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**ALSO Admitted in Texas

October 21, 2020

VIA ELECTRONIC MAIL

City of Los Angeles
200 N. Spring Street
Los Angeles, CA 90012
ira.brown@lacity.org

Re: Public Notice Error; 2102 - 2120 S. Pacific Avenue, 116 - 302 E. North Venice Boulevard, 2106 - 2116 S. Canal Street, and 319 E. South Venice Boulevard; VTT-82288; CPC-2018-7344-GPAJ-VZCJ-HD-SP-SPP-CDP-MEL-WDI-SPR-PHP; ENV-2018-6667-SE

Dear Ira:

This firm represents Venice Vision with regard to the above referenced project. My client contends that the City has failed to give the constitutional required hearing notice for the Advisory Agency hearing scheduled for October 22, 2020 at 10:00 am. The City has not sent the notice to all persons with reserved mineral rights on the project site.

The City is constitutionally required to give notice and a right to be heard before taking action adverse to persons with protected property interests. In this case, numerous lots that would compose the Project site have been deeded with an express reservation of mineral rights. The current land use designation of open space and use as a parking lot does not impair the prior owners' deed reservation of mineral rights. The record is devoid of evidence that the underlying mineral rights owners have been given mailed notice of the advisory agency hearing. They would be constitutionally entitled to notice unless their mineral extraction rights were terminated pursuant to the lawful process, or if they recorded their interests and they have not otherwise expired. This Project proposes to erect structures that would make it impossible for the mineral rights owners to obtain the benefit of their reservation of mineral extraction rights.

Presumably the City issued the hearing notice under authority of Government Code Section 66474.64 that states:

“In cities having a population of more than 2,800,000, if the legislative body authorizes the advisory agency to report its action directly to the

subdivider, the advisory agency shall, prior to making its report to the subdivider upon a subdivision as defined in this chapter, give notice of hearing in such manner as may be prescribed by local ordinance to the subdivider and to all property owners within 300 feet of the proposed subdivision and pursuant thereto shall conduct a public hearing at which time all persons interested in or affected by such proposed subdivision shall be heard.”

This statutory notice, written specially for the City of Los Angeles, and its implementing municipal code provision, LAMC section 17.06(A)(1), is unconstitutional as applied in this case in its failure to require due process of law notice and hearing for persons with recorded mineral interests in the Project site.

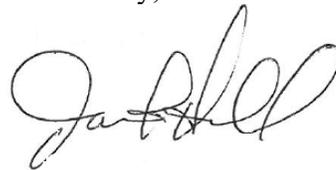
The State Planning Code expressly recognizes the right of constitutional notice to mineral rights holders whose interests are recorded in accordance with law. The notice required if the land lies in a jurisdiction subject to the general notice provisions of the Subdivision Map Act (other than Los Angeles) is provided in Government Code section 66451.3. It provides notice of hearing is required under Government Code section 65090 and 65091. Under section 65091(a)(2), “[w]hen the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7) requires notice of a public hearing to be given pursuant to this section, **notice shall also be given to any owner of a mineral right pertaining to the subject real property who has recorded a notice of intent to preserve the mineral right** pursuant to Section 883.230 of the Civil Code.” (Emphasis added.)

Other than neglectful drafting of the provisions of the Subdivision Map Act applicable to Los Angeles, there is no rational basis for state law to guarantee mailed notice to mineral rights owners in every jurisdiction except Los Angeles. The failure of state law to also require constitutional due process to mineral rights holders while guaranteeing it in all other jurisdictions is both a violation of equal protection of the law, and a violation of due process right to notice.

Since the record fails to show whether the Applicant or City has determined if persons who reserved mineral rights in the deeds for Project’s site have ongoing enforceable mineral rights, and therefore a constitutional right to actual notice of the Advisory Agency hearing, there is no basis to proceed with the Advisory Agency hearing until such time that underlying mineral rights have been determined, and all persons entitled to notice have been notified.

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

Sincerely,

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

Jamie T. Hall