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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

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JUL 18 2012

By: [Signature] Executive Officer/Clerk
BY: [Signature] Deputy
Mary Flores

Attorneys for Petitioner
LA MIRADA AVENUE NEIGHBORHOOD
ASSOCIATION OF HOLLYWOOD

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

BS138369

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

LA MIRADA AVENUE
NEIGHBORHOOD ASSOCIATION OF
HOLLYWOOD, a California
unincorporated association,

Petitioner,

vs.

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

Respondents.

Case No. _____

**VERIFIED PETITION
FOR WRIT OF MANDATE**

[California Environmental Quality Act,
("CEQA") Public Resources Code Section
21000, *et seq.*; Los Angeles City Charter]

1 Petitioner La Mirada Avenue Neighborhood Association of Hollywood (hereinafter
2 “Petitioner”) alleges as follows:

3 **INTRODUCTION**

4 1. This action challenges the decisions by Respondents City of Los Angeles
5 and City Council of the City of Los Angeles (collectively hereinafter the “City”) in
6 connection with approvals for a project known as the Hollywood Community Plan Update
7 (“HCP Update”).

8 2. The HCP Update consists of substantial and significant amendments to the
9 policies of the Hollywood Community Plan, including amendments to maps and text with
10 associated zone changes and height district changes. It also includes related amendments
11 to the Transportation Element of the City’s General Plan and General Plan Framework
12 Element.

13 3. The HCP Update area covers 25 square miles, extending roughly south of
14 the cities of Burbank and Glendale and the Ventura Freeway, west of the Golden State
15 Freeway, north of Melrose Avenue and east of Mulholland Drive and the cities of Beverly
16 Hills, including a strip of land south of the city of West Hollywood and north of
17 Rosewood Avenue between La Cienega Boulevard and La Brea Avenue.

18 4. Petitioner challenges the City’s actions in certifying an Environmental
19 Impact Report (“EIR”) for the HCP Update, including a finding of consistency with the
20 City’s General Plan, which occurred on or about June 19, 2012.

21 5. Petitioner alleges that the City’s actions violate provisions of the California
22 Environmental Quality Act (“CEQA”) and the Los Angeles City Charter. Petitioner seeks
23 a writ of mandate, *inter alia*, invalidating and setting aside the City’s above-described
24 approvals.

25 **PARTIES**

26 6. Petitioner La Mirada Avenue Neighborhood Association of Hollywood is a
27 California unincorporated community association. Its members include residents and
28

1 residential property owners in the City of Los Angeles who advocate for residential
2 quality of life in Hollywood.

3 7. Petitioner is informed and believes, and based thereon alleges, that
4 Respondent of the City of Los Angeles is a charter city organized and existing under the
5 Constitution and laws of the State of California.

6 8. Petitioner is informed and believes, and based thereon alleges, that
7 Respondent City Council of the City of Los Angeles is the elected governing body of the
8 City, and is the body responsible for promulgating municipal ordinances, resolutions and
9 policies. The City Council is the lead agency responsible under CEQA for evaluating the
10 environmental impacts of the HCP Update.

11 9. Petitioner is ignorant of the true names of respondents sued herein as DOES
12 1 through 20, inclusive, and therefore sues said respondents by those fictitious names.
13 Petitioner will amend this Petition to allege their true names and capacities when the same
14 have been ascertained. Petitioner is informed and believes, and based thereon alleges, that
15 each of these fictitiously named respondents is in some manner responsible for the
16 wrongful conduct alleged in this petition. Petitioner is informed and believes, and based
17 thereon alleges, that these fictitiously named respondents were, at all times mentioned in
18 this petition, the agents, servants, and employees of their co-respondents and were acting
19 within their authority as such with the consent and permission of their co-respondents.

20 10. Petitioner has a substantial interest in ensuring that the City's decisions are
21 in conformity with the requirements of law and in having those requirements properly
22 executed. Petitioner will be adversely affected by impacts resulting from the City's
23 actions as described herein. Petitioner is suing on its behalf and on behalf of all others
24 who will be affected in the Hollywood area, as well as all citizens of the City of Los
25 Angeles.

26 GENERAL ALLEGATIONS

27 11. On or about April 28, 2005, the City caused an Initial Study and Notice of
28 Preparation ("NOP") for the HCP Update to be circulated.

1 12. On or about March 3, 2011, the City caused a Draft Environmental Impact
2 Report (“EIR”) to be prepared and circulated.

3 13. On or about June 1, 2011, Petitioner submitted written comments on the
4 Draft EIR.

5 14. On or about November 7 and November 10, 2011, a Hearing Officer, as a
6 representative of the City Planning Commission, held public hearings on the proposed
7 HCP Update.

8 15. On or about November 9, 2011, Petitioner submitted further written
9 comments on the HCP Update to the City.

10 16. On or about December 6, 2011, Petitioner submitted further written
11 comments on the HCP Update to the City.

12 17. On or about December 8, 2011, the City Planning Commission (“CPC”) of
13 the City recommended approval of the HCP Update, including recommendation of
14 approval of the EIR.

15 18. On or about March 26, 2012, Petitioner provided further written and oral
16 comments to the Planning, Land Use and Management Committee (“PLUM”) of
17 Respondent City Council.

18 19. After PLUM continued its public hearing of March 27, 2012 on the HCP
19 Update, Petitioner submitted further written comments on the HCP Update to the City on
20 or about April 17, 2012.

21 20. After PLUM further continued its public hearing on the HCP Update,
22 Petitioner submitted further written comments on the HCP Update to the City on or about
23 May 4, 2012.

24 21. PLUM sent the matter to the full City Council without a recommendation of
25 approval on or about May 8, 2012.

26 22. On or about May 29, 2012 and June 17, 2012, Petitioners submitted further
27 written comments on the HCP Update to the City.

28 23. Respondent City Council heard the matter on or about June 19, 2012, at

1 which time Petitioner submitted further written and oral comments to the City. After
2 hearing the matter, Respondent City Council certified an EIR, made findings of
3 consistency with the General Plan of the City of Los Angeles, adopted a statement of
4 overriding considerations, and approved the HCP Update.

5 24. A Notice of Determination to carry out the HCP Update was filed on or
6 after June 21, 2012.

7 25. Petitioner and other interested groups and individuals made oral and written
8 comments in opposition to the HCP Update and HCP Update EIR. Petitioner has
9 exhausted all administrative remedies.

10 26. Petitioner has performed all conditions imposed by law precedent to filing
11 this action, including complying with the requirement of Public Resources Code Section
12 21167.5 by mailing notice to the City that this action would be filed.

13 27. Petitioner will also serve a copy of this Petition on the California Attorney
14 General as required by law.

15 28. Petitioner has no plain, speedy or adequate remedy available in the ordinary
16 course of law to redress the claims alleged in this Petition. Petitioner and the public
17 generally will suffer irreparable harm if the City is not required to comply with CEQA
18 and to vacate and set aside the above-described approvals and EIR related to the HCP
19 Update.

20 **FIRST CAUSE OF ACTION**

21 **(Violation Of CEQA And CEQA Guidelines; EIR Does Not Comply With CEQA)**

22 29. Petitioner realleges and incorporates herein by reference the allegations of
23 Paragraphs 1 through 28, inclusive, of this Petition.

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

1 31. The City's action in certifying the EIR for the HCP Update is a prejudicial
2 abuse of discretion in that the City failed to proceed in the manner required by law and
3 failed to support its decision by substantial evidence. Among other things, the City:

4 a. Failed to adequately disclose or analyze the HCP Update's
5 environmental setting and baseline;

6 b. Failed to adequately disclose or analyze the Project's significant
7 impacts on the environment, including but not limited to the Project's impacts with
8 respect to aesthetics, air quality, land use and planning, transportation and traffic, public
9 utilities and services, and public safety;

10 c. Failed to adequately disclose or analyze cumulative impacts;

11 d. Improperly deferred impact analysis and mitigation measures;

12 e. Failed to adequately mitigate Project impacts;

13 f. Failed to consider a reasonable range of alternatives;

14 g. Failed to recirculate the EIR after the addition of significant new
15 information to the EIR after public notice was given of the availability of the Draft EIR
16 for public review, but prior to certification.

17 32. CEQA requires every lead agency to provide a good faith, reasoned analysis
18 in response to comments received on an EIR, to address recommendations and objections
19 in detail, and to explain why specific comments and suggestions, especially those of
20 experts, were not accepted. The EIR fails to respond adequately to comments on the EIR,
21 including comments from Petitioner's experts, and including but not limited to comments
22 regarding the HCP Update's failure to meet project objectives, environmental setting and
23 baseline, air quality, transportation, public safety, cumulative impacts, and the failure to
24 disclose or analyze a reasonable range of alternatives.

25 33. As a result of the City's violations of CEQA, Petitioner has been harmed in
26 that Petitioner and other members of the public were not fully informed about the
27 significant environmental impacts of the HCP Update prior to the City's approval of the
28 HCP Update and certification of the HCP Update EIR.

1 34. Petitioner as well as members of the general public will suffer irreparable
2 harm if the relief requested herein is not granted and the HCP Update is implemented in
3 the absence of a full and adequate EIR and absent compliance with all other applicable
4 provisions of CEQA and other laws.

5 **SECOND CAUSE OF ACTION**

6 **(Violations Of CEQA And CEQA Guidelines; Inadequate Findings)**

7 35. Petitioner realleges and incorporates herein by reference the allegations of
8 Paragraphs 1 through 34, inclusive, of this Petition.

9 36. CEQA requires that a lead agency's findings for the approval of a project be
10 supported by substantial evidence in the administrative record. CEQA further requires
11 that a lead agency provide an explanation of how evidence in the record supports the
12 conclusions it has reached.

13 37. The City violated CEQA by adopting findings that are inadequate as a
14 matter of law in that they are not supported by substantial evidence in the record,
15 including, but not limited to, the following:

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

19 b. The determination that alternatives to the Project and proposed
20 mitigation measures that would have avoided or lessened the significant impacts of the
21 Project were infeasible;

22 c. The determination that overriding economic, legal, social,
23 technological, or other benefits of the Project outweighed its significant impacts on the
24 environment.

25 38. As a result of the foregoing defects, the City prejudicially abused its
26 discretion by adopting findings that do not comply with the requirements of CEQA and
27 approving the HCP Update in reliance thereon. Accordingly, the City's certification of
28 the EIR and approval of the HCP Update must be set aside.

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THIRD CAUSE OF ACTION

**(Violation of Los Angeles City Charter;
Approval Not Consistent With General Plan)**

39. Petitioner realleges and incorporates herein by reference the allegations of Paragraphs 1 through 38, inclusive, of this Petition.

40. Pursuant to the Los Angeles City Charter and State law, the City is required to have a General Plan that is a comprehensive declaration of goals, objectives, policies and programs for the development of the City. A general plan is often called a “constitution” for future development to which all other land use decisions must conform.

41. In acting to approve a project such as the HCP Update, the Los Angeles City Charter, including but not limited to Sections 556 and 558, requires the City to make findings showing that the action is in substantial conformance with the purposes, intent and provisions of the General Plan.

42. The City’s action in approving the HCP Update constitutes a prejudicial abuse of discretion in that the City failed to make adequate findings of HCP Update consistency with the General Plan as required by the Los Angeles City Charter, including but not limited to:

- a. Findings of consistency with the Framework Element of the General Plan; and,
- b. Findings that there are changes in local growth conditions from the time of prior adoption of the Hollywood Community Plan that warrant changes to General Plan land use designations.

43. As a result of the foregoing defects, the City prejudicially abused its discretion by failing to adopt proper and adequate findings of HCP Update consistency with the General Plan. Accordingly, the City’s approval of the HCP Update must be set aside.

PRAYER FOR RELIEF

1
2 1. WHEREFORE, Petitioner prays entry of judgment as follows:

3 2. For a peremptory writ of mandate directing Respondents City and City
4 Council to vacate and set aside the actions approving the HCP Update and the HCP
5 Update EIR, and all related approvals, including the City's findings of consistency with
6 the General Plan.

7 3. That this Court issue a writ of mandate suspending the authority of
8 Respondents City and City Council, their officers, employees, agents, boards,
9 commissions and other subdivisions, to grant any authority, permits or entitlements as part
10 of the HCP Update until a valid and adequate EIR is prepared, circulated, and certified as
11 complete, consistent with CEQA, the CEQA Guidelines, and all other applicable laws,
12 and until legally adequate findings of consistency are made as required pursuant to the
13 Los Angeles City Charter and all other applicable laws.

14 4. That this Court issue a temporary restraining order and a permanent
15 injunction enjoining Respondents City and City Council, their officers, employees, agents,
16 boards, commissions and other subdivisions, from undertaking or approving any activities
17 or construction pursuant to the City's approvals as described herein, prior to the City's full
18 compliance with CEQA, the Los Angeles City Charter and all other applicable laws.

19 5. That the Court enjoin any activities or construction pursuant to the City's
20 approval of the HCP Update and/or HCP Update EIR and related approvals.

21 6. For attorney fees, including pursuant to Code of Civil Procedure Section
22 1021.5.

23 7. For costs of suit; and

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

Date: July 16, 2012

THE SILVERSTEIN LAW FIRM, APC

By: 

ROBERT P. SILVERSTEIN
Attorneys for Petitioner LA MIRADA
AVENUE NEIGHBORHOOD
ASSOCIATION OF HOLLYWOOD


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VERIFICATION

I, Doug Haines, declare:

I am an officer of the La Mirada Avenue Neighborhood Association of Hollywood, Petitioner in this action. I am authorized to make this verification on behalf of Petitioner. I have read the foregoing Petition for Writ of Mandate 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 Los Angeles, California on the 16 day of July, 2012.


DOUG HAINES

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