

1 MARIA J. MEJIA, ESQ. State Bar No. 244012
2 MARIA J. MEJIA, ATTORNEY
3 P.O. Box 6523
4 Burbank, California 91510
5 Telephone: (818) 389-1998

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MARY B.
STROBEL

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Superior Court of California
County of Los Angeles

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Sherri H. Carter, Executive Officer/Clerk
By: Judi Lara, Deputy

Attorneys for Petitioner JENNIFER GETZ

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10 JENNIFER GETZ, an individual,

11 Petitioner,

12 vs.

13 CITY OF LOS ANGELES, a municipal
14 corporation,

15 Respondent.

Case No: BS160552

PETITION FOR WRIT OF MANDATE

(CALIFORNIA ENVIRONMENTAL
QUALITY ACT; LOS ANGELES
MUNICIPAL CODE; GOVERNMENT
CODE; SUBDIVISION MAP ACT)

16 UB VALLEY VILLAGE, LLC, a Delaware
17 limited liability company; URBAN BLOX, LLC, a
18 Delaware limited liability company; SYDNEY A.
19 EDWARDS, an individual; SYDNEY A.
20 EDWARDS, trustee of the Edwards living trust;
21 MARTA LATHROP, an individual; MARTA
22 LATHROP, executor of the estate of Clinton J.
23 Lathrop; and, DOES 1 - 100, inclusive,

Real Parties in Interest.

1 **INTRODUCTION**

2 1. Petitioner Jennifer Getz ("Petitioner") has filed the instant action against
3 Respondent City of Los Angeles ("City" or "Respondent"). Respondent is the lead agency and has
4 approved Real Parties' 26 small homes subdivision project on three parcels of land and a public
5 street. Real Parties in Interest UB Valley Village, LLC, Urban Blox, LLC, Sydney A. Edwards,
6 Sydney A. Edwards, trustee of the Edwards living trust, Marta Lathrop, and Marta Lathrop,
7 executor of the estate of Clinton J. Lathrop are herein collectively referred to as "Real Parties."
8 Real Parties own property and/or have submitted project applications to the City for their project,
9 consisting of approximately 34,321 square feet, with three-story homes including onsite attached
10 garages. The City and Real Parties have materially failed to adequately describe the project and
11 have erroneously adopted a mitigated negative declaration. The project intends to destroy the
12 currently existing nine units, consisting of one and two stories that have no onsite parking and
13 replace them with the dense and massive 26 three-story homes with onsite garages and parking.
14 The City and Real Parties have failed to adequately disclose the project.

15 2. The project is on three parcels of land, consisting of nine low-income residential
16 units that were constructed in the 1930s and 1940s and represent the pre-World War II
17 construction. The Project increases the square footage by approximately 300 percent in destroying
18 the nine units on three parcels of land and constructing the 26, three-story residential units.

19 3. The area surrounding the Project Site consists of single-family and low density
20 apartment structures. Tenants occupied the project's three parcels, and Petitioner is a tenant.

21 4. The City has designated the following numbers to the project: DIR-2015-2697,
22 Vesting Tentative Tract number 73704, and ENV-2015-2618-MND (the "Project").

23 5. The City and Real Parties have failed to adequately and accurately describe and
24 disclose the Project. For instance, the Project is going to incorporate the public street
25 Weddington, east of Hermitage Street, but the City and Real Parties fail to disclose the extent of
26 the street to be incorporated, and it appears the entire street will be dedicated to the private
27 project. Furthermore, the City has failed to disclose whether the public street is being gifted to
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1 Real Parties, whether Real Parties are purchasing the public, or something else.

2 6. Furthermore, the City failed to provide adequate notice regarding the Project. For
3 example, the City failed to adequately disclose the type and scope of the Project and failed to
4 properly notice the MND comment period, the EIR appendices, and the City Council hearing,
5 among other things.

6 7. In addition, the City and Real Parties have failed to comply with the Los Angeles
7 Municipal Code, such as, tract map and small lot subdivision requirements, the City's General Plan,
8 North Hollywood-Valley Village Community Plan, Valley Village Specific Plan, and the
9 Subdivision Map Act.

10 8. The City has abused its discretion, as it has failed to proceed in the manner required
11 by law, and its decision is not supported by substantial evidence in approving the Project. The City
12 merely adopted an MND when it should have required an EIR for the Project. Among other
13 things, a fair argument exists as to significant, adverse impacts as to traffic and parking, low-
14 income/affordable housing, biological resources, noise, planning and land use, public services,
15 water utilities, cultural/historic resources, and cumulative impacts, and an EIR should be prepared.

16 9. The City has abused its discretion in approving the Project despite the Project
17 failing to comply with CEQA, the Los Angeles Municipal Code, the General Plan, the Subdivision
18 Map Act, and the Government Code, among other things.

19 10. In approving the Project, the City failed to follow the mandatory notice and
20 procedural requirements of State law and the Los Angeles Municipal Code. In addition, the City
21 failed to provide Petitioner and her neighbors with a fair process where the City Planner
22 responsible executing the Initial Study of the MND had connections with entities working with
23 Real Party Urban Blox.

24 PARTIES

25 11. Petitioner Jennifer Getz resides in the real property commonly known as 5303 ½
26 Valley Village, California. Said property is located on the Project Site.

1 22. Parcel 2 consists of two units. Of these two units, one unit has 4 bedrooms and one
2 unit has to bedrooms. Parcel 2 was constructed around 1931.

3 23. Parcel 3 consists of four units. Of these four units, one unit has two bedrooms and
4 three units have one bedroom. These units were constructed around 1934 and 1947.

5 24. The Project Site is located on the west side of Hermitage Avenue at Weddington
6 Street in the City of Los Angeles. The Project address is 5261, 5263, 5303, 5305 North Hermitage
7 Avenue, 12300, 12301, 12302 West Weddington Street, Los Angeles, California, in the Valley
8 Village community. These addresses comprise three assessor parcel numbers ("APNs") and
9 consist of three lots.

10 25. The Project Site consists of approximately 34,321 square feet. The Project Site also
11 inappropriately seeks to incorporate 8,111 square feet of a portion of Weddington Street, a public
12 street.

13 26. On April 1, 2015, Historian Charles Fisher wrote a letter to the Cultural Heritage
14 Commission regarding Parcel 3, referred to as the Hermitage Property. Mr. Fisher's letter states
15 that the property is emblematic of the early development patterns of the Mid 20th Century San
16 Fernando Valley, prior to the Post World War II tract development that transformed the Valley into
17 the large suburb of today. These small properties, which were mostly owner built, were the
18 backbone of the pre-war development. Many of them have been taken over by more recent
19 development. The Hermitage Property, however, has survived and retained its ability to show
20 how, as the fortunes of the Lathrop Family improved as the area came out of the Great Depression,
21 they were able to add to the site. The property was a focal point for the community, becoming in a
22 sense, a community center, where local children could go in their free time. Adults too enjoyed the
23 sewing circles and used the community room as voting location for many years. The property is an
24 important reminder of a simpler period in the growth of the San Fernando Valley and deserves to
25 be made a Los Angeles Historic Cultural Monument.

26 27. On or about July 8, 2015, a City Master Land Use Permit Application was filled out.
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1 The application references ENV No. 2015-2618, three APNs and Case No. DIR-2015-2697. The
2 total Project size is listed as 59,548 square feet and the lot area is listed as 42,343 square feet.
3 Further, the application describes the project as follows: "Demolish existing 9 unit apartments to
4 allow for the creation of 28 small lot homes, request for Project Permit Compliance from Valley
5 Village Specific Plan, REQUEST FOR MERGER OF PUBLIC ST (WEDDINGTON) AS PART
6 OF TRACT MAP."

7 28. On or about July 9, 2015, a City Community Planning Referral Form was filled out.
8 The form references the Valley Village Specific Plan and a description of a proposed project for a
9 28 unit small lot subdivision and merger as part of the tract map. Item 6. Environmental Clearance
10 has the Environmental Assessment Form box checked. Courtney Shum signs the form as
11 Community Planning Staff. The form includes, "DIR-2015-2967."

12 29. On or about July 3, 2015 and July 10, 2015 a person and engineer, respectively,
13 signed the City's Subdivider's Statement for tract 73704. The Statement indicates the Tract area
14 of 0.972 net and gross acres, with 42,342 net square feet after required dedication. The statement
15 also lists 28 single-family units, 56 parking spaces, and 7 guest parking spaces. North Hollywood-
16 Valley Village is listed as the Community Plan area. The Statement also indicates 10 trees of 12
17 inches or more in diameter, with 7 of these trees being removed. The Statement asks for
18 information for demolitions and conversions and attachment of CP-6345. Further, the Statement
19 states that the project is in an RA or more restrictive zone. The Statement describes the proposal as
20 "Demolish existing (1) duplex rental, (1) triplex rental and (1) fourplex rental for creation of 28
21 small lot homes subdivision, file for Vesting Tentative Tract Map, Request for merger of public
22 street (weddington St.) as part of this subdivision...."

23 30. On or about July 13, 2015, the City accepted an environmental assessment form.
24 The EAF case number is 2015-2618. The Case No. is VTTM No. 73704. The number DIR-2015-
25 2697 is also listed on the form. The project description is as follows: "Demolish existing one
26 duplex rental, one triplex rental, and one fourplex rental, for creation of 28 small lot homes[.] File
27 for Vesting Tract Map, Request for merger of public street (Weddington St.) as part of this
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1 subdivision[.] PROJECT PERMIT COMPLIANCE." Rule 403 permit from SCAQMD and Los
2 Angeles County Department of Public Works construction storm water permit are also listed under
3 the second paragraph of the Project Description. Under "Existing Conditions" the Project Site
4 Area is listed as 42,342 square feet and 0.972 acres, both for the net and gross. Duplex, triplex,
5 and fourplex rental units are listed as the existing use of land. The nine multi-family structures
6 over the age of 75 years will also be removed. The average rent is listed as \$1,350. The form asks,
7 "Is there any similar housing at this price range available in the area?" The response is, "Many
8 Rental Units in Vicinity of the project site." Twenty-four existing trees with a trunk diameter of
9 4"-28" are listed. Eighteen trees with 4"-28" diameter are listed as being removed. For type, the
10 form states, "(see tree report)". In addition, the form states that 2000 cubic yards of grading will
11 occur and that 2000 cubic yards of dirt is being imported or exported. In addition, the form lists
12 Hermitage Avenue, Magnolia Boulevard, and Chandler Boulevard as major and secondary
13 highways and freeways within 1,000 feet of the proposed project. Mitigation measures are to be
14 provided pursuant to CEQA analysis.

15 31. An Initial Study/Mitigated Negative Declaration dated March 9, 2016 was prepared
16 for the City by CAJA Environmental Services, LLS regarding Applicant UB Valley Village, LLC
17 ("MND"). The MND states that the Project will require approval of the following discretionary
18 actions: (1). 26 unit small lot subdivision as part of vesting tentative tract map; (2). Merger of
19 public street (Weddington Street) as part of the tract map; (3). Project Permit Compliance for
20 Valley Village Specific Plan to allow the 26-lot small lot subdivision; and (4). Any additional
21 actions as may be deemed necessary or desirable, including but not limited to, demolition, grading,
22 excavation, haul route, and building permits.

23 32. The MND has a page titled, "APPENDICES" at page 4 of the table of contents. The
24 appendices were not attached to the MND that was available as part of the City Council file on the
25 Project or the e-mail message that the City sent to one of the community groups in February 2016,
26 nor when Petitioner went to review the City files in August 2015. Although a free report was
27 available, the entire appendices were not available. On December 1, 2016, a volunteer of Friends
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1 of Valley Village asked the City via e-mail for the location of the appendices. The City responded
2 that the appendices were available on a CD that was at the City Planning Department.

3 33. The City did not publish a document titled, "Notice of Intent to Adopt the MND."
4 Nor did the City send Petitioner or her neighbors a Notice of Intent to Adopt the MND.

5 34. The City issued a notice of public hearing for a hearing before the Deputy Advisory
6 Agency on March 29, 2016. The Case No. was VTT-73704-SL, the CEQA No. was ENV-2015-
7 2618-MND. For Related Case, the notice states, "None." For project location, the notice states
8 12300, 12301 and 12302 Weddington Street. The notice does not include the additional addresses
9 for the Project. For the proposed project, "26 single family home lots with 59 parking spaces in
10 Small Lot Subdivision" is listed.

11 35. The City prepared a Planning Department Staff Report for the March 29, 2016
12 hearing before the Deputy Advisory Agency with a draft letter. The Staff Report states that the
13 request is for Vesting Tentative Tract VTT-73704-SL to create 26 single family home lots in a
14 small lot subdivision with 63 parking spaces. The subject property consists of a lot totaling 0.972
15 net-acres or 43,342 square-feet after street merger. It is a U-shaped non-hillside parcel of land with
16 a frontage of 177.7 feet on the west side of Hermitage Avenue. The site address is 12300-12303
17 Weddington Street and 5263, 5303 and 5305 Hermitage Avenue. Under public responses, the staff
18 report states that a letter in opposition to the project had been received although various letters
19 have been submitted. Surrounding properties consist of apartments, condominiums and some
20 triplexes and single family homes. The Office of Historic Resources conducted an investigation of
21 the structures but did not consider them a significant historic resource under Survey Los Angeles.
22 The subject site is designated medium residential by the North Hollywood-Valley Village
23 Community Plan with corresponding zone of R3. At other times, the City states that the zone is
24 [Q]R3-1. Weddington Street west of Hermitage Avenue is to be merged into the Project site.
25 Regarding trees, the staff report states that there are twenty-four non-protected trees and no
26 protected trees on the project site. Eighteen of the trees will be removed to accommodate grading
27 and construction activities and six will be preserved or relocated. Staff will include the standard
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1 tree replacement condition that the non-protected trees that are removed be replaced on a 1:1 basis.
2 Under environmental issues, the staff report states the area is subject to liquefaction, and that the
3 MND, dated March 9, 2016, addresses the above issues. Under environmental clearance, the staff
4 report states that the Environmental Staff Advisory Committee issued the MND on March 9, 2016,
5 even though March 9 was, according to the City, the last day of the 20-day comment period on the
6 MND. The wording in the staff report is cut off at the bottom of page 3, and disjointedly, the staff
7 report ends on the following page, page 4.

8 36. The draft vesting tentative tract decision letter with conditions lists Vesting
9 Tentative Tract No. 73704-SL, Related Case: DIR-2015-2697-SPP and, under CEQA, lists the
10 MND. At page 7, the draft decision letter requires that a copy of Planning Direction Case DIR-
11 2015-2697-SPP and show compliance with all the conditions/requirements of the Planning
12 Direction case as applicable. The draft decision letter also requires that street merger as approved
13 by BOE be shown. The proposed development was limited to a maximum of 26 lots, with a
14 minimum of 2 covered parking spaces per dwelling unit and guest parking at $\frac{1}{4}$ spaces per unit for
15 the small lot subdivision site. The letter does not address where the remaining $\frac{3}{4}$ guest parking
16 space will park, assuming only persons in one vehicle will be guests, as opposed to two or more
17 persons being guests in two different vehicles simultaneously. Residents will sometimes have
18 more than one guest visit them. The decision letter includes some environmental mitigation
19 measures pertaining to air quality, biological resources, noise, public services for fire and police,
20 and utilities for water and wastewater. However, these mitigation measures are inadequate to
21 eliminate the project's significant adverse impacts. The City Bureau of Engineering did not
22 provide notice to the public about the street hearing.

23 37. From about February 19, 2016 through March 28, 2016, Petitioner and neighbors
24 submitted letters to the City providing fair arguments as to the significant adverse impacts of the
25 project and the deficiencies in the MND. For example, on March 1, 2016, Andrea Wilkes sent an
26 e-mail with various attachments, including an attachment from the Official California Natural
27 Diversity Database and specified that the lack of habitat remaining in the City of Los Angeles for
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1 local wildlife, combined with climate change, has caused species have appeared at unusual times of
2 the year and have chosen a particularly out-of-the-ordinary location to call their domain, having
3 been forced out of their natural environment. On February 29, 2016, Joan M. wrote that Valley
4 Village is known for its village-type setting with cute little ranch style homes, cottages, and
5 bungalows that were built to contribute to the strong sense of character that Valley Village retains.
6 Joan M. also states that the Project would be removing affordable housing and that more than
7 twelve trees and open space is utilized on these properties and the project has failed to inform of
8 the root structure and the damage to the environment. Christine Kantner, founding member of The
9 Silver Lake Heritage Trust, submitted a March 4, 2016 letter discussed the historic character of the
10 community and mature camphor trees. On March 8, 2016, Bill Strathern wrote, no such project
11 exists in Valley Village and that the design, scale, and setbacks make this project completely fall
12 outside of the scope of the neighborhood and its specific plan. Mr. Strathern also wrote that the
13 corner and surrounding area is filled with existing affordable housing. Residents also submitted
14 CEQA Guidelines, such as CEQA Guideline Section 15064.5 concerning the significance of
15 impacts to archaeological and Historical Resources and Section 15065 regarding mandatory
16 findings of significance. Jennifer Granger wrote that the Project is not compatible and will remove
17 all existing landscape, trees, open space, and public parking. Ms. Granger also specified the
18 significant increase in traffic, walking, and riding bicycles, and the insufficiency of parking.
19 Historian Charles Fisher also submitted a March 9, 2016 letter, opining that the houses and
20 apartment buildings meet the definition as historic resources at the level of a potential district when
21 taken in context with other properties in the neighborhood. The properties are not currently
22 designated as historic monuments, but they still need to be evaluated as potential historic resources
23 under CEQA, whether they are designated or not. Mr. Fisher further opined that the cumulative
24 impact of these demolitions will produce a negative impact on the remainder of the neighborhood,
25 causing it to lose its potential as a historic district. In addition, Mr. Fisher stated his position is that
26 the Project buildings must be vetted as to their historic value as part of the CEQA environmental
27 process and offer options other than demolition. On March 6, 2016, Save Valley Village requested
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1 an EIR and stated that the MND was false and misleading. Save Valley Village also specified that
2 the Project violates the Valley Village Specific Plan in that said Specific Plan ensures that all
3 residential and commercial uses be consistent with the general character of the existing single
4 family developments and preserves the quality and existing character of the Valley Village area.
5 This group further specified that the Specific Plan is part of the General Framework, due to its
6 being part of the North Hollywood Community Plan, and may not be implemented in a manner that
7 is inconsistent and hostile to the Valley Village Specific Plan and General Plan Frame. On March
8 8, 2016, residents also submitted an e-mail specifying how City Planner Courtney Shum had a
9 conflict of interest as she had worked closely with Max Development LLC dba three6ixty, who
10 works closely with Urban Blox in advocating for their projects against neighbors.

11 38. On March 29, 2016, Petitioner and neighbors attended the hearing before the
12 Deputy Advisory Agency. At the hearing, Petitioners and several residents submitted written
13 objections to the Project based on the Project's procedural and substantive defects, including the
14 lack of review of several environmental factors. Among other things, the residents requested an
15 EIR based on a fair argument supported by substantial evidence as to significant adverse impacts
16 as to environmental factors, such as, traffic, noise, low income housing, planning and land use,
17 public services, utilities/water, cultural/historic resources, and cumulative impacts.

18 39. The Planning Director's Determination for the Valley Village Specific Plan Project
19 Permit Compliance was issued and dated **May 13, 2016**. The Director's Determination lists case
20 number DIR-2015-2697-SPP, CEQA ENV-2015-2618-MND, and related case Tentative Tract No.
21 73704. The location includes 12300, 12301 & 12302 W. Weddington Street; 5303-5305
22 Hermitage Avenue. The zone is listed as [Q]C2-1VL and the land use as Neighborhood Office
23 Commercial. The Director approved the project with conditions, adopted the MND, and adopted
24 the attached findings. The Determination mentions environmental mitigation conditions. For
25 example, the Determination addresses air quality (demolition, grading, and construction
26 activities), biological resources (Habitat Modification – Nesting Native Birds, Non-Hillside or
27 Urban areas), biological resources (Tree Protection Plan), archaeological, paleontological, human
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1 remains, geology and soils, hazards and hazardous materials (existing toxic/hazardous construction
2 materials), hydrology and water quality, noise, public services (fire protection), public services
3 (police), parks, transportation and traffic (safety hazards), utilities and service systems (wastewater
4 service), and utilities and service systems (drought conditions). Under project background, the
5 Director Determination states that the project site consists of three parcels with a total lot area of
6 34,321 square feet and will also include 8,111 square feet of Weddington Street, west of Hermitage
7 Avenue, which is proposed to be vacated and merged with the site through vesting tentative tract
8 map number 73704 for a total of 42,342 square feet of land area. Further, the Determination states
9 that the project includes the demolition of nine residential units and that the site contains no
10 protected trees on site. There are 24 existing trees on site; six trees would remain, three would be
11 relocated, and 15 would be removed. Seven trees would be replaced on a 1:1 ratio onsite and the
12 eight remainder replacement trees would be handled through the City Plants Program. Further, the
13 Director Determination states that the property is zoned [Q]R3-1L and had a General Plan Land
14 Use Designation of Medium Residential within the North Hollywood-Valley Village Community
15 Plan area. The Determination concludes that the project substantially complies with the applicable
16 regulations, standards, and provisions of the specific plan. Further, the Determination concludes
17 that the project incorporates mitigation measures, monitoring measures when necessary, or
18 alternatives identified in the environmental review which would mitigate the negative
19 environmental effects of the project, to the extent physically feasible. The Determination further
20 states that the MND, Related Case No. VTT-73704-SL, and DIR-2015-2697-SPP was released and
21 the public review period was from February 18, 2016 to March 9, 2016 for a 20-day review period.
22 Comments on the MND were received during the comment period, and some comments were
23 mentioned in the Determination.

24 40. Regarding species and habitat, the Director Determination states that Koch
25 comments that the Project will require further destruction of mature trees, plant life, and the animal
26 life that dwells in the area. Petitioner commented that a kestrel was observed on the site "a couple
27 of weeks ago" and stated that there are threatened, sensitive, and possible endangered species
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1 frequently on the property. The Determination also stated that the Project will result in the
2 removal of vegetation and disturbances to the ground, and therefore has the potential to result in
3 take of nesting native bird species. Petitioner provided photographs of ducks at her swimming
4 pool on the Project Site, and the Determination concluded that they were not threatened, sensitive,
5 or endangered species. Inadequately, the Determination concluded that the MTBA and bird
6 migration would ensure that less-than-significant impacts on migratory bird species, such as ducks
7 or kestrels, would result. Under Disagreement with Environmental Impact Analysis, Wilhelm
8 comments that the City reviewer previously worked for the developer and has a conflict of interest.
9 Pagel attached documents from the EPA, highlighting that buildings and development projects
10 have environmental and health impacts. The City relies on thresholds to dispute this EPA
11 document, but thresholds are not dispositive. The City acknowledged that a City Planning
12 Department staff member was previously employed by the land use consulting firm that the project
13 applicant hired to assist in the processing of an entitlement project. This staff member was a
14 reviewer of the proposed MND. Under "Removal of Existing Housing," Koch, Wilk, Lampert,
15 McCormick, Wilhelm, and Friends of Affordable Studio City commented on affordable housing
16 being a crisis in the neighborhood, the Project's displacement of residents, and loss of existing
17 rent-controlled buildings. Inadequately, the City concluded that the Project will remove only 9
18 housing units and construct 28 housing units, for a net increase of 19 units, that the Project does
19 not displace a substantial number of existing housing, and that removing the rental housing would
20 not be significant. Regarding trees, Dogstar comments that the report lacks the listing of more than
21 16 trees and other environmental information and Cooley comments that the trees and their root
22 system will be damaged by the construction. The City states that of the 24 trees, nine are street
23 trees on the City sidewalk along Weddington and Hermitage. Regarding "Vacation of
24 Weddington Street" the Determination states that the Project would actually include a street merger
25 of approximately 100 feet of Weddington Avenue (west of Hermitage) as part of the tract map.
26 Regarding drought conditions, Padilla comments that people are going through a severe drought in
27 California and asked to cut back on water usage. Regarding noise, the City concluded that the
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1 majority of operational noise impacts would be from indirect noise impacts associated with the 207
2 net new vehicle trips each weekday. The Director Determination also touches upon parking, open
3 space, density and character, piecemealing, and control of the site, concluding the Project poses not
4 environmental problems. In addition, with respect to discretionary request, the Determination
5 superficially states that a merger of an underutilized street that only serves current parcels on the
6 Project Site, and it will become the future driveway for the Site.

7 41. On May 27, 2016, the City Deputy Advisory Agency issued a decision letter Re:
8 Vesting Tentative Tract No. 73704-SL, Related Case: DIR-2015-2697-SPP and the MND for the
9 Project Site ("Deputy Advisory Agency Letter"). The Deputy Advisory Agency Letter also
10 approved the Project. Said letter contained purported mitigation measures and found that potential
11 negative impact could occur from the project's implementation due to air quality, biology, noise,
12 transportation, public services for fire and water, and utilities/water. The air quality, noise, and
13 transportation safety were connected to the construction phase, as opposed to ongoing Project
14 operations. Said letter incorrectly concludes that the Project is consistent with the General Plan,
15 the North Hollywood Community Plan, the Valley Village Specific Plan, and the Small Lot
16 Ordinance. With respect to population and housing, said letter inaccurately concludes that the
17 Project does not represent a displacement of substantial numbers of existing housing under CEQA
18 because the Project would only remove nine housing units and construct 28 units, for a net increase
19 of 19 units. Regarding transportation and traffic, the letter incorrectly concludes that the Project
20 will not significantly impact vehicular, bicycle, or pedestrian traffic in the surrounding area. This
21 is particularly erroneous where the Project will remove a public street to incorporate it into the
22 Project. The extent of the street acquisition by the Project is unclear, but it appears the entire street
23 is being subsumed into the Project, yet that has not been adequately disclosed in the MND or any
24 other portion of the Project. The Deputy Advisory Agency Letter lacks adequate findings and is
25 not based on substantial evidence. For example, with respect to the Subdivision Map Act
26 purported findings of fact, the Project is not consistent with applicable general and specific plans,
27 the design and improvement of the proposed subdivision are not consistent with the applicable
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1 general and specific plans, the site is not physically suitable for the proposed type of development,
2 the site is not physically suitable for the proposed density of the development, and the design of the
3 subdivision and the proposed improvements are likely to cause substantial environmental damage
4 or substantially and avoidably injure fish or wildlife or their habitat. The mere fact that the Project
5 must take a public street and convert it to a private street so that the Project may go forward proves
6 the Project is not suitable for the site, among other things. The Subdivision Map Act asks whether
7 the subdivision will conflict with easements, but the Deputy Advisory Agency Letter does not
8 properly address this issue. First, the Project fails to adequately disclose the extent to which the
9 public street will be incorporated into the private project. Second, the public's interest in a public
10 street is greater than the public's interest in a public easement. Thus, the Project should not have
11 been approved.

12 42. On May 27, 2016, Valley Village Residents For Fair Government and Jed Fuchs, on
13 behalf of themselves and others, filed an appeal to the South Valley Area Planning Commission
14 ("SVAPC") for the Deputy Advisory Agency decision, the Director of Planning Determination,
15 and the MND. The City instructed appellants to separate their appeal into two appeals. Among
16 other things, the appeal stated the Project fails to comply with the Subdivision Map Act, the Valley
17 Village Specific Plan, the City of Los Angeles General Plan, the Valley Village-North Hollywood
18 Community Plan, the Project Site is not physically suitable for the proposed density of
19 development, given the significant and unmitigable adverse impacts to circulation and parking, the
20 determination is not supported by substantial evidence on how the Project is consistent with the
21 General, Specific, and Community Plans, the subdivision is likely to cause serious health
22 problems, in particular traffic and air quality issues, the department erred and abused its discretion
23 in making contrary determinations and findings that are not supported by substantial evidence in
24 the record, a fair arguments exists requiring an EIR, and notice deficiencies exist and must be
25 corrected. Specifically, appellants attached the purposes, function, community issues and
26 opportunities, neighborhood character, and objectives of the community plan, all of which support
27 appellants' fair argument that significant, unmitigated land use and planning impacts exist. In
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1 addition, appellants provide that a fair argument exists that the Project will significantly affect
2 traffic/transportation. For instance, the agency has failed to provide findings or evidence that the
3 Project has no impact on parking despite removing an existing public street serving more than 16
4 cars and is a regularly utilized resource for the public. Substantial evidence has been submitted
5 into the record including photographs and letters by area residents who have testified to the current
6 parking and existing challenging traffic conditions on a public local street. In addition, appellants
7 provided that a fair argument exists that the Project will significantly affect historical and flora and
8 fauna objects of aesthetic significance, cumulative impacts, and the MND is legally deficient and
9 fails to fully evaluate several potential significant impacts. In addition, the appeal states that
10 Project approval fails to comply with the Subdivision Map Act or the City's Small Lot Ordinance.
11 Furthermore, the proposed merger/vacation of a public street should not be approved. Moreover,
12 the appeal specifies several notice deficiencies in Project approval.

13 43. Around June 28, 2016, the City sent a public hearing notice for a hearing on July
14 14, 2016, referencing the Planning Director written determination and the MND. The Deputy
15 Advisory Agency VTT case is listed as "Incidental Cases" and the notice states that there are no
16 "Related Cases."

17 44. Around July 1, 2016, the City sent out Planning Department Appeal Staff Reports to
18 the SVAPC, one for the Deputy Advisory Agency Letter and the MND, and the other for the
19 Planning Director Determination and MND. The first page of each of these documents lists the
20 Director Determination, the Deputy Advisory Agency Letter, and the MND. However, the
21 Director Determination page states the Deputy Advisory Agency number is an "Incidental Case"
22 and that there are no "Related Cases." The Deputy Advisory Agency Letter page states that there
23 are no "Incidental Cases" and the Deputy Advisory number is a "Related Case." A hearing was set
24 for July 14, 2016.

25 45. On July 14, 2016, Petitioner and her neighbors attended the SVAPC hearing in Van
26 Nuys and submitted oral and written objections. Petitioner and her neighbors provided a fair
27 argument based on various environmental factors, including, but not limited to, traffic and parking,
28

1 low-income/affordable housing, biological resources, noise, planning and land use, public services,
2 water utilities, cultural/historic resources, and cumulative impacts, and an EIR should be prepared.
3 Historian Fisher also attended the hearing and provided expert testimony as to why the Project site
4 was a cultural/historic site requiring further environmental review. The SVAPC majority denied
5 appellants' appeal. Two commissioners voted in favor of the appeal.

6 46. On July 22, 2016, appellants filed a motion for reconsideration to the SVAPC.

7 47. On August 11, 2016, appellants attended the public hearing for the motion for
8 reconsideration before the SVAPC. Appellants and other residents attended the hearing and
9 submitted further comments as to why the appeal should be granted, including the Project's
10 procedural and substantive deficiencies.

11 48. Subsequently, the SVAPC had two decision letters mailed, and these decision letters
12 were dated August 24, 2016.

13 49. On September 2, 2016, Jed Fuchs, Valley Village Residents For Fair Government,
14 Friends of Valley Village, HELP, San Fernando Valley Neighborhood Coalition, and Valley
15 Village Neighborhood Coalition filed an appeal to the City Council for the Director's
16 Determination, the Deputy Advisory Agency Determination, and the MND. The appeal again
17 specified that the City erred and abused its discretion, that the City approval lacked substantial
18 evidence and findings of fact, and the deficiencies in the MND. In addition, appellants specified
19 the lack of notice for the City Council hearing and the missing documentation that appellants and
20 residents had submitted to the City in opposition to the Project.

21 50. On October 25, 2016, the Planning and Land Use Committee of the City Council
22 ("PLUM Committee") held a hearing. Petitioner and her neighbors attended the hearing,
23 submitting oral and written comments based on personal observation and providing substantial
24 evidence. The PLUM Committee postponed/continued the hearing.

25 51. On November 1, 2016, Petitioner and her neighbors attended the PLUM Committee
26 hearing and again submitted oral and written comments based on personal observation and
27 providing substantial evidence in support of the appeal. The PLUM Committee denied the appeal.

1 52. On November 8, 2016, Petitioner and her neighbors attended the City Council
2 hearing on appellants' appeal. Petitioner and her neighbors attended the City Council hearing and
3 again submitted oral and written comments based on personal observation and providing
4 substantial evidence in support of the appeal, including fair arguments requiring an EIR. Petitioner
5 and neighbors continued to point out the procedural and substantive deficiencies of Project
6 approval. The City Council denied the appeal.

7 **EXHAUSTION OF ADMINISTRATIVE REMEDIES AND**
8 **INADEQUATE REMEDY AT LAW**

9 53. Petitioner has exhausted all available City administrative remedies in objecting to
10 the approval of the Project, as required by Public Resources Code Section 21177.

11 54. Petitioner has complied with the requirements of Public Resources Code Section
12 21167.5 by mailing a written notice of commencement of this action to the City, a copy of which is
13 attached hereto as **Exhibit A**.

14 55. Petitioner has complied with Public Resources Code Section 21167.7 by filing a
15 copy of the original petition with the California Attorney General. A copy of the letter of
16 notification is attached hereto as **Exhibit B**.

17 56. Petitioner has no adequate remedy at law unless the Court grants the requested writ
18 of mandate requiring the City to set aside its approval of the proposed Project, in its entirety,
19 including the MND. In the absence of such a remedy, Respondent's approval violates the State
20 environmental law, the City's Municipal Code, the City's General Plan, the Government Code, and
21 the Subdivision Map Act. Moreover, Petitioner and neighbors will suffer irreparable harm through
22 this Project that is in their community and adjacent to them. Petitioner and neighbors have a clear,
23 present, and substantial right to the performance of Respondent's duty because Petitioner and
24 neighbors reside in proximity to the Project Site and have an interest in preserving the
25 environment, including, but not limited to, traffic and parking, low-income/affordable housing,
26 biological resources, noise, planning and land use, public services, water utilities, cultural/historic

1 resources, and cumulative impacts, and an EIR should be prepared, and the character of the
2 community in which they reside.

3 **FIRST CAUSE OF ACTION**

4 **(Respondent's and Real Parties in Interest' Failure to Consider and Prepare Proper CEQA**
5 **Review, including an Environmental Impact Report, in Violation of Public Resources Code**
6 **§21000, et seq., and 14 California Code of Regulations §15000, et seq.)**

7 57. Petitioner hereby incorporate paragraphs 1 through 56, inclusive.

8 58. As set forth above, the Respondent violated Public Resources Code §21151 et seq.
9 and 14 California Code of Regulations §15000 et seq. by failing to prepare an EIR and in
10 approving the Respondent's Project when the record reveals that the Project would have a
11 significant, unmitigated adverse effect on the environment. The City also failed to provide the
12 public, including Petitioner, with fair and adequate notice and review. The record demonstrates,
13 based on substantial evidence, that the Respondent should have required an EIR for the Project,
14 including, but not limited to, the following:

- 15
- 16 a. Inadequate Project description;
 - 17 b. The Project is inconsistent with the City's General Plan and the City and
18 Real Parties fail to sufficiently discuss any inconsistencies between the
19 proposed Project and applicable general and regional plans;
 - 20 c. The City and Real Parties failed to adequately address the Project's
21 effect on the surrounding area, including the surrounding residential
22 streets;
 - 23 d. The City and Real Parties have failed to adequately address the
24 Project's impact on factors, such as, but not limited to, traffic and
25 parking, low-income/affordable housing, biological resources, noise,
26 planning and land use, public services, water utilities, cultural/historic
27 resources, and cumulative impacts.
28

- 1 e. Failure to provide Petitioner and the public with a complete Project file.
2 f. The City and Real Parties have failed to provide adequate notice and
3 public comment period.

4 59. In each of the respects enumerated above, Respondent has abused its discretion,
5 failed to comply in a manner required by law, and lacks substantial evidence, violating its duties
6 under CEQA. Real Parties also lack substantial evidence and violate their duties under CEQA.
7 Accordingly, the Project, Project approval, and MND must be set aside, and an EIR is required.

8 **SECOND CAUSE OF ACTION**

9 **(Respondent's and Real Parties in Interest' Violation of Los Angeles Municipal Code)**

10 60. Petitioner hereby incorporate by reference the allegations contained in paragraphs 1
11 through 59, inclusive.

12 61. The evidence presented to the City during the approval process demonstrated that
13 the Project violates the Los Angeles Municipal Code ("LAMC") for several reasons, including, but
14 not limited to the following:

15 a. failure to comply with protections under small lot subdivision, tentative tract
16 map requirements, notice of intent to demolish buildings of over 45 years of age, violations of the
17 Valley Village Specific Plan;

18 b. failure to comply with the protections of the public health, safety and welfare;
19 and

20 c. violation of the LAMC Sections 11.5.7, 17.01, 17.02, 17.03, and 17.05, 12.22
21 C.27, among others.

22 62. In each of the respects enumerated above, Respondent and Real Parties have
23 violated their duties under the Los Angeles Municipal Code, including abuse of discretion, failure
24 to proceed in a manner required by law, and lack substantial evidence and adequate findings.
25 Therefore, the Project approval, including the MND, must be set aside.

26 **THIRD CAUSE OF ACTION**

27 **(Respondent and Real Parties in Interest Violation of Government Code)**

1 63. Petitioner hereby incorporates by reference the allegations contained in paragraphs
2 1 through 62, inclusive.

3 64. The Government Code requires that Project approval comply with the general and
4 specific plan. As set forth above, the City has failed to comply with the City's general plan.
5 Accordingly, in disregarding the requirements of the general plan, the Respondent and Real Parties
6 in Interest failed to comply with the Government Code. Among others, the Respondent and Real
7 Parties have violated sections 66473.5, 65560, and 65445.

8 65. In each of the respects enumerated above, Respondent and Real Parties in Interest
9 have violated their duties under the Government Code. Therefore, Project approval, including the
10 MND, must be set aside.

11 **FOURTH CAUSE OF ACTION**

12 **(Violation of the Subdivision Map Act against Respondent and Real Parties in Interest)**

13 66. Petitioner hereby incorporates by reference the allegations contained in paragraphs
14 1 through 65, inclusive.

15 67. Respondent and Real Parties violate the Subdivision Map Act in various respects,
16 including, but not limited to,

17 a. The proposed map is inconsistent with the applicable general and specific
18 plans;

19 b. The design and improvement of the proposed subdivision are inconsistent
20 with applicable general and specific plans;

21 c. The Project site is not physically suitable for the proposed type of
22 development, particularly where the Project is taking a public street to incorporate into the Project;

23 d. The Project site is not physically suitable for the proposed density of
24 development; and

25 e. The design of the subdivision and the proposed improvements are likely to
26 cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or
27 their habitat.

1 68. In each of the respects enumerated above, Respondent and Real Parties in Interest
2 have violated their duties under the Subdivision Map Act. Therefore, Project approval, including
3 the MND, must be set aside.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner prays for relief as follows:

6 1. Petitioner seeks alternative and preemptory writs of mandate pursuant to Code of
7 Civil Procedure §1085, Public Resources Code Sections 21168.5 and 21168.9, Code of Civil
8 Procedure Section 1094.5, and Public Resource Code Section 21168 ordering Respondent to set
9 aside and vacate their approval of the Project and adoption of the MND.

10 2. For an order that an Environmental Impact Report be prepared;

11 3. For an order enjoining Respondent and Real Parties in Interest from taking any
12 action to construct any buildings or structures or to develop or alter the site in any
13 way until lawful Project approval is obtained;

14 4. For Injunctive relief;

15 5. For damages;

16 6. For costs of the suit;

17 7. For reasonable attorneys' fees; and

18 8. For such other relief as the court deems just and proper.

19
20 DATED: December 7, 2016

MARIA J. MEJIA, ATTORNEY

21
22 By:



23 MARIA MEJIA, Esq.

24 Attorneys for Petitioner JENNIFER GETZ

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VERIFICATION

I, Jennifer Getz, say:

I am the Petitioner. I have read the foregoing petition for writ of mandate and am familiar with its contents. The same is true of my own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 7, 2016.

ATTACHED FACSIMILE SIGNATURE
Jennifer Getz

EXHIBIT A

MARIA J. MEJIA
ATTORNEY

P.O. Box 6523 Burbank, California 91510
Telephone: (818) 389-1998

December 7, 2016

VIA FIRST CLASS MAIL


City Clerk
Office of the City Clerk
City of Los Angeles
200 N. Spring Street
City Hall – Room 360
Los Angeles, CA 90012

Re: Petition for Writ of Mandate to Set Aside City Approval of Proposed Project for 26 Small Lot Homes at 5261, 5263, 5303, 5305 North Hermitage Avenue, 12300, 12301, 12302 West Weddington Street, Valley Village, California

City Clerk:

We hereby provide you with notice that we intend to commence an action to set aside the City of Los Angeles' approval of a proposed project. The proposed project is for twenty-six small lot homes at 5261, 5263, 5303, 5305 North Hermitage Avenue, 12300, 12301, 12302 West Weddington Street, Valley Village, California. The surrounding residents have provided "fair arguments" based on substantial evidence requiring that an environmental impact report be prepared and that project approval be set aside. The City's approval is a prejudicial abuse of discretion lacking substantial evidence.

Very truly yours,


MARIA J. MEJIA

1 **PROOF OF SERVICE**

2 Case No:

3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF LOS ANGELES)

6 I am employed in the County of Los Angeles, State of California. I am over the age of
7 eighteen (18) years and not a Party to the within action; my address is: P.O. Box 6523, Burbank,
8 CA 91510

9 On December 7, 2016, I served via U.S. First Class Mail the following described as:

10 **NOTICE LETTER TO CITY CLERK, CITY OF LOS ANGELES**

11 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope
12 addressed as follows:

13 **City Clerk, Office of the City Clerk**
14 **City of Los Angeles**
15 **200 N. Spring Street**
16 **City Hall – Room 360**
17 **Los Angeles, CA 90012**

18 [] (BY U.P.S. OR OTHER OVERNIGHT MAIL SERVICE) I deposited the sealed
19 envelope in a box or other facility regularly maintained by the express service carrier or
20 delivered the sealed envelope to an authorized carrier or driver authorized by the express
21 carrier to receive documents.

22 [] (BY FACSIMILE) I caused such document to be delivered by telecopy transmission to the
23 offices of the addressee via facsimile number

24 [] (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the
25 addressee.

26 [X] (STATE) I declare under penalty of perjury under the laws of the State of California that
27 the above is true and correct.

28 [] (FEDERAL) I declare that I am employed in the offices of a member of this Court at
whose direction the service was made.

Executed on December 7, 2016 at Los Angeles, California.

27 MARIA MEJIA
28 PRINT NAME


SIGNATURE

1
2 **PROOF OF SERVICE**

3 Case No:

4 STATE OF CALIFORNIA)
5) ss.
6 COUNTY OF LOS ANGELES)

7 I am employed in the County of Los Angeles, State of California. I am over the age of
8 eighteen (18) years and not a Party to the within action; my business address is: P.O. Box 6523,
9 Burbank, CA 91510

10 On December 7, 2016, I served via U.S. First Class Mail the following described as:

11 **NOTICE LETTER TO KAMALA HARRIS, ATTORNEY GENERAL**

12 on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope
13 addressed as follows:

14 **Kamala Harris**
15 **Attorney General**
1300 I Street
Sacramento, CA 95814-2919

16 [] (BY U.P.S. OR OTHER OVERNIGHT MAIL SERVICE) I deposited the sealed
17 envelope in a box or other facility regularly maintained by the express service carrier or
18 delivered the sealed envelope to an authorized carrier or driver authorized by the express
19 carrier to receive documents.

20 [] (BY FACSIMILE) I caused such document to be delivered by telecopy transmission to the
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26 [] (FEDERAL) I declare that I am employed in the offices of a member of this Court at
27 whose direction the service was made.

28 Executed on December 7, 2016 at Los Angeles, California.

MARIA MEJIA
PRINT NAME


SIGNATURE