

February 21, 2017

VIA EMAIL AND HAND DELIVERY

Los Angeles City Council
200 N. Spring Street
Los Angeles, CA 90012

Re: 28th Church of Christ, Scientist – Objection to Historic-Cultural Monument Designation (February 22, 2017, Item No. 32 - City Council File No. 17-0168)

Dear Honorable Members of the City Council:

This firm represents the 28th Church of Christ, Scientist (“Church”), whose building at 1018 Hilgard Avenue, Los Angeles, CA 90024 (the “Main Church Building”) is the subject of a proposed City Council motion to initiate proceedings for designation as a City of Los Angeles (“City”) Historic-Cultural Monument (“Monument”). As explained in detail below, under established California law, religiously affiliated organizations are entitled to an exemption of their noncommercial property from local historic preservation laws, provided that the religious organization objects to such designation. ***Pursuant to Government Code Section 37361, the Church hereby objects to Monument designation and respectfully requests that the City immediately cease in any efforts to designate the Church a Monument.***

Tomorrow, on February 22, 2017, the City Council will consider a motion to initiate proceedings to designate the Main Church Building as a Monument pursuant to Los Angeles Administrative Code (“LAAC”) Section 22.171.10(c)(2). Such designation would cause substantial hardship to the Church, as it is geared at thwarting the Church’s current processing of a demolition permit for the Main Church Building—a completely ministerial permit that the City is legally required to issue.

In recent years, the size of the Church’s congregation has declined significantly, and the Church can no longer use or maintain the Main Church Building. The Church also lacks the funding it needs to best ensure its long-term viability in Westwood. As such, continuing to maintain the Main Church Building imposes a significant financial burden on the Church. The Church has evaluated a number of options for how it can use or potentially reconfigure its campus to best serve its religious mission, and after much deliberation, has decided to demolish the Main Church Building and use the Church’s smaller building for both religious worship and education.

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Having paid for the design and construction of the Main Church Building, the Church takes issue with the notion that this building is historic or otherwise worthy of Monument designation. The ultimate merits of a Monument designation are irrelevant, however. The California Government Code provides express statutory protections for religious organizations that preclude the City from designating the Main Church Building as a Monument. Specifically, Government Code Section 37361 provides that religiously affiliated organizations are entitled to an exemption of their noncommercial property from local historic preservation laws. This exemption under Government Code Section 37361 **must be granted** provided only that the religiously affiliated organization (i) objects to the application of local preservation regulations to its noncommercial property, and (ii) “determines in a public forum that it will suffer substantial hardship, which is likely to deprive the association or corporation of economic return on its property, the reasonable use of its property, or the appropriate use of its property in the furtherance of its religious mission, if the application is approved.” Further, the statute explicitly states “nothing in this subdivision shall be construed to ... authorize any legislative body to override the determination” of substantial hardship made by a religious institution. Government Code §37361 (d).

Courts have affirmed that the legislature’s purpose in adopting Government Code Section 37361 included ensuring that religious institutions could avoid “**significant financial burden[s]**, or simply the **inability to demolish or alter a structure that is no longer suited to the needs of the owner,**” which “could affect the ability of many owners to carry out their religious mission.” (See *East Bay Asian Local Development Co. v. State of California* (2000) 24 Cal. 4th 693, 713). Because the Main Church Building is no longer suited for the Church’s needs, and continued ownership and maintenance of the Main Church Building will be a financial burden to the Church, the Church’s objection to designation of the Main Church Building as a Monument falls squarely within the intent of Government Code Section 37361.

The Main Church Building meets the required elements of Government Code Section 37361. First, the Main Church Building clearly and incontrovertibly qualifies as a “noncommercial” property, as it has only been used for religious purposes. It is worth noting that California courts give substantial deference to religious organizations on this issue, which is consistent with the legislative intent of avoiding the imposition of financial burdens on religious organizations. See *California-Nevada Annual Conference of United Methodist Church v. City and County of San Francisco* (2009) 173 Cal. App. 4th 1559 (upholding a vacant church’s eligibility for exemption under Government Code Section 37361 despite the fact that (i) the subject building was not currently being used for a religious purpose at the time the exemption was sought, and (ii) the church was in the process of selling the property). Second, any designation of the Main Church Building as a Monument will cause the Church to suffer substantial hardship that is likely to deprive the Church of (i) the reasonable use of the property, due to the Church’s inability to pay for the ongoing operation and maintenance of the Main Church Building, (ii) the appropriate use of the property in furtherance of its religious mission, and (iii) economic return on the property that could be used in furtherance of the Church’s religious mission.

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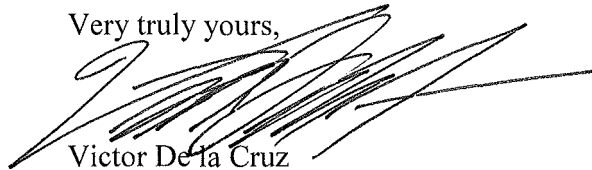
Accordingly, under Government Code Section 37361, the City has no authority to designate the Main Church Building as a Monument. Moreover, Government Code Section 37361(d) precludes the City from overriding the Church's determination of substantial hardship. The legislature has explicitly vested in religious institutions the authority to determine the effect of such a designation on their ability to further their religious missions. The Church's determination of substantial hardship functionally creates an irrebuttable presumption that such hardship exists, and the City cannot lawfully act to override that determination. As a result, the City Council cannot and must not initiate the process for designating the Main Church Building as a Monument.

The Church has spent considerable resources preparing for the demolition of the Main Church Building, including the relocation of weekly religious education and services, renting space off-site, removing asbestos and utilities, applying for a demolition permit, and even selling off the large pipe organ in the Main Church Building. As the City has no legal authority to designate the Main Church Building as a Monument, any attempted initiation at such designation will be a waste of scarce City resources and render the City liable for any financial losses resulting to the Church. Moreover, the Church will be forced to expend its scarce resources—which should rightfully be used in service of its religious mission—to needlessly defend itself against an illegal and futile action.

The freedom of religious institutions to self-determine the best courses of action to accomplish their religious missions is of paramount importance to the civic and spiritual life of this City. The Church has been central to these aims in the Westwood community for over 80 years, and is now fighting for its survival so it can continue to serve Westwood and contribute to the City as a whole. Accordingly, we respectfully object to the proposed City Council initiation of the Monument designation process.

Thank you for your immediate attention to this matter.

Very truly yours,



Victor De la Cruz
Manatt, Phelps & Phillips, LLP

cc: Honorable Councilmember Paul Koretz, CD 5 (via e-mail)
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