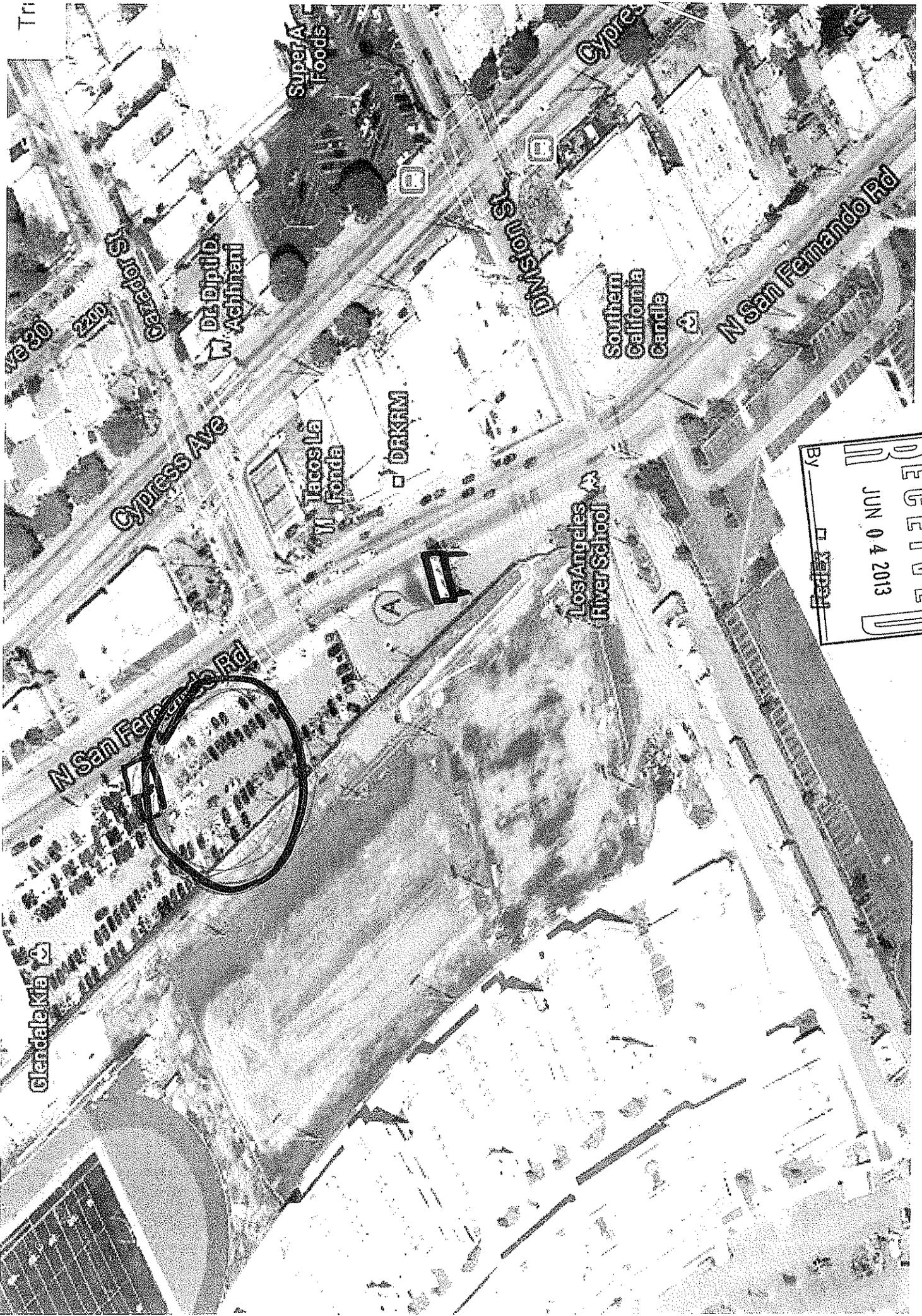
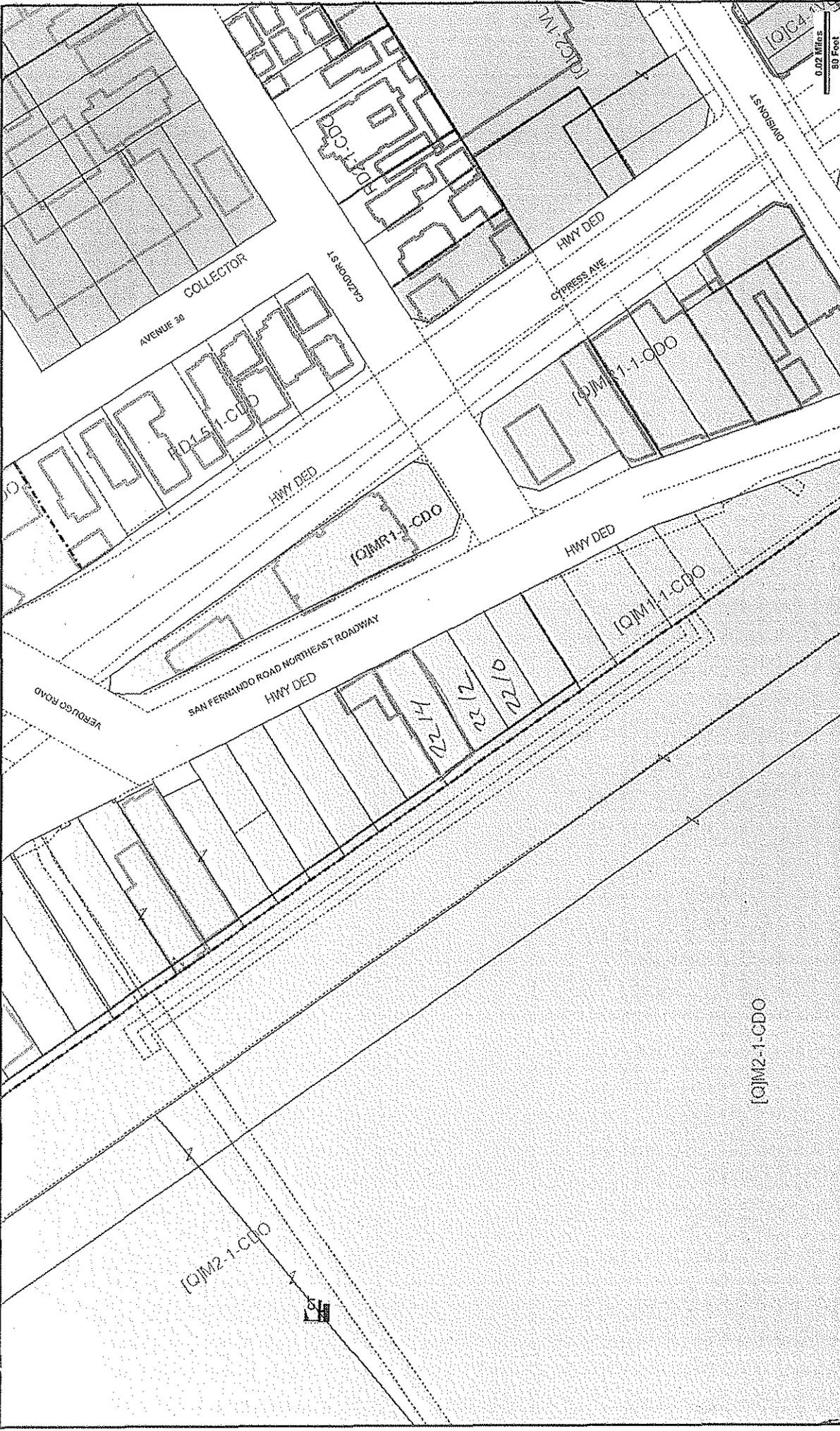


google maps



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BY [Signature]

13-0532

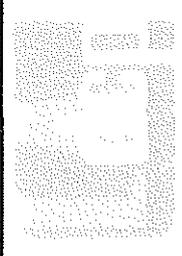


Address: 2214 W SAN FERNANDO ROAD Tract: SALZGEBER HOME TRACT NO. 2 Zoning: [Q]M1-1-CDO

APN: 5457001902  
PIN #: 150B213 983

Block: None  
Lot: 23  
Arb: None

General Plan: Limited Industrial



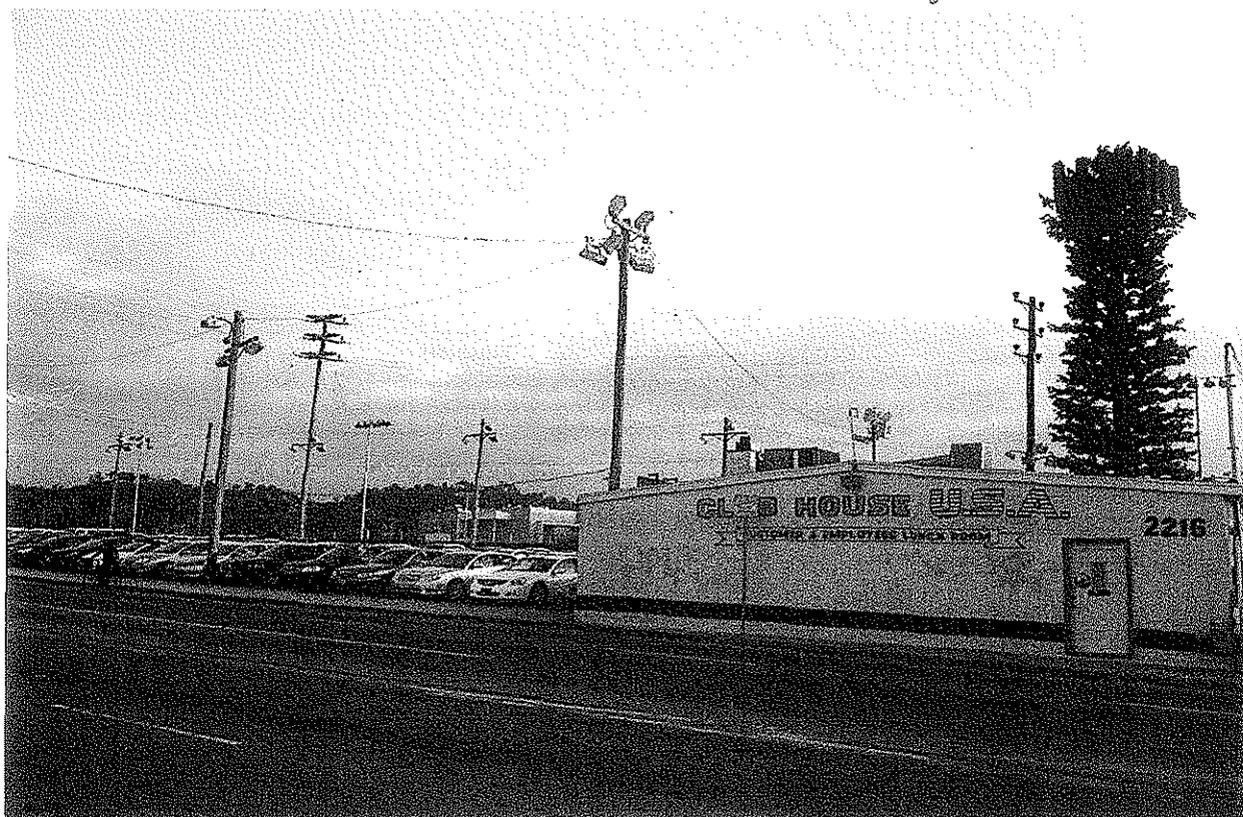
6/4/2013

#13-0532

2210

2214

2216



2210 - 2212



KIA clearly is occupying more than the 2 parcels than are indicated on the Motion 13-0532, and has been for years.

Information is not correct on the Board of Public Works Report of Oct 22, 2011  
The ITGS Committee report also has false information on it.

The lack of community purpose and interest has been duly ignored since 2006, by CD 1

Where is the Glendale KIA dealership registered?

Why would the city sell the property when it makes an income from the rental?

How much has the KIA Dealer and his employees and family members contributed to the CD-1 campaigns over the last 5 years?

KIA has not been a good neighbor to the School-note the Cell Tower and the history of illegal dumping of toxic waste on the school site.

Submitted by Alisa Smith June 4<sup>th</sup>, 2013  
3701 Cazador Street, LA CA 90065



Glassell Park Improvement Association P.O. Box 65881 Los Angeles, CA 90065

January 31, 2013

Ed Reyes;  
District-1 City Council Member  
Los Angeles City Hall  
200 N. Spring St. Rm 410  
Los Angeles, CA 90012

This letter is a request for information regarding the transformation of the site of the NE Sewer Interceptor project to a car dealership on the property of 2110 San Fernando Road, LA CA, 90065 (APN 5457001901)

Pursuant to the California Public Records Act (Statutes of 1968, Chapter 1473)  
California Codes 6250-6276.48

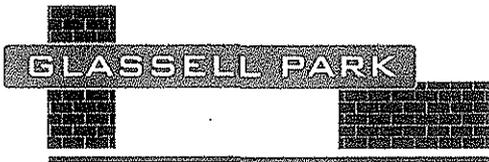
" 6250. In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

On behalf of the GPIA, I request all emails, written documentation, and related correspondence and authorizations regarding any and all activities including any land sales at the above address from CD-1, and the Dept. of Planning, and any other City Agencies that may have been involved in activities on this parcel since 2004.

Please advise when and where to pick up the files as requested-

Sincerely,

Alisa Smith  
President; GPIA  
213 910-3491  
[alisasmithla@gmail.com](mailto:alisasmithla@gmail.com)



Glassell Park Improvement Association P.O. Box 65881 Los Angeles, CA 90065

January 31, 2013

Ed Reyes;  
District-1 City Council Member  
Los Angeles City Hall  
200 N. Spring St. Rm 410  
Los Angeles, CA 90012

This letter is a request for information regarding the installation of a Cell Tower located on the property of 2216 San Fernando Road, LA CA, 90065

Pursuant to the California Public Records Act (Statutes of 1968, Chapter 1473)  
California Codes 6250-6276.48

" 6250. In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."

On behalf of the GPIA, I request all emails, written documentation, and related correspondence to the installation of the Cell Tower at the above address from CD-1, and the Dept. of Planning, and any other city agencies that may have jurisdiction over this matter.

Please advise when and where to pick up the files as requested-

Sincerely,

Alisa Smith  
President; GPIA  
213 910-3491  
[aliasmithla@gmail.com](mailto:aliasmithla@gmail.com)



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## California Public Records Request--Cell Tower 2216 San Fernando Rd

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Tony Perez <tony.perez@lacity.org>  
To: alisasmithla@gmail.com

Thu, Feb 7, 2013 at 10:56 AM

Ms. Smith-This is to advise you we are in receipt of your request for information, dated January 31, 2013, relative the installation of a "Cell Tower located on the property of 2216 San Fernando Rd, LA CA 90065 "

We will be working diligently to provide that information in a timely manner and consistent with the California Public Records Act. Thank you for taking the time to contact our office.

Best regards

Tony Perez



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## Public Records Request--NE Sewer Interceptor project

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Tony Perez <tony.perez@lacity.org>  
To: alisa smith <alisasmithla@gmail.com>

Thu, Feb 7, 2013 at 11:05 AM

Ms. Smith-This is to advise you we are in receipt of your request for information, dated January 31, 2013, relative to "the NE Sewer Interceptor project to a car dealership on the property of 2110 San Fernando Road, LA CA 90065 "

We will be working diligently to provide that information in a timely manner and consistent with the California Public Records Act. Thank you for taking the time to contact our office.

Best regards

Tony Perez

EMAILED May 19<sup>th</sup>, 2013

Hello GPIA~

It was brought to our attention that a motion to sell the site of the Sewer Interceptor Project on San Fernando Road, which has been paved over and used by the KIA dealer since '06, is on the Agenda for our City Council this Tuesday 10am. To be sold directly to the KIA dealership owner, without any outreach to the community or, (as far as I know) to LAUSD, the immediate neighbor.

This site was promised to be held as open space by Ed Reyes at a community meeting back in '05. The community felt that the site might be used for improving the access and egress to the school that was going to be under construction, and certainly would be preferable to keep it as a simple green space after the sewer project was completed, and our Councilman; Ed Reyes agreed.

In 2006 it was paved over for KIA's use. This also flies in the face of the GP/CP Community Design Overlay which the community was working on at the time.

 <http://cityplanning.lacity.org/complan/othrplan/pdf/CypGlassprkCDOGuidelines.pdf>

Needless to say, there were many emails flying downtown from the community after this happened.

In December 2012, there was an item on the GPNC Executive agenda, requesting the GPNC issue a letter of support of a transaction of ownership from the City to the KIA dealer. That agenda item was withdrawn after discussion. There was no information offered to the public in attendance, even as to who was requesting the letter of support.

In January 2013, the GPIA Board voted on, and did send in a Public Records request regarding activity on the site. Following you will see the email I sent, and then the ONLY response we have received from CD1. We also had concerns regarding a cell tower located at the same KIA dealership that went up without any notification, and which is in fact direct violation of our CDO, not to mention the GPIAs long standing position paper on the location of Cell Towers. The PRAs are attached.

And here is the link to the activity and the motion scheduled for this Tuesday from the City Clerk:

<http://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=13-0532>

You can see it is on a fast track, most city motions take months, if not years, to be placed on the City Council Agenda.

Yesterday at the FOLAR event, I was told by CD1 that they were not aware of the communities interest in this item.

How short some memories are...and I thank you for caring, and reading this far.

Sincerely yours,

Alisa



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## CD1-orchestrates Direct Sale of City Public Property in Glassell Park to car dealer for 320k scheduled for Tuesday-City Hall 10am

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Elizabeth Mines <bmines@sbcglobal.net>

Sun, May 19, 2013 at 4:41 PM

To: Glassell Park Improvement Assoc <gpia90065@gmail.com>

Cc: Alejandra Marroquin <alejandra.marroquin@lacity.org>, Nate Hayward <nate.hayward@lacity.org>, Daniel Andalon <daniel.andalon@lacity.org>, "George Magallanes" <george.magallanes@lacity.org>, Mike Fong <Mike.Fong@lacity.org>, Alisa Smith <aliasmithla@gmail.com>, Tom LaBonge <councilmember.labonge@lacity.org>, Jose Huizar <councilmember.huizar@lacity.org>, councilmember.garcetti@lacity.org, mike.bonin@lacity.org, jane.usher@lacity.org

Alisa,

I care. I'm willing to go down with you and speak out. This flies in the face of Ed Reyes' claims to be a friend of the river.

— On Sun, 5/19/13, Glassell Park Improvement Assoc <gpia90065@gmail.com> wrote:

From: Glassell Park Improvement Assoc <gpia90065@gmail.com>

Subject: CD1-orchestrates Direct Sale of City Public Property in Glassell Park to car dealer for 320k scheduled for Tuesday-City Hall 10am

To: "Glassell Park Improvement Assoc" <gpia90065@gmail.com>

Cc: "Alejandra Marroquin" <alejandra.marroquin@lacity.org>, "Nate Hayward" <nate.hayward@lacity.org>, "Daniel Andalon" <daniel.andalon@lacity.org>, "George Magallanes" <george.magallanes@lacity.org>, "Mike Fong" <Mike.Fong@lacity.org>, "Alisa Smith" <aliasmithla@gmail.com>, "Tom LaBonge" <councilmember.labonge@lacity.org>, "Jose Huizar" <councilmember.huizar@lacity.org>, councilmember.garcetti@lacity.org, mike.bonin@lacity.org, jane.usher@lacity.org

Date: Sunday, May 19, 2013, 11:16 AM

[Quoted text hidden]



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## City Council agenda item - TODAY!

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Marge Plane <margeplane@mac.com>

Tue, May 21, 2013 at 8:35 AM

To: Betsy Mines <bmines@sbcglobal.net>, Annette Ostergaa <ostergaa1@aol.com>, Paul McDermott <pmmcdermott@hotmail.com>, Glen Creason <cleatscrea@aol.com>  
Cc: Alisa Smith <coloursmith@gmail.com>

Hi, all:

I just sent this email to every council member's office, and thought I'd share in case you'd like to do something similar.

Here's a link to the city council members's emails. You just click on the underlined word email to get the window to write your email. I did a copy & paste for each, except for Ed Reyes, of course--he's the one who put forward the motion.

<http://www.lacity.org/government/ElectedOfficialOffices/CityCouncil/CouncilDirectory/index.htm>

I plan to follow up after 9am with calls to each office as well.

Hello:

I'm writing to you to express my displeasure with the motion put forward by my Councilmember, Ed Reyes, that is Item No. 19 on today's City Council agenda.

This attempt to sell property without full disclosure to the community and participation from surrounding interests appears to be the effort of a lame duck councilmember to give KIA of Glendale yet another "pass" from the City to do whatever he wants in CD1. That parcel was to have remained green space, per Councilmember Reyes's promise to his constituents. Instead, the owner of KIA of Glendale (the name alone a slap in the face of Glassell Park) has paved it & used it for years. In addition, only a few weeks ago a huge mono-pine cell tower went up on his property with no advance notice.

All of that aside, if the City is to sell the land, it should consider selling it to LAUSD for additional green space and easier access to the Sonia Sotomayor campus. At the very least, the sale should be announced and open to other bidders.

Please do not vote to approve this motion.

Thank you,

I just don't like the way this "gift" to the KIA folks is being handled, and I don't like being taken advantage of by the person who's supposed to be looking out for us!

m

Marge Plane  
2267 Moss Av  
LA, CA 90065  
323-255-5763 home  
213-309-3529 cell  
323-255-7033 fax  
margeplane@mac.com



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**Council File 13-0532**

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Tony Butka <tony@tonypaula.com>

Mon, May 20, 2013 at 7:58 AM

Reply-To: Tony Butka <butka2@yahoo.com>

To: doane.liu@lacity.org

Cc: mike.bonin@lacity.org, alisa smith <alisasmithla@gmail.com>, jane.usher@lacity.org

Dear Mr. Liu -

On May 14th, Councilman Buscaino, as member of the 2 person Information Technology and General Services Committee, heard and moved forward on a 1-1 vote, Council File 13-0532, authorizing the no-bid no-assessed valuation sale of a piece of property to KIA of Glendale, located on San Fernando Road. Even if its legal, a 1-1 vote is hardly a ringing endorsement of the proposition and a rush to judgement.

I am writing to ask the Councilman to withdraw his recommendation, or at the least to support a two week continuance of the Item so that the affected public can have an opportunity to meaningfully weigh in on the proposed sale.

The reason for this request is twofold -- first, this is a sneaky underhanded deal between CD1 and KIA to deliver the goods before the runoff election for CD1 is held. Remember, the runoff election is tomorrow, on Tuesday, the very day that the Council proposes to authorize this sale. It is not coincidental that Mr. Gardea, one of the two runoff candidates, is supported by KIA, or that the timing of this Council File is being rushed to judgement before the electoral process can be completed. The Motion was dated May 1 and the vote is May 22. Who knew that City government could work this fast!

The second reason for the request has to do with the public safety of over 2000 high school students at the Sotamayor Learning Academies, as well as potentially other children at two schools further up San Fernando Road. In order to walk to school on San Fernando Road they walk by the KIA car dealership, and the property at it's narrowest point is about 24" (2 feet) wide, posing a hazard for our children.

The City is or should be aware of this fact (the Planning Department certainly is), the LAUSD has not been consulted or apprised in advance of this sale, and there is a prior history of litigation and failure to disclose between the City of Los Angeles in the sale of other properties for the Sotamayor Learning Academies.

I have attached a copy of my email to Councilman Rosendahl asking that he withdraw his 2nd to the motion, or in the alternative, request a 2 week continuance to vet this matter. Other than the political timetable of our runoff election, there is absolutely no reason or need to vote on this item tomorrow. Discussions have been on and off over this issue for a number of years.

Thank you for your time and consideration in this matter.

Tony Butka  
Alternate Board Member, Glassell Park Neighborhood Council  
GPNC LANCC Delegate  
GPNC DWP Committee Delegate  
Chair, GPNC Bylaws Committee

cell: 323-791-7367

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 Council File #13-0532.eml  
4K




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## CD1-orchestrates Direct Sale of City Public Property in Glassell Park to car dealer for 320k scheduled for Tuesday-City Hall 10am

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mgealer@juno.com <mgealer@juno.com>

Sun, May 19, 2013 at 9:39 PM

To: gpia90065@gmail.com

Cc: gpia90065@gmail.com, alejandra.marroquin@lacity.org, nate.hayward@lacity.org, daniel.andalon@lacity.org, george.magallanes@lacity.org, Mike.Fong@lacity.org, aliasmithla@gmail.com, councilmember.labonge@lacity.org, councilmember.huizar@lacity.org, councilmember.garcetti@lacity.org, mike.bonin@lacity.org, jane.usher@lacity.org

To LA City Council/Glassell Park Community,

I have found it quite ODD for a High School (a community's pride and center in most communities) to have a Car dealership at its street front then a series of asphalt 8 outdoor basketball courts THEN the High School. This was to be temporary. and now the City is considering making it permanent by selling land to a private business that is occupying it now! Shouldn't a public entity such as the City or LAUSD own and control this land in the Community's best interest? This has got to be City Urban Planning at its WORST. Look at the area's high schools Eagle Rock, Franklin, Marshall all centered in neighborhoods.

OK the High School is a reclamation project at railroad yard Taylor Yard in an light industrial business area, however when you decide to put in a much needed school and create a CDO the zoning and use should change. There are other parcels down the road or across the street down the road where KIA could go. or even Brand Blvd of cars in Glendale. You dont see a dealership in front of Glendale HS!

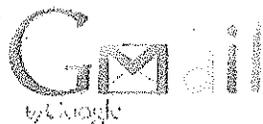
Alisa, is exactly right. I was there on the GPNC Land Use committee when we and GPIA advocated for the school use instead of a bus yard transfer. That area was to be a green space entrance front of the school. Asphalt appeared and KIA of Glendale appeared. "Oh this is a temporary use" No matter, the City's financial benefit it is an absolutely RIDICULOUS Land USE to allow a Car dealership in front of a community's (New ) High School. PLEASE DONT SELL THE LAND TO KIA This is Public Land to be used fro the Publics welfare in front of a High School.

Mike Gealer  
 Glassell Park  
 founding GPNC member 4 yrs  
 Land Use committee  
 [Quoted text hidden]

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### 1 Weird spice that FIGHTS diabetes

Can this unusual "super spice" control your blood sugar and fight diabetes&#63  
[diabetesreversed.com](http://diabetesreversed.com)



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**kia**

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alisa smith <coloursmith@gmail.com>

Mon, Jul 10, 2006 at 11:48 PM

To: ed.reyes@council.lacity.com, Gerald Gubatan <gerald.gubatan@lacity.org>

Cc: H Schpak <hschpk@earthlink.net>

Bcc: Judy Kagan <kaganville@earthlink.net>, Marsha Cifarelli <marshacifarelli@msn.com>, Elizabeth Mines <bmines@sbcglobal.net>, Edward Weber <edwardpweber@hotmail.com>, Mary Baxter

<mary.baxter@fourseasons.com>, "Brian Frobisher (H)" <froby@earthlink.net>, joan lundy <jlundy615@aol.com>

mr. reyes-

thank you for taking the time to attend our meeting tonight,  
and i hope your eyes are feeling better by now.  
i wish i had taken the time to thank you for the improved left turn  
lane onto cazador st.  
it has noticeably improved traffic congestion on san fernando rd!

i wanted to reiterate what i said at tonights meeting-when you  
suggested that the community was opposed to the kia dealership.

in all the many many meetings i have attended, to the best of my  
recollection, no one has ever mentioned not wanting kia where it has  
been located for these many years.

twice the community has mentioned not wanting a specific business in our area-  
once was the proposed macdonalds on eagle rock blvd. and now the  
proposed home depot at the former k-mart site.

i also do not EVER recall hearing a verbalized indication from ANYONE  
that the parcel for the interceptor sewer would be split 1/2 and  
1/2-between a pocket park and kia.  
in fact, i recall the owner of the kia dealership spoke specifically  
that there was no written agreement between himself and the city  
concerning that parcel. of course he did say "written". i do  
understand the semantics of that.

and i do not believe that the GPNC ever requested a pocket park  
there-rather i recall that at the meeting a year ago the desire was  
expressed that it just be left alone for now. to see what would happen  
w/ traffic and school needs in the future.

so how much did the asphalt and lighting cost over there anyway?

yours truly,  
alisa smith

5/20/2013 VIA EMAIL

2110-2130 North San Fernando Road in Glassell Park was acquired by the City of Los Angeles in connection with the Northeast Interceptor Project back in 2001. Phase I of this public project was completed in 2005. The site is adjacent to Kia of Glendale and LAUSD's Sotamayor Academies of Learning.

Residents recollect that at a community meeting in 2005, Councilmember Reyes promised the site to be held as open space. The community felt that the site might be used for improving the access and egress to the school that was then commencing construction, and was certainly preferable to be kept as green space after the sewer project was completed, and at that time, Councilmember Reyes agreed.

Fast forward to May 2013, and it appears that the community's vision for the site as open space and safe access to the high school may be in jeopardy. The future disposition of a portion of the site appears to be on a fast track for declaration as surplus property and direct sale to the owner of Kia of Glendale, Onnik Mehrabian. On May 1, 2013, Councilmember Reyes introduced a motion to commence the surplus property designation process, conduct an appraisal, and negotiate a direct sale to Mr. Mehrabian. Reyes' motion was heard in IT&GS Committee on May 15, 2013, and is now scheduled to be heard in City Council on Election Day, May 21, 2013. CF 13-0532

The speed with which this action has moved raises a multitude of questions amongst community stakeholders. Most pressing from community residents' perspectives are: What happened to preserving the site for Open Space? Has Councilmember Reyes' changed his support of an "open space" vision for the site? Why now? What's the urgency?

Search of City Council File Records reveals an interesting chronology of actions which upon close review appear to favor the interests of Onnik Mehrabian over that of the community and also were implemented with similar speed commencing in 2006, and an appearance of little to no community review.

CF 06-1696 - Reyes' (07-21-2006) for month to month lease of site (48,608 sq. ft. @ \$.20/sq. ft. for \$9721.60/month) to Onnik Mehrabian. "Mr. Mehrabian has offered to install containerized landscaping and other improvements on this City-owned property to benefit the community. The property will be restricted for use for storage and display of vehicles." Council Action (07-25-2006) approved a substitute motion that added a finding an exception of "undesirable, impractical or impossible" "to get around the competitive bid requirement of Charter Section 371(e)(10). Reyes introduced a subsequent motion (06-27-2008) to lease 22,628.6 sq. ft. of the North East Sewer Interceptor - Air Treatment Facility located at 2110-2130 West San Fernando Road (APN's 5457-001-901 and -902) for the display and

storage of the Dealership's vehicles at fair market value on a month to month basis for 3 years, which was adopted by Council (08-05-2008).

CF 06-1696-S1 - Reyes' Motion (06-29-2010) to amend 08-05-2008 Council Action to adopt additional provisions that brought to light a rent arrearage by Kia of Glendale, but yet provided a favorable increase to a 5-year term with reduced rent terms per square foot of the arrearages and over new 5-year term with a 2-year arrearage repayment schedule (Based on 22,628.6 square feet). This motion was adopted by City Council 7 days later (07-06-2010). CF 06-1696-S2 - Reyes' Motion (08-20-2010) amended 07-06-2010 Council Action to adopt additional provision of 90-day termination notice period at cost to City and full access to property with 30 day notice at no cost to City, which was also adopted by Council (09-07-2010). The following month, Reyes introduced another motion (10-22-2010 CF 06-1692-S1) to further amend the previous Council Actions that increased the termination notice period at no cost to City from 90 days to 180 days, which was also adopted by Council (11-05-2010).

CF 12-1675 - Board of Public Works transmitted request to City Council to declare 7765 sq. ft. (0.178 acres) of City property at 2110 N. San Fernando Road (APN 5457-001-027 and 5457-001-021) as surplus property and directly sold to Kia of Glendale. The report transmitted to Council states that the total site consists of 1.2 acres; in 02-2012, Kia expressed interest to acquire a portion of the site; Kia currently leases .519 acres of the site, which will expire on 08-01-2015; and that LAUSD was given a permanent easement for a right-turn lane (.122 acres) on the southern end of the site; and a balance of .82 acres would remain after sale and be sufficient for use during NEIS-II, which is to commence in 2015. The reason given in and for the report was "The Council District 1 office and the community support the expansion of the KIA Dealership as it is a large economic contributor to the Eagle Rock neighborhood and is a deterrent to criminal activity." The site is located in Glassell Park and immediately adjacent to Cypress Park, and other than the above statement no additional facts are provided document community support and/or that there has been a history of criminal activity in connection with the site.

Sharon M.Y. Lowe, Esq. 劉美蓉律師  
Environmental Justice/Community Development Consultant

June 4, 2013

RE: Council agenda item 12, 13-0532

Dear Councilmembers,

I'm writing to request that you vote to oppose the direct sale of the surplus property located at 2210-14 San Fernando Road to a car dealership. This section of San Fernando Road has struggled for revitalization but thanks to a new 40 acre state park and the recently opened Sonia Sotomayor Learning Academies (SSLA), this area is poised for a long overdue renaissance.

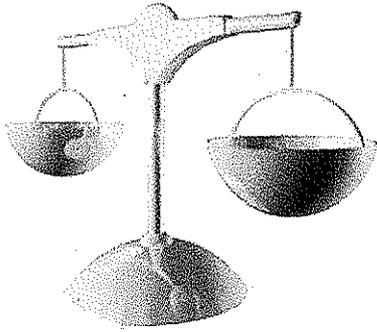
A few years ago, with strong community support, this parcel came under a new Community Design Overlay (CDO). The document strongly discourages the addition or expansion of car related businesses along San Fernando Road. To ignore the community intent for a business that has seemingly gone out of its way to create blight, engage in numerous code violations, and waive off the concerns of its neighbors is especially disturbing.

The SSLA high school that borders this property should have an equal opportunity to purchase this lot. A fair and open process that allows any and all interested parties to bid on this lot is the only way this sale should be handled.

I therefore respectfully request that you not move forward with this private sale and instead open the bid to others and respect the direction and guidance of our CDO.

Most sincerely,

Helene Schpak  
Glassell Park



FEARNOTLAW

Mehrabian v. Meruelo Maddox Properties

Mehrabian v. Meruelo Maddox Properties

SUES MERUELO FOR FAILURE TO HELP HIM RE-LOCATE

Filed 5/19/11 Mehrabian v. Meruelo Maddox Properties CA2/1 NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION ONE

ONNIK MEHRABIAN, as Trustee, etc., B219623  
Plaintiff and Appellant, (Los Angeles County Super. Ct. No. BC387809)

v.  
MERUELO MADDUX PROPERTIES-PONTE VISTA, LLC,  
Defendant and Respondent.

APPEAL from an order of the Los Angeles Superior Court. Richard L. Fruin, Judge. Affirmed.  
Law Office of Michael R. Sohigian and Michael R. Sohigian for Plaintiff and Appellant.  
Neufeld, Marks, Gralnek & Maker, Timothy L. Neufeld and Alison E. Maker for Defendant and Respondent.

-

Appeal by plaintiff and cross-defendant Onnik Mehrabian, Trustee of the Mehrabian Family Trust dated November 8, 1993 ("Mehrabian"), from a post-judgment award of attorney fees of \$175,361.02 to the prevailing defendant on the complaint, Meruelo Maddux Properties-Ponte Vista, LLC ("Meruelo Maddux"). Because Mehrabian fails to demonstrate that the challenged award abused the trial court's discretion, we affirm.

## Background Facts[1]

Meruelo Maddux had purchased a 23-acre parcel on San Fernando Road, for \$30 million, that it intended to develop into a mixed-use residential project. To acquire better access for future development of the property, Meruelo Maddux entered into an agreement and addendum with the Mehrabian Family Trust to purchase an adjoining parcel on which the trust operated an automobile dealership, with \$1 million down and \$8 million to be paid in installments. Mehrabian then leased the dealership parcel back from Meruelo Maddux, along with a few acres of Meruelo Maddux's parcel, to afford the parties the time they needed to obtain the necessary development permits and to relocate the dealership. In a separate agreement, Meruelo Maddux agreed to acquire for Mehrabian a specified nearby parcel to which Mehrabian would relocate its dealership, or to pay Mehrabian \$4 million for relocation. The purchase and lease agreements each provided for attorney fees to be recovered by the prevailing party in the event of disputes. The entire development plan was scuttled, however, when the Los Angeles Unified School District (LAUSD) obtained Meruelo Maddux's parcel by eminent domain. Because Mehrabian had by then dumped contaminated dirt on the parcel, LAUSD was able to pay substantially less than what Meruelo Maddux contended was the parcel's value. And meanwhile, because Meruelo Maddux no longer needed the auto-dealership parcel it was buying from Mehrabian, it stopped paying the installments due under its purchase agreement.

Mehrabian obtained a non-judicial foreclosure on the \$8 million note, reacquired the dealership parcel, and sued Meruelo Maddux for \$4 million damages for failing to provide the promised relocation parcel. Meruelo Maddux cross-complained for indemnity for \$55,000 damages Mehrabian had caused to a neighboring parcel's water supply pipes, and for \$7.5 million for its loss due to Mehrabian's environmental contamination of its parcel.

Meruelo Maddux obtained summary judgment on Mehrabian's complaint, and after a five-day jury trial, it obtained a \$55,000 verdict on its cross-complaint against Mehrabian. Judgment was entered on the complaint on May 5, 2009, and on the cross-complaint on June 3, 2009. No appeals were taken from these judgments.

Following entry of judgment, Meruelo Maddux sought attorney fees of \$222,943.92 and costs of \$9,722.47 as prevailing party on the complaint, and attorney fees of \$169,064.08 and costs of \$6,317.85 as prevailing cross-complainant. Its fee motion was supported by the declaration of its lead attorney and 67 pages of timesheets reflecting the services of attorneys in his firm over a 13-month period. Mehrabian opposed the fee request, arguing (1) because it included fees for work related to the foreclosure, a separate action, Meruelo Maddux's unclean hands should preclude its recovery of any fees at all; (2) the billing rates applied to less-experienced lawyers are unreasonable; (3) fees are claimed for overlapping services; (4) some supporting time entries are erroneous or duplicative; and (5) the requested fees are not appropriately allocated between work to defeat Mehrabian's complaint, and the cross-complaint on which Meruelo Maddux achieved only a pyrrhic victory.

After reviewing the parties' written submissions and hearing extensive argument over a period of days, the trial court ruled on the fee motion on August 10, 2009. On the complaint it awarded Meruelo Maddux costs of \$9,722.47 and attorney fees of \$175,361.03, rather than the \$222,943.02 Meruelo Maddux had requested. On the cross-complaint, it awarded Meruelo Maddux's costs of \$1,517.40 (rather than the 6,317.85 requested), and attorney fees of \$42,266.02, just one quarter of Meruelo Maddux's \$169,064.08 request. On October 9, 2009 Mehrabian filed its timely appeal from the fee and cost order. (Code Civ. Proc., § 904.1, subd. (a)(2).) According to the parties, the fees and costs awarded on the cross-complaint have been paid and are not at issue in this appeal.

Mehrabian's appeal challenges only the \$175,361.03 award of attorney fees to Meruelo Maddux as prevailing defendant on the complaint.

## Discussion

Mehrabian does not contest Meruelo Maddux's right to recover fees and costs as the prevailing party. It challenges only the amount of the attorney fee award on the complaint, contending that the trial court abused its discretion. Because the ground underlying the trial court's discretion with respect to fee awards has been so thoroughly and authoritatively plowed by past decisions, we have no occasion to search for new ways to express the settled law: "Civil Code section 1717 (§ 1717) provides that reasonable attorney fees authorized by contract shall be awarded to the prevailing party as 'fixed by the court.' The trial court has broad discretion to determine the amount of a reasonable fee, and the award of such fees is governed by equitable principles. [Citation.] The first step involves the lodestar figure—a calculation based on the number of hours reasonably expended multiplied by the lawyer's hourly rate. 'The lodestar figure may then be adjusted, based on consideration of factors specific to the case, in order to fix the fee at the fair market value for the legal services provided.' [Citation.] In short, after determining the lodestar amount, the court shall then "consider whether the total award so calculated under all of the circumstances of the case is more than a reasonable amount and, if so, shall reduce the section 1717 award so that it is a reasonable figure." [Citation.]" (*EnPalm, LLC v. Teitler Family Trust* (2008) 162 Cal.App.4th 770, 774; *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095-1096.)

The standard governing our review is equally settled: We will reverse a fee award only if the record shows a manifest abuse of the trial court's discretion. (*PLCM Group, Inc. v. Drexler, supra*, 22 Cal.4th at p. 1095.)

Mehrabian argues that in fixing the amount to award for attorney fees for defending against the complaint, the trial court abused its discretion in two respects: First, Meruelo Maddux's request for fees, including those incurred in its attempt to block Mehrabian's non-judicial foreclosure on the dealership parcel, constituted an "attempt to mislead the Court into awarding additional fees"; by failing to further reduce or eliminate the fee award due to Meruelo Maddux's unclean hands, the court abused its discretion. Second, the trial court also abused its discretion by crediting Meruelo Maddux's less-experienced attorneys with hourly billing rates that were too high. Neither of these contentions has support in the record, and neither has merit. No abuse of discretion is shown.

### 1. The Trial Court Did Not Abuse Its Discretion By Declining To Further Reduce The Fees Awarded To Meruelo Maddux.

In the trial court Mehrabian argued that the \$222,943.92 requested by Meruelo Maddux as attorney fees for its defense against the