

Select allegations from Silverstein petition and complaint being filed later this morning, August 28, 2013, against the Los Angeles City Council and Millennium Hollywood, LLC:

1. On July 24, 2013, the Los Angeles City Council, led by former Hollywood Councilmember and now Mayor Eric Garcetti, and new Hollywood Councilmember Mitch O'Farrell, gave final approvals to a real estate development project known as the Millennium Hollywood project located on two parcels totaling 4.46 acres straddling Vine Street north of Hollywood Boulevard, and surrounding the Capitol Records Building in Hollywood.

2. This case, perhaps more than any project carried out by City of Los Angeles personnel and elected officials in recent years, has struck a nerve with citizens and sparked national media attention: What kind of City of Los Angeles leadership would approve this project when compelling evidence showed the Millennium Developer's geologists, Department of City Planning, and Department of Building and Safety fraudulently hid the fact that an active earthquake fault, capable of a surface rupture that could shear a building in half, may cross the very site where 39- and 35-story skyscrapers are proposed for construction?

3. As an object lesson for political science students, this case demonstrates the corrosive influence of campaign contributions and more than \$4 million in lobbying payments made by the Millennium Developer from 2009 through the second quarter of 2013. In exchange for those campaign contributions, which are little more than legalized bribery that fuel the political ambition of those focused on their "public service" careers, our City Council members carried out a grossly unfair and politically choreographed public hearing where they acted to endanger the lives of thousands of people who would occupy the Millennium Project.

4. For this and many other reasons, the people of Los Angeles are once again

forced to sue their own government to enforce the law and expose shocking dereliction of duty by public officials. The Millennium Project approvals demonstrate that Los Angeles' city government suffers from a moral bankruptcy that now threatens the very physical safety of its residents. Our overburdened Los Angeles County Superior Court system must now hear and decide a case that would never have been necessary if the Los Angeles Mayor and City Council actually cared about the lives of the people they supposedly represent.

5. Accordingly, this petition and complaint challenges the City's July 24, 2013 actions, and all subsequent actions, in approving zone and height district changes, vesting tentative tract map, Millennium Development Regulations, Land Use Equivalency Program, and other associated entitlements further described herein ("Project Approvals") and an environmental impact report ("EIR") for the "Millennium Hollywood" project, the proposed construction of 1,166,000 square feet of an unspecified set of mixed-use buildings (up to 585 feet in height) which may or may not include residential condominiums, and/or apartments, and/or retail space, and/or indoor/outdoor restaurants, and/or a health club, and be served by an unknown number of parking spaces located within approximately 800,000 square feet of additional uninhabitable space, all sited on two development parcels that straddle Vine Street in Hollywood, California (the "Project"). The street addresses of the Project include, but are not limited to, 1720, 1722, 1724, 1730, 1740, 1745, 1749, 1750, 1751, 1753, 1760, 1762, 1764, 1766, 1768, 1770 N. Vine Street; 6236, 6270, 6334 W. Yucca Street; 1733, 1741 N. Argyle Avenue; 1746, 1748, 1754, 1760, 1764 N. Ivar Avenue, Los Angeles, California, 90028. In essence, the Project will place approximately twice the square footage of the Staples Center (950,000 s.f.) into a mere 4.46 acres of land in Hollywood.

6. Petitioners seek a writ of mandamus invalidating the City's certification of the Project EIR and invalidating and setting aside the Project Approvals based upon the City's violations of the California Environmental Quality Act ("CEQA"), due process

fair hearing requirements, and other laws.

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7. On Saturday, July 20, 2013, California State Geologist Dr. John Parrish of the State Department of Conservation sent an urgent letter to City Council President Herb Wesson and the City Council. In that letter, Dr. Parrish notified the City Council – with specific reference to the Millennium Project and its EIR – that the California Geological Survey had commenced a “detailed study” of the “Hollywood Fault and its associated splay faults.” This significant new information should have caused the City Council to immediately defer consideration of any approvals for the Project and its EIR until after the State had completed these critical studies under the Alquist Priolo Act. Indeed, Dr. Parrish notified the City Council that the State’s investigation could affect the City’s “reviewing of plans for the prospective Millennium Hollywood Project, which may fall within an Earthquake Fault Zone.” It should have been abundantly clear that the City and Millennium Developer were on very shaky legal ground if the City went ahead with Project and EIR approval before the State studies were completed. Despite this significant new information, the City Council ignored Dr. Parrish and the State Geological Survey.

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96. On March 15, 2012, Attorney Alfred Fraijo of Sheppard Mullin on behalf of the Millennium Developer contacted Raymond Chan, General Manager of LADBS. Mr. Fraijo stated: “We are looking for information on the building code regulations that apply to development within a fault zone or prohibitions on development related to fault areas. We were informed by Mr. Dana Prevost [the City Geologist] that a limited fault investigation would be required in the portion of the subject site. There is a Hollywood Fault trace mapped by the California Geological Survey that prompted the discussion

officials and Millennium Developer representatives conspired to allow the Fault Investigation to go forward under the pretense that it was only required for the purposes of tract map approvals, and the November 2011 Geo Report would be altered to conceal from the public that any fault investigation was even required for the Project. In so doing, and as a result of this agency misconduct, City staff agreed to allow preparation of a Draft EIR that would contain materially misleading and false representations regarding the location of the Hollywood Earthquake Fault and the fact that the East Site of the property was within the boundary of the City's own Earthquake Fault Rupture Study Area.

9. On May 2, 2012, the November 2011 Geo Report was revised and resubmitted to the LADBS Grading Division for review, now bearing a May 2012 date ("May 2012 Geo Report"). This May 2012 Geo Report was substantially the same as the November 2011 Geo Report except for at least two significant modifications: (1) A new Figure 4, dated on May 10, 2012, showing the Project site vis-a-vis the City's Earthquake Fault Rupture Study Area contained a revised drawing that falsely moved the outline of the Project site about 850 feet north, to a position north of Yucca Street and just south of Franklin Avenue; (2) the bold italic sentence from the November 2011 Geo Report (quoted above in ¶ 94) was deleted from the May 2012 Geo Report. Thus, the public would not be told in the Draft EIR that a Fault Investigation Report was required because the Project allegedly was not within an Earthquake Fault Rupture Study Area. Petitioners are informed and believe, and based thereon allege, that the City and Millennium Developer agreed to issue the May 2012 Geo Study in support of the Draft EIR's false assertion that the Hollywood Fault was .4 miles from the site (when the City and Developer were in possession of, but suppressed, evidence that the Hollywood Fault crossed the property) and the site was adjacent to but not within an Earthquake Fault Rupture Study Area (when the City and Developer knew the contrary was true).

10. Petitioners are informed and believe, and based thereon allege, that on July 2, 2012, LADBS geologists Dana Provost and Jeffrey Wilson met with Langan geologists Dan Eberhart, Rudolph Frizzi, Millennium Partners representatives S. Hood, J. Luciano, K. Gonsar, and Sheppard Mullin attorney P. Tate. During this meeting, an agreement was documented in a Langan email sent to the City that:

- “1. A fault investigation for the Hollywood fault will be required prior to approval of the tentative map. **The investigation was agreed to be limited to the western parcel** of the tentative map (that portion west of Vine Street).
2. The subsurface investigation scope as indicated on the attached map and section has been agreed to by the city.
3. Should the building envelope extend north of B1, additional subsurface investigation will be required prior to issuance of building permits.
4. Should the investigation find evidence of recent fault activity, a restricted use area **will be defined by Langan**.
5. Should datable materials be found, carbon dating will be performed.
6. Langan will have a meeting with the city **to discuss our findings from the fault investigation prior to report submittal**.
7. The final geotechnical engineering study as recommended in the city review sheet dated May 23, 2012 **is not required prior to approval of the vesting tentative map and will be deferred until the buildings have been designed**. The report will be prepared prior to building permit issuance.” (Emphasis added.)

11. Petitioners are informed and believe, and based thereon allege, that one or more of the Millennium Partners representatives or Sheppard Mullin attorneys who attended the July 2, 2012 meeting where the agreement to defer study of the other

portions of the Project site until after discretionary approvals were the persons who oversaw preparation of the Draft EIR eventually released by the City to the public.

12. Petitioners are informed and believe, and based thereon allege, that persons from the Millennium Developer, its geologists, its attorneys, and City personnel agreed to the conducting of a fault investigation of only the West Site of the Project when they knew the boundary for the City's Safety Element Earthquake Fault Rupture Study Area crossed the East Site and that the East Site contained prior boreholes showing the significant groundwater level anomaly. In reaching this agreement, the Millennium Developer and City geologists, whose professional licenses require them to protect the public health and safety, agreed not to investigate the East Site, which contained the known groundwater anomaly and the boundary of the City's Earthquake Fault Rupture Study Area crossing it.

13. In July 2012, four boreholes on the West Site were drilled under the supervision of Langan. When carbon dating of the materials in LB-2 showed older rock materials laying on top of younger rock materials (a sign of earthquake fault activity), Langan drilled two additional bore holes LB-5 and LB-6 slightly north/south and east of LB-2. Upon drilling the additional boreholes in October 2012 and learning that these two additional boreholes again showed evidence of older rock material laying over younger rock materials, Langan did not conduct any further investigation such as trenching the location or other studies which a competent and professional geologist would undertake.

14. Meanwhile, on October 27, 2012, City Planning Department – Environmental Unit, without waiting for the results of the Fault Investigation Study which would be significant information the public should have known in order to exercise its public participation rights under CEQA, released the Draft EIR for the minimum allowed 45-day public comment period.

15. In the Geology Section of the Draft EIR, the City failed to include any more

analysis of the location of the Hollywood Fault than was included in the comment section of the Initial Study – although the Initial Study promised a more in depth study. The Draft EIR falsely claimed that the Hollywood Fault was at least .4 miles (2,112 feet) from the Project site at the same time the City and Millennium Developer were secretly drilling the Project site and completing an earthquake fault investigation report, albeit inadequate, and only on the West Site. In fact, instead of including detailed information about the active Hollywood Earthquake Fault, including the well-known geologic studies of Professor James Dolan (1997, 2001) and Crook and Proctor (1992), and perhaps most importantly, the California Geological Survey 2010 Fault Activity Map which showed the Hollywood Fault crossing the Millennium Project site, the Draft EIR was written to be more vague than the analysis found in the Initial Study.

16. The Geology Section of the Draft EIR also falsely claimed that the Project Site was “adjacent to but not within” the City’s Earthquake Fault Rupture Study Area. This conclusion was supported by the falsified Figure 4 dated May 10, 2012 in the Langan May 2012 Geo Report that misrepresented the location of the Project site to be 850 feet north of its actual location, to just south of Franklin Avenue and with portions of the Project site actually overlapping where a portion of the roadway of the 101 Freeway would be.

17. The Draft EIR’s geology “analysis” was supported in the appendices with only the May 2012 Geo Report. There was no acknowledgement of the existence of the prior November 2011 Geo Report, which can only be understood as the City and the Millennium Developer hiding the prior report’s existence from the public because it showed the Project Site was in fact within the boundaries of the City’s Earthquake Fault Rupture Study Area.

18. Petitioners do not yet know when the pre-submittal meeting occurred as previously agreed, but on November 30, 2012, Langan submitted the Fault Investigation Report for the Project (“November 2012 Fault Report”). This report persisted in falsely

stating that the Hollywood Fault was .4 miles away, but acknowledged that the City had required the preparation of an investigation because the California Geological Survey Map showed the Hollywood Fault to be within 500 feet of the Project site (it actually shows it crossing the Project site). This report also falsified the figure that showed the Project Site about 850 feet north of its actual location, apparently in order to avoid admitting to the public that the Project lies within the boundary of the City's Earthquake Fault Rupture Study Area.

19. The November 2012 Fault Report falsely concluded that there was no evidence of an earthquake fault on the Millennium Project site. As to the adverse conditions found in three of the six boreholes, the anomalies were weakly and bizarrely explained away, including by Langan claiming that they had contaminated one of their own samples! Thus, Langan had complex explanations as to why 50% of the boreholes appeared to show older rock material laying on top of younger rock material, instead of the simpler explanation – there was an earthquake fault there.

20. Despite having 50% of the boreholes with older rock material laying over younger rock material as a justification to recommend trenching of the Millennium Project site on both the West and East Sites, the November 2012 Fault Report concluded no further study was warranted because the data were allegedly consistent with no fault presence.

21. Petitioners are informed and believe, and based thereon allege, that once the November 2012 Fault Report was submitted to City staff, the Millennium representatives responsible for preparation of the Final EIR, the Millennium attorneys, and City environmental planning staff agreed not to release the November 2012 Fault Report to the public as part of the EIR, or even to acknowledge its existence.

22. Petitioners are informed and believe, and based thereon allege, that on February 8, 2013, the City issued its Notice of Availability of the Final EIR. The Final EIR, in each and every response to a comment that the Hollywood Fault was on or near

the Project site, falsely asserted that the Hollywood Fault was .4 miles from the site even though City Grading Division officials had internally concluded the Hollywood Fault was either on or at least within 500 feet of the Project site. Additionally, the City continued to fail to disclose to the public the existence of the November 2011 Geo Report. Furthermore, although the City had required the preparation of a fault investigation report for the Project site, the City failed to disclose the existence of this investigation and, as to the Final EIR, declared they were finished with the environmental analysis, even though the City possessed significant new information via the November 2012 Fault Report that mandated re-circulation of the Draft EIR, before finalizing or certifying the EIR. In violation of the law, the City failed to re-circulate the Draft EIR.

23. After evidence of possible Millennium Developer and geologist consultant fraud came to the attention of Petitioners, and after consultation with numerous well-qualified geologists, Petitioners' representative filed a complaint with the California State Board of Engineers, Land Surveyors, and Geologists, alleging that Langan geologists and engineers had participated in an ongoing conspiracy with Millennium Developer representatives, attorneys, and City officials to falsely deny that the Hollywood Fault crosses the Project Site or that the Project Site lies within the boundaries of the City Safety Element's Earthquake Fault Rupture Study Area. Additionally, Petitioners' representative alleged to the Board's investigators that the Fault Investigation Report prepared for submission to the LADBS Grading Division was seriously deficient and failed to satisfy minimum professional requirements – most of which are specified in the State Board of Mines and Geology's Publication 42, which is referenced in the CEQA Initial Study checklist. The State Board has opened investigations into the Langan geologist and engineer, and those investigations are ongoing.

24. As outlined previously herein, when these acts of fraud and deceit by the

Millennium Developer, its geologists, and City personnel were revealed at hearings before the PLUM Committee of the City Council and then the City Council itself, these officials were more concerned about approving the Project for their important campaign contributor than confronting the truth and protecting the public they supposedly represent.