

ORIGINAL



APPLICATIONS:

APPEAL APPLICATION

This application is to be used for any appeals authorized by the Los Angeles Municipal Code (LAMC) for discretionary actions administered by the Department of City Planning.

1. APPELLANT BODY/CASE INFORMATION

Appellant Body:

Area Planning Commission City Planning Commission City Council Director of Planning

Regarding Case Number: DIR 2015-0094(CR)(CPA1) - REVOCATION/DISCONTINUANCE OF USE

Project Address: 4901-4917 1/2 WEST ADAMS BLVD., L.A., CA 90016
2545 S. RIMMON BLVD., L.A., CA 90016

Final Date to Appeal: February 2, 2017

Type of Appeal: Appeal by Applicant/Owner
 Appeal by a person, other than the Applicant/Owner, claiming to be aggrieved
 Appeal from a determination made by the Department of Building and Safety

2. APPELLANT INFORMATION

Appellant's name (print): Balubhai G. PATEL, Trustee of the ^{Balubhai} PATEL FAMILY TRUST

Company: BALUBHAI PATEL TRUST

Mailing Address: 255 S. RENO STREET

City: Los Angeles State: CA Zip: 90057

Telephone: (213) 386-2286-home E-mail: None
(213) 272-6959-cell

- Is the appeal being filed on your behalf or on behalf of another party, organization or company?
 Self Other: _____
- Is the appeal being filed to support the original applicant's position? Yes No

3. REPRESENTATIVE/AGENT INFORMATION

Representative/Agent name (if applicable): FRANK A. WEISER - ATTORNEY AT LAW

Company: ~~3460 Wilshire Blvd, Suite 1212~~ LAW OFFICES OF FRANK A. WEISER

Mailing Address: 3460 Wilshire Blvd, Suite 1212

City: Los Angeles State: CA Zip: 90010

Telephone: (213) 384-6964-office E-mail: maimows@aol.com
(213) 384-7806-cell

4. JUSTIFICATION/REASON FOR APPEAL

Is the entire decision, or only parts of it being appealed?

Entire Part

Are specific conditions of approval being appealed?

Yes No

If Yes, list the condition number(s) here: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31

Attach a separate sheet providing your reasons for the appeal. Your reason must state:

- The reason for the appeal
- How you are aggrieved by the decision
- Specifically the points at issue
- Why you believe the decision-maker erred or abused their discretion

5. APPLICANT'S AFFIDAVIT

I certify that the statements contained in this application are complete and true:

Appellant Signature: Isela A. Weise - ATTORNEY FOR OWNER

Date: 1-27-17

6. FILING REQUIREMENTS/ADDITIONAL INFORMATION

- Eight (8) sets of the following documents are required for each appeal filed (1 original and 7 duplicates):
 - Appeal Application (form CP-7769)
 - Justification/Reason for Appeal
 - Copies of Original Determination Letter
- A Filing Fee must be paid at the time of filing the appeal per LAMC Section 19.01 B.
 - Original applicants must provide a copy of the original application receipt(s) (required to calculate their 85% appeal filing fee).
- All appeals require noticing per the applicable LAMC section(s). Original Applicants must provide noticing per the LAMC, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of the receipt.
- Appellants filing an appeal from a determination made by the Department of Building and Safety per LAMC 12.26 K are considered Original Applicants and must provide noticing per LAMC 12.26 K.7, pay mailing fees to City Planning's mailing contractor (BTC) and submit a copy of receipt.
- A Certified Neighborhood Council (CNC) or a person identified as a member of a CNC or as representing the CNC may not file an appeal on behalf of the Neighborhood Council; persons affiliated with a CNC may only file as an individual on behalf of self.
- Appeals of Density Bonus cases can only be filed by adjacent owners or tenants (must have documentation).
- Appeals to the City Council from a determination on a Tentative Tract (TT or VTT) by the Area or City Planning Commission must be filed within 10 days of the date of the written determination of said Commission.
- A CEQA document can only be appealed if a non-elected decision-making body (ZA, APC, CPC, etc.) makes a determination for a project that is not further appealable. [CA Public Resources Code ' 21151 (c)].

-This Section for City Planning Staff Use Only		
Base Fee: <u>None</u>	Reviewed & Accepted by (DSC Planner): <u>Edher Macedo</u>	Date: <u>1/27/17</u>
Receipt No:	Deemed Complete by (Project Planner):	Date:
<input type="checkbox"/> Determination authority notified		<input type="checkbox"/> Original receipt and BTC receipt (if original applicant)

ATTACHMENT TO APPEAL
BY BALUBHAI G. PATEL,
TRUSTEE OF THE BALUBHAI
G. PATEL TRUST
4901-4917 1/2 WEST ADAMS
BLVD./2545 SOUTH RIMPAU
BLVD., LOS ANGELES, CA
90016/CASE NO. DIR 2015-
0094(RV)(PA1) REVOCATION/
DISCONTINUANCE OF USE

The Zoning Administrator had no subject matter jurisdiction to review the conditions originally imposed in the case because a timely appeal under federal and state law was made by way of a federal civil rights challenge (with state supplemental claims under California Code of Civil Procedure Section 1094.5 and the California Constitution).

The matter is now pending before the Ninth Circuit Court of Appeals in the case entitled Balubhai Patel, Sardaben Patel v. City of Los Angeles, United States District Court for the Central District of California No. CV-16-08888-DG. If the Zoning Administrator believes that the conditions are enforceable, she should seek a court order to enforce them. Otherwise, enforcing the imposed conditions before any effective judicial review is completed raises serious issues of violations of due process, equal protection and may constitute an unconstitutional "taking" under the federal and state constitutions since imposing conditions that may ultimately be invalidated on judicial review.

The timing of the hearing raises a First Amendment retaliation issue under Sorrano's Gasco, Inc. v. Morgan, 874 F.2d 1310 (9th Cir. 1989) as the owner/appellant is in other litigation with the City of L.A. and a strong critic over its policies regarding zoning of this and other hotels and motels that he owns and operates.

Additionally, there is not substantial or sufficient evidence to support any of the findings that the Adams-Garden Inn constitutes at present a public nuisance. The owner/appellant has invested a substantial sum of money in renovating and policing the property. Any concerns originally intended by the imposition of the conditions of which there was not substantial evidence to support, has even if such conditions existed, in arguendo, been mitigated

by the voluntary actions taken by the owner/appellant since the original case was filed. Imposition of the conditions and revocation of use at this time would violate the standards of California Code of Civil Procedure Section 1094.5 in that (1) the Zoning Administrator acted in excess of her jurisdiction by attempting to impose finality without a final court order; (2) because of the timing of the hearing where the Administrator implicitly conceded that she could not impose or revoke the conditions previously while the district court action was pending raises an issue under the First Amendment as to the fairness of the hearing; and (3) the lack of evidence that this property is presently a public nuisance to the community requiring the conditions or revocation of use compels the conclusion that the Zoning Administrator prejudicially abused his discretion.

Finally, the conditions and revocation is unconstitutional under the Fourth, Fifth and Fourteenth Amendments of the U.S. Constitution and parallel provisions of the California Constitution.

The City should allow the owner/appellant his right to judicial due process and await a decision of the district court and appellate court on the original case.