



● McQUISTON ASSOCIATES

6212 Yucca St, Los Angeles, CA 90028-5223

(323) 464-6792 FAX same

consultants to technical management

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CF10-1832

ITEM 2, PLUM 4/12/11

M. Espinosa

**STATEMENT of J.H. McQUISTON on CD10-CD5 MOTION to
VIRTUALLY-DESTROY CITY'S RESIDENTIAL-ZONING**

Honorable Chairman and Members of the Committee:

In *Philip Anaya v City of Los Angeles*, BS 099892 (2006) *entering Mandamus per Topanga Assn v County of Los Angeles* (11 C3d 506(en banc)), the City of Los Angeles without appeal consented to the Anaya Court's order not to violate nor repeat any violation of the law regarding property-zoning restrictions:

"* * * [N]or shall private property be taken for public use, without just compensation." U.S. Const. Art V.

"'Variance' [defined legally] is a departure from current zoning." Black's Law Dictionary.

"A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulations governing the parcel or property." §65906, Calif. Government Code.

"[S]ection 831 of the Civil Code provides: "An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown." * * * [S]ection 1112 of the Civil Code provides: "A transfer of land, bounded by a highway, passes the title of the person whose estate is transferred to the soil of the highway in front to the center thereof, unless a different intent appears from the grant." * * * A dedication is legally equivalent to the granting of an easement." *Jones v Deeter*, 152 Cal App 3rd (2 Dist 1984).

The Easement-form granting street-dedication to the City of Los Angeles merely grants the right to pass-over and doesn't grant the right to use the property in the easement for any other purpose, such as establishing a commercial use such as a produce or other market on an R-zoned property.

The City may not grant another non-property-owner the right to use its easement for a use not specifically authorized in the City's zoning code. The City also may not grant someone the use of another owner's property, without the Amendment-V-mandated payment to the property-owner.

The City may not subdivide another's property, to appropriate the City's easement, without just compensation per Amendment V to the owner of the easement-property.

CD5 in this Committee heretofore accused the owner of a world-renowned residential-property of criminal intent because the owner maintained at his residential-property a genetically-significant preserve of the species *camellia*. The result of CD5's attack was forced-sale and destruction of this unique biologically-important preserve and its plants' extinction, with substantial economic loss to the world and to the property-owner.

CONCLUSION

The Motion must be declared in contempt, unfeasible, dangerous, fiscally- and legally-irresponsible.

Respectfully submitted,