

ITEM 2, PLUM  
CF 10-1832

(2)

Date: 4/12/11  
Submitted in PLUM Committee  
Council File No: 10-1832  
Item No.: 2  
Deputy: PUBLIC

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

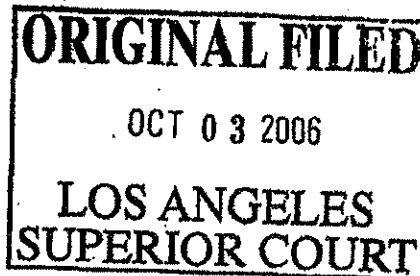
DATE: 09/06/06		DEPT. 86	
HONORABLE DAVID P. YAFFE	JUDGE	S. BARRETT	DEPUTY CLERK
HONORABLE #2	JUDGE PRO TEM	H. KWON, COURTROOM ASST.	ELECTRONIC RECORDING MONITOR
NONE	Deputy Sheriff	DARYL CASE, CSR #8739	Reporter
9:30 am	BS099892	Plaintiff	P. HESS (X)
	PHILIP ANAYA	Counsel	
	VS	Defendant	CITY ATTORNEY
	CITY OF LOS ANGELES ET AL	Counsel	BY J. HARKLESS (X) R. MCCONNELL (X)

**NATURE OF PROCEEDINGS:**

Counsel for IMT has called the Court's attention to a tentative tract map (1A.R.0055) that shows that the property immediately to the west of the proposed development is a lot that is the same size as each of the 2 lots in the proposed development, and that it is improved with 22 condominium units. This map makes it clear that the intent of the zoning change was to permit IMT to develop the west half of the project at about the same density as the property to the west (23 units), and to require the east half of the project to be developed at half that density (11 units) to provide the buffer for the single-family residences to the east of the project. If that is so, then the Commission has simply required the buffer zone in the zoning change and then erased it in the zoning variance. The general plan requires a real decrease in density in the buffer zone, not just the appearance of a decrease in density. By failing to clarify whether it has or has not provided the buffer zone required by the general plan, respondent has failed to bridge the analytic gap between the raw evidence that it considered and its ultimate decision or order, in violation of the decision of the California Supreme Court in TOPANGA ASSOCIATION V. COUNTY OF LOS ANGELES, 11 CAL 3d 506, 515 (1974).

Counsel for petitioner is to submit a proposed judgment and proposed writ to this department within 10 days, together with a proof of service showing

MINUTES ENTERED  
09/06/06  
COUNTY CLERK



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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

12 PHILIP ANAYA,

13           Petitioner,

14           vs.

15 CITY OF LOS ANGELES, et al.,

16           Respondent.

17  
18 IMT DEVELOPEMENT FUND IX, L.P.,

19           Real Party In Interest.  
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CASE NO. BS 099892

Assigned to Hon. David P. Yaffe  
Department 86

~~PROPOSED~~ JUDGMENT GRANTING  
PEREMPTORY WRIT OF MANDAMUS

23       This matter came on regularly before this Court on September 6, 2006 for hearing in  
24       Department 86 of the Superior Court, the Honorable David P. Yaffe, presiding. Philip J. Hess  
25       appeared as attorney for petitioner Philip Anaya. Jolaine Harkless appeared as attorney for  
26       respondent City of Los Angeles. Robin M. McConnell of Stone | Rosenblatt | Cha appeared as  
27       attorney for real party in interest IMT Development Fund IX, L.P.

28       The Court having considered the administrative record, the pleadings, briefs, and related

~~PROPOSED~~ JUDGMENT

1 interest, and having rendered its decision granting the relief sought in the petition for the reasons  
2 stated in the Court's Minute Order, dated September 6, 2006,

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

4 1. A peremptory writ of mandamus shall issue from the Court, remanding the  
5 proceedings to respondent and commanding respondent City of Los Angeles to set aside that  
6 portion of its decision of September 21, 2005 in the administrative proceedings entitled APCNV  
7 2004-1242-(ZC)(ZV) that granted a variance permitting real party in interest IMT Development Fund  
8 IX, L.P. to average project density over the (T)(Q)RD3-1 and (T)(Q)RD1.5-1 zones.

9 2. The writ shall further command that respondent City of Los Angeles may reconsider  
10 its action in light of the Court's opinion and take any further action specially enjoined on it by law/  
11 That is consistent with the decision of the court  
12 but nothing in this judgment or in that writ shall limit or control in any way the discretion legally  
vested in respondent.

13 3. Petitioner Philip Anaya shall recover his costs in this proceeding in the amount of  
14 \$\_\_\_\_\_.

15 Dated: OCT 03 2006

16 DAVID P. YAFFE  
17 Honorable David P. Yaffe  
18 JUDGE OF THE LOS ANGELES SUPERIOR COURT

19 #124292

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02  
[PROPOSED] JUDGMENT

**PHYLLIS M. DAUGHERTY**

420 N. Bonnie Brae Street  
Los Angeles CA 90012  
(213) 413-2367

(2) *Kukonan*

April 12, 2011

Honorable Members  
Los Angeles City Council  
Planning and Land Use Management Committee  
200 N. Spring Street  
Los Angeles CA 90012

Date: 4-12-11  
Submitted in PLUM Committee  
Council File No: 10-1832  
Item No.: 2  
Deputy: PUBLIC

Honorable Members:

**RE: 10-1832 - PROTEST/OPPOSITION - ALLOWING FARMERS' MARKETS IN RESIDENTIAL ZONING**

I hereby join Mr. J. H. McQuiston of McQuiston Associates in opposing any approval of farmers' markets in Residential Zoning in the City of Los Angeles. The noise, traffic, trespassing, litter, additional parking on residential streets, plus sanitation and rodent/insect infestation that occurs as a result of these events should be limited to commercial/agricultural districts.

As the owner of a home and income property which is adjacent to a parking lot where a nonprofit produce giveaway was allowed, I can personally attest that the problems which are created totally destroy the quality of life, safety and peaceful enjoyment of property. After demanding that this stop under threat of legal action several months ago, I and my tenants are still trying to rid our properties of rats and cockroaches which appeared as a result of the boxes of food that were brought in and the garbage which was left by customers.

If anyone on the Council believes that "farmers" from areas outside the city or even within the city limits have a "right" to bypass obtaining a special permit to hold their sales anywhere, then I would suggest that you allow farmers' markets to be held next door to your own residence. There should be no allowance for permitting these businesses on public or private property in residential zoning, other than for a single permitted charitable event—not for the purpose of conducting business, either for profit or nonprofit (which also makes money).

Farmers markets are already plentiful throughout the city in business areas. They compete with local business struggling to maintain viability in a tough economy and to meet the strict city business permitting, tax structure, licensing and county health requirements that are circumvented by "farmers," who may or may not grown their produce within the city of Los Angeles.

The Planning Department report takes these factors into consideration and promises protection for residential communities. They are to be commended for their effort to preserve the sanctity, cleanliness, peace and freedom from invasion by businesses in our neighborhoods. Even with notification for 500 feet, such businesses should not be allowed. There are ample places in commercial and agricultural zoning where farmers may sell their produce without interfering with the daily life of residential communities.

We urge all Council/committee members to vote "NO" on CF 10-1832 and by-right approval of this activity under any circumstance.

Sincerely,

  
PHYLLIS M. DAUGHERTY

Cc: M. Logrande, Director, Planning Department