

Conformed Copy

THE SILVERSTEIN LAW FIRM, APC
ROBERT P. SILVERSTEIN (State Bar No. 185105)
DANIEL E. WRIGHT (State Bar No. 144490)
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
E-mail: Robert@RobertSilversteinLaw.com

Attorneys for
STOPTHEMILLENNIUMHOLLYWOOD.COM;
COMMUNITIES UNITED FOR REASONABLE
DEVELOPMENT; BEACHWOOD CANYON
NEIGHBORHOOD ASSOCIATION; AND GEORGE
ABRAHAMS

D85 James C. Chalfant
SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

STOPTHEMILLENNIUMHOLLYWOOD.
COM and COMMUNITIES UNITED FOR
REASONABLE DEVELOPMENT,
California unincorporated associations;
BEACHWOOD CANYON
NEIGHBORHOOD ASSOCIATION, a
California corporation; GEORGE
ABRAHAMS, individually,

Petitioners and Plaintiffs,

vs.

CITY OF LOS ANGELES, a municipal
corporation; LOS ANGELES CITY
COUNCIL; and DOES 1 through 20,
inclusive,

Respondents and Defendants

MILLENNIUM HOLLYWOOD, LLC, a
Delaware limited liability company, doing
business in California; and ROES 1 through
20, inclusive,

Real Parties in Interest.

Case No. BS144606

VERIFIED PETITION FOR WRIT
OF MANDAMUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

[Code Civ. Proc. §§ 1060, 1085,
1094.5; Pub. Res. Code §§ 21000, *et*
seq. (CEQA); Constitutional Due
Process; Govt. Code § 65804; Los
Angeles City Charter § 562; Los
Angeles Municipal Code §§ 12.04,
12.27(D), 12.32]

CONFORMED COPY
ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

AUG 28 2013

John A. Clarke, Executive Officer/Clerk
BY Cristina G. [Signature] Deputy
Cristina G. [Signature]

Petitioners and Plaintiffs StopTheMillenniumHollywood.com, Communities United for Reasonable Development, Beachwood Canyon Neighborhood Association, and George Abrahams (“Petitioners”) seek a writ of mandamus and declaratory and injunctive relief against Respondents and Defendants City of Los Angeles the Los Angeles City Council (sometimes collectively the “City” or “Respondents”), and allege as follows:

INTRODUCTION

1. On July 24, 2013, the Los Angeles City Council, led by former Hollywood Councilmember and now Mayor Eric Garcetti, and new Hollywood Councilmember Mitch O’Farrell, gave final approvals to a real estate development project known as the Millennium Hollywood project located on two parcels totaling 4.46 acres straddling Vine Street north of Hollywood Boulevard, and surrounding the Capitol Records Building in Hollywood.

2. This case, perhaps more than any project carried out by City of Los Angeles personnel and elected officials in recent years, has struck a nerve with citizens and sparked national media attention: What kind of City of Los Angeles leadership would approve this project when compelling evidence showed the Millennium Developer’s geologists, Department of City Planning, and Department of Building and Safety fraudulently hid the fact that an active earthquake fault, capable of a surface rupture that could shear a building in half, may cross the very site where 39- and 35-story skyscrapers are proposed for construction?

3. As an object lesson for political science students, this case demonstrates the corrosive influence of campaign contributions and more than \$4 million in lobbying payments made by the Millennium Developer from 2009 through the second quarter of 2013. In exchange for those campaign contributions, which are little more than legalized bribery that fuel the political ambition of those focused on their “public service” careers, our City Council members carried out a grossly unfair and politically choreographed public hearing where they acted to endanger the lives of thousands of people who would occupy the Millennium Project.

1 4. For this and many other reasons, the people of Los Angeles are once again
2 forced to sue their own government to enforce the law and expose shocking dereliction of
3 duty by public officials. The Millennium Project approvals demonstrate that Los Angeles'
4 city government suffers from a moral bankruptcy that now threatens the very physical
5 safety of its residents. Our overburdened Los Angeles County Superior Court system must
6 now hear and decide a case that would never have been necessary if the Los Angeles
7 Mayor and City Council actually cared about the lives of the people they supposedly
8 represent.

9 5. Accordingly, this petition and complaint challenges the City's July 24, 2013
10 actions, and all subsequent actions, in approving zone and height district changes, vesting
11 tentative tract map, Millennium Development Regulations, Land Use Equivalency
12 Program, and other associated entitlements further described herein ("Project Approvals")
13 and an environmental impact report ("EIR") for the "Millennium Hollywood" project, the
14 proposed construction of 1,166,000 square feet of an unspecified set of mixed-use
15 buildings (up to 585 feet in height) which may or may not include residential
16 condominiums, and/or apartments, and/or retail space, and/or indoor/outdoor restaurants,
17 and/or a health club, and be served by an unknown number of parking spaces located
18 within approximately 800,000 square feet of additional uninhabitable space, all sited on
19 two development parcels that straddle Vine Street in Hollywood, California (the "Project").
20 The street addresses of the Project include, but are not limited to, 1720, 1722, 1724, 1730,
21 1740, 1745, 1749, 1750, 1751, 1753, 1760, 1762, 1764, 1766, 1768, 1770 N. Vine Street;
22 6236, 6270, 6334 W. Yucca Street; 1733, 1741 N. Argyle Avenue; 1746, 1748, 1754,
23 1760, 1764 N. Ivar Avenue, Los Angeles, California, 90028. In essence, the Project will
24 place approximately twice the square footage of the Staples Center (950,000 s.f.) into a
25 mere 4.46 acres of land in Hollywood.

26 6. Petitioners seek a writ of mandamus invalidating the City's certification of
27 the Project EIR and invalidating and setting aside the Project Approvals based upon the
28 City's violations of the California Environmental Quality Act ("CEQA"), due process fair

1 hearing requirements, and other laws.

2 **PARTIES**

3 7. Petitioner StopTheMillenniumHollywood.com (sometimes “STMH”) is a
4 California unincorporated association comprised of community organizations and
5 individuals who participated in the administrative proceedings before the City. STMH
6 opposes construction of the Project on and near the Hollywood Earthquake Fault. STMH
7 also seeks a project designed to properly mitigate traffic on the Hollywood Freeway and
8 street system and parking intrusion into neighborhoods, a project considered without the
9 conflict of interest of the City Planning Commission President being paid by the developer
10 to act as a consultant, a project designed not to overwhelm the City’s strained public
11 infrastructure, and a project considered in a fair administrative hearing process. Until an
12 adequate environmental review is conducted, the current approved Project is a danger to
13 the health, safety and welfare of the public. STMH includes other Petitioners in this case,
14 as well as various other organizations and individuals which objected to the Millennium
15 Project in any of the proceedings leading up to the City Council’s July 24, 2013 approvals
16 of the Project.

17 8. Petitioner Communities United for Reasonable Development (“CURD”) is a
18 California unincorporated association and a coalition of community organizations and
19 individuals who under the name of CURD filed land use appeals during the administrative
20 hearing process before the City Planning Commission and the Los Angeles City Council.
21 CURD, as the named appellant in those administrative land use appeals, is also aggrieved
22 by the unfair hearings conducted by the Los Angeles City Council that deprived it of due
23 process of law.

24 9. Petitioner Beachwood Canyon Neighborhood Association is a California
25 corporation dedicated to representing property owners and residents living in the areas near
26 Beachwood Canyon in or immediately adjacent to Hollywood, California and the site of the
27 proposed Project. Beachwood Canyon Neighborhood Association is a founding member
28 organization of both STMH and CURD.

1 10. George Abrahams is an individual resident and taxpayer of Hollywood,
2 California, serves as an officer of the Beachwood Canyon Neighborhood Association, and
3 is a leader and representative of STMH and CURD.

4 11. The members of STMH, CURD, and Beachwood Canyon Neighborhood
5 Association include residents and property owners in the City of Los Angeles who
6 collectively advocate for residential health, safety and quality of life issues, and oppose
7 worsening environmental impacts such as unwarranted density/height that overwhelms
8 municipal infrastructure, gridlocked Hollywood streets as a cumulative result of
9 existing/future projects, and diminished street parking and intrusion of parking from under-
10 parked projects into adjoining residential neighborhoods.

11 12. Petitioners have a substantial interest in ensuring that the City's decisions
12 are in conformity with the requirements of law, and in having those requirements properly
13 executed and the public duties of the City enforced. Petitioners will be adversely affected
14 by impacts resulting from the City's actions and approvals, and are aggrieved by the acts,
15 decisions and omissions of the City as alleged in this petition and complaint. Petitioners
16 are suing on their behalf, and on behalf of others who will be affected in the Hollywood
17 area, as well as all citizens of the City of Los Angeles, and more broadly, including all
18 those who use the Hollywood Freeway.

19 13. Respondent City of Los Angeles is a California charter city located in the
20 County of Los Angeles, California. The Project is within the jurisdictional limits of the
21 City of Los Angeles.

22 14. Respondent Los Angeles City Council is the elected governing body of the
23 City, and is the body responsible for the decisions at issue herein.

24 15. Petitioners are informed and believe, and based thereon allege, that
25 Millennium Hollywood, LLC (sometimes "Real Party"), named as a real party in interest,
26 is a Delaware limited liability corporation, doing business in California, to which the City
27 granted all of the Project approvals.

28 16. Petitioners are ignorant of the true names of respondents sued herein as

DOES 1 through 20, inclusive, and therefore sue said respondents by those fictitious names. Petitioners will amend the petition to allege their true names and capacities when the same have been ascertained. Petitioners are informed and believe, and based thereon allege, that each of these fictitiously named respondents is in some manner responsible for the wrongful conduct alleged in this petition. Petitioners are informed and believe, and based thereon allege, that these fictitiously named respondents were, at all times mentioned in this petition, the agents, servants, and employees of their co-respondents and were acting within their authority as such with the consent and permission of their co-respondents.

17. Petitioners are ignorant of the true names of real parties sued herein as ROES 1 through 20, inclusive, and therefore sue said real parties by those fictitious names. Petitioners will amend the petition to allege their true names and capacities when the same have been ascertained. Petitioners are informed and believe, and based thereon allege, that each of these fictitiously named real parties is in some manner responsible for the wrongful conduct alleged in this petition. Petitioners are informed and believe, and based thereon allege, that these fictitiously named real parties were, at all times mentioned in this petition, the agents, servants, and employees of their co-real parties and were acting within their authority as such with the consent and permission of their co-real parties.

JURISDICTION AND VENUE

18. Jurisdiction over Respondents and Real Party, and each of them, exists because each of the Respondents and Real Party named in this litigation are present and operating within the jurisdictional limits of the County of Los Angeles

19. Venue is proper because most or all of the acts and omissions complained of in this litigation took place within this judicial district.

GENERAL ALLEGATIONS

20. Petitioners are informed and believe, and based thereon allege, that Real Party filed a 2008 Master Land Use Application that proposed a project that required the following discretionary actions: (1) Development Agreement to establish development parameters in the form of custom drafted Millennium Hollywood Development

1 Regulations and a Millennium Hollywood Land Use Equivalency Program that purport to
2 allow within a design envelope an infinite number of possible undisclosed mixed uses for
3 the Project, only to be revealed after the expiration of statutes of limitation under state law
4 and just prior to issuance of the building permits and only limited by a traffic trip cap set
5 forth in the Land Use Equivalency Program; (2) Vesting Tentative Tract Map for the
6 mixed-use development components; (3) Vesting Zone Change from C4 Zone to C2 Zone
7 (to permit Sports Club use); (4) Height District Change to remove the D Development
8 limitation; (5) Conditional Use Permit for limited sale and on-site consumption of alcoholic
9 beverages, live entertainment, and floor area ratio averaging in a unified development;
10 (6) Vesting Conditional Use Permit for a hotel within 500 feet of an R Zone; (7) Variances
11 for sports club parking, and for restaurants with outdoor eating areas above the ground
12 floor; (8) demolition, grading, excavation, and foundation permits; (9) haul route approval;
13 and (10) Community Redevelopment Agency of Los Angeles design review and approval
14 to permit a floor area ratio in excess of 4.5:1.

15 21. Petitioners are informed and believe, and based thereon allege, that the City
16 designated the City land use entitlements for the application as Case No. CPC 2008-3440-
17 ZC-CUB-CU-ZV-HD ("CPC Entitlements")

18 22. Petitioners are informed and believe, and based thereon allege, that Real
19 Party also filed an application for a Development Agreement, and that the City designated
20 the application as Case No. CPC-2013-103-DA ("Development Agreement"). The
21 Development Agreement proposed by the City and Millennium Developer included
22 Millennium Hollywood Development Regulations ("Development Regulations"). The
23 Development Regulations purport to be a set of zoning rules and guidelines that are custom
24 written for the Project. Most significantly, in an unprecedented proposal, the Development
25 Regulations included a provision that if any part of the Development Regulations were
26 more permissive than another provision of the City's Municipal Code, the Development
27 Regulations would prevail over the City's other laws. Additionally, the Development
28 Agreement included a proposed "Land Use Equivalency Program" for the Project. Under

1 the Land Use Equivalency Program, the Millennium Developer would be given
2 “flexibility” to disclose after the final discretionary decision the precise mixed land use
3 elements of the Project at the time of plan review, just prior to issuance of demolition and
4 building permits.

5 23. Petitioners are informed and believe, and based thereon allege, that Real
6 Party also filed an application for a Vesting Tentative Tract Map, and that the City
7 designated the application as Case No. VTT-71837-CN-1A (“Tract Map Application”).

8 24. Collectively, the CPC Entitlements, Development Agreement, and Tract
9 Map Application sought entitlements for approximately 1,166,970 square feet of habitable
10 space with an unspecified mix of land uses, approximately 800,000 square feet of
11 uninhabitable space of which the greatest portion was a parking garage with “1,918 parking
12 spaces, subject to the shared parking provisions of the Development Regulations” (“Land
13 Use Entitlements”).

14 25. The City caused an EIR for the Project to be prepared and circulated. The
15 Draft EIR was released for a 45-day public comment period on October 25, 2012. Despite
16 requests to do so, the City refused to extend the public comment period. The public
17 comment period ended December 10, 2012. On February 8, 2013, the City released the
18 Final EIR including responses to comments submitted regarding the Project during the
19 Draft EIR public comment period.

20 26. A joint public hearing on the Project was held before the Deputy Advisory
21 Agency and Hearing Officer on February 19, 2013.

22 27. On or about February 22, 2013, just three days later, the Deputy Advisory
23 Agency approved the Tract Map Application for the Project.

24 28. On or before March 4, 2013, Petitioners Beachwood Canyon Neighborhood
25 Association, represented by Petitioner George Abrahams, timely filed appeals of the
26 Advisory Agency’s approval of the Vesting Tentative Tract Map, adoption of the EIR, and
27 adoption of a Statement of Overriding Considerations to the City Planning Commission. In
28 addition, on or before March 4, 2013, other entities and persons filed appeals of the

1 Advisory Agency's approvals, including the American Musical and Dramatic Arts College
2 and Conservatory of Performing Arts, Argyle Civic Association, and Annie Geoghan (on
3 behalf of members of the Whitley Heights community). These appeals raised objections to
4 the Project and the EIR that are incorporated into the objections raised in this Petition.

5 29. Subsequently, the City issued a notice of public hearing for the appeals of
6 the Tract Map approvals by the Advisory Agency, and a notice of public hearing on the
7 initial consideration of the CPC Entitlements and Development Agreement. The notice of
8 public hearing invited the interested public to appear at the hearing where public testimony
9 would be heard by the City Planning Commission.

10 30. On March 28, 2013, the various appeals of the Advisory Agency decision
11 and the initial consideration of the Hearing Officer's recommendations regarding the CPC
12 Entitlements and the Development Agreement were scheduled for hearing before the City
13 Planning Commission. Many people who attended this hearing signed the Interested
14 Persons list at the back of the meeting room so that their names would be on the City's list
15 of persons entitled to notice of and right to participate in all future hearings regarding the
16 Project.

17 31. At the outset of the City Planning Commission's meeting, Assistant City
18 Attorney Adrienne Khorasanee made an announcement to the audience. She said that City
19 Planning Commission President, William Roschen, had been determined to have a
20 financial conflict of interest in the Millennium Project Development Agreement under
21 Government Code Section 1090 because he had accepted employment from the
22 Millennium Developer in connection with the Project under consideration by the City
23 Planning Commission. Accordingly, she stated twice to the audience that the Millennium
24 Developer had withdrawn the Development Agreement from the requested entitlements.
25 Then Ms. Khorasanee stated that the City Planning Commission could go forward with its
26 consideration of the appeals of the Advisory Agency determination approving the Tract
27 Map, and the Commission's initial decision on the CPC Entitlements. She announced that
28 Mr. Roschen would not participate in the hearing, but that since he allegedly had no

1 unlawful financial interest in the CPC entitlements or the Tract Map, the remaining CPC
2 members could hear the matter and decide the Tract Map appeals and the CPC
3 Entitlements.

4 32. Representing several of the appealing community organizations and Annie
5 Geoghan at the CPC appeal hearing on the Tract Map, Attorney Daniel Wright of The
6 Silverstein Law Firm made several objections including that if Mr. Roschen had a
7 disqualifying interest in the Development Agreement, then he had a disqualifying interest
8 in the CPC Entitlements or related Project entitlements, and the City Planning Commission
9 should immediately halt the proceedings in accordance with conflict of interest laws.
10 Nonetheless, the CPC continued with its proceedings.

11 33. At the hearing, all appealing parties and members of the public entered into
12 the record objections to the Project and the adequacy of its EIR. Specifically, STMH and
13 CURD member Brian Dyer objected to the Project based upon the work of Professor James
14 Dolan of the University of Southern California. Mr. Dyer noted that studies performed by
15 Professor Dolan suggested the active Hollywood Earthquake Fault crossed the Millennium
16 Project site. Additionally, many people, including a representative of the W Hotel
17 Residences, noted that the Millennium Hollywood Development Regulations and Land Use
18 Equivalency Program were so ill-defined that the Project was being given infinite
19 discretion to determine what mix of land uses would be proposed for construction AFTER
20 the last discretionary decision. In other words, the Project Description, including the
21 description contained in the EIR, was so ill-defined by the Developer's refusal to put a
22 specific proposal before the public and City decision makers that it was impossible to
23 identify possible Project impacts, mitigate them as required by law, and even to determine
24 whether the statement of overriding considerations was supported by substantial evidence.

25 34. The City Planning Commission, ignoring all objections, including that its
26 Commission members risked violation of Government Code Section 1090 by continuing to
27 consider the case when Mr. Roschen was a paid consultant to the Millennium Project,
28 voted to approve the Project. As part of the project approvals, the City Planning

Commission was asked to allow the Millennium Development Regulations and the Millennium Hollywood Land Use Equivalency Program provisions, originally proposed to be adopted under the Development Agreement, to instead be adopted as part of "Q" Conditions "imposed" on the Millennium Project. In this way, the substantive provisions of the now unlawful Development Agreement were transferred into the CPC Entitlements project conditions as a Q "limitation" on the Project.

35. On or about April 27, 2013, the City Planning Commission issued a determination letter on the CPC Entitlements, recommending a zone change and height district change ordinance, approving the Conditional Use Permits and Alcohol Permits, approving the zoning variances, adopting findings, and adopting the EIR and Statement of Overriding Considerations for the Project

36. On or about April 27, 2013, the City Planning Commission also issued a determination letter on the Tract Map Application, denying all six of the appeals, and sustaining the decision of the Advisory Agency in approving a vesting tentative tract map, adopting findings, conditions of approval, the EIR, and a Statement of Overriding Considerations for the Project.

37. On May 7, 2013, Petitioner CURD timely filed an appeal of the City Planning Commission's approval of a zone change and height district change and associated actions with respect to the CPC Entitlements.

38. On May 7, 2013, CURD also timely filed an appeal of the City Planning Commission's denial of its appeal and of associated actions with respect to the Tract Map Application.

39. In addition to the appeals of the CPC Entitlements and Tract Map Application filed by CURD, the W Hotel Residences also filed a timely appeal of the CPC Entitlements.

40. Petitioners are informed and believe, and based thereon allege, that once a project is appealed from the City Planning Commission and the Advisory Agency to the City Council, jurisdiction over the appeals is transferred to the City Council. In accordance

1 with the transfer of jurisdiction, the appeal document filed by an appellant, the lower
2 administrative body's decision, findings, and other information, are supposed to be
3 transferred to the City Clerk for placement in the City Council File and scanned into the
4 online City Council File.

5 41. Petitioners are informed and believe, and based thereon allege, that when the
6 City Council undertakes to hear land use appeals under its City Charter and Municipal
7 Code, it is acting as a quasi-judicial municipal planning agency.

8 42. Petitioners are informed and believe, and based thereon allege, that the
9 City's administrative appellate process demands that the parties submit all written materials
10 in a pending quasi-judicial land use appeal to the body which has jurisdiction over the
11 appeal, in this case, the City Council. Materials submitted to the City Council are
12 submitted via the City Clerk, and the City Clerk has a ministerial duty to immediately place
13 the materials in the physical Council File and post the same materials in the online City
14 Council File.

15 43. On May 24, 2013, the City Clerk, pursuant to state law and Los Angeles
16 Municipal Code requirements, issued a notice of the land use appeal public hearing before
17 the City Council's Planning Land Use and Management ("PLUM") Committee for June 4,
18 2013. The notice was issued to the "APPELLANTS, APPLICANT(S), AND
19 INTERESTED PARTIES." The notice said that a "public hearing" would be conducted at
20 a particular time and place to consider the EIR, Mitigation Monitoring and Reporting
21 Program, Statement of Overriding Considerations, California Environmental Quality Act
22 findings, and the land use appeals filed by the appellants. Attached to the Notice was the
23 list of interested parties who signed the list at the City Planning Commission meeting.

24 44. Petitioner CURD and various organizations and individuals appeared at the
25 June 4, 2013 PLUM Committee hearing, where City officials announced that the hearing
26 had been postponed at the request of the Millennium Developer to June 18, 2013, and that
27 the matter would heard by the full City Council on June 19, 2013.

28 45. On June 18, 2013, the CURD appeals and W Hotel Residence appeals and

1 Project entitlements came on for public hearing before the PLUM Committee. Prior to the
2 commencement of the public hearing on the Project, Petitioner CURD submitted to the
3 City Clerk a detailed objection letter. In this letter, CURD provided objections that are at
4 issue in this petition and complaint. Among the issues raised was objection to the City
5 Planning Commission purporting to use "Q" Conditions to grant the Millennium
6 Hollywood Development Regulations and Land Use Equivalency Program superiority over
7 any and all conflicting Los Angeles Municipal Code provisions, whatever they might be.
8 Petitioner CURD contended that the proposed action was unlawful in a Development
9 Agreement and it was equally unlawful when, in some form of desperation, the City moved
10 these provisions over to the CPC Entitlements (to attempt to avoid the Government Code
11 Section 1090 conflict of interest violation) and tried to authorize them through use of a "Q"
12 Condition.

13 46. For the PLUM Committee public hearing on the Project, the Chair,
14 Councilmember Ed Reyes, first asked the City staff to present an overview of the Project.
15 When City Planning staff merely read aloud a perfunctory general description of the
16 Project, even the PLUM Chair incredulously said: "Is that all?" Yet City Planning staff
17 offered no further details about the Project to the PLUM Committee.

18 47. Next the PLUM Committee Chair called a representative of CURD, attorney
19 Robert P. Silverstein, to the podium and informed him at that time he would be given 10
20 minutes to present CURD's appeal. Because the City Council has failed to adopt and
21 publish rules and procedures for land use appeals and hearings, no land use appellant has
22 any idea how much time they may be given to present to the PLUM Committee until it is
23 announced by the Chair. This lack of adopted and published procedural rules means that
24 Los Angeles City Council land use appeal and real estate entitlement public hearings are at
25 the unbridled discretion of the Chair of the meeting.

26 48. Mr. Silverstein submitted to the record an objection letter in further support
27 of CURD's initial appeal documents, including detailed objections as to why the EIR was
28 deficient as an information disclosure document to the public and decision makers. Mr.

1 Silverstein's oral presentation focused upon new information that had only recently come
2 to light that established that the Millennium Developer's geologists, Langan Engineering,
3 had distorted its analysis and falsified maps regarding the location of the Hollywood
4 Earthquake Fault relative to the Project site. Mr. Silverstein noted that while a May 2012
5 Langan Report asserted that the Hollywood Fault was .4 miles (2,112 feet) from the Project
6 site, the 2010 California Geologic Survey's Fault Activity Map and several academic
7 studies of the Hollywood Fault readily found on the Internet and well-known in
8 professional geologic circles showed projected traces of the Hollywood Fault traversing
9 both the East and West parcels of the Project site. Mr. Silverstein also expressly noted that
10 throughout the environmental review process which commenced with the issuance of the
11 Notice of Preparation of the EIR on April 28, 2011, the California Department of
12 Transportation had objected to the City's blatant failure to study the Project's traffic
13 impacts on the immediately adjacent Hollywood Freeway, which study was required of the
14 City by Caltrans as a Responsible Agency under the California Environmental Quality Act.
15 Mr. Silverstein also referred the PLUM Committee to the content of the June 18, 2013
16 objection letter and all of its supporting exhibits because the PLUM Committee Chair kept
17 insisting that Mr. Silverstein end his presentation of the appeal.

18 49. Thereafter, City Council member Mitch Englander spent three minutes
19 disparaging the CURD presentation regarding the possibility of an active earthquake fault
20 trace across the Millennium Project site. After this PLUM Committee "rebuttal" to the
21 CURD appeal, the representative of co-appellant the W Hotel Residences presented his
22 objections to the EIR. Those objections focused on the deficiencies of the Project
23 description in the EIR. The speaker noted that based upon the infinite flexibility granted by
24 the City in the Land Use Equivalency Program (which he pointed out is only tied to traffic
25 trip count and nothing else), the Project could be 0 residences, 900 residences, or
26 something in between. He also pointed out that under the deficient Project description, the
27 Project could have a Health Club of 35,000 square feet, or no Health Club; a 200-room
28 luxury hotel, or none, multiple outdoor restaurants with alcohol licenses and live

1 entertainment totaling 100,000 square feet, or none, or something in between, 200,000
2 square feet of office space or none, and a large amount of retail uses, or none. This
3 exposed a critical fatal flaw in the EIR: the Millennium Developer had refused, and City
4 staff in dereliction of its duty under CEQA had refused, to provide the public and City
5 decision makers with a stable, accurate and finite Project description upon which reasoned
6 and intelligent analysis could be based. The speaker argued that the Project was being
7 given a design envelope and complete carte blanche as to what to put in it, which had never
8 been done on this massive of a scale in the history of the City. He observed: "If this is
9 way development will be done in Los Angeles in the future, why have any public
10 hearings?"

11 50. Next, Mr. Reyes, the PLUM Chair, called up the Millennium Developer
12 who was given more time than others to present the Project and make arguments in favor of
13 Project approvals. During the presentation, the Developer described and showed drawings
14 of what it called a "Concept Plan" for the Project that set forth one possible combination of
15 mixed uses, but as the Appellants had noted, the Land Use Equivalency Program allowed
16 this Project to be dramatically different from the Concept Plan presented to the PLUM
17 Committee. Although this was presented as if the Concept Plan was the Project that would
18 be submitted for Plan Check and Building Permits, nothing could be further from the truth.

19 51. Next the PLUM Chair announced that he was restricting the right of
20 interested persons attending the public hearing to speak at this noticed hearing. The PLUM
21 Committee Chair allowed only 20 minutes for each side. Many of the people listed as
22 Interested Persons on the City's legally required public hearing notice were present,
23 submitted a card asking to speak, but were denied the right to testify at the City's legally
24 required public hearing.

25 52. When the PLUM Committee Chair closed the public testimony, there was
26 about one minute of shouts of frustration from the audience and argument with the PLUM
27 Committee Chair protesting the public's denial of their right to speak at a noticed land use
28 public hearing. Nonetheless, Mr. Reyes, the PLUM Committee Chair, demanded silence.

1 53. Next the PLUM Committee Chair read aloud a statement announcing that
2 the Project would not be heard at the full City Council the next day on June 19, 2013.
3 Instead, he announced that the matter, after hearing at the PLUM Committee, would be
4 heard by the full City Council on July 24, 2013.

5 54. Then the PLUM Committee Chair called the Millennium Developer's
6 representatives to the podium to answer questions and attempt to rebut evidence presented
7 by the appellants and members of the public. During this presentation, Jerold Neuman,
8 attorney for the Millennium Developer, made numerous factual misrepresentations to the
9 PLUM Committee, including that there was "no document in the records of the City" of an
10 active earthquake fault on the Millennium Property. (As set forth herein, in March 2012,
11 attorneys from Sheppard Mullin made email inquiries with the City Building and Safety
12 Department regarding geologic maps showing the Hollywood Fault crossing the
13 Millennium Hollywood property. Thus, there were such documents "in the records of the
14 City," and Mr. Neuman was copied on them.)

15 55. Next the PLUM Committee Chair called the City Council representative for
16 City Councilmember Eric Garcetti to the podium. In turn, he read a prepared statement
17 congratulating the Millennium Developer for reducing the height (although not the square
18 footage) of the two skyscrapers somewhat and "listening" to the public's concerns.

19 56. Finally, the PLUM Committee Chair and Committee members discussed
20 with City staff how to adopt motions to approve the Project as it was presented to them.
21 For the third time, the Millennium Developer's representative was brought to the podium to
22 make further statements. The PLUM Committee then voted 3-0 to approve the Project
23 subject to the conditions as modified at the meeting, deny all the appeals, adopt the EIR,
24 and adopt the Statement of Overriding Considerations.

25 57. At no time in taking actions on the Project did the PLUM Committee adopt
26 a recommendation to receive and file the City Planning Commission's recommended
27 zoning change ordinance and substitute a new ordinance that included not only the
28 modifications to the City zoning map but adding to the Los Angeles Municipal Code the

1 Millennium Project Development Regulations and Land Use Equivalency Program
2 provisions in their entirety. Nothing on the meeting transcript and nothing in the letters
3 referenced by the City staff include a request to substitute an unprecedented elevation of a
4 single real estate project's entitlements into the Los Angeles Municipal Code.

5 58. Although a land use appellant has the burden of proof to sustain his or her
6 appeal, CURD was never allowed to speak after its initial comments. CURD, a land use
7 appellant, was afforded no opportunity to rebut the Millennium Developer's presentation,
8 the public hearing testimony from those supporting the Project, the Millennium
9 Developer's second turn at the podium where previously undisclosed changes were made
10 to the Project without any notice, or the Millennium Developer's third turn at the podium
11 as the PLUM Committee was about to vote on the matter.

12 59. Following the PLUM Committee hearing, Petitioners' representatives
13 contacted the office of City Councilmember Mitch O'Farrell to learn whether or not the
14 matter would be afforded a hearing at City Council. They were informed that the matter
15 would be heard by the full City Council.

16 60. In order to prepare for its presentation at the City Council meeting and in the
17 exercise of reasonable diligence, CURD's counsel submitted narrowly defined California
18 Public Records Act requests to the Los Angeles Department of Building and Safety
19 ("LADBS") seeking all communications between certain LADBS geologists and staff, and
20 representatives of the Millennium Developer. Instead of promptly responding to the
21 requests, the City waited 10 days and then extended its response by another 14 days, and at
22 the end of that time, illegally failed to produce the narrowly defined set of records
23 requested.

24 61. Just like its PLUM Committee, when the full Los Angeles City Council sits
25 in a quasi-judicial capacity to hear land use matters for which a public hearing is required
26 by law, it is required to have adopted written hearing rules and procedures. Petitioners are
27 informed and believe, and based thereon allege, that the City Council has never adopted or
28 published any such public hearing rules and procedures.

1 62. Shortly prior to the scheduled July 24, 2013 City Council meeting to hear
2 the Millennium Project land use appeals, the PLUM Committee issued its
3 “Recommendation Report” to the City Council. Contrary to what actually took place at the
4 PLUM Committee hearing, the City Clerk’s PLUM Committee Report stated that among
5 the actions of the PLUM Committee was the adoption of a recommendation to merely
6 “Receive and File” the original zoning map ordinance forwarded from the City Planning
7 Commission (“Old Ordinance”). Additionally, the PLUM Committee Report stated that
8 the PLUM Committee took action to recommend the adoption of a new and different
9 zoning map ordinance that not only included the zoning map amendment, but added into
10 the Los Angeles Municipal Code the entire customized Millennium Hollywood Project
11 Development Regulations, and the Millennium Hollywood Project Land Use Equivalency
12 Program (“New Ordinance”). Petitioners are informed and believe, and based thereon
13 allege, that the PLUM Committee Recommendation Report to the Los Angeles City
14 Council was a false report of what actions were in fact taken at the PLUM Committee
15 meeting.

16 63. Petitioners are informed and believe, and based thereon allege, that the
17 purpose of moving the Millennium Development Regulations and Land Use Equivalency
18 Program into the Los Angeles Municipal Code via the New Ordinance was to enable the
19 Millennium Developer to override any more restrictive Municipal Code provision, no
20 matter what it may turn out to be. Petitioners are informed and believe, and based thereon
21 allege, that this proposed new action of the City Council was a continuation of its unlawful
22 effort to grant the Millennium Developer and its Project carte blanche superiority over any
23 and all conflicting Municipal Code provisions: The City first had these provisions in the
24 Development Agreement which was withdrawn because of Planning Commission President
25 William Roschen’s financial conflict of interest. Then the City moved them into the CPC
26 Entitlements as an unlawful and *ultra vires* “Q” condition. And when challenged by
27 CURD on that scheme, the City used a false public report of the actions of the PLUM
28 Committee to try to enact them into the Los Angeles Municipal Code itself. This New

1 Ordinance was brought to the City Council final hearing without any reasonable
2 opportunity for Appellant CURD or other interested persons and community groups, who
3 were sent notice of this public hearing and who have the right to rebut it, to know of the
4 proposal and to rebut it in public testimony.

5 64. As part of the City Council's hearing notice to CURD and interested parties
6 who are members of CURD, no mention was made in the May 24, 2013 hearing notice that
7 the PLUM Committee intended to consider setting aside the Old Ordinance and substitute
8 the New Ordinance. When the PLUM Committee acted on the Project on June 18, 2013, it
9 took no action to recommend to the City Council to "Receive and File" the Old Ordinance
10 and to instead adopt the New Ordinance. However, when the City Council published its
11 meeting agenda for the July 24, 2013 meeting, the agenda listed as a proposed action that
12 the City Council "Receive and File" the Old Ordinance and adopt the New Ordinance.

13 65. Petitioners are informed and believe, and based thereon allege, that the City
14 Clerk, under the supervision of PLUM Committee members and the Millennium
15 Developer's representatives, wrote a PLUM Committee Recommendation Report to the
16 City Council that contained false information. Specifically, the Recommendation Report
17 claimed that the PLUM Committee had voted to recommend receiving and filing the Old
18 Ordinance and adopting the New Ordinance, when no such action occurred at the PLUM
19 Committee hearing.

20 66. On Saturday, July 20, 2013, California State Geologist Dr. John Parrish of
21 the State Department of Conservation sent an urgent letter to City Council President Herb
22 Wesson and the City Council. In that letter, Dr. Parrish notified the City Council – with
23 specific reference to the Millennium Project and its EIR – that the California Geological
24 Survey had commenced a "detailed study" of the "Hollywood Fault and its associated splay
25 faults." This significant new information should have caused the City Council to
26 immediately defer consideration of any approvals for the Project and its EIR until after the
27 State had completed these critical studies under the Alquist Priolo Act. Indeed, Dr. Parrish
28 notified the City Council that the State's investigation could affect the City's "reviewing of

1 plans for the prospective Millennium Hollywood Project, which may fall within an
2 Earthquake Fault Zone.” It should have been abundantly clear that the City and
3 Millennium Developer were on very shaky legal ground if the City went ahead with Project
4 and EIR approval before the State studies were completed. Despite this significant new
5 information, the City Council ignored Dr. Parrish and the State Geological Survey.

6 67. Some time on July 23, 2013, the day before the City Council hearing on the
7 appeals, the Millennium Developer’s attorneys, Sheppard Mullin, filed with the City Clerk
8 (but not with the appellants) a 311-page letter responding to and submitting to the
9 administrative record hundreds of pages of new evidence. Included in this eleventh-hour
10 submittal was a new letter from Langan Engineering attempting to rebut the evidence
11 CURD had submitted at the PLUM Committee meeting that Langan’s reports and the
12 City’s EIR contained fraudulent and misleading documents that hid the fact that the
13 Millennium Project site was likely sitting on the active Hollywood Earthquake Fault.

14 68. On the evening of July 23, 2013, an individual supporter of CURD alerted
15 CURD that new evidence and the 311-page rebuttal letter of Sheppard Mullin had been
16 posted to the City Clerk’s website. That night and early the morning of the hearing,
17 Petitioners’ legal counsel could only begin to review the content of the Sheppard Mullin
18 letter and the new evidence attached to it. Obviously, there was no opportunity to gather
19 much rebuttal evidence. Despite the totally unfair practice of the City Council having no
20 adopted hearing rules and procedures that barred the eleventh-hour submittal by the
21 Millennium Developer, Petitioners’ counsel prepared a brief letter trying to respond to the
22 Sheppard Mullin letter, but in no way was it a complete response to this “sandbagging” of
23 the land use hearing appellant by the Millennium Developer applicant.

24 69. Prior to the commencement of the public hearing before the City Council on
25 July 24, 2013, Petitioner’s representative filed with the City Clerk additional objections to
26 the PLUM Committee proceedings, including objections to the City’s false claim that the
27 PLUM Committee had taken action to recommend to the full City Council the New
28 Ordinance that would elevate the Millennium Development Regulations and Land Use

1 Equivalency Program into the City's Municipal Code. Petitioners' counsel also filed with
2 the City Clerk a copy of a letter sent the day before to the City's Building and Safety
3 Department reminding it of its mandatory duties to protect the public safety and to disclose
4 adverse earthquake fault conditions to the public, which duties were abandoned in the case
5 of the Millennium Project's EIR. Finally, Petitioners' counsel also filed with the City
6 Clerk a brief but only partial letter trying to note obvious deficiencies with the Sheppard
7 Mullin letter and its supporting evidence, and objecting to the unfair process that allowed
8 such significant new evidence and argument to be placed in the record in favor of the
9 Project at the last minute.

10 70. Once CURD's objection letter had been entered into the record with the City
11 Clerk, Petitioners' representative took 17 copies of the objection letter into the City Hall
12 Chambers to submit the copies to the staff for distribution to the City Council. A City Hall
13 staff member said: "We can't accept this. You need to submit 31 copies." When it was
14 pointed out that the City Council has no adopted rules or procedures for submittal of
15 written materials at a land use hearing, City staff reluctantly took the number of copies
16 submitted by Petitioners' representative – which was more than an adequate number for the
17 13 City Council members, the City Clerk, and City Attorney present in chambers.

18 71. After conducting most of the other business of the day, the Project and the
19 appeals of Petitioner CURD and of W Hotel Residences came on for public hearing at the
20 full City Council on July 24, 2013.

21 72. First, without asking for any kind of an overview or basic description of the
22 Project from the City Planning Department, the acting City Council President, Mitch
23 Englander, called for taking public testimony first. And just like the PLUM Committee,
24 the acting City Council President declared that public testimony would be severely limited
25 to only 10 minutes for each side, instead of taking the testimony of each and every
26 Interested Person who appeared in response to a public land use hearing for which the law
27 requires a public notice. In fact, Councilmember Englander said: "That brings us to Items
28 21 and 22. We're going to take those items together. We'll have 10 minutes for – We're

1 going to split this up. We have a lot of cards on this and there's a lot of interest. I believe
2 that's what most people are here for today – the Millennium Project. So we'll do 10
3 minutes on the cards so far for the supporters, 10 minutes for the opposition, 10 minutes for
4 each of the appellants, another 10 minutes for the applicant. And we'll open it in that
5 order.”

6 73. Immediately after this announcement, the City Clerk announced that an
7 “amending motion by O’Farrell and Koretz” had been “circulated.” When this occurred,
8 there was no explanation to the public about what the amending motion was or even where
9 they could obtain a copy of it.

10 74. At the conclusion of the truncated public testimony afforded by the City
11 Council, Petitioner George Abrahams, who was an Interested Person listed in the City
12 Hearing Notice, had not been called even though he had submitted a speaker’s card
13 requesting to testify. When he saw that he was being denied his right to testify at the
14 hearing, he submitted 35 copies of his written statement to the guard, asking that it be
15 submitted to the City Clerk before the close of the hearing, although of course the City
16 Council never heard his testimony before voting.

17 75. Thus, one of the largest, tallest, and most controversial real estate
18 development projects in the history of Hollywood, one that the acting City Council
19 President acknowledged everyone was likely there to be heard on – was given so little time
20 for the public to weigh in that dozens of people who came to City Hall to speak were
21 denied their opportunity to speak. Essentially, the City issued a noticed public hearing and
22 then refused to hear the testimony of those entitled to speak pursuant to their rights as
23 Interested Persons.

24 76. Following the public testimony before the City Council, Petitioner CURD’s
25 attorney, Robert Silverstein, was called to the podium to present the appeals of the CPC
26 Entitlements and Tract Map Application. Mr. Silverstein used most of what little time he
27 was allotted to emphasize the severe problems with the earthquake fault issue and the City
28 Council’s subverting of the CEQA process by failing to have all necessary information in

1 the EIR before the City Council voted to approve the Project.

2 77. Thereafter, the Millennium Developer made no formal presentation to the
3 City Council. No presentation boards or pictures or explanation of the Project were offered
4 to the City Council during the entire hearing. Instead, after a brief prepared statement by
5 Phil Aarons, a partner in Millennium Hollywood, LLC, Jerold Neuman, the Sheppard
6 Mullin attorney for the Millennium Developer, came to the podium. In his brief remarks
7 he tried to defend the submission of the 311-page letter and evidence. He specifically
8 stated that no new evidence or argument had been submitted which, in light of the new
9 Langan Engineering Report attached to his letter, was a false statement. Nonetheless, in
10 order to make sure he still had all of the votes of City Council he bluntly said: "We would
11 never put you at risk in litigation."

12 78. Next, having completed the portion of the "hearing" at which the appellants,
13 the applicant, or limited public testimony of interested persons was allowed, Hollywood
14 Councilmember Mitch O'Farrell, reading from a script, called up to the table
15 representatives of the Los Angeles Department of Building and Safety and the
16 Transportation Department.

17 79. Personnel from these two departments made presentations that attempted to
18 assure the City Council there was no reason to believe an earthquake fault crossed the
19 Project site, and that Caltrans' repeated oral and written concerns about the impacts on the
20 Hollywood Freeway had been addressed – even though the City Department of
21 Transportation conceded that any further mitigation which might be offered by the
22 Developer would be "voluntary," and thus not legally enforceable, contrary to CEQA's
23 requirements to assure mitigation of project impacts. It was announced that these City
24 officials would be allowed to submit new materials to the administrative record responding
25 to issues raised, even though Appellants were given no opportunity to see the materials
26 submitted by these City Departments, nor any opportunity to submit counter evidence,
27 rebuttal or argument.

28 80. Near the close of the hearing, Councilmember Paul Krekorian expressed

1 “outrage” that significant new documents were submitted the morning of the hearing. As
2 he waved Petitioners’ submittals in front of the television cameras, Mr. Krekorian
3 suggested that CURD’s materials should be excluded from the administrative record.
4 Later, in response to a question from the City Attorney, acting City Council President
5 Englander clarified that he thought the new materials submitted by the City Departments in
6 rebuttal to CURD’s objections to the Project should be included in the administrative
7 record, but apparently still sought to exclude CURD’s submittals. Notwithstanding Mr.
8 Krekorian’s due process-violating outburst, the City Clerk properly placed all materials
9 submitted by CURD into the City Council File as part of the administrative record for the
10 matter.

11 81. Finally, the acting Council President called on Councilmember Mitch
12 O’Farrell to close out the hearing. Councilmember O’Farrell read into the record what
13 Petitioners later learned were additional voluntary “commitments” of the Millennium
14 Developer, which were then allegedly being made new conditions of approval for the
15 Project. Many of these commitments were originally included within the proposed
16 Development Agreement, since withdrawn because of the William Roschen conflict of
17 interest issue. Once the Development Agreement was withdrawn by the Developer, there
18 was no longer substantial evidence in the record to support the Statement of Overriding
19 Considerations that ostensibly justified approving the Project, given the significant impacts
20 that were acknowledged in the EIR.

21 82. Petitioners are informed and believe, and based thereon allege, that many of
22 the voluntary commitments to make payments to an affordable housing trust fund, the
23 Hollywood Cap Park, and various transportation funds were added back to the Project in
24 Councilmember O’Farrell’s “amending motion” in order to place back in the record
25 evidence in support of the Statement of Overriding Consideration to try to justify approval
26 of the Project. These changes to the Project were made in an “amending motion” that the
27 City Clerk cryptically announced at the opening of the hearing. This amending motion was
28 only distributed to the City Council members. No copies of it were offered to CURD. No

1 copies of it were made available to the interested persons or public attending the hearing.
2 Apparently, at some point during the hearing a City staffer thumb-tacked the proposed
3 amending motion to a bulletin board on the side of the Council Chambers. This bulletin
4 board has no sign on it indicating to the public what it is or what purpose it serves. No one
5 is allowed to take a posted piece of paper down from this bulletin board if they ever figured
6 out that something significant had been posted on it. Neither CURD nor the Interested
7 Persons attending the City Council public hearing were given a copy of the amending
8 motion, told why it was offered, or given an opportunity to offer rebuttal evidence or
9 testimony.

10 83. Petitioners are informed and believe, and based thereon allege, that the City
11 Council's attempt to impose the Millennium Developer's voluntary commitments from the
12 withdrawn Development Agreement as a "Q" condition is illusory. The City Attorney has
13 previously opined that voluntary developer conditions are legally unenforceable. Thus,
14 Petitioners are informed and believe, and based thereon allege, that the City's attempt to
15 insert these commitments back via a "Q" condition was merely for the purpose of restoring
16 the illusion of enforceable public benefits to shore up the City's now even more faulty and
17 unsupported Statement of Overriding Considerations.

18 84. Petitioners are informed and believe, and based thereon allege, that because
19 the City gave no notice of its intention to change the Project using the amending motion,
20 Petitioners were denied the opportunity to review the proposal, gather evidence to rebut it,
21 and submit that evidence to the administrative record. For example, Petitioners were
22 denied the opportunity to put into the record evidence of other cases where the City
23 Council has obtained commitments from developers as a condition of project approval in
24 order to appease project opponents and then, when no one is watching, the project
25 conditions can quietly be deemed unenforceable by the City Attorney without further
26 notice to the Interested Persons or other members of the public.

27 85. A mere 85 minutes after opening the July 24, 2013 hearing on the largest
28 development project in the history of Hollywood, the City Council voted 13-0 (one absence

1 and one seat vacant) to approve the Millennium Project – significantly, without ever asking
2 the City Planning Staff or the Developer to explain what the Project will consist of, and
3 without showing a single concept drawing of what it will look like to the public.

4 86. After Petitioners' counsel had returned to his office, just two hours after the
5 close of the City Council final public hearing and final approval of the Millennium Project,
6 he received notice from LADBS that the records responsive to his Public Records Act
7 request were available for pick up. Petitioners are informed and believed, and based
8 thereon allege, that LADBS deliberately withheld the responsive public records in order to
9 prevent Petitioners from being able to review and use these documents prior to the close of
10 the final hearing. Petitioners exercised reasonable diligence in trying to obtain these
11 additional records, which records and emails show the City, Millennium Developer and its
12 geologists participated in fraud and misconduct to hide reports and prevent the public from
13 knowing that the Millennium Project Site contains the Hollywood Fault running through
14 the middle of the property.

15 **FURTHER DETAILS REGARDING FAULTY ENVIRONMENTAL REVIEW**

16 87. During 2008, when the Millennium Developer filed the Master Land Use
17 Application, the first geologic investigation of the Project site was conducted by Langan
18 Engineering & Environmental Services ("Langan"), the geologic firm retained for the
19 Project.

20 88. For this investigation, four boreholes were drilled generally in an east-west
21 alignment across the West and East Sites of the Property in June and July 2008.
22 Groundwater was encountered in each borehole as follows: West Site Drilling [LB-1 (51
23 feet), LB-2 (50 feet)], East Site Drilling [LB-3 (dry all the way down to 61.5 feet end of
24 drilling), LB-4 (56.5 to 57 feet)].

25 89. Petitioners are informed and believe, and based thereon allege, that the
26 dramatic drop in the groundwater level between LB-4 (56.5 feet) and the more southerly
27 LB-3 (no water encountered to 61.5 feet) on the East Site was evidence of a fault with
28 perched or damned water behind it.

1 90. On April 28, 2011, the City issued a Notice of Preparation of Environmental
2 Impact Report and Initial Study for the Project.

3 91. The Notice of Preparation was not sent to the California Department of
4 Conservation, or its California Geological Survey, which is the Responsible Agency that
5 has jurisdiction over earthquake fault studies and the Alquist Priolo Act. The City sent no
6 notice to the California Geological Survey even though the Initial Study form specifically
7 refers lead agencies to "Division of Mines and Geology Special Publication 42." That
8 publication outlines the considerations for earthquake fault investigations and obligations
9 of cities not to approve any project that proposes to place buildings for human occupancy
10 over or immediately adjacent to an active earthquake fault capable of surface rupture. This
11 publication also sets forth the minimum standards for investigation and disclosure of
12 information in an adequate fault investigation report. Professional geologists are expected
13 to prepare any fault investigation report in compliance with the standards set forth in
14 Publication 42.

15 92. The Initial Study for the Project showed the City found a potential
16 significant impact from rupture of a known earthquake fault "or based on other substantial
17 evidence of a known fault." In its written discussion of this item in the Initial Study, after
18 acknowledging that a significant impact may occur if a project is located within a fault
19 zone and appropriate building practices are not employed, the City claimed that, based
20 upon the California Division of Mines and Geology Active Near-Source Fault Zones map
21 and City Zoning Information Maps Access System (ZIMAS) website, the Hollywood Fault
22 was .4 miles from the Project Site. Based upon this, the City promised that "the EIR **will**
23 **provide additional analysis** to assess the possibility of the Site lying within an area of
24 other known faults or other designated fault zones, and any required building practices or
25 mitigation measures." (Emphasis added.)

26 93. The Millennium Developer and Langan sat on its 2008 drilling information
27 for more than 3 years before the first Preliminary Geotechnical Engineering Study for the
28 Project was submitted to the Los Angeles Department of Building and Safety on November

22, 2011 (“November 2011 Geo Report”). The November 2011 Geo Report expressly stated it was submitted as a technical appendix for the EIR. The entire analysis of Groundwater was: “Groundwater was first observed in the borings (as inferred from relative wetness of the soil samples) at depths ranging from 51 to 56.6 feet (about el 341 to el 347) in borings LB-1, LB-2, and LB-4; groundwater was not observed in boring LB-3. This depth range is about 40 to 45 feet higher than the groundwater level indicated on a historical regional groundwater map; see Figure 3.” The report failed to comment on the groundwater anomaly between LB-4 and LB-3.

94. Nor did the report recommend a further investigation for the presence of an earthquake fault despite the groundwater anomalies. In fact, the November 2011 Geo Report expressly stated the opposite: “As discussed above, the Site is not located within a fault rupture study zone. *Thus, Site-specific fault studies were not performed as part of our investigation because such investigations are not required for sites located outside boundaries of fault rupture study zones.*” (Emphasis added.)

95. Significantly, while the text of the November 2011 Geo Report claimed that the Project site was not within an earthquake fault rupture study zone, Figure 4 of that same report dated November 22, 2011 actually showed the City’s “Fault Rupture Study Area” boundary crossing the Project’s East Site.

96. On March 15, 2012, Attorney Alfred Fraijo of Sheppard Mullin on behalf of the Millennium Developer contacted Raymond Chan, General Manager of LADBS. Mr. Fraijo stated: “We are looking for information on the building code regulations that apply to development within a fault zone or prohibitions on development related to fault areas. We were informed by Mr. Dana Prevost [the City Geologist] that a limited fault investigation would be required in the portion of the subject site. There is a Hollywood Fault trace mapped by the California Geological Survey that prompted the discussion with Mr. Prevost.” Thus, as early as March 2012, seven months before the Draft EIR was circulated, the record shows that the City and the Millennium Developer’s attorneys knew that the Hollywood Fault might cross the property – yet this information was never

1 ultimately disclosed or discussed in the EIR.

2 97. On March 16, 2012, LADBS Engineer Charmie Huynh reported to
3 Raymond Chan the following: "I spoke to Dana Prevost regarding the Millennium project
4 at 1750 N. Vine St. He mentioned that he met with the project team **to discuss the**
5 **Hollywood Fault line that could potentially be crossing the property.** Here are some
6 bullet points on what we discussed: - Currently, the Hollywood Fault line is not mapped
7 and may be addressed by the State Geologist in the next 4-5 years minimum. - Per code
8 section 1803.5.11, a geotechnical report shall be conducted for the site to address (among
9 other things) surface displacement due to faulting or lateral spreading. Dana advised the
10 project team that they need to do their own investigation to locate the fault per this code
11 section. - Per the Alquist Priolo Earthquake Fault Zoning Act, no structure for human
12 occupancy shall be permitted to be placed on or across an active fault trace. I've attached a
13 copy of our info bulletin and highlighted this condition (#2). It also describes a min 50' no
14 build zone. **However, Dana discussed with the project team that he has granted one**
15 **modification in the past on another project that allowed them to build right adjacent**
16 **to the fault line.**" (Emphasis added.) Thus, in March 2012, the City acknowledged that
17 State law barred the development of structures for human occupancy over an active fault,
18 and that the Millennium Developer would be required to conduct a fault investigation per
19 Building Code Section 1803.5.11.

20 98. Petitioners are informed and believe, and based thereon allege, that City
21 officials and Millennium Developer representatives conspired to allow the Fault
22 Investigation to go forward under the pretense that it was only required for the purposes of
23 tract map approvals, and the November 2011 Geo Report would be altered to conceal from
24 the public that any fault investigation was even required for the Project. In so doing, and as
25 a result of this agency misconduct, City staff agreed to allow preparation of a Draft EIR
26 that would contain materially misleading and false representations regarding the location of
27 the Hollywood Earthquake Fault and the fact that the East Site of the property was within
28 the boundary of the City's own Earthquake Fault Rupture Study Area.

1 99. On May 2, 2012, the November 2011 Geo Report was revised and
2 resubmitted to the LADBS Grading Division for review, now bearing a May 2012 date
3 (“May 2012 Geo Report”). This May 2012 Geo Report was substantially the same as the
4 November 2011 Geo Report except for at least two significant modifications: (1) A new
5 Figure 4, dated on May 10, 2012, showing the Project site vis-a-vis the City’s Earthquake
6 Fault Rupture Study Area contained a revised drawing that falsely moved the outline of the
7 Project site about 850 feet north, to a position north of Yucca Street and just south of
8 Franklin Avenue; (2) the bold italic sentence from the November 2011 Geo Report (quoted
9 above in ¶ 94) was deleted from the May 2012 Geo Report. Thus, the public would not be
10 told in the Draft EIR that a Fault Investigation Report was required because the Project
11 allegedly was not within an Earthquake Fault Rupture Study Area. Petitioners are
12 informed and believe, and based thereon allege, that the City and Millennium Developer
13 agreed to issue the May 2012 Geo Study in support of the Draft EIR’s false assertion that
14 the Hollywood Fault was .4 miles from the site (when the City and Developer were in
15 possession of, but suppressed, evidence that the Hollywood Fault crossed the property) and
16 the site was adjacent to but not within an Earthquake Fault Rupture Study Area (when the
17 City and Developer knew the contrary was true).

18 100. Petitioners are informed and believe, and based thereon allege, that on July
19 2, 2012, LADBS geologists Dana Provost and Jeffrey Wilson met with Langan geologists
20 Dan Eberhart, Rudolph Frizzi, Millennium Partners representatives S. Hood, J. Luciano, K.
21 Gonsar, and Sheppard Mullin attorney P. Tate. During this meeting, an agreement was
22 documented in a Langan email sent to the City that:

23 “1. A fault investigation for the Hollywood fault will be required prior to
24 approval of the tentative map. **The investigation was agreed to be**
25 **limited to the western parcel** of the tentative map (that portion west
26 of Vine Street).

27 2. The subsurface investigation scope as indicated on the attached map
28 and section has been agreed to by the city.

3. Should the building envelope extend north of B1, additional subsurface investigation will be required prior to issuance of building permits.
4. Should the investigation find evidence of recent fault activity, a restricted use area **will be defined by Langan.**
5. Should datable materials be found, carbon dating will be performed.
6. Langan will have a meeting with the city **to discuss our findings from the fault investigation prior to report submittal.**
7. The final geotechnical engineering study as recommended in the city review sheet dated May 23, 2012 **is not required prior to approval of the vesting tentative map and will be deferred until the buildings have been designed.** The report will be prepared prior to building permit issuance.” (Emphasis added.)

101. Petitioners are informed and believe, and based thereon allege, that one or more of the Millennium Partners representatives or Sheppard Mullin attorneys who attended the July 2, 2012 meeting where the agreement to defer study of the other portions of the Project site **until after discretionary approvals** were the persons who oversaw preparation of the Draft EIR eventually released by the City to the public.

102. Petitioners are informed and believe, and based thereon allege, that persons from the Millennium Developer, its geologists, its attorneys, and City personnel agreed to the conducting of a fault investigation of only the West Site of the Project when they knew the boundary for the City’s Safety Element Earthquake Fault Rupture Study Area crossed the East Site and that the East Site contained prior boreholes showing the significant groundwater level anomaly. In reaching this agreement, the Millennium Developer and City geologists, whose professional licenses require them to protect the public health and safety, agreed not to investigate the East Site, which contained the known groundwater anomaly and the boundary of the City’s Earthquake Fault Rupture Study Area crossing it.

103. In July 2012, four boreholes on the West Site were drilled under the

1 supervision of Langan. When carbon dating of the materials in LB-2 showed older rock
2 materials laying on top of younger rock materials (a sign of earthquake fault activity),
3 Langan drilled two additional bore holes LB-5 and LB-6 slightly north/south and east of
4 LB-2. Upon drilling the additional boreholes in October 2012 and learning that these two
5 additional boreholes again showed evidence of older rock material laying over younger
6 rock materials, Langan did not conduct any further investigation such as trenching the
7 location or other studies which a competent and professional geologist would undertake.

8 104. Meanwhile, on October 27, 2012, City Planning Department –
9 Environmental Unit, without waiting for the results of the Fault Investigation Study which
10 would be significant information the public should have known in order to exercise its
11 public participation rights under CEQA, released the Draft EIR for the minimum allowed
12 45-day public comment period.

13 105. In the Geology Section of the Draft EIR, the City failed to include any more
14 analysis of the location of the Hollywood Fault than was included in the comment section
15 of the Initial Study – although the Initial Study promised a more in depth study. The Draft
16 EIR falsely claimed that the Hollywood Fault was at least .4 miles (2,112 feet) from the
17 Project site at the same time the City and Millennium Developer were secretly drilling the
18 Project site and completing an earthquake fault investigation report, albeit inadequate, and
19 only on the West Site. In fact, instead of including detailed information about the active
20 Hollywood Earthquake Fault, including the well-known geologic studies of Professor
21 James Dolan (1997, 2001) and Crook and Proctor (1992), and perhaps most importantly,
22 the California Geological Survey 2010 Fault Activity Map which showed the Hollywood
23 Fault crossing the Millennium Project site, the Draft EIR was written to be more vague
24 than the analysis found in the Initial Study.

25 106. The Geology Section of the Draft EIR also falsely claimed that the Project
26 Site was “adjacent to but not within” the City’s Earthquake Fault Rupture Study Area.
27 This conclusion was supported by the falsified Figure 4 dated May 10, 2012 in the Langan
28 May 2012 Geo Report that misrepresented the location of the Project site to be 850 feet

1 north of its actual location, to just south of Franklin Avenue and with portions of the
2 Project site actually overlapping where a portion of the roadway of the 101 Freeway would
3 be.

4 107. The Draft EIR's geology "analysis" was supported in the appendices with
5 only the May 2012 Geo Report. There was no acknowledgement of the existence of the
6 prior November 2011 Geo Report, which can only be understood as the City and the
7 Millennium Developer hiding the prior report's existence from the public because it
8 showed the Project Site was in fact within the boundaries of the City's Earthquake Fault
9 Rupture Study Area.

10 108. Petitioners do not yet know when the pre-submittal meeting occurred as
11 previously agreed, but on November 30, 2012, Langan submitted the Fault Investigation
12 Report for the Project ("November 2012 Fault Report"). This report persisted in falsely
13 stating that the Hollywood Fault was .4 miles away, but acknowledged that the City had
14 required the preparation of an investigation because the California Geological Survey Map
15 showed the Hollywood Fault to be within 500 feet of the Project site (it actually shows it
16 crossing the Project site). This report also falsified the figure that showed the Project Site
17 about 850 feet north of its actual location, apparently in order to avoid admitting to the
18 public that the Project lies within the boundary of the City's Earthquake Fault Rupture
19 Study Area.

20 109. The November 2012 Fault Report falsely concluded that there was no
21 evidence of an earthquake fault on the Millennium Project site. As to the adverse
22 conditions found in three of the six boreholes, the anomalies were weakly and bizarrely
23 explained away, including by Langan claiming that they had contaminated one of their own
24 samples! Thus, Langan had complex explanations as to why 50% of the boreholes
25 appeared to show older rock material laying on top of younger rock material, instead of the
26 simpler explanation – there was an earthquake fault there.

27 110. Despite having 50% of the boreholes with older rock material laying over
28 younger rock material as a justification to recommend trenching of the Millennium Project

1 site on both the West and East Sites, the November 2012 Fault Report concluded no further
2 study was warranted because the data were allegedly consistent with no fault presence.

3 111. Petitioners are informed and believe, and based thereon allege, that once the
4 November 2012 Fault Report was submitted to City staff, the Millennium representatives
5 responsible for preparation of the Final EIR, the Millennium attorneys, and City
6 environmental planning staff agreed not to release the November 2012 Fault Report to the
7 public as part of the EIR, or even to acknowledge its existence.

8 112. Petitioners are informed and believe, and based thereon allege, that on
9 February 8, 2013, the City issued its Notice of Availability of the Final EIR. The Final
10 EIR, in each and every response to a comment that the Hollywood Fault was on or near the
11 Project site, falsely asserted that the Hollywood Fault was .4 miles from the site even
12 though City Grading Division officials had internally concluded the Hollywood Fault was
13 either on or at least within 500 feet of the Project site. Additionally, the City continued to
14 fail to disclose to the public the existence of the November 2011 Geo Report. Furthermore,
15 although the City had required the preparation of a fault investigation report for the Project
16 site, the City failed to disclose the existence of this investigation and, as to the Final EIR,
17 declared they were finished with the environmental analysis, even though the City
18 possessed significant new information via the November 2012 Fault Report that mandated
19 re-circulation of the Draft EIR, before finalizing or certifying the EIR. In violation of the
20 law, the City failed to re-circulate the Draft EIR.

21 113. After evidence of possible Millennium Developer and geologist consultant
22 fraud came to the attention of Petitioners, and after consultation with numerous well-
23 qualified geologists, Petitioners' representative filed a complaint with the California State
24 Board of Engineers, Land Surveyors, and Geologists, alleging that Langan geologists and
25 engineers had participated in an ongoing conspiracy with Millennium Developer
26 representatives, attorneys, and City officials to falsely deny that the Hollywood Fault
27 crosses the Project Site or that the Project Site lies within the boundaries of the City Safety
28 Element's Earthquake Fault Rupture Study Area. Additionally, Petitioners' representative

1 alleged to the Board's investigators that the Fault Investigation Report prepared for
2 submission to the LADBS Grading Division was seriously deficient and failed to satisfy
3 minimum professional requirements – most of which are specified in the State Board of
4 Mines and Geology's Publication 42, which is referenced in the CEQA Initial Study
5 checklist. The State Board has opened investigations into the Langan geologist and
6 engineer, and those investigations are ongoing.

7 114. As outlined previously herein, when these acts of fraud and deceit by the
8 Millennium Developer, its geologists, and City personnel were revealed at hearings before
9 the PLUM Committee of the City Council and then the City Council itself, these officials
10 were more concerned about approving the Project for their important campaign contributor
11 than confronting the truth and protecting the public they supposedly represent.

12 115. Petitioners and other interested parties and individuals made oral and written
13 comments on the Project and EIR, and raised each of the legal deficiencies asserted in this
14 petition and complaint. Petitioners have exhausted all administrative remedies.

15 116. A Notice of Determination for certification of the EIR for the Project was
16 posted with the Los Angeles County Clerk in Norwalk and dated July 30, 2013, as
17 personally verified in Norwalk by Petitioner George Abrahams.

18 117. Petitioners have performed all conditions imposed by law precedent to filing
19 this action, including complying with the requirement of Public Resources Code Section
20 21167.5 by providing notice to the City that this action would be filed.

21 118. Petitioners will also serve a copy of this Petition on the California Attorney
22 General as required by law.

23 119. Petitioners have no plain, speedy or adequate remedy available in the
24 ordinary course of law to redress the claims alleged in this petition.

25 120. Petitioners as well as members of the general public will suffer irreparable
26 harm if the relief requested herein is not granted and the Project is commenced based upon
27 the EIR, Project Approvals, and Land Use Entitlements granted for the Project.
28

FIRST CAUSE OF ACTION

(Violation of CEQA and CEQA Guidelines

Regarding Deficient Analysis Throughout The EIR)

121. Petitioners reallege and incorporate herein by reference the allegations of Paragraphs 1 through 120 inclusive, of this petition and complaint.

122. CEQA requires a lead agency for a project to prepare an EIR that complies with the requirements of the statute. The lead agency must also provide for public review and comment on the project and associated environmental documentation. An EIR must provide sufficient environmental analysis such that decision-makers can intelligently consider environmental consequences when acting on proposed projects.

123. The City's action in certifying the EIR for the Project constitutes a prejudicial abuse of discretion in that the City failed to proceed in the manner required by law and failed to support its decision by substantial evidence. Among other things, the City:

a. Failed to provide an accurate, stable and finite project description, which is the *sine qua non* for an informative and legally sufficient EIR.

b. Failed to address comments raising significant environmental issues in good faith, reasoned responses. The City simply ignored numerous comments raising issues with the EIR's inadequacy, including comments from experts, and further including comments from other governmental agencies, including Caltrans and the State Geological Survey.

c. Failed adequately to disclose, analyze, mitigate or avoid the Project's significant impacts on the environment, including but not limited to the Project's impacts with respect to aesthetics, cultural and historic resources, geology and seismology, land use and planning, recreation and parks, noise, air quality, traffic and circulation, parking, and public utilities and services, including emergency services;

d. Failed adequately to disclose, analyze, mitigate or avoid the Project's traffic impacts, including to the 101 Freeway, its on- and off-ramps, and the surrounding street system;

1 e. Failed adequately to disclose, analyze, mitigate or avoid the Project's
2 cumulative impacts, including cumulative traffic impacts, and failed to include as related
3 projects numerous past, present and reasonably foreseeable probable future projects;

4 f. Failed adequately to disclose, analyze, mitigate or avoid the Project's
5 geologic and seismic impacts, including by actively suppressing and/or falsifying
6 information about the true location of the Hollywood Fault in relation to the Millennium
7 site, by failing to wait for completion of significant new information, i.e., the State's
8 Alquist Priolo mapping and study, and by unlawfully deferring geologic/seismic studies
9 until after Project approval and after FEIR certification;

10 g. Failed adequately to disclose, analyze, mitigate or avoid the Project's
11 impacts to police, fire and life safety emergency response times, including because the EIR
12 used demonstrably false and unreliable data, which data had been repudiated by the Fire
13 Department itself;

14 h. Failed adequately to disclose, analyze, mitigate or avoid the Project's
15 air quality and health risk impacts, including because the EIR used a false 500-foot
16 proximity map to the Hollywood Freeway and failed to impose all feasible mitigation of air
17 quality impacts;

18 i. Failed to re-circulate the Draft EIR when significant new information
19 was added late or was requested to be added even after FEIR certification, including related
20 to the critical seismic issue, all of which further demonstrates that the City's approval of
21 the Project and FEIR prior to completion of appropriate studies, including seismic studies,
22 prevented the City from making adequate and informed findings;

23 j. Failed adequately to disclose, analyze, mitigate or avoid the Project's
24 land use impacts associated with each Municipal Code provision overridden in favor of the
25 Millennium Development Regulations and/or Land Use Equivalency Program;

26 k. Failed adequately to disclose, analyze, mitigate or avoid the Project's
27 land use impacts related to the Project's violation of the City Advisory Agency's parking
28 requirements;

1 l. Improperly deferred impact analysis and mitigation measures;
2 m. Failed adequately to mitigate Project impacts;
3 n. Failed properly to analyze cumulative impacts and growth inducing
4 impacts.
5 o. Failed properly to disclose and analyze a reasonable range of
6 alternatives, and indeed, could not legally analyze a reasonable range of alternatives to the
7 Project because the Project description is so amorphous and identifies such a wide range of
8 potential uses and building forms that it effectively evaluates no specific uses or structures
9 at all. Accordingly, the fundamental CEQA requirement of analyzing a reasonable range of
10 alternatives to the Project was frustrated by the unstable Project description, which in turn
11 undermined every other CEQA study area required to be analyzed in the EIR.

12 124. CEQA requires every lead agency to provide a good faith, reasoned analysis
13 in response to comments received on an EIR, to address recommendations and objections
14 in detail, and to explain why specific comments and suggestions, especially those of
15 experts, were not accepted. The EIR fails to respond adequately to comments on the EIR,
16 including comments from Petitioners' experts and the State's experts.

17 125. As a result of the City's violations of CEQA, Petitioners have been harmed in
18 that Petitioners and other members of the public were not fully informed about the
19 significant environmental impacts of the Project prior to the City's approval of the Project
20 and certification of the Project EIR, and have been and will be injured by the City's
21 violations of CEQA.

22 126. Petitioners as well as members of the general public will suffer irreparable
23 harm if the relief requested herein is not granted and Project construction commences in the
24 absence of a full and adequate EIR and absent compliance with all other applicable
25 provisions of CEQA and other laws.

26 127. CEQA requires that a lead agency's findings for the approval of a project be
27 supported by substantial evidence in the administrative record. CEQA further requires that
28 a lead agency provide an explanation of how evidence in the record supports the

1 conclusions it has reached.

2 128. The City further violated CEQA by adopting findings that are inadequate as a
3 matter of law in that they are not supported by substantial evidence in the record, including,
4 but not limited to, the following:

5 a. The determination that certain impacts would be less than significant
6 and/or that adopted mitigation measures would avoid or lessen the Project's significant
7 effects on the environment;

8 b. The determination that overriding economic, legal, social,
9 technological, or other benefits of the Project outweighed its significant impacts on the
10 environment – including because the so-called “community benefits” may be
11 unenforceable.

12 129. As a result of the foregoing defects, the City prejudicially abused its
13 discretion by adopting findings that do not comply with the requirements of CEQA and by
14 approving the Project in reliance thereon. Accordingly, the City's certification of the EIR,
15 and approval of the Project and all of the Project Approvals and Land Use Entitlements
16 which rely on the defective EIR, must be set aside.

17 **SECOND CAUSE OF ACTION**

18 **(Violation of CEQA and CEQA Guidelines Re Ignoring Responsible Agency**
19 **Caltrans' Direction For Study of Traffic Impacts Related To Hollywood Freeway)**

20 130. Petitioners reallege and incorporate herein by reference the allegations of
21 Paragraphs 1 through 129, inclusive, of this petition and complaint.

22 131. Public Resources Code § 21080.4(a) provides in pertinent part:

23 “If a lead agency determines that an environmental impact
24 report is required for a project, the lead agency shall
25 immediately send notice of that determination by certified
26 mail or an equivalent procedure to each responsible agency,
27 the Office of Planning and Research, and those public
28 agencies having jurisdiction by law over natural resources

1 affected by the project that are held in trust for the people of
2 the State of California. Upon receipt of the notice, each
3 **responsible agency**, the office, and each public agency
4 having jurisdiction by law over natural resources affected by
5 the project that are held in trust for the people of the State of
6 California **shall specify to the lead agency the scope and**
7 **content of the environmental information that is germane**
8 **to the statutory responsibilities of that responsible agency,**
9 the office, or the public agency in connection with the
10 proposed project **and which, pursuant to the requirements**
11 **of this division, shall be included in the environmental**
12 **impact report.** The information shall be specified in writing
13 and shall be communicated to the lead agency by certified
14 mail or equivalent procedure not later than 30 days after the
15 date of receipt of the notice of the lead agency's
16 determination." (Emphasis added.)

17 132. Guidelines § 15096(b)(2) similarly provides:

18 "As soon as possible, but not longer than 30 days after
19 receiving a notice of preparation from the lead agency, the
20 responsible agency shall send a written reply by certified mail
21 or any other method which provides the agency with a record
22 showing that the notice was received. The reply shall **specify**
23 **the scope and content of the environmental information**
24 **which would be germane to the responsible agency's**
25 **statutory responsibilities** in connection with the proposed
26 project. **The lead agency shall include this information in**
27 **the EIR.**" (Emphasis added.)

28 133. Petitioners are informed and believe, and based thereon allege, that Caltrans

1 is a responsible agency under CEQA related to the Project and its EIR, and that Caltrans
2 was notified about the EIR by the City as part of the City's duties to notify and consult with
3 responsible agencies.

4 134. Petitioners are informed and believe, and based thereon allege, that the City
5 issued a Notice of Preparation of environmental review for the Project on or about April
6 28, 2011.

7 135. Petitioners are informed and believe, and based thereon allege, that within
8 30 days thereof, and more specifically on May 18, 2011, Caltrans sent a detailed letter to
9 the City "specify[ing] the scope and content of the environmental information which would
10 be germane to the responsible agency's statutory responsibilities." Although the City, as
11 lead agency, "shall include this information in the EIR," the City failed and refused to
12 comply with Caltrans' requests and directions. As a result, the City violated Public
13 Resources Code § 21080.4(a) and Guidelines § 15096(b)(2).

14 136. In its May 18, 2011 letter, after noting that "[b]ecause of the size and land
15 uses of the project, this project may have a regional traffic impact on the State facilities,"
16 Caltrans provided numerous detailed and specific requests for disclosure, study, analysis
17 and mitigation as part of the EIR.

18 137. Notwithstanding Caltrans' written objections and specific EIR study
19 directions, the City failed and refused to comply with Caltrans' requests, and failed and
20 refused to comply with the mandates of Public Resources Code § 21080.4(a) and
21 Guidelines § 15096(b)(2).

22 138. Subsequently, on or about December 10, 2012, Caltrans sent another
23 detailed letter to the City in which it stated "Caltrans' major concerns with the Draft
24 Environmental Impact Report (DEIR) for the Millennium Project." Caltrans then provided
25 approximately three pages of comments and criticisms to the City, again "specify[ing] the
26 scope and content of the environmental information which would be germane to the
27 responsible agency's statutory responsibilities," and which should have been included in
28 the EIR. Caltrans pointedly concluded this letter by stating:

“Caltrans is concerned that the project impacts may result in unsafe conditions due to additional traffic congestion, unsafe queuing, and difficult maneuvering. These concerns need to be adequately addressed in the EIR. In summary, without the necessary traffic analysis, Caltrans cannot recognize the TIS [traffic impact study] and DEIR as adequately identifying and mitigating the project’s impacts to State highway facilities.”

139. Notwithstanding Caltrans’ written objections and specific EIR study directions, the City continued to fail and refuse to comply with Caltrans’ requests, and thereby failed and refused to comply with the mandates of Public Resources Code § 21080.4(a) and Guidelines § 15096(b)(2).

140. Subsequently, on or about February 19, 2013, Caltrans sent another detailed letter to the City in which it commented on the Final EIR for the Project. Caltrans provided five additional pages of specific comments and criticisms to the City, again “specify[ing] the scope and content of the environmental information which would be germane to the responsible agency’s statutory responsibilities,” and which should have been included in the EIR. Among other things, Caltrans noted:

“This letter serves to reiterate our concerns that the FEIR does not fulfill the requirements of the California Environmental Quality Act (CEQA). . . .

A valid TIS [traffic impact study] represents the linchpin in Caltrans’ efforts to assess a project’s potential impacts to the State transportation infrastructure. To assist the City in its preparation of a valid TIS, Caltrans informed the City that the TIS needs to comply with the “*Caltrans Guide for the Preparation of the Traffic Impact Studies*.” Unfortunately, the City did not work with Caltrans and instead relied on its own Congestion Management Program

(CMP), which **DOES NOT** adequately study the impacts to the SHS [State Highway System]. Because the TIS did not adequately analyze the traffic impacts, the City therefore did not identify adequate mitigation. Caltrans is concerned the Project impacts may result in unsafe conditions due to additional traffic congestion, unsafe queuing, and difficult maneuvering. . . .

The purpose of allowing the public and other governmental agencies the opportunity to review EIRs include: sharing expertise, disclosing agency analyses, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals. (CEQA Guidelines, Section 15200.) The TIS did not provide Caltrans, or any other reader, with sufficient traffic analysis to properly review and assess the traffic assumptions, lead agency analysis, and conclusions regarding the Project and its impacts.” (Caps, bold and underline in Caltrans’ original.)

141. Notwithstanding Caltrans’ written objections and specific EIR study directions, the City continued to fail and refuse to comply with Caltrans’ requests, and thereby failed and refused to comply with the mandates of Public Resources Code § 21080.4(a) and Guidelines § 15096(b)(2).

142. Subsequently, on or about May 7, 2013, Caltrans sent another letter, this time directly to then Hollywood Councilmember (and now Mayor) Eric Garcetti. In it, apparently with great frustration at the City’s disregard of Caltrans’ repeated concerns, objections and EIR study directions, Caltrans attached all of its prior correspondence dating back to May 18, 2011. To Caltrans’ great credit, it repeated its strong objections to the City and Millennium Developer’s flagrant disregard for Caltrans’ directions. The May 7, 2013 letter stated in pertinent part:

1 “We are writing this letter to reiterate Caltrans’
2 concerns that the Environmental Impact Report (EIR), Final
3 Environmental Impact Report (FEIR), and Traffic Study for
4 this project **did not fulfill the requirements of the**
5 **California Environmental Quality Act (CEQA).**

6 The Millennium Hollywood Project is a regionally
7 significant project that will construct over 1 million square
8 feet of mixed use development and is approximately one
9 block from the US-101 freeway. With the existing condition
10 of the freeway operating at Level of Service “F”, this project
11 will contribute significant traffic impacts to the US-101
12 freeway and its on/off ramps. **The traffic study does not**
13 **analyze nor does it disclose the traffic impacts that this**
14 **project will contribute to the State Highway System.**

15 After reviewing the Response to Comments from the
16 City, Caltrans sent a letter, dated February 19, 2013,
17 commenting on the FEIR (see attachment 3). We have not
18 received a response from the City regarding our comments.

19 The Los Angeles Planning Commission approved the
20 project on April 27, 2013. As a commenting agency, we
21 would like to, once again, bring to the City’s attention that the
22 project impacts will likely **result in unsafe conditions due to**
23 **additional traffic congestion, unsafe queuing, and difficult**
24 **maneuvering. As mentioned in our previous letters, these**
25 **concerns have not been adequately addressed in the EIR.**

26 In summary, without the necessary traffic analysis,
27 **Caltrans cannot agree that the FEIR substantively**
28 **identifies and mitigates the Project’s impacts to the State**

1 **highway facilities as required under CEQA.**” (Emphasis
2 added.)

3 143. Petitioners are informed and believe, and based thereon allege, that between
4 May 18, 2011 and the City’s certification of the EIR on July 24, 2013, Caltrans also had
5 numerous meetings and telephone conversations with City staff, City officials, and
6 Millennium Developer representatives in which Caltrans repeated its requests and
7 directions regarding the severe deficiencies in the EIR as prepared by the City and
8 Millennium Developer.

9 144. Petitioners are informed and believe, and based thereon allege, that despite
10 these repeated written and oral requests and directions from Caltrans as a responsible
11 agency to the City as lead agency, the City willfully failed and refused to comply with
12 Caltrans’ explicit requests, failed and refused to comply with the clear mandates of both
13 Public Resources Code § 21080.4(a) and Guidelines § 15096(b)(2), and thereby failed to
14 proceed in accordance with the law.

15 145. Amazingly, in complete derogation of every effort made by Caltrans over
16 the course of more than two years to get the City and the EIR to study a specified “scope
17 and content of the environmental information” that the City “shall include” in the EIR,
18 Councilman Mike Bonin at the July 24, 2013 City Council hearing on approval of the EIR
19 erroneously and disparagingly stated: “I guess the question for both DOT and for Caltrans
20 is Caltrans came to the table fairly late in this process so I’m wondering going forward how
21 we can avoid that and what sort of procedures we can put into place to establish a better
22 working relationship with Caltrans so they can get fed into the process sooner.” One could
23 almost see the jaws dropping from Los Angeles to Sacramento.

24 146. Petitioners are informed and believe, and based thereon allege, that the City
25 as lead agency failed and refused to respond to significant environmental issues and
26 concerns repeatedly identified by Caltrans, and in violation of the law, failed and refused to
27 provide the disclosure, analysis, and mitigation of impacts in the EIR as repeatedly
28 requested and directed by Caltrans. Accordingly, the EIR fails as a sufficient informational

1 document, and the EIR must be invalidated on this ground.

2 147. Petitioners are informed and believe, and based thereon allege, that the City
3 as lead agency failed to make the required "good faith effort at full disclosure" in the EIR
4 regarding Caltrans' repeated requests and directions for specific analysis and disclosure in
5 the EIR.

6 148. Petitioners are informed and believe, and based thereon allege, that the City
7 violated the express mandates of both Public Resources Code § 21080.4(a) and Guidelines
8 § 15096(b)(2). On this basis the EIR, and the Project Approvals and Land Use
9 Entitlements which rely on the defective EIR, all must be set aside.

10 **THIRD CAUSE OF ACTION**

11 **(Violation of CEQA and CEQA Guidelines Regarding Failure To Notice And**
12 **Consult With Responsible Agency California Geological Survey)**

13 149. Petitioners reallege and incorporate herein by reference the allegations of
14 Paragraphs 1 through 148, inclusive, of this petition and complaint.

15 150. The City's Initial Study listed the California Department of Conservation as
16 a potential "Responsible Agency" in this matter. Nonetheless, despite extensive
17 knowledge on the part of the City, including through its Building and Safety and Planning
18 Departments, of a high probability of traces of the Hollywood Earthquake Fault running
19 directly through the Millennium site, the City improperly failed and refused to notify and
20 consult with the California Department of Conservation, State Geological Survey, as a
21 responsible agency for purposes of EIR review, analysis, and comment.

22 151. Petitioners are informed and believe, and based thereon allege, that the
23 City's failure to timely notify and consult with the California Department of Conservation,
24 State Geological Survey, constitutes an independent violation of CEQA, including but not
25 limited to under Public Resources Code § 21153 and Guidelines § 15086(a)(1). The City
26 frustrated and prevented a required consultation process with a critical responsible agency,
27 thereby further depriving the public and decision makers of comments, analysis and
28 expertise regarding substantial adverse environmental effects of the Project, particularly

1 related to seismic dangers to persons on and off the Project Site, and related environmental
2 impacts.

3 152. Petitioners are informed and believe, and based thereon allege, that the
4 City's failure to include the California Department of Conservation, State Geological
5 Survey, as a responsible agency prevented the EIR from properly disclosing, analyzing and
6 mitigating all significant environmental impacts caused by the Project, to the detriment of
7 the CEQA process, and most importantly, to the detriment of the public's health, safety and
8 welfare.

9 153. Petitioners are informed and believe, and based thereon allege, that the
10 City's violations in this regard are particularly egregious in light of the now demonstrated
11 fact that the City and Millennium Developer, including the Developer's geologists and
12 other representatives, colluded to suppress critical information regarding seismic hazards at
13 the Millennium Project Site, including information indicating that traces of the active
14 Hollywood Earthquake Fault bisect the property, and further including suppression from
15 the EIR of the California Department of Conservation, State Geological Survey's 2010
16 Fault Activity Map, which indicates the presence of the active Hollywood Earthquake Fault
17 running directly through the Millennium Property.

18 154. Petitioners are informed and believe, and based thereon allege, that because
19 the City failed properly and timely to notify and consult with the California Department of
20 Conservation, State Geological Survey, as a responsible agency, the EIR must be
21 invalidated on this additional ground.

22 155. Petitioners are further informed and believe, and based thereon allege, that
23 because the City failed to give notice and consult as required by CEQA, the certified Final
24 EIR is entitled to no presumption of validity on this independent ground.

25 **FOURTH CAUSE OF ACTION**

26 **(Violation Of Due Process Rights And Deprivation Of Fair Hearing;**

27 **U.S. And Calif. Constitutions; Code Civ. Proc. § 1094.5(b))**

28 156. Petitioners reallege and incorporate herein by reference the allegations of

1 Paragraphs 1 through 155, inclusive, of this petition and complaint.

2 157. Code of Civil Procedure § 1094.5(b) authorizes judicial review of the
3 fairness of an administrative hearing. Numerous due process and fair hearing violations
4 occurred throughout the City proceedings related to the Project.

5 158. The City failed to attach to the April 27, 2013 City Planning Commission
6 letters of determination copies of the precise versions of the Millennium Hollywood
7 Development Regulations and Millennium Hollywood Land Use Equivalency Program.
8 This omission deprived appellants and other interested parties of the ability to know from
9 the four corners of the letters of determination precisely what the City Planning
10 Commission's decision was. When confronted about this deficiency, the City refused to
11 cure and correct the defect. This made it impossible for appellants and interested parties to
12 track changes made by the City during the City Council hearing process because they could
13 not verify what the operative versions of these zoning documents were.

14 159. When the Los Angeles City Council issues public hearing notices to conduct
15 land use hearings and appeal hearings, it determines how land use and environmental laws
16 shall be applied to particular parcels of land and persons, all as a quasi-judicial
17 administrative planning agency. The failure of the Los Angeles City Council to propose,
18 publicly consider, adopt, and publish official land use procedural rules to assure a fair and
19 consistent public hearing process before its committees and full City Council, as mandated
20 by Government Code § 65804, is an ongoing failure to proceed in accordance with law for
21 which declaratory and injunctive relief may issue to compel the performance of this
22 statutory duty, as set forth more fully in the Fifth Cause of Action herein.

23 160. As a result of the Los Angeles City Council's failure to comply with its
24 mandatory duty to adopt and follow fair hearing policies and procedures as required by
25 Government Code § 65804, Petitioners CURD, Beachwood Canyon Neighborhood
26 Association, and George Abrahams were subjected to a series of actions that deprived them
27 of a fair hearing and their due process rights.

28 161. Without adopted procedural rules, appellants such as Petitioner CURD had

1 no reliable and verifiable way to prepare for a public hearing before the PLUM Committee
2 or the full City Council. There are no adopted rules specifying the order of presentation,
3 the length of appeal presentations, the number of copies of written materials to be
4 submitted, the burden of proof and right to rebut arguments or evidence of opposing parties
5 that are consistently followed by the Chair of the PLUM Committee or the President of the
6 City Council. The current process is arbitrary and capricious. The amount of time an
7 appellant receives to present its case is severely curtailed despite the fact that the appellant
8 has filed an appeal under provisions of law and paid the necessary fees to appeal City
9 decision making. The unbridled discretion of the Chair of the PLUM Committee and the
10 President of City Council leaves land use appellants like Petitioners subject to the whim
11 and caprice of City officials.

12 162. Existing law gives project applicants, appellants, and interested persons
13 rights to receive notice of the time and place that the City will conduct land use public
14 hearings so that they may prepare for and appear at the public hearing required by law.
15 Interested persons who appear at a public hearing, including those to whom the City has
16 sent a hearing notice, have a due process right to testify before the City decision making
17 body. That right is routinely violated by the City, and was violated in this matter.

18 163. The actions of the City at the PLUM Committee hearing on June 18, 2013
19 subjected Petitioner CURD, as a land use appellant with hearing rights, to a fundamentally
20 unfair process. This included not having access to adopted and published land use hearing
21 procedural rules as required by Government Code § 65804, known hearing presentation
22 order, unknown and ever-shifting hearing presentation times for the parties, an unfair
23 process that prohibited Petitioner CURD from an opportunity to speak after its initial
24 presentation while the Millennium Developer was given more time and made false
25 statements that Petitioner CURD was prevented from rebutting to the PLUM Committee,
26 and similar arbitrary, capricious, and unfair actions that conferred hearing favoritism upon
27 the Millennium Developer.

28 164. The actions of the City at the PLUM Committee hearing on June 18, 2013

1 subjected Petitioner George Abrahams and other Interested Persons to whom the City
2 mailed public hearing notice to an unfair hearing. Although the City mailed public hearing
3 notices to Petitioner Abrahams and others who signed the Interested Persons list at the City
4 Planning Commission meeting, when they appeared at the public hearing and submitted
5 speaker cards to exercise their right to give public testimony (as opposed to public
6 comment on an item of business under the Brown Act), they were told they would not be
7 allowed to testify. Accordingly, Interested Persons, including Petitioner Abrahams, were
8 denied their right to give public testimony at the PLUM Committee hearing.

9 165. Separately, the actions of the City to issue a materially false PLUM
10 Committee Recommendation Report that claimed the PLUM Committee voted to:
11 (1) recommend that the City Council set aside the City Planning Commission reviewed and
12 approved zone change ordinance (Old Ordinance); and (2) recommend that the City
13 Council approve a zone change ordinance that enacted the Millennium Development
14 Regulations into the Los Angeles Municipal Code, when the PLUM Committee did no
15 such thing, deprived Petitioners CURD, Beachwood Canyon Neighborhood Association,
16 and George Abrahams of their right to know that such a dramatic change to the Project was
17 under consideration, and to meet it with analysis and rebuttal evidence at the PLUM
18 Committee hearing.

19 166. Separately, the actions of the City in having no adopted hearing procedures
20 that require the applicant to provide timely copies of all submittals to the City deprived
21 Petitioners of their fair hearing rights because Petitioner CURD was given no meaningful
22 opportunity to know of the 311-page Sheppard Mullin letter, review its arguments and
23 supporting new evidence, research the evidence claimed in support of the arguments, and
24 prepare evidence or response to such arguments in advance of the July 24, 2013 City
25 Council public hearing. The short letter that the CURD attorney managed to prepare
26 largely focused on how a 311-page last-minute submission by the Millennium Developer
27 was similar to an action that the Los Angeles County Superior Court found to be a violation
28 of due process rights in the case of *La Mirada Avenue Neighborhood Association of*

1 *Hollywood v. City of Los Angeles* (BS132533).

2 167. Separately, the actions of the City deprived Petitioners of their fair hearing
3 rights because Petitioners were given no reasonable time or opportunity to review and
4 prepare evidence or argument to controvert the underlying data, methodology, or
5 conclusions of the new geology report submitted as an attachment to the 311-page
6 Sheppard Mullin letter.

7 168. Separately, the actions of the City at the City Council hearing on July 24,
8 2013 subjected Petitioner George Abrahams and other Interested Persons to whom the City
9 mailed public hearing notice to an unfair public hearing. Although the City mailed public
10 hearing notices to Petitioner Abrahams and others who signed the Interested Persons list at
11 the City Planning Commission meeting, when they appeared at the public hearing and
12 submitted speakers cards to exercise their right to give public testimony (as opposed to
13 public comment on an item of business under the Brown Act), they were told they would
14 not be allowed to testify. Accordingly, Interested Persons, including Petitioner Abrahams,
15 were denied their right to give public testimony at the City Council hearing.

16 169. Separately, Petitioners' counsel submitted a Public Records Act Request to
17 the Los Angeles Department of Building and Safety with ample time for the City to
18 respond with responsive documents before the City Council public hearing on July 24,
19 2013. The City's failure and refusal to timely respond in compliance with the Government
20 Code deprived Petitioners of a fair hearing because the City cynically withheld producing
21 the responsive public records until two hours after the City Council public hearing had
22 closed, thereby thwarting the ability of Petitioners to gather relevant evidence – including
23 as to that specific Public Records Act request – evidence of the City colluding with the
24 Millennium developer and its representatives to suppress critical facts about the seismic
25 conditions on the Millennium property. The City's acts frustrated Petitioners' rights and
26 abilities to fully prepare for the public hearing and to submit such evidence with
27 Petitioners' presentation at the final public hearing.

28 170. Separately, the actions of the City to impose the burden of proof on the

1 Petitioner/Appellant, yet deny Petitioners' counsel any opportunity to rebut evidence and
2 argument improperly submitted by the Millennium Developer and City Building and Safety
3 and Transportation departmental staff at the final hearing, deprived Petitioners of their fair
4 hearing rights. This included the astounding action of the City Council in asking City
5 Geologist Dana Prevost to submit additional information into the record that the public
6 generally, and Petitioners specifically, had no opportunity to see, and in fact, did not have
7 an opportunity to see or rebut prior to the close of the City Council hearing.

8 171. Separately, the actions of the City in failing to have adopted hearing
9 procedures that require the availability of proposed amending motions for a minimum
10 period of time prior to their consideration at the City Council public hearing on July 24,
11 2013, deprived Petitioners CURD, Beachwood Canyon Neighborhood Association, George
12 Abrahams, and other Interested Persons of their right to a fair hearing process because they
13 were denied a reasonable opportunity to know the content of the proposed amending
14 motion, gather evidence to respond to or rebut it, and present it at the City Council public
15 hearing. The City's pattern and practice of slipping amending motions into final public
16 hearings without notice to anyone, distribution copies of amending motions only to
17 members of the City Council and not to land use appellants or the public, and posting one
18 copy of the amending motion on an unmarked bulletin board in the corner of City Hall
19 Chambers, and not allowing persons to take it down from the bulletin board to review it, is
20 fundamentally unfair and designed to deprive the public of knowing what their government
21 is doing.

22 172. Petitioners are entitled to the issuance of a writ commanding the City to set
23 aside approvals of the EIR, Project Approvals and Land Use Entitlements, as well as a
24 judgment finding that the City deprived Petitioners of a fair hearing, and requiring and
25 ordering that a new and fair hearing be provided before reconsideration of the EIR, Project
26 Approvals and Land Use Entitlements for the Millennium Project.

FIFTH CAUSE OF ACTION

**(Declaratory And Injunctive Relief: Pattern And Practice Of
Depriving Public of Fair Hearings On Land Use Appeals)**

173. Petitioners reallege and incorporate herein by reference the allegations of Paragraphs 1 through 172, inclusive, of this petition and complaint.

174. An actual and present controversy has arisen and now exists between Petitioners, on the one hand, and the City, on the other, in that the City has in this case and in other cases demonstrated a pattern and practice of refusing to enact fair land use hearing rules and procedures, which are mandated by Government Code § 65804. The City routinely and illegally denies the right of Interested Persons to testify at land use public hearings for which the law, independent of the Brown Act, imposes an obligation for the City to give notice and take testimony from all those who appear.

175. Without this Court's declaratory and injunctive relief, the City will continue to violate Petitioners' and other future appellants' due process and fair hearing rights.

SIXTH CAUSE OF ACTION

(Improper Grant of Variances: Violations Of

Los Angeles City Charter § 562 and Los Angeles Municipal Code § 12.27(D))

176. Petitioners reallege and incorporate herein by reference the allegations of Paragraphs 1 through 175, inclusive, of this petition and complaint.

177. Los Angeles City Charter Section 562 mandates that the granting of variances is subject to, *inter alia*, an initial hearing and determination before a Zoning Administrator; a specified appeal process; required findings for granting of variances; and also provides in pertinent part that:

"The grant of a variance may include conditions that will remedy a disparity of privileges and that are necessary to protect the public health, safety or welfare and assure compliance with the objectives of the General Plan and the purpose and intent of the zoning ordinance. A variance shall

not be used to grant a special privilege or to permit a use substantially inconsistent with the limitations upon other properties in the same zone and vicinity. The Zoning Administrator may deny a variance if the conditions creating the need for the variance were self-imposed.”

178. Los Angeles Municipal Code Section 12.27(D) similarly provides that no variance may be granted unless the Zoning Administrator finds all of the following:

a. Strict application of the laws would result in practical difficulties or unnecessary hardships.

b. Special circumstances apply to the property which do not apply generally to other properties in the same zone and vicinity.

c. The variance is necessary for the preservation and enjoyment of a substantial property right or use generally possessed by other property in the same zone and vicinity but which, because of such special circumstances and practical; difficulties or unnecessary hardships, is denied the property in question.

d. The variance will not be materially detrimental to the public welfare or injurious to the property in the same zone or vicinity in which the property is located; and

e. The variance will not adversely affect the General Plan.

179. Petitioners are informed and believe, and based thereon allege, that the City Council abused its discretion in that the findings and subsequent approvals by the City Council for the Project’s variances were unsupported in fact or in law and do not satisfy the strict requirements of Charter § 562 or Los Angeles Municipal Code § 12.27(D) to support the variances as a matter of law.

SEVENTH CAUSE OF ACTION

(City Ordinance For Project Development Regulations

Violates Los Angeles Charter § 562 and LAMC §§ 12.32 and 12.04)

180. Petitioners reallege and incorporate herein by reference the allegations of

1 Paragraphs 1 through 179, inclusive, of this petition and complaint.

2 181. The City's attempt to elevate the purported Millennium Hollywood
3 Development Regulations and Millennium Hollywood Land Use Equivalency Program into
4 the Los Angeles Municipal Code under the purported authority of LAMC Sections 12.32
5 and 12.04 using the New Ordinance adopted by the City Council on July 24, 2013 is in
6 irreconcilable conflict with the mandates of Los Angeles Charter Section 562 regarding
7 variances, as more fully described in ¶ 177 herein.

8 182. Petitioners are informed and believe, and based thereon allege, that the
9 Development Regulations provide that any conflicting Los Angeles Municipal Code
10 provision which is more restrictive than the Development Regulations shall be overridden,
11 and the Development Regulations shall "prevail." This unprecedented provision overrides
12 not only the Planning and Zoning portions of the Los Angeles Municipal Code, but the
13 Building and Safety Code, and any other Los Angeles Municipal Code provisions that are
14 more restrictive than topics included in the Development Regulations.

15 183. This means the City Council, without even knowing what the conflicting
16 provisions of the Los Angeles Municipal Code might be, impermissibly is allowing
17 variances, or the purported right to variances, without complying with the variance process
18 required by law, including as mandated by City Charter § 562. Additionally, as to
19 conflicting provisions of the Building and Safety Code or any other Los Angeles Municipal
20 Code provisions, the City Council's grant of carte blanche authority to override any and all
21 conflicting Los Angeles Municipal provisions is *ultra vires* and *void ab initio*, and in
22 violation of LAMC §§ 12.32 and 12.04.

23 184. In purporting to enact the Development Regulations and Land Use
24 Equivalency Program into the Los Angeles Municipal Code, the City has failed to proceed
25 in accordance with law.

26 185. Petitioners are entitled to relief invalidating the Development Regulations
27 and Land Use Equivalency Program on this additional and independent ground.
28

PRAYER

WHEREFORE, Petitioners pray for judgment in their favor as follows:

On the First, Second and Third Causes of Action:

1. For a peremptory writ of mandamus directing the City and City Council to vacate and set aside the actions approving the EIR, Project Approvals and Land Use Entitlements.

2. That the Court enjoin the City, City Council, City Planning Commission, their officers, employees, agents, boards, commissions and other subdivisions from granting any authority, permits or entitlements as part of the Project pursuant to the City's approvals of the EIR, Project Approvals and Land Use Entitlements.

3. That the Court enjoin Real Party and any successors in interest from undertaking any Project construction pursuant to the City's approval of the EIR, Project Approvals and Land Use Entitlements.

On the Fourth Cause of Action:

4. For a declaration that the City violated Petitioners' due process and fair hearing rights, and for a peremptory writ of mandamus directing the City and City Council to vacate and set aside the actions approving the EIR, Project Approvals and Land Use Entitlements, and to provide new and fair hearings that comply in all respects with due process of law.

On the Fifth Cause of Action:

5. For declaratory and injunctive relief finding that the City's failure to adopt fair hearing policies and procedures when the City Council sits as a quasi-judicial appellate body for land use appeals is a violation of law, including pursuant to Government Code Section 65804, and for a peremptory writ of mandamus directing the City and City Council to adopt proper fair hearing policies and procedures for the conduct of land use appeals and

1 hearings.

2 **On the Sixth and Seventh Causes of Action:**

3 6. For a peremptory writ of mandamus directing the City and City Council to
4 vacate and set aside the actions approving the specified Land Use Entitlements.

5 7. That the Court enjoin the City, City Council, City Planning Commission,
6 their officers, employees, agents, boards, commissions and other subdivisions from
7 granting any authority, permits or entitlements as part of the Project pursuant to the City's
8 approvals of the specified Land Use Entitlements.

9 8. That the Court enjoin Real Party and any successors in interest from
10 undertaking any Project construction pursuant to the City's approval of the specified Land
11 Use Entitlements.

12 **On All Causes of Action:**

13 9. For attorney fees, including pursuant to Code of Civil Procedure Section
14 1021.5.

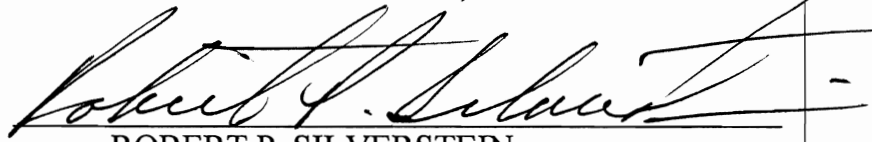
15 10. For costs of suit; and

16 11. For such other and further relief as the Court may deem just and proper.

17
18 DATED: August 27, 2013

THE SILVERSTEIN LAW FIRM, APC

19
20 By:



ROBERT P. SILVERSTEIN

DANIEL E. WRIGHT

21 Attorneys for Petitioners

22 STOPTHEMILLENNIUMHOLLYWOOD.COM;
23 COMMUNITIES UNITED FOR REASONABLE
24 DEVELOPMENT; BEACHWOOD CANYON
25 NEIGHBORHOOD ASSOCIATION; AND GEORGE
26 ABRAHAMS
27
28

VERIFICATION

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss:

I, GEORGE ABRAHAMS, declare as follows:

I am a representative of StopTheMillenniumHollywood.com, Communities for Reasonable Development, and Beachwood Canyon Neighborhood Association, all Petitioners in this action. I am authorized to make this verification on their behalf and I also make this verification on behalf of myself as an individual Petitioner in this action.

I have read the foregoing Petition for Writ of Mandamus and Complaint for Declaratory and Injunctive Relief and am familiar with its contents. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Pasadena, California, on the 27th day of August, 2013.


GEORGE ABRAHAMS