

LAW OFFICES
GILCHRIST & RUTTER
PROFESSIONAL CORPORATION

WILSHIRE PALISADES BUILDING
1299 OCEAN AVENUE, SUITE 900
SANTA MONICA, CALIFORNIA 90401-1000

TELEPHONE (310) 393-4000
FACSIMILE (310) 394-4700
E-MAIL: toasparian@gilchristrutter.com

February 10, 2017

VIA HAND DELIVERY

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
Room 395, City Hall
200 North Spring Street
Los Angeles, CA 90012

Re: Appeal of Haul Route Permit
Building & Safety Board File 160127
Notice of Exemption (Case No. ENV-2016-3348-CE)
Project Address: 1240 North Angelo Drive

2017 FEB 10 AM 1:43
CITY CLERK
BY _____ DEPUTY
CITY CLERK'S OFFICE

Dear Council President Wesson and Honorable Council Members:

This firm represents Mr. James Goldstein, the owner of the property at 10104 Angelo View Drive which adjoins the subject property on three sides. On January 31, 2017, the Board of Building & Safety Commissioners (Board) approved a haul route permit to export approximately 4,096 cubic yards of earth from 1240 North Angelo Drive.

This appeal seeks to reverse the entire decision of the Board, including the approval of the Haul Route permit and the approval of a Categorical Exemption, rather than a Mitigated Negative Declaration to disclose and mitigate the project's adverse environmental impacts. This appeal is also based on the Board's violation of City Municipal Code Section 91.7006.7.4(5) which states that the Board "shall" deny approval of a haul route permit request, when such approval would "endanger the public health, safety and welfare".

The Appellant owns the property located at 10104 Angelo View Drive ("Goldstein Property"). The Goldstein Property is located immediately uphill from the Subject Property owned by Bruce Juliani, and surrounds the north, east and west sides of the Subject Property. A map showing the relative locations of the Goldstein Property and the Subject Property is attached as Exhibit 1.

Mr. Juliani has been working on plans to develop the Subject Property for more than 10 years. Mr. Goldstein has previously had justifiable concerns regarding the adverse effects that the development of the Subject Property could have on his property. The Appellant's concerns are now the public's concerns, as well. The Goldstein Property includes, without limitation, a

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 2

unique home and accessory structures designed by the esteemed architect, John Lautner. In February 2016, the Appellant made a Promised Gift of the Goldstein Property, including the Lautner-designed home and accessory structures, and the surrounding uniquely landscaped hillside gardens, to the Los Angeles County Museum of Art (“LACMA”), together with a trust fund to maintain the property. The Appellant intends that his Promised Gift of the Goldstein Property will result in the Goldstein Property serving as a working example of extraordinary art and architecture that will be studied and enjoyed by the public for years to come through LACMA’s scheduled programming. Therefore, it is critical to the Appellant during his lifetime and to LACMA and the public thereafter, that the Goldstein Property’s structures and landscaped hillside gardens remain structurally and geologically sound.

Consequently, the Appellant’s experts and attorneys have been trying to contact Mr. Juliani and his architect on a regular basis, asking to review the working plans for the development of the Subject Property, but their requests were either refused or ignored. Mr. Juliani has continually refused to cooperate with the Appellant, despite the fact that his property is located directly uphill from the Subject Property and stands to be most affected physically by the development.

On March 8, 2016, LADBS issued six permits for the development of the New Residence (collectively, “Permits”), including:

- A grading permit, Permit No. 14010-20000-06607, showing only 920 cubic yards of dirt would be exported;
- A retaining wall permit, Permit No. 14020-20000-02751, showing four retaining walls;
- A single-family dwelling and private garage permit, Permit No. 14010-20000-03400;
- A private pool and spa permit, Permit No. 14047-20000-01538;
- An irregular-shaped driveway/concrete deck permit, Permit No. 15020-20000-02521; and
- A temporary shoring permit, Permit No. 14020-20000-02752.

On March 15, 2016, the Appellant’s attorneys received notice from Mr. Juliani that the Permits had been issued. Mr. Goldstein’s representative tried several times through the LADBS

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 3

to review the approved plans and other documents (collectively, "Approved Plans") for the New Residence that support the Permits, but were told that they had been sent "offsite" for copying.

Additionally, in response to the March 15, 2016, Notice from Mr. Juliani, the Appellant's attorneys again asked that the Appellant be allowed to review the Approved Plans. His attorneys received no response to their request until finally, on the evening of Tuesday, March 22, they received copies of certain of the Approved Plans from a Mr. Sam Amin on behalf of Mr. Juliani.

These plans were reviewed by zoning, engineering, and soils and geology experts for Mr. Goldstein and on March 31, 2016, after discovering numerous errors, omissions, and misstatements, Mr. Goldstein filed appeals to the issuance of the six permits with the Department of Building & Safety.

On April 18, 2016, the Department of Building & Safety, after reviewing the appeals filed by Mr. Goldstein, issued a letter to Mr. Juliani ordering him to stop construction and giving him notice of the Department's Intent to Revoke the permits, since they were issued in error (see enclosed letter attached as Exhibit 2).

A review of the grading plans and such other documents among the Approved Plans disclosed that the figure for the export of dirt from the excavation of the New Residence's piles and footings, 920 cubic yards of dirt, has been understated. Based on the information contained in those documents, the excavation of the piles, alone, will account for at least 651 cubic yards of dirt, if not more, without including grade beams or footings, the excavation of which would contribute an estimated additional 50 to 100 cubic yards of dirt. Moreover, it was unclear whether slab thickness was taken into account; that is, it is unclear whether the export volume was calculated from the top or from the bottom of the slab. If the export volume was calculated from the top of the slab, then the total export volume has been further understated.

Los Angeles Municipal Code Section 91.7006.7.5 requires that a haul route permit be obtained before allowing the import or export of more than 1,000 cubic yards of dirt in areas governed by the Baseline Hillside Ordinance.

In any event, it was clear that correcting the export volume resulting from the excavation of the piles, alone, yields a total export volume of at least 1,162 cubic yards, which in turn triggers the requirement that a haul route permit be obtained prior to the issuance of the Grading Permit, and thus, prior to allowing any development to occur at the Subject Property.

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 4

According, the Grading Permit was improperly issued and must be revoked. Under Los Angeles Municipal Code Section 91.7006.7.5, a haul route permit must be issued, accompanied by a review under the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), before a grading permit could be issued. Without a grading permit, development of the New Residence cannot proceed.

Several other issues raised by the Appellant with regard to the other building permits were determined to be significant and Building & Safety required that these issues be addressed and corrected through the processing of Supplemental Building Permits. These issues included:

- The approved building and grading permits utilized a design that had not been reviewed and approved for Code compliance with the City's soils and geology standards and requirements.
- The height of the approved structure exceeded the height limitations of the City's Baseline Hillside Ordinance.
- The required prevailing setback calculations were not correctly calculated.
- The approved plans illegally contained four retaining walls in violation of Code Section 12.21 C.8, which allows only two retaining walls.

Further, the issues contained in the Appellant's original appeal regarding the lack of proper soils and geology analysis, and conformance with current City Code requirements with regard to the design of retaining walls, cut and fill slopes, and the residential structure were not addressed at all in the Department's response to the appeals. Rather, the applicant began to submit a series of revised Soils and Geology Reports and correction letters based on a revised project. These revised reports are not currently available for review to verify that the current revised plans are correctly designed.

In addition, several other issues which the Appellant raised in these appeals were dismissed by the Department of Building & Safety. These items included: allowable floor area, improper use of the Multiple Structures floor area bonus provisions and the building setback from the street.

The Appellant then filed an appeal of the Department of Building and Safety's determination to the Director of City Planning on July 2016. The City Planning Department held a public hearing on this appeal on October 6, 2016. At the conclusion of that hearing, the

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 5

hearing officer, at the request of Mr. Juliani's representatives, kept the record open in order for them to submit additional information for a period of two weeks. This period was extended several times at the request of Mr. Juliani's representative, until finally on January 9, 2017, the record was closed.

It appears that the only material submitted by Mr. Juliani's representatives was a revised grading plan. The hearing examiner has not yet rendered a decision on the Appellant's appeal of Building & Safety's determination under the original appeal.

However, the applicant did file an application for the subject haul route permit and as a result of the hearing held by the Building & Safety Commissioners, Mr. Goldstein became aware that the applicant had also filed applications for Supplemental Building Permits to all six of the building permits that are subject to being revoked.

Mr. Goldstein is appealing the approval of the haul route by the Building & Safety Commission in order to protect his property from potential damage that could result from the grading and export of earth directly adjacent and below his residence, along with the associated accessory structures, including the mature and heavily-landscaped gardens on his property. Mr. Goldstein is particularly concerned that the staging and loading of trucks on the subject property could affect the stability of the existing slopes on his property directly above and on both sides of the subject property.

The subject property slopes very steeply down from Mr. Goldstein's property to North Angelo Drive. There is no existing level area on the property from which to safely stage and load material for export. Angelo Drive is a narrow substandard hillside street and there is no area on the street to stage or load export material without reducing access to one lane.

The property at 1242 North Angelo Drive, immediately to the north of the subject property takes its driveway access from North Angelo Drive at the apex of a 180-degree hairpin curve. In addition, the street has an approximate 15% grade, which further limits the ability to safely load trucks and not impact access to this property.

Mr. Juliani has continually refused to share his plans with Mr. Goldstein even after the Department of Building & Safety determined that the previously approved plans were seriously flawed and should not have been issued. Building & Safety's records show that five Addendum Soils and Geology Reports have been submitted since April of 2016, and none of these reports are currently available for public review. At this time, we have seen a supplemental grading plan

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 6

which is completely different than the previously approved permit and which is based on revised Soils and Geology Reports which are not available for review.

The haul route permit allows the export of 4,096 cubic yards of material, while the plans for the Supplemental Grading Permit only show 3,202 cubic yards of export. Mr. Goldstein is not able to determine what is currently proposed nor whether it is designed properly, and whether it conforms to the City's Zoning and Building Codes.

The current haul route permit includes conditions that are not realistic and do not provide adequate protection to Mr. Goldstein's property, nor the surrounding community. Condition No. 3 requires staging onsite only. The existing site has extremely steep slopes and there is no possible way to accommodate hauling trucks onsite. Further, there is no room either onsite or on Angelo Drive for a truck to turn around.

Condition No. 4 allows 10-wheeler dump trucks which are too large to navigate the extremely steep and narrow residential streets. Trucks should be limited to 7 cubic yards and provisions for the safe turning around of trucks should be clearly described.

Given the extreme slope of the property, the very limited space to grade on the property, the lack of useable area to load trucks, and the lack of useable areas to turn trucks around, the approved haul route permit will endanger the public health, safety and welfare of the surrounding and nearby residents and the general public visiting the immediate area.

Also, the Board adopted a Categorical Exemption as the environmental clearance for the proposed haul route. A Categorical exemption implies that there would be no possibility of any significant environmental impacts from the proposed haul route. The Notice of Exemption prepared by the Department of City Planning incorrectly describes the project as a new three-story, 34-foot in height, 4,500 square-foot single family residence with a new pool. The project is actually a 30 to 36-foot in height building with 3,644 square feet of floor area, a rooftop deck and with two 9 to 10-foot high retaining walls. There is no discussion of the total amount of grading onsite and no discussion of potential traffic impacts in the surrounding Hillside Area.

Also, the Notice of Exemption states that the construction of a new single family dwelling will be on a site which has been previously developed with a single family dwelling. The site has never been graded or developed with a single family dwelling. The Notice of Exemption also states that the subject site is not designated as a scenic highway, nor are there any scenic highways located near the site. But, Sunset Boulevard which is used for hauling from

Council President Wesson
Honorable Council Members
The Los Angeles City Council
Office of the City Clerk
February 10, 2017
Page 7

Benedict Canyon to the 405 Freeway is designated as a scenic Highway by the Mobility 2035 Plan.

These misstatements of facts make the issuance of a Categorical Exemption infeasible. The project should be considered through the preparation of a Mitigated Negative Declaration, rather than being granted a Categorical Exemption.

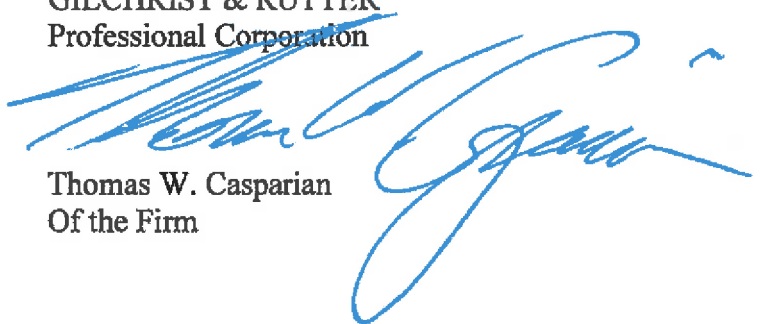
This appeal is based upon the limited facts available to the Appellant at this time. The Appellant reserves the right to submit additional materials should such materials become known prior to the City Council's decision on this matter.

Based upon the above facts, we respectfully request the City Council overturn the Board of Building & Safety Commissioner's decision and deny this haul route permit.

Thank you in advance for your consideration.

Sincerely,

GILCHRIST & RUTTER
Professional Corporation



Thomas W. Casparian
Of the Firm

EXHIBIT 1

EXHIBIT 1

1357 | 14
LE 1" = 80'

1996

GOLDSTEIN

JULIANI

TRACT NO. 6774

M. B. 70-44-47

TRACT NO. 24216

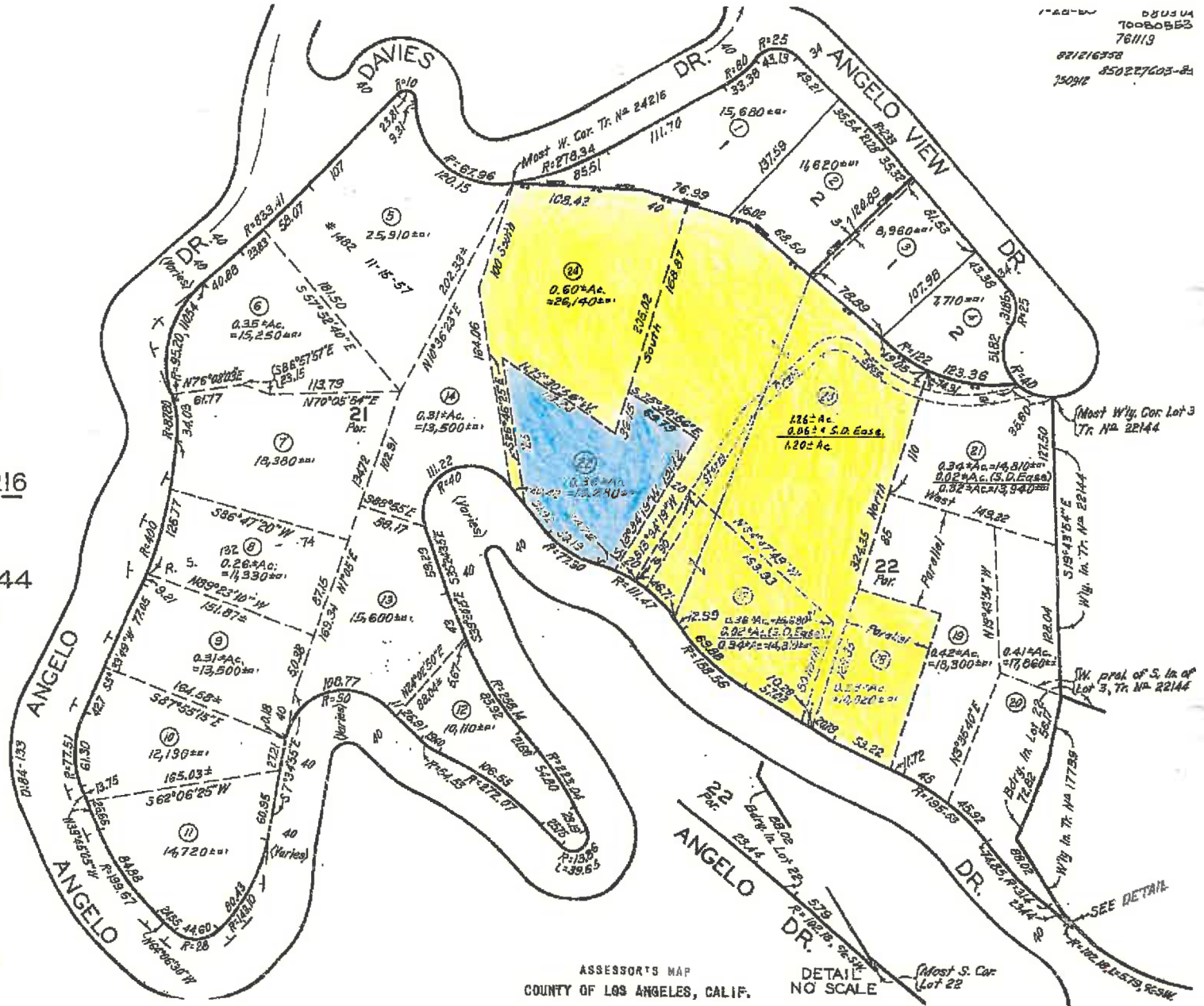
M. B. 632 - 61

TRACT NO. 22144

M. B. 624 - 39 - 41

CODE
67

FOR PREV. ASSM'T. SEE: 667-10,34 & 38



080304
700805E3
761113
881216358
8502722058
14081

SEE DETAIL

ASSASSOR'S MAP
COUNTY OF LOS ANGELES, CALIF.

DETAIL
NO SCALE

(Most S. Cor. Lot 22)

EXHIBIT 2

BOARD OF
BUILDING AND SAFETY
COMMISSIONERS

VAN AMBATIELOS
PRESIDENT

E. FELICIA BRANNON
VICE PRESIDENT

JOSELYN GEAGA-ROSENTHAL
GEORGE HOVAGUIMIAN
JAVIER NUNEZ

CITY OF LOS ANGELES

CALIFORNIA



ERIC GARCETTI
MAYOR

DEPARTMENT OF
BUILDING AND SAFETY
201 NORTH FIGUEROA STREET
LOS ANGELES, CA 90012

RAYMOND S. CHAN, C.E., S.E.
GENERAL MANAGER

FRANK BUSH
EXECUTIVE OFFICER

April 18, 2016

Bruce Juliani
1906 Greenfield Ave
Los Angeles, CA 90025

NOTICE TO STOP CONSTRUCTION AND NOTICE OF INTENT TO REVOKE BUILDING PERMIT NOS. 14010-20000-03400 FOR NEW 3-STORY SINGLE FAMILY DWELLING, 14020-20000-02751 FOR NEW REATING WALLS, 14020-20000-02752 FOR TEMPORARY SHORING, 15020-20000-02521 FOR IRREGULAR DRIVEWAY CONCRETE DECK, 14047-20000-01538 FOR 13 FEET BY 30 FEET SWIMMING POOL AND 14030-20000-06607 FOR SITE GRADING FOR PROPERTY LOCATED AT 1240 NORTH ANGELO DRIVE

On March 8, 2016, Building Permit Nos. 14010-20000-03400 for a new 3-story single family dwelling with basement and 4-car attached garage, 14020-20000-02751 for retaining walls, 14020-20000-02752 for temporary shoring, 15020-20000-02521 for irregular driveway concrete deck, 14047-20000-01538 for 13 feet by 30 feet swimming pool, and 14030-20000-06607 for site grading were issued for property located at 1240 North Angelo Drive.

After the issuance of above mentioned permits, LADBS has determined that the permits were issued in error due to the following facts:

- The exhibits for the proposed single family dwelling shown in the approved geology and soils report is substantially different from the plans for the single family dwelling approved by LADBS. A revised soils and geology report incorporating the permitted layout of the single family dwelling shall be submitted to LADBS for review and approval.
- The proposed project plans show four retaining walls which exceeds the maximum two retaining walls allowed per LAMC Section 12.21C8.
- A portion of the building is projecting above the maximum allowable height of 30 feet.
- The total cubic yards of the excavation for piles and the site grading for the proposed project will result in export of soil over 1,000 cubic yards which will require a Haul Route approval per LAMC Section 91.7006.7.4.

April 18, 2016
Page 2

**NOTICE TO STOP CONSTRUCTION AND NOTICE OF INTENT TO REVOKE
BUILDING PERMIT NOS. 14010-20000-03400 . . . FOR PROPERTY LOCATED AT 1240
NORTH ANGELO DRIVE**

Therefore, LADBS intends to revoke Building Permit Nos. 14010-20000-03400, 14020-20000-02751, 14020-20000-02752, 15020-20000-02521, 14047-20000-01538 and 14030-20000-06607.

The authority to revoke permits is stipulated in Section 98.0601 of the L.A.M.C., which reads:

"The Department shall have the authority to revoke any permit, slight modification or determination whenever such action was granted in error or in violation of other provisions of the code and conditions are such that the action should not have been allowed."

Hereby, you are ordered to immediately stop all work related to construction of the new single family dwelling, retaining walls, swimming pool, and related grading work.

You have until May 3, 2016 to provide any reasons why Building Permit Nos. 14010-20000-03400, 14020-20000-02751, 14020-20000-02752, 15020-20000-02521, 14047-20000-01538 and 14030-20000-06607 should not be revoked; otherwise, Building Permit Nos. 14010-20000-03400, 14020-20000-02751, 14020-20000-02752, 15020-20000-02521, 14047-20000-01538 and 14030-20000-06607 will be revoked on May 3, 2016.

Should you have any other questions, please call Mr. Sia Poursabahian, Office Manager of the Van Nuys District Office at (818)374-4300.



KEN GILL, Assistant chief
Permitting and Engineering Bureau

- c: Ifa Kashefi, Permit and Engineering Bureau, LADBS
Sia Poursabahian, Permitting and Engineering Bureau, LADBS
Larry Galstian, Inspection Bureau, Chief, LADBS
Pascal Chalitta, Inspection Bureau, Assistant Chief, LADBS