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March 1, 2019

VIA EMAIL holly.wolcott@lacity.org
AND FACSIMILE

Hon. Herb Wesson, President
Los Angeles City Council
c/o Los Angeles City Clerk
200 N. Spring Street, Room 395
Los Angeles, CA 90012

VIA EMAIL holly.wolcott@lacity.org
AND FACSIMILE

Holly L. Wolcott
City Clerk
City of Los Angeles
200 N. Spring Street, Room 360
Los Angeles, CA 90012

Re: Objection to Lack of Proper Mailed Notice and Posted Notice As Required by LAMC § 12.24, 16.05H, 12.28C For City Council Land Use Appeal Hearing, and Error In Referring An Item Required By Law For City Council Hearing To A Committee of Less Than The Entire City Council.

Objections to the Los Angeles City Council Hearing Scheduled for March 5, 2019 re: the Site Plan Review, Zone Change, District Change, Conditional Use Permit, Mitigated Negative Declaration and all other entitlements for the Tao Hotel/Dream II Hotel/Selma Wilcox Hotel project located at 6421-6429 ½ W. Selma Avenue, Los Angeles; CPC-2016-2601-VZC-HD-CUB-ZAA-SPR; ENV-2016-2602-MND, Council File 18-0873, City Council Meeting Agenda Item No. 3

Honorable President Wesson and Los Angeles City Councilmembers:

This firm and the undersigned represent Sunset Landmark, LLC (hereinafter "Sunset Landmark"). By this letter, we demand that the March 5, 2019 regular Council meeting agenda items on this matter be canceled and rescheduled because the City Council has failed to comply with the mailed notice and posted notice requirements in order to conduct a decision making land use appeal hearing. Previously, our firm objected because the City Council failed to provide actual notice to the four land use appellants who clearly, by virtue of their status as land use appellants, have a constitutional right to notice of the City Council's public hearing.

Further review of Los Angeles Municipal Code §§ 12.24 related to the Conditional Use Beverage Permit, §12.28C related to the Zoning Administrator Adjustments, and §

16.05H related to the Site Plan Review demonstrate that when City Council sits as the appellate body, it is required to provide the same notices of public hearing as the lower decision making body. None of these Los Angeles Municipal Code provisions authorize or direct the City Council to delegate any portion of the public hearing to a subordinate hearing officer or committee. Just like countless provisions of the City's municipal and administrative code, when the City Council is required to conduct a hearing, it does so by scheduling a public hearing on the City Council's regular meeting agenda. Yet for some unknown reason, the Council President has and did make a referral of the land use appeals in this case to the Planning and Land Use Management ("PLUM") Committee.

The referral in this case was inconsistent with City Council Rule Nos. 8 and 16. Rule No. 16 provides in part: "The Presiding Officer shall cause all matters filed with, or presented to the Council to be referred to the appropriate Council Committee, except as otherwise provided by the Rules **or where required by law to be first presented to the Council.**"(Emphasis added.)

Council Rule No. 8 provides in part: "**Public hearing items scheduled for regular meetings are afforded special notice for a specific Council meeting date and are intended to receive separate public input or a specific matter. Interested persons (for example applicants, appellants and property owners) shall be given reasonable opportunity to present oral arguments for or against any proposed action.**"

In this case, a public hearing is required **by law** to be conducted **by the City Council** to conduct the quasi-judicial hearing of the pending land use appeals. Under Council Rule No. 16 such hearing was required to be placed directly on the full City Council's regular meeting agenda, just like a public hearing on imposition of nuisance liens or placement of lighting district assessments whose governing laws or regulations require the City Council to conduct a hearing.¹ It is no small irony, that the City Council has nuisance hearings scheduled for public hearing before the full City Council on March 5, 2019, but has this \$100 million "party nuisance" hotel project, which could diminish the value of adjoining land and quality of life of adjacent residents for decades to come,

¹ We note that none of the other laws or regulations that require the City Council to conduct a public hearing before taking action on a nuisance lien or a light district assessment contain language that require their hearings to be "first presented" to City Council, yet the President does not refer these public hearings to any committee. They are simply not referred to Committee and placed on the meeting agenda reserved for items where the law requires that the City Council conduct a hearing.

was scheduled as a mere Brown Act item for which public comment was allowed at the PLUM Committee.²

In this case, the City Council President improperly referred a public hearing required to be noticed for a date certain and scheduled in the full City Council to the PLUM Committee. Accordingly, because the less than the full City Council heard the quasi-judicial hearing required by law, the PLUM Committee's action did not comply with the Los Angeles Municipal Code provisions that mandate that the City Council notice and conduct a hearing. Council Rule 16 related to items noticed for public hearing specifically guarantees that such hearings will provide an opportunity for applicants, appellants, and affected property owners to be heard.

Despite this reality, the City Clerk gave a mailed written notice of a PLUM Committee public hearing on the Project on October 5, 2018 for a hearing scheduled for October 30, 2018, and when the PLUM Committee meeting was continued, the City Clerk gave written notice of a revised PLUM Committee public hearing on the Project on November 2, 2018 for a hearing scheduled for November 27, 2018. The Council File shows that the PLUM Committee Report for November 27, 2018 took action to recommend to the City Council approval of the Project, denial of the appeals, and referral the matter to the City Council for "further consideration."

Neither the PLUM Committee Report nor the audio recording of the November 27, 2018 meeting state a date that the hearing in City Council would be held. Thus, the hearing notices mailed for the faulty PLUM Committee process could in no way constitute the required public hearing notice required to notify land use appellants and persons owning property or occupying property within 500 feet of the Project of the March 5, 2019 full City Council consideration. Additionally, instead given proper mailed and posted notice for a City Council hearing and placing the item in the portion of the meeting agenda entitled "Items Noticed for Public Hearing," the City Clerk has placed this item incorrectly in the section entitled "Items for Which Public Hearing Has Been Held." That section of the Regular Meeting agenda is reserved for non-public hearing

² We note that only a fraction of the City Council members heard the improperly referred land use appeals at the PLUM Committee. To the extent that the City's practice fails to list these land use hearings on the portion of the City Council meeting agenda reserved for "Items Noticed for Public Hearing" and that less than a quorum of the full Los Angeles City Council hears these appeals, the land use appellants have been denied constitutional due process, a fair hearing, and a hearing set in accordance with City Council's own rules and its practices related to other matters where the law requires the City Council to conduct a hearing.

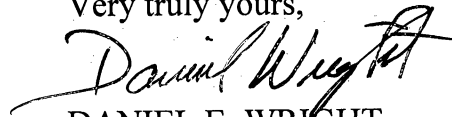
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items that may have been heard at a City Council Committee, such as for example, an audit report. An audit report may be entitled to be commented on under the Ralph M. Brown Act at a Committee (after referral because no law required a scheduled public hearing), but a quasi-judicial land use hearing most certainly cannot be placed on this portion of the meeting agenda, nor approved by a vote of the full City Council without those members actually conducting the hearing required by law.

If the City Council goes forward on Tuesday, March 5, 2019 with a hearing on the Selma Wilcox Hotel project, all interested parties entitled to mailed and posted notice will not have received adequate notice nor sufficient time to review and respond to the significant new materials that have been submitted to the Council File. Under the current conditions as scheduled on the meeting agenda posted late this afternoon, the City violates constitutional due process and fair hearing rights, LAMC Sections imposing a duty on the City Council to conduct a quasi-judicial land use hearing, and its own City Council rules for scheduling matters the law requires a public hearing of the City Council.

Because the City has violated the above-cited provisions, we demand that the City cancel and reschedule the March 6, 2019 hearing in accordance with law. **Please immediately reply**, and please include this letter in the City Council File administrative record for this matter. Thank you.

Very truly yours,



DANIEL E. WRIGHT

FOR

THE SILVERSTEIN LAW FIRM, APC

DEW:vl

cc: May Sirinopwongsagon (via email may.sirinopwongsagon@lacity.org)