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8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES

11  
12 FIX THE CITY, INC., a California nonprofit  
13 corporation

14 Petitioner and Plaintiff,

15 v.

16 CITY OF LOS ANGELES; LOS ANGELES  
17 CITY COUNCIL; LOS ANGELES  
18 DEPARTMENT OF CITY PLANNING; and  
DOES 1 through 100, inclusive,

19 Respondents.

20  
21  
22 HOLLYWOOD CHAMBER OF  
23 COMMERCE,

24 Intervener.

Case No. BS138580

**VERIFIED SUPPLEMENTAL  
PETITION FOR WRIT OF  
MANDATE AND COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

(Public Resources Code, § 21168; Code  
of Civil Procedure, §§ 526, 1060, 1085  
& 1097; Government Code, § 65300.5;  
Los Angeles City Charter, §§ 556 &  
558)

Judge: Honorable Allan Goodman  
Writ Issued: February 11, 2014  
Dept: P, West Dist.

Action filed: July 13, 2012

1 Comes now Petitioner and Plaintiff, Fix the City, Inc., and alleges as follows:

2 **INTRODUCTION**

3 1. Petitioner Fix the City, Inc., by this Verified Supplemental Petition for Writ  
4 of Mandate, challenges the repeated failure of Respondents City of Los Angeles and City  
5 Council of the City of Los Angeles (collectively, “Respondents”) to adhere to the  
6 requirements of the California Environmental Quality Act (“CEQA”) in attempting to  
7 update the Hollywood Community Plan. In its response to this Court’s issuance of a Writ  
8 of Mandate ordering Respondents to rescind the Hollywood Community Plan Update and  
9 its Environmental Impact Report (“EIR”), Respondents have only *increased* the  
10 inconsistencies between the General Plan and its various Elements, and have committed  
11 additional violations of the CEQA. In the guise of complying with the Writ of Mandate,  
12 Respondents have eviscerated the mitigation measures adopted over a decade ago in  
13 connection with the Framework Element EIR, and have conducted no environmental  
14 review of the impacts of these actions, which were approved by the City Council  
15 approximately three weeks after they were introduced to the public, at nearly break-neck  
16 speed for a City Council action. Respondents’ action was not necessary to comply with  
17 this Court’s order, and indeed, directly flouts this Court’s authority by stating an intention  
18 to “overrule and supersede” this Court’s Statement of Decision. A new Writ of Mandate  
19 must issue commanding Respondents to rescind the actions taken in violation of CEQA  
20 and in excess of Respondents’ legislative authority.

22 **PARTIES**

23 2. Petitioner and Plaintiff, FIX THE CITY, INC. (“Fix The City” or  
24 “Petitioner”) is a California nonprofit public benefit corporation duly incorporated under  
25 the laws of the State of California. Fix The City’s mission is to improve neighborhoods  
26 and critical infrastructure throughout the City of Los Angeles. Prior to its recent  
27 incorporation, Fix The City was an unincorporated association. Fix The City participated  
28

1 in the actions challenged herein, submitting oral and written comments to the record on  
2 multiple occasions. Petitioner's members are residents of the City of Los Angeles.

3 3. Respondent and Defendant CITY OF LOS ANGELES (the “City”) is the  
4 public governmental entity serving the people of the City of Los Angeles.

5 4. Respondent and Defendant LOS ANGELES CITY COUNCIL (the “City  
6 Council”) is the elected governing body of the City of Los Angeles, a charter city in the  
7 State of California. The City Council has an office in Los Angeles, California.

8 5. Respondent and Defendant LOS ANGELES DEPARTMENT OF CITY  
9 PLANNING (the “Planning Department”) is the city agency that is responsible for  
10 regulating the use of property in the City of Los Angeles through enacting and  
11 implementing general and specific plans.

12 6. Petitioner is unaware of the true names and capacities of Respondents  
13 DOES 1 through 100, inclusive, and they are therefore sued by such fictitious names  
14 pursuant to Code of Civil Procedure section 474. Petitioner alleges on information and  
15 belief that each such fictitiously named Respondent is responsible or liable in some  
16 manner for the events and happenings referred to herein, and Petitioner will seek leave to  
17 amend this Petition to allege their true names and capacities after the same have been  
18 ascertained.

19 7. Intervener HOLLYWOOD CHAMBER OF COMMERCE is a nonprofit  
20 organization whose mission is to promote and enhance the business, cultural, and civic  
21 well-being of Hollywood. The Hollywood Chamber of Commerce was permitted to  
22 intervene in the litigations challenging the HCPU on the side of Respondents.

### 23 **FACTUAL BACKGROUND**

24 8. The Hollywood Community Plan serves as the primary land use planning  
25 document that guides future development in a 25-square-mile area of the City of Los  
26 Angeles. The Plan covers the areas roughly bounded by the cities of Burbank and  
27 Glendale and the Ventura Freeway to the north; the Golden State Freeway to the east;  
28 Melrose Avenue to the south; and Mulholland Drive and the cities of West Hollywood

1 and Beverly Hills to the west. On June 19, 2012, Respondent City Council adopted an  
2 update to the Hollywood Community Plan (“Hollywood Community Plan Update” or  
3 “HCPU”) that increased permissible development density in certain areas, and certified  
4 an EIR that purported to evaluate the impacts of build-out of the HCPU.

5 9. On July 19, 2012, Petitioner filed a First Amended Petition for Writ of  
6 Mandate to compel Respondents to rescind the HCPU and related approvals because the  
7 EIR for the HCPU failed to comply with the requirements of CEQA. Additionally,  
8 Petitioner alleged that that the HCPU was fatally inconsistent with the General Plan of  
9 the City of Los Angeles because the HCPU did not require on-going monitoring of  
10 infrastructure capacity as required by the General Plan’s Framework Element.

11 10. Two other petitions were filed that also challenged the HCPU and its EIR  
12 on similar grounds: *La Mirada Avenue Neighborhood Association of Hollywood v. City*  
13 *of Los Angeles* (L.A.S.C. Case No. BS138369) and *Save Hollywood v. City of Los*  
14 *Angeles* (L.A.S.C. Case No. BS138370). All three cases were deemed related and the  
15 same administrative record was prepared for all three cases. On September 16 and 17,  
16 2013, trial was held concurrently on the related cases.

17 11. This Court issued a Tentative Decision and Proposed Statement of Decision  
18 in all three cases on December 10, 2013. After considering the comments of the parties  
19 on the tentative statement of decision, the Court issued a single Statement of Decision in  
20 all three related cases on January 15, 2014.

21 12. The Court’s Statement of Decision found that the HCPU’s EIR violated  
22 CEQA, and found that the HCPU itself was inconsistent with the General Plan’s  
23 Framework Element. The Statement of Decision explained that “[t]he fundamental  
24 inconsistency between the Framework and the HCPU on the failure of the HCPU  
25 monitoring policy is completely contrary to the Framework’s essential component of  
26 continuous monitoring of development activity. There is a void in an essential aspect of  
27 the HPCU where instead there should be a discussion of the inter-plan/area impacts  
28 created by the HCPU.”

1           13.    On February 11, 2014, the Writ of Mandate issued, commanding  
2 Respondents to “rescind, vacate, and set aside all action approving the [HCPU] and all  
3 actions certifying the EIR adopted in connection therewith, as well as all related  
4 approvals issued in furtherance of the HCPU, including but not limited to the text and  
5 maps associated with the HCPU, the Resolution amending the Hollywood Community  
6 Plan, the adoption of rezoning actions taken to reflect zoning changes contained in the  
7 HCPU, all amendments to the General Plan Transportation and Framework Elements  
8 made to reflect changes in the HCPU, the adoption of the Statement of Overriding  
9 Considerations, the adoptions of the Mitigation and Monitoring Program, and the  
10 adoption of Findings in support of the foregoing....” (Writ, p. 1:11-20.)

11           14.    The Writ of Mandate also commanded Respondents to refrain “from  
12 granting any authority, permits or entitlements which derive from the HCPU or its EIR.”  
13 (Writ, p. 2:1-8.) On February 19, 2014, Respondents filed a first Initial Return on  
14 February 11, 2014, Writ of Mandate setting forth the actions Respondents had taken to  
15 comply with this portion of the Writ. Petitioner has no concerns with these actions of  
16 Respondents.

17           15.    On March 13, 2014, the Planning Commission of the City of Los Angeles  
18 held a public hearing on three enactments intended to provide Respondents’ further  
19 response to the Writ of Mandate. The enactments were: (1) a resolution rescinding the  
20 HCPU, the actions certifying the HCPU’s EIR, all amendments to the General Plan and  
21 other elements to reflect the HCPU’s changes, as well as all other associated findings  
22 made in support of the HCPU; (2) an ordinance rescinding all zoning and height district  
23 changes made as part of the HCPU, and reverting the zoning and height districts to their  
24 pre- HCPU status; and (3) a resolution amending the Framework Element to revise the  
25 monitoring requirement that had been included in the Framework Element when the  
26 HCPU was adopted (“Resolution Amending the General Plan”). The Resolution  
27 Amending the General Plan specifically states that the amendment to the General Plan “is  
28 intended to overrule and supersede the trial court’s interpretation of the General Plan

1 Framework element’s monitoring policies and programs in *Fix the City, Inc. v. City of*  
2 *Los Angeles, et al.*, LASC Case No. BS138580, *La Mirada Neighborhood Association of*  
3 *Hollywood v. City of Los Angeles, et al.*, LASC Case No BS138369, and  
4 *SaveHollywood.Org et al. v. City of Los Angeles, et al.*, LASC Case No. BS138370, and  
5 to reaffirm the Court of Appeal’s interpretation in *Saunders v. City of Los Angeles* (Case  
6 No. B232415).” (See Exhibit A, p. 1-2.) The staff report analyzing these items was not  
7 available on the City’s website until March 10, 2014.

8           16. The Planning Commission recommended approval of all three enactments.  
9 The Planning and Land Use Management Committee held a hearing on March 25, 2014,  
10 and the full City Council approved all three enactments on April 2, 2014.

11           17. Respondents did not conduct additional review under CEQA prior to  
12 adopting these resolutions and the zoning ordinance, relying instead upon a Notice of  
13 Exemption. Respondents relied upon the exemption in Government Code section 65759,  
14 permitting a truncated CEQA review for actions “necessary to bring [a] general plan or  
15 relevant mandatory elements of the plan into compliance with any court order of  
16 judgment . . . .” Respondents additionally contended that its April 2, 2014 enactments  
17 had no potential environmental impact and were thus exempt from CEQA review.

18           18. Petitioner does not challenge Respondents’ decision to rescind the HCPU,  
19 its EIR, and the other associated approvals, nor does Petitioner challenge the zoning  
20 ordinance reinstating the prior zoning. Petitioner concurs with Respondents that these  
21 actions were necessary to effectuate this Court’s Writ of Mandate.

22           19. By this Verified Supplemental Petition for Writ of Mandate, Petitioner  
23 challenges Respondents’ decision to adopt the Resolution Amending the General Plan,  
24 and Respondents’ failure to comply CEQA in adopting the Resolution Amending the  
25 General Plan. The Resolution Amending the General Plan is attached hereto as Exhibit  
26 A.

1                   **VENUE, EXHAUSTION, AND STATUTE OF LIMITATIONS**

2           20.    This Verified Supplemental Petition is properly filed as a response to  
3 Respondents’ Return to the Writ of Mandate. (*City of Carmel-by-the-Sea v. Board of*  
4 *Supervisors* (1982) 137 Cal.App.3d 964, 971.) Because these actions were taken directly  
5 in response to this Court’s Writ of Mandate, it is appropriate for Petitioner to file the  
6 Supplemental Petition in the same docket as the original proceeding. (*Ibid.*)

7           21.    Petitioner Fix the City participated in the approval process leading to the  
8 City Council vote on April 2, 2014, to adopt the Resolution Amending the General Plan.  
9 Fix the City presented written and oral testimony to the Planning Commission, and  
10 further written testimony to the PLUM Committee.

11           22.    This Supplemental Petition is timely filed within 35 days of the April 3,  
12 2014, posting of the Notice of Exemption. (Pub. Resources Code, § 21167, subd. (d).)

13           23.    On May 6, 2014, Petitioner notified Respondents that it intended to file this  
14 Verified Supplemental Petition for Writ of Mandate, as required by Public Resources  
15 Code section 21167.5. A copy of the letter and proof of service is attached as Exhibit B.

16           24.    On May 6, 2014, Petitioner notified the Attorney General of this Verified  
17 Supplemental Petition for Writ of Mandate. A copy of the letter and proof of service is  
18 attached as Exhibit C.

19           25.    Petitioner concurrently files a Notice of Election to Prepare the  
20 Administrative Record.

21                                   **FIRST CAUSE OF ACTION**  
22                                   **Violation of California Environmental Quality Act**  
23                                   **(Public Resources Code, § 21168)**

24           26.    Petitioner incorporates by reference all the allegations contained in the  
25 previous paragraphs as though fully set forth herein.

26           27.    CEQA requires environmental review and analysis prior to the approval of  
27 discretionary projects by local government. The Legislature has declared that CEQA  
28 supports numerous state policies for “the maintenance of a quality environment for the

1 people of this state now and in the future. . . .” (Pub. Resources Code, § 21000, subd.  
2 (a).)

3 28. The basic purposes of CEQA are to inform governmental decision makers  
4 and the public about the potential, significant environmental effects of proposed  
5 activities, identify ways that environmental damage can be avoided or significantly  
6 reduced, prevent such damage by the imposition of mitigation measures or the adoption  
7 of alternative activities that avoid such damage, and disclosure to the public of the  
8 reasons for approving an activity with significant, unmitigable environmental effect.  
9 (CEQA Guidelines, Cal. Code Regs., tit. 14, § 15002(a).)

10 29. CEQA defines “project” as any activity directly undertaken by a public  
11 agency which may cause either a direct physical change or a reasonably foreseeable  
12 indirect change in the environment. (Pub. Resources Code, § 21065.) CEQA applies to  
13 all discretionary projects proposed to be carried out or approved by public agencies.  
14 (Pub. Resources Code, § 20180.)

15 30. CEQA applies when a public agency proposes to “approve” a project. (Pub.  
16 Resources Code, § 21080, subd. (a).) CEQA applies to “discretionary projects.” (Pub.  
17 Resources Code, § 21080, subd. (a); Cal. Code Regs., tit. 14, § 15357.) Projects with  
18 elements both discretionary and ministerial must be treated as discretionary. (Cal. Code  
19 Regs., tit. 14, § 15268(d).)

20 31. Agencies may not undertake actions that could have a significant adverse  
21 effect on the environment, or limit the choice of alternatives or mitigation measures,  
22 before complying with CEQA. (Cal. Code Regs., tit. 14, § 15004(b)(2). The “lead  
23 agency,” which is the public agency which has the principal responsibility for carrying  
24 out the project, is responsible for determining, in consultation with other relevant state  
25 agencies, whether an environmental impact report, a negative declaration, or a mitigated  
26 negative declaration will be prepared for a project. (Pub. Resources Code, §§ 21067;  
27 21080.1, subd. (a); 21080.3, subd. (a).)



1           32.     The CEQA Guidelines, codified in title 14 of the California Code of  
2 Regulations, set forth the procedure that a lead agency must follow when it commences  
3 consideration of a project. If an agency determines that a discretionary activity may  
4 result in a reasonably foreseeable direct or indirect physical change to the environment, it  
5 must begin CEQA review by considering whether a project is exempt pursuant to a  
6 categorical or statutory exemption. (Cal. Code Regs., tit. 14, § 15061.) If an agency  
7 determines that a project is exempt, it must file a Notice of Exemption setting forth for  
8 the public the basis of a claimed exemption. (Cal. Code Regs., tit. 14, § 15062.) If a  
9 project is not found to be exempt, the agency may prepare an Initial Study to determine if  
10 the project may have a significant effect on the environment. (Cal. Code Regs., tit. 14, §  
11 15063.) If there is substantial evidence that any aspect of a project may cause a  
12 significant effect on the environment, the agency must prepare an EIR analyzing the  
13 potential impacts, individually and cumulatively, of the project on the environment.

14           33.     Government Code section 65759 sets forth a specific CEQA exemption for  
15 “any action *necessary* to bring its general plan or relevant mandatory elements of the plan  
16 into compliance with any court order or judgment . . . .” (*Id.*, subd. (a) (emphasis  
17 added).) The statute requires that the local agency prepare an initial study to determine  
18 “the environmental effects of the proposed action necessary to comply with the court  
19 order.” (*Id.*, subd. (a)(1).) If the initial study shows that the action may have a  
20 significant effect on the environment, the local agency must prepare “an environmental  
21 assessment, the content of which substantially conforms to the required content for a draft  
22 environmental impact report” as set forth in the CEQA Guidelines. (*Id.*, subd. (a)(2).)

23           34.     Respondents purported to rely upon Government Code section 65759 as a  
24 basis for the Notice of Exemption. While the rescission of the HPCU and its EIR, and  
25 the reversion to the prior zoning, were necessary to comply with the Court’s Writ of  
26 Mandate, the Resolution Amending the General Plan was not.

27           35.     Respondents expressly relied upon Government Code section 65759 as the  
28 basis for exempting the Resolution Amending the General Plan from CEQA review.

1 Additionally, Respondents contended that if the Resolution Amending the General Plan  
2 were not subject to Government Code section 65759, the action would not be a “project”  
3 under CEQA Guidelines section 15378 because the action would not result in any direct  
4 or indirect change to the environment as it supposedly would not change the City’s  
5 current practices.

6 36. In relying on an exemption from CEQA, Respondents ignored evidence  
7 that the Resolution Amending the General Plan will have an impact on the environment.

8 37. The Resolution Amending the General Plan eliminates a required  
9 mitigation measure adopted when the City certified the EIR for the Framework Element.  
10 The Framework Element’s EIR relies in numerous instances on the use of monitoring  
11 programs to mitigate the stated impacts of full development under the Framework  
12 Element. The City promised in response to comments on the Framework Element that  
13 the EIR proposed “a substantial monitoring program,” in which “all facets of the  
14 Frameworks’ mitigation plan will be monitored carefully.” The EIR reflects this  
15 assertion by relying significantly on monitoring programs as mitigation for impacts of the  
16 Framework Element.

17 38. Both Fire/Emergency Medical Services and Police Services analyzed in the  
18 EIR rely upon the monitoring programs to mitigate the impacts of the Framework  
19 Element. The Framework EIR’s discussion of Fire/Emergency Medical Services  
20 explains that implementation of the Framework Element will have a significant impact  
21 citywide, as well as in 31 of the 36 community planning areas. However, the EIR  
22 concludes that mitigation measures required by the Framework Element’s policies will  
23 mitigate the impacts to fire services.

24 39. Specifically, the EIR notes that Policy 3.3.2, which is amended in the  
25 Resolution Amending the General Plan:

26 “directs monitoring of infrastructure and public service capacities to  
27 determine need within each CPA for improvements . . . . This policy also  
28 directs determinations of the level of growth that should correlate with the  
level of capital, facility, or service improvement that are necessary to

1 accommodate that level of growth. In addition, the policy directs the  
2 establishment of programs for infrastructure and public service  
3 improvements to accommodate development in areas the General Plan  
4 Framework targets for growth. Lastly, the policy requires that type,  
5 amount, and location of development be correlated with the provision of  
6 adequate supporting infrastructure and services.”

7 40. The EIR specifically relies on this mitigation measure to “lessen impacts”  
8 to Fire and Emergency Medical Services. The EIR also notes that, given the uncertainty  
9 in funding for fire services, Policy 3.3.2’s monitoring of the type and location of  
10 development could “minimize” the “negative fiscal effects of the Framework Plan.” In  
11 the EIR, section titled “Mitigation Through Framework Policy,” the EIR concludes that  
12 “full implementation” of the policies contained in the Framework Element would  
13 mitigate impacts to a less-than-significant level. Framework Element Policy 3.3.2 and  
14 its monitoring requirements are therefore a required mitigation measure to ensure that  
15 Fire and Emergency Medical Services are not negatively impacted by the growth in  
16 population and commercial development permitted by the Framework Element.

17 41. Similarly, the Framework EIR’s analysis of Police Services shows a likely  
18 significant impact to police services with a shortfall of near 9,000 sworn officers  
19 required to serve the projected increased population. The Framework EIR lists Policy  
20 3.3.2 as a mitigation measure with a statement identical to that quoted above for Fire and  
21 Emergency Medical Services. The Police Services analysis also includes the statement  
22 that Policy 3.3.2 will minimize the negative fiscal effect to police services. The EIR  
23 concludes that reliance on the policies in the Framework Element will reduce impacts to  
24 a level below significance.

25 42. The above are only two examples of specific instances where the  
26 Framework Element’s EIR relied upon monitoring as a mitigation measure for the  
27 impacts of the Framework Element. These mitigation measures are *required* under  
28 CEQA. The Framework Element’s Final EIR explained that “in the event that budget  
limitations or other factors prevent their full implementation, the failure to effectuate the

1 policy and corresponding implementation program(s) may represent a significant  
2 impact. The proposed project establishes a potential mechanism for ‘regulating the type,  
3 location, and/or timing of development, when ... additional infrastructure and services  
4 have been provided and there remains inadequate public infrastructure or service to  
5 support land use development (Policy 3.3.2 [d])’ to respond to such impacts.”

6 43. Respondents themselves acknowledged the “crucial” aspect of the policy  
7 in trial court briefing during litigation over the General Plan Framework Element  
8 (*Federation of Hillsides and Canyon Associations v. City of Los Angeles* (LASC Case  
9 No. BS0429964, published after appeal at (2000) 83 Cal.App.4<sup>th</sup> 1252.) Respondents’  
10 brief then stated: “A crucial feature of dealing with growth impacts was contained in [the  
11 General Plan Framework]– its program for timing allowable development with available  
12 infrastructure and frequent updating of its data along with a formal monitoring program.  
13 For this reason, the city concluded that the [Framework Element] was the  
14 environmentally desirable alternative, because it had the best combination of land use  
15 policies tied to mitigation measures tied to annual reporting and selective amendments  
16 of community plans only when consistent with the [Framework Element] policies.”

17 44. The Resolution Amending the General Plan makes discretionary the  
18 mitigation measures that were previously mandatory, and indeed, considered “crucial,”  
19 in order to avoid the significant impacts of development under the Framework Element,  
20 and does so without any analysis of the potential environmental impacts of that action.

21 45. Moreover, the Resolution Amending the General Plan creates *additional*  
22 inconsistency between the Framework Element, the various community plans that  
23 comprise the Land Use Element, and other elements of the General Plan. Rather than  
24 addressing the inconsistency identified in the Statement of Decision, the Resolution  
25 Amending the General Plan compounds it. The conflict among the various plan  
26 elements is an environmental impact under CEQA.

27 46. Numerous community plans adopted since 1996 contain mandatory  
28 monitoring and reporting policies. As an example, the West Los Angeles Community

1 Plan (1999) contains the following: “The Framework Element of the General Plan  
2 commits the Department of City Planning to develop a monitoring system and prepare  
3 an annual report on growth and infrastructure, to be submitted to the City Planning  
4 Commission, the Mayor and City Council.” Under “Plan Monitoring,” the West Los  
5 Angeles Community Plan states: “[I]f this monitoring finds that population in the Plan  
6 area is occurring faster than projected; and, that infrastructure resource capacities are  
7 threatened, particularly critical ones such as water and sewerage; and, that there is not a  
8 clear commitment to at least begin the necessary improvements within twelve months;  
9 then building controls should be put into effect, for all or portions of the West Los  
10 Angeles Community, until land use designations for the Community Plan and  
11 corresponding zoning are revised to limit development.”

12 47. The Northeast Los Angeles Community Plan (1999) contains similar  
13 language. This is because “the [Northeast Los Angeles Community] Plan has a land use  
14 capacity greater than the development likely to occur during the Plan period, and thus  
15 does not directly protect the Plan Area against the prospect that population might exceed  
16 the capacities and resources of infrastructure facilities and services, or of the local  
17 employment base.”

18 48. The Brentwood-Pacific Palisades Community Plan Update (1998) states:  
19 “The Plan has a land use capacity greater than the projected development likely to occur  
20 during the Plan period. During the life of the Plan, growth will be monitored and  
21 reported in the City’s Annual Report on Growth and Infrastructure which will be  
22 submitted to the City Planning Commission, City Mayor, and City Council. In the fifth  
23 year following Plan adoption (and every five years thereafter), the Director shall report  
24 to the Commission on the relationship between population, employment, and housing  
25 growth and plan capacities. If growth has occurred faster than projected a revised  
26 environmental analysis will be prepared and appropriate changes recommended to the  
27 Community Plan and zoning. These Plan and zoning changes shall be submitted to the  
28

1 Planning Commission, Mayor, and City Council as specified in the Los Angeles  
2 Municipal Code (LAMC).”

3 49. The Palms-Mar Vista Community Plan (1997) has plan monitoring  
4 language identical or similar to the Brentwood-Pacific Palisades Community Plan, as  
5 does the Westwood Community Plan (1999), Van Nuys-North Sherman Oaks  
6 Community Plan (1998), the Sunland-Tujunga-Lake View Terrace Shadow Hills-East  
7 La Tuna Canyon Community Plan (1997); and the West Adams-Baldwin Hills-Leimert  
8 Community Plan Update (1998). The recently enacted Housing Element also relies  
9 upon monitoring and reporting.

10 50. The Resolution Amending the General Plan transforms a mandatory policy  
11 (Policy 3.3.2) into a discretionary one. Although Respondents contended that they were  
12 changing nothing in their practices, and thus that the enactment could have no  
13 environmental impact, the change in status is meaningful and potentially impactful,  
14 because the monitoring programs affected by this enactment are mandatory mitigation  
15 measures and are required in numerous plans Citywide. Respondents inappropriately  
16 concluded that the policy change had no potential for environmental impact and failed to  
17 conduct necessary CEQA review.

18 51. By improperly relying upon a CEQA exemption premised on compliance  
19 with a court order, and coupling the Resolution Amending the General Plan with the  
20 other measures that actually were necessary to comply with the Writ of Mandate,  
21 Respondents have tried to shoehorn a weakening of the Framework Element’s mitigation  
22 measures into an inappropriate exemption to minimize the opportunity for public review  
23 and comment. The entire approval process for the Resolution Amending the General  
24 Plan was conducted in less than a month. The first notification to the public of the  
25 City’s intentions, a Planning Commission agenda item announced on March 6, 2014.  
26 The staff report was not released on the internet until March 10, 2014, just three days  
27 prior to the Planning Commission hearing. The subsequent hearings were scheduled as  
28

1 quickly as logistically possible. The process minimized the opportunity for public  
2 review and consideration.

3 52. The Resolution Amending the General Plan is not responsive to this  
4 Court's Writ of Mandate, and Respondents should not be permitted to rely upon a  
5 CEQA-exemption predicated upon the need to comply with a court order in order to take  
6 advantage of an otherwise inapplicable CEQA exemption

7  
8 **SECOND CAUSE OF ACTION**  
9 **Failure to Comply with Writ of Mandate**  
10 **(Code of Civil Procedure § 1097)**

11 53. Petitioner incorporates by reference all the allegations contained in the  
12 previous paragraphs as though fully set forth herein.

13 54. The Resolution Amending the General Plan is not a proper response to the  
14 Writ of Mandate. While the rescission of the HCPU, its EIR, and other associated  
15 approvals was a necessary response to comply with the Court's Writ of Mandate, the  
16 Resolution Amending the General Plan did not comply with any aspect of the Court's  
17 Writ of Mandate. Indeed, the Resolution Amending the General Plan was expressly  
18 intended to "overrule and supersede" the Court's Statement of Decision.

19 55. Respondents have overstepped their bounds. The California Constitution  
20 ascribes distinct roles to the legislative body and to the judiciary. While a legislative  
21 body may respond to judicial interpretations of the law, it may not do so in an attempt to  
22 overrule a final judgment. The Resolution Amending the General Plan is a violation of  
23 the separation of powers.

24 56. The Resolution Amending the General Plan does not cure the  
25 inconsistency this Court identified between the HCPU and the Framework Element. It is  
26 not simply the presence or absence of a monitoring requirement, but rather the HCPU's  
27 explicit statement that further monitoring of growth and development is not necessary  
28 that rendered the Framework Element and the HCPU inconsistent. The Resolution

1 Amending the General Plan does not respond to this inconsistency but rather creates  
2 additional inconsistency across a wider range of General Plan elements.

3 **THIRD CAUSE OF ACTION**  
4 **General Plan Inconsistency**  
5 **(Government Code, § 65300.5; Los Angeles City Charter, §§ 556 & 558)**

6 57. Petitioner incorporates by reference all the allegations contained in the  
7 previous paragraphs as though fully set forth herein.

8 58. As set forth above, the Resolution Amending the General Plan does not  
9 eliminate inconsistency in the General Plan. Rescinding the HCPU was sufficient to  
10 eliminate any inconsistency between that document and the Framework Element. The  
11 Resolution Amending the General Plan *increases* inconsistency between the General  
12 Plan's elements.

13 59. State law and the Los Angeles City Charter require that the various  
14 elements of the General Plan be consistent with each other. (Los Angeles City Charter, §  
15 556 [land use actions must be “in substantial conformance with the purposes, intent, and  
16 provisions of the General Plan.”]; Govt Code, § 65300.5.)

17 60. The Resolution Amending the General Plan introduces inconsistency into the  
18 existing General Plan, by adding language that differs from that required in the various  
19 Community Plans. While the Community Plans mandate monitoring on a regular basis, the  
20 Resolution Amending the General Plan states that the monitoring programs are discretionary.  
21 There is an obvious inconsistency between these elements.

22 61. “The Framework Element neither overrides nor supersedes the Community  
23 Plans.” (Westwood Community Plan) In light of the status of the Framework Element  
24 and the various Community Plans, the Resolution Amending the General Plan  
25 introduces discord and reduces clarity. This type of inconsistency is paradigmatic of the  
26 problems that the consistency doctrine seeks to avoid. The Resolution Amending the  
27 General Plan must be rescinded and the General Plan restored to its prior locution to  
28 remove the inconsistency created by this hasty amendment.



**FOURTH CAUSE OF ACTION  
Declaratory Relief  
(Code of Civil Procedure, § 1060)**

62. Petitioner incorporates all of the allegations contained in the previous paragraph as though fully set forth herein.

63. An actual controversy has arisen and now exists between Petitioner and Respondents concerning the Resolution Amending the General Plan. Petitioner contends that the Resolution Amending the General Plan creates inconsistency with the various elements of the General Plan, and that reliance upon a Notice of Exemption from CEQA was improper in adopting the Resolution Amending the General Plan. Respondents' actions demonstrate that the Respondents believe both that the Resolution Amending the General Plan does not create inconsistency with the existing General Plan elements, and that a Notice of Exemption was appropriate under CEQA.

64. Petitioner seeks a declaration from this Court that Respondents' reliance upon a CEQA exemption for the Resolution Amending the General Plan was improper, and that the Resolution Amending the General Plan is inconsistent with the General Plan's various elements. Such a declaration would assist the parties in resolving a controversy over the Framework Element's monitoring programs that has been presented to this Court on several occasions.

**FIFTH CAUSE OF ACTION  
Injunctive Relief  
(Code of Civil Procedure, § 526)**

65. Petitioner incorporates all the allegations set forth in the preceding paragraphs as though fully set forth herein.

66. Respondents' actions in adopting the Resolution Amending the General Plan has caused and threatens to cause Petitioner and the public irreparable and substantial harm.

67. Petitioner has no plain, speedy, and adequate remedy at law, in that unless this Court enjoins Respondents, it will amend the General Plan Framework Element

1 without conducting the required review under CEQA, and in a manner that is  
2 inconsistent with the General Plan's elements. No amount of monetary damages or  
3 other legal remedy can adequately compensate Petitioner for the irreparable harm that  
4 Petitioner, its members, and the residents of the City of Los Angeles will suffer from the  
5 violations of law described herein.

6 **PRAAYER FOR RELIEF**

7 WHEREFORE, Petitioner prays for relief as follows:

8 1. That this Court issue a new Writ of Mandate compelling Respondents to  
9 rescind the Resolution Amending the General Plan;

10 2. That this Court order Respondents to "reconsider further" Respondents'  
11 initial return to the Writ of Mandate;

12 3. That this Court issue an order that the Notice of Exemption was improper  
13 and a violation of CEQA as it pertains to the Resolution Amending the General Plan,  
14 and that the Resolution Amending the General Plan is inconsistent with other mandatory  
15 elements of the City of Los Angeles' General Plan;

16 4. That this Court issue a temporary restraining order, preliminary injunction,  
17 administrative stay, and permanent injunction enjoining Respondents from taking any  
18 action in reliance on the Resolution Amending the General Plan;

19 5. That this Court award Petitioner attorneys' fees and costs.

20 6. That this Court grant Petitioner such other, different, or further relief as the  
21 Court may deem just and proper.


22 Dated: May 6, 2014

23 Respectfully submitted,

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25 Fredric D. Woocher

26 Beverly Grossman Palmer

27   
28 Beverly Grossman Palmer

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