

## Substantial Evidence of Fraud in The Hollywood Community Plan

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Submission to Council File #: 12-0303, The Hollywood Community Plan

CPC-2005-6082-CPU, CPC-1997-43-CPU

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The Hollywood Community Plan, hereinafter called the Plan, is based on fraudulent representations. In explaining why the No Project Alternative was environmentally inferior, the Final EIR has the following paragraph which captures the essence of the fraud.

The Final EIR concluded that the Existing 1988 Plan, which is the No Project Alternative, is environmentally superior to the others. This alternative allows the lowest amount of development, and, therefore, the fewest impacts. Furthermore, this Alternative would allow the lowest number of people to be exposed to environmental impacts while at work or at home. This alternative is superior from a strict environmental stand point, but it does not meet the goals and objectives of the City, County, and SCAG in terms of preparing communities **for social and economic changes that are expected through the year 2030**. It accommodates some of the forecasted growth in population, but **not all of it**. However, in accordance with CEQA, the environmentally superior alternative cannot be the No Project Alternative. **[bold added]** *February 2012 Findings*

Let's break down this crucial paragraph sentence by sentence:

**Sentence # 1.** "The Final EIR concluded that the Existing 1988 Plan, which is the No Project Alternative, is environmentally superior to the others."

This sentence is accurate. Not only was the No Project, The Existing 1988 Plan, environmentally superior to the other Alternatives, but this was the Final EIR's conclusion. The question then becomes, "why was the environmentally superior alternative rejected?"

**Sentence #2.** "This alternative allows the lowest amount of development, and, therefore, the fewest impacts."

This sentence is likewise true and raises the same question, "why was the environmentally superior alternative rejected?"

**Sentence # 3.** "Furthermore, this Alternative would allow the lowest number of people to be exposed to environmental impacts while at work or at home."

This sentence is likewise true and raises the same question, "why was the environmentally superior alternative rejected?"

**Sentence # 4.** "This alternative is superior from a strict environmental stand point, but it does not meet the goals and objectives of the City, County, and SCAG in terms of preparing communities for **social and economic changes that are expected through the year 2030.**"

The fraud emerges. The "social and economic changes" are myths. Actually, they are worse than myths in that they are falsehoods. The change to which this sentence refers is the significantly greater population density that Hollywood will have by 2030 based upon reliable data. In reality, Hollywood is not headed for 250,000 residents, but instead its population is declining downwards to 190,000 ppl by 2030. In fact, it is far more likely that by 2030, Hollywood's population will be closer to its population in 1985, ca 185,000 persons.

In other words, the upward population trend which existed from 1950 to 1990 reversed itself in 1990 and the population exodus began.

Year	Population	Increase	Decrease
1950	160,047	N /A	
1960	160,383	336	
1970	156,335		4,000
1980	181,002	24,667	
1990	213,858	32,856	
2000	210,824		3,034
2010	198,228		12,596
2030	190,00 or >		8,228 from US Census data

Thus, there is no evidence to support the claim that the population is increasing and no evidence that the population will be close to 250,000 in 2030, the so-called "expected change." To the contrary, the evidence is the exact opposite. Hollywood has been experiencing a twenty year population decline, and the rate of decline is accelerating.

**Sentence # 5.** "It [No Project Alternative] accommodates some of the forecasted growth in population, **but not all of it.**"

This sentence is ridiculously false in that the No Project Alternative allows for 45,000 more residents than a non-fraudulent projection based on US Census data.

Sentence #5 contains the essence of the fraud which invalidates the HCP from start to finish. The entire HCP is permeated with the fraudulent claim that Hollywood's population is increasing when the councilmembers knew that the opposite was the true situation.

**Sentence # 6.** However, in accordance with CEQA, the **environmentally superior alternative cannot be the No Project Alternative.**

The facts completely rebut this conclusion. Under CEQA the City may not reject the environmentally superior alternative when it accommodates the future population projections.

The No Project Alternative meets the City's and CEQA's legitimate goals and still has excessive zoning capacity to accommodate an additional 35,000 to 45,000 ppl.. The 1988 Standards are designed for about 235,000 residents, which is 45,000 more than the realistic population projection for 2030.

### **How Did We Arrive in this Bizarre Situation?**

What process lead to the City's rejecting the environmentally superior alternative which also provided for several thousand more people than Hollywood expects by 2030?

The nature of Los Angeles' habitual land use fraud was highlighted in 2006 by the then newly hire Director of Planning, Gail Goldberg, who stated that only in Los Angeles is a property's zoning and use determined by developer pressuring and/or rewarding the councilmembers.  
<http://bit.ly/cRH37r>

The parameters of the Plan were set in this fashion which Director Goldberg decried. The developers figured out what projected population they need in order to do away with virtually all zoning requirements, and then went out and cherry picked the "facts" to support their goal. When there were no "facts" to cherry pick, they simply invented the myth of an exploding population.

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## **The Reduced Growth Alternative**

By both law and common sense the only acceptable Alternative, which the EIR studied, as the No Project Alternative. However, with a declining population and deteriorating infrastructure, the City had the affirmative duty to study a Reduced Growth Alternative.

Because the population is dropping due to poor living conditions caused by excessive growth under the 1988 Standards, those standards are not stringent enough to protect Hollywood. Thus, density construction needs to be lowered. There has been a correlation between lowering Hollywood's density standards and the livability of this part of Los Angeles.

The City's practice of knowingly using false data for its Plans including the Frame Work adopted in 2001<sup>1</sup> and this Hollywood Plan turns out to be common in Los Angeles. Because there is a prima facie case that the false data has been intentionally presented with the intention that people would reasonably rely on the false data and thus adopt a plan which favors the financial and political interests of a few persons, the Hollywood Community Plan must be rejected.

### **7. Falsified Fire Protection Data:**

Before discussing further the false data underlying the entire Hollywood Community Plan, one should mention the recent revelation that the City has been purposefully misrepresenting its response times. As almost all news media have reported, the City complied data falsely stating that it responded to emergency calls within 5 minutes, when in truth the data was based on a 6 minute response time. Five minutes is a national standard as it is the accept time frame of irretrievable brain death. The goal of any fire department is to respond to an emergency in five minutes or less, 90 percent of the time, according to the National Fire Protection Association.

Why five minutes?

"In EMS, you are talking about clinical death after five minutes," said former LAFD Commissioner Tom Curry. "On structure fires, now you have roof collapse. And in brush fires, the first five minutes is more important than the next five hours." *Channel 4KNBC news, Sunday, March 4, 2012, LAFD Response Times Under Fire*

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Although the 2000 US Census showed that Hollywood's population was not 213,858 and growing in 2000, the City made that false representing asserting that Hollywood should expect 257,000 residents by 2010. When it adopted the Frame Work in 2001, The City knew that a decline had set in. In fact, as far back as 1993, the City itself had predicted the exodus if more dense construction were added. *1993 L.A. Telecommuting Study*

The City was reporting that 80% of the time, the City was reaching the destinations within 5 minutes. That is already 10% lower than the national goal of 90% of the time. In reality, the 5 minute response time was being reached only 63% of the time and after the moth balling and new deployment system, the rate is below 60% of the time. As will be shown, these fire statistics are highly relevant to the current Hollywood Community Plan and worse yet, they show not only intentional misrepresentation but also criminally recklessness disregard for people's safety..

### **8. The Role of the Community Redevelopment Agency CRA/LA]:**

The intentional frauds which underlie both the false fire data and the false data for the HCP relate back to the Community Redevelopment Agency [CRA/LA] and its siphoning off of billions of dollars in incremental property dollars, thereby leaving the city general fund inadequate to provide adequate infrastructure.

Rather than utilize the CRA's funds or admit that the City Council had the power under the City Charter to approve or disapprove all CRA/LA's projects and to use CRA funds for regular infrastructure, the City Council simply lied about the City's having a deficit. [It is time for people to cease pretending that these years and years of false data just happened by some coincidence and that the city hall culprits are victims.]

On April 26, 2010 in a CityWatch article, the City was asked:

So why don't we use some CRA money rather than reduce fire protection?  
The mayor, the councilmembers, the budget mavens never suggest that any money set aside for developers should go to pay for basic services like fire, police, etc. *April 26, 2010 City-Watch, The City Has No Deficit by Rick Abrams*

The response from Council President Eric Garcetti and the rest of the Council was cutting the fire budget by \$200 million and promoting Prop 22, which guaranteed that no CRA/LA funds could ever be used for fire fighting or police services. It is important to note that years ago the connection between the billions of dollars that the CRA/LA was diverting into its coffers had been linked to the City Council's downsizing fire protection.

### **9. The False Data in the Hollywood Community Plan:**

The Plan is based on the fiction that Hollywood's population has been increasing over the last twenty years and that we need to prepare for 250,000 residents in 2030. This misrepresentations of Hollywood's population is not a recent phenomenon.

In the Los Angeles City Wide General Plan Frame [LACWF] which was adopt in August 2001, the city falsifies Hollywood's population as 213,858 (p ) 1 when the 2000 US Census had shown a year earlier, Hollywood's had lost population since 1990 and was down to 210,794 persons.

By concealing the fact that Hollywood's population was in decline, the LACWF projected that by 2010 Hollywood would have 257,033. LACWF, p. 762, 1610 Had the City merely extrapolated from the 1.4% decline between 1990 and 2000, the 2010 population projection would have been only 207,843 persons. Contrary to the US 2000 Census data, the City projected 20% increase. In retrospect we see that the actual 2010 population was only 198,288, which is a 58,805 fewer people.

LACWF p 959, however, uses 210,587 for average day/night Hollywood population to calculate LAPD needs, showing that when the City used the 213,858 figure, it knew it was wrong.

Nowhere did the LACWF discuss the ten year decrease in Hollywood's population even though in its *1993 Telecommunications Study*, the City had noted that density results in a population exodus.

The improved transportation infrastructure is a major inducement for businesses and households to move to areas that are both served by the infrastructure and have lower land prices. The goal in individual household move decisions is to achieve an attractive, affordable, **generally low population density residence** location. [bold added] *City of Los Angeles Telecommuting Project Final Report, March 1993 p 57*

This pattern of Angelenos' moving away from density was the established pattern for Los Angeles, and thus, the City knew that more dense construction in Hollywood would drive out more families. Dense construction on one block impacts neighboring areas so that over all a new dense project results in loss in population. We now can correlate the unrestrained construction of CRA mixed-use projects with the accelerating rate of the population flight. According to the 2010 US Census, the exodus increased by 400% from 1.4% between 1990 and 2000 to 6% [5.97% exact] between 2000 and 2010.

Decisions based on falsified data have consequences. One may debate whether the decreasing population is harmful or beneficial. Traffic in Hollywood east of Vine Street does seem less congested in the last two years. Traffic in the west end of Hollywood around the disastrous CRA Hollywood-Highland Complex seems much worse, despite the evidence that Hollywoodians themselves now avoid that area. While the City's Department of Planning asserts that it has the funds to conduct a traffic study, it refuses to do so until after the HCP has been adopted.

#### **10. The City's Continued Misrepresentations: To Conceal The True Population Data and Tend**

The City has shown persistence in its misrepresentation of the population trend in Hollywood. After a host of commenters from the 2010 US Census figures to the City's attention, its FEIR contained the following.

There are at least four census tracts in central Hollywood that exhibited a **net population gain**. These tracts include census tracts 1905.1, 1905.20, 1907, and 1910; see Map 1. All four of these census tracts are located within the Community Redevelopment Agency Project Area and are areas where the Hollywood Community Plan is proposing increased capacity." **[bold added]**  
*Final EIR p 3-2*

Perhaps the City thought no one would take the time to check, but upon checking one sees that the City's representations and the truth are once again opposites. Here is the truth; those four census tracks had a net loss of 641 persons. [1905.1 up 40; 1905.2 down 598; 1907 up 110; 1910 down 193 = minus 641]

Under the City's approach to full disclosure, the City declares that "Down" means "Up." A net population loss of 641 people becomes a "net population gain."

#### **11. Former Director Planning Gail Goldberg Complained About the Process La Uses to Make Land Use Decisions**

When former Director of Planning Gail Goldberg came to Los Angeles in 2006, she lambasted the way Los Angeles made land use decisions. When she tried to reform the corrupt system, she was forced out as Planning Director. See above with link to LA Weekly article.

That same process, which Director Goldberg said was causing disaster, was used to draft the HCP. The City set a density its developers wanted to achieve, and then, the council district proposed to change the zoning to accommodate the spurious need to provide for 250,000 persons.

An obstacle stood between the drastic up-zoning that the City wanted in order to justify turning Hollywood into a vertical city. *HCP p14* People were rapidly leaving Hollywood. The increased density from the CRA's building and the starving of the infrastructure to support the CRA's gift of hundreds of millions to developers were making Hollywood an undesirable place to live.

#### **12. Legal Requirement of Substantial Evidence:**

Because Community Plans must be based on substantial evidence, the accelerating decline in Hollywood's population provided no evidence for the up zoning. In fact, it required the City to consider Alternative #4, Reduced Growth With Better Infrastructure.

#### **12. The Misrepresentation of TOD's:**

For years and years, the City has been promoting the discredited notion that Transit Area District's [TOD's] are desirable or beneficial for Hollywood. TOD's are an old invention

of landowners who accumulate land along transit routes and then have the city greatly increase the density within these TOD's.

The City itself warned itself of this age old scam in its 1915 Transit Study. The 1915 Transit Study was saying the same thing director Goldberg noted — allowing landowners to set the zoning is very harmful to the City. The HCP is an egregious example how landowners within these TOD's are setting the zoning — contrary the evidence.

### **13. The Fraud of the Subways' Revitalizing Hollywood:**

The 1915 City of Los Angeles Transit Study previously laid bare the fraud of fixed-rail transit for passengers in a circular urban area encompassing 5,000 sq. miles. Whether it is above ground or subterranean, fixed rail-transit is not a solution, but instead it is a serious problem.

The data on the Hollywood subway proves that the honest planners in 1915 were correct. The contractors who constructed the subway became wealthy while others suffered. In a form of rapid karma, which one seldom witnesses, the misrepresentations how wonderful TODs would be and how the subway would revitalize Hollywood turned on the developers in record time to bring them economic disaster. Neither the mathematics nor the finances have changed in 100 years.

Three subway stations in Hollywood have CRA projects above them and each one is a financial disaster.

1. The CRA Hollywood-Highland Complex cost \$625 Million to construct and was sold to CIM Group for \$201 Million a few years later. The City had invested \$100 Million of general funds as well as the CRA money. Next the City gave CIM group \$30 Million to rehab the new Kodak Theater. This complex was one of the largest real estate write downs in the country's history. No stretch of the imagination can say that the subway revitalized Hollywood-Highland.

2. The W Hotel with its unsold condos sits on top the Hollywood-Vine station

3. The mixed-use project above the Hollywood-Western station has been unable to rent ½ of its real space for the decade of its existence.

In fact according to the 2000 - 2010 US Censuses, when looks at the net population gain or loss for census tracts abutting subway stations in Hollywood, the data shows a significant loss in the adjacent census tract.

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<u>Subway Station Location</u>	<u>Net Gain or Loss</u>	<u>Cumulative Loss</u>
Santa Monica-Vermont	Net Loss 802	-802
Sunset-Vermont	Net Loss 1,678	-2,480
Hollywood-Western	Net Loss 1,684	-4,164
Hollywood-Vine	Net Gain 207	-3,957
Hollywood Highland	Net Loss 346	-4,303

Perhaps population patterns reflect the old adage, "you can lead a horse to water,— --- but you can't force him to drink poison." The more mixed-used projects which the councilmember forced into his district, the more people departed.

#### **14. Summary:**

Mistakes can happen in many ways. Despite another adage about "the road to Hell being paved with good intentions," the quicker route is paved with bad intentions. The fundamental motivation behind the fraudulent nature of the Hollywood Community Plan was to make money for developers with no regard for the quality of life of Hollywoodians, present or future.

Perhaps fortuitously, the falsification of the fire department responses times was revealed before the City PLUM hearing on March 27, 2012. (See sections 7 & 8 above) The public now sees the reckless disregard that the city councilmembers in general and the councilmembers for Hollywood — Garcetti and LaBonge — have for the homes and lives of Angelenos.

The years of lies, false data, foolish claims about TOD's, kowtowing to myopic developers who stuff their pockets with tax payer dollars are culminating not only in an exodus from Hollywood but also in people being maimed and needlessly dying so that Garcetti and LaBonge with their cohorts on the City Council can stuff hundreds of millions of dollars into the pockets of Eli Broad and CIM Group.

This Plan needs to be sent back to square one, and Los Angeles needs to appoint a special prosecutor to convene a Grand Jury to investigate the City Council, the CRA, and their developer associates.