

From: Veronica Lebron <Veronica@robertsilversteinlaw.com>
Sent time: 04/29/2020 07:09:01 PM
To: councilmember.ofarrell@lacity.org; david.ryu@lacity.org; kevin.keller@lacity.org; mayor.garcetti@lacity.org; mindy.nguyen@lacity.org; vince.bertoni@lacity.org
Cc: Dan Wright <Dan@robertsilversteinlaw.com>; Esther Kornfeld <Esther@robertsilversteinlaw.com>; Robert Silverstein <Robert@robertsilversteinlaw.com>
Subject: Objection to Denial of Request for Extension of 45-Day Comment Period for Hollywood Center Project Draft Environmental Impact Report ("DEIR"); Case Number ENV-2018-2116-EIR; State Clearinghouse Number 2018051002
Attachments: 4-29-20 [SCAN] Response to City Planning (Nguyen) re Denial of Request for Extending Comment Period.PDF

Please see attached. Please confirm receipt. Hard copy with flash drive to follow via overnight delivery.

Thank you.

Veronica Lebron
The Silverstein Law Firm, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504
Telephone: (626) 449-4200
Facsimile: (626) 449-4205
Email: Veronica@RobertSilversteinLaw.com
Website: www.RobertSilversteinLaw.com

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THE SILVERSTEIN LAW FIRM

A Professional Corporation

215 NORTH MARENGO AVENUE, 3RD FLOOR
PASADENA, CALIFORNIA 91101-1504

PHONE: (626) 449-4200 FAX: (626) 449-4205

ROBERT@ROBERTSILVERSTEINLAW.COM
WWW.ROBERTSILVERSTEINLAW.COM

April 29, 2020

VIA EMAIL mindy.nguyen@lacity.org
AND OVERNIGHT DELIVERY

Mindy Nguyen
City of Los Angeles, Department of City Planning
221 North Figueroa Street, Suite 1350
Los Angeles, CA 90012

Re: Objection to Denial of Request for Extension of 45-Day Comment Period
for Hollywood Center Project Draft Environmental Impact Report
("DEIR"); Case Number ENV-2018-2116-EIR;
State Clearinghouse Number 2018051002

Dear Ms. Nguyen and City Officials:

This letter and all complete documents and materials contained in the links set forth within this letter are to be included in the administrative record for the above-referenced matter.

The City's April 28, 2020 response to our and others' request for an extension of the Hollywood Center Project DEIR comment period is repugnant, verging on mocking the public. To acknowledge as your April 28, 2020 email does that "these are unprecedented times," and yet for the Planning Dept. to treat them for public comment purposes as regular times, defies logic. Its import also ignores how everyone's lives have been upended as people are busy trying to stay safe, to home school children, to care for sick relatives, to manage entirely new and disruptive routines, etc. This no less includes the staff of governmental agencies expected to comment on this DEIR, and which should have the fullest time possible to comment as part of their duties to ensure the public health, safety and welfare.

It is also to deny Mayor Garcetti's repeated emotional pleas, and even threats, to the community about obedience to his "Stay-at-Home" orders. The Planning Dept. buck of unreasonable denial of a tolling or extension of the public comment period for this

massive project and EIR stops with Garcetti. We incorporate by reference the articles contained at these links quoting Mayor Garcetti in this regard:

“In a remarkable State of the City address, one that comes five weeks into the shutdown of many businesses, government buildings and other facilities, Garcetti declared that the city is ‘under attack’ from the coronavirus and the economic fallout that has come with it.

‘I’ve never before hesitated to assure you that our city is strong,’ he said. ‘But I won’t say those words tonight. Our city is under attack. Our daily life is unrecognizable.’”¹

“Los Angeles Mayor Eric Garcetti unveiled a \$10.5-billion budget for the city Monday that imposes cuts across an array of city agencies, with nearly 16,000 city workers being furloughed in response to the economic fallout from the coronavirus outbreak.”²

“‘This weekend we saw too many images of too many people crowding beaches or canyons beyond their capacity. Too many people, too close together, too often,’ Garcetti said during his daily briefing on the impact of the novel coronavirus. ‘The longer we do that, the more people will get sick, and the more people will die. There’s no way to sugarcoat that.’

‘Asked by a reporter whether the city would hold residents accountable for breaking quarantine orders, Garcetti said that law enforcement officers will ‘not be shy’ when it comes to approaching those who are seen doing so.’”³

¹ <https://www.latimes.com/california/story/2020-04-19/garcetti-state-of-city-la-address-coronavirus>

² <https://www.latimes.com/california/story/2020-04-20/coronavirus-garcetti-budget-story-2020-2021-furloughs-cuts>

³ <https://www.latimes.com/california/story/2020-03-23/coronavirus-mayor-eric-garcetti-ignoring-social-distancing-beaches>

“I know your heart breaks.... This is such a great tradition for the many families we have,’ L.A. Mayor Eric Garcetti said. ‘But we can’t afford to have one cluster of even just a few people together spread this disease to more people and kill them.’⁴

“‘Unfortunately among the fallen ‘is a city employee, Garcetti said Friday. ‘It wasn’t just lip service that these are going to be tough days.’”⁵

“If a business refuses to provide face coverings for its workers, it could be fined, but the hope is that businesses and customers will follow the order without issue, Garcetti said.”⁶

“At least five nights a week, Garcetti has appealed directly to Angelenos on live television — or Facebook, for those with smaller screens — to get them to comply with public health orders and keep up with the region’s rapidly changing response to the spread of the novel coronavirus.”⁷

“Garcetti said that his office is still receiving daily reports of nonessential businesses that continue to operate as normal — behavior he called ‘irresponsible and selfish.’”

“He also announced a Safer at Home business ambassadors initiative that aims to help push greater adherence from nonessential businesses who aren’t complying with the city’s order to close.

⁴ <https://www.latimes.com/california/story/2020-04-10/california-toughens-stay-at-home-rules-as-coronavirus-cases-top-20-000>

⁵ <https://www.latimes.com/california/story/2020-04-11/2-1-a-city-workers-die-of-coronavirus>

⁶ <https://www.latimes.com/california/story/2020-04-07/coronavirus-face-covering-order-los-angeles-mayor-garcetti>

⁷ <https://www.latimes.com/california/story/2020-04-13/garcetti-coronavirus-briefings-distancing-masks-love>

Such businesses should also expect to get a warning call from local prosecutors before the city takes more aggressive action, including turning off their water and power, he said.

‘The easiest way to avoid a visit from the city is to follow the rules,’ he said.’⁸

“Los Angeles Mayor Eric Garcetti said Wednesday that he’s authorized the Department of Water and Power to shut off service to nonessential businesses that continue to operate despite the strict Safer at Home restrictions designed to slow the spread of the coronavirus.”⁹

Your April 28, 2020 email also implies or assumes that everyone who wants to review the EIR should be able, on their own, to have an internet connection and sufficient bandwidth to download this very hefty DEIR. There is a serious Environmental Justice issue in the City’s unreasonable conduct during this time.

We and our clients are indeed prejudiced, including by my difficulty in accessing all of our hard files, including from the previous StopTheMillenniumHollywood.com vs. City of Los Angeles, et al. (LASC Case No. BS144606; Court of Appeal Case No. B282319; CA Supreme Court Case No. S258643) litigation. Large parts of the administrative record from that original case must be included in the current administrative record because of its relevance to the instant application and DEIR. However, we cannot more discreetly select those documents because of lack of access to our physical offices.

As a result, we incorporate by reference the entire administrative record from the original Millennium case. Although the City Attorneys’ Office and, presumably, the City Planning Department have the entire Administrative Record and Reference Library from the original Millennium case, which we ask to be incorporated by reference, nonetheless, in an abundance of caution, we are also sending you by overnight delivery a flash drive containing the full bates-stamped administrative record and full bates-stamped reference

⁸ <https://www.latimes.com/california/story/2020-03-24/garcetti-warns-la-coronavirus-crisis-will-get-worse>

⁹ <https://www.latimes.com/california/story/2020-04-01/l-a-will-shut-off-water-for-non-essential-businesses-operating-amid-coronavirus-restrictions>

library from the original Millennium case administrative record. The entirety of those files must be uploaded and included in the present administrative record and on the City Planning Department's running web page of the ongoing additions to the present administrative record for the Hollywood Center Project DEIR. We would suggest those materials be noted in the description as follows:

- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 1 of 6
- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 2 of 6
- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 3 of 6
- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 4 of 6
- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 5 of 6
- AR from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 6 of 6
- RL from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 1 of 2
- RL from StopTheMillenniumHollywood.com v. City of LA (LASC Case No. BS144606 ("Original Millennium Case")) 2 of 2

You are required to include all of these documents from the original administrative record in the current administrative record for this Hollywood Center application and Draft EIR, including pursuant to Consolidated Irrigation District:

"We conclude that the term "submitted to" – which generally means presented or made available for use or study – is concerned with the effort that must be expended by the lead agency in using or studying the "written evidence" presented. (§ 21167.6, subd. (e)(7).) Consequently, we think that the term should be interpreted and

applied pragmatically to fairly allocate the burden of handling the written evidence. Applying the term too broadly could place an unacceptable burden on lead agency personnel by requiring them to expend time and limited resources tracking down information that could have been provided more efficiently by the commenter. Based on considerations regarding the allocation of burden, we conclude that “written evidence” has been “submitted to” a lead agency for purposes of section 21167.6, subdivision (e)(7) when the commenter has made the document readily available for use or study by lead agency personnel.” Consolidated Irrigation Dist. v. Superior Court (2012) 205 Cal.App.4th 697, 723.

“The third category contains five documents named in the comment letters of CID and the air pollution control district along with a citation to the specific Web page containing the document. We conclude that the information provided made these documents readily available to City personnel. To access the document, the person need only type the URL into a computer connected to the Internet. The document will appear on the computer screen and no further searching is required. Thus, the burden placed on lead agency personnel is minimal when a commenter provides the URL to the specific Web page containing the document.” Consolidated Irrigation Dist. v. Superior Court (2012) 205 Cal.App.4th 697, 724-725.

The burden placed on the City is minimal, actually non-existent. We have provided a flash drive with all of the bates-stamped files comprising the prior administrative record and reference library that the City itself certified. If you have any difficulty accessing or in utilizing the City’s own set of the same materials, please promptly advise.

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City of Los Angeles, Department of City Planning
April 29, 2020
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Finally, please understand that this by no means remedies or sufficiently mitigates the prejudice to us, and others, from the truncated 45-day comment period during the pandemic. Our request (and that of numerous other community members) for a tolling or extension of that deadline remains active. Thank you.

Very truly yours,

/s/ Robert P. Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl

Encl.: Flash drive containing Millennium AR and RL

cc: Mayor Eric Garcetti (mayor.garcetti@lacity.org)
Councilman Mitch O'Farrell (councilmember.ofarrell@lacity.org)
Councilman David Ryu (david.ryu@lacity.org)
Vince Bertoni, Dir. Of City Planning (vince.bertoni@lacity.org)
Kevin Keller, Exec. Officer of City Planning (kevin.keller@lacity.org)