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REPORT NO. R 15 - 0 2 5 2
SEP 3 0 2015

REPORT RE:

**COURT OF APPEAL DECISION COMMANDING CITY COUNCIL TO VACATE, SET
ASIDE AND RESCIND ITS AUGUST 15, 2012, ACTION APPROVING AN
ELDERCARE FACILITY AT 6221 NORTH FALLBROOK AVENUE**

WALNUT ACRES NEIGHBORHOOD ASSOCIATION V. CITY OF LOS ANGELES
CALIFORNIA COURT OF APPEAL CASE NO. B254636
(LASC CASE NO. BS139318)
(COUNCIL DISTRICT 3)

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Council File 12-1126

Honorable Members:

We present to you for your action, consistent with its terms, the California Court of Appeal's decision in *Walnut Acres Neighborhood Association v. City of Los Angeles* (California Court of Appeal Case No. B254636 (appeal from Los Angeles Superior Court Case No. BS139318)) (attached to this Report as Exhibit 1).

The Court of Appeal's decision affirmed the trial court's order and subsequent Writ of Mandate (attached to this Report as Exhibit 2) commanding the City of Los Angeles (City) to vacate, set aside and rescind its August 15, 2012, decision granting an

Eldercare Unified Permit and related approval of site plans as to the property located at 6221 North Fallbrook Avenue, Woodland Hills, California.

Background

On August 31, 2011, Appellant Community Multihousing, Inc., submitted a Master Land Use Application to the Planning Department for an Eldercare Facility Unified Permit and Site Plan Review for the construction of a two-story, 50,289 square foot eldercare facility at the property located at 6221 North Fallbrook Avenue, Los Angeles.

On January 17, 2012, the Zoning Administrator (ZA) held a public hearing on the application. On May 2, 2012, the ZA issued its determination granting approval of an Eldercare Facility Unified Permit and Site Plan Review with certain conditions.

On May 16, 2012, Mohammad Tat, Sossi and Jack Pomakian, Charles and Betty Salverson, John Sundahl, Dawn Stead, Mark Dymond, Susan Hamersky, Kelly Del Valle, Donna Schuele and Jack Sorkin appealed the ZA's determination.

On June 28, 2012, the South Valley APC (SVAPC) held a hearing on the appeal. The SVAPC granted the appeal and overturned the ZA's determination granting approval of the eldercare facility and site plan review.

On July 31, 2012, City Council took jurisdiction over the SVAPC's determination pursuant to its authority under City Charter Section 245. Council referred the matter to PLUM. PLUM recommended that Council reverse the SVAPC's decision and reinstate the ZA's approval of the project. On August 15, 2012, Council unanimously approved PLUM's recommendation reinstating the ZA's approval of an Eldercare Facility Unified Permit and Site Plan Review.

On September 14, 2012, Petitioners and Appellees initiated a writ petition against the City of Los Angeles and Real Parties in Interest.

On November 27, 2013, after briefing and trial, the trial court issued a decision and order granting the writ of mandate and holding that "[s]ubstantial evidence does not support the . . . finding that the strict application of the land use regulations on the subject property would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of the zoning regulations." On January 21, 2014, a Writ of Mandate issued commanding the City to "vacate, set aside, and rescind [the] August 15, 2012, decision granting an Eldercare Unified Permit and related approval of site plans . . . as to the property located at 6221 North Fallbrook Ave., Woodland Hills, CA."

On February 14, 2014, Real Party in Interest John C. Simmers, Thomas E. Simmers and Community Multihousing, Inc., appealed the trial court's decision.

On March 18, 2015, the California Court of Appeal issued a decision affirming the trial court's decision, in part, and ordering the City to "rescind its approval of the proposed eldercare facility." The Court of Appeal subsequently ordered the decision published on April 15, 2015, and remittitur issued June 16, 2015.

Recommendation

This Office hereby requests your action consistent with the Court of Appeal's decision affirming the trial court. Council will thus need to place an item on its agenda to vacate, set aside and rescind the August 15, 2012, decision granting an Eldercare Unified Permit and related approval of site plans at the property located at 6221 North Fallbrook Avenue, Woodland Hills, CA, and take action consistent thereto.

If you have any questions regarding this matter, please contact Deputy City Attorney K. Lucy Atwood at (213) 978-8248. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

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Attachments:
Court of Appeal Decision
Writ of Mandate