



● **McQUISTON ASSOCIATES**

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CF11-1556

ITEM 2 COUNCIL 9/30/11

A. Alietti

**STATEMENT of J.H. McQUISTON on
MOTION to APPROVE UNLAWFUL AND UNSAFE CONVERSION**

Honorable President and Members of the Council:

The California Court of Appeal on September 6, 2011 published its Decision that the City's Process for Rule 245 Motions did not obey California Law (*West Chandler Blvd Neighborhood Assn v City of Los Angeles, et al*, No. B226663, originally decided Aug 16).

It said the City's "245 analysis" did not "bridge the gap" between the facts and its conclusion, it is not allowable to go beyond the facts presented at the Zoning-Administrator Hearing, and the Council *must prove* the Administrator's reasoning is *not in accordance with Law*. It cited as authority the same California Supreme Court Case (*Topanga Assn v County of Los Angeles*, 11 Cal 3d 506 (S Ct 1974) which was mandated on the City in 2006 for future cases by *Philip Anaya v City of Los Angeles*, BS 099892).

I believe this Council will not want to disobey these powerful Courts of Law by approving the CD5 Motion to reverse the Zoning Administrator's and the Central Area Planning Commission's variance-denial.

Be reminded: Los Angeles Officials take a solemn Oath required by Section 215 of the City Charter:

"I do solemnly swear (or affirm * * *) that I will support the Constitution of the United States and the Constitution of the State of California and the Charter of the City of Los Angeles, and that I will **faithfully discharge the duties of the office * * *** according to the **best of my ability**" (emphasis added)

The Council *must not fail to deny* the Motion. There is no way *Topanga* permits the requested use by variance. A zone-change is necessary; which change is not reasonable for this property's subarea, because it would be substantially out-of-place.

The remodeler *assured* the City this property was remodeled for a permitted use, but the remodeler spoke falsely. Now, *without due-diligence*, an owner wants to capitalize on that falsehood.

The owner has available a remedy which is not painful, and it won't require this unlawful variance. The owner won't be *enriched* with an *unconstitutional special privilege* not possessed by the neighbors.

Scofflaws *must not be encouraged* by unlawful City action. Disregard for Law, and Jeopardy of inhabitants and neighbors by hazards on this property, is staggering. That is my opinion, as an expert licensed by the State of California.

And, this is only one of a slew of properties that CD5 recently supported for unlawful variances.

Zoning is required to *protect the public from harm* and to *promote public welfare*. If zoning is improper, it must be amended. **But there is nothing in the Zoning Administrator's denial of variance which will support a "bridge" required for its reversal.**

CD5 as Mover has the burden of legally-pertinent proof, that there was error satisfying *Topanga*, which burden was unsatisfied at PLUM.

Respectfully submitted,

J.H. McQuiston, P.E.

c: Interested parties