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April 28, 2017

**VIA E-MAIL**

Hon. President Herb Wesson  
Hon. Councilmembers  
Los Angeles City Council  
200 N. Spring Street, Rm. 395  
Los Angeles, CA 90012  
Attn: Brian Walters  
E-Mail: brian.walters@lacity.org

Re: Council File 17-0348-S1  
10101 West Angelo View Drive, Bel Air, CA ("Property")  
Response to Charter Section 245 Action  
Hearing Date: April 28, 2017 [Last Day to Act on the 245 Motion is  
May 17, 2017]  
Agenda Item 15

President Wesson and Honorable Members of the City Council:

We represent Michael Scott and Angelo View Associates, LLC, the owner and applicant of a fully zoning-compliant, by-right, single-family home (the "Project") at the above-referenced Property. The Charter Section 245 action agendized for this morning pertains to whether the Department of Building & Safety ("DBS") properly extended the plan check process for this project. The administrative record on this case lacks any factual or legal basis for overturning the appeal determination made by the Board of Building and Safety Commissioners (the "BBSC") that affirmed the authority and legality of the plan check extension. The opponents of the Project were unable to provide **any** evidence of error in extending the Project plan check and are now asking the City Council to meddle into the plan check process managed by the DBS. One would think the City Council has more important things to do than micro-manage plan checking.

Further, we object to the lack of notice of this morning's hearing. The 245 Motion adopted on April 26 clearly states the matter is being referred to committee. All of a sudden, this item is on your Supplemental Agenda for April 28, without having provided any form of notice to the permit holder/applicant, whose property rights are being challenged. I woke up this morning to an email I received last night at 10:41 pm from Faisal Alserri of Councilman Paul Koretz's office informing me that our item is being heard this morning. This does not give the applicant "an opportunity to be heard" and constitutes a gross violation of his due process rights. I am on my way out of town for the weekend and will not

be able to attend this morning's Council hearing. The last day to act on the 245 Motion is May 17, so why the rush and denial of basic due process. Consequently, this letter is submitted under protest and with a full reservation of rights.

**1. The Plan Check was Properly Extended, as Stated by Staff and Reiterated by the City Attorney.**

The single-sentence BBSC determination letter of April 18, 2017 tells the entire story of the series of appeals and political maneuvers employed to try to kill the by-right, code-compliant project. These actions could not overcome a simple, dispositive truth: DBS is authorized to extend plan check for up to 18 months beyond the initial 18-month period, and extended plan check in this case for approximately seven months. Nothing has changed since the BBSC hearing, and the extension remains properly authorized and the permits issued.

Section 19.0603 of the Code specifically provides for extensions of plan check beyond the initial 18 months, with no stated limit. This provision is further implemented by Information Bulletin P/BC 2014-120, which limits the number of extensions to three, six-month extensions. As discussed and substantiated in the Report on Appeal, DBS extended plan check for three building permits (14010-10000-03596, 14030-10000-07119, and 14020-10000-02928). Plan check for a fourth permit was not extended and the permit was not issued.

DBS records demonstrate the Property owner submitted permits for plan check on November 10, 2014. Thus, they would have expired on May 10, 2016. However, on May 2, 2016, DBS granted a six-month extension to November 10, 2016. On November 22, 2016, DBS granted another extension of plan check to December 30, 2016. Issuance of the permit did not require the full extension period, as DBS issued the permits on December 14, 2016, or 16 days prior to the expiration of the plan check extension.

The gap between November 10 and November 22 has no legal effect, as the Code provides for such a gap. Specifically, Code section 98.0605 requires filing a request for extension of permits or plan check within 30 days of *expiration*. Thus, the owner could have filed for an extension of the November 10, 2016 deadline by December 10, 2016, and the extension would have remained valid. But in this case, the extension was applied for and granted on November 22, 2016, or well within the grace period afforded by Code. Appellant does not and could not offer any supportable argument to the contrary, and the plan check remained valid and the permits from that plan check remain properly issued.

**2. The Appeal to BBSC had No Basis, the 245 has No Basis to Overturn the BBSC Action, and the Council Should Deny It.**

As stated above, the lack of notice for this Charter Section 245 action violates the Ralph M. Brown Act, a failure that is only exacerbated by the misleading documents posted to the

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Council File, which indicate a referral to the PLUM Committee on May 2, 2017. Therefore, not only is this action not properly before the City Council today, but as described above, it is entirely unsubstantiated, and it provides no basis for overturning the BBSC. Though the Council cannot legally act today, if it does, it should uphold the BBSC action.

Sincerely,



for  
BENJAMIN M. REZNIK and  
NEILL E. BROWER of  
Jeffer Mangels Butler & Mitchell LLP

BMR:neb

Attachments

cc: Hon. Paul Koretz, Councilmember, District 5  
Terry A. Kaufmann-Macias, Office of the City Attorney  
Amy Brothers, Office of the City Attorney  
Vincent P. Bertoni, AICP, Director of Planning  
Lisa Webber, AICP, Deputy Director of Planning  
Timothy McOsker, Esq., Attorney for Appellant  
Penny Flinn