

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer:

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THE SILVER LAKE HERITAGE TRUST, et al.

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Petitioners In Pro Per

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

THE SILVER LAKE HERITAGE TRUST,
a California nonprofit public benefit
corporation.

Petitioner and Plaintiff,

vs.

CITY OF LOS ANGELES, a municipal
corporation; LOS ANGELES
DEPARTMENT OF CITY PLANNING;
CITY PLANNING COMMISSION; and
DOES 1 through 20, inclusive,

Respondents and Defendants.

AYM INVESTMENT, LLC, a California
limited liability company doing business in
California; and ROES 1 through 20,
inclusive,
MICHAEL MASOUD AMINPOUR,
ANDY SIMHAE,

Real Parties in Interest.

Case No. 22STCP04323

**VERIFIED PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

**[Code Civ. Proc. §§ 1060, 1085, 1094.5;
Pub. Res. Code §§ 21000,
et seq. (CEQA)]**

1. CEQA; CCR
2. Code of Civil Procedure, 526, 1060,1085, 1094.5; Government Code, 65009)
3. LAMC; Charter §§551, 555, 558, 562;
4. 14th Amendment – US Constitution – Due Process & Equal Protection Guarantee; Article 1, §7-8 of the California Constitution]
5. Declaratory Relief.

1 Petitioner Silver Lake Heritage Trust (“Petitioner”) seeks a writ of mandamus and
2 declaratory and injunctive relief against Respondents and Defendants City of Los Angeles,
3 the Los Angeles Department of City Planning, and the Los Angeles City Planning
4 Commission (collectively the “City” or “Respondents”).

5 Without waiving any applicable rights, including pursuing all appeal rights at every
6 City level, Petitioner alleges as follows:

7 **INTRODUCTION**

8 1. This Petition stems from the following compilation of violations of local
9 municipal and charter codes, the systemic abuse of discretion and the violations of CEQA
10 in relation to the unlawful approvals for the Project located at 1251, 1251 1/2, 1251 1/4,
11 1253, 1253 1/2, 1253 1/4, 1255, 1255 1/2, 1257, 1257 1/2, 1259 W. Sunset Blvd. Los
12 Angeles, CA 90026 (“the Project”, also known as and often referred to as the historic and
13 iconic “Stires Staircase Bungalow Court”).

14 2. Since this project’s inception, the various documents filed with the City
15 have been grossly inconsistent. Numbers of proposed units vary, the alleged trip
16 generation data is outdated and incomplete, and the general welfare and safety of the
17 families residing at the ten existing RSO units became compromised. The City was fast-
18 tracked this Project (with consideration of COVID restrictions), neglecting to stop, read
19 and consider the evidence that exists in the record that demonstrated there were significant
20 adverse impacts and issues with this project. The Court should be aware this is a daily
21 pattern of the City, particularly the Department of City Planning and if the low-income
22 residents of this neighborhood could afford the costly luxury of enforcing their rights
23 within the courts system, they would.

24 3. Because of Real Parties’ past activities that have demonstrated illegal
25 conduct, (including the [biggest wage-theft case](#) ever prosecuted by the City). Petitioners
26 and members of the public have urged the City to review all of the applicant’s filings and
27 documents in an abundance of caution. The City has a duty to ensure their approvals not
28 only comply with the City’s General and Community plans, local and state laws, but also,

1 that the applicant attached to the project is not engaged in bad faith, harmful or dangerous
2 activity, consequently introducing negativity into the existing community as a direct and
3 proximate cause of approving an incompatible non-complying project. The ambiguity
4 created in this case by the City calls into question the legality and legitimacy of the
5 ongoing conduct leading up to the erroneous approvals.

6 **PARTIES**

7 4. Petitioners are a California nonprofit public benefit corporation. Its
8 members include residents and tax payers of the City of Los Angeles who advocate for
9 health, public safety and quality of life issues and oppose increasingly dangerous
10 environmental impacts such as unwarranted density/height that renders municipal
11 infrastructure lacking and unsafe (police, fire, utilities, roads, gridlock), resulting in air
12 pollution and Green House Gas (“GHG”) emissions in the most GHG-challenged area in
13 the country, the evicting of low-income families and those that impose *cumulative* impacts
14 with past/present/future projects, and result in direct and secondary effects impacting the
15 safety of human beings and the significance of historic resources. We are constantly
16 working at obtaining transparency within our local government.

17 5. Petitioners have a substantial interest in ensuring that the City’s decisions
18 are in conformity with the requirements of law, in having those requirements properly
19 executed, and enforcing the public duties of the City. Petitioners are adversely affected by
20 the multitude of impacts resulting from the City’s actions and improper approvals, and is
21 aggrieved by the acts, decisions and omissions of the City as alleged herein. Petitioner is
22 suing on behalf of itself, its members, and on behalf of all others affected in the Echo
23 Park/Angelino Heights area, as well as all citizens of the City of Los Angeles and beyond.
24 Petitioners have not and do not waive any applicable or appeal rights.

25 6. Respondent and Defendant CITY OF LOS ANGELES (“the City”) is a
26 California charter city located in the County of Los Angeles, California. The Project is
27 within the jurisdictional limits of the City of Los Angeles.
28

1 7. Respondent and Defendant LOS ANGELES DEPARTMENT OF CITY
2 PLANNING (“DCP” or “the City”) is a non-elected decision-making body of the lead
3 agency (the City) and is the body responsible for the decisions at issue herein.

4 8. Respondent and Defendant LOS ANGELES CITY PLANNING
5 COMMISSION (“CPC” or “the City”) is a Mayor-appointed decision-making body within
6 the Department of City Planning, responsible for routinely denying appeals and unlawfully
7 issued the final approval of the Project. They are the body that largely contributed to the
8 drafting of the TOC Guidelines with the DCP.

9 9. Respondent and Defendant VINCENT P. BERTONI is the Director of the
10 Department of City Planning for the City of Los Angeles, and is named in his official
11 capacity only. BERTONI is the Mayor-appointed decision-maker who approved the
12 project.

13 10. Respondent and Defendant HEATHER BLEEMERS is a Senior City
14 Planner assigned to the Project and is named in her official capacity only.

15 11. Respondent and Defendant STEPHANIE ESCOBAR is a Planning Assistant
16 assigned to the Project and is named in her official capacity only.

17 12. Respondent and Defendant OLIVER NETBURN is a City Planner assigned
18 to the Project and is named in his official capacity only.

19 13. Real Party in Interest AYM INVESTMENT, LLC is a California
20 corporation named as the Applicant on the Letter of Determination approving the project.

21 14. Real Party in Interest MICHAEL AMINPOUR is listed as the agent of
22 AYM INVESTMENT, LLC, a California corporation and named on some of the Project
23 application paperwork.

24 15. Real Party in Interest ANDY SIMHAEE is listed as the Applicant on several
25 of the Project documents.

26 16. Petitioners are unaware of the (others) true names and capacities of
27 Respondents sued herein as DOES 1 through 100, inclusive, and they are therefore sued by
28 fictitious names pursuant to Code of Civil Procedure section 474. Petitioners allege on
information and belief, and based thereon alleges, that each of these fictitiously named

1 Respondents is responsible or liable in some manner for the unlawful and wrongful events
2 and happenings referred to herein. Petitioners are informed and believe, and based thereon
3 alleges, that these fictitiously named Respondents were, at all times mentioned in this
4 petition, the agents, servants, and employees of their co-respondents and were acting
5 within their authority as such with the consent and permission of their co-respondents.
6 Petitioners will seek leave to amend this petition to allege their true names and capacities
7 after the same have been ascertained.

8 **JURISDICTION AND VENUE**

9 17. Jurisdiction over Respondents and each of them exists because each of the
10 Respondents named in this litigation are present and operating within the jurisdictional
11 limits of the County of Los Angeles.

12 18. Venue is proper in the County of Los Angeles pursuant to Code of Civil
13 Procedure section 394 in that Respondents/Defendants are government entities and/or
14 agents of the City of Los Angeles.

15 19. This Court has personal jurisdiction over Real Parties because they have
16 availed themselves of California's benefits and the controversy at issue arises out of their
17 contacts with California.

18 **EXHAUSTION OF REMEDIES**

19 20. Petitioners have exhausted all administrative remedies Petitioners were
20 allowed. Failure of the City to provide Letters of Determination (LOD) with critical
21 information related to appeals prevented Petitioners and members of the public from
22 exercising their appeal rights, thereby preventing members of the public from filing an appeal
23 to the improper and unjustified CEQA exemption. Petitioners are aware interested parties
24 including the tenants who reside in the Rent Stablized units on the Project site requested
25 the LOD on multiple occasions. However, the city did not respond or send the LOD until
26 *after* the appeal period had run. When the planning assistant to the Project's case
27 STEPHANIE ESCOBAR failed to respond to our requests, Petitioners reached out to
28 Senior planner HEATHER BLEEMERS who approved the project, and Director of

1 Planning VINCE BERTONI to request the department issue a Corrected LOD, with plain
2 language and readily comprehensible appeal information, and to ensure all who requested
3 the LOD receive it, in advance of the appeal deadline. While Planning Director VINCE
4 BERTONI and senior planner HEATHER BLEEMERS ignored all requests to issue a
5 Corrected LOD, associate city planner STEPHANIE ESCOBAR informed Petitioners they
6 did not “find the need to issue a Letter of Correction”. The failure of the City to provide
7 appeal information on the LOD including informing the public what was appealable (if
8 anything) combined with ESCOBAR’s 10/3 email to Petitioners advising us: “There are no
9 further actions pending for this case”, Neither Petitioners nor members of the public were
10 able to decode the cryptic language which the City used in the LOD. Petitioners went to
11 great lengths in attempt to avoid the filing of this Petition.

12 GENERAL ALLEGATIONS

13 **1251, 1251 1/2, 1251 1/4, 1253, 1253 1/2, 1253 1/4, 1255, 1255 1/2, 1257, 1257 1/2, 1259**

14 **W. Sunset Blvd. Los Angeles, CA 90026**

15 21. On or around November 13, 2018 property owner MICHAEL AMINPOUR
16 filed an Environmental Assessment Form (“EAF”) having case number ENV-2018-6635-
17 EAF and related case number DIR-2018-6634-TOC.

18 22. The EAF Form described the Project as “TOC , Tier 1 Density Bonus with
19 additional [*sic*] of 3 incentives. 1- Height, 2- 25% reduction in South Side Yard from 10 feet
20 to 7.5', 3- 25% reduction in rear yard from 19 feet to 15 feet for Construction and maintain
21 [*sic*] of 70 unit multi family apartment building max total of 55,000 S. F., and 35 standard
22 parking space, 70 long term bike rack, 7 short term bike rack. 8% (6 Units) will be set
23 aside for extremely [*sic*] low income. Categorical [*sic*] exemption (class 32) is requested.”

24 23. The EAF Form is signed under penalty of perjury by property owner
25 MICHAEL AMINPOUR on behalf of AYM INVESTMENT LLC and Applicant
26 Representative ANDY SIMHAEE.

27 24. On October 25, 2018 a letter from the Housing and Community Investment
28 Department (HCID) indicates AYM INVESTMENT, LLC failed to provide income

1 documents to the housing department that would have demonstrated all ten tenants were
2 considered “low income”.

3 25. On or around December 16, 2018 the Department of City Planning prepared
4 a “JUSTIFICATION FOR PROJECT EXEMPTION CASE NO. ENV-2018-6635-CE”
5 letter stating: “On December 26, 2018, the City of Los Angeles determined based on the
6 whole of the administrative record that the project is exempt from California
7 Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15332, and
8 there is no substantial evidence demonstrating that an exception to a categorical exemption
9 pursuant to CEQA Guidelines, Section 15300.2 applies. The project was found to be
10 exempt based on the following: Project Description: The project is located at 1251 – 1259
11 West Sunset Boulevard in the Silver Lake – Echo Park –The property is currently
12 improved with 10 residential units totaling 5,280 square feet. The proposed project
13 includes the demolition of the existing 10 residential structures and the construction, use,
14 and maintenance of a new, seven-story, 70-unit residential development with six (6) units
15 (8% of the total number of dwelling units) set aside for Extremely Low Income
16 Households. The proposed development consists of two (2) buildings (Building A and
17 Building B). In total, the proposed development will encompass a total of 55,000 square
18 feet of floor area resulting in a Floor Area Ratio (FAR) of 2.75 to 1. The project proposes a
19 total of 38 parking spaces, 70 long-term bicycle spaces and seven (7) short-term bicycle
20 spaces. The unit mix will be comprised of 27 studios and 43 one-bedroom units. A total of
21 7,025 square feet of open space will be provided throughout the proposed project. The
22 project will maintain a 0-foot front yard, a 10-foot northern side yard, a 7-foot 6-inch
23 southern side yard, and a 15-foot rear yard Building A is located on the eastern portion of
24 the lot with a frontage along Sunset Boulevard. and consists of five (5) residential levels
25 over two (2) levels of at grade parking with a maximum height of 68 feet. Building B will
26 be constructed with six (6) residential levels over one (1) level of at-grade parking with a
27 maximum height of 68. The project also includes the export of approximately 18,200 cubic
28 yards of earth. There are 16 non-protected trees and no protected trees located on the

1 subject property. Per the Los Angeles Municipal Code (L.A.M.C.) the trees may need to be
2 replaced. Accordingly, the trees will be subject to replacement requirements to the
3 satisfaction of the Department of Public Works, Urban Forestry Division.”

4 26. The December 2018 letter of justification indicates the department has
5 “granted three (3) Additional Incentives in order to construct the proposed project...” No
6 public hearings were held at that time, no notice was provided to tenants, the process had
7 not even yet begun, but the DCP granted valuable incentives relying solely on the TOC
8 Guidelines (despite the project failing to qualify as such) and exempting the Project from
9 CEQA.

10 27. Nothing in the Project description discloses that the existing 10 bungalow
11 units are tenant occupied RSO units under the Rent Stabilized Ordinance.

12 28. Nothing in the letter discloses that the City classifies the Project site as a
13 “Methane Hazard Site”.

14 29. On February 26, 2019 the Echo Park Neighborhood Council sent the
15 Department of City Planning a Letter of Opposition for DIR-2018-6634-TOC, rejecting the
16 Project in their community.

17 30. On May 8, 2019 property owner MICHAEL AMINPOUR on behalf of
18 AYM INVESTMENT LLC filed Ellis Act papers with HCIDLA to evict the 10 low-
19 income families from their Rent-Stabilized homes.

20 31. Petitioners are informed and believe on or around August 2019 Office of
21 Historic Resources reviewed the case documents for the Project and expressed concerns
22 over the existing structures being a historic resource.

23 32. Petitioners are informed and believe on or around September 2019 Real
24 Parties in Interest attempted to obtain demolition permits prior to obtaining the required
25 Historical Resource Assessment.

26 33. On or around October 14, 2019 Petitioners worked with a historian to
27 prepare and submit a Historical Cultural Monument application to the Office of Historic
28 Resources in an effort to preserve the 1922 historic structures, habitat and hillside property.

1 34. Petitioners are informed and believe on or around November 2019 the
2 applicants again changed their project plans alleging a 50% increase over what is allowed
3 in units (market rate), and fails to include the existing Rent Stabilized units that exist on the
4 Project site, instead, describing it as “Vacant Land”).

5 35. On March 5, 2020 the Cultural Heritage Commission voted to take the
6 property under consideration.

7 36. On August 6, 2020 the Cultural Heritage Commission held a public meeting
8 and determined the existing bungalows at the Project site met all three criteria of the City’s
9 Cultural Heritage Ordinance and recommended the property be designated as the historical
10 resources that it is (CHC-2020-896-HCM).

11 37. On or around March 1, 2021 the Applicants lawyer wrote former city
12 councilmember Cedillo a letter alleging his clients plans are changing again, and he intends
13 to build “14 *affordable* dwelling units”. Petitioners note the author of said letter describes
14 his clients as “AYM Investments, LLC”. Petitioners are informed and believe “AYM
15 Investments” are an LLC operating out of Oakland California and are unrelated to this
16 Project. Documents listing an entirely different LLC having a different California
17 Secretary of State identification number as the Project applicant must be voided and
18 nullified.

19 38. On August 26, 2021 the Department of City Planning issued a Director’s
20 Determination approving the Project (DIR-2018-6634-TOC/ENV-2018-6635-CE).

21 39. On September 9, 2021 resident and adjacent property owner Richard
22 Courtney, filed a 59 page appeal document containing substantial evidence, facts, and the
23 expert opinion and report from principal geologist, for the unlawful approval of the August
24 26, 2021 Planning Director's Determination.

25 40. Petitioners are informed and believe and based thereon alleges between
26 September 2021 and April 2022 Petitioners, members of the community, and the Echo
27 Park Neighborhood Council submitted substantial evidence into the record and letters in
28 support of the appeal.

1 41. On April 11, 2022 Petitioner’s emailed their public comments submission,
2 which were rejected by the CPC.

3 42. On April 14, 2022 the City Planning Commission held a public hearing for
4 the appeal filed for the unlawful approval of the August 26, 2021, Planning Director's
5 Determination. The Commission ignored the facts and evidence that existed in the record.,
6 and as expected, denied the appeal.

7 43. The City Planning Commission’s Determination Letter dated October 20,
8 2022 did not include what was appealable or appeal deadline information, nor was said
9 Determination Letter provided to other parties and/or tenants residing at the Project site.

10 44. Petitioners are informed and believe multiple members of the public learned
11 about the October 20, 2022 from third party sources and subsequently requested the
12 Determination Letter be sent to them. The DCP emailed said letter after the appeal period
13 had expired.

14 45. Between October 20, 2022 and November 21, 2022 Petitioners and
15 members of the public contacted city planners STEPHANIE ESCOBAR, HEATHER
16 BLEEMERS and Director of Planning VINCE BERTONI requesting they issue a
17 Corrected LOD and include comprehensible appeal information related to what was
18 appealable, and a last day to appeal date (as they do on other LODs), in order to allow
19 everyone who was denied the opportunity a chance to file an appeal, if so inclined.
20 Multiple requests were made. Senior Planner HEATHER BLEEMERS and Director of
21 Planning VINCE BERTONI ignored these requests, while planning associate STEPHANIE
22 ESCOBAR stated: “the department does not find the need to issue a Letter of Correction”.

23 46. On November 8, 2022 Petitioners emailed STEPHANIE ESCOBAR
24 requesting a copy of the Notice of Exemption.

25 47. On November 10, 2022 the Department of City Planning filed a Notice of
26 Exemption with the Registrar-Recorder County Clerk, filing Number 2022245885.

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1 48. On November 8, 2016, voters in the City of Los Angeles approved a ballot
2 measure known as Measure JJJ. The "Affordable Housing and Labor Standards Related to
3 City Planning." Initiative was subtitled as "The Build Better LA Initiative."

4 49. The alleged basis of the TOC is to “increase production of affordable
5 housing”. The City Planning Commission violated this guideline by not only approving a
6 project that permanently **removes existing RSO units** and evicts long time residents of the
7 community, but **results in a net loss of RSO housing** (“RSO” and “Affordable” are not
8 the same thing) against the City’s General Plan and its Elements.

9 50. The Project on its face fails to qualify as a TOC by the fact that it
10 REMOVES RENT STABILIZED HOUSING and results in a NET LOSS of what the city
11 claims it desperately needs in its General and Community Plans. This is a blatant violation
12 of the intent and purpose of Measure JJJ (from which the TOC Guidelines are rooted), as
13 well as direct violations of the Cities Housing Element and General Plan.

14 51. The City goes further by improperly awarding (on the false basis of the
15 Project dressed as a TOC) a 50% increase in density, a 25% reduction in the required side
16 yards, a 25% reduction in the required rear yard, a height increase of one 1 additional story
17 totaling an alleged 70 market rate luxury dwelling units, allegedly reserving 6 units for
18 “Extremely Low Income”. There are no follow up mechanisms to verify if any of the
19 alleged “Extremely Low Income” units get built, or if they do, whether they are rented to
20 the low-income families for which they were intended.

21 52. These incentives result in considerable deviation from existing codified
22 ordinances yet were never approved legislatively: not by the voters, nor by the City
23 Council, nor with a hearing before the public. The reliance upon these improper guidelines
24 by the City and the City Planning Commission constitutes an improper policy and practice
25 of misinterpreting the voters' mandate in Measure JJJ - the "Affordable Housing and Labor
26 Standards Related to City Planning" Initiative - and disregarding the proper legislative
27 procedures for amending the General Plan and the zoning ordinances. This is an abuse of
28 discretion and the City must be ordered to cease its improper policies and practices and to

1 rescind the improper reliance “TOC Guidelines”, and to refrain from relying on such
2 “Guidelines” in the approval of the Project until such time as guidelines consistent with
3 Measure JJJ are approved using a process consistent with Measure JJJ, city and state law.

4 53. The City Planning Commission regularly approves projects that do not
5 comply with their own self-written guidelines as seen in this case (Note approval is sought
6 from the same hands as the individuals who wrote the “TOC Guidelines”, which
7 Petitioners allege is a major conflict, putting the public at a disadvantage). There are no clear
8 or comprehensive appeal requirements to the TOC Guidelines because they were never
9 approved by the City Council. The DCP points to unrelated sections of the Los Angeles
10 Municipal Code for the public to use for the filing of appeals related to TOCs. However,
11 the public is regularly given inaccurate code sections to follow regarding the filing of
12 appeals as they did in this case. Here, the City compromised the public's rights to appeal
13 the August 2021 Directors Determination due to providing the wrong code section related
14 to appeals. The public was left to fend for themselves to try and figure it out, only to learn
15 the DCP has restricted those appeals to adjacent property owners only, and subsequently,
16 would not accept our timely filed appeal. Note the DCP inserted this restriction while
17 drafting their TOC Guidelines, notwithstanding the 14th Amendment, which prohibits the
18 restricting of due process.

19 54. The TOC Guidelines depart significantly from the parameters and
20 requirements of Measure JJJ in numerous respects, this case specifically is just one
21 example of how they are abused by the City.

22 55. The TOC Guidelines point to LAMC Section 11.5.11 (b) (3.) “Alternative
23 Compliance Section”. This section states:

24 “The affordability provisions of this Section may be satisfied by the payment of a
25 fee to the City in lieu of constructing the affordable units within the Project. The in
26 lieu fee shall be determined by the City...”

1 Said differently, any project, including this one, can be pushed through and approved as a
2 TOC, and opt out of the “affordable housing” requirements provided the applicant pay the
3 City enough money, determined by none other than – the City.

4 56. Petitioners have performed all conditions imposed by law precedent to filing
5 this action, including complying with the requirement of Public Res. Code § 21167.5 by
6 providing notice to the City that this action would be filed.

7 FIRST CAUSE OF ACTION

8 **(Violations of CEQA, CEQA Guidelines & California Code of Regulations)**

9 54. Petitioners hereby re-allege and incorporate by reference herein the
10 allegations in the preceding paragraphs.

11 55. The California Legislature has declared that, in general, it is the policy of
12 the state to, “[t]ake all action necessary to provide the people of this state with clean air
13 and water, [and] enjoyment of aesthetic, natural, scenic, and historic environmental
14 qualities ...[:; and to] [¶ ... ¶] [p]reserve for future generations representations of all plant
15 and animal communities and examples of the major periods of California history.” (§
16 21001, subds. (b)-(c).)

17 56. The Legislature has also declared, “that it is the policy of the state that
18 public agencies should not approve projects as proposed if there are feasible alternatives or
19 feasible mitigation measures available which would substantially lessen the significant
20 environmental effects of such projects.” (§ 21002.)

21 57. CEQA requires that a lead agency’s findings for the approval of a project **be**
22 **supported by substantial evidence in the administrative record.** CEQA further requires
23 **that a lead agency provide an explanation of how evidence in the record supports the**
24 conclusions it has reached. The City neglected to do neither.

25 58. The City failed to perform an initial study pursuant to Public Resources
26 Code section 15063 including during “all phases of project planning” (15063 (a)(1.) to
27 determine if the Project would have significant effects on the environment and if there was
28 any potential significant effects on the environment.

1 59. The City failed to demonstrate with certainty that there is no possibility that
2 the activity related to the Project in question may have a significant effect on the
3 environment.

4 60. The City failed to review, acknowledge and apply the evidence in the record
5 demonstrating substantial evidence exists, including but not limited to the September 8,
6 2021 geotechnical and geologic report prepared by Principal geologist Ken Wilson, which
7 established a myriad of slope stability and technical issues related to public safety at the
8 Project site.

9 61. The City failed to review, acknowledge and apply the evidence in the record
10 (some of which is its own) demonstrating the Project site is a “Methane Hazard Site” and
11 has “a risk of methane intrusion emanating from geologic formations” (Zimas, 2022).

12 62. The City failed to review, acknowledge and apply the evidence in the record
13 demonstrating the existing century old buildings and project site are a historical resource
14 and eligible for listing in the California registry. The body appointed to review the City’s
15 historical resources found the property met all three criteria of the City’s Cultural Heritage
16 Ordinance. The expert opinions and additional evidence in the record are more than
17 sufficient for the City to recognize the criteria for the California Registry, which is nearly
18 identical to the City of Los Angeles’. Further, the record is absent any evidence
19 demonstrating the site is *not* historically significant as required by CCR in order to approve
20 a Categorical Exemption. No project that may cause a substantial adverse change in the
21 significance of an historical resource shall be exempted from CEQA.

22 63. While CEQA is primarily directed to ecological concerns and preservation
23 of the environment, section 21001, subdivision (c) declares it also is the policy of the state
24 to “preserve ... examples of the major periods of California history.” It follows, that “[a]
25 project that involves the destruction of a building that is eligible for listing in the California
26 Register of Historical Resources will have ‘a significant effect on the environment’ for
27 purposes of CEQA (§ 21084.1; see Preservation Action Council v. City of San Jose (2006)
28 141 Cal.App.4th 1336, 1352–1353 (Preservation Action).) Such a project must consider

1 and discuss feasible alternatives that would avoid or lessen any significant adverse
2 environmental impact. (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16
3 Cal.4th 105, 123; Cal. Code Regs., tit. 14 (Guidelines) § 15126.6.) The discussion of
4 alternatives ‘must be specific enough to permit informed decision making and public
5 participation.’

6 64. The City failed to review, acknowledge and apply the evidence in the record
7 demonstrating significant impacts are guaranteed by the destruction and the removal of 16
8 existing hundred-year-old trees that provide habitat, assist in carbon sequestration, and
9 provide cooling to the community. These existing mature trees **are staples** of this
10 community. The studies and reports provided went blatantly ignored. The City incorrectly
11 assumes the planting of saplings is a comparable replacement for the destruction of
12 hundred-year-old trees, and ignores the evidence in the record proving the same.

13 65. The City failed to review, acknowledge and apply the evidence in the record
14 demonstrating the Neighborhood Council has rejected this Project on three separate
15 occasions repeatedly informing them it is not appropriate or needed in their community.

16 66. Aesthetics constitutes a legitimate concern under CEQA and, for that
17 reason, is one of the “other” considerations under section 21081 subdivision (a)(3) for
18 purposes of an infeasibility finding. An agency has a right to ensure that aesthetic and
19 visual considerations are incorporated into its planning decisions. (*Pocket Protectors v.*
20 *City of Sacramento* (2004) 124 Cal.App.4th 903 (*Pocket Protectors*)). The City failed to
21 review, acknowledge and apply the evidence in the record demonstrating the Project is not
22 visually compatible with the rest of the neighborhood in character or scale. This
23 neighborhood, Angelino Heights is the oldest neighborhood in the City and includes the
24 very first Historic Preservation Overlay Zone (“HPOZ”) ever established in the city of Los
25 Angeles. This is a unique neighborhood largely defined by its older and historic homes,
26 whose character defining features are **major contributing factors to the fabric of the**
27 **community, which the City failed to acknowledge and consider.**

28

1 67. The City failed to provide an accurate, stable, and finite project description
2 as required by CEQA.

3 68. The Department of City Planning wrongfully issued a Categorical
4 Exemption to this project failing to conduct a thorough review under Public Resources
5 Code 15061, 15063 and failing to consider cumulative impacts, which are substantial in
6 this particular community, and were brought to the attention of the Planners and the City
7 Planning Commission by the resident residing adjacent to the Project site, who filed an
8 appeal of the September 2021 wrongfully approved Directors Determination.

9 69. The Department of City Planning failed to consider the evidence in the
10 record demonstrating that the Project indisputably has a significant impact on the
11 environment. Failure to review the impacts of excavation of the existing hillside, the
12 destruction of topography and more than a dozen hundred-year-old trees, destruction of
13 habitat, all occurring on a Methane Hazard Site with stability and slope issues unaddressed
14 and ignored by the DCP, the DCP is unable to say with certainty that there is no possibility
15 that the activity related to this project may have a significant effect on the environment.
16 This alone prohibits the granting of a CEQA exemption.

17 70. When evaluating a lead agency’s determinations, courts must “scrupulously
18 enforce all legislatively mandated CEQA requirements.” Citizens of Goleta Valley v.
19 Board of Supervisors (1990) 52 Cal.3d 553, 564.

20 71. The City failed to determine all significant impacts of this project (as
21 defined in Public Resources Code Section 21068), including the project’s cumulative,
22 indirect, or secondary impacts, “substantial adverse effects on human beings, either
23 directly or indirectly,” (failing to recognize the substantial construction projects on all
24 three sides of the Project site and their impacts to the environment) are cognizable under
25 CEQA whenever such effects are caused by the project’s environmental effects. Pub. Res.
26 Code § 21083, subd. (b)(2) & (3); Guidelines § 15065, subd. (a)(3) & (4); id., Appen. G,
27 §§ XIII, subds. (b) & (c), XVIII, subds. (b) & (c).) The City failed to acknowledge,
28 consider and apply the substantial adverse human health and safety effects caused by the

1 physical changes to the environment proposed by or due to the Project, and whenever
2 adverse effects on human beings, either directly or indirectly, result from those physical
3 changes. The City must find them significant. Id. A mandatory finding of environmental
4 significance must likewise be made whenever cumulatively considerable effects may
5 occur. Id.

6 **SECOND CAUSE OF ACTION**
7 **(Violations of Initiative Measure JJJ)**

8 72. Petitioners hereby re-allege and incorporate by reference herein the
9 allegations in the preceding paragraphs.

10 73. By approving the Project and granting the incentives under the TOC
11 Guidelines, the City violated the directive of the voters in enacting Measure JJJ, the
12 municipal code and the requirements of state law.

13 74. TOC projects must be measured against the City Charter and General Plan,
14 which are the fundamental directives for Los Angeles. The TOC “Guidelines” are meant to
15 SUPPORT - not SUPPLANT – existing code. The use of the term “Guidelines” indicates
16 that the use is lawful under the zoning code and development standards incorporated into
17 the code. Changing the development standards incorporated into the City's zoning law
18 presents a conflict with the City’s General Plan, as seen here.

19 75. The TOC program has proven to be in violation of the provisions of Charter
20 Section 558 (b)(2), which requires the CPC make, a finding “in conformity with public
21 necessity, convenience, general welfare, and good zoning practice. “However, the CPC is
22 not able to make ANY “finding” under the Charter in regards to TOCs because their
23 “Guidelines” were never codified by the City Council, **as mandated by the Charter.**

24 76. The Project on its face fails to qualify as a TOC by the mere fact that it
25 REMOVES RENT STABILIZED HOUSING and results in a NET LOSS of what the City
26 claims is desperately needed. The City’s approval of this Project posing as a TOC and
27 further giving away valuable entitlements is a total violation of the City’s General Plan, the
28

1 neighborhoods Community Plan and is a blatant violation of the intent and purpose of
2 Measure JJJ, from which the TOC Guidelines are rooted.

3 77. **Even if** the applicant replaced all of the RSO low-income units he seeks to
4 demolish, this STILL does not increase the number of “affordable” units as required and
5 intended by the TOC Guidelines. There is no shortage of market rate units in this
6 neighborhood.

7 78. The Court holding in Leshar vs. City of Walnut Creek (1990) 52 Cal. 3d 551
8 held **that voter passed initiatives which conflict with the general plan are void**. The
9 court held that the measure in question, “on its face, regulates land use”.

10 **THIRD CAUSE OF ACTION**

11 **(Abuse of Discretion in Approvals and Entitlements as TOC, Violations of
12 LAMC, City Charter Code and Los Angeles General and Community Plans)**

13 79. Petitioners hereby re-allege and incorporate by reference herein the
14 allegations in the preceding paragraphs.

15 80. Abuse of Discretion is established when: the agency has not proceeded in
16 the manner required by law; the order or decision is not supported by the findings; or the
17 findings are not supported by the evidence. See Leal v. Gourley, (2002) 100 CA 4 th 963,
18 968.

19 81. The City’s failure to recognize the precedence and authority of the City
20 Charter and the General Plan constitutes an abuse of discretion.

21 82. The authority specified in the City Charter Code section 551. Does not
22 provide authority for the City Planning Commission to approve or reject the Project.

23 83. The City failed to comply with the General Plan and its Elements, which
24 purports to focus on promoting safety and health, and ensure development projects are
25 responsive to each community’s needs. Destruction of an established low-income
26 community for luxury market rate buildings such as this Project is defined as
27 gentrification, which cannot be approved if there is an adverse impact to public health and
28 safety, which exists in the record and has been blatantly ignored by the City.

1 84. “The Planning and Zoning Law itself precludes consideration of a zoning
2 ordinance which conflicts with a general plan as apro tanto repeal or implied amendment
3 of the general plan. **The general plan stands.**” (Leshner,1990), (deBottari v. City Council
4 (1985) 171 Cal. App. 3d 1204, 1212 [217 Cal. Rptr. 790]; Sierra Club v. Board of
5 Supervisors (1981) 126 Cal. App. 3d 698, 704 [179 Cal.Rptr. 261])

6 85. The City erred by approving this project using the “TOC Guidelines”
7 (adopted by the Department of City Planning’s own appointed Commission) to adopt
8 “zoning variances” to give away a 50% density increase and other TOC entitlements.

9 86. The City’s action in relying on the same set of “Guidelines” they had a
10 hand in writing is contrary to the City’s General Plan and a losing battle for the tax paying
11 residents of this city.

12 87. The City failed in its duty to provide Petitioners with the required ten days
13 notice for the July 14, 2022 CPC meeting wherein Petitioners were asked by the appellant
14 to speak on his behalf.

15 88. The City violated their duty to ensure appropriate and safe development is
16 what gets approved and permitted into the neighborhoods. It is an abuse of discretion to
17 ignore the justified concerns related specifically to the applicant in regards to his history of
18 being prosecuted by the City attorney [for wage theft](#). Petitioners and members of the
19 public do not take this lightly. This is the same applicant who neglected to provide the
20 Housing department income documents which would have required he build additional
21 “affordable” housing than what at one point, was decided upon, however this has changed
22 repeatedly. The removal of RSO housing constitutes an outright violation of the purpose
23 and intent of the purported TOCs and a complete violation of the City’s General and
24 Community plans.

25 89. A few key policy examples of the City’s General Plan include the following
26 which are a direct contradiction and inconsistent with the Project approvals:

- 27 a. Revise, as necessary, community plans to facilitate the conservation of
28 the scale and character of existing stable residential neighborhoods” (The

1 Framework Element/Housing)

2 b. “Plan for appropriate increases in housing production in appropriate
3 areas as determined through the community plans and implementing
4 actions in conformance with the California Environmental Quality Act
5 (CEQA)” (The Framework Element/Housing).

6 c. “California State law requires that the day-to-day decisions of a
7 city follow logically from and be consistent with the general plan.
8 More specifically, Government Code Sections 65860, 66473.5
9 and 656474 require that zoning ordinances and subdivision and
10 parcel map approvals be consistent with the general plan.”

11 d. “The final determination about what is appropriate locally will be
12 made through the community plans” (General Plan System)

13 e. “it has developed this Element to establish policies to be accommodate
14 this growth **when** and **if** it should occur.”

15 90. Petitioners demand all approvals and entitlements awarded to this applicant
16 be revoked and the City be prevented from awarding any further approvals until a full and
17 complete investigation occurs in full transparency.

18 **FOURTH CAUSE OF ACTION**

19 **(Violation of Due Process & Equal Protection in Violation of 14th Amendment to the
20 US Constitution & Article 1, Sections 7-8 of the California Constitution)**

21 88. Petitioners hereby re-allege and incorporate by reference herein the
22 allegations in the preceding paragraphs.

23 89. The People of California have elevated the right to transparent government,
24 accountable to the people, to a right protected by their State Constitution. California
25 Constitution, Article 1, Section 3 (a), states: “[t]he people have the right to instruct their
26 representatives, petition government for redress of grievances, and assemble freely to
27 consult for the common good.”
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6. That the Court enjoin Real Parties and any successors in interest from undertaking any evictions from the remaining low-income families residing at the Project site and from undertaking any demolition and/or construction pursuant to the City’s unsubstantiated approvals.

7. That the Court enjoin Real Parties and any successors in interest from undertaking any demolition and/or construction pursuant to the City’s unsubstantiated approvals.

8. For costs of suit; and

9. For such other and further relief as the Court may deem just and proper.

Dated: December 10, 2022

THE SILVER LAKE HERITAGE TRUST

By: DocuSigned by:
carol cetrone
Petitioners in proper
CAROL CETRONE

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VERIFICATION

STATE OF CALIFORNIA)
) SS:
COUNTY OF LOS ANGELES)

I, Carol Cetrone, declare as follows:

I am a Board Member of THE SILVER LAKE HERITAGE TRUST, the
Petitioner. I am authorized to make this verification on behalf of Petitioners.

I have read the foregoing PETITION FOR WRIT OF MANDAMUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF and am familiar with
its contents. The same is true of my own knowledge, except as to those matters, which are
therein stated on information and belief, and, as to those matters, I believe them 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 the 10th day of December 2022.

DocuSigned by:
carol cetrone

CAROL CETRONE
THE SILVER LAKE HERITAGE TRUST