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PLEASE REFER TO FILE NO:

11834.01

February 25, 2014

BY EMAIL (patrice.lattimore@lacity.org and vera.mendez@lacity.org)

The Honorable Los Angeles City Council
c/o Holly L. Wolcott, Interim City Clerk
200 N. Spring Street, Room 360
Los Angeles, CA 90012

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2014 FEB 26 AM 9:50
CITY CLERK
BY _____ DEPUTY

**Re: Council File 14-0171
Council Hearing February 26, 2014, Agenda Item 7 --
50-Foot Height Variance at 10550 W. Bellagio Road**

Dear Honorable Councilmembers:

I represent Janice Lazarof, individually and as the trustee owner of 333 Copa de Oro Road, the property that is adjacent to the easterly boundary of 10550 W. Bellagio Road. Mrs. Lazarof is the appellant in Case No. ZA-2012-ZV-ZAA-ZAD-1A, which appealed the grant by the Zoning Administrator ("ZA") of a 50-foot height variance at 10550 Bellagio Road.

On February 11, 2014, under Council File 14-0171, you voted to assert jurisdiction over the action of the West Los Angeles Area Planning Commission ("APC") that (1) granted the appeal of Mrs. Lazarof, (2) reversed the grant by the ZA of the 50-foot height variance; (3) denied the 50-foot height variance, and (4) adopted extensive findings detailing why the variance could not be granted under the Los Angeles Municipal Code ("LAMC"). As you well know, a City Council ("Council") vote to assert jurisdiction over an action by a Planning Commission acts as an appeal of the ZA decision.

On Friday, February 21, 2014, the Planning and Land Use Management Committee ("PLUM") of the Council published its agenda for its meeting on Tuesday, February 25, 2014, setting a hearing on its consideration for recommendation for Council action in Council File 14-0171.

On Friday, February 21, 2014, the Council published its agenda for its meeting on February 26, 2014, setting a hearing on the appeal of the ZA action on the variance in Council File 14-0171.

No formal written notice of the purported public hearing before PLUM on February 25, or of the hearing before the Council on February 26 was sent by the City to property owners that would be affected by the Council's decision in this matter, or to any of the interested parties that participated in the hearings before the ZA and/or the APC.

On Monday, February 24, 2014, I wrote (and sent by email) to the Council and the members of PLUM a letter stating the following:

Your acting on this matter tomorrow (February 25) at the Planning and Land Use Management Committee ("PLUM") meeting and Wednesday (February 26) at the City Council meeting will constitute a violation of due process due to lack of adequate notice to persons affected by this matter, as well as due to the extremely short notice for those who found out by informal means. *See, e.g., Horn v. County of Ventura* (1979) 24 Cal.3d 605.

On February 24, 2014, I also sent a copy of the above letter by email to Kenneth Fong, Deputy City Attorney, and to Jim Tokunaga, Zoning Administrator.

Notwithstanding my letter warning that PLUM was about to violate the due process rights of affected property owners due to lack of adequate notice, PLUM held a hearing on Council File 14-0171. At the hearing I pointed out that the City recognized the need for formal notice in matters such as Council File 14-0171 when it took similar action under Charter Section 245 for a 50-foot height variance for the neighboring property to the south of the subject property owned by the same developer, M & A Gabae. In that case the City sent out at least the minimum 10 days formal written notice of the hearing before PLUM scheduled for September 10, 2013, and the hearing before the Council scheduled for September 11, 2013. I have placed this formal written notice in the record as evidence of the minimum procedural due process required in a case of this nature, which involves public and Council review of evidence in a quasi-judicial proceeding such as the hearing you have scheduled in this matter for February 26, 2014.

At its hearing today (February 25, 2014), PLUM violated due process and curtailed public participation when its Chair inexplicably refused to permit at least one public speaker to address PLUM even though he had filled out and presented his speaker card to the clerk for PLUM before the hearing began. I objected to this violation of due process and was ruled out of order by the Chair of PLUM.

During its hearing today (February 25, 2014) counsel for the property developer, M & A Gabae, submitted new evidence -- in violation of Los Angeles Municipal Code Section 12.27-K

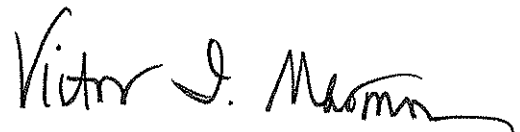
and recent court decisions. I object to the consideration of any such new evidence and any findings or action that may be taken with respect to Council File 14-0171 that cites or relies on any such new evidence.

The members of PLUM voted today (February 25, 2014), without discussion, to recommend to the Council that it find that the ZA did not err and there was no abuse of discretion and that the Council overturn the APC determination and sustain the zoning administrator's determinations and findings. The members of PLUM did not discuss any findings, and as of this writing (at 11:50 p.m.), no report of PLUM's recommendation containing any findings to be voted upon by the Council has been posted to the Council File Management System website or is otherwise available to the public.

Tomorrow (February 26, 2014), less than twenty hours after PLUM's vote, the Council is scheduled to consider PLUM's recommendation and vote upon the matter. Even if Councilmembers stayed up all night to review the record on appeal (LAMC Section 12.27-K) to determine whether any findings proposed to be adopted are supported by substantial evidence and meet the other requirements of the law, it would be impossible to review that record. But due process requires that the Council actually review the record before it adopts any findings or takes any other action with respect to Council File 14-0171.

The evidence in the record demonstrates conclusively that the five findings required for a variance cannot be made, and that the action of the West Los Angeles Area Planning Commission, based upon its extensive findings, which include detailed descriptions of the ways in which the ZA erred and abused his discretion, should be upheld in its entirety.

Very truly yours,

A handwritten signature in black ink that reads "Victor I. Marmon". The signature is written in a cursive style with a long, sweeping underline.

Victor I. Marmon