

Council File: 14-1572

The public hearing conducted by the City Council PLUM Committee On December 2, 2014 was unfair treatment of the land use appellant. Petitioner was deprived of the opportunity "to refute, test and explain" (Clark v. City of Hermosa Beach at 1172) significant factual contentions of the Developer's attorney prior to the PLUM Committee vote. Submission of such substantial new evidence without a continuance of the hearing to prepare a response violated due process. Today's Fresh Start, Inc. v. Los Angeles County Office of Education (2011) 197 Cal.App.4th 436, 463 ("We agree that it would violate due process for an administrative agency to conduct a hearing while failing to disclose evidence to the party before it, and then to make a decision in which it reveals the undisclosed evidence for the first time").

On December 1, 2014, the developer's attorneys, Armbruster Goldsmith, submitted to the City Council file for the Project a 374-page letter containing new argument. On December 11, 2014, the developer's attorneys, Armbruster Goldsmith, submitted to the City Council file for the Project a 71-page letter containing new argument. I as an appellant in a land use case before the Los Angeles City Council, was and has been denied due process of law,

The Los Angeles City Council has failed to adopt procedural hearing rules for land use appeals required by state law and the City's allowing such a 374-page letter and a 71-page letter to be considered and part of its administrative record to try to paper over violations of the California Environmental Quality Act ("CEQA") is unlawful.

For many years the Los Angeles City Council has acted as if land use appellants are merely public commenters under the Brown Act This is untrue. Land use appellants are exercising rights under the City's Charter, state law, and municipal code that is separate and distinct from mere participation in a public meeting. They also pay appeal fees to the City as part of the exercise of their right to appeal and enforce legal duties of the City and project developers.

The failure of the City to adopt fair hearing procedural rules as mandated by Government Code Section 65804 rules is ongoing and repeated violations of the due process rights of Appellants who, like the appellant, are politically sandbagged by Applicants and City Hall partisans working to ram real estate development projects through without an opportunity of land use Appellants and the commenting public to submit argument and evidence to respond and rebut new arguments and substantial new studies that have a habit of showing up in the administrative record at the last minute -- presumably because the City Council actively seeks to assure that no one can respond. This is not the act of a "Temple of Democracy" as Mayor Eric Garcetti has termed the Los Angeles City Council. It is a lawless abuse of fair hearing procedures

against their own constituents. The City has already been successfully sued for deprivation of due process hearing rights in the case of La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles (LASC Case No. BS 132533). This case involved another Hollywood skyscraper project in which the Applicant's attorneys attached to their final comment letter before the City Council's Planning and Land Use Committee a substantial new parking study which was relied upon in revised project findings without ever re-circulating the study as part of CEQA and a recirculated Draft EIR.

The trial court specifically found that the City Council's process violated the public's right of participation under CEQA and that the attempt to slide massive new argument and new expert studies into the record deprived La Mirada of its due process rights to a fair hearing.

Despite the court's ruling in La Mirada, the City Council has yet to adopt fair hearing rules for Applicants and Appellants, The City Council knows it continues to violate the law and it does so with full knowledge of the willful nature of these acts, The developer and its representatives have conspired with City officials to wait until the eleventh hour to submit this new argument and data dump, depriving the appellant of the ability to even read the letter and supporting materials and formulate a full and complete response. I object that the Los Angeles City Council continues to act above the law of this state with respect to its duty to provide fair hearing procedural rules. Yesterday's submittal is just the latest example of the harm imposed on land use appellants and the public by this pernicious practice.

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