters were received stating support for the proposed project" and that "[o]ver 1,000 emails/letters were received stating opposition to the proposed project." This Report or document was signed by Ira Brown, Faisal Roble, Juliet Oh, Elizabeth Gallardo and Vincent Bertoni of the City Planning Department. Therefore, this official City Planning Department report, which is filed by the Planner in charge into the official Planning Department case file, relied upon by the City Planning Commission as the principal source of case information to inform its decisionmaking, and should litigation occur, becomes part of the City's certified administrative record of proceedings before a reviewing court, contained information these City Planners knew or had good cause to know was materially false.

Oftentimes, in the case of controversial projects, City decision makers place a lot of significance on the levels of support compared to the levels of opposition to a Project as an important factor in decision-making. "A letter-writing tactic that can be particularly effective is a letter-writing campaign, where dozens, hundreds, or even thousands of people write either to the same official (if they're all in, or somehow represent people who are in, her district) or to many officials about a specific vote, policy, or budget item. This can be extremely effective, especially when the letter-writers are people who don't usually contact their elected officials." (<https://ctb.ku.edu/en/table-of-contents/advocacy/direct-action/letters-to-elected-officials/main>, Accessed 7-22-21.) The City planners know this fact. The City planners were on notice of the glaring inaccuracy regarding material information they placed before the Advisory Agency. **Despite notice of this inaccuracy, the City planners presented the same false information, that they knew or had reason to know was false, to the City Planning Commission.**

Similarly, the City Planning Recommendation Report to the City

Planning Commission summarized the findings from the design review conducted for the Project by the Professional Volunteer Program (“PVP”) as follows:

PROFESSIONAL VOLUNTEER PROGRAM

The project was presented to the Professional Volunteer Program (PVP) on September 3, 2019. The following comments were made on the project design:

Pedestrian First:

- In west building, consider (if N Venice and S Venice Boulevards. are not one-way) if a single driveway/curb cut to access parking is possible.
- Add access to east bicycle room and could natural light be provided?
- Maintain existing access conditions with stairs and ramp from sidewalk down to canals (yes, these are gated-off currently but we don't want to force passersby to enter building should these re-open in the future)

360° Design:

- Work out transformer locations, explore with LADWP if in-ground vaults will be acceptable (they usually give this as an option, may even be placed under driveways as long as access is maintained).
- Provide more details on materials, consider if lighter colors may be used (i.e. check solar reflectivity index of those proposed)

On May 27, 2021, Venice Vision submitted a public records request stating that this characterization of PVP notes was “materially misleading as to the design attributes of the [P]roject” and seeking “all records of any kind ... regarding the PVP review of the Reese-Davidson Community.”

The production in response to that request showed the actual PVP comments in the 360° Design review of the Project were, in their entirety, as follows:

360° Design:

- Very aggressive, harsh and bunker-like design for Venice, rejecting surrounding neighborhood
- Project very dormitory-like in expression, or like a large barge come ashore
- A looming mass carved by voids and small windows is the design concept
- Window sizes and shapes seem an afterthought and don't feel residential
- Difficult to judge if windows' placement is more related to spaces and uses inside (vs. random); would like to see views from interior
- Check that window sizes and sill heights comply with egress requirements
- Should *play* more with communication with parking (i.e. vs. simply walling it off); would like to see representation of what this experience is like
- It could feel like a Venice project, maybe by recessing windows or adding and playing with color? Or retaining toughness of concrete base but lighter, more color above?
- Could the voids that are notched out for open space become opportunities for blocks of color to be introduced
- Should celebrate the central feature of the Grand Canal more; retail spaces west of canal are very shallow
- Parking faces canal, where these would be prime units with their views
- Submittal set should include views that show both long elevations connected, to better understand scale of the whole

The overall architectural review of the Project was damning, yet the Staff Report gave the City Planning Commissioners a completely inaccurate summary. The dramatic incongruity between the PVP's professional assessment of the Project and the flagrantly false and misleading information the Planning Department gave to its City Planning Commission is shocking. It appears without explanation of City Planning to be a fabrication. Why have a review program if its results are not accurately conveyed to City decision makers?

The insertion of materially false information into an official City Planning Recommendation Report to the City Planning Commission constitutes clear civil misconduct. For the City Planning staff to have deliberately misrepresented several of the most important metrics of public support or opposition to the Project is a serious deprivation of the right to be treated fairly as a land use appellant. Misrepresenting (and, indeed, reversing) the findings of the City's own volunteer professional architects panel, as reached in a process convened and managed by the City, is equally grave. This is not a game that can be rigged with false information, known to be false, as some City officials seem to treat it. Serious constitutional issues are at stake.

Deliberate misrepresentation of material facts before the Commission constitutes such serious staff misconduct as to require setting aside the Commission's administrative proceedings, correcting the administrative record with the critical support/opposition data and professional architects review, so that the City Planning Commission may make a decision untainted by prejudicial staff misconduct. A minimum standard of truth before the Commission requires consequences to discourage future intentional misrepresentation of facts before key City decision makers. Additionally, these fundamental fairness issues at the lower levels of the administrative hearing process must be corrected now before the City Council hears and makes a final administrative decision."

The staff Appeal Report contains what must be another factual misrepresentation, now to the City Council. As detailed above Planner Ira Brown was specifically contacted after his incorrect statements regarding support and opposition letter received on the Project. He was informed that the total letters of support were only about 1,000 and that the opposition emails and letters were about the same. Yet after being put on specific notice, the Planning Staff informed the City Planning Commission in the Recommendation Report that the support letters totaled 2,000. The staff Appeal Report fails to detail how there was an "accounting error" after these communications occurred with City Planning staff, but once specifically informed, staff's placement of the false information into the Recommendation Report given to the City Planning Commission amounted to a knowing factual misrepresentation of a critical fact that could have affected the outcome of the hearing.

The massive overstatement of support letters was not the only factual misrepresentation inserted into the Recommendation Report to the City Planning Commissioners. Venice Vision investigated false representations of the comments of the Professional Volunteer Program review of the design of the Project. Normally, the City Planning Commission gives credence and weight to the findings of the professional architects who reviewed the Project. As documented

above, the City Planning Staff, signed a Recommendation Report that affirmative misrepresented and made upon architectural comments that were not made by the architect team! This conduct was outrageous City Planner conduct.

Staff misconduct is another ground the City Council should grant the appeals and send back to the Advisory Agency and City Planning Commission to conduct fair hearings.

Appeal Point No. C-10: Due to the fatal due process flaws in the underlying administrative proceedings, Venice Vision remains unable to correct the administrative record at the final level of administrative appeal and the City Council risks making final decisions without evidence Venice Vision needs to have a fair hearing before the final decision making body.

Land use appellant Venice Vision set forth in its intent to sue letter reasons why the City Council administrative hearing should not be conducted until the matter is referred back to the Advisory Agency and City Planning Commission levels to correct the serious and prejudicial deprivations of procedural due process owed landowners and tenants whose rights were trampled by the City's conduct:

“Venice Vision has documented ongoing refusals of the City to produce Project-related documents necessary for analysis of the scope of the Project and its potential significant environmental impacts. The City persists in its refusal to produce these records. The City may not properly withhold documents to enable full analysis and a complete administrative record, and then later assert that Venice Vision failed to raise potential issues of which it is currently unaware because the City's knowledge of those issues are being improperly withheld.

The cumulative unfairness of both the Advisory Agency and City Planning Commission levels of the administrative process impermissibly taint the fairness of Venice Vision's administrative appeal of the City Planning Commission's decisions to the City Council. Venice Vision demands that the City, through its City Council and other elected and Planning Department officials reconsider its refusal to produce Project-related documents and remand this case back to the Planning Department to correct the administrative record, and conduct new administrative hearings consistent with its own rules, and fundamental procedural due process of law.”

The staff Appeal Report repeats the same two sentences as before that the “case file” was made available (it was not as outlined herein), and additional documents were produced, months after the requests were made, on October 6, 2021. The last minute dump of thousands of pages of requested documents, on the eve of hearings before the City Council has not provided sufficient time for the retention of experts to practically review and comment on the myriad of issues before the City Council. Additionally, as shown by the new Biological Technical Report attached to the staff Appeal Report dated October 28, 2021, critical environmental reports were released only just before Thanksgiving, making it extremely difficult to obtain expert review of the City's new technical reports.

And despite the City's October 6, 2021 public records production of thousands of pages of documents outstanding up to a year, there other pending public records requests that remain unanswered include to the Los Angeles Department of Transportation (“LADOT”). Emails

obtained by Appellant demonstrate that the Project lacks sufficient room for parking and for quite some time the Applicant and City has explored raising the building height more and constructing two level automated lift parking systems. This is just one aspect of the murky status of the parking garage structure which is not part of the Project, will be owned and operated by the City – not the Project applicant. Public records requests filed with LADOT for the updated parking garage plans and parking design are pending. When the City set the PLUM Committee meeting date for December 7, 2021, LADOT said it would produce the garage plans by November 29, 2021. However, when Mr. Bonin requested and the City moved the hearing to full City Council on December 1, 2021, LADOT would not produce the missing garage design plans any earlier. On November 29, 2021, LADOT failed to timely produce these critical records. As of the filing of this letter with the City Clerk, LADOT continues to withhold critical documents on the parking issue.

For all of these reasons, the City Council's conduct of a public hearing on December 1, 2021 will fail to return the case to the Advisory Agency and City Planning Commission to correct the record and conduct fair quasi-judicial hearings, and enable Appellant to obtain all the necessary records to complete review and submit appropriate comment to the City.

Appeal Point No. C-11: The City Council is poised to deny Venice Vision a procedurally fair hearing of its land use appeals.

Land use appellant Venice Vision set forth in its notice of intent to sue letter preliminary evidence that Council Member Mike Bonin has demonstrated personal animus that prevents the City Council from conducting a fair hearing on the Project in his district:

“As stated at the outset of this letter, hearing before unbiased decision makers is a critical element of a constitutionally fair hearing. As outlined above, the City Planning Commission hearing was tainted by two of the Commissioners who voted on the Project, whose organization has prior working relationships with Applicant Venice Community Housing Corporation during the pendency of the Project application, and an undisclosed employer-employee relationship.

Now the matter will come before the City Council, including the Council member Mike Bonin. Normally, the elected representative of the area where a project is located may constitutionally participate in decision making. In fact, in the City of Los Angeles, there is a troubling practice of City Council members being expected to defer to the desires of the Council member for the location of a Project. Critics have characterized this practice as a dereliction of the Council's collective duty to make decision making, including on land use appeals, based upon the facts and general public interest, and not upon the personal preferences of a single Council member. Indeed, there have been calls for the FBI, as part of its ongoing investigation of City Hall corruption in real estate matters, to examine the legality of this practice.

But even a City Council member can express such open hostility to the viewpoints of land use appellants that it becomes necessary for the Council member to withdraw from the decision based upon bias toward a hearing participant. The record shows that Council member Bonin has crossed that line, taking extraordinary steps to demonize residents of Venice who have exercised

their constitutional free speech rights to express concern about growing over concentration of homeless facilities within the community.

On January 3, 2020, Councilmember Bonin generated a Facebook post stating that “three separate devices ... designed to look like explosive devices” were planted by a disturbed and cowardly person or persons” at the future site of a large homeless shelter in Venice in an attempt to “frighten” Venice residents and to “slow or halt” construction of the shelter. See <https://www.facebook.com/MikeBoninCD11/photos/last-night-the-los-angeles-police-department-responded-to-a-report-of-suspicious/2943919072293282/> (available as of July 27, 2021). Bonin’s deputy, Allison Wilhite, then released an official statement duplicating Bonin’s Facebook post in its entirety and stating that although it turned out “there were no explosives,” the “incident was unsettling” and that proponents of the shelter would not be “deterred by this senseless act.”

The Los Angeles Police Department issued a press release stating, in pertinent part, as follows:

“The devices were found on and near the construction site of a new bridge housing facility and an adjoining street. All were rendered safe and removed from the area. While the motive is unclear the department continues to work to identify if the bridge home site or the homeless community was a target.”

Sensing a motive to create false allegations of domestic terrorism against some of Bonin’s constituents, a member of the Venice Neighborhood Council asked LAPD Chief Michael Moore to defuse the situation by going public with the truth, but Chief Moore instead corroborated Bonin’s false assertions of domestic terrorism in Venice, stating that Bonin’s Facebook post was “accurate and fair.” Further, LAPD Captain Steven Embrich told a local paper, *The Argonaut*, on January 6, 2021 that an email blast sent by Venice Vision stating that there were never any explosive devices at the shelter site was “not true,” adding, “I do not have any idea why they would say that.”

The episode triggered a rash of ugly coverage in print and television news, not only reinforcing Venice’s reputation as a homeless hub but also stigmatizing opponents of the overconcentration of homeless resources in Venice by linking them to Bonin’s false claim that an act of domestic terrorism occurred in connection with opposition to homeless housing.

Despite heavy redactions (which are themselves unlawful), documents secured by Venice Vision through public records requests show that the devices in question were known by Councilmember Bonin and the LAPD —from the beginning — to be harmless (and old) C02 cartridges and that only one of the 3 or 4 cartridges in question was actually found at the shelter site. Further, they show that Bonin himself was directly involved in drafting the LAPD news release in connection with the incident and, more specifically, deliberately changed language in the release to misrepresent what transpired and elevate alarm. Venice

Vision public records request reveal that the full-scale investigation Chief Moore vowed to launch fizzled immediately, with no meaningful investment of manpower and no follow up from Bonin. This evidence suggests that Bonin and Moore intended to use the hoax to generate public opprobrium toward Venice Vision and others who publicly expressed concerns about such project, including the Project in this case.

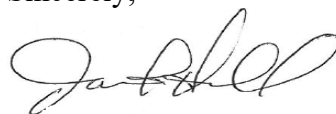
Name-calling is, unfortunately, par for the course in Los Angeles politics, but even in Los Angeles, a coordinated effort by a sitting council member and the chief of police to use their official positions and public agency resources to smear and hobble a distinct and identifiable group of constituents who have exercised free speech rights, demonstrates that for Mr. Bonin the defeat of any Venice Vision land use appeal is personal.

The character of those concerned about the overconcentration of homeless housing in Venice, including the Project in this case, has been put at issue in every public hearing to date regarding projects in Venice. Moreover, the LAPD has refused to remove redactions from relevant documents and Bonin has failed to respond to public records requests at all, making it impossible for Venice Vision to fully investigate Mr. Bonin's personal animus and bias. No hearings regarding the Project can be conducted fairly until facts surrounding the Bonin / Moore domestic terrorism hoax are produced so that Mr. Bonin's City Council colleagues can judge the level of his potential bias against Venice Vision and its leaders. At this point, there is a substantial risk that Mr. Bonin's personal bias against Venice Vision will taint the City Council hearing process, particularly if he uses his lobbying resources to ask his colleagues outside the quasi-judicial hearing, to deny the pending appeals without consideration of the facts in the record."

To this end, and contrary to the staff Appeal Report that claims the allegations of Mr. Bonin's animus are "conjecture" attached hereto at **Exhibit 5** is a Request For Recusal Of Council Member Mike Bonin. The Request demonstrates that there are serious facts demonstrating the inability of Mr. Bonin to hear this appeal case. The City Council has the authority and duty to disqualify any member from participation in a quasi-judicial hearing where the record shows a Council member has shown such personal animus and bias that he or she cannot be considered an impartial decision maker to hear the facts and decide land use appeals pending before the City. For the reasons and evidence set forth in the Request for Recusal of Council Member Mike Bonin, Council should review the facts and make a determination of Mr. Bonin's ability to serve as a quasi-judicial decision maker in this case.

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

Sincerely,



Jamie T. Hall

Encl.

Exhibit 1

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October 6, 2021

SENT VIA EMAIL TO CHRISTIAN_WREDE@INNERCORE.NET, NOT FOLLOWED BY
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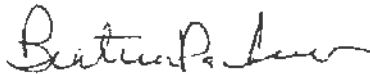
Mr. Wrede:

**RE: Public Records Act Request For Records Regarding Reese Davidson Community
Project (CPC-2018-7344 & ENV-2018-6667) (the 'Project')**

This letter is a supplemental response to our December 19, 2019 letter and is further response to your request dated November 26, 2019, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has additional records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

Sincerely,


Beatrice Pacheco
Custodian of Records

BP:bp

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DEPUTY DIRECTOR

October 6, 2021

SENT VIA EMAIL TO FBV@FIGHTBACKVENICE.ORG, NOT FOLLOWED BY U.S.
MAIL

Mr. Wrede:

**RE: Public Records Act Request For Records Regarding AB 1197 CEQA Exemption for
Reese Davidson Community**

This letter is a supplemental response to our January 25, 2021 letter and is further response to your email request dated January 15, 2021, seeking from the Department of City Planning pursuant to the California Public Records Act (CPRA) records regarding the above.

It has been determined that the Los Angeles Planning Department has additional records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

Sincerely,

Beatrice Pacheco
Custodian of Records

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LISA M. WEBBER, AICP
DEPUTY DIRECTOR

October 6, 2021

SENT VIA EMAIL TO FBV@FIGHTBACKVENICE.ORG, NOT FOLLOWED BY U.S.
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Mr. Wrede:

**RE: Public Records Act Request For Records Regarding Historic Technical Report for
the Reese Davidson Community Project (CPC-2018-7344 & ENV-2018-6667)**

This letter is supplemental response to our February 23, 2021 letter and is further response to your email request dated February 18, 2021, received in our office on February 19, 2021, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

Sincerely,

Beatrice Pacheco
Custodian of Records

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October 6, 2021

SENT VIA EMAIL TO FBV@FIGHTBACKVENICE.ORG, NOT FOLLOWED BY U.S.
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Mr. Wrede:

**RE: Public Records Act Request For Records Regarding Coastal Commission Input
Regarding the Reese-Davidson Community and Related Projects**

This letter is a supplemental response to our letter dated July 2, 2021 and is further response to your email request dated June 17, 2021, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has additional records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

Sincerely,

Beatrice Pacheco
Custodian of Records

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LISA M. WEBBER AICP
DEPUTY DIRECTOR

VACANT
DEPUTY DIRECTOR

October 6, 2021

SENT VIA EMAIL TO CHRISTIAN_WREDE@INNERCORE.NET. NOT FOLLOWED BY
U.S. MAIL

Mr. Wrede:

**RE: Public Records Act Request For Records Regarding the Draft Environmental
Impact Report for the Reese Davidson Community Project (CPC-2018-7344 &
ENV-2018-6667)**

This is a supplemental response to our August 25, 2020 letter and is further response to your request dated August 17, 2020, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

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DEPUTY DIRECTOR

October 6, 2021

SENT VIA EMAIL TO FBV@FIGHTBACKVENICE.ORG, NOT FOLLOWED BY U.S.
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Mr. Wrcde:

RE: Public Records Act Request For Records Regarding the Documents and Communications Relating to Any Exemption from the California Environmental Quality Act Requested by the Venice Community Housing Corporation, the Hollywood Community Housing Corporation and/or any of their Respective Agents in Connection with Any Aspect of the Reese-Davidson Community Project (CPC-2018-7344 & ENV-2018-6667) Pursuant to AB 1197

This letter is a supplemental response to our August 28, 2020 letter and is further response to your request dated August 17, 2020, received in our office on August 18, 2020, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has additional records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

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October 6, 2021

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HELEN LEUNG

KAREN MACK

DANA M. PERLMAN

YVETTE LOPEZ-LEDESMA

JENNA HORNSTOCK

RENEE DAKE WILSON

VACANT

CITY OF LOS ANGELES
CALIFORNIA



ERIC GARCETTI
MAYOR

EXECUTIVE OFFICES
200 N. SPRING STREET, ROOM 525
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DIRECTOR

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER, AICP
DEPUTY DIRECTOR

October 6, 2021

SENT VIA EMAIL TO FBV@FIGHTBACKVENICE.ORG. NOT FOLLOWED BY U.S.
MAIL

Christian;

**RE: Public Records Act Request For Records Regarding All Reese-Davidson Documents
Since January 1, 2020**

This letter is a supplemental response to our September 22, 2020 letter and is further response to your email request dated August 25, 2020, received in our office on August 26, 2020, seeking records from the Department of City Planning pursuant to the California Public Records Act (CPRA) regarding the above.

It has been determined that the Los Angeles Planning Department has additional records that may be responsive to your request. The records were sent earlier today via the Hightail Program. Please let us know if you had any issues accessing the records.

Sincerely,

Beatrice Pacheco
Custodian of Records

BP:bp

Exhibit 2

November 30, 2021

Mr. Jamie T. Hall
Channel Law Group, LLP
8383 Wilshire Blvd., Suite 750
Beverly Hills, CA 90211

**Subject: Staff's Response to Appeal Case No. VTT-82288-2A: Environmental Impacts
Associated with the Reese Davidson Community Project**

Dear Mr. Hall:

This letter contains my comments on the 28 October 2021 Staff Report issued by the City of Los Angeles ("City") in response to Appeal Case No. VTT-82288-2A. The appeal pertains to the Planning Commission's approval of the Reese Davidson Community Project ("Project") within the Venice Coastal Zone. On 8 January 2021 I submitted a comment letter that addressed environmental impacts that could be generated by the Project, specifically with respect to biological resources and water quality. The Applicant's consultant, Glenn Lukos Associates, Inc. subsequently released a Biological Technical Report ("BTR") for the Project. Information in the BTR resolves some (but not all) of the issues raised in my previous comment letter. The subsequent comments address unresolved issues pertaining to the Project's impacts on biological resources and water quality.

PROJECT IMPACTS

According to the Initial Study that was prepared for the Project:

Construction activities associated with the Project would have the potential to result in the conveyance of pollutants into the adjacent Venice Canals and municipal storm drains, particularly during precipitation events. In addition, potential changes in onsite drainage patterns resulting from Project operation and the introduction of new land uses could affect the quality and quantity of storm water runoff.¹

Conveyance of pollutants into the adjacent canal would significantly impact water quality in the canal and cause concomitant impacts on biological resources in the Environmentally Sensitive Habitat Area ("ESHA"). Although I raised this issue in my previous comment letter, the City has yet to impose mitigation that would ensure construction activities do not impact water quality in the canal. This deficiency is compounded by the Project's failure to comply with the Venice Local Coastal Program Land Use Plan ("LUP") policies related to water quality and biological resources.

LUP Policy IV.A.4 states:

"In order to provide a setback for access, to protect visual quality and the biological productivity of the canals, and to limit water runoff, a setback with an average depth of 15 feet (and a minimum depth at any point of 10 feet) shall be

¹ Initial Study, p. B-25.

provided and maintained in the front yard areas of private residences (adjacent to the canal property line). This setback shall provide a permeable yard with an area at least 15 feet times the width of the lot line at the canal side.”

The Project fails to provide a permeable yard with an area at least 15 feet times the width of the lot line at the canal side: a considerable amount of the yard area (especially on the west side of the canal) would be comprised of concrete or other impervious materials.² Furthermore, the Staff Report erroneously states that the Applicant need only provide a permeable yard of 450 square feet between the property line that faces the canal and the front of any structure.³ The width of the lot line at the canal side is approximately 175 feet.⁴ Therefore, compliance with LUP Policy IV.A.4 requires a permeable yard of 2,625 square feet on each side of the canal.

LUP Policy I.B.7 states: “[l]ighting from commercial projects shall be directed away from residential properties and environmentally sensitive habitat areas.” The City is requiring the Project to have outdoor lighting that is “designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from above.”⁵ Thus, the City has eliminated the requirement for lighting to be directed away from the ESHA (canal). As discussed in my previous comment letter, the Project would increase the amount of lighting in the immediate vicinity of the canal, which in turn would degrade the habitat values of the ESHA. The City’s Staff Report fails to address this issue.

LUP Policy IV.A.3 states:

“To protect the marine habitat, a one and one-half to two-foot-wide safety landscape buffer strip shall continue to be provided and maintained between the canal banks and sidewalks. Landscaping in the buffer strip shall consist of native coastal strand marshland or wetland vegetation as specified in the Venice Canals Rehabilitation Plan approved by Coastal Commission Coastal Development Permit 5-91-584.”

According to the BTR, the onsite portion of the Grand Canal does not feature a landscape buffer strip, and a new landscaped buffer strip cannot be provided because the Venice Canal system is a historic resource listed on the National Register of Historic Places.⁶ Therefore, the Project does not (cannot) comply with LUP Policy IV.A.3.

The BTR addresses potentially significant indirect impacts associated with the Project. The BTR states:

“Potential indirect effects associated with development include water quality impacts associated with drainage into adjacent open space/downstream aquatic resources; lighting effects; noise effects; invasive plant species from landscaping; and effects from human access into adjacent open space, such as recreational

² Eric Owen Moss Architects. 2021 Mar 31, Landscape Plan, Sheet L1.10.

³ Staff Report (dated 28 Oct 2021), p. 30 (COA #28).

⁴ Eric Owen Moss Architects. 2021 Mar 31, Survey, Sheet SV1.10.

⁵ Staff Report (dated 28 Oct 2021), p. 31 (COA #34).

⁶ Glenn Lukos Associates, Inc. 2021 Mar. Biological Technical Report for Reese Davidson Community Development Project. p. 36.

activities (including off-road vehicles and hiking), pets, dumping, etc. Temporary, indirect effects may also occur as a result of construction-related activities.”⁷

The BTR then concludes:

“The Project has the potential for both temporary and permanent indirect effects as a result of construction and the conversion of land use from a paved parking lot to residential housing. However, compliance with the Venice LUP Policies IV.A.2, IV.A.3, IV.A.3 [*sic*], and IV.D.1 as set forth above will reduce temporary and permanent indirect effects to below a level of significance under CEQA.”⁸

The BTR’s conclusion is not supported by evidence for the following reasons:

1. LUP policies IV.A.3 and A.4 are designed to protect water quality of the canals. The Project would not implement LUP Policy IV.A.3 (landscape buffer), and it does not comply with LUP Policy IV.A.4 (setback and permeable yard area). As discussed further below, the City has not imposed mitigation measures to prevent the Project from having significant impacts on water quality and aquatic organisms.
2. The Applicant has not provided a lighting plan. In addition, the City is not requiring lighting to be directed away from the ESHA (canal) in accordance with LUP Policy I.B.7. As a result, night lighting generated by the Project remains a potentially significant impact.
3. The LUP policies cited in the BTR do not mitigate noise effects, invasive plant species, and effects from human access, nor do they mitigate indirect effects caused by construction-related activities. As a result, the BTR’s conclusion that these indirect effects would be reduced to below a level of significance through compliance with the LUP policies is not supported by evidence.

MITIGATION

Nesting Birds

The Project has the potential to impact active bird nests if vegetation is removed during the nesting season (March 15 to August 31).⁹ Impacts to nesting birds are prohibited by the Migratory Bird Treaty Act and California Fish and Game Code. As a result, the BTR recommended a Project-specific mitigation measure that would avoid impacts to nesting birds.¹⁰ The City has not adopted the mitigation measure recommended in the BTR, nor has it adopted any other mitigation measure(s) to avoid impacts to nesting birds. As a result, potentially significant impacts to nesting birds remain unmitigated.

⁷ *Ibid*, pp. 37 and 38.

⁸ *Ibid*, p. 38.

⁹ *Ibid*, p. 35.

¹⁰ *Ibid*, p. 38.

Grand Canal and ESHA

My previous comment letter discussed the City's failure to adopt mitigation measures for:

1. Direct and indirect impacts on wetlands and water quality due to accidental or intentional discharge of sediment (besides airborne dust), pollutants (e.g., oil, lubricants, chemicals, cement residue and wash water), construction debris, and fill materials into the Grand Canal.
2. Direct and indirect impacts on the ESHA due to increased shading,¹¹ night lighting, and human activity.
3. Direct and indirect impacts on the ESHA due to changes in the quality and quantity of storm water runoff entering the canal.¹²
4. Wildlife entrapment in pipes and trenches.¹³

The City's Staff Report fails to rectify this issue.

Based on the forgoing, it is my professional expert opinion that the design of the subdivision and the proposed improvements are likely to cause substantial environmental damage and will substantially and avoidably injure wildlife and their habitat.

Sincerely,



Scott Cashen, M.S.
Senior Biologist

¹¹ Initial Study, p. B-3: "the new buildings would have the potential to shade sensitive land uses in the Project vicinity."

¹² *Ibid*, p. B-25.

¹³ Harris M, Clucas B, Stanek J, Whitfield M. 2019. Wildlife Mortalities in Open-Topped Pipes in Central California. *Western Wildlife* 6:50–60. *See also* Doody JS, West P, Stapley J, et al. 2003. Fauna by-catch in pipeline trenches: conservation, animal ethics, and current practices in Australia. *Australian Zoologist* 32(3):410-419.

Exhibit 3

DECLARATION OF ESTELA REYNOSO


Re. 206 Venice Blvd. North, APT. #1

I am ESTELA REYNOSO, current tenant of 206 Venice Blvd. North, APT. #1. I've lived in my current residence for approximately 17 years. I make this Declaration based on my own personal knowledge, in order to inform the City about the characteristics/features of my unit.

My 2-bedroom unit is approximately 925 square feet. There are six windows in my unit, with a window in each bedroom, a window in the kitchen, two windows in the dining room and living room area. My unit has 1 bathroom with a window. My unit has a closet in the hallway and washer/dryer hookup in the kitchen. I have two designated parking spots directly adjacent to the building.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 29, 2024, in Venice, California.



Estela Reynoso

DECLARATION OF MARY ALICE CROWE

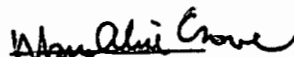
Re. 206 Venice Blvd. North, APT. #2

I am Mary Alice Crowe, current tenant of 206 Venice Blvd. North, APT. #2. I've lived in my current residence for approximately 39 years. I make this Declaration based on my own personal knowledge, in order to inform the City about the characteristics/features of my unit.

My 3-bedroom unit is approximately 1,150 square feet. There are 8 windows in my unit, with a window in each bedroom, a window in the kitchen, a window in the dining room and a window in the living area. My unit has 2 bathrooms, each with window. My unit has a closet in the hallway and washer/dryer hookup in the kitchen. There are 3 entrances to my unit, a front door, back door and side door. I have a front yard and a back yard and two designated parking spots directly adjacent to the building.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 29, 2024, in Venice, California.


Mary Alice Crowe

DECLARATION OF ALAN PHILLIPS

Re. 206 Venice Blvd. North, APT. #3

I am Alan Phillips, current tenant of 206 Venice Blvd. North, APT. #3. I've lived in my current residence for approximately 32 years. I make this Declaration based on my own personal knowledge, in order to inform the City about the characteristics/features of my unit.

My 2-bedroom unit is approximately 925 square feet. There are six windows in my unit, with a window in each bedroom, a window in the kitchen, two windows in the dining room and living room area. My unit has 1 bathroom with a window. My unit has a closet in the hallway and washer/dryer hookup in the kitchen. I have two designated parking spots directly adjacent to the building.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 29, 2024, in Venice, California.


Alan Phillips

DECLARATION OF ISRAEL HERNANDEZ

Re. 206 Venice Blvd. North, APT. #4

I am Israel Hernandez, current tenant of 206 Venice Blvd. North, APT. #4. I've lived in my current residence for approximately 17 years. I make this Declaration based on my own personal knowledge, in order to inform the City about the characteristics/features of my unit.

My 2-bedroom unit is approximately 925 square feet. There are six windows in my unit, with a window in each bedroom, a window in the kitchen, two windows in the dining room and living room area. My unit has 1 bathroom with a window. My unit has a closet in the hallway and washer/dryer hookup in the kitchen. I have two designated parking spots directly adjacent to the building.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 29, 2024, in Venice, California.


Israel Hernandez

Exhibit 4

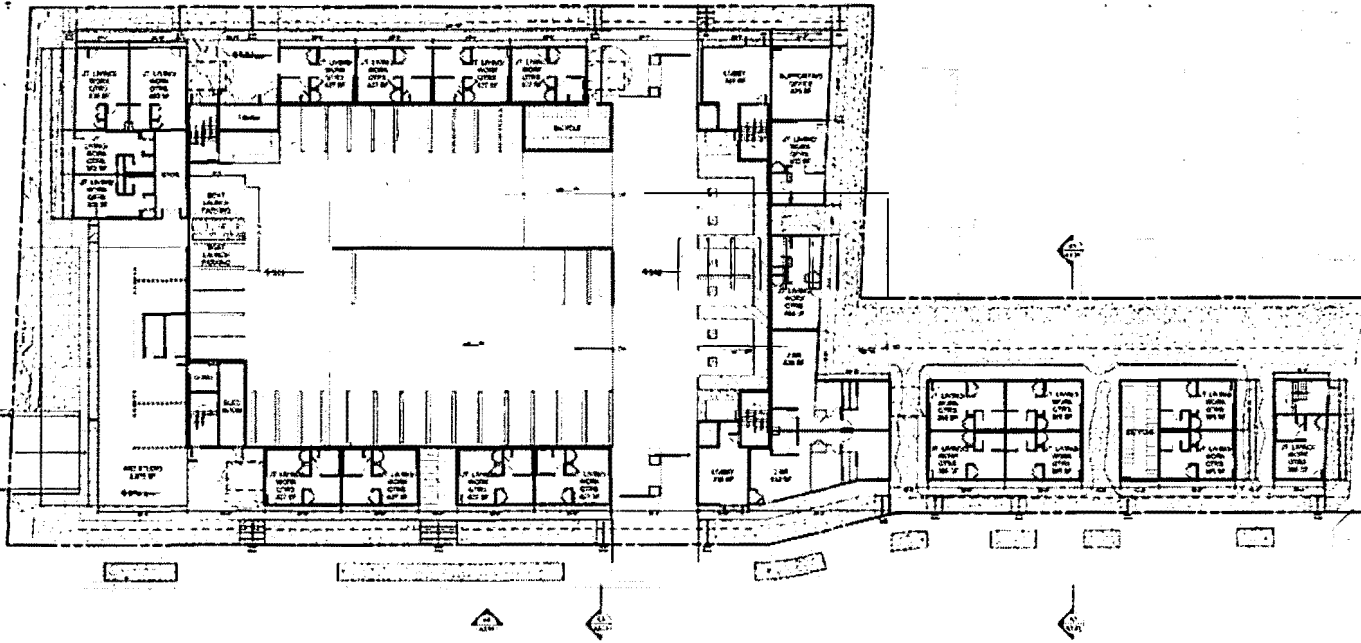
SOUTH VENICE BLVD

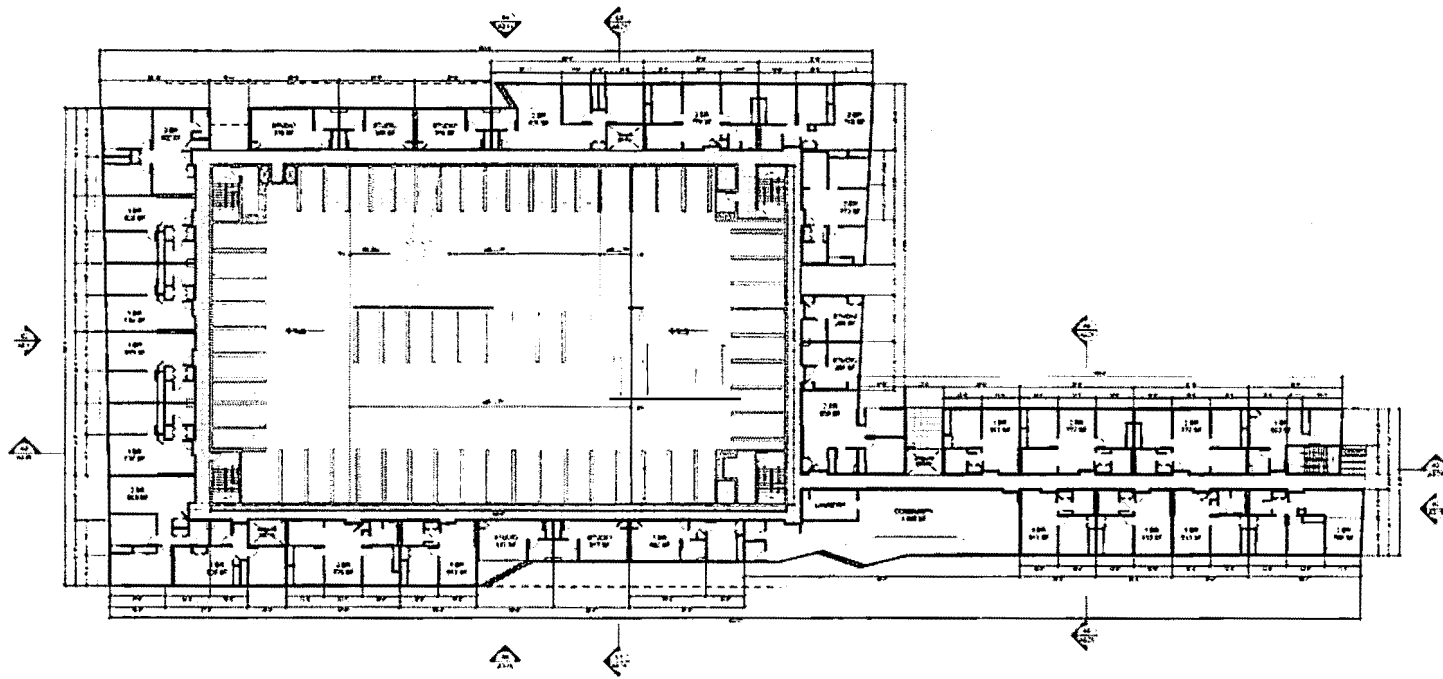
NORTH VENICE BLVD

GRAND CANAL

WATERLINE AS SHOWN

GROUND FLOOR





SECOND FLOOR
SEE CONT.

ERIC OWEN MOSS
ARCHITECTS

VENICE COMMUNITY
HOUSING CORP.

HOLLYWOOD COMMUNITY
HOUSING CORP.

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DATE	DESCRIPTION	BY	CHKD	APP'D
10/1/00	100% COMPLETE	ERM	ERM	ERM
9/1/00	90% COMPLETE	ERM	ERM	ERM
8/1/00	80% COMPLETE	ERM	ERM	ERM
7/1/00	70% COMPLETE	ERM	ERM	ERM
6/1/00	60% COMPLETE	ERM	ERM	ERM
5/1/00	50% COMPLETE	ERM	ERM	ERM
4/1/00	40% COMPLETE	ERM	ERM	ERM
3/1/00	30% COMPLETE	ERM	ERM	ERM
2/1/00	20% COMPLETE	ERM	ERM	ERM
1/1/00	10% COMPLETE	ERM	ERM	ERM

REBE DAVIDSON COMPANY



Exhibit 5

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LOS ANGELES CITY COUNCIL
AND
CITY ETHICS COMMISSION OF THE CITY OF LOS ANGELES

IN RE: MIKE BONIN, in his official capacity,

Alleged Biased Decisionmaker.

**REQUEST FOR DETERMINATION OF
BIAS OF COUNCIL MEMBER MIKE
BONIN AND RECUSAL FROM HEARING
QUASI-JUDICIAL APPEALS RELATED
TO THE REECE DAVIDSON PROJECT**

Appellant, VENICE VISION (“Appellant”), alleges as follows:

INTRODUCTION

1. This request for recusal invokes the power of this City Council to declare the rights of the parties with regard to forthcoming quasi-judicial hearing(s) scheduled for the Los Angeles City Council.
2. The evidence set forth herein establishes there is an unacceptable probability of actual bias by Los Angeles City Councilmember Mike Bonin against Appellant Venice Vision that would deny Appellant a fair hearing if Mike Bonin were permitted to participate in those quasi-judicial hearings.
3. The quasi-judicial hearings involve certain land use appeals filed by Appellant

1 from City administrative approvals of the vesting tentative tract, the site plan review, the specific
2 plan permit compliance permit, the coastal development permit, and similar quasi-judicial land
3 use approvals sought in connection with the Reece Davidson Project. The Reece Davidson
4 Project is proposed at 2102 - 2120 S. Pacific Avenue, 116 - 302 E. North Venice Boulevard,
5 2106 - 2116 S. Canal Street, and 319 E. South Venice Boulevard with an assigned tentative tract
6 map number of VTT-82288, a City Planning Case number of CPC-2018-7344-GPAJ-VZCJ-HD-
7 SP-SPP-CDP-MEL-WDI-SPR-PHP, and an Environmental Review number of ENV-2018-6667-
8 SE.

9 4. It is fundamental that a quasi-judicial fair hearing requires an impartial and
10 unbiased decision maker, and that principle applies to elected members of the Los Angeles City
11 Council who hear and decide such quasi-judicial matters.

12 5. Mr. Bonin has sponsored and/or championed a number of public and private
13 development projects in the community of Venice tailored to serve persons experiencing
14 homelessness, including persons who have readily admitted to documentary filmmakers and
15 journalists that they moved from outside the City, or even outside this state, to Venice Beach
16 because they learned such robust services for the homeless would enable them to live in a tent on
17 the beach and receive free food and social services.

18 6. In accordance with the Los Angeles City Charter, there is a Venice Neighborhood
19 Council ("VNC") whose members are elected to serve in an advisory capacity to the City on
20 issues within its jurisdiction. Some of the elected community members on the VNC have made
21 policy recommendations or objected to certain City actions related to homelessness, and those
22 actions have been at odds with the public policy initiatives of Mr. Bonin and the City Council
23 office under his supervision.

24 7. Outside of the VNC, there also exist within Venice various community interest
25 advocacy groups, including Appellant Venice Vision. Some of the elected members of the VNC
26 also serve as leaders or members of such community advocacy organizations. For instance, one
27

1 leader of Appellant also has served on the VNC.

2 8. Some Venice community members have organized to file litigation over the
3 legality of City actions in the process of building portions of Mr. Bonin's Plan to End
4 Homelessness, including conversion of the former Metropolitan Transportation Authority bus
5 division located at Sunset Avenue and Main Street in Venice into a 152 bed temporary Bridge
6 Housing site. The Reece Davidson Project is a closely related homelessness initiative in the Plan
7 to End Homelessness involving Mr. Bonin's proposal that the City dedicate Venice's most
8 important tourist/resident beach parking area to a supposed permanent supportive housing
9 project.

10 9. As set forth in detail herein, during the period between December 30, 2019 and
11 February 12, 2020, and continuing to this day because he has refused to take responsibility for
12 his actions or correct the public record to end his supporters repeating his false narrative, Mike
13 Bonin used the resources of his office and the City of Los Angeles, including the Chief of Police
14 and the Police Department, to weaponize, promulgate and sustain a false accusation that persons
15 in Venice opposed to his homelessness activities were responsible for criminal acts of placement
16 of bomb like devices on or near the temporary Bridge Housing facility then under construction at
17 the Metropolitan Transportation Authority site.

18 10. Mr. Bonin made use of several outlets—including his Facebook page, a statement
19 released by his office, statements made by his staff, and even a news release issued by the Los
20 Angeles Police Department to seed and fan a narrative that “disturbed and cowardly” persons
21 “perpetrated” an “appalling incident” of planting “suspicious devices that looked like bombs at
22 the site of the future bridge housing in Venice” to derail the project and otherwise “intimidate”
23 Mr. Bonin from providing relief to homeless.

24 11. Email records of the Los Angeles Police Department reveal at the time Mr. Bonin
25 was seeking edits to the Police Department's draft press release, he had already been informed
26 by detectives of the Major Crimes Division that the devices found on the streets near the Bridge
27

1 Housing site were harmless and not linked to the Bridge Housing site or the City's homeless
2 population. Nevertheless, he persisted in weaponizing the official resources of the Los Angeles
3 Police Department to bolster and spread into television coverage of the incident his false
4 narrative there was a motive of his political opponents, including but not limited to Venice
5 Vision, connected to the Bridge Housing site and the City's homeless population.

6 12. Appellant is informed and believes, and thereon alleges that since undertaking his
7 actions to promulgate the false narrative, commenters on Mr. Bonin's Facebook page and
8 submitting emails to the VNC Board levied false claims and speculation naming individuals they
9 asserted without evidence were suspects of the Police Department or responsible for the
10 placement of the devices Mr. Bonin claimed were "bomb like."

11 13. Appellant is informed and believes, and thereon alleges that leaders of the VNC
12 and other commenters called upon Mr. Bonin to condemn statements made by his political
13 supporters defaming individuals in the community, and that to this day Mr. Bonin has not
14 repudiated these reputation-damaging accusations, nor has he called for the Los Angeles Police
15 Department to release the results of its investigation, nor has anyone been charged with
16 placement of the devices near the Bridge Housing site with intent to disrupt its construction or
17 threaten the homeless population.

18 14. The record in this case establishes Mr. Bonin's intimate, detailed, personal
19 involvement in demonizing persons and organizations who dared to question him, including
20 Appellant and its leaders, and betrays such extraordinary personal animus and bias as to
21 disqualify him from participating in decision making in the instant case before the Los Angeles
22 City Council involving quasi-judicial land use appeals of the Reece Davidson Project, an element
23 of his Plan to End Homelessness.

24 **PARTIES**

25 15. Appellant, VENICE VISION, is an unincorporated association dedicated to the
26 protection of both the community and the environment of internationally known Venice Beach,
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1 its neighborhood, and the greater City of Los Angeles. Appellant and its respective members
2 have a direct and substantial beneficial interest in ensuring that Alleged Biased Decisionmaker
3 comply with fundamental constitutional due process requirements for a fair hearing of quasi-
4 judicial matters now pending before the Los Angeles City Council. Appellant has standing to
5 assert the claims raised in this Complaint because Appellant and its members' property, personal
6 health/safety, and environmental interests are directly and adversely affected by Mr. Bonin's
7 central influence over the votes of his colleagues on the Los Angeles City Council related to the
8 pending quasi-judicial hearings. Appellant's members participated in the administrative hearing
9 process for the Project before both the Advisory Agency and City Planning Commission,
10 supported the administrative appeal to the City Planning Commission of the decision of the
11 Advisory Agency, and submitted written comments to the Advisory Agency and City Planning
12 Commission leading up to the City Planning Commission meeting, and will try to be heard in the
13 quasi-judicial hearing process that may be conducted under the influence of Mr. Bonin before the
14 City Council.

15 16. Alleged Biased Decisionmaker, MIKE BONIN, is the current officeholder of the
16 City Council seat for District 11 of the Los Angeles City Council.

17 17. CITY OF LOS ANGELES (the "City") is a charter city incorporated under the
18 laws of the State of California. The City, including its City Council, is the final decision making
19 "legislative body" created by the Los Angeles City Charter and governed by ordinance to render
20 a decision on Appellant's pending quasi-judicial hearings.

21 **DUE PROCESS RIGHTS OF APPELLANT**

22 18. In accordance with the standard articulated by our California Supreme Court that
23 the area of constitutional due process protection expands depending up the size and breadth of
24 impacts from a real estate development project, Appellant's members, supporters and leaders
25 reside within the area impacted by the Reece Davidson Project. (See *Horn v. County of Ventura*
26 (1979) 24 Cal.3d 605, 618 ("We do observe, however, that **depending on the magnitude of the**
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28

1 **project**, and the degree to which a particular landowner's interests may be affected, acceptable
2 techniques might include notice by mail to the owners of record of property situate within a
3 designated radius of the subject property, or by the posting of notice at or near the project site,
4 or both. Notice must, of course, occur sufficiently prior to a final decision to permit a
5 "meaningful" pre-deprivation hearing to affected landowners." Emphasis added.) This impact
6 area includes, at a minimum, all persons owning property and living in the Venice Canal
7 network, because replacement of the project site's open space with the Project's building would
8 displace an area capable of holding flood water or tsunami inundation water and diverting flood
9 and inundation waters into the Venice Canals at greater volumes than without the Project. It also
10 includes those who would be affected by a diminution in parking availability and traffic flow
11 due to the Project, as well as all persons who rely on Venice Boulevard and/or the existing
12 surface parking lot at the proposed building site for access to Venice Beach.

13 19. A land use appellant who activates the City's administrative appeal process by the
14 filing of an appeal is entitled to reasonable and timely notice of a hearing, and a meaningful
15 public hearing. The procedural due process right to an opportunity to be heard has been
16 interpreted to encompass not only the right to a public hearing, but also the right to a fair hearing.
17 Fair hearing requirements include unbiased decision makers, an opportunity to review the
18 evidence considered by the agency, and the right to be actually heard by those who make the
19 decision.

20 "[T]he broad applicability of administrative hearings to the various rights and
21 responsibilities of citizens and businesses, and the undeniable public interest in fair
22 hearings in the administrative adjudication arena, militate in favor of assuring that such
23 hearings are fair." *Nightlife Partners, Ltd. v. City of Beverly Hills* (2003) 108 Cal.App.4th
24 81, 90.

25 In California, a quasi-judicial decision maker who exhibits an "unacceptable probability of actual
26 bias" must recuse from participating in the hearing and decision before a legislative body. *Nasha*

1 *LLC v. City of Los Angeles* (2004) 125 Cal.App. 4th 470.

2 20. In the case of a city councilmember, while he or she may express opinions about a
3 proposed project proposal prior to public hearings, even a councilmember cannot cross the line
4 to exhibit hostility or personal animus toward parties of a quasi-judicial hearing.

5 21. Los Angeles City Councilmember Mike Bonin has pursued a set of homelessness
6 policies that have intensified, and some say, attracted even more homeless persons to Venice.
7 Mr. Bonin's current policy initiative includes the establishment of a large temporary homeless
8 housing facility, known as a Bridge Housing facility to house persons experiencing homelessness
9 until they can qualify or move to existing or proposed long-term low-income housing facilities in
10 the community. Recent initiatives of Mr. Bonin include the establishment of a Bridge Housing
11 project on the site of a former bus maintenance division in Venice, and a proposal to lease beach
12 parking lots in the area of the Grand Canal of the Venice Canals to construct the Reece Davidson
13 Project. Ultimately, the Bridge Housing facility may refer clients to the Reece Davidson Project,
14 if it is actually developed to serve homeless clients.

15 22. The unacceptable probability of actual bias against Appellant arises out of a series
16 of actions of Mr. Bonin in connection with the discovery of three CO2 canisters lashed to some
17 pieces of wood or metal found at or on the streets near the Venice Bridge Housing project in
18 December 2019/January 2020, a site under construction by the City's General Services
19 Department.

20 23. Appellant conducted an investigation of the actions of Mr. Bonin and the LAPD
21 by making California Public Records Act requests. The LAPD and Mr. Bonin's office released
22 emails that provide the factual basis for this request for recusal, however, the emails released to
23 Appellant contain substantial improper redactions, particularly since the public interest is
24 extremely high in determining whether or not a sitting City Councilmember successfully
25 weaponized the City's law enforcement agency to attack his own constituents, including
26 Appellant. What follows are the particularized factual allegations to establish an "unacceptable
27

1 probability of actual bias” of Mr. Bonin toward Appellant.

2 24. Significantly, the first appearance of one of the devices was on December 30,
3 2019, **four (4) days before the LAPD bomb squad was called** to the intersection of Sunset and
4 Main Street. Emails exchanged among City General Services Construction Department
5 personnel on January 3, 2021 show: “On 12/30/19, a CO2 cartridge that was taped up with metal
6 scraps and a lag screw was found on the CD 11 Sunset Bridge Home Project.”

7 25. Appellant is informed and believes, and thereon alleges that CO2 cartridges are
8 commonly used for water carbonization appliances, or smaller ones are used in to propel
9 paintball devices, or to propel pinewood derby car racer cars by using a nail to puncture the CO2
10 cartridges of two competing cars at the same time with the expelled gas powering the racecars.
11 (<https://auto.howstuffworks.com/auto-racing/motorsports/co2-powered-dragster3.htm>) To even
12 the most casual observer, such CO2 cartridges are used for food preparation or recreational
13 purposes in everyday life. Appellant is informed and believes, and thereon alleges that the CO2
14 cartridges found at the project site, like those used in everyday life, have virtually no potential
15 for bomb making purposes.

16 26. Appellant is informed and believes, and thereon alleges that on December 30,
17 2019, the first day a CO2 cartridge device was found, no one called the police regarding the
18 device.

19 27. In the same email there was a summary of the next day: “On 12/31/19 the site
20 foreman Huntington Woodman, stated he showed security the device. Mr. Woodman then stated
21 that the security guard placed a call after seeing the device.” Appellant does not know where this
22 call was placed. Appellant is informed and believes, and thereon alleges that no call to LAPD
23 concerning the CO2 cartridge device was made on this day, December 31, 2019.

24 28. Appellant is informed and believes, and thereon alleges that there was no call to
25 LAPD about the CO2 cartridge device on January 1, 2019.

26 29. Appellant does not know when Mr. Bonin learned of the CO2 cartridge device.
27
28

1 30. Another email from LAPD Department Operations Center (“DOC”) shows the
2 Bomb Squad responded to a report of multiple suspicious devices at Sunset and Main Streets in
3 Venice at 5:50 p.m. (17:50 hours) on the evening of January 2, 2020. Appellant is informed and
4 believes, and thereon alleges that the police were called to the Bridge Housing construction site
5 by the private security firm hired by the City to patrol the construction site.

6 31. An automated risk assessment email notification issued at January 2, 2020, 7:02
7 p.m. reporting that the local police department was responding to reports of several suspicious
8 devices “in the area” of Sunset Avenue and Main Street. The notification listed the incident as
9 “Minor.”

10 32. In an email from Pacific Division Watch Commander Marie Fellhauer at 12:19
11 a.m., January 3, 2020, the Department issued a notice that the suspicious devices incident
12 involved “3 CO2 canisters,” no injuries, and no suspects. Another email reported the Bomb
13 Squad cleared the area at about 12:22 a.m. January 3, 2020, about 6.5 hours after the initial call.

14 33. Among all the emails released to Appellant by the LAPD, the written assessments
15 of LAPD detectives who responded to Sunset Avenue and Main Street, and conclusions by rank
16 and file members of the Major Crimes Division of LAPD were all redacted, while selected
17 statements involving Councilmember Bonin, and Police Chief Michel Moore were not redacted.

18 34. On the evening of January 2, 2020 as the incident was investigated by the Bomb
19 Squad, no public statements were made by Councilmember Bonin, Police Chief Michel Moore,
20 or General Jeff of Skid Row, a Homeless Advocate in Downtown Los Angeles. Appellant is
21 unaware of any press coverage on the evening of January 2, 2020. However, on the morning of
22 January 3, 2020, there were a series of statements from these three persons in quick succession.

23 35. At 9:10 a.m. January 3, 2020, Councilmember Bonin posted the following on his
24 Facebook account:

25 “Last night, the Los Angeles Police Department responded to a report of suspicious
26 **devices that looked like bombs at the site of the future bridge housing in Venice.**
27

1 Streets were closed and nearby homes were evacuated for several hours, while the LAPD
2 Bomb Squad analyzed the devices.

3 According to LAPD, **there were three separate devices**. While they were apparently
4 **designed to look like explosive devices**, LAPD's bomb squad determined that none of
5 them contained the necessary fuel to cause an explosion. LAPD removed the devices,
6 conducted a safety sweep of the area, reopened streets, and allowed people back into their
7 homes.

8 LAPD's Major Crimes Division is investigating. Anyone with information that could
9 assist in the investigation should contact 1-877-LAPD 24-7 (1-877-527-3247).

10 **This is an appalling incident perpetrated by a disturbed and cowardly person or**
11 **persons. If it was meant to slow or halt progress on providing bridge housing, it**
12 **failed.** It is unacceptable and inhumane for people to be living and dying in sidewalk
13 encampments in our neighborhoods. It is imperative that we get people off the streets.
14 **We will not be intimidated, and we will not back down** from providing solutions to
15 our homelessness crisis.

16 I am grateful to the men and women of the Los Angeles Police Department, especially
17 those in LAPD Pacific Division and the LAPD BOMB Squad, for their quick,
18 professional and exemplary work last night. And I am grateful to the neighborhood
19 residents, who responded patiently and calmly to **this attempt to frighten and**
20 **inconvenience them.**" (Emphasis added.)

21 36. Additionally, at 9:08 a.m, on January 3, 2021, David Graham-Caso, Mr. Bonin's
22 Deputy Chief of Staff, distributed the text of the Councilmember's Facebook post to all office
23 staff instructing them to use the statement to respond to constituent inquiries. Coordinated
24 release of Mr. Bonin's statement by his office staff two minutes before the Facebook posting
25 establishes that it was developed among the Councilmember's staff before it was released to the
26 public – the product of deliberation and political calculation.

37. Just two hours and 12 minutes later, at 11:22 a.m. General Jeff of Skid Row sent an email to LAPD Chief Michel Moore, Mayor Eric Garcetti, Councilmember Mike Bonin and others stating:

"On behalf of "We, the People of Skid Row", I am contacting each of you to voice our collective concerns regarding recent "bomb-like" activity in Venice, California.

Attached are the following; 1) A screenshot of LA City Councilmember Mike Bonin publicly speaking to "bomb-like" devices which warranted the attention of LAPD's Bomb Squad, and 2) An official letter from "We, the People of Skid Row", in which we voice our collective concerns and also issue our collective requests. NOTE:...This correspondence will be shared with my fellow Skid Row community leaders."

Thus, an activist from the other side of the City, who was not at the Venice site and had no personal knowledge, distributed an email to many recipients, including the Mayor, Council members and other officials, calling the incident “bomb-like.”

38. Just 21 minutes later, at 11:43 a.m., LAPD Chief Michel Moore responded to General Jeff:

“General Jeff. **Last night’s event was extremely troubling to all of us and also intolerable.** Our Major Crimes Division investigators were on scene and their investigation, including the forensic examination of the devices, are ongoing. As a Department **we will aggressively pursue this investigation to identify and bring to justice the individual or individuals responsible.**

I am directing Commander Donald Graham to reach out to you to coordinate the appropriate meeting and attendees to answer those questions/concerns that we can at this point. **We have not seen this type of attack at other Bridge Homes sites and I assure you we will take every action possible to ensure this action does not stand.** In closing, let me reiterate that **LAPD will aggressively pursue and seek to prosecute at the State and Federal levels those responsible for these types of attacks on our**

1 **communities.”** (Emphasis added.)

2 Thus, the Chief of LAPD had issued a public statement placing the credibility of the
3 LAPD behind Mr. Bonin’s earlier contention that the CO2 devices were “like a bomb” and
4 motivated by the development of the temporary homeless Bridge Homes site in Venice.

5 39. Mr. Bonin responded to all on this email chain:

6 “Chief-Thank you for this message, and for ccing me. I am setting up a meeting with my
7 office, LAPD Pacific Division, the mayor's office, and the service agencies that will
8 operate the Venice bridge housing to discuss security concerns. I have assured Captain
9 Embrich that if we need to identify additional funds for external facing cameras, etc, we
10 will do so. As always, very grateful to you and the department for your vigilance and for
11 your partnership.”

12 40. About five hours later, the Major Crimes Division of LAPD had completed its
13 examination of the Bridge Housing Site, and at 2:44 p.m. Chief Michel Moore and Mr. Bonin
14 received an email report from Pacific Division Captain Steve Embrich of the Major Crimes
15 Division investigation of the CO2 devices:

16 “As Chief Moore mentioned, our Major Crimes Division (MCD) has been pressing
17 forward with their investigation. I have been in contact with Captain Robert Long,
18 Commanding Officer, Major Crimes Division who has provided us with timely updates
19 throughout the day. This morning MCD investigators returned to the MTA site and re-
20 canvassed the location in daylight. While conducting their follow-up investigation, they
21 located evidence of similar devices **which appear to be much older and pre-date the**
22 **bridge housing construction. As a result of their examination of the devices, the**
23 **investigators determined that there is a high probability that the devices were**
24 **constructed by the same person and therefore not directly related to bridge housing**
25 **construction.**

26 **Although, it appears that we do not have physical evidence of a direct threat to the**
27 **bridge housing project, your meeting to discuss security concerns is still vital and**

1 **necessary.** Captain Morrison will be at the meeting to offer our full support.” (Emphasis
2 added, bold depicts portions redacted from LAPD emails released to Appellant.)

3 This email was widely distributed in the City to Mayor Eric Garcetti, Councilmembers
4 Herb Wesson and Nury Martinez, and Bonin’s staff members. The portions in bold were
5 redacted in all copies of this email released to Appellant by LAPD, however, it was not redacted
6 by Mr. Bonin’s office staff in their release of the same document. Thus, evidence provided to
7 Appellant by Mr. Bonin himself proves that from 2:44 p.m. January 3, 2020 forward, Mike
8 Bonin and Chief Moore had actual knowledge there was no direct evidence of a link between the
9 devices and the Bridge Housing project.

10 41. At 3:07 p.m. on January 3, 2020, Major Crimes Division Detective Edward
11 Dorroh stated: “Captain, I’m not afraid to put my neck out on this assessment and based upon the
12 facts we have observed at the scene . . .” In the version of this email report to LAPD managers,
13 Detective Dorroh’s conclusions were redacted.

14 42. Consistent with these findings, on January 3, 2020, at 3:09 p.m., the LAPD Media
15 Relations Department sent an email to redacted recipients:

16 “Around 5:50 PM officers responded to the area of Sunset and Main and requested the
17 bomb squad for what appeared to be three suspicious devices. The bomb squad responded
18 and has collected three small devices for further testing. That testing will be done by
19 bomb technicians to determine the capabilities of the devices. Today investigators from
20 our Major Crimes Div followed their standard protocol in these situations and conducted
21 further investigation in the area. **At this time, they do not believe the devices have any
22 correlation to the current Bridge housing construction or homelessness issues.”**

23 (Emphasis added.)

24 43. At 3:41 p.m. on January 3, 2020, Detective Edward Dorroh confirmed the
25 redacted findings of his investigation to Commander Bob Long, but once again the findings of
26 the Detective were redacted in emails produced to Appellant.

27 44. Appellant is informed and believes, and thereon alleges that the LAPD Media
28

1 Relations statement was issued because very similar wording of the Major Crimes Division's
2 conclusion was picked up in an LA Magazine online article published that same afternoon.
3 " "We don't believe it's related to the homeless shelter construction," said Officer Bob Long of
4 the LAPD Major Crimes Division." Similarly wording also appeared that afternoon in a LA
5 Times article citing an anonymous source in LAPD. The fact that LAPD personnel leaked the
6 truth to the LA Times suggests there was already pressure to create a false narrative higher in the
7 chain of command at LAPD.

8 45. Having received *actual notice* that LAPD investigators found "no physical
9 evidence of a direct threat to the Bridge Housing," Appellant is informed and believes, and
10 thereon alleges that Mr. Bonin personally intervened with LAPD officials to continue to try to
11 weaponize the incident in order to publicly paint opponents to his homelessness strategies, like
12 Venice Vision and other groups and individuals in the community, as guilty of a criminal act.

13 46. Appellant is informed and believes, and thereon alleges that Mr. Bonin also
14 directed his staff to more widely distribute to the community and press his morning Facebook
15 statement **without modification although at that time he knew LAPD investigators had**
16 **found devices older than the Bridge Housing project construction project, severely**
17 **undermining the legitimacy of his assumption the devices were placed by someone opposed**
18 **to his homeless policies** including the Bridge Housing site and the Reece Davidson Project.

19 47. At 5:17 p.m. on January 3, 2021, Allison Wilhite, Mr. Bonin's staff director of
20 Bridge Housing, widely distributed in the Venice community Mr. Bonin's Facebook statement
21 with this preface, solely focused on linking the CO2 canisters to opposition to the Bridge
22 Housing project:

23 "Hello,
24

25 As you may have heard, last night, LAPD responded to a report of **suspicious**
26 **devices that looked like bombs at the site of the future A Bridge Home in**
27 **Venice.** Streets were closed and nearby homes were evacuated for several hours
28 while the LAPD Bomb Squad analyzed the devices. Fortunately, there were no

1 explosives.

2 Nevertheless, this incident is unsettling.

3 The A Bridge Home is intended to be a safe haven for those living on our streets in
4 Venice, providing them stability and security while they seek the services and
5 housing they so urgently need. While our service providers will be working hard to
6 support the clients on site, the City will also be working hard to deliver on its
7 promise of increased public safety to the neighborhood. Dedicated LAPD resources
8 will be added to the neighborhood as well as increased sanitation and street
9 outreach services. The safety of our residents in Venice, housed and unhoused, will
continue to be of utmost priority and **not deterred by this senseless act.**

10 Below you can read a statement from Councilmember Mike Bonin regarding this
11 incident. Thank you for your continued engagement with our office and willingness
12 to participate in tough, but necessary, conversations about the A Bridge Home in
13 Venice.” (Emphasis added.) Then the Facebook statement was reproduced on the
14 same message.

15 This further statement from Mr. Bonin’s office at 5:17 p.m. failed to communicate
16 any of the conclusions of the Major Crimes Division at 2:44 p.m. that the devices appeared
17 to have been created BEFORE construction of the Bridge Housing project began. Even
18 worse, it persisted in linking the three CO2 cartridges found to a “cowardly” motive to
19 intimidate the Councilmember when Mr. Bonin’s office had credible advice from LAPD
officials that it simply was not true.

20 48. Almost immediately, at 5:33 p.m., January 3, 2021, Venice residents decried the
21 Council office’s transparent motive in hyping the story contrary to reports in the LA Times:
22

23 “FYI the LA Times reported that “A law enforcement official [...] who spoke on the
24 condition of anonymity, said that the shelter site was NOT the target of
25 the incident but would not elaborate further.”

26 <https://www.latimes.com/california/story/2020-01-03/device-made-to-look-like->
27

1 [explosive-discovered-outside-site-of-futurehomeless-shelter-in-venice](#)

2
3 It's in quite poor form for Mike Bonin **to explicitly direct suspicion at shelter**
4 **opponents with zero evidence and apparently without even consulting the**
5 **police first**, given the statement they made to the Times." (Emphasis added.)

6 49. Appellant is informed and believes, and thereon alleges that Mr. Bonin
7 additionally would not accept the Major Crimes Division report and instead strong-armed LAPD
8 to issue a press release shaped by his own requested edits and embellishments related to an
9 implied criminal motive of his political opponents to harm the Bridge Housing project or
10 homeless persons.

11 50. By late afternoon, Josh Rubinstein of the LAPD Media Relations Division was
12 working on an "update" media release. The earliest versions of the press release were edited by
13 Chief Moore and others, but all of those versions of the LAPD's statement have been redacted in
14 emails obtained by Appellant. However, at 6:17 p.m. January 3, 2020, Mr. Rubenstein
15 forwarded this proposed version to Mr. Bonin:

16 "Councilman-

17 **Here is the update and statement we are going to issue...**

18 **Please reach it [sic] if you have any issues.**

19
20 The Los Angeles Police Department's Major Crimes Division is investigating the
21 discovery of several suspicious devices found **in the area of Sunset and Main Street** in
22 Pacific Division. The first devices were discovered around 5:30 on Thursday evening and
23 as the investigation developed more devices **were found in the vicinity** as well. The
24 devices **were found near the construction site of a new Bridge Housing facility and**
25 **an adjoining street.** All were rendered safe and removed from the area.

26 **It is unclear whether the homeless community was a target or what the intended**
27 **purpose of these devices may have been.** We continue to work to identify the individual
28

1 or individuals responsible for these items and what their motivation may have been. We
2 are asking the public for help if you know anyone who may have been involved,
3 witnessed suspicious activity, or have any video evidence that may help investigators
4 please call Major Crimes Division.

5 Josh Rubenstein

6 Public Information Director

7 Los Angeles Police Department” (Emphasis added.)

8 Appellant is unaware of why LAPD would be consulting a City Councilmember to edit
9 its own press release. Appellant is informed and believes, and thereon alleges that permitting a
10 councilmember to edit an official police department press release is highly irregular from normal
11 processes and procedures of the LAPD.

12 51. At 6:27 p.m., Mr. Bonin responded that the proposed press release did not
13 sufficiently link the devices to the Bridge Home site or confirm that LAPD was continuing to
14 investigate any link between the Bridge Housing project and finding of the devices:

15 “Joshua

16 Thanks for sending this. A couple points.

17 1/As I understand it, **several of the devices were found inside** the bridge housing site.

18 The statement says “near” and makes it sound like that was not necessarily the case they
19 were inside

20 2/In my conversation with Cheif [sic] Moore, he stated that he is taking this very
21 seriously, and was clear he has not ruled out any link to the construction of the bridge
22 housing site. **(Nor is he certain or convinced that there is A link.)** I think
23 the tone of this email will be perceived as downplaying the significance and dismissing
24 that concern altogether.

25 Mike” (Emphasis added.)

26 Mr. Bonin asked for these changes to the LAPD press release even though he knew that
27 the Major Crimes Division had already concluded **“we do not have physical evidence of a
28 direct threat to the bridge housing project.”** Appellant does not know if Mr. Bonin’s
conversation with Chief Moore occurred before or after the Major Crimes Division had reported

1 its conclusion of no link to the Bridge Home site or Venice's homeless population. Either way,
2 Mr. Bonin was intent to have LAPD state the device(s) were found on site and that the motive of
3 the devices continued to be investigated consistent with his morning Facebook post to the public
4 demonizing persons who questioned his homeless strategies in Venice.

5 52. From 6:31 p.m. to 6:45 p.m., Mr. Rubenstein sought to discuss these points on the
6 phone. He said to Mr. Bonin: "Great looking forward to it...I did make changes and addressed all
7 concerns accept [sic] the motivation part and that I can discuss with you."

8 53. After their later conversation, LAPD emails show Rubenstein substituting a new
9 paragraph keeping alive the notion that LAPD was investigating the motivations behind the CO2
10 devices, and who left them at the locations they were found.

11 54. At 8:50 p.m., in time for the 11:00 p.m. television newcasts, LAPD issued this
12 release:

13 "Los Angeles: The Los Angeles Police Department's Major Crimes Division is
14 investigating the discovery of several suspicious devices found in the area of Sunset and
15 Main Street in Pacific Division. The first devices were discovered around 5:30 on
16 Thursday evening and as the investigation developed more devices were found in the
17 vicinity as well. **The devices were found on and near the construction site of a new**
18 **Bridge Housing facility and an adjoining street.** All were rendered safe and removed
19 from the area.

20 **While the motive is unclear the Department continues to work to identify if the**
21 **Bridge Home Site or the homeless community was a target. We are working to**
22 **identify the individual or individuals responsible for these devices and we are asking**
23 **the public for help. If you know anyone who may have been involved, witnessed**
24 **suspicious activity, or have any video evidence that may help investigators please**
25 **call Major Crimes Division.**

26 Note: Several media outlets identified the devices as fax machines or parts of fax
27 machines, after misinterpreting the word facsimile. This term is used by our investigators
28 to describe an object resembling an explosive device.

1 We are asking the public for help if you know anyone who may have been involved,
2 witnessed suspicious activity, or have any video evidence that may help investigators
3 please call Major Crimes Division at 213- 486-7280. During non-business hours, or on
4 weekends, calls should be directed to 1-877-LAPD-24-7 (877-527-3247). Anyone
5 wishing to remain anonymous should call the LA Regional Crime Stoppers at 1-800-222-
6 TIPS (800-222-8477) or go directly to www.lacrimestoppers.org. Tipsters may also visit
7 www.lapdonline.org and click on "Anonymous Web Tips" under the "Get Involved-
8 Crime Stoppers" menu to submit an online tip. Lastly, tipsters may also download the
9 "P3 Tips" mobile application and select the LA Regional Crime Stoppers as their local
10 program." (Emphasis added.)

11 55. Meanwhile, in the public realm, Mr. Bonin's Facebook page post at 9:10 a.m.
12 January 3, 2020 unleashed a torrent of angry comments on his Facebook account, and inquiries
13 from community leaders, including some supporters of Mr. Bonin, to release more information
14 about the incident.

15 56. At 3:05 p.m. on January 3, 2020, just minutes after Captain Emerich informed
16 Chief Moore and Mr. Bonin of the Major Crimes Division investigation, Christopher Wrede, a
17 leader of Appellant, and member of the Venice Neighborhood Council, sent email
18 communications to Chief Moore alerting him that some comments on Mr. Bonin's Facebook
19 account were leveling charges that members of the Neighborhood Council had placed the
20 devices.

21 "I write as a member of the Venice Neighborhood Council Board to request all available
22 information regarding the recent bomb scare at the Bridge Home Venice site on Main
23 Street. Councilman Bonin states on his Facebook page that there were three "suspicious
24 devices that looked like bombs at the site" and that they were placed there by "a disturbed
25 and cowardly person or persons." He also suggests that it was part of an effort to
26 "intimidate[]" him and "to slow or halt progress on providing bridge housing."
27 Further, there is an accusation in the comments on Councilman Bonin's Facebook page --
28

1 which Councilman Bonin has not removed -- that members of the VNC Board
2 perpetrated the acts in question.

3 I cannot find any news reports on the alleged incident so I am hoping you can help me fill
4 in the numerous blanks quickly.

5 Thank you,

6 Christian Wrede”

7 In response, Chief Moore said “I’ve asked for a statement from our PIO to clarify...
8 apologies for the confusion.”

9 57. By 7:48 p.m., Christopher Wrede, alarmed that Allison Wilhite had just made
10 another mass distribution of Mr. Bonin’s Facebook page statement, again contacted Chief Moore
11 asking for the LAPD to release clarifying information, including the pictures of the devices
12 found.

13 “As you can see here, Allison Wilhite from Councilman Bonin's office furnished a new
14 release to Venice Update (and perhaps other [media] outlets) today repeating verbatim
15 statements from Councilman Bonin's Facebook post regarding the Bridge Home Venice
16 bomb scare.

17 [https://veniceupdate.com/2020/01/03/venice-deputy-responds-to-venice-bridge-home-](https://veniceupdate.com/2020/01/03/venice-deputy-responds-to-venice-bridge-home-bomb-threat/)
18 [bomb-threat/](https://veniceupdate.com/2020/01/03/venice-deputy-responds-to-venice-bridge-home-bomb-threat/)

19 Notwithstanding your email above, it does not appear that Ms. Wilhite's statement
20 reflects any new information from your PIO [Public Information Officer].

21 At this point, Councilman Bonin is telling the public that devices intended to look like
22 bombs were placed at the Bridge Home Venice site in an apparent attempt to derail the
23 project and terrorize prospective residents.

24 Does that accurately reflect the LAPD's view of the situation? If so, what information can
25 you provide to support that assessment or to enable the parents concerned for the safety
26 of their children to draw their own conclusions? If not, what efforts are being made to
27 provide guidance to the Councilman?

28 A terrorist act in the heart of the second most popular tourist destination in California and
one of the most densely populated areas on the Westside strikes me as a big deal,
particularly in connection with an issue as contentious as homelessness. And it seems a

1 little odd, frankly, that all public information relating to such an incident would come
2 exclusively through Councilman Bonin's office.

3 Competent and reliable information from the LAPD -- including pictures of the devices at
4 issue -- is urgently needed. I plan to request an update at the VNC [Venice Neighborhood
5 Council] meeting next month, but obviously Venice residents should not have to wait that
6 long.”

7 58. Although Chief Moore was aware of Major Crimes Division’s earlier report of
8 “no physical evidence of any direct threat” he again placed the credibility of himself and the
9 resources of LAPD behind Mr. Bonin’s narrative with this terse reply: “Christian - The
10 councilman’s remarks are accurate and fair. There is much more work to do to identify the
11 individual(s) responsible for these devices and their motive. Mike” Soon thereafter, Joshua
12 Rubinstein issued to the public the LAPD press release set forth above, as edited by Mr. Bonin
13 himself.

14 59. The local NBC affiliate ran a television newscast story that stated the devices
15 were “pipe bombs” and they had the “intent to explode.” Other media outlets ran stories stating
16 the devices were not explosive.

17 60. The next day, at 3:31 p.m. on Saturday, January 4, 2021, Christopher Wrede,
18 concerned of the lack of information from LAPD, sent another email to Chief Moore:

19 “Dear Chief Moore:

20 I am writing because I still have not seen a statement from the LAPD setting forth a
21 reliable account of what transpired at the site of the Bridge Home Venice
22 project yesterday. As to the nature of the devices in question, some media are reporting
23 (with attribution to the LAPD) that the devices were "small pipe bombs with carbon
24 dioxide canisters" that were intended to detonate, while other media are reporting (also
25 with attribution to the LAPD) that the devices merely "look[ed] like" explosives.
26 Needless to say, there is a world of difference (at least in the mind of concerned parents
27 with young children in school just a few blocks away) between actual explosives that
28 failed to detonate, on the one hand, and devices that just happen to look like explosives,
on the other, and it is hard to understand why (all these hours and news stories later) the

1 LAPD has failed to provide accurate, consistent information to Venice residents as to the
2 nature of the devices involved.

3 Similarly, we are getting mixed messages as to what may have been behind the
4 placement of the mystery devices. Most media are running with Councilman
5 Bonin's theory (which is also attributed to the LAPD in some reports) that the devices --
6 whether or not explosive -- were placed to derail the Bridge Home Venice project and
7 target the homeless community, yet a Los Angeles Magazine article dated January 3
8 quotes Officer Bob Long of the LAPD Major Crimes Division as stating "We don't
9 believe it's related to the homeless shelter construction."

10 If the LAPD does not, in fact, "believe" that the placement of the mystery devices was
11 "related to the homeless shelter construction," you should release a statement to that
12 effect immediately. In addition to casting a pall over our community, the stories adopting
13 Councilman Bonin's theory make express reference to the Venice Stakeholder
14 Association's (VSA) recent lawsuit challenging the Bridge Home Venice project --
15 obviously inviting unwarranted and injurious inferences as to the conduct and character
16 of the VSA and its members.

17 Similarly, if the LAPD is of the view that actual explosives were placed at the Bridge
18 Home Venice site in connection with an anti-homeless campaign of some sort, a
19 statement should be released to that effect. Virtually everyone in Venice lives within a
20 few blocks of a homeless encampment, shelter or housing project. They have a right to
21 know if they -- and their families -- are in danger."

22 61. At 3:59 p.m. January 4, 2021, Captain Embrich replied by attaching LAPD's
23 news release of the previous evening, and stating:

24 "I understand your concern. Please see the attached Department statement. I can assure
25 you that none of the devices recovered from the site would meet the definition of an
26 explosive."

27 62. Neither LAPD nor Mr. Bonin have released the pictures of the devices so as to
28 enable the community to help determine the source of the devices. In fact, LAPD, when it
released documents to Appellant pursuant to the Public Records Act, redacted all the pictures of

1 the devices that exist in the emails possessed by LAPD.

2 63. On Sunday, January 5, 2021, the following response was sent to Allison Wilhite's
3 5:17 p.m. January 3, 2020 email distributing Mr. Bonin's Facebook post to media outlets and
4 community activists:

5
6 "Hi Allison,

7 I appreciate you sending over this information, however **I have to say that the**
8 **commentary by the council member, first releasing information that the police did not**
9 **because this was an ongoing investigation but then making assumptions that the suspicious**
10 **devices could be an attempt to "slow or halt progress on providing bridge housing" is**
11 **reprehensible. As an elected official, Mr. Bonin should defer to the police on such matters**
12 **and refrain from making volatile public comments** that do nothing to calm the situation.
13 While I understand that he is committed to the Bridge Housing, his comments do not help bring
14 the community together but instead continue to divide. It's sad that **someone who is supposed to**
15 **lead in times of crises is instead pointing fingers."** (Emphasis added.)

16 64. At 6:51 a.m. on January 8, 2021, a person named "Sheila Harper" sent an email to
17 the entire Board of Directors of the Venice Neighborhood Council:

18 ["https://la.streetsblog.org/2020/01/07/lapd-continues-to-investigate-bombs-left-at-future-](https://la.streetsblog.org/2020/01/07/lapd-continues-to-investigate-bombs-left-at-future-bridge-housing-project-in-venice/)
19 [bridge-housing-project-in-venice/](https://la.streetsblog.org/2020/01/07/lapd-continues-to-investigate-bombs-left-at-future-bridge-housing-project-in-venice/)

20 This article shows an update into the bridge home bomb scare **and the community**
21 **vigilantism by VNC members.**

22 There's two quotes from VNC members **Chris Zonas on lupac is threatening people's**
23 **lives and is a suspect** as is Mark Ryavec with his multiple violent comments. **Christian**
24 **Wrede is a major suspect** and has been mass emailing the community lying saying this
25 incident was not serious trying to cover up his involvement no doubt.

26 In case you haven't noticed **you have some violent criminals in board making you**
27

1 **organized crime. All suspects on the VNC: Alix, zonas, Wrede, Ryavec and Murez**
2 **should be removed immediately as they will be prosecuted soon.”** (Emphasis added.)

3 Appellant’s investigation did not yield anyone in the Venice community who knows or
4 has heard of “Sheila Harper.”

5
6 65. Frustrated with Mr. Bonin’s ongoing refusal to release complete information
7 about the devices or incident, and his refusal to remove or condemn postings on his Facebook
8 account and elsewhere accusing Venice Neighborhood Council board members as criminals and
9 suspects in the criminal investigation, midday on January 8, 2020, Ira Koslow, President of the
10 Neighborhood Council, forwarded the Shiela Harper email to Mr. Bonin and his staff and
11 observed:

12 “Dear Mike,

13 I am forwarding this one email as a representative of the type of mail and publicity some
14 of our Board members are getting. **The tone of your Facebook post as well as Matt**
15 **Fisher's comment has placed a very unfair and possibly dangerous spotlight on a**
16 **few Board members.** The police are still investigating the bomb scare and have not
17 stated any people of interest, although Matt Fisher has stated there is video evidence
18 against specific people in a comment on your post.

19 **I would hope that you and your office would clarify the issue.** Is there video evidence,
20 is there any evidence, **or are you going to stand by and let innocent people, whether**
21 **they are your supporters or not, be found guilty by rumor and fear mongering.**

22 Respectfully submitted,

23 Ira Koslow” (Emphasis added.)

24 To Appellant’s knowledge, neither Mr. Bonin nor his staff responded, or ever clarified
25 the issue. Apparently, Mr. Bonin will remain silent while surrogates demonize others in the
26 community, including Appellant, including allowing such comments to reside on his Facebook
27 page. These words place people in danger, as well as their reputations.

28 66. On January 9, 2021, Christopher Wrede, followed up with Captain Embrich:

1
2 "Dear Captain Embrich:

3 I see that the LAPD website continues to state -- consistent with Councilmember Bonin's
4 news release, statements to the press and multiple social media posts -- that the
5 "suspicious devices" found in Venice over the New Year's holiday may relate to terror
6 activity targeting the Bridge Home Venice site (and, by implication, members of Venice's
homeless community).

7 As I have already conveyed to you and your colleagues, I find this hard to square with the
8 LAPD's statements on and around January 3 that the devices in question were most
9 definitely not explosive, that they were found in locations other than the Bridge Home
10 Venice site, and that they did not appear to be connected to the Bridge Home Venice
project.

11 Now, I hear reports that many of the devices in question are quite old and that they
12 appear to be CO2 containers modified to release CO2 -- and spin around --
13 when dropped from a sufficient height.

14 Can you provide any updates on your investigation? Also, can you tell me whether the
15 LAPD Major Crimes Division is investigating any theories other than antihomeless
16 terror at this point in time? One theory that has emerged recently among Venice residents
17 is that the devices in question are make-shift toys of some sort (albeit not "toys" of the
sort any parent would want their kids to come across).

18 Finally, per our prior exchange, I was wondering if a new Senior Lead Officer was
19 appointed for Venice yesterday as planned. If so, could you provide me with his or her
20 name and contact information? I won't be coy: I do not believe Councilman Bonin's
21 terror-theory and feel that **the media coverage surrounding it has damaged Venice,**
22 **including, in particular, Venice residents who have expressed opposition to the**
23 **Bridge Home Venice project in court and elsewhere.** If there is any possibility,
24 however, that Councilman Bonin's view has merit, however, Venice obviously should not
go even one more day without a Senior Lead Officer in place.

25 Thank you and good luck with your investigation.

26 Christian Wrede" (Emphasis added.)
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67. A few minutes later, Mr. Bonin forwarded this email to his staff but, as with each email sent to him by Mr. Wrede and others, Mr. Bonin himself did not reply or undertake an affirmative act to correct the public record.

68. On February 12, 2020, in response to two unanswered inquiries from Mr. Wrede dated February 7 and February 11, 2020, concerning the status of the LAPD investigation, Chief Michel Moore, who obviously had moved on, asked his staff: “Horace. Let me know whatever came of our investigation.” He received an answer, but consistent with the LAPD’s participation in withholding the facts from Appellant and persons whose names have been smeared, the answer from LAPD staff was redacted.

69. Based upon the particularized allegations set forth above, there exists an “unacceptable probability of actual bias” of Councilmember Mike Bonin toward Appellant and property owners, business owners and tenants owed a fair hearing under the constitution. The unacceptable probability exists because there is substantial evidence supporting these conclusions:

(a) Once he became aware of the police call to the Bridge Housing site, and without waiting for the results of the police investigation, Los Angeles City Councilmember Mike Bonin issued a public statement drawing a link between the Bridge Housing project and the discovery of three CO2 cartridges taped to pieces of wood/metal and perhaps a lag screw. Without any reasonable factual basis, Mr. Bonin claimed these devices were “bomb like” without awaiting the LAPD assessment. Mr. Bonin opined that if the placement of the devices on or near the Bridge Housing project was to “intimidate” him it failed. In this action, Mr. Bonin sought to raise the improper innuendo that opponents of his homeless housing policies planted these devices to target new the Bridge Housing project, the homeless in Venice, and the Councilmember’s policy initiatives.

(b) Mr. Bonin used this public statement to try to portray himself as courageously standing up to this act, undeterred. It was a political calculation to lionize himself over those

1 who would question the wisdom of his policy program.

2 (c) Mr. Bonin's Facebook page drew comments that accused members of the Venice
3 Neighborhood Council, including Appellant's leaders and members, as having placed these
4 bomb-like devices, yet Mr. Bonin never corrected or condemned these false accusations of
5 criminal conduct when they were specifically brought to his attention as damaging to the names
6 and reputations of community members he knew to be innocent.

7 (d) To bolster the credibility of his premature statements, Mr. Bonin enlisted or
8 pressured LAPD Chief Michel Moore to state it was an attack on the homeless Bridge Housing
9 project, when it was not.

10 (e) To bolster the credibility of his premature statements, Mr. Bonin obtained
11 improper access to review and suggest edits to an official LAPD press release, and in so doing
12 weaponized official law enforcement public information and records to link the incident to the
13 Bridge Housing project to the CO2 cartridges, all when he had specific contrary information
14 from the Major Crimes Division detectives who investigated the facts.

15 (f) The Major Crimes Division investigation was complete within a short period of
16 time, however, Mr. Bonin and Chief Michel Moore continued to publicly state the investigation
17 was ongoing, refused to release unredacted public records that would show the pictures of the
18 devices Mr. Bonin called "bombs" and reveal the entire report and conclusions of the Major
19 Crimes Division investigation.

20 (g) Because of the failure of Mr. Bonin and Chief Moore to release accurate
21 information about the incident and its investigation, their silence in the face of third parties
22 attacking those who question the intensity and size of related facilities proposed to serve
23 homeless individuals in Venice is to grant permission for allies to continue their baseless attacks
24 on Appellant at its leaders and members, and other property owners, business owners, and
25 tenants in public hearings involving issues, including the Reece Davidson Project.

26 (h) Due to these actions and inactions of Mr. Bonin, as the Los Angeles City
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1 Councilmember to whom his colleagues will look for guidance whether or not to grant or deny
2 the quasi-judicial land use appeals of Appellant about to come before the City Council, there is
3 an unacceptable probability that Mr. Bonin has and will exercise continuing actual bias toward
4 Appellant such that California law requires his removal from the quasi-judicial decisionmaking
5 process.

6 70. Mr. Bonin, in his official capacity as a Los Angeles City Councilmember, must
7 recuse, the Los Angeles City Council must recuse him, or he must be ordered to recuse by the
8 City Ethics Commission, from hearing the quasi-judicial appeals associated with the Reece
9 Davidson Project proposed for development on a City-owned beach parking lot along Venice
10 Boulevard and the Grand Canal in his Venice district. Such an order should issue on the basis of
11 actions Mr. Bonin took seeking to improperly divert taxpayer resources and credibility of the Los
12 Angeles Police Department (“LAPD”) to issue and propagate a media narrative that falsely
13 assumed, implied, or asserted that opponents of his homelessness policies, including Appellant,
14 its leaders and members, planted bomb like devices at the related Venice temporary homeless
15 Bridge Housing site in order to “intimidate” the Councilmember or terrorize the homeless. **This**
16 **narrative simply is not true and Mr. Bonin had good cause to know it, yet he has used his**
17 **power as City Councilmember to prevent persons whose reputations have been sullied by**
18 **his actions to clear their names.** In the words of one Venice community activist reacting to Mr.
19 Bonin’s staff widely distributing his false narrative, such actions were “reprehensible” and
20 “pointing fingers” instead of leadership.

21 71. Meanwhile, going forward since the incident, at each public meeting that
22 addresses Mr. Bonin’s policies and actions, which will include the quasi-judicial hearings for the
23 Reece Davidson Project, the false narrative described herein is used by Mr. Bonin and his
24 surrogates to continue to attack, diminish, and defame persons in the community who have dared
25 to publicly question Mr. Bonin’s policies. This personal hostility and animus continues today
26 because, consistent with what Major Crimes Division detectives quickly determined, there was
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1 no danger presented by the CO2 cartridges found in the streets around the Bridge Housing
2 project. Mr. Bonin's refusal to fully release all relevant documents unredacted, and ongoing
3 pressure on LAPD to refuse to fully disclose all relevant information enables the ongoing false
4 narrative to be used to attack his own constituents, including Appellant and others.

5 72. The City Council and City Ethics Commission have jurisdiction to declare the
6 rights of Appellant with respect to the City of Los Angeles and its City Councilmember Mike
7 Bonin's fitness to hear, deliberate with City Council colleagues, and vote on its pending quasi-
8 judicial land use hearings before the City Council. Appellant is entitled to a fair hearing by
9 unbiased decisionmakers, but Mr. Bonin's actions evidence an extreme hostility and personal
10 animus against Appellant, its leaders, and other property owners, businesses and tenants in the
11 impact area of the Project that try to be heard at the City Council hearing.

12 73. Appellant seeks an order of the City Council or City Ethics Commission
13 prohibiting Councilmember Mike Bonin from communicating with other members of the City
14 Council, himself or through intermediary staff or other persons, regarding Appellant's pending
15 quasi-judicial land use appeals regarding the related proposed Reece Davidson Project, hearing
16 the case, providing input into the consideration by the City Council, deliberating the merits of the
17 appeals, or voting on whether the appeals ought to be granted or denied.

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19 Dated: November 30, 2021
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