

# THE SILVERSTEIN LAW FIRM

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March 10, 2016

## **VIA U.S. MAIL AND EMAIL DELIVERY**

(holly.wolcott@lacity.org)(sharon.gin@lacity.org)

Hon. Herb Wesson, President

Los Angeles City Council

c/o Los Angeles City Clerk

200 N. Spring Street, Room 375

Los Angeles, CA 90012

Re: Denial of Due Process of Law RE: Palladium Residences Project  
CPC-2014-3808-GPA-ZC-HD-CU-CUB-ZAI-SPR; VTT-72213, VTT-72213-1A,  
VTT-72213-2A; ENV 2013-1938-EIR

Hon. President Wesson and Los Angeles City Councilmembers:

## **I. INTRODUCTION.**

This firm and the undersigned represent AIDS Healthcare Foundation (“AHF”). AHF has fundamental property rights and interests implicated by the Palladium Residences Project (“Project”), including but not limited to its leasehold interest in the Kilroy Realty Media Center building to the immediate west of the Project site, a leasehold interest in real property to the immediate south of the Project, and nearby ownership interests in real property within a block or two of the Project including the Project traffic study area. AHF’s world headquarters for its operations in 37 countries is centered in Hollywood, where this charitable corporation was founded in 1987 to care for those dying of AIDS in the earliest years of the epidemic. The Project, as proposed, will have significant negative impacts on AHF, its leasehold and property ownership interests in the vicinity of the Project, and the greater Hollywood and Los Angeles communities.

## **II. THE FACTUAL BACKGROUND OF NOMINATIONS OF THE PALLADIUM FOR HISTORICAL MONUMENT STATUS.**

When AHF first began its review of the Project, it was odd that the applicant had not already nominated the Palladium as a City historic-cultural monument (“Monument”). The Palladium and its historic setting are clearly eligible for Monument status, and the City and applicant concede this fact in the Cultural Resources section of the Draft EIR for the Project.

The Project conditions as originally proposed by the applicant were not that the applicant would invest in a particular set of physical improvements to actually preserve the Palladium building, but rather that, in exchange for a more than doubling of the density permitted by right (an

increase in value to the applicant on the order of approximately \$50 million), the applicant would merely “nominate” the Palladium as a Monument. That City officials would make such a poor bargain in relation to one of Hollywood’s most iconic venues was shocking. A nomination for Monument status, even if granted, offers only limited protection for an historic resource. Indeed, if an applicant applies for demolition of a Monument, the Monument status only delays demolition by 180 days to permit a certain review process. Thus, the applicant’s representations to the public that it was “preserving” the Palladium when it was merely agreeing to a status that at most might delay demolition by 180 days could certainly have been misleading to the public and possibly to members of the City Council.

In order to truly help preserve the Palladium and to enhance the immediate vicinity where AHF owns and leases real property, AHF filed an application to designate the Palladium as a Monument. If the building was already designated as a Monument, City officials would have to demand something more meaningful in the way of actual financial investment in preservation of the building in exchange for the estimated increase in \$50 million of value for the site if the density was allowed to more than double. Therefore, AHF’s pursuit of a hearing and designation of the Palladium as a Monument were in furtherance of the public interest in preservation of the Palladium and AHF’s own interests as well.

AHF retained the services of Mr. Charles Fisher to prepare and submit an application to the Cultural Heritage Commission to designate the Palladium building as a City Monument. Pursuant to Los Angeles Municipal Code (“LAMC”) § 22.171.10(b), Mr. Fisher researched and prepared a complete application for Monument status. On July 17, 2015, he filed an application to designate the Palladium, and also paid the required application fee. Under LAMC § 22.171.10 (c)(4), once Mr. Fisher submitted AHF’s completed application package, the Palladium should have been scheduled for a hearing before the Commission to “determine whether the site, building, or structure conforms with the definition of a Monument as set forth in” the LAMC.

Mr. Fisher is a renowned historian who has prepared or participated in Monument nominations for hundreds of historic, cultural and architectural treasures in Los Angeles. He is among only a few people in the City who routinely appear before the Cultural Heritage Commission to present applications for Monument status or testify regarding the Commission’s consideration of other proposed Monuments. Mr. Fisher is extremely experienced with the Commission’s nomination process.

Nominated Monuments are normally heard by the Commission in the order in which they are filed with the Commission, unless there is a threat to the building. Mr. Fisher informed AHF that based upon other Monument nominations, the Commission should have conducted the initial hearing on whether or not to take up the nomination in December of 2015. However, for some reason, the City failed to schedule the Palladium application for a hearing.

In January 2016, AHF learned that on November 17, 2015, City Councilmember Mitch O’Farrell had filed a motion with the City Council, seconded by Councilmember Jose Huizar, proposing to “initiate” a consideration of the Palladium as a Monument. (**Exhibit 1.**) On the same

day, November 17, 2015, the City Clerk referred the motion to the Planning and Land Use Management (“PLUM”) Committee of the City Council. (**Exhibit 1.**) The Clerk shows the date the Council File will expire is November 17, 2017. (**Exhibit 1.**)

The initiation process works as follows: When a Councilmember submits a motion, the initiation process has not started. Under LAMC § 22.171.10(a), “[a]ny initiation by the Council . . . shall be by majority vote.” In other words, until the full City Council votes on a motion to initiate, nothing has yet triggered the initiation process. Until the PLUM Committee schedules a hearing on the motion to initiate, then votes to recommend to the full Council approval, and the City Council votes at its meeting to initiate the Palladium as a Monument, the City Cultural Heritage Department staff have nothing to act upon. The mere filing of a motion to initiate signifies nothing until there is a majority vote to adopt it.

Accordingly, one would expect the City to expeditiously schedule AHF’s application for Commission hearing to determine whether or not to take the nomination up. It is particularly alarming that additional months have passed and the City has failed to schedule AHF’s application to designate the Palladium. In fact, many other applications for Monument status filed after AHF’s application have gone to the initial hearing before the Commission, but AHF’s application has been treated differently.

For instance, Mr. Fisher prepared an application for the Red Wine Building in Hollywood within two days of July 17, 2015 when he submitted the Palladium nomination. The Red Wine Building was considered and taken up by the Commission at its December 3, 2015 meeting (the same meeting Mr. Fisher predicted the Palladium would likely be considered), and at its February 4, 2016 meeting, the Commission voted to designate the Red Wine Building as a Monument. Thus, similarly situated applications for Monument status are being processed ahead of the Palladium nomination without explanation or justification by the City.

It is our understanding that the usual way the City Council uses the initiation process is to quickly advance a proposed Monument directly to Commission consideration of the Monument designation when a site or building is threatened by its owner with demolition. In those cases, City Council has been known to file a motion, waive it through PLUM Committee, put the matter on the City Council meeting agenda under certain urgency provisions of the Brown Act, and adopt the initiation. It has previously happened in one day. Curiously, Councilmembers O’Farrell and Huizar apparently did not feel such a sense of urgency as to the Palladium because the motion to initiate has gone nearly four months without scheduling a hearing at the PLUM Committee or City Council.

This raises the questions: Why is AHF’s application being denied a hearing at the Cultural Heritage Commission? Why is the motion to initiate the Palladium nomination by the City Council being held for months without a hearing at the PLUM Committee or City Council? Our review of LAMC Section 22.171 concerning the Cultural Heritage Commission discloses no authority for the City to “hold” the initial Commission hearing on AHF’s application. After all, the application was prepared by an expert who knows precisely how to prepare such applications for the Commission. Inquiries Mr. Fisher has made over the months did not result in a timely hearing.

Is it possible that the City “interprets” the plain language of its ordinance to place a hold on a Monument application filed by a private party if a Councilmember merely files a motion to initiate the same Monument designation, and even though the motion constitutes no action of the City Council? In other words, is the motion of Councilmember O’Farrell used as a pretense to avoid processing AHF’s application in order to defeat Monument status from being considered before the Palladium developer’s land use entitlements are considered at the PLUM Committee and City Council?

It certainly looks that way. And this may not be the first time this has happened, which suggests the City’s actions may constitute an unwritten policy or procedure based upon who made the nomination or their public speech.

In fact, our research shows that when he was still a City Councilmember, now Mayor Eric Garcetti on December 5, 2012 also filed a motion to designate the Palladium. On the same day, December 5, 2012, the motion was referred to the PLUM Committee, where it languished without ever being given a hearing. On February 9, 2015, Mr. Garcetti’s motion to designate the Palladium a Monument was “deemed closed” because the PLUM Committee failed to place the item on a Council or Committee agenda for two or more years. (**Exhibit 2.**) We are currently investigating whether the prior Garcetti motion on the Palladium was linked to a previous application for Monument status of the Palladium, or a different matter.

AHF filed its application for Monument status to allow ample time to have it determined before the Palladium entitlements would be heard. AHF was entitled to have it timely heard and processed by the City before the Project’s land use entitlements are decided by the City Council. When the Project entitlements and tract map appeals came before the City Planning Commission, the City’s staff failed to inform the City Planning Commission in the staff report or as part of its oral presentation that an application was pending to designate the Palladium as a Monument, which would render the applicant’s proposed project condition moot. Additionally, even though Councilmember O’Farrell filed his motion to initiate on November 17, 2015, the City staff also failed inform the City Planning Commission of that motion at either the November 19, 2015 or December 10, 2015 Commission hearings. Notice of the existence of these competing nominations should have been given by the City to its Planning Commission and the public.

**III. THE CITY COUNCIL’S SCHEDULING A HEARING ON THE PALLADIUM RESIDENCES PROJECT LAND USE ENTITLEMENTS WITHOUT FIRST CONDUCTING A HEARING ON AHF’S LONG PENDING NOMINATION OF THE PALLADIUM DENIES AHF’S CIVIL RIGHT TO A CONSTITUTIONALLY MEANINGFUL HEARING.**

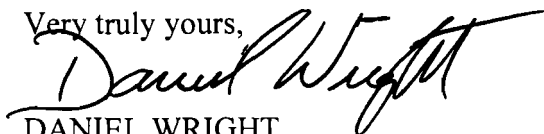
Now the City Council’s PLUM Committee has scheduled a hearing for Tuesday, March 15, 2016 on AHF’s appeal of the CPC determinations and the proposed land use entitlements for the Palladium Residences Project. AHF’s interest in having its application for Monument status considered prior to any hearing on the requested entitlements and appeals has been willfully thwarted by actions and inaction of City officials.

Under LAMC § 22.171, City law entitled AHF to a timely hearing. The City's refusal to comply with its own law to provide a hearing, and its advancing of other Monument nominations ahead of AHF's, appear to be a capitulation to the will of the Palladium developer. Accordingly, a denial of AHF's hearing on its nomination of the Palladium for Monument status prior to the PLUM Committee and City Council hearing the Project entitlements would deny AHF its civil rights.

**IV. CONCLUSION.**

The applicant should consent to the continuance of the PLUM Committee meeting, currently scheduled for March 15, 2016, until after such time as the Cultural Heritage Commission conducts its hearing and presumed positive recommendation on the nomination of the Palladium as a City of Los Angeles Historic Cultural Monument.

Very truly yours,



DANIEL WRIGHT

FOR

THE SILVERSTEIN LAW FIRM

cc: Client  
Hon. Mitch O'Farrell (councilmember.ofarrell@lacity.org)

# EXHIBIT 1



MOTION

On October 31, 1940, the Hollywood Palladium opened its doors to thousands of people who filled the theater's dance floor. Hundreds of fans watched from the street as some of the day's biggest stars arrived for the ribbon cutting which was attended by noted guests such as Jack Benny, Judy Garland, and Lana Turner. Playing that evening was Tommy Dorsey and his Orchestra and vocalist Frank Sinatra. This year marks the 75th Anniversary of that momentous occasion.


The Hollywood Palladium, located at 6215 Sunset Boulevard, was built by film producer Maurice M. Cohen. It was designed in the Streamline Moderne style by noted architect Gordon B. Kaufman (1888-1949). Kaufman was also responsible for designing the Hoover Dam, Greystone Mansion, Santa Anita Park and the Los Angeles Times' headquarters building. Since its opening in 1940, the Hollywood Palladium has hosted some of the nation's greatest performers, musicians, entertainers, dances, charity balls, political functions, rock concerts and auto shows.

In 2008, the Hollywood Palladium underwent a renovation that restored it to its original 1940s appearance. However, due to budget constraints, additional improvements were not completed.

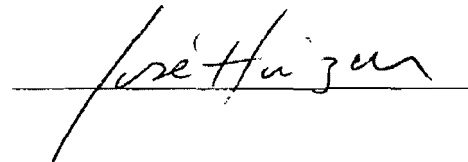
It is critical that this unique cultural and historic resource is protected and that any future plans for development are designed to complement its history and include a plan to enhance and restore the structure.

I THEREFORE MOVE that the City Council initiate consideration of the Hollywood Palladium, located at 6215 Sunset Boulevard, as a City Historic-Cultural Monument under the procedures of Section 22.171.10 of the Administrative Code, and instruct the Planning Department to prepare the Historic-Cultural Monument application for review and consideration by the Cultural Heritage Commission.

PRESENTED BY:

  
MITCH O'FARRELL  
Councilmember, 13th District

SECONDED BY:



  
NOV 17 2015



# EXHIBIT 2

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Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 03/08/2016  
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**Council File Number**  
12-1893

**Title**  
6215 Sunset Boulevard / Hollywood Palladium / Historic-Cultural Monument / Council-Initiate Designation

<b>Last Change Date</b> 02/09/2015	<b>Expiration Date</b> 12/05/2014
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**Council District**  
13

<b>Mover</b> ERIC GARCETTI	<b>Second</b> TOM LABONGE
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**Action History for Council File 12-1893**

<b>Date</b>	<b>Activity</b>
02/09/2015	File expired per Council policy.
07/26/2013	Council rereferred item to Planning and Land Use Management Committee, pursuant to Council Action of July 26, 2013, Council File No. 13-0823-S1.
07/10/2013	Council rereferred item to Planning Committee, pursuant to Council Action of July 2, 2013, Council File No. 13-0823.
12/05/2012	Motion referred to Planning and Land Use Management Committee.

MOTION

The Hollywood Palladium located at 6215 Sunset Boulevard in Hollywood was constructed in 1940. Built on the site of the first Paramount Studios lot, it was built by film producer Maurice M. Cohen. Designed in the Streamline Moderne style, the landmark building was designed by noted architect Gordon B. Kaufmann (1888-1949). Kaufmann is responsible for the design of the Hoover Dam, Los Angeles Times building, Greystone Mansion, and the Santa Anita Race Track in Arcadia, CA.

The Hollywood Palladium opened on October 31, 1940 with famed orchestra leader Tommy Dorsey performing with Frank Sinatra. During World War II, the Hollywood Palladium hosted radio broadcasts for servicemen. The performance space has presented countless of the nation's greatest performers, musicians, and entertainers while hosting local dances, charity balls, political functions, rock concerts, and auto shows. It was a noted venue for Latin American music in the 1940s-60s. In the 1960s, Lawrence Welk broadcast his TV show from the facility. From an early date, the Hollywood Palladium reflected the multicultural background of Los Angeles, playing host to large events for Latinos, African Americans, Filipino-Americans, Armenian-Americans, and countless others.

In 2008, the Hollywood Palladium was meticulously rehabilitated and restored to its original 1940s appearance.

Through previous historic resource survey evaluations, the Hollywood Palladium was found eligible for the National Register of Historic Places.

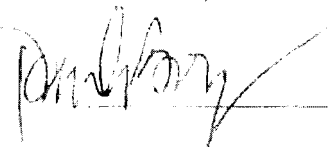
I therefore move that the City Council instruct the Department of City Planning's Office of Historic Resources to prepare an application and staff report of the Hollywood Palladium at 6215 Sunset Boulevard in Council District 13 to the Cultural Heritage Commission so as to determine its eligibility as a Historic-Cultural Monument relative to the Historic-Cultural Monument Ordinance (Los Angeles Administrative Code Chapter 9, Division 22, Article 1, Section 22.171.7)

PRESENTED BY:

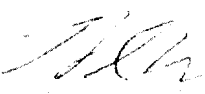


ERIC GARCETTI  
Councilmember, 13<sup>th</sup> District

SECONDED BY:



OFFICIAL



**DATE: February 9, 2015**

**TO: Interested Persons**

**FROM: Office of the City Clerk**

**SUBJECT: NOTICE OF EXPIRED FILE STATUS**

In 2005, the Council approved a policy wherein all Council files pending before the City Council, which have not been placed on a Council or Committee agenda for consideration for a period of two years or more, are deemed "received and filed." The City Clerk is responsible for the administration of this process.

The City Clerk administratively closes all received and filed Council files. This letter provides notice that this Council file, and its subject matter, is no longer active as of the date of this letter. This Council File is deemed closed.