



# Additional Documents List

## Regular City Council Meeting

### October 21, 2020

(Updated 10/21/2020 at 5:30 p.m.)

Item No.	Agenda Item Description	Distributor	Document
7	Adoption of a Resolution Continuing the Proclamation of a Local Emergency Due to the Outbreak of COVID-19, Authorizing the City Manager to Take All Necessary Actions as the Director of Emergency Services	Lucy Demirjian, Assistant to the City Manager	Memo (Providing updated proposed resolution and attachments)
9	Award of Contract to Motorola Solutions for the Purchase and Implementation of a Computer Aided Dispatch and Records Management System for a Not-to-Exceed Amount of \$579,257.82	Joe Ortiz, Police Chief	Memo (Amending item recommendation)
11	Approval of Request to the Attorney General Regarding City Attorney's Authority to Provide Confidential Information to Individual Councilmember Regarding Prior Closed Sessions and Prior Deliberations.	Teresa Highsmith, City Attorney	Memo (Providing item attachment for approval)
11.1	Approval of Request to the Attorney General Regarding City Attorney's Authority to Provide Confidential Information to Individual Councilmember Regarding Prior Closed Sessions and Prior Deliberations.	Stephen E. Rossi, Councilmember	Memo (Providing proposed letter with clarifying comments and notes)

13	Approval of a Draft Letter Appealing the City's Regional Housing Needs Assessment Allocation	Joanna Hankamer, Director of Planning and Community Development  Margaret Lin, Manager of Long Range Planning and Economic Development	Memo (Providing proposed attachments)
14	Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ending June 30, 2019.	Elaine Aguilar, Interim Assistant Manager	Memo (Providing updated Staff Report)
14.1	Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ending June 30, 2019.	Elaine Aguilar, Interim Assistant Manager	Memo (Providing <b>updated chart</b> on Staff Report page 4)
15*	Presentation of the Rogan Funded Project	Shahid Abbas, Public Works Director	Memo (Amending item recommendation)  <i>*UPDATED PRESENTATION provided at 5:30 p.m.</i>
PC	Public Comment Received via Email: Agenda Item No. 1 Agenda Item No. 10 Agenda Item No. 11 Agenda Item No. 12 Agenda Item No. 13	Maria E. Ayala, Chief City Clerk	Emailed Public Comment



## City of South Pasadena Management Services

# Memo

**Date:** October 21, 2020

**To:** The Honorable City Council

**Via:** Sean Joyce, Interim City Manager

**From:** Lucy Demirjian, Assistant to the City Manager

**Re:** [October 21, 2020] City Council Meeting Item No. 7 Additional Document –  
[Adoption of a Resolution Continuing the Proclamation of a Local  
Emergency Due to the Outbreak of COVID-19, Authorizing the City  
Manager to Take All Necessary Actions as the Director of Emergency  
Services]

---

Attached is an additional document for item 7 updating the Resolution and attachments to reflect the following:

Reference to the Los Angeles County Health Officer order changed to reflect the amended order adopted on October 14, 2020 (Attachment A of the Resolution).

Addition of the most current action by the Los Angeles County Board of Supervisors on October 13, 2020 (Attachment B of Resolution), updating the County's eviction moratorium in light of AB 3088 and federal eviction moratorium and extending the non-preempted tenant protections through November 30, 2020.

Updated Section 21. Supersedes: to reflect the last adopted City Council Resolution No. 7678.

Addition of new attachments to the Resolution consistent with the changes noted above:

Attachment A: Los Angeles County Health Officer Order (October 14, 2020)

Attachment B: Los Angeles County Board of Supervisors motion (October 13, 2020)

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, CONTINUING ITS PROCLAMATION OF A LOCAL EMERGENCY DUE TO THE OUTBREAK OF COVID-19, ADDING REGULATIONS TO FACILITATE EXPANSION OF THE AL FRESCO DINING AND RETAIL PROGRAM, INCLUDING SUSPENSION OF OUTDOOR DINING PERMIT FEE, ADOPTION BY REFERENCE OF LOS ANGELES COUNTY ORDINANCE LIMITING THIRD-PARTY DELIVERY CHARGES FOR TAKE-OUT FOOD ORDERS, AND AUTHORIZING THE CITY MANAGER TO CONTINUE TO TAKE ALL NECESSARY ACTIONS AS THE DIRECTOR OF EMERGENCY SERVICES**

**WHEREAS**, in December 2019, a novel severe acute respiratory syndrome coronavirus2, known as SARS-CoV-2 which has also been referred to as COVID-19, was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally;

**WHEREAS**, on January 31, 2020, the United States Secretary of Health and Human Services declared a public health emergency in response to COVID-19;

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a state of emergency to exist in California as a result of COVID-19;

**WHEREAS**, on March 4, 2020, the Chair of the Los Angeles County Board of Supervisors and the Los Angeles County Health Officer declared a local emergency and a local health emergency, respectively, as a result of COVID-19;

**WHEREAS**, on March 12, 2020, Governor Gavin Newsom signed Executive Order N-25-20 giving state and local public health officials the authority to issue guidance limiting or recommending limitations upon attendance at public assemblies, conferences or other mass events;

**WHEREAS**, on March 13, 2020, President Donald Trump declared a national emergency as a result of COVID-19;

**WHEREAS**, on March 18, 2020, the South Pasadena City Council adopted Resolution No. 7646 declaring a local emergency, restricting private and public gatherings, and establishing protections for residential and commercial tenants, among other things;

**WHEREAS**, on March 19, 2020, the State Public Health Officer issued the “Stay at Home” order;

**WHEREAS**, on March 21, 2020, the Los Angeles County Health Officer issued the “Safer at Home” order;

**WHEREAS**, on April 28, 2020, Governor Gavin Newsom announced a 4-stage transition plan, titled “California’s Pandemic Resilience Roadmap,” to end the Stay at Home order;

**WHEREAS**, on May 6, 2020, the South Pasadena City Council adopted Resolution No. 7648 proclaiming the continuation of a local emergency and, among other things, suspended water and sewer utility terminations and the City’s Parking Pass Program;

**WHEREAS**, on May 7, 2020, the State Public Health Officer amended the Stay at Home order to allow for the reopening of lower-risk workplaces;

**WHEREAS**, on May 29, 2020, the Los Angeles County Health Officer amended the Safer at Home order with a new order titled “Reopening Safer at Work and in the Community for Control of COVID-19,” which seeks to limit residents’ exposure during Los Angeles County’s transition through Stage 2 of California’s Pandemic Resilience Roadmap;

**WHEREAS**, Section 6 of the Los Angeles County Health Officer’s May 29, 2020 order states, “This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction;”

**WHEREAS**, on June 17, 2020, the South Pasadena City Council adopted Resolution No. 7657, proclaiming the continuation of a local emergency and clarifying that any local regulations on public gatherings or private facilities as permissive as the Los Angeles County Health Officer’s May 29, 2020 order and any subsequent Los Angeles County Health Officer orders; resuming the City’s Parking Pass Program, and creating the Al Fresco Dining and Retail Program; and

**WHEREAS**, on July 18, 2020, the Los Angeles County Public Health Officer issued a revised Order regarding Reopening Safer at Work and specifying what businesses and services can be open either for inside shopping or outdoor pick-up only, what businesses can be open only by outside service, and what businesses and services are closed; and

**WHEREAS**, on August 5, 2020, the South Pasadena City Council adopted Resolution No.7669, proclaiming the continuation of a local emergency and clarifying that any local regulations on public gatherings or private facilities as permissive as the Los Angeles County Health Officer’s July 18, 2020 order and any subsequent Los Angeles County Health Officer orders; resuming the City’s Parking Pass Program, and expanding the Al Fresco Dining and Retail Program; and

**WHEREAS**, on ~~August 12~~[October 14](#), 2020, the Los Angeles County Public Health Officer issued a revised Order, attached as Attachment A, regarding Reopening Safer and Work.

**WHEREAS**, Section 6 of the Los Angeles County Health Officer’s ~~August 12~~[October 14](#), 2020 order states, “This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction;”

**WHEREAS**, on June 30, 2020, Governor Newsom issued Executive Order N-71- 20, which, among other things, found that minimizing evictions during this period is critical to

reducing the spread of COVID-19 in vulnerable populations by allowing those most vulnerable to COVID-19 to self-quarantine, self-isolate, or otherwise remain in their homes to reduce the transmission of COVID-19, and extended through September 30, 2020 Executive Order N-28-20's suspension of any and all provisions of state law that would preempt or otherwise restrict a local government's exercise of its police powers to impose substantive limitations on residential and commercial evictions with respect to COVID19-related rent payment issues;

**WHEREAS**, on August 31, 2020, California passed legislation, Assembly Bill 3088, the COVID-19 Tenant Relief Act of 2020, under which, among other things, no tenant can be evicted before February 1, 2021 as a result of rent owed due to a COVID-19 related hardship accrued between March 4 and August 31, 2020, if the tenant provides a declaration of COVID-19-related financial distress according to specified timelines; no tenant can be evicted for rent that accrues but is unpaid due to a COVID-19 hardship between September 1, 2020 and January 31, 2021 if the tenant submits declarations of COVID-19-related financial distress according to specified timelines and pays 25% of the unpaid rent due by January 31, 2020; and landlords are required to provide tenants a notice detailing their rights under the legislation;

~~[WHEREAS, on September 1, 2020, the Los Angeles County Board of Supervisors amended its Executive Order imposing a temporary moratorium on evictions for non-payment of rent by commercial tenants impacted by COVID-19 until October 31, 2020;](#)~~

**WHEREAS**, on September 4, 2020, the United States Center for Disease Control and Prevention, recognizing that “in the context of a pandemic, eviction moratoria – like quarantine, isolation, and social distancing – can be an effective public health measure utilized to prevent the spread of communicable disease,” that eviction moratoria “facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition” and “allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19,” and that “housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19” (Federal Register, Vol. 85, No. 173 at page 55292), issued an order, applicable in any State or local area without a moratorium on residential evictions that provides the same or greater level of public-health protections as the requirements in the order, requiring that, through December 31, 2020, subject to further extension, modification, or rescission, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person (as defined in the order) from any residential property in any State in which there are documented cases of COVID-19;

**WHEREAS**, on September 23, 2020, Governor Newsom signed Executive Order N-80-20, extending through March 31, 2021 Executive Order N-28-20, allowing local governments to impose commercial eviction moratoriums and restrictions for commercial tenants who are unable to pay their rent because of COVID-19;

~~[WHEREAS, on October 13, 2020, the Los Angeles County Board of Supervisors Updated gthe County's eviction moratorium in light of AB 3088 and federal eviction moratorium, attached as Attachment B, extending non-preempted tenant protections through November 30, 2020;](#)~~

**WHEREAS**, despite sustained efforts, COVID-19 remains a threat, and continued efforts to control the spread of the virus to reduce and minimize the risk of infection are needed;

**WHEREAS**, these conditions warrant and necessitate that the City continue its proclamation of the existence of a local emergency;

**WHEREAS**, Chapter 11 of the South Pasadena Municipal Code empowers the City Council to proclaim the existence or threatened existence of a local emergency and to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency;

**WHEREAS**, Government Code section 8634 states, “During a local emergency the governing body of a political subdivision, or officials designated thereby, may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread publicity and notice”; and

**WHEREAS**, Government Code section 8630 (c) states, “The governing body shall review the need for continuing the local emergency at least once every 60 days until the government body terminates the local emergency.”

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1. Recitals.** The preceding Recitals are true and correct and are hereby incorporated and adopted as findings and determinations by the City Council as if fully set forth herein.

**SECTION 2. Proclamation.** Pursuant to Government Code section 8630, subdivision (a), the City Council proclaims the continuation of a local emergency due to the outbreak of SARS-CoV-2 (COVID-19).

**SECTION 3. Regulation of Public Gatherings.** Any local regulations on public gatherings are ordered to be as permissive as the Los Angeles County Health Officer’s August 12, 2020 order, attached as Attachment A, and any subsequent Los Angeles County Health Officer orders;

**SECTION 4. Regulation of Public Facilities.** Commencing immediately, the Director of Emergency Services is directed to continue the closure to the public of all City-owned facilities that require close contact of vulnerable individuals, including those over 60 years old or with compromised immune systems.

**SECTION 5. Regulation of Private Facilities.** Any local regulations on private facilities are ordered to be as permissive as the Los Angeles County Health Officer’s August 12, 2020 order and any subsequent Los Angeles County Health Officer orders;

**SECTION 6. Enforcement.** Any violation of the above prohibitions may be punishable by a fine not to exceed \$1,000 or imprisonment not to exceed six months, pursuant to the South Pasadena Municipal Code section 11.11.

**SECTION 7. Exemption of Delivery Vehicles.** Trucks and other vehicles engaged in the delivery of grocery items to grocery stores, when such items are to be made available for sale to the public, remain exempt from having to comply with any City rules and regulations that limit the hours for such deliveries.

**SECTION 8. Guidance for Religious Gatherings.** The leaders of the City's houses of worship are urged, in the strongest possible terms, to limit gatherings on their premises and to explore and implement ways to practice their respective faiths while observing social distancing practices, and to comply with the current and any subsequent Los Angeles County Health Officer orders.

**SECTION 9. Protection of Affected Tenants.** The provisions of the COVID-19 Tenant Relief Act of 2020, attached as Attachment E, shall apply to all residential tenants within the City. The Los Angeles County Board of Supervisor's Amended Executive Order imposing a temporary moratorium on evictions for non-payment of rent by certain commercial tenants adversely financially impacted by COVID-19 through ~~October 31~~ November 30, 2020 shall control and apply to all those commercial tenants in the City as are protected by the County's Executive Order. Any further amendments or orders issued by the County Board imposing or extending a temporary evictions moratorium shall also control as they may become effective and per their terms and conditions.

**SECTION 10. Suspension of Utility Terminations.** For a period of 60 days from the date of this Resolution, for customers who are able to show an inability to pay their water and sewer bill due to the "financial impacts related to COVID-19" as defined in Section 9 above, the City hereby suspends:

- a) The discontinuation or shut-off of water service for residents and businesses in the City for non-payment of water and sewer bills;
- b) The imposition of late payment penalties or fees for delinquent water and/or sewer bills;

**SECTION 11. Reinstatement of Parking Pass Program.** Effective July 6, 2020, the City hereby reinstates the Parking Pass Program and authorizes the issuance of overnight parking passes and the imposition of late payment penalties or fees for parking violations.

**SECTION 12. Temporary Modifications to Commercial Signage Requirements.** No more than two temporary signs shall be allowed per business. All temporary signs must still comply with the size and location requirements set forth in SPMC Section 36.320.080.

Temporary window signs shall be limited to 20 percent of the window area.



No more than one temporary sign shall be located in the public right-of-way. During the Local Emergency Declaration, an application to place a temporary sign in the public right of way shall only require administrative approval by the Planning Director; an encroachment permit is still required to be issued by the Public Works Director, but the encroachment permit fee is waived.

Temporary signs shall be in place for no more than 30 days or until the Local Emergency Declaration has been lifted, whichever is later. Temporary signs may include a banner, in compliance with the size and locations of SPMC Section 36.320.080(B). During this Local Emergency Declaration, the \$50 application fees for a banner sign is waived.

**SECTION 13. Al Fresco Dining and Retail Program.** To support local businesses during the Coronavirus pandemic, an Al Fresco Dining and Retail Pilot Program, as set forth in Attachment C, is approved to temporarily relax Temporary Use Permit (TUP), Encroachment Permit, and parking requirements in order to facilitate the use of outdoor spaces for dining and retail purposes while maintaining the necessary social distancing protocols. This temporary program is valid for 90 days after the termination of the Declaration of Local Emergency. In order to facilitate outdoor dining, the City's Outdoor Dining Permit Fee is waived for the duration of the Al Fresco Dining and Retail Program. Additionally, the City Manager or her designee has the discretion to relocate ADA parking spaces to other public right-of-way space or public facilities in order to facilitate the potential use of street frontage for outdoor dining spaces for applicants to the Al Fresco Dining and Retail Program.

**SECTION 14. Capping Fees on Third-Party Delivery Services for Restaurants and Food Establishments.** The August 4, 2020 Los Angeles County Ordinance (Attachment D) establishing a twenty percent cap on total fees including a fifteen percent cap on delivery fees that a food delivery platform may charge to restaurants, prohibiting reduction of delivery driver compensation as a result, and requiring disclosures to be made by the food delivery platform to customers, in response to the COVID-19 health emergency is adopted by reference and incorporated into this Resolution.

**SECTION 15. Emergency Authority.** Pursuant to Government Code section 8634, the City Council reaffirms its authorization of the Director of Emergency Services to take any measures necessary to protect and preserve public health and safety, including activation of the Emergency Operations Center.

**SECTION 16. Public Health Officials.** The City Council reaffirms its authorization of the Director of Emergency Services to implement any guidance, recommendations, or requirements imposed by the State Department of Public Health or the Los Angeles County Health Officer.

**SECTION 17. Termination.** Pursuant to Government Code section 8630, subdivision (d), the City Council will proclaim the termination of the emergency at the earliest possible date that conditions warrant.

**SECTION 18. Review.** Pursuant to Government Code section 8630, subdivision (c), the City Council will review the need for continuing the local emergency in no event later than 60 days from the previous declaration or review, until the City Council terminates the local emergency.

**SECTION 19. Cost Accounting.** City staff will continue to account for their time and expenses related to addressing the local emergency caused by COVID-19.

**SECTION 20. Cost Recovery.** The City will seek recovery for the cost of responding to COVID-19, as this proclamation was originally made within 10 days of the Governor's Executive Order N-25-20 and the President's declaration of a national emergency, qualifying the City for assistance under the California Disaster Assistance Act and for reimbursement from the Federal Emergency Management Agency.

**SECTION 21. Supersedes.** This Resolution restates and supersedes the declaration of emergency set forth in Resolution No. ~~76577678~~.

**SECTION 22. Submissions.** The City Clerk will transmit a copy of this Resolution at the earliest opportunity to the Los Angeles County Operational Area and the California Governor's Office of Emergency Services.

**SECTION 23. Certification.** The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

**PASSED, APPROVED AND ADOPTED** on this 21st day of October, 2020.

\_\_\_\_\_  
Robert S. Joe, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk

\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 21st day of October, 2020, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAINED:**

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal)



**REOPENING SAFER AT WORK AND IN THE COMMUNITY  
FOR CONTROL OF COVID-19  
BLUEPRINT FOR A SAFER ECONOMY—TIER 1  
Revised Order Issued: October 14, 2020**

**Recent Update**

**10/14/2020** —Updated to do the following:

- More closely align with the California Department of Public Health Guidance for the Prevention of COVID-19 Transmission for Gatherings issued on October 9, 2020.
- Allow private gatherings of persons from no more than 3 households, but only in compliance with the requirements set forth in paragraph 3(a). Further defines the terms “household” and “private gathering.” All other gatherings not covered by this Order or existing County reopening protocols remain prohibited.

**Please read this Order carefully. Violation of or failure to comply with this Order is a crime punishable by fine, imprisonment, or both. (California Health and Safety Code §120295; Los Angeles County Code § 11.02.080.)**

**SUMMARY OF THE ORDER:** This Revised County of Los Angeles Health Officer Order (Order) supersedes all prior Safer At Home orders (Prior Orders) issued by the County of Los Angeles Health Officer (Health Officer). This Order is issued to comply with State Executive Orders N-33-20 and N-60-20 issued by Governor Gavin Newsom, and the accompanying orders of the State Public Health Officer issued on March 19, May 7, July 13, July 17, 2020, and August 28, 2020.

This Order’s intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. This Order allows persons to engage in all permitted activities, as defined by the Order, but requires that persons practice Social (Physical) Distancing, at all times while out in public and wear a cloth face covering over both the nose and mouth when in or likely to be in contact with others, to lower the risks of disease transmission through person-to-person contact for themselves and others.

This Order is issued to align the County of Los Angeles (County) with State Executive Orders and State Health Officer Orders. This Order will be revised in the future to reflect the State Executive Orders and State Public Health Officer Orders and guidance that progressively designate sectors, businesses, establishments, or activities that may reopen with certain modifications, based on health and safety needs and at a pace designed to protect health and safety, and that may also progressively close specific activities and business sectors based on increases in daily reported COVID-19 cases, hospitalizations, and the testing positivity rates. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue Orders that are more restrictive than those of the State Public Health Officer. **Changes from the previous Order are highlighted.**



This Order is effective within the County of Los Angeles Public Health Jurisdiction, defined as all cities and unincorporated areas within the County of Los Angeles, with the exception of the cities of Long Beach and Pasadena that must follow their respective City Health Officer orders and guidance. This Order is effective immediately and will continue until further notice.

**UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND  
SAFETY CODE SECTIONS 101040, 101085, AND 120175,  
THE COUNTY OF LOS ANGELES HEALTH OFFICER ORDERS:**

1. This Order supersedes the Health Officer's Prior Orders. This Order mainly aligns the County with both the Governor's July 13, 2020, announcement requiring the closure of specific activities and business sectors and the State's August 28, 2020 issuance of a Blueprint for a Safer Economy, which describes a tiered approach to relaxing and tightening restrictions on activities based upon specified criteria and as permitted by this Order based on County health conditions and circumstances. The Health Officer will continue to assess the phased reopening allowed by the State Public Health Officer and this Order on an ongoing basis and determine, after consultation with the Board of Supervisors, whether this Order needs to be modified if the public health risk associated with COVID-19 increases in the future.
2. This Order's intent is to continue to ensure that County residents remain in their residences as much as practicable, to limit close contact with others outside their household in both indoor and outdoor spaces. All persons who can telework or work from home should continue to do so as much as possible during this pandemic. Sustained Social (Physical) Distancing and infection control measures will continue slowing the spread of COVID-19 and diminishing its impact on the delivery of critical healthcare services. All provisions of this Order must be interpreted to effectuate that intent. Failure to comply with any of the Order's provisions constitutes an imminent threat and menace to public health, and a public nuisance, and is punishable by fine, imprisonment or both.
3. All persons living within the County of Los Angeles Public Health Jurisdiction should remain in their residences whenever practicable.
  - a) Nothing in this Order prohibits persons living together as a single household in a household or living unit ("household") from engaging in permitted activities together. For purposes of this Order, and in relationship to private gatherings, a "household" shall not include institutional group living situations such as dormitories, fraternities, sororities, monasteries, convents, or residential care facilities, nor does it include such commercial group living arrangements as boarding houses, hotels, or motels.<sup>1</sup> Private gatherings are defined as social situations that bring together people from different households at the same time in a single space or place. When people from different households mix, the risk

<sup>1</sup> Los Angeles County Code, Title 22, §22.14.060 - F. Family definition. (Ord. 2019-0004 § 1, 2019.)  
[https://library.municode.com/ca/los\\_angeles\\_county/codes/code\\_of\\_ordinances?nodeId=TIT22PLZO\\_DIV2DE\\_CH22.14DE\\_22.14.060F](https://library.municode.com/ca/los_angeles_county/codes/code_of_ordinances?nodeId=TIT22PLZO_DIV2DE_CH22.14DE_22.14.060F)

of COVID-19 transmission increases. Private gatherings of people who are *not* part of a single household or living unit must comply with the following requirements:

- i. *Attendance.* 1) Private gatherings that include more than three households are prohibited. This includes everyone present, including hosts and guests. The smaller the number of people, the lower the risk. 2) Keep the up to 3 households that choose to privately gather or interact together constant or stable over time. Participating in multiple gatherings with different households and communities poses a higher risk of transmission and spread of COVID-19 if one or more attendees is/are discovered to be infected with the virus. 3) Persons from the households who do choose to privately gather together should discuss and agree upon the specific group rules for reducing the risk of exposure among the attendees at the private gathering before convening together. 4) The host household of the private gathering should collect names of all attendees and contact information in case contact tracing is needed later.
- ii. *Outdoors only.* 1) All private gatherings must be held outside; they are permitted in a public park or other outdoor space. Unlike indoor spaces, wind and air in outdoor spaces can help reduce the risk of spread of the virus from one person to another. Attendees may go inside to use restrooms as long as the restrooms are frequently sanitized. 2) Private gatherings may occur in outdoor spaces that are covered by umbrellas, canopies, awnings, roofs, and other shade structures provided that at least three sides of the space (or 75%) are open to the outdoors. 3) Multiple private gatherings of three households may not be jointly organized or coordinated to occur in the same public park or other outdoor space at the same time – this would constitute a private gathering exceeding the permitted size. 4) Mixing between unrelated private gatherings in the same public space or other outdoor space at the same time is not allowed.
- iii. *Keep it short.* Private gatherings should be limited to two hours or less in duration. The longer the duration, the risk of transmission increases.
- iv. *Physical distancing and hand hygiene.* 1) All attendees must follow the Social (Physical) Distancing Protocol requirements of Paragraph 19 of this Order. 2) The outdoor space must be large enough so that everyone at the private gathering can maintain at least a 6-foot physical distance from others (not including their own household) at all times. 3) A place to wash hands or hand sanitizer must be available for participants to use. 4) Shared items may not be used during a private gathering. As much as possible, any food or beverages at outdoor gatherings must be in single-serve disposable containers. If providing single-serve containers is not possible, food and beverages must be served by an attendee who washes or sanitizes their hands frequently and wears a face covering over their nose and mouth. Self-serve items from communal containers may not be used.



- v. *Singing, Chanting, and Shouting at Outdoor Gatherings.* Singing, chanting, shouting, and physical exertion significantly increases the risk of COVID-19 transmission because these activities increase the release of respiratory droplets into the air. Because of this, singing, chanting, and shouting are strongly discouraged. If they occur and to reduce the spread of respiratory droplets, all attendees who are singing or chanting 1) must wear a face covering at all times while singing or chanting, including anyone who is leading a song or chant, and 2) must maintain at least 6 feet of physical distance from others. 3) Instrumental music is allowed as long as the musicians maintain at least 6-foot physical distancing. Musicians must be from only one of the three households. Playing of wind instruments (any instrument played by the mouth, such as a trumpet or clarinet) is strongly discouraged.
  - vi. Anyone who develops COVID-19 within 48 hours after attending a private gathering must notify the Department of Public Health at (888) 397-3993 or (213) 240-7821 and should notify the other attendees as soon as possible regarding the potential exposure.
- b) People leaving their residences must strictly comply with the Social (Physical) Distancing requirements stated in this Order and specified in guidance or protocols established by the County Department of Public Health. This Order, beginning June 19, 2020, requires all persons wear a cloth face covering over both the nose and mouth whenever they leave their place of residence and are or can be in contact with or walking near or past others who are non-household members in both public and private places, whether indoors or outdoors. This includes wearing a cloth face covering when patronizing a business. Wearing a cloth face covering reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected. The use of face coverings is commonly referred to as “source control.”
- c) Persons and businesses within the County of Los Angeles Public Health Jurisdiction are required to follow the COVID-19 infection control protocols and guidance provided by the County Department of Public Health. In instances where the County has not provided a specific guidance or protocol, specific guidance or protocols established by the State Public Health Officer shall control.
- i. In the event that an owner, manager, or operator of any business knows of three (3) or more cases of COVID-19 among their employees within a span of 14 days, the employer must report this outbreak to the Department of Public Health at (888) 397-3993 or (213) 240-7821.
  - ii. In the event that an owner, manager, or operator of any business is informed that one or more employees of the business has tested positive for, or has symptoms consistent with COVID-19 (case), the employer must have a protocol to require the case(s) to isolate themselves at home and require the immediate self-quarantine of all employees that had a workplace exposure to the case(s).



- d) Pursuant to the State of California's action<sup>2</sup> and the United States District Court Central District of California's order,<sup>3</sup> jurisdictions within the County of Los Angeles Public Health Jurisdiction are expected to comply with the provision of hotel and motel rooms for vulnerable people experiencing homelessness through Project Roomkey, which slows the spread of COVID-19 and retains capacity of the healthcare system.
4. All people residing within the County of Los Angeles Public Health Jurisdiction who are age 65 or older and all people of any age who have active or unstable pre-existing health conditions, should remain in their residences as much as possible during the pandemic. People in these categories should leave their residences only when necessary to seek medical care, exercise or obtain food or other necessities. **People in these categories should avoid any gatherings.** The Health Officer strongly recommends that all employers offer telework or other accommodations to persons who are age 65 or older and all people of any age who have an active or unstable pre-existing health condition(s).
5. All government agencies working in the course and scope of their public service employment are Essential Government Functions.
- a) All government employees are essential, including but not limited to, health care providers and emergency responders including employees who serve in the following areas: law enforcement; emergency services and management; first responders; fire; search and rescue; juvenile detention; corrections; healthcare services and operations; public health; laboratory or medical testing; mental health; community health; public works; executive management employees serving in these fields; all employees assigned to serve in or support the foregoing fields; and all employees whose services are otherwise needed to assist in a declared emergency.
- b) While all government employees are essential, the employees identified here, and others called to serve in their Disaster Service Worker capacity, must be available to serve the public or assist in response or continuity of operations efforts during this health crisis to the maximum extent allowed under the law.
- c) This Order does not, in any way, restrict (a) first responder access to the site(s) named in this Order during an emergency or (b) local, state or federal officers, investigators, or medical or law enforcement personnel from carrying out their lawful duties at the site(s) named in this Order.
- d) All persons who perform Essential Governmental Functions are categorically exempt from this Order while performing such governmental functions or services. Each governmental entity shall identify and designate appropriate employees, volunteers, or contractors to continue providing and carrying out any Essential Governmental Functions. All Essential Governmental Functions should be

<sup>2</sup> Office of Governor Gavin Newsom, Action re: Project Roomkey, 4/3/2020, <https://www.gov.ca.gov/2020/04/03/at-newly-converted-motel-governor-newsom-launches-project-roomkey-a-first-in-the-nation-initiative-to-secure-hotel-motel-rooms-to-protect-homeless-individuals-from-covid-19/>; 2020-21 May Revision to the Governor's Budget, Project Roomkey, pg. 78-79

<sup>3</sup> Order re: Preliminary Injunction (Case No. LA CV 20-02291-DOC-KES), LA Alliance for Human Rights et al v. City of Los Angeles et al, States District Court Central District of California, 5/15/2020.





- performed in compliance with Social (Physical) Distancing Protocol, to the extent possible.
6. This Order does not supersede any stricter limitation imposed by a local public entity within the County of Los Angeles Public Health Jurisdiction.
  7. The Health Officer orders the closure of the following types of higher-risk businesses, recreational sites, commercial properties, and activities, where more frequent and prolonged person-to-person contacts are likely to occur:
    - a) Lounges and nightclubs;
    - b) Bars, and craft distilleries that possess a valid low risk restaurant public health permit issued by the County of Los Angeles.
    - c) [Intentionally omitted];
    - d) Public entertainment venues: movie theaters, live performance theaters, concert venues, theme parks, and festivals;
    - e) Family entertainment centers such as bowling alleys, arcades, miniature golf, and batting cages;
    - f) All restaurants, but only for indoor, in-person onsite dining until further notice;
    - g) Satellite wagering facilities, and racetrack onsite wagering facilities until further notice;
    - h) Indoor playgrounds;
    - i) Indoor portions and exhibits of museums, zoos and aquariums are closed to the public until further notice;
    - j) Hot tubs, steam rooms and saunas not located on a residential property;
    - k) All events and gatherings, unless specifically allowed by this Order.
  8. All Essential Businesses, unless specific modifications are required by this Order, may remain open to the public and conduct normal business operations, provided that they implement and maintain the Social (Physical) Distancing Protocol defined in Paragraph 20 and attached to this Order as **Appendix A**. An Essential Business' owner, manager, or operator must prepare and post a Social (Physical) Distancing Protocol for each facility or office located within the County of Los Angeles Public Health Jurisdiction and must ensure that the Essential Business meets all other requirements of the Social (Physical) Distancing Protocol.
  9. Lower-Risk Businesses are businesses that are not specified in Paragraph 7 of this Order, and not defined as an Essential Business in Paragraph 18 of this Order. There are five categories of Lower-Risk Businesses that may reopen under this Order: (1) retailers ("Lower-Risk Retail Businesses"), (2) manufacturing and logistics sector businesses that supply Lower-Risk Retail Businesses, (3) Non-Essential office-based businesses (although telework is strongly encouraged), (4) Indoor Malls and Shopping Centers, and (5) hair salons, barbershops, and nail salons. These five categories of Lower-Risk Businesses may reopen subject to the following conditions:



- a) For any Lower-Risk Retail Business that sells goods and services, the owner, manager, or operator must, for each facility located within the County of Los Angeles Public Health Jurisdiction, prior to reopening, prepare, implement and post the Reopening Protocols for Retail Establishments: Opening for In Person Shopping, attached to this Order as **Appendix B**.
- b) For any non-retail Lower-Risk Business, that is a manufacturing and logistics sector business that supplies Lower-Risk Retail Businesses, the owner, manager, or operator must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol, applicable to the business type or location, attached to this Order as **Appendix C**.
- c) For any Non-Essential office-based business, all indoor portions and operations must cease in-person operations until further notice. Non-essential office-based businesses whose operations require employees to work from an office worksite, and that this Order does not identify as an Essential Business, Healthcare Operation, or Essential Infrastructure, may operate via telework and for Minimum Basic Operations only. Essential Businesses, Healthcare Operations, or Essential Infrastructure whose operations require that employees operate from an office worksite, must require employees to telework to the extent feasible and any in-person operations must be in accordance with the required Los Angeles County Department of Public Health Reopening Protocol Office-Based Worksites, attached to this Order as **Appendix D**.
- d) For Indoor Malls and Shopping Centers, defined as: A building with (7) or more sales or retail establishments with adjoining indoor space, beginning October, 7, 2020, the owner or operator of the Indoor Mall or Shopping Center, including indoor swap meets, may reopen at up to 25% of overall mall or shopping center capacity. Higher-risk businesses located within an Indoor Mall or Shopping Center must continue to comply with Paragraph 7 of this Order and remain closed until each of those types of establishments is allowed to resume modified or full operations. Food courts and specified common areas located within an Indoor Mall or Shopping Center must remain closed to the public until further notice. Members of the public may not consume food or beverages inside the Indoor Mall or Shopping Center. Restaurants and food facilities located entirely within an Indoor Mall or Shopping Center must continue to provide outdoor services only and may not take in-person orders for food or beverages inside the Indoor Mall or Shopping Center. All businesses located within an Indoor Mall or Shopping Center, and not subject to Paragraph 7 of this Order, must adhere to the applicable requirements of this Order. The owner or operator of the Indoor Mall or Shopping Center must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocols for Shopping Center Operators, attached to this Order as **Appendix E**.
- e) Hair salons, barbershops, and nail salons. Hair salons, barbershops and nail salons may reopen for indoor operations at 25% of the salon or shop's maximum occupancy and with required modifications. As permitted by the State, operators are encouraged to continue providing as many services as possible outdoors. The owner, manager, or operator must, prior to reopening for indoor operations,



prepare, implement and post the Reopening Protocols for Hair Salons, Barbershops, and Nail Salons, attached to this Order as **Appendix H**.

9.5. The State Public Health Officer has provided guidance for certain sectors, businesses and activities in Stage 3 of the California Pandemic Resilience Roadmap to conditionally reopen with workplace and operational modifications. The Health Officer, after considering local epidemiological data and after consultation with the Board of Supervisors, approves the reopening of the following specific sectors, businesses and activities subject to the following conditions:

- a) Music, film and television production. Operations for music, film and television production may resume on June 12, 2020. The owner, manager, or operator of music, film and television production must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Music, Film and Television Production, attached to this Order as **Appendix J**, as well as abide by applicable industry-generated protocols.
- b) Day camps. Day camps may reopen on June 12, 2020. Day camp owners and operators must implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Day Camps, attached to this Order as **Appendix K**.
- c) Fitness facilities. Fitness facilities, including private gymnasiums, may be open for outdoor operations only. The indoor portions of Fitness facilities are closed to the public until further notice. The owner, manager, or operator of fitness facilities must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Gyms and Fitness Establishments, attached to this Order as **Appendix L**.
- d) Outdoor portions of museums, galleries, botanical gardens, and outdoor facilities at zoos, aquariums, and other similar exhibition spaces (collectively, "Museums") may remain open to the public. The indoor portions of Museums are closed to the public until further notice. The owner, manager, or operator of Museums and exhibition spaces must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Museums, Galleries, Zoos, and Aquariums, attached to this Order as **Appendix M**.
- e) Professional sports without audiences. Professional sports teams and franchises may restart operations and competitions without audiences on June 12, 2020. The owner, manager, or operator of professional sports teams and franchises must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events, attached to this Order as **Appendix N**, as well as abide by applicable industry-generate protocols.
- f) Campgrounds, RV Parks and associated outdoor activities. Campgrounds and recreational vehicle parks may reopen on June 12, 2020. The owner, manager, or operator of campgrounds and RV Parks must, prior to reopening, prepare,



implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units, attached to this Order as **Appendix O**.

- g) Schools (K-12) and School Districts. The County Public Health Officer requires all public and private schools (K-12) and school districts within the County of Los Angeles to conduct distance learning only. Beginning September 14, 2020, K-12 schools may offer in-school services for a small, stable cohort of students with Individualized Education Programs (IEPs) or English Learners (ELs) needing assessments and/or specialized in-school services, with priority given to students with disabilities. Other prioritized groups for in person support and services include English learners, students not participating in distance learning, students at risk of abuse or neglect, foster youth, and students experiencing homelessness. Permissible in-person specialized services that require cohorting of students, must limit the maximum stable cohort size to twelve (12) students and two (2) staff (not including aides assigned to children with special needs), and adhere to all provisions for safe opening of schools, as outlined in **Appendix T1: Reopening Protocols for K-12 Schools**. Schools must limit the number of students with IEPs and ELs, and other prioritized students allowed at any one time on campus for essential assessments and/or specialized in-school services to 10% or less of the total student body. Schools (K-12) and School Districts that are permitted to reopen for prioritized individual and cohorted students must follow the Reopening Protocols for K-12 Schools and the Protocol for COVID-19 Exposure Management Plan in K-12 Schools, attached to this Order as **Appendices T1 & T2**.
- h) Personal Care Establishments. These establishments include esthetician, skin care, and cosmetology services; electrology, body art professionals, tattoo parlors, and piercing shops; and massage therapy (in non-healthcare settings). With the exception of electrology, tattoo parlors, and piercing shops, which must remain closed, these establishments may be open for outdoor operations only. The indoor portions of personal care establishments are closed to the public until further notice. The owner, manager or operator of a personal care establishment must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Personal Care Establishments, attached to this Order as **Appendix R**.
- i) Institutes of Higher Education. Colleges and universities in Los Angeles County will not be able to resume all in-person academic instruction, at this time. Institutions may continue to offer in person training and instruction for essential workforce for required activities that cannot be accomplished through virtual learning. All other academic instruction must continue to be done via distance-learning as specified in the County's Protocols for Institutes of Higher Education attached to this Order as **Appendix U**. Faculty and other staff may come to campus for the purpose of providing distance learning, and other activities related to the purposes above, as well as maintaining minimum basic operations. The institution must comply with all relevant portions of the County's Protocols for Institutes of Higher Education to maximize safety for all employees, also noted in Appendix U.



- j) Cardrooms. On October 5, 2020, Cardrooms may reopen for outdoor operations only. The indoor portions of cardrooms remain closed to the public until further notice. No food or beverages are permitted at or near the gaming tables or machines. The owner or operator of a cardroom must, prior to reopening, prepare, implement and post the required Los Angeles County Department of Public Health Reopening Protocol for Cardrooms attached to this Order as **Appendix Q**.

### REASONS FOR THE ORDER

10. This Order is based upon the following determinations: evidence of continued community transmission of COVID-19 within the County; continued uncertainty regarding the degree of undetected asymptomatic transmission; scientific evidence and best practices regarding the most effective approaches to slow the transmission of communicable diseases generally and COVID-19 specifically; evidence that a significant portion of the County population is at risk for serious health complications, including hospitalizations and death from COVID-19, due to age or pre-existing health conditions; and further evidence that other County residents, including younger and otherwise healthy people, are also at risk for serious negative health outcomes and for transmitting the virus to others. The Order's intent is to protect the public from the avoidable risk of serious illness and death resulting from the spread of COVID-19.
11. Existing community transmission of COVID-19 in Los Angeles County remains widespread and continues to present a substantial and significant risk of harm to residents' health. There is still no vaccine available yet to protect against COVID-19, and no treatment for it. **As of October 14, 2020, there have been at least 285,016 cases of COVID-19 and 6,812 deaths reported in Los Angeles County.** There remains a strong likelihood **that increased interactions among members of the public will result in** a significant and increasing number of cases of community transmission. Making the community transmission problem worse, some individuals who contract the virus causing COVID-19 have no symptoms or have only mild symptoms, and so are unaware that they carry the virus and are transmitting it to others. Further, evidence shows that the virus can, at times, survive for several hours on surfaces and can be indirectly transmitted between individuals. Because even people without symptoms can transmit the virus, and because evidence shows the infection is easily spread, preventing, limiting, and placing conditions on various types of gatherings and other direct and indirect interpersonal interactions have been proven to reduce the risk of transmitting the virus.
12. Evidence suggests that until recently the restrictions and requirements imposed by Prior Orders slowed the rate of increase in community transmission and hospitalizations by limiting interactions among people, consistent with the efficacy of similar measures in other parts of the country and world. Unfortunately, the daily number of new cases, while not currently substantially increasing, is still high, and COVID-19 remains widespread in Los Angeles County. Moreover, because there is not yet a vaccine or ample therapeutic drugs, the public health emergency and attendant risks to the public's health by COVID-19 still predominate.



13. In line with the State Public Health Officer, the Health Officer is monitoring several key indicators (COVID-19 Indicators) within the County. Activities and business operations that are permitted must be conducted in accordance with the required Social (Physical) Distancing, reopening protocols, and other infection control protocols ordered by the Health Officer.
14. The Health Officer will continue monitoring COVID-19 Indicators to assess the impact of easing restrictions and re-opening sectors. Those Indicators include, but are not limited to:
  - a) The number of new cases, hospitalizations and deaths and the testing positivity rate.
  - b) The capacity of hospitals and the healthcare system in the County, including acute care beds, Intensive Care Unit beds, and ventilators to provide care for existing COVID-19 patients and other patients, and capacity to surge with an increase of COVID-19 cases.
  - c) The supply of personal protective equipment (PPE) available for hospital staff, nursing home staff and other healthcare providers and personnel who need PPE to safely respond to and treat COVID-19 patients and other patients.
  - d) The ability and capacity to quickly and accurately test persons to determine whether individuals are COVID-19 positive, especially those in vulnerable populations or high-risk settings or occupations, and to identify and assess outbreaks.
  - e) The ability to conduct case investigation and contact tracing for the volume of future cases and associated contacts, isolating confirmed cases and quarantining persons who have had contact with confirmed cases.

### **DEFINITIONS AND EXEMPTIONS**

15. The following activities are permitted under this Order:
  - a) Engaging in activities or performing tasks important to the health and safety of family or household members (including pets), such as, visiting a health or veterinary care professional, obtaining medical supplies or medication, visiting a physician or child's pediatrician for routine care, such as, well-child visits and vaccinations;
  - b) Obtaining necessary services and supplies for family or household members, or delivering the same, such as, obtaining grocery items or necessary supplies from Essential Businesses for one's household or for delivery to others;
  - c) Performing work for or accessing businesses that are open, or to carry out Minimum Basic Operations for businesses that are closed or operating remotely.
  - d) Obtaining or accessing services from Essential Governmental Functions, such as, accessing court, social and administrative services, or complying with an order of law enforcement or court;



- e) Caring for minors, the elderly, dependents, persons with disabilities, or other vulnerable persons;
- f) Obtaining in-person behavioral health or substance use disorder support in therapeutic small group meetings, such as Alcoholics Anonymous or Narcotics Anonymous, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- g) Obtaining in-person faith-based counselling services where the service cannot reasonably be practiced remotely, provided that the gathering is limited to 10 people or fewer and Social (Physical) Distancing is practiced.
- h) Attending in-person faith-based services, provided that the faith-based service is held outdoors. There is no maximum attendance for faith-based services that are held outdoors, provided that the attendees have enough space to observe strict Social (Physical) Distancing, including a minimum of six feet between attendees from different households, and are wearing cloth face coverings. Faith-based organizations holding in-person outdoor services, must follow the Department of Public Health Places of Worship Protocols, attached to this Order as **Appendix F**.
- i) Engaging in outdoor recreation activity, in compliance with Social (Physical) Distancing requirements and wearing a face covering, subject to the following limitations:
  - i. Outdoor recreation activity at parks, trails, piers, and beaches, and other open spaces must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
  - ii. Use of shared outdoor facilities for recreational activities, including but not limited to golf courses, tennis and pickleball courts, children's playgrounds, shooting and archery ranges, equestrian centers, model airplane areas, community gardens, and bike parks, must comply with any access or use restrictions separately established by the Health Officer, government, or other entity that manages the area to reduce crowding and the risk of COVID-19 transmission.
  - iii. Local public entities may elect to temporarily close certain streets or areas to automobile traffic, to allow for increased space for persons to engage in recreational activity permitted by and in compliance with Social (Physical) Distancing requirements specified in this Order.
  - iv. Swimming pools and splash pads in any non-residential setting may reopen on June 12, 2020, with the owner, manager, or operator of the swimming pool or splash pad implementing and posting the required Los Angeles County Department of Public Health Protocol for Swimming Pools. All hot tubs, saunas, and steam rooms located on non-residential property remain closed.
  - v. For-hire fishing, guided fishing, or small-group chartered boat trips may resume operating on June 12, 2020, with the owner, manager, or operator



of the charter business implementing the required Los Angeles County Department of Public Health Protocol for Chartered Boats.

- j) Participating in a Vehicle-Based Parade. The host of the Vehicle-Based Parade must comply with all local ordinances, traffic control requirements, and state and local laws. Further, the host of Vehicle-Based Parades must comply with the Los Angeles County Department of Public Health Vehicle-Based Parade Protocol, attached to this Order as **Appendix G**.
  - k) Participating in an in-person protest as long as the protest is held outdoors. Outdoor protests are permitted without a limit on attendees. Persons participating in a protest must wear a cloth face covering and maintain physical distancing of six (6) feet between persons or groups of persons from different households at all times, as well as observe the Department of Public Health Protocol for Public Demonstrations.
16. Individuals may work for, train for, volunteer at, or obtain services at Healthcare Operations: hospitals, clinics, laboratories, dentists, optometrists, pharmacies, physical therapists, rehabilitation and physical wellness programs, chiropractors, pharmaceutical and biotechnology companies, other licensed healthcare facilities, healthcare suppliers, home healthcare service providers, mental or behavioral health providers, alcohol and drug treatment providers, cannabis dispensaries with a medicinal cannabis license and all other required state and local licenses, blood and blood product donation organizations, medical or scientific research companies, or any related and/or ancillary healthcare services, manufacturers, distributors and servicers of medical devices, diagnostics, and equipment, veterinary care, and other animal healthcare. This exemption shall be construed to avoid any impact to the delivery of healthcare, broadly defined.
17. Individuals may provide any service, train for, or perform any work necessary to the operation and maintenance of Essential Infrastructure, which is defined as, public health operations, public works construction, airport operations, port operations, food supply, water, sewer, gas, electrical, oil extraction and refining, roads and highways, public transportation, solid waste collection, removal and processing, flood control and watershed protection, cemeteries, mortuaries, crematoriums, and internet and telecommunications systems (including the provision of essential global, national, local infrastructure for computing services, business infrastructure, communications, and web-based services), and manufacturing and distribution companies deemed essential as part of the Essential Infrastructure supply chain, provided that they carry out those services or that work. In providing these services, training for, or performing this work, individuals must comply with Social (Physical) Distancing requirements to the extent practicable.
18. For purposes of this Order, Essential Businesses are:
- a) Grocery stores, certified farmers' markets, farm and produce stands, supermarkets, food banks, convenience stores, warehouse stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruit and vegetables, pet supply, water, fresh meats, fish, and poultry, and any other





- household consumer products (such as cleaning or personal care products). This includes stores that sell groceries and other non-grocery products, such as products necessary to maintaining the safety, sanitation, and essential operation of residences. This does not include businesses that sell only prepackaged non-potentially hazardous food which is incidental to the primary retail business;
- b) Food processors, confectioners, food packagers, food testing labs that are not open to the public, and food cultivation, including farming, livestock, and fishing;
  - c) Organizations and businesses that provide food, shelter, social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including gang prevention and intervention, domestic violence, and homeless service agencies);
  - d) Newspapers, television news, radio, magazine, podcast and journalism activities, including taped, digitally recorded or online-streamed content of any sort that is produced by one or more members of a single household, within the household's residence and without the physical presence of any non-member of the household.
  - e) Gas stations, auto-supply, mobile auto repair operations, auto repair shops (including, without limitation, auto repair shops adjacent to or otherwise in connection with a retail or used auto dealership), and bicycle repair shops and related facilities;
  - f) Banks, credit unions, financial institutions and insurance companies;
  - g) Hardware stores, nurseries; building supply stores;
  - h) Plumbers, electricians, exterminators, custodial/janitorial workers, handyman services, funeral homes and morticians, moving services, HVAC installers, carpenters, vegetation services, tree maintenance, landscapers, gardeners, property managers, private security personnel and other service providers who provide services to maintain the safety, sanitation, and essential operation to properties and other Essential Businesses;
  - i) Businesses providing mailing and shipping services, including post office boxes;
  - j) Educational institutions (including public and private K-12 schools, colleges, and universities);
  - k) Laundromats, dry cleaners, and laundry service providers;
  - l) Restaurants and other food facilities that prepare and serve food, but only for delivery, drive thru, carry out, and outdoor onsite table dining. Indoor dining is not permitted. Restaurants with a moderate risk or high risk restaurant permit issued by the County of Los Angeles Department of Public Health and other food facilities that provide in-person outdoor dining must follow the revised Department of Public Health Protocols for Restaurants, attached to this Order as **Appendix I**. Cafeterias, commissaries, and restaurants located within hospitals, nursing homes, or other licensed health care facilities may provide dine-in service, as long as Social (Physical) Distancing is practiced;
  - m) Businesses that supply office or computer products needed by people who work from home;



- n) Businesses that supply other Essential Businesses with the support or supplies necessary to operate;
- o) Non-manufacturing, transportation or distribution businesses that ship, truck, transport, or provide logistical support to deliver groceries, food, goods or services directly to residences, Essential Businesses, Healthcare Operations, and Essential Infrastructure. This exemption shall not be used as a basis for engaging in sales to the general public from retail storefronts;
- p) Airlines, taxis, ride sharing services and other private transportation providers providing transportation services necessary for activities of daily living and other purposes expressly authorized in this Order;
- q) Businesses that manufacture parts and provide necessary service for Essential Infrastructure;
- r) Home-based care for seniors, adults, disabled persons, or children;
- s) Residential facilities and shelters for homeless residents, disabled persons, seniors, adults, children and animals;
- t) Professional services, such as legal, payroll or accounting services, when necessary to assist in compliance with legally mandated activities, and the permitting, inspection, construction, transfer and recording of ownership of housing, including residential and commercial real estate and anything incidental thereto, provided that appointments and other residential viewings must only occur virtually or, if a virtual viewing is not feasible, by appointment with no more than two visitors at a time residing within the same household or living unit and one individual showing the unit (except that in-person visits are not allowed when the occupant is still residing in the residence);
- u) Childcare facilities. All childcare facilities, including those operating at schools, must operate under the LAC DPH Childcare Guidance and the following conditions: (1) Childcare must be carried out in stable cohorted groups of 12 or fewer ("stable" means the same twelve (12) or fewer children are in the same group each day); (2) Children shall not change from one group to another; (3) If more than one group of children is cared for at one facility, each group shall be in a separate room. Groups shall not mix with each other; (4) Childcare providers shall remain solely with one group of children;
- v) Hotels, motels, shared rental units and similar facilities. Beginning June 12, 2020, these may reopen for tourism and individual travel, in adherence with the required Los Angeles County Department of Public Health Reopening Protocol for Hotels, Lodging and Short-Term Rentals, attached to this Order as **Appendix P**;
- w) Construction, which includes the operation, inspection, and maintenance of construction sites and construction projects for construction of commercial, office and institutional buildings, residential and housing construction; and
- x) Manufacturers and retailers of fabric or cloth that is made into personal protective equipment, such as, face coverings.



19. For purposes of this Order, "Social (Physical) Distancing" means: (1) Maintaining at least six (6) feet of physical distance from individuals who are not members of the same household; (2) Frequently washing hands with soap and water for at least 20 seconds, or using hand sanitizer that contains at least 60% alcohol; (3) Wearing a cloth face covering when whenever an individual leaves their home or place of residence, and when an individual is or can be in contact with or walking by or past others who are non-household members in both public and private places, whether indoors or outdoors. Wearing a cloth face covering over both the nose and mouth reduces the risk of transmission to others from people who do not have symptoms and do not know they are infected; and (4) Avoiding all physical interaction outside the household when sick with a fever or cough, except for necessary medical care.
20. For purposes of this Order, the "Social (Physical) Distancing Protocol" that must be implemented and posted must demonstrate how the following infection control measures are being implemented and achieved, as applicable:
- a) Limiting the number of people who may enter into the facility at any one time to ensure that people in the facility can easily maintain a minimum six (6) foot physical distance from others, at all times, except as required to complete a business activity or transaction. Members of a single household or living unit may stand or move together but must be separated from others by a physical distance of at least six (6) feet.
  - b) Where lines may form at a facility, marking six (6) foot increments at a minimum, establishing where individuals should stand to maintain adequate Social (Physical) Distancing, whether inside or outside the facility.
  - c) Providing hand sanitizer, soap and water, or effective disinfectant at or near the entrance of the facility and in other appropriate areas for use by the public and employees, and in locations where there is high-frequency employee interaction with members of the public (e.g., cashiers). Restrooms normally open to the public shall remain open to the public.
  - d) Posting a sign in a conspicuous place at all public entries that instructs the public not to enter if they are experiencing symptoms of respiratory illness, including fever or cough, to wear face coverings, and to maintain Social (Physical) Distancing from one another.
  - e) Providing for the regular disinfection of high-touch surfaces, and disinfection of all payment portals, pens, and styluses after each use. All businesses are encouraged to also offer touchless payment mechanisms, if feasible.
  - f) Providing face coverings to employees and contracted workers whose duties require close contact with other employees and/or the public. Those who have been instructed by their medical provider that they should not wear a face covering should wear a face shield with a drape on the bottom edge, to be in compliance with State directives, as long as their condition permits it. A drape that is form fitting under the chin is preferred. Masks with one-way valves should not be used.
  - g) Requiring that members of the public who enter the facility wear a face-covering over both the nose and mouth, which reduces the risk of "asymptomatic" or "pre-symptomatic" transmission to workers and others, during their time in the facility.



- h) Adhering to communicable disease control protocols provided by the Los Angeles County Department of Public Health, including requirements for cleaning and disinfecting the site. See protocols posted at [www.publichealth.lacounty.gov/media/Coronavirus/](http://www.publichealth.lacounty.gov/media/Coronavirus/)
21. Operators of businesses that are required to cease in-person operations may conduct Minimum Basic Operations, which means:
- a) The minimum necessary activities to maintain and protect the value of the business's inventory and facilities; ensure security, safety, and sanitation; and process payroll and employee benefits;
  - b) The minimum necessary activities to facilitate the business's owners, employees, and contractors being able to continue to work remotely from their residences, and to ensure that the business can deliver its services remotely.

### **ADDITIONAL TERMS**

22. The County shall promptly provide copies of this Order by: (a) posting it on the Los Angeles Department of Public Health's website ([www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)), (b) posting it at the Kenneth Hahn Hall of Administration located at 500 West Temple Street, Los Angeles, CA 90012, (c) providing it to any member of the public requesting a copy, and (d) issuing a press release to publicize the Order throughout the County.
- a) The owner, manager, or operator of any facility that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and to provide a copy to any member of the public requesting a copy.
  - b) Because guidance may change, the owner, manager, or operator of any facility that is subject to this Order is ordered to consult the Los Angeles County Department of Public Health's website ([www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)) daily to identify any modifications to the Order and is required to comply with any updates until the Order is terminated.
23. If any subsection, sentence, clause, phrase, or word of this Order or any application of it to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of this Order.
24. This Order incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 4, 2020 declarations of a local and public health emergency issued by the Los Angeles County Board of Supervisors and Los Angeles County Health Officer, respectively, and as they may be supplemented.
25. This Order is issued in consideration of the County's current status within the tiered reopening approach of California's Blueprint for a Safer Economy issued August 28, 2020. This Order may be revised in the future as the State Public Health Officer progressively designates sectors, businesses, establishments, or activities for reopening with required modifications or closure at a pace designed to protect health

and safety. Should local COVID-19 conditions warrant, the Health Officer may, after consultation with the Board of Supervisors, issue orders that are more restrictive than the guidance and orders issued by the State Public Health Officer.

26. This Order is consistent with the provisions in the Governor’s Executive Order N-60-20 and the State Public Health Officer’s May 7, 2020 Order, that local health jurisdictions may implement or continue more restrictive public health measures in the jurisdiction if the local health officer believes conditions in that jurisdiction warrant them. Where a conflict exists between this Order and any state public health order related to controlling the spread of COVID-19 during this pandemic, the most restrictive provision controls. Consistent with California Health and Safety Code section 131080, except where the State Health Officer may issue an order expressly directed at this Order or a provision of this Order and based upon a finding that a provision of this Order constitutes a menace to the public health, any more restrictive measures in this Order may continue to apply and control in the County of Los Angeles Public Health Jurisdiction.

27. Pursuant to Sections 26602 and 41601 of the California Government Code and Section 101029 of the California Health and Safety Code, the Health Officer requests that the Sheriff and all chiefs of police in all cities located in the Los Angeles County Public Health Jurisdiction ensure compliance with and enforcement of this Order. The violation of any provision of this Order constitutes an imminent threat and menace to public health, constitutes a public nuisance, and is punishable by fine, imprisonment or both.

28. This Order shall become effective immediately on **October 14, 2020** and will continue to be until it is revised, rescinded, superseded, or amended in writing by the Health Officer.

**IT IS SO ORDERED:**



**10/14/2020**

\_\_\_\_\_  
**Muntu Davis, M.D., M.P.H.**

\_\_\_\_\_  
**Date**

Health Officer,  
County of Los Angeles



## Appendices At-A-Glance

All DPH protocol is available at:

<http://www.publichealth.lacounty.gov/media/Coronavirus/>

- Appendix A:** Protocol for Social Distancing [Revised 10/5/2020]
- Appendix B:** Protocols for Retail Establishments Opening for In-person Shopping [Revised 10/5/2020]
- Appendix C:** Reopening Protocol for Warehousing, Manufacturing and Logistic Establishments [Revised 7/18/2020]
- Appendix D:** Protocols for Office Worksites [Revised 8/7/2020]
- Appendix E:** Protocols for Shopping Center Operators [Revised 10/6/2020]
- Appendix F:** Protocol for Places of Worship [Revised 7/17/2020]
- Appendix G:** Protocol for Vehicle-Based Parades [Revised 9/4/2020]
- Appendix H:** Reopening Protocol for Hair Salons, Barbershops, and Nail Salons [Revised 10/3/2020]
- Appendix I:** Protocol for Restaurants, Breweries and Wineries [Revised 10/9/2020]
- Appendix J:** Reopening Protocol for Music, Film, and Television Production [Revised 8/18/2020]
- Appendix K:** Reopening Protocol for Day Camps [Dated 8/11/2020]
- Appendix L:** Reopening Protocol for Gyms and Fitness Establishments [Revised 8/11/2020]
- Appendix M:** Reopening Protocol for Museums, Galleries, Zoos, and Aquariums [Revised 10/4/2020]
- Appendix N:** Protocol for Professional Sports Leagues and Facilities Opening for Training Sessions and Spectator-Free Events [Revised 8/29/2020]
- Appendix O:** Reopening Protocol for Campgrounds, RV parks and Cabin Rental Units [Revised 8/21/2020]
- Appendix P:** Reopening Protocol for Hotels, Lodging, and Short-Term Rentals [Revised 7/17/2020]
- Appendix Q:** Reopening Protocol for Cardrooms [Revised 10/4/2020]
- Appendix R:** Reopening Protocol for Personal Care Establishments [Revised 10/3/2020]
- Appendix S:** [Rescinded 6/28/2020]
- Appendix T1:** Reopening Protocols for K-12 Schools [Revised 9/7/2020]
- Appendix T2:** Protocol for COVID-19 Exposure Management Plan in K-12 Schools [Revised 8/23/2020]
- Appendix U:** Reopening Protocol for Institutes of Higher Education [Revised 9/14/2020]

MOTION BY SUPERVISORS SHEILA KUEHL AND  
HILDA L. SOLIS

October 13, 2020

**UPDATING THE COUNTY'S EVICTION MORATORIUM IN LIGHT OF AB 3088 AND  
FEDERAL EVICTION MORATORIUM AND EXTENDING NON-PREEMPTED TENANT  
PROTECTIONS THROUGH NOVEMBER 30, 2020**

The County of Los Angeles continues to face an unprecedented public health and economic crisis due to the novel coronavirus (COVID-19) pandemic. The Board has responded with a series of emergency orders to provide timely and necessary relief to tenants facing socio-economic and health impacts due to the COVID-19 pandemic. On March 19, 2020, the Chair of the Board of Supervisors (Board) issued an Executive Order imposing a temporary moratorium on evictions for non-payment of rent by residential or commercial tenants impacted by COVID-19 in the unincorporated areas, commencing March 4, 2020, through May 31, 2020, which the Board has now extended through October 31, 2020 (Eviction Moratorium). On September 1, 2020, this Board extended the Eviction Moratorium and established the County's Eviction Moratorium as the baseline for all incorporated cities within Los Angeles County to the extent the cities' eviction moratoria do not include the same or greater tenant protections as the provisions of the County's Eviction Moratorium.

MOTION

SOLIS \_\_\_\_\_  
RIDLEY-THOMAS \_\_\_\_\_  
KUEHL \_\_\_\_\_  
HAHN \_\_\_\_\_  
BARGER \_\_\_\_\_

On that same day, Governor Newsom signed Assembly Bill (AB) 3088 into law to provide eviction protections to residential tenants who are unable to pay rent during the COVID-19 emergency between March 1, 2020 and January 31, 2021, if certain requirements are met. AB 3088 specifically preempts actions adopted by local governments between August 19, 2020 and January 31, 2021 to protect residential tenants from eviction but only as to nonpayment of rent due to financial distress related to COVID-19.

On September 4, 2020, the Centers for Disease Control and Prevention (CDC) issued a nationwide eviction moratorium order providing additional protections and financial relief to tenants and landlords impacted by COVID-19 (CDC Order). However, the CDC Order does not apply in jurisdictions where a State or local moratorium provides the same or greater level of public health protection.

Although the County's Eviction Moratorium is partially preempted by AB 3088, the County is still able to provide needed protections for residential tenants and mobilehome space renters, such as those related to the rent freeze, protection from harassment, and eviction protections related to just cause, nuisance, and unauthorized occupants or pets whose presence is necessitated by or related to the COVID-19 emergency. Additionally, the County's Eviction Moratorium with respect to protections for commercial tenants, including eviction protection for those who are unable to pay rent due to the COVID-19 pandemic is unaffected by AB 3088. As such, due to the ongoing COVID-19 pandemic, this Board should take action to further extend these eviction protections for residential and commercial tenants as it is in the County's best interest to protect tenants and prevent housed individuals from falling into homelessness and to minimize losses to local businesses.



**WE, THEREFORE MOVE** that the Board of Supervisors:

1. Direct County Counsel and the Department of Consumer and Business Affairs (DCBA) to update the Resolution further amending and restating the County's Eviction Moratorium Executive Order to: (a) reflect in the recitals the key dates, requirements, and protections set forth in AB 3088 and the CDC Order; and (b) extend protections for residential and commercial tenants and mobilehome space renters that are not preempted by AB 3088 through November 30, 2020;
2. Authorize and direct the Chair of the Board to sign the updated Resolution, upon approval as to form by County Counsel; and
3. Direct County departments that respond to tenant inquiries, such as DCBA, to ensure that tenants and landlords are aware of all key dates and requirements under AB 3088 and the CDC Order.

S:MR/UpdatingTheCounty'sEvictionMoratoriumInLightOfAB3088AndFederalEvictionMoratoriumAndExtendingNon-PreemptedTenantProtectionsThroughNovember30,2020



## City of South Pasadena Police Department

# Memo

**Date:** October 19, 2020

**To:** The Honorable City Council

**Via:** Sean Joyce, Interim City Manager

**From:** Joe Ortiz, Police Chief

**Re:** October 21, 2020, City Council Meeting Item No. 9 Additional Document – Award of Contract to Motorola Solutions for the Purchase and Implementation of a Computer Aided Dispatch and Records Management System for a Not-to-Exceed Amount of \$579,257.82

---

Please see the revised recommendation for consent calendar item # 9.

### **Recommendation**

~~It is recommended that the City Council approve a sole source contract with Motorola Solutions, Inc. for the purchase of a new Computer Aided Dispatch (CAD) and Records Management System (RMS) for a not to exceed amount of \$579,257.82, as authorized by SPMC Sec 2.99-29 (21).~~

### **Recommendation**

**Approve selection of Motorola Solutions for purchase of CAD RMS system described in the report, subject to negotiation of all applicable purchase and service agreement provisions, which should be subsequently presented to the City Council for its review and approval.**



## City of South Pasadena Management Services

# Memo

**Date:** October 19, 2020

**To:** Honorable Mayor and Council Members

**Via:** Sean Joyce, Interim City Manager

**From:** Teresa Highsmith, City Attorney

**Re:** October 21, 2020, City Council Meeting Agenda Item 11 - Approval of Request to the Attorney General Regarding City Attorney's Authority to Provide Confidential Information to Individual Councilmember Regarding Prior Closed Sessions and Prior Deliberations.

---

Letter to Attorney General Requesting Legal Analysis on questions posed by City Attorney.

790 E. Colorado Boulevard, Suite 850  
Pasadena, CA 91101-2109  
Voice (213) 542-5700  
Fax (213) 542-5710

**COLANTUONO**  
**HIGHSMITH**  
**WHATLEY, PC**

Teresa L. Highsmith  
(213) 542-5703  
THighsmith@chwlaw.us

Our File No. 49063.0001

October 21, 2020

**VIA E-MAIL AND U.S. MAIL**

Mollie Lee  
Senior Assistant Attorney General  
Office of the Attorney General  
Opinion Unit, Dept. of Justice  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
Mollie.Lee@dog.ca.gov

Re: Disclosure of Privileged Documents to a Newly Appointed City Councilmember

Dear Ms. Lee:

I am the City Attorney for the City of South Pasadena, and the City's chief prosecutor, including for local criminal violations of the South Pasadena Municipal Code. I request you issue an opinion, under Government Code section 12519, to address these questions:

1. May a City Attorney disclose prior attorney-client privileged closed session meeting materials, including minutes and memoranda, to a newly appointed City Councilmember who was neither present for the past closed sessions, nor a member of the City Council at the time of the past closed sessions?
2. May a City Attorney disclose prior attorney-client privileged invoices detailing legal work, which have been deliberated and approved by the prior City Council, to a newly appointed City Councilmember?

This letter sets forth our understanding of the relevant legal provisions:

**Background:**

On September 2, 2020, the South Pasadena City Council appointed someone to serve the remainder of the term for City Council District 2. The newly appointed City Councilmember will serve from September 2, 2020 through December 2, 2020.

The newly appointed Councilmember requests the City Attorney provide copies of all attorney-client privileged closed session meeting materials, including minutes, memoranda seeking Council direction and providing the City Attorney's recommendation on then-pending litigation, and litigation status reports since the beginning of calendar year 2020. Additionally, the Councilmember requests copies of the attorney-client privileged invoices previously reviewed and approved by the prior Council, for 12 months preceding his appointment. The closed session meeting minutes and memoranda record the recommendations and deliberations of the City Council in closed session. The litigation status reports are provided to the City Council by the City Attorney on a biannual basis to inform their deliberation during closed session regarding every pending litigation matter against or brought by the City, at the time that matter is brought forth for closed session review. The City Attorney's invoices describe tasks, litigation strategy and closed session discussions, and information regarding the duration of the task, the name of the attorney who performed the task, who each attorney communicated with, and the cost to the City, separated by matter.

All requested documents predate the Councilmember's appointment — both their creation and their relevance to the City Council's pending decisions. The request was made by the individual Councilmember, not the majority of the City Council. The City Council has not waived its attorney client privilege to the requested documents.

**Question No. 1:**

The relevant disclosure requirements are governed by the Brown Act and the Rules of Professional Conduct governing the attorney-client relationship. Government Code section 54963, subdivision (a), reads:

"A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information."

Confidential information is defined as “a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session.” (Gov. Code, § 54963, subd. (b).) The Brown Act does not precisely define who are the persons entitled to receive the confidential information, leaving that judgment up to the City Council, acting as a body, to determine who lawfully may receive such information as part of the City Council’s closed session deliberations. The statute confirms only the City Council may determine who may receive closed session information by allowing solely the City Council, acting as a body and not individually, to disclose particular items of information. Further, this judgment is entrusted to the City Council as confirmed by the definition of “confidential information,” as that definition only protects information specifically related to each closed session item, meaning that for a person to receive “confidential information,” a person must first be judged necessary by the City Council for their consideration of a closed session item, then must be present for that closed session. To allow any person, even a later-elected City Council Member, unfettered access to past closed session materials would override the City Council’s sole judgment on whether that person is or may not receive “confidential information.” And, absent such a decision to waive privilege by the full City Council, the City Attorney may not disclose any attorney-client and closed session privilege protected information.

A long-standing Attorney General’s opinion confirms that the list of persons permitted to receive confidential closed session information is limited to those persons necessary for the legislative body’s consideration of each closed session matter. The question before the Attorney General was whether an alternate member of a Local Agency Formation Commission (“LAFCO”), when not serving in place of a regular member, may attend a closed session of the commission. (82 Ops.Cal.Atty.Gen 29 (1999).) Attendance in closed session necessarily includes receipt of any confidential materials distributed at that closed session. The Attorney General cited its pamphlet, *The Brown Act, Open Meetings For Local Legislative Bodies* (Cal. Dept. of Justice, 1994), which states, “As a general rule, closed sessions may involve only the membership of the body in question plus any additional support staff which may be required (e.g., attorney required to provide legal advice; supervisor or witnesses may be required in connection with disciplinary proceeding; labor negotiator required for consultation). Persons without an official role in the meeting should not be present.” The 2003 edition of this publication did not change the quoted language, affirming the rule that only persons necessary for a closed session may be present. The Attorney General’s opinion concluded, “Unless sitting in place of an absent or disqualified regular member, an alternate member may not attend a closed

session without converting the session into an unauthorized ‘semi-closed meeting.’” (*Id.* at p. 6.) Under the Attorney General’s opinion, only individuals necessary for a closed session matter can be present, and because only individuals authorized to be present can receive “confidential information,” only persons necessary for a particular closed session when it was held are privy to that information.

Here, the City Council is the legislative body. The relevant “confidential information” is the closed session meeting materials, including litigation status reports and individual matter memoranda, and any minutes captured at the time by the City Attorney. The only individuals entitled to receive this confidential information are the City Councilmembers themselves, plus additional support staff such as the City Attorney and the City Manager, who were present in each closed session at which each matter was discussed. Only those present were authorized by the City Council to consider the matters in closed session, and to receive the confidential information.

When the closed session meetings were held, the newly appointed Councilmember from District 2 was a member of the public. As the Attorney General opined, “Persons without an official role in the meeting should not be present.” By extension, persons without an official role also cannot receive any confidential information presented at or created because of those prior closed session meetings.

The newly appointed Councilmember cannot receive the confidential information now that he is a member of the City Council unless the matter is properly before the City Council. Like the LAFCO alternate above, who was a member of the commission but not entitled to confidential information, the newly appointed City Councilmember is a member of the City Council, but not entitled to the information from past closed session meetings.

Further, disclosing the information would violate the City Attorney’s ethical duties. Rules of Professional Conduct, rule 1.6(a), states, “A lawyer shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1), unless the client gives informed consent, or the disclosure is permitted by paragraph (b) of this rule.” Business and Professions Code section 6068, subdivision (e)(1), reads:

“It is the duty of an attorney to do all of the following: ... To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.”

Discussion Note [1] to the Rules of Professional Conduct states, “Paragraph (a) thus recognizes a fundamental principle in the lawyer-client relationship, that, in the absence of the client's informed consent, a lawyer must not reveal information protected by Business and Professions Code section 6068, subdivision (e)(1).”

Here, the client is the City, acting through the City Council. Individual City Council Members do not hold the attorney-client privilege when the City Attorney provides them advice. This is because under the Rules of Professional Conduct, Rule 1.13, the client is the organization itself, here the City, as governed by its highest authority, here the City Council. (*Ward v. Superior Court* (1977) Cal.App.3d 23, 32 [“The Los Angeles County Counsel has only one client, namely, the County of Los Angeles. Of course, the county acts through its board of supervisors, its officers and its employees, much as does a private corporation.”] [citation omitted]; see *The California Municipal Law Handbook* (Cal CEB 2020), § 2.176A “[F]or the city attorney, the city itself, and not any individual public official, is the client.”) While the City Attorney may provide confidential and privileged advice to individual Councilmembers from time to time, any question of waiving attorney-client privilege can only be considered and acted upon by a majority of the full City Council. Thus, the City Attorney can disclose confidential advice to anyone not authorized to receive such information, here including past, privileged closed session confidential information, only if the City Council votes by majority vote to waive the privilege. The City Attorney cannot waive the attorney-client privilege at the request of an individual Councilmember. Instead, any waiver must be approved by the Council itself in open session. (*Roberts v. City of Palmdale* (1993) 5 Cal.4th 363, 374 [City Council holds the privilege].) The City Attorney’s ethical obligation to not disclose attorney-client privileged documents and information, unless the privilege is waived by the City Council majority, extends to all attorney-client privilege protected information, including the full scope of past closed session documents, memoranda, minutes, and litigation status reports.

**Question No. 2:**

The contract City Attorney’s prior invoices each contain attorney-client privileged information, as the invoices include details regarding each matter, tasks completed, time



spent, and those with whom the City Attorney and her Assistants and Deputies interacted – all information protected by the attorney-client privilege. As recently affirmed by our Supreme Court, while invoices themselves are not automatically protected by the attorney-client privilege per se, the privilege attaches to every invoice that contains information communicated “to inform the client of the nature or amount of work occurring in connection with a pending legal issue.” (*Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal. 5th 282, 297.) All attorney billing invoices reflecting work in active litigation and ongoing legal advice are exempt from disclosure under the attorney-client privilege or attorney work product doctrine. (*Id.* at pp. 297–298.)

For the reasons stated above, a newly appointed City Council Member has no legal right to be privy to past closed session information. It follows that a newly appointed City Council Member has no legal right to view the City Attorney’s past invoices documenting prior closed session directions and relating to prior closed session matters.

As each invoice is generated, the City Attorney sends the invoice to the City Manager, who reviews and approves it for payment, then once approved, sends it to the City Council, in summary format, for review and approval through the warrant register. Each sitting City Council Member may come to City Hall to review the entire, unredacted invoices submitted while they are on the City Council, as they are asked each month to approve payment for those services. The past invoices sought by the newly appointed City Council Member have been acted upon and approved by the City Council as then-constituted. No continuing action is pending before the City Council related to such invoices. The previous City Council has reviewed and acted on the past invoices. Because there is no pending or further action to be taken, the newly appointed City Council Member does not need to review or act on the confidential information contained in the prior invoices. Therefore, just as there was no right for an alternate LAFCO Commissioner to be present in, and by extension receive any information related to, a closed session in which he had no legal role, so too is a City Council Member with no pending action related to past invoices already approved by the City Council as then constituted not entitled to review past, approved attorney-client privileged invoices. (See 82 Ops.Cal.Atty.Gen 29 (1999).) The right to review a privileged document extends only to those persons with a legal right and need to know the information. By contrast, the newly appointed City Council Member, with his colleagues, may review all pending invoices submitted by the City Attorney for review and approval while he is a sitting Council Member, as the Council has the obligation to review and approve those pending invoices.

October 21, 2020  
Page 7

Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Teresa L. Highsmith". The signature is fluid and cursive, with the first name "Teresa" being the most prominent.

Teresa L. Highsmith  
City Attorney  
City of South Pasadena

TLH:arg



## City of South Pasadena Management Services

# Memo

**Date:** October 21, 2020

**To:** Honorable Mayor and Council Members

**Via:** Sean Joyce, Interim City Manager

**From:** Stephen E. Rossi, Councilmember

**Re:** October 21, 2020, City Council Meeting Agenda Item 11 - Approval of Request to the Attorney General Regarding City Attorney's Authority to Provide Confidential Information to Individual Councilmember Regarding Prior Closed Sessions and Prior Deliberations.

---

Update to the Letter to Attorney General Requesting Legal Analysis with clarifying comments and notes as provided for by Councilmember Rossi.

VIA E-MAIL AND U.S. MAIL

Mollie Lee  
Senior Assistant Attorney General  
Office of the Attorney General Opinion Unit, Dept. of Justice  
455 Golden Gate Ave., Suite 11000  
San Francisco, CA 94102  
[Mollie.Lee@dog.ca.gov](mailto:Mollie.Lee@dog.ca.gov)

Re: Disclosure of Privileged Documents to a Newly Appointed City Councilmember

Dear Ms. Lee:

I am the City Attorney for the City of South Pasadena, and the City's chief prosecutor, including for local criminal violations of the South Pasadena Municipal Code. I request you issue an opinion, under Government Code section 12519, to address these questions:

1. May a City Attorney disclose prior attorney-client privileged closed session meeting materials, including minutes and memoranda, to a newly appointed City Councilmember who was neither present for the past closed sessions, nor a member of the City Council at the time of the past closed sessions? [\[NTD: The City Council member has requested this information in connection with his duties and responsibilities as a Council Member and a member of the Finance Ad Hoc Committee in his review and requested approval of the 2019 CAFR. The City Council Member would not disclose the information.\]](#)
2. May a City Attorney disclose prior attorney-client privileged invoices detailing legal work, which have been deliberated and approved by the prior City Council, to a newly appointed City Councilmember [\[NTD: in connection with such City Council member's responsibilities with respect to the financial and other conditions of the City?\]](#)

This letter sets forth our understanding of the relevant legal provisions:

Background:

On September 2, 2020, the South Pasadena City Council appointed someone to serve the remainder of the term for City Council District 2 [\[NTD: upon the prior, regular member's resignation\]](#). The newly appointed City Councilmember will serve from September 2, 2020 through December 2, 2020 [and is currently running to remain in the District 2 seat in the November 3, 2020 election\]](#).

The newly appointed Councilmember requests [\[NTD: in connection with his duties and responsibilities with respect to the financial and other conditions of the City,\]](#) the City Attorney provide copies of all attorney-client privileged closed session meeting materials, including minutes, memoranda seeking Council direction and providing the City Attorney's recommendation on then-pending litigation, and litigation status reports since the beginning of calendar year 2020. Additionally, the Councilmember requests copies of the attorney-client privileged invoices previously reviewed and approved by the prior Council, for 12 months preceding his appointment. The closed session meeting minutes and memoranda record the recommendations and deliberations of the City Council in closed session. The litigation status reports are provided to the City Council by the City Attorney on a biannual basis to inform their deliberation during closed session regarding every pending litigation matter against or brought by the City, at the time that matter is brought forth for closed session review. The City Attorney's invoices describe tasks, litigation strategy and closed session discussions, and information regarding the duration of the task, the name of the attorney who performed the task, who each attorney communicated with, and the cost to the City, separated by matter.

All requested documents predate the Councilmember's appointment — both their creation and their relevance to the City Council's pending decisions. The request was made by the individual Councilmember, not the majority of the City Council [\[NTD: as all of the other members of the City Council already had the materials and therefore had no reason to request the information.\]](#). The City Council has not waived its attorney client privilege to the requested documents.

Question No. 1:

The relevant disclosure requirements are governed by the Brown Act and the Rules of Professional Conduct governing the attorney-client relationship. Government Code section 54963, subdivision (a), reads:

["A person may not disclose confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information." \[NTD: The question being posed is whether the Council member, as a member of the governing body, falls under client privilege and as such whether the information remains confidential when provided to the Council member.\] \[NTD: What is the basis to state that one Council member, who is himself a member of the governing body, is not entitled to receive the confidential information. A proper reading of the law refers to a person not entitled to receive the information as a person outside of the governing body.\]](#)

Confidential information is defined as "a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session." (Gov. Code, § 54963, subd. (b).) The Brown Act does not precisely define who are the persons entitled to receive the confidential information, leaving that judgment up to the City Council, acting as a body, to determine who lawfully may receive such information as part of the City Council's closed session deliberations. The statute confirms only the City Council may determine who may receive closed session information by allowing solely the City Council, acting as a body and not individually, to disclose particular items of information. Further, this judgment is entrusted to the City Council as confirmed by the definition of "confidential information," as that definition only protects information specifically related to each closed session item, meaning that for a person to receive "confidential information," a person must first be judged necessary by the City Council for their consideration of a closed session item, then must be present for that closed session. To allow any person, even a later-elected City Council Member, unfettered access to past closed session materials would override the City Council's sole judgment on whether that person is or may not receive "confidential information." And, absent such a decision to waive privilege by the full City Council, the City Attorney may not disclose any attorney-client and closed session privilege protected information. [\[NTD: Please confirm that it is the opinion of the Attorney General's office that former Council members should be provided the decision making authority as to what information is needed for current Council members.\]](#)

A long-standing Attorney General's opinion confirms that the list of persons permitted to receive confidential closed session information is limited to those persons necessary for the legislative body's consideration of each closed session matter. The question before the Attorney General was whether an alternate member of a Local Agency Formation Commission ("LAFCO"), when not serving in place of a regular member [\[NTD: the current council member is serving in place of a regular member per his appointment as their replacement for the remaining term\]](#), may attend a closed session of the commission. (82 Ops.Cal.Atty.Gen 29 (1999).) Attendance in closed session necessarily includes receipt of any confidential materials distributed at that closed session. The Attorney General cited its pamphlet, The Brown Act, Open Meetings For Local Legislative Bodies (Cal. Dept. of Justice, 1994), which states, "As a general rule, closed sessions may involve only the membership of the body in question plus

any additional support staff which may be required (e.g., attorney required to provide legal advice; supervisor or witnesses may be required in connection with disciplinary proceeding; labor negotiator required for consultation). Persons without an official role in the meeting should not be present.” [\[NTD: The Council member is sitting in place of a disqualified regular member and is acting in an official role as a member of the governing body in his review and consideration of the financial and other conditions of the City, for example the 2019 CAFR and as a member of the Finance Ad Hoc Committee.\]](#) The 2003 edition of this publication did not change the quoted language, affirming the rule that only persons necessary for a closed session may be present. The Attorney General’s opinion concluded, “Unless sitting in place of an absent or disqualified regular member, an alternate member may not attend a closed session without converting the session into an unauthorized ‘semi-closed meeting.’” [\[NTD: Again, the Council member is acting in the place of an absent or disqualified regular member and the Council member is acting in his official capacity as a member of the governing body reviewing the financial condition of the City in connection with the C019 CAFR and as a member of the Finance Ad Hoc Committee.\]](#) (Id. at p. 6.) Under the Attorney General’s opinion, only individuals necessary for a closed session matter can be present, and because only individuals authorized to be present can receive “confidential information,” only persons necessary for a particular closed session when it was held are privy to that information. [\[NTD: The Council member is sitting in the place of the individual that was necessary for the closed session matter and is authorized to receive the confidential information. The person who originally attended the closed session meeting would be entitled to request another copy of the confidential information if he were still a member of the City Council. Therefore, the person who is sitting in the place of the disqualified regular member is equally qualified to receive the confidential information. The replacement Council member would remain obligated to maintain the confidentiality of the information to the same extent as the original Council member that he replaced.\]](#)

Here, the City Council is the legislative body. The relevant “confidential information” is the closed session meeting materials, including litigation status reports and individual matter memoranda, and any minutes captured at the time by the City Attorney. The only individuals entitled to receive this confidential information are the City Councilmembers themselves, plus additional support staff such as the City Attorney and the City Manager, who were present in each closed session at which each matter was discussed. Only those present were authorized by the City Council to consider the matters in closed session, and to receive the confidential information.

When the closed session meetings were held, the newly appointed Councilmember from District 2 was a member of the public. As the Attorney General opined, “Persons without an official role in the meeting should not be present.” By extension, persons without an official role also cannot receive any confidential information presented at or created because of those prior closed session meetings.

The newly appointed Councilmember cannot receive the confidential information now that he is a member of the City Council unless the matter is properly before the City Council. Like the LAFCO alternate above, who was a member of the commission but not entitled to confidential information, the newly appointed City Councilmember is a member of the City Council, but not entitled to the information from past closed session meetings. [\[NTD: This appears to be a misstatement of the LAFCO case, where the alternate member was NOT serving in the place of a regular member. The Attorney General's opinion as quoted concluded, "Unless sitting in place of an absent or disqualified regular member, an alternate member may not attend a closed session..." This Council member is sitting in the place of a disqualified regular member. If the disqualified regular member could request another copy of the confidential information, then the Council member today is sitting in the disqualified member's place and is entitled to request the confidential information.\]](#)

Further, disclosing the information would violate the City Attorney’s ethical duties. Rules of Professional Conduct, rule 1.6(a), states, “A lawyer shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1), unless the client gives informed consent, or the disclosure is permitted by paragraph (b) of this rule.” Business and Professions Code section 6068, subdivision (e)(1), reads:

“It is the duty of an attorney to do all of the following: ... To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.”

Discussion Note [1] to the Rules of Professional Conduct states, “Paragraph (a) thus recognizes a fundamental principle in the lawyer-client relationship, that, in the absence of the client’s informed consent, a lawyer must not reveal information protected by Business and Professions Code section 6068, subdivision (e)(1).”

Here, the client is the City, acting through the City Council. Individual City Council Members do not hold the attorney-client privilege when the City Attorney provides them advice. [\[NTD: The Council member is not requesting that the attorney-client privilege be waived. As a member of the governing body, he is entitled to receive the same confidential information as the other members of the governing body. He is required to maintain the confidentiality of the information as required by every other member of the governing body.\]](#) This is because under the Rules of Professional Conduct, Rule 1.13, the client is the organization itself, here the City, as governed by its highest authority, here the City Council. (Ward v. Superior Court (1977) Cal.App.3d 23, 32 [“The Los Angeles County Counsel has only one client, namely, the County of Los Angeles. Of course, the county acts through its board of supervisors, its officers and its employees, much as does a private corporation.”] [citation omitted]; see The California Municipal Law Handbook (Cal CEB 2020), § 2.176A “[F]or the city attorney, the city itself, and not any individual public official, is the client.”) While the City Attorney may provide confidential and privileged advice to individual Councilmembers from time to time, any question of waiving attorney-client privilege can only be considered and acted upon by a majority of the full City Council. [\[NTD: The Council member is not requesting a waiver of the attorney-client privilege.\]](#) Thus, the City Attorney can disclose confidential advice to anyone not authorized to receive such information, here including past, privileged closed session confidential information, only if the City Council votes by majority vote to waive the privilege. The City Attorney cannot waive the attorney-client privilege at the request of an individual Councilmember. Instead, any waiver must be approved by the Council itself in open session. (Roberts v. City of Palmdale (1993) 5 Cal.4th 363, 374 [City Council holds the privilege].) The City Attorney’s ethical obligation to not disclose attorney-client privileged documents and information, unless the privilege is waived by the City Council majority, extends to all attorney-client privilege protected information, including the full scope of past closed session documents, memoranda, minutes, and litigation status reports.

Question No. 2:

The contract City Attorney’s prior invoices each contain attorney-client privileged information, as the invoices include details regarding each matter, tasks completed, time spent, and those with whom the City Attorney and her Assistants and Deputies interacted — all information protected by the attorney-client privilege. As recently affirmed by our Supreme Court, while invoices themselves are not automatically protected by the attorney-client privilege per se, the privilege attaches to every invoice that contains information communicated “to inform the client of the nature or amount of work occurring in connection with a pending legal issue.” (Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal. 5th 282, 297.) All attorney billing invoices reflecting work in active litigation and ongoing legal advice are exempt from disclosure under the attorney-client privilege or attorney work product doctrine. (Id. at pp. 297–298.)

For the reasons stated above, a newly appointed City Council Member has no legal right to be privy to past closed session information. It follows that a newly appointed City Council Member has no legal right to view the City Attorney's past invoices documenting prior closed session directions and relating to prior closed session matters.

As each invoice is generated, the City Attorney sends the invoice to the City Manager, who reviews and approves it for payment, then once approved, sends it to the City Council, in summary format, for review and approval through the warrant register. [\[NTD: The Council member needs to review and understand the prior invoices in order to make an informed decision on future invoices in the same manner. The Council member has already stated in open session that he is not trying to overturn the prior decisions of the Council.\]](#) Each sitting City Council Member may come to City Hall to review the entire, unredacted invoices submitted while they are on the City Council, as they are asked each month to approve payment for those services. The past invoices sought by the newly appointed City Council Member have been acted upon and approved by the City Council as then constituted. No continuing action is pending before the City Council related to such invoices. The previous City Council has reviewed and acted on the past invoices. Because there is no pending or further action to be taken, the newly appointed City Council Member does not need to review or act on the confidential information contained in the prior invoices. Therefore, just as there was no right for an alternate LAFCO Commissioner to be present in, and by extension receive any information related to, a closed session in which he had no legal role, so too is a City Council Member with no pending action related to past invoices already approved by the City Council as then constituted not entitled to review past, approved attorney-client privileged invoices. (See 82 Ops.Cal.Atty.Gen 29 (1999).) The right to review a privileged document extends only to those persons with a legal right and need to know the information. [\[NTD: The Council member has a need to know in connection with his role on the Finance Ad Hoc Committee.\]](#) By contrast, the newly appointed City Council Member, with his colleagues, may review all pending invoices submitted by the City Attorney for review and approval while he is a sitting Council Member, as the Council has the obligation to review and approve those pending invoices.

Thank you for your consideration.





## City of South Pasadena Planning and Community Development Department

# Memo

**Date:** October 21, 2020  
**To:** The Honorable City Council  
**Via:** Sean Joyce, Interim City Manager  
**From:** Joanna Hankamer, Director of Planning and Community Development  
Margaret Lin, Manager of Long Range Planning and Economic Development  
**Re:** October 21, 2020, City Council Meeting Item No. 13 Additional Document –  
Approval of a Draft Letter Appealing the City’s Regional Housing Needs  
Assessment Allocation

---

Attached are additional documents including a draft cover letter for the City’s Regional Housing Needs Assessment (RHNA) appeal and a draft water and sewer assessment memorandum.

The RHNA Appeal Ad Hoc Committee is continuing to work with staff to finalize the City’s appeal for submittal to the Southern California Association of Governments by the October 26, 2020 deadline. The attached draft cover letter highlights the key points that will serve as the City’s appeal bases. The RHNA Appeal Ad Hoc Committee is meeting daily, and will continue to do so over the weekend, to refine the arguments, compile supporting research and produce exhibits that will be included in the final submission as attachments to the cover letter.

Attachments:

1. Draft RHNA Appeal Cover Letter
2. Draft Water and Sewer Assessment
3. RHNA Appeal Presentation

**ATTACHMENT 1**  
**Draft RHNA Appeal Cover Letter**



## CITY OF SOUTH PASADENA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
1414 MISSION STREET, SOUTH PASADENA, CA 91030  
TEL: (626) 403-7210 • FAX: (626) 403-7211  
WWW.SOUTHPASADENACA.GOV

October 21, 2020

Kome Ajise, Executive Director  
Southern California Association of Governments  
900 Wilshire Boulevard, Suite 1700  
Los Angeles, CA 90017

### **Re: Regional Housing Needs Assessment Appeal of South Pasadena Allocation**

Dear Mr. Ajise and SCAG Regional Council,

The City of South Pasadena (City) submits this appeal of the housing allocation of 2,062 units received for the 6<sup>th</sup> Cycle of the Regional Housing Needs Assessment (RHNA). The City is committed to housing affordability, as evidenced by its progress toward meeting the 5<sup>th</sup> cycle RHNA goals, and by the broad range of housing policies and programs that are under consideration for the 6<sup>th</sup> cycle Housing Element and updates to its General Plan and zoning ordinances. The City is comprised of an economically and racially diverse community with 53% of its residents as renters and a significant number of long-standing and multigenerational families. With limited resources to serve its residents, including limited sewer and water capacity; and given the unique geographic area and predominance of historic resources (38% of the city) which limit the area suitable for development, the addition of 2,062 housing units over the next decade is arguably infeasible, and, at best, would put unprecedented strain on the City's capacity to thrive, including on its otherwise successful public school system. Because of these local factors, as further described below, and the City's efforts over the past several years to creatively address the housing crisis in California, the City respectfully requests that the Southern California Association of Governments (SCAG) reduce the City's RHNA allocation.

SCAG has routinely and appropriately considered local factors in past cycles of allocating housing units. Applying South Pasadena's local factors, as outlined above and more fully described in the attached documents to the SCAG 6<sup>th</sup> cycle methodology, South Pasadena should be allocated a maximum of \_\_\_\_ housing units. That said, the City does not believe its public school system can accommodate more than \_\_\_\_ new units over the next eight years. Prior to receiving its 6<sup>th</sup> cycle RHNA allocation, the City's draft General Plan update projected 589 units over the next twenty years.

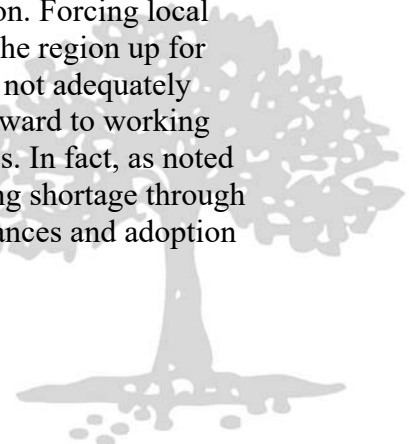
In January, the City put its General Plan Update on hold in order to integrate the 6<sup>th</sup> cycle Housing Element and RHNA allocation. The City's Housing Element update is now well

underway, and through an extended preliminary sites analysis, the City understands the great difficulty of accommodating its RHNA. Importantly, the City believes that even \_\_\_\_ housing units will be difficult to manage or attain; and the City would not ordinarily suggest a RHNA even close to \_\_\_\_\_. However, the City's proposed maximum RHNA of \_\_\_\_ reflects the City's recognition of the impossible and unsustainable number of total housing units allocated to the Southern California region and the City's attempt to shoulder its share.

The City hereby appeals SCAG's decision to allocate 2,062 housing units to the City of South Pasadena based on the following SCAG appealable criteria:

- Methodology
  - The methodology used to determine South Pasadena's housing allocation in accordance with the approved methodology and the allocation to South Pasadena does not further, and rather undermines the five objectives set forth in California Government Code Section 65584(d).
- Local Planning Factors and Information Affirmatively Furthering Fair Housing [UNDER DEVELOPMENT]
  - South Pasadena's existing and projected jobs and housing relationship
  - South Pasadena's lack of capacity for sewer and water service due to supply and distribution by third parties and infrastructure constraints for additional development
  - South Pasadena's lack of available land suitable for urban development or for conversion to residential use, the lack of availability of underutilized land and the lack of opportunities for infill development
  - South Pasadena's abundance of historic properties eligible for CEQA protection, and thus protected from urban development under existing federal or state programs
  - South Pasadena's distribution of household growth assumed for purpose of comparable regional transportation plans
  - High housing cost burdens in South Pasadena, including the number of households paying more than 30 percent and more than 50 percent of their income in rent
  - The rate of overcrowding in South Pasadena
- Changed Circumstances [UNDER DEVELOPMENT]
  - A significant and unforeseen change in circumstances has occurred in South Pasadena, which merits revision and consideration.

Furthermore, as the City previously stated in its February 27, 2020 letter to SCAG, the regional allocation of 1.34 million housing units to the SCAG region is untenable. The City requests that SCAG continue to appeal its regional allocation to the State of California in order to develop a more reasonable and achievable housing goal in the Southern California region. Forcing local jurisdictions to accommodate these unrealistic housing goals will simply set the region up for failure, result in serious adverse consequences for local jurisdictions and will not adequately address the housing crisis declared by Governor Newsom. The City looks forward to working with SCAG to develop a pragmatic approach toward the current housing crisis. In fact, as noted above, the City of South Pasadena has been proactively addressing the housing shortage through amendments to its General Plan, pursuing changes in zoning and ADU ordinances and adoption



of an Inclusionary Housing Policy. South Pasadena is making progress to meet its goal of 63 housing units in the 5<sup>th</sup> RHNA cycle for all income levels, and to date, has approved over 200 housing units in the current cycle.

On a final note, the City's appeal has been prepared in collaboration with a representative group of informed citizens interested in preserving the City's quality of life while accommodating anticipated growth. The City's "RHNA Appeal Ad Hoc Committee" was established by the South Pasadena City Council to work alongside staff to research and develop comprehensive and locally informed bases for this appeal. Members include:

- Janet Braun - Planning Commission Chair
- John Lesak - Planning Commission Vice-Chair
- Mark Gallatin - Cultural Heritage Commission Chair
- Zhen Tao - Finance Commission Vice-Chair
- Patrick Kirchen - Local Business Owner

The committee members bring significant professional experience in such areas as housing element development, urban planning and design, historic preservation, research and data analysis, financial and legal analysis, entrepreneurship and a familiarity with the City's planning processes and cultural and institutional resources.

Thank you for your consideration. If you have any questions or comments please contact Margaret Lin, Manager of Long Range Planning and Economic Development, at [mlin@southpasadenaca.gov](mailto:mlin@southpasadenaca.gov).

Sincerely,

Joanna Hankamer  
Director of Planning and Community Development

Attachment: Appeal Memorandum [UNDER DEVELOPMENT]  
Local Input Survey [UNDER DEVELOPMENT]

cc: South Pasadena City Council  
South Pasadena RHNA Appeal Ad Hoc Committee Members



**ATTACHMENT 2**  
**Draft Water and Sewer Assessment**



# RHNA HOUSING REQUIREMENT IMPACT TO SOUTH PASADENA WATER & WASTEWATER SERVICES

Date: 10/21/2020

Project No.: 11822A.00

City of South Pasadena

<b>Prepared By:</b>	Rachel Gross, P.E.
<b>Reviewed By:</b>	Inge Wiersema, P.E. and Matt Huang, P.E.
<b>Subject:</b>	RHNA Housing Requirement Impact to South Pasadena Water & Wastewater Services

## Introduction

The Regional Housing Needs Assessment (RHNA) is a state-required housing process that determines existing and projected housing needs for all jurisdictions in California every 8 years. For the current 8-year cycle, 2021 through 2029, the RHNA determination for the Southern California Association of Governments (SCAG) is that 1,341,827 new housing units are needed in the SCAG area, which covers the Metropolitan Planning Organization (MPO) of six of the ten counties in Southern California, namely Imperial County, Los Angeles County, Orange County, Riverside County, San Bernardino County, and Ventura County. SCAG then issues a regional determination to distribute these housing units among its member governments. The SCAG determination for the City of South Pasadena (City) is 2,062 new residential units by year 2029.

This project memorandum presents the expected impacts of adding these new housing units on the City's ability to deliver the associated potable water and wastewater conveyance services. This impact is compared to the projected City water and wastewater flows based on the City's most current General Plan, which has a planning horizon of year 2040.

## Data and Assumptions

The following assumptions were used to develop the potable water demand and wastewater flow projections that include the RHNA requirement of an additional 2,062 housing units by year 2029<sup>1</sup>:

- Historical water demands, using the average from years 2015 to 2019, has ranged from around 3,300 acre-feet per year (afy) to 3,800 afy with an average of 3,590 afy.
- The historical average dry weather wastewater flows (ADWF) in the same period from 2015-2019 is estimated at 1.86 million gallons per day (mgd) based on an indoor residential water use of 60 gpcd, as well as, a commercial wastewater flow factor of 60 percent and a government wastewater flow factor of 33 percent of the total potable water consumption.
- The majority of the City's water demand is residential (86 percent), followed by commercial (11 percent), government (2 percent), irrigation (less than 1 percent) and fire (less than 1 percent).

<sup>1</sup> All historical water demand data were provided by the City. Expected growth scenarios from the General Plan are based on the 2020 General Plan Update.

## PROJECT MEMORANDUM - FINAL

- The allocated 2,062 residential units would be added to the City at a constant rate over from the years 2021 through 2029. This equates to an average rate of approximately 258 new units per year.
- The City's General Plan currently plans for an additional 589 housing units by year 2040. These housing units are assumed to be included within the 2,062 units for this analysis.
- The potable water demand projections include both the increased residential demand resulting from adding 2,062 units by the year 2029 and the planned commercial growth through the year 2040 that is anticipated in the City's General Plan. Other water use types, such as government and irrigation uses, are assumed to stay constant over time.
- Current residential potable water use is 114 gallons per capita per day (gpcd). This is expected to decrease to 104 gpcd by year 2030 as indoor residential water use decreases from 60 gpcd to 50 gpcd consistent with state conservation mandates.
- The average occupancy rate in the new units is same as current average household size (2.4 people per household).
- The commercial wastewater flow factor of 60 percent and the government wastewater flow factor of 33 percent of the potable water consumption is assumed to stay constant in the future.

### Water Demand Projections

Based on the assumptions listed above and the historical demand data, adding an additional 2,062 residential units to the City by the year 2029 would result in a demand increase of approximately 335 afy, which would result in a total demand of approximately 3,925 afy by year 2029. This represents a 14% increase in water demand in year 2029 compared to the projected demand under the growth conditions described in the City's current General Plan.

The demand projection using the General Plan growth scenario anticipates relatively constant demand with a slight decline in demand through year 2030, as demand analysis shows that water conservation is expected to offset the projected growth in the residential and commercial sectors. The demand projection that includes the RHNA growth scenario of 2,062 residential units predicts a greater and earlier increase in potable water demand as the growth rate is expected to outpace conservation.

The results of the demand analysis are shown in Table 1 and are graphically depicted on Figure 1. As shown, the RHNA projection of 3,925 afy for year 2029 is even greater than the General Plan based demand projection for year 2040, which would still result in a slight demand decrease of 1 percent due to water conservation while the RHNA projection would result in 9 percent demand increase compared to current demands.

Table 1 South Pasadena Current and Projected Water Demand

Scenario	Demand (afy)	Increase compared to Present Day (afy)	Increase compared to Present Day (%)
Present Day (2015-2019 average)	3,590	n/a	n/a
2029 RHNA Growth	3,925	335	9%
2029 General Plan Growth	3,441	-149	-4%
2040 General Plan Growth	3,549	-41	-1%



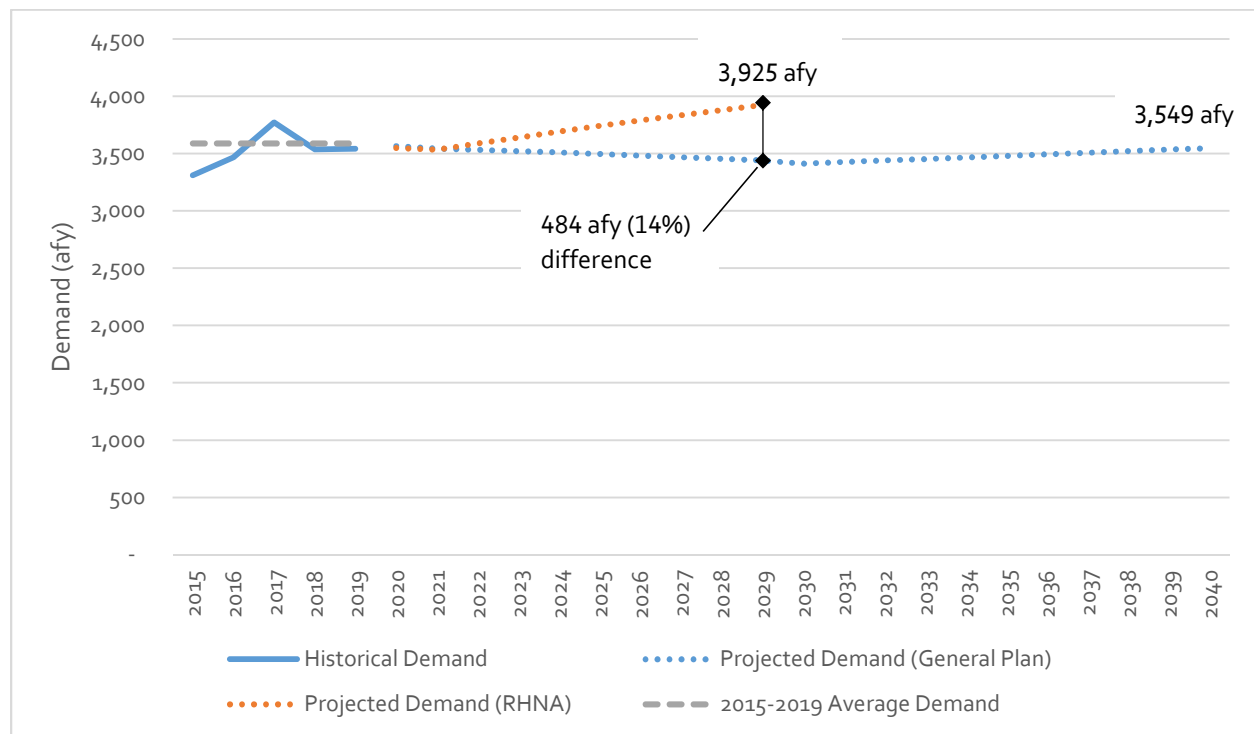


Figure 1 South Pasadena Historical and Projected Water Demand

### Wastewater Flow Projections

Based on the assumptions listed above and the estimated recent wastewater flows, adding an additional 2,062 residential units to the City by the year 2029 would result in an ADWF increase of approximately 0.06 mgd, which would result in a total ADWF approximately 1.92 mgd by year 2029. This represents a 14% increase in ADWF in year 2029 compared to the projected demand under the growth conditions described in the City’s current General Plan. The ADWF projection using the General Plan growth scenario anticipates a slight decline in flow through year 2030, as demand analysis shows that indoor water use is expected to decrease due to state-mandated water conservation.

The ADWF projection that includes the RHNA growth scenario of 2,062 residential units predicts an overall increase in ADWF as the residential growth rate is expected to outpace conservation. The results of the ADWF analysis are shown in Table 2 and are graphically depicted on Figure 2. As shown, the RHNA ADWF projection of 2.06 mgd for year 2029 is even greater than the General Plan based ADWF projection for year 2040, which would still result in an ADWF decrease of 7 percent due to water conservation while the RHNA projection would result in a 3 percent ADWF increase compared to current estimated ADWF<sup>2</sup>.

<sup>2</sup> Current wastewater flows are not measured by the City, so current ADWF is an estimate based on water use data provided by the City and assumed wastewater flow factors.

PROJECT MEMORANDUM - FINAL

Table 2 South Pasadena Estimated Current and Projected Wastewater Flow

Scenario	ADWF (mgd)	Increase compared to Present Day (mgd)	Increase compared to Present Day (%)
Present Day (2015-2019 average)	1.86	n/a	n/a
2029 RHNA Growth	1.92	0.06	3%
2029 General Plan Growth	1.68	-0.19	-10%
2040 General Plan Growth	1.73	-0.13	-7%

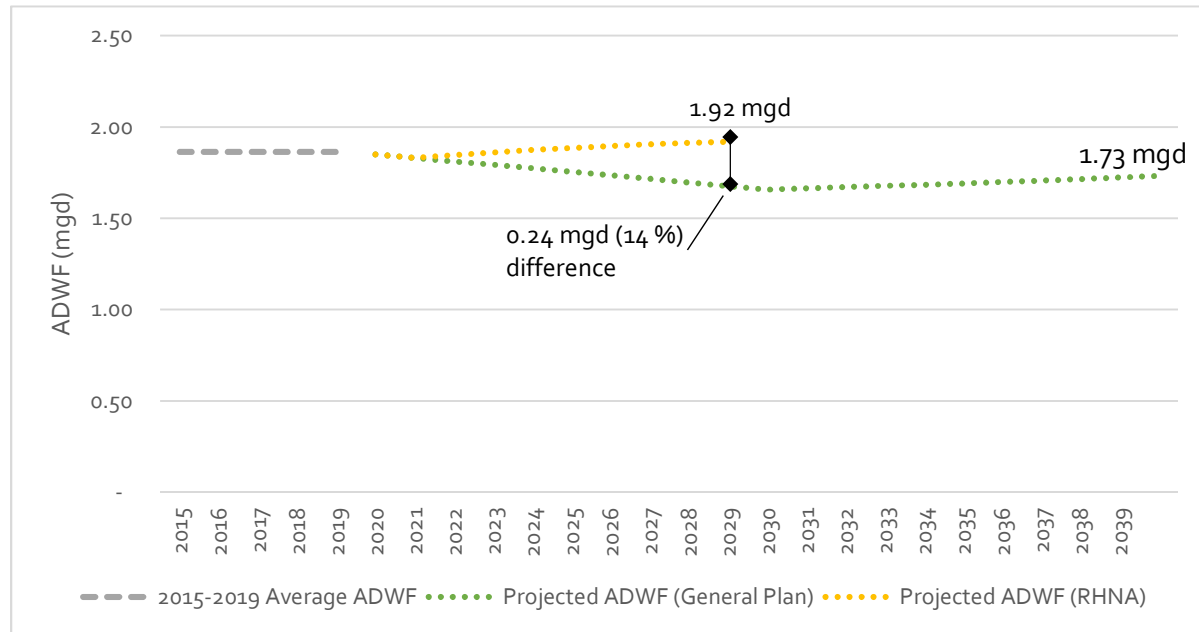


Figure 2 South Pasadena Estimated Current and Projected Average Dry Weather Wastewater Flow (ADWF)

**Water Supply Projections**

The City has three sources of potable water supply, namely 1) groundwater pumped from the Main San Gabriel Basin (Main Basin), 2) treated imported water purchased from the Metropolitan Water District of Southern California (MWD), and 3) purchased water from the Pasadena Water and Power (PWP). Groundwater pumped from four wells in the Main Basin is the primary source of water supply for the City, contributing on average to 91 percent of the City’s water supply since 1990. On average, less than 1 percent of the City’s water comes from PWP, while the remaining 9 percent of the City’s water supply is purchased from MWD<sup>3</sup>. The City typically avoids purchasing imported water unless a groundwater well becomes non-operational because imported water is the most costly water supply source for the City.

The amount of water pumped from the Main Basin by the City and other water suppliers is managed by the Main San Gabriel Basin Watermaster (Watermaster). The Watermaster determines the total operational safe yield for all groundwater pumpers each year. The City has pumping rights to 1.8 percent of the total safe yield of the Main Basin, as determined by the Watermaster. Since year 1990, the City’s groundwater pumping rights from the Main Basin have ranged from 2,527 afy to 4,332 afy and averaged 3,411 afy.

<sup>3</sup> Historical water supply information from the year 1990 through the year 2019 was provided by the City.

## PROJECT MEMORANDUM - FINAL

However, the City's groundwater pumping right from the Main Basin has been below average at 2,707 afy during the past five years and is projected to decrease even further to 2,347 afy through year 2025 as a result of drought conditions<sup>4</sup>. The City and other pumpers are currently permitted to pump above and beyond their water rights by paying an additional fee for replenishment water, which is managed by the Watermaster.

The City's groundwater rights have historically not been enough to meet demand, so the City has either paid replenishment fees to pump additional groundwater or purchased additional water from MWD, or a combination of both measures. Due to continued growth resulting in a reduction of pervious areas and anticipated future prolonged droughts triggered by climate change, groundwater pumping rights are expected to decrease even further in the future. Hence, the gap between groundwater supply and water demands is expected to grow.

The water supply gap would be further exacerbated due to the increase in demand from the additional housing units required under the RHNA. Figure 3 shows the recent water supply for the City in broken out by groundwater pumped within the City's groundwater rights, groundwater pumped above the City's groundwater rights, and water purchased from MWD. Additionally, Figure 3 shows the projected groundwater pumping rights through the year 2025, as predicted by the Watermaster.

If the City's groundwater rights would remain constant at 2,347 afy between the years 2025 and 2029, the City is projected to have a water supply shortfall of approximately 1,578 acre-feet (af) by year 2029 under RHNA growth conditions. This is 484 afy (44 percent) higher than the supply shortfall of 1,095 afy expected under General Plan growth conditions. This supply shortfall would need to be addressed through additional pumping above the City's rights and/or additional purchases from MWD. These supply sources are both considered less reliable than groundwater pumping within the City's rights. The ability to pump additional water from the Main Basin or purchase additional water from MWD is anticipated to become less reliable in the future as they are contingent on the availability of replenishment water (dependent on wet hydrologic cycled) and imported water (dependent on snowpack of Sierra Nevada Mountains and storage along both California and Colorado aqueducts). These supply sources may become even more uncertain as other water suppliers that rely on the Main Basin and MWD also experience significant demand growth and/or are subject to RHNA allocations.

---

<sup>4</sup> Historical and projected water rights information for the City is from the Main San Gabriel Basin Watermaster.

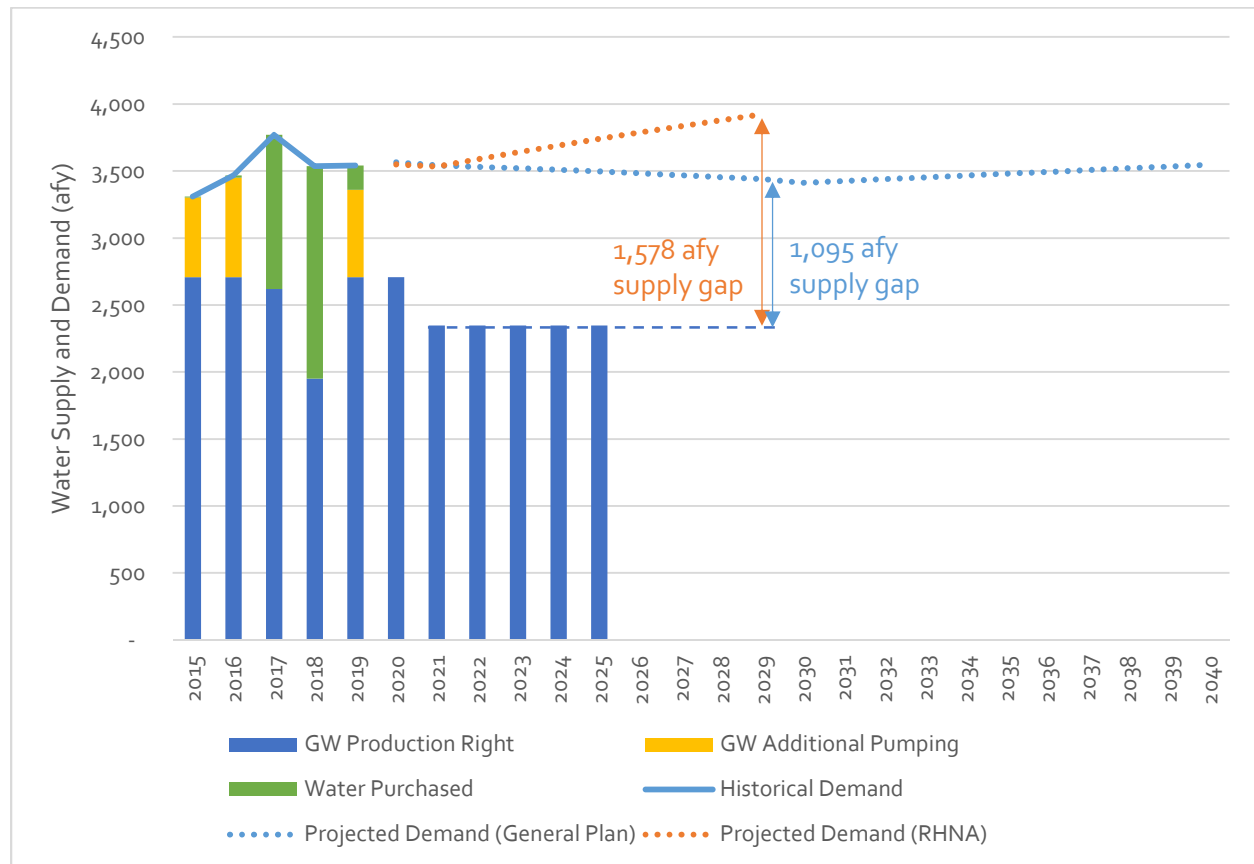


Figure 3 South Pasadena Historical and Projected Supply and Demand

### Conclusions

Overall, the additional RHNA requirement of 2,062 housing units is expected to lead to an accelerated increase in water demand of 335 afy compared to present day demand of 3,590 afy to a total demand of 3,925 afy in year 2029. This demand increase is estimated to be 484 afy (14 percent) higher in year 2029 than the projected demand based on the City’s current General Plan. Additionally, the RHNA allocation would result in an estimated wastewater flow increase of 0.24 mgd, which is also 14 percent higher than currently planned for by year 2029.

The RHNA allocation will increase the existing water supply gap between the City’s water demand and the City’s groundwater pumping from the Main Basin by 484 afy to 1,578 afy, which is 44 percent higher than the existing supply gap of 1,094 afy projected for year 2029 based on the current General Plan. As the City’s groundwater pumping rights are the most reliable supply source, the RHNA allocation would reduce the City’s supply reliability as it would become more dependent on imported water supply from MWD and availability of replenishment water.

Due to the considerable housing allocations throughout the entire SCAG area, water supply needs for both imported water from MWD and replenishment water are expected to increase significantly regionally. As the availability of both sources are also expected to be negatively impacted by climate change, they may become more unreliable in the future.

## PROJECT MEMORANDUM - FINAL

Moreover, due the unknown location of the 2,062 housing units, this growth may result in additional water distribution, storage, pumping and/or wastewater conveyance and discharge constraints that are unknown at this time. Further analysis is needed to identify potential water distribution and wastewater conveyance constraints that may trigger costly investments and associated affordability challenges for the community.

**ATTACHMENT 3**  
**RHNA Appeal Presentation**



# REGIONAL HOUSING NEEDS ASSESSMENT APPEAL

---

City Council Meeting  
October 21, 2020



# 6<sup>th</sup> Cycle RHNA Allocation

City	5th Cycle (2013-2021)	6th Cycle (2021-2029)	% Increase
Alhambra	1,492	6,810	356%
Los Angeles	82,002	455,565	456%
Pasadena	1,332	9,409	606%
San Marino	2	398	19,800%
South Pasadena	63	2,062	3,173%





# Appeal Bases

- I. SCAG failed to determine the jurisdiction's RHNA allocation based on the Final RHNA Methodology;
- II. SCAG failed to consider information submitted by the local jurisdiction relating to certain local factors and information related to affirmatively furthering fair housing; or
- III. There has been a significant and unforeseen change in circumstances since April 20, 2019 that merits a revision of the information previously submitted by the local jurisdiction.



# City's Appeal Bases

1. Challenging the state's housing targets;
2. The effective boundaries of the High Quality Transit Areas (HQTAs) that were used in the SCAG allocation methodology;
3. The City's infrastructure and school capacities to accommodate 2,000 housing units; and
4. Preserving the City's historic resources.



# Next Steps

- RHNA Appeal Ad Hoc Committee will continue to refine the arguments and compile the necessary supporting documents up until the deadline
- October 26, 2020: SCAG's RHNA appeal deadline
- December/January 2021: SCAG's RHNA Appeal Hearing
- February 2021: SCAG's adoption of the Final RHNA
- October 15, 2021: 2021 Housing Element Update due to HCD



## City of South Pasadena Management Services

# Memo

**Date:** October 19, 2020

**To:** Honorable Mayor and Council Members

**Via:** Sean Joyce, Interim City Manager

**From:** Elaine Aguilar, Interim Assistant to the City Manager

**Re:** October 21, 2020, City Council Meeting Agenda Item 14 – Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ending June 30, 2019.

---

Please see the revised language for action calendar item # 14 on pages 5 and 6.

Also attached to this staff report is the Report on Internal Controls, the Schedule of Findings, the Corrective Action Plan, and the Management letters. Regarding Internal Controls and the Schedule of Findings, there were five (5) material weaknesses noted, two (2) significant deficiencies noted, and three (3) noncompliance deficiencies noted. Staff will be working with the Finance Commission, and the Finance Ad Hoc Committee to correct the weaknesses and deficiencies, and noted concern with the findings.

**Attachments:**

1. Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2019
2. Auditor Report on Internal Controls
3. Schedule of Findings and Responses
4. Corrective Action Plan
5. Management Letter



# City Council Agenda Report

ITEM NO. 14

Revised 10/19/2020

**DATE:** October 21, 2020

**FROM:** Sean Joyce, Interim City Manager

**PREPARED BY:** Elaine Aguilar, Interim Assistant City Manager  
Albert Trinh, Finance Manager  
Armine Trashian, Accounting Manager

**SUBJECT:** **Presentation of the Comprehensive Annual Financial Report for  
Fiscal Year Ending June 30, 2019**

---

## **Recommendation**

It is recommended that the City Council receive and file the City of South Pasadena's (City) Comprehensive Annual Financial Report (CAFR) for the Fiscal Year (FY) ending June 30, 2019.

## **Commission Review and Recommendation**

This matter was reviewed by the Finance Commission on September 24, 2020 and on October 15, 2020. This matter was also reviewed by the Finance Ad Hoc Committee on October 13, 2020. The Commission voted to receive and file the CAFR.

## **Executive Summary**

The CAFR is a complete set of financial statements that summarizes the city's financial position for the Fiscal Year. The report is prepared annually by city staff and audited by an independent auditing firm. The purpose of the audit is to provide a reasonable assurance from an independent source that the information is reliable. The audit for FY19 was recently completed by Rogers, Anderson, Melody & Scott, LLP, who rendered an unmodified opinion, the optimal opinion issued by independent auditors. The City's total net position increased by \$5,197,271 over the prior year; this was due primarily to the increased value of the City's capital assets such as land, infrastructure and buildings, minus the increases in the City's net pension liability, and loans payable.

## **Discussion/Analysis**

For FY 2018-19, the accounting firms of Rogers, Anderson, Malody, & Scott, LLP, performed an independent audit to determine that the financial statements are fairly presented and free from material misstatement. The independent auditor concluded there was reasonable basis for

rendering an unmodified opinion, and that City’s financial statements are fairly presented in conformity with (GAAP).

Listed below are financial highlights for FY 2018-19:

- The assets of the City exceeded liabilities at the close of the most recent fiscal year by \$81,483,541.
- At the close of the current Fiscal Year, the City’s governmental funds reported combined fund balances of \$28,994,406 an increase of \$4,844,802. Of that amount, \$12,017,146 is the unassigned fund balance of the General Fund, and represents the fund balance available for spending at the City’s discretion.
- At the end of the fiscal year, the total General Fund balance is \$18,417,885, while as previously mentioned, the emergency reserve fund balance (unassigned) for the General Fund was \$12,017,146, or 49% the General Fund expenditures.

There are two primary citywide financial statements: Statement of Net Position and the Statement of Activities. Similar to a balance sheet in private sector accounting, the Statement of Net Position presents the City’s overall financial position at a specific point in time – in the City’s case, this is as of the last day of the fiscal year (June 30, 2019).

The Statement of Activities is similar to the income statement, presenting the City’s results of operations over a period of time.

**City of South Pasadena Net Position  
 As of June 30, 2019 and 2018**

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	2019	2018	2019	2018
Current and other assets	\$ 31,826,966	\$ 27,717,339	\$ 13,693,935	\$ 14,274,295	\$ 45,520,901	\$ 41,991,634
Capital assets, net	60,351,839	62,806,755	79,054,625	74,217,620	139,406,464	137,024,375
Total assets	92,178,805	90,524,094	92,748,560	88,491,915	184,927,365	179,016,009
Deferred outflow of resources	8,385,499	9,923,516	6,189,651	6,640,100	14,575,150	16,563,616
Long-term liabilities	48,451,206	48,591,497	59,086,852	58,327,986	107,538,058	106,919,483
Other liabilities	2,870,360	3,273,859	4,111,910	3,668,754	6,982,270	6,942,613
Total liabilities	51,321,566	51,865,356	63,198,762	61,996,740	114,520,328	113,862,096
Deferred inflow of resources	3,125,672	3,649,673	372,974	417,397	3,498,646	4,067,070
Net investment in capital assets	60,351,839	62,806,755	23,661,335	25,525,737	84,013,174	88,332,492
Restricted	8,115,962	6,336,084	1,156,612	1,154,374	9,272,574	7,490,458
Unrestricted	(22,350,735)	(24,210,258)	10,548,528	6,037,767	(11,802,207)	(18,172,491)
Total net position	\$ 46,117,066	\$ 44,932,581	\$ 35,366,475	\$ 32,717,878	\$ 81,483,541	\$ 77,650,459

The table above presents a summarized version of the City’s Statement of Net Position for FY 2018-19, and a comparison to the previous fiscal year. Net position may serve as a useful indicator of a government’s financial position. In the case of the City, assets exceeded liabilities by \$81,483,541 at the close of the fiscal year. This represents an increase of \$3,833,082, or 5% from the prior year.

Net investment in capital assets of \$84,013,174 are by far the largest portion of the City’s net position, and reflects its investment in non-liquid capital assets (e.g. land, infrastructure, buildings, and equipment). The City uses these capital assets to provide services to citizens; consequently, these assets are not available for future spending. The second portion of the City net position, \$9,272,574, represents special revenue resources that are subject to external restrictions on how they may be used.

**City of South Pasadena Net Position  
 As of June 30, 2019 and 2018**

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	2019	2018	2019	2018
Program revenues:						
Charges for services	\$ 4,473,833	\$ 4,771,481	\$ 12,880,598	\$ 12,611,113	\$ 17,354,431	\$ 17,382,594
Operating contributions and grants	4,231,554	972,026	-	200,167	4,231,554	1,172,193
Capital contributions and grants	1,072,310	1,325,968	-	-	1,072,310	1,325,968
General revenues:						
Property taxes	15,368,198	14,135,844	-	-	15,368,198	14,135,844
Other taxes	7,586,093	8,929,003	-	-	7,586,093	8,929,003
Intergovernmental	-	-	-	-	-	-
Use of money and property	1,308,952	650,749	392,230	92,551	1,701,182	743,300
Other	11,815	130,310	94,367	216,693	106,182	347,003
Total revenues	34,052,755	30,915,381	13,367,195	13,120,524	47,419,950	44,035,905
Expenses:						
General government	6,014,464	5,560,722	-	-	6,014,464	5,560,722
Public safety	14,257,292	14,624,313	-	-	14,257,292	14,624,313
Public works	1,361,590	1,037,091	-	-	1,361,590	1,037,091
Community services	3,988,465	3,819,654	-	-	3,988,465	3,819,654
Community development	6,045,511	5,197,516	-	-	6,045,511	5,197,516
Water	-	-	8,116,822	7,060,363	8,116,822	7,060,363
Sewer	-	-	1,280,398	686,672	1,280,398	686,672
Golf course	-	-	1,158,137	1,096,327	1,158,137	1,096,327
Total expenses	31,667,322	30,239,296	10,555,357	8,843,362	42,222,679	39,082,658
Income before transfers	2,385,433	676,085	2,811,838	4,277,162	5,197,271	4,953,247
Transfers	80,000	-	(80,000)	-	-	-
Increase in net positions	2,465,433	676,085	2,731,838	4,277,162	5,197,271	4,953,247
Net position, beginning, as restated	43,651,633	44,256,496	32,634,637	28,440,716	76,286,270	72,697,212
Net position, ending June 30	\$ 46,117,066	\$ 44,932,581	\$ 35,366,475	\$ 32,717,878	\$ 81,483,541	\$ 77,650,459

Governmental activities net position increased by \$2,465,433, after the prior period restatement, due to GASB Statement No. 68, Accounting and Financial Reporting for Pensions, GASB No. 71, Pension Transition for Contributions Made Subsequent to the Measurement Date, and GASB 75, Accounting and Financial Reporting for Postemployment Benefits Other than Pensions.

Business activities net position increased by \$2,648,597 over the prior year due primarily to construction-in-progress on the Garfield Reservoir Construction Project, Graves Well Rehabilitation Project, and Wellhead Treatment Project.

### **Background**

After the close of each fiscal year, the Finance Department is responsible for the preparation and publication of the City's CAFR following an independent, certified audit. The goal of the financial audit and report is to provide users with a reasonable assurance that the information presented in the statements is accurate and timely.

The CAFR presents information on the status of the City's financial affairs, first on a citywide basis (Government-Wide Financial Statements) in which all the City activities are reported as governmental activities and business-type activities. A second set of statements (Fund Financial Statements) report separately the activities of all City Funds.

The CAFR is organized into three primary sections:

1. Introductory Section – includes the Finance Director's Letter of Transmittal, List of Principal Officials, and the Organization Chart.
2. Financial Section – includes the Independent Auditors' Report, Management's Discussion and Analysis, and the general purpose financial statements, consisting of the combined financial statements, notes to the financial statements, and supplemental statements.
3. Statistical Section – includes comparative information on pertinent City data, such as expenditures, revenues, assessed valuations, tax levies, demographic data, and performance measurements.

The CAFR is important for a number of reasons:

- The CAFR is utilized by the investment community, including bond buyers, underwriters, bond issuers, and credit rating agencies.
- It serves as a public information tool in the form of a comprehensive presentation of all of the City's financial activities.
- Due to a standardized format, the CAFR serves as a tool to provide a meaningful comparison to similar data for other cities.

The 2019 CAFR was reviewed by the City's Finance Commission and the recently created Finance Ad Hoc Committee (a temporary non-Brown Act Committee.) During the Commission's review, variances were noted between Revenues and Expenditures shown in the



2018/2019 Approved Budget Document, compared to the Approved Budget Revenues and Expenditures in the 2019/2019 CAFR. In addition, General Fund Committed Reserves as shown in the draft 2018/2019 CAFR omitted a few previously committed reserve amounts.

The Ad Hoc Committee and the Commission reviewed the variances. The summary explanation of the variances are as follows. First, regarding Revenues, staff identified instances where the original FY 18/19 budget document as approved by the City Council in June 2018 had numerical errors, such as incorrect formulas, and duplication of line items. Staff was able to reconcile the 2018/2019 Budget document errors and provide adequate explanation to the Commission. Second, there were formula and input errors in a few expenditure line items in the Approved FY 2018-2019 Budget. Third, regarding the Committed General Fund Reserve, the City's Auditors made the correction for General Fund Committed Reserve items, and will make corrections to two remaining reserve items in the 2019/2020 CAFR. (For 2020 CAFR: Library Park Drainage Project, and Tree Replacement projects.)

Also attached to this staff report is the Report on Internal Controls, the Schedule of Findings, the Corrective Action Plan, and the Management letters. Regarding Internal Controls and the Schedule of Findings, there were five (5) material weaknesses noted, two (2) significant deficiencies noted, and three (3) noncompliance deficiencies noted. Staff will be working with the Finance Commission, and the Finance Ad Hoc Committee to correct the weaknesses and deficiencies, and noted concern with the findings.

Lastly, to complete other important financial documents as soon as possible (i.e. FY 2019/2020 CAFR, and the FY 2020/2021 Budget), while also keeping up with current workloads, staff anticipates returning to the City Council at the November 4, 2020 meeting to seek authorization for additional, temporary staffing assistance. Planning head, almost as soon as the 2020 CAFR and the FY2021 Budget are completed, it will be time to begin the Budget preparation process for the FY 2021/2022 Budget, and the FY 2021 CAFR.

### **Legal Review**

The City Attorney has reviewed this item.

### **Fiscal Impact**

There is no cost associated with the presentation of this report.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

### **Attachments:**

1. Comprehensive Annual Financial Report for the Fiscal Year Ending June 30, 2019
2. Auditor Report on Internal Controls
3. Schedule of Findings and Responses
4. Corrective Action Plan

5. Management Letter



## City of South Pasadena Management Services

# Memo

**Date:** October 19, 2020

**To:** Honorable Mayor and Council Members

**Via:** Sean Joyce, Interim City Manager

**From:** Elaine Aguilar, Interim Assistant to the City Manager

**Re:** October 21, 2020, City Council Meeting Agenda Item 14 – Presentation of the Comprehensive Annual Financial Report (CAFR) for Fiscal Year Ending June 30, 2019.

---

Please see the revised chart for the staff report on Agenda Item No. 14, page 4.

City of South Pasadena Net Position  
 As of June 30, 2019 and 2018

	Governmental Activities		Business-Type Activities		Total	
	2019	2018	2019	2018	2019	2018
Program revenues:						
Charges for services	\$ 4,473,833	\$ 4,771,481	\$ 12,880,598	\$ 12,611,113	\$ 17,354,431	\$ 17,382,594
Operating contributions and grants	4,231,554	972,026	-	200,167	4,231,554	1,172,193
Capital contributions and grants	1,072,310	1,325,968	-	-	1,072,310	1,325,968
General revenues:						
Property taxes	15,368,198	14,135,844	-	-	15,368,198	14,135,844
Other taxes	7,586,093	8,929,003	-	-	7,586,093	8,929,003
Intergovernmental	-	-	-	-	-	-
Use of money and property	1,308,952	650,749	392,230	92,551	1,701,182	743,300
Other	11,815	130,310	94,367	216,693	106,182	347,003
Total revenues	34,052,755	30,915,381	13,367,195	13,120,524	47,419,950	44,035,905
Expenses:						
General government	6,014,464	5,560,722	-	-	6,014,464	5,560,722
Public safety	14,257,292	14,624,313	-	-	14,257,292	14,624,313
<del>Public works</del> Community development	1,361,590	1,037,091	-	-	1,361,590	1,037,091
Community services	3,988,465	3,819,654	-	-	3,988,465	3,819,654
<del>Community development</del> Public works	6,045,511	5,197,516	-	-	6,045,511	5,197,516
Water	-	-	8,116,822	7,060,363	8,116,822	7,060,363
Sewer	-	-	1,280,398	686,672	1,280,398	686,672
Golf course	-	-	1,158,137	1,096,327	1,158,137	1,096,327
Total expenses	31,667,322	30,239,296	10,555,357	8,843,362	42,222,679	39,082,658
Income before transfers	2,385,433	676,085	2,811,838	4,277,162	5,197,271	4,953,247
Transfers	80,000	-	(80,000)	-	-	-
Increase in net positions	2,465,433	676,085	2,731,838	4,277,162	5,197,271	4,953,247
Net position, beginning, as restated	43,651,633	44,256,496	32,634,637	28,440,716	76,286,270	72,697,212
Net position, ending June 30	\$ 46,117,066	\$ 44,932,581	\$ 35,366,475	\$ 32,717,878	\$ 81,483,541	\$ 77,650,459



## City of South Pasadena Management Services

# Memo

**Date:** October 19, 2020

**To:** Honorable Mayor and Council Members

**Via:** Sean Joyce, Interim City Manager

**From:** Shahid Abbas, Public Works Director

**Re:** October 21, 2020, City Council Meeting Agenda Item 15 – Rogan Fund Update.

---

Please find revised additional documents for item number 15.

### Recommendation

It is recommended that the City Council:

- ~~1. Direct staff to aggressively pursue Metro approval of grant funds of \$1.86M to secure the City's matching obligation associated with the Rogan Grant~~
- ~~2. In the event staff is unsuccessful in this effort, appropriate Measure M Multi Sub-regional Program (MSP) funds in the amount of \$1.72M and \$160,000 from the City's Capital Growth Fund to supplement Measure M MSP dollars to make up the required match.  
(The appropriation of Measure M funds, could involve the obligation of future year Measure M revenues)~~

### Matching Funds Alternative (presentation page 8)

1. Attempt to secure matching funds from Metro; if unsuccessful, identify now the alternative funding source(s) to ensure funding does not lapse.
2. Use undesignated Measure M Funds - Requires timely approval by AVCJPA and Metro Board. (Subject to approval of Arroyo Verdugo JPA & Metro Board.)
3. Reallocate funding from specified designated projects, up to required match.

- List of such projects is identified in 2018-2019 CAFR
4. Appropriate \$1,860,000 from undesignated fund reserve balance.
  5. Appropriate funding in two phases from following sources:
    - Capital Growth Fund for PS&E / Environmental Phase &;
    - General Funds Reserves (or Measure M) for Construction Phase.



# ROGAN FUNDED PROJECT

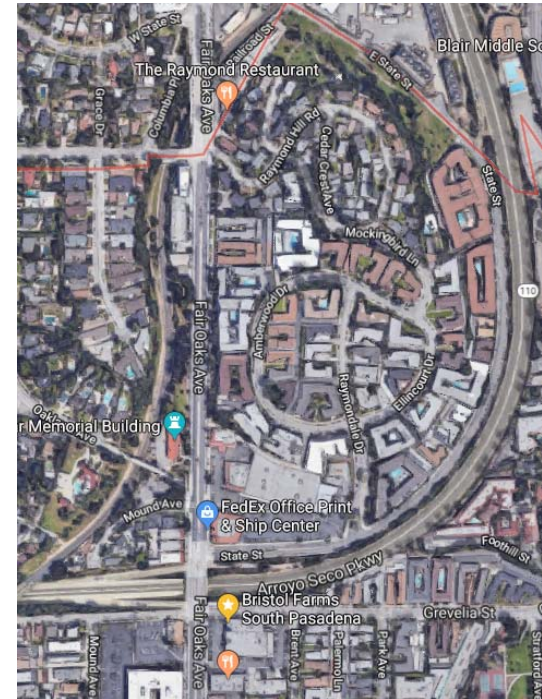
---

City Council  
October 21, 2020



# Rogan Fund Project Summary (2004)

- Awarded for construction of SR-110 hook ramp (shelf ready) on August 12, 2004
- Funding:
  - \$2.5M Right-of-way (ROW)
  - \$6.8M Construction
  - Total = \$9.3M
- Items that prohibited City from proceeding with Project as originally scoped:
  - Right of Way Constraints
  - Lack of Technical Study and Data
  - Project not shelf ready







# Efforts to Save Rogan Funds from Lapsing

- In November 2019, FHWA and Caltrans informed staff Rogan funds will lapse at the end of 2019 unless City starts construction immediately.
- Staff proposed a concept of an alternate viable project.
- Staff prepared a proposed project scope of work.
- Proposed project scope presented to Caltrans and FHWA in December 2019 and approved in January 2020.
- FHWA performed special upgrades to its financial system to transfer Rogan Funds to the City from 15+ years ago.

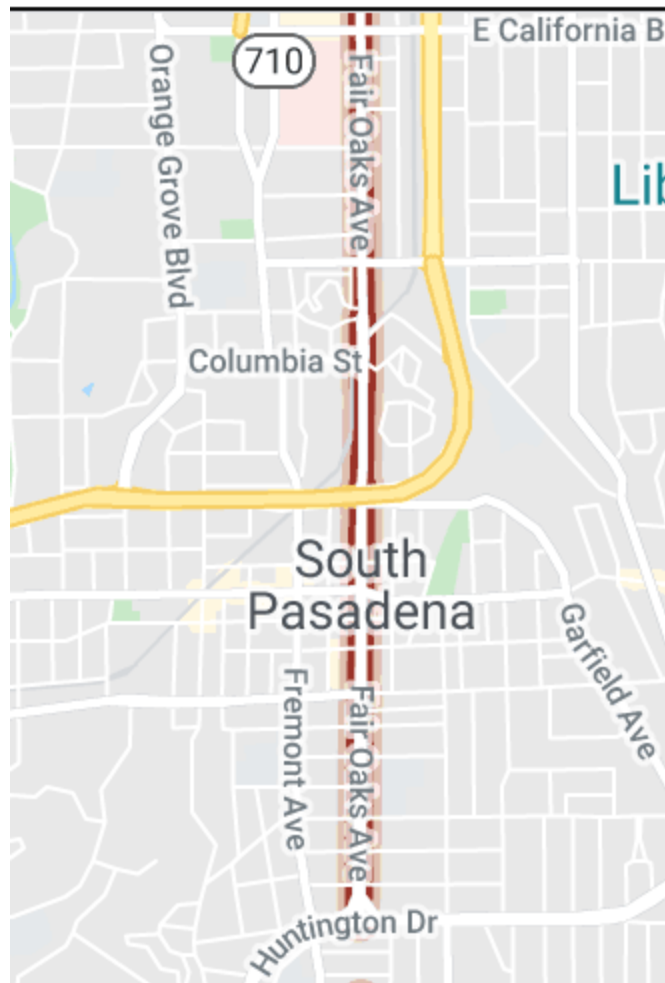


# Efforts to Save Rogan Funds from Lapsing

- Fund transfer required in FY 2019-20 (by September 31, 2020).
- Staff completed a complex technical package for obligation of funds.
- City, Caltrans, and FHWA meet weekly to keep process on track.
- Initially, FHWA agreed to transfer \$6.8M construction funding only.
- New funding available: \$9.3M for all project phases (P&E, construction and construction management).



# North / South Corridor Intelligent Transportation System (ITS) Deployment



- Description: Update the traffic signals to deploy advance adaptive traffic management system along north south Fair Oaks Avenue from the north City limits to Huntington Drive.
- Estimated Cost: \$11.2M



# North South Corridor ITS Deployment Scope of Work

- The project will include the following advanced technologies:

Advance adaptive traffic management system	Real travel time and delay monitoring system
Queue detection system	Infrared bike, pedestrian, and vehicle detection
Adaptive pedestrian warning system	Dilemma zone detection system
Emergency vehicle detection	Transit system priority

- ADA, sidewalk, curb and ramp upgrades along corridor.
- Changeable Message Sign (CMS) to provide real travel time information to motorists along Fair Oaks and Fremont corridors.



# Rogan Fund Summary

- Rogan Funds Available = \$9.34M
- Additional Funds Required (20%) = \$1.86M
- Total Project Costs = \$11.2M
- Matching Fund Source – Must be determined by December 2020.



## Matching Funds Alternatives

1. Attempt to secure matching funds from Metro; if unsuccessful, identify now the alternative funding source(s) to ensure funding does not lapse.
2. Use undesignated Measure M Funds - Requires timely approval by AVCJPA and Metro Board. (Not recommended due to timing.)
3. Reallocate funding from specified designated projects, up to require match.
  - List of such projects is identified in 2018-2019 CAFR
4. Appropriate \$1,860,000 from undesignated fund reserve balance.
5. Appropriate funding in two phases from following sources:
  - Capital Growth Fund for PS&E / Environmental Phase (\$450k) &;
  - General Funds Reserves for Construction Phase.



# Recommendation

Appropriate funding, in two phases, from following sources:

1. Immediately appropriate \$450,000 from Capital Growth Fund for PS&E / Environmental Phase; and
2. Identify General Funds Reserves of \$1,410,000 for Construction Phase.

Meanwhile, direct staff to seek alternative matching construction funding from other sources during the project's PS&E and Environmental phases, direct staff



# Discussion & Questions



**Regular City Council Meeting**  
**E-mail Public Comment 10/21/2020**

**AGENDA ITEM NO. 1**  
**General Public Comment**

1. Nicholas Taylor
2. John Srebalus
3. Ellen Hushagen

---

**From:** Nicholas Taylor [REDACTED]  
**Sent:** Wednesday, October 21, 2020 9:54 AM  
**To:** Anne Bagasao; CCO  
**Subject:** General Public Comment (Oct 21, 2020) Demand for a local urgency ordinance to protect tenants  
**Attachments:** 2020-10-21 Just Cause Ord Public Comment.pdf; 2020-10-21 Just Cause doc signatures for Nicholas and Karen Taylor.jpeg

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor and City Council Members of South Pasadena, CA:

Please see request statement attached and signature page for myself and my wife.

Thanks!

Nicholas and Karen Taylor  
[REDACTED]

October 21, 2020

General Public Comment: Demand for a local urgency ordinance to protect tenants.

We respectfully request that the City Council enact an urgency ordinance to strengthen eviction protections for South Pasadena tenants in furtherance of public peace, health, and safety under Article XI, Section 7, of the California Constitution, and in compliance with Government Code § 36937. The proposed legislation is designed to stem the tide of evictions served under the pretense of “substantial remodeling,” also known as “renovictions.” Such evictions require no proof by landlords that any remodeling will actually be performed, much less that remodeling will be substantial.

The proposed ordinance builds on state law by requiring landlords to obtain all necessary permits in advance of issuing an eviction notice, and describe in the eviction notice the nature of the remodel and why it requires the tenant to vacate for at least 30 days. The proposed ordinance also increases relocation assistance to tenants when a property owner removes rental housing from the market. Such protections are expressly authorized by state law.<sup>1</sup> Similar just cause ordinances to prevent ‘renovictions’ have been enacted by Long Beach, San Francisco, Richmond, and a number of other cities.

In response to this proposal for stronger eviction protections, some in the city have suggested that offering a few webinars to educate renters about their rights is sufficient.<sup>2</sup> We disagree. As federal stimulus talks fail, renters are bracing for a wave of evictions.<sup>3</sup> We saw renovictions in South Pasadena this summer, in violation of the L.A. County eviction moratorium no less. The problem is not theoretical. Educating tenants about protections they don’t have is no solution at all.

---

<sup>1</sup> Where the local just cause ordinance is more protective than state law, the local ordinance shall apply. Civil Code § 1946.2(g)(1)(B). The Assembly Floor Analysis of AB 1482 states, “This bill protects existing ordinances while allowing local governments in the future to adopt new ordinances that are more protective of tenants than this bill...[A]ny jurisdiction may adopt a new just cause ordinance or amend an existing one provided that at a minimum it provides the same level of protection from eviction that this bill does. With new or amended ordinances, jurisdictions can go further than this bill by limiting causes, providing greater relocation assistance, or adding stronger tenant protections. However, they cannot enforce a new or amended ordinance that is weaker.”

<sup>2</sup> On October 13, city staff asked the Planning Commission to recommend to the City Council continuing with Housing Rights Center education and outreach, and adoption of an Occupancy Inspection Ordinance—ostensibly in response to advocates’ request for stronger eviction protections. The Planning Commission discussed tenant protections, and city officials responded to the Commissioners’ concerns by stating that if the Housing Rights Center educates renters about their rights, no further action is needed. City Attorney Highsmith also argued that South Pasadena’s status as a general law city precludes it from expanding on state eviction protections, though the plain language and legislative intent of AB 1482 do not support her position.

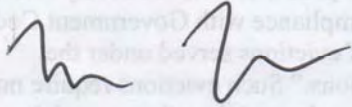
<sup>3</sup> “With Stimulus Talks Stalled, Renters—and Landlords—Brace for New Wave of Evictions,” NBC News, October 7, 2020. <https://www.nbcnews.com/business/business-news/stimulus-talks-stalled-renters-landlords-brace-new-wave-evictions-n1242466?fbclid=IwAR3pN-5rKLGcGFn-ICVVumf8XNBVTNtaiy4Zda6DDkctwOTNsAcnojRxbC8>

We demand action, not placation. Please pass the attached urgency ordinance effective immediately.

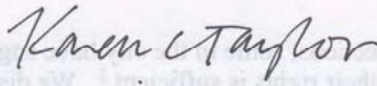
Signed,

We demand action, not placation. Please pass the attached urgency ordinance effective immediately.

Signed,

  
Nicholas Taylor



  
Karen Taylor



---

**From:** John Srebalus [REDACTED]  
**Sent:** Wednesday, October 21, 2020 11:38 AM  
**To:** City Council Public Comment  
**Cc:** Maria Ayala  
**Subject:** General Written Public Comment - 10/21/20 City Council Meeting  
**Attachments:** 2020-10-21 Just Cause Ord Public Comment.pdf

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Staff,

Attached please find a written public comment signed by 64 members of the public and including a draft urgency ordinance for consideration.

Kind Regards,  
John Srebalus

October 21, 2020

General Public Comment: Demand for a local urgency ordinance to protect tenants.

We respectfully request that the City Council enact an urgency ordinance to strengthen eviction protections for South Pasadena tenants in furtherance of public peace, health, and safety under Article XI, Section 7, of the California Constitution, and in compliance with Government Code § 36937. The proposed legislation is designed to stem the tide of evictions served under the pretense of “substantial remodeling,” also known as “renovictions.” Such evictions require no proof by landlords that any remodeling will actually be performed, much less that remodeling will be substantial.

The proposed ordinance builds on state law by requiring landlords to obtain all necessary permits in advance of issuing an eviction notice, and describe in the eviction notice the nature of the remodel and why it requires the tenant to vacate for at least 30 days. The proposed ordinance also increases relocation assistance to tenants when a property owner removes rental housing from the market. Such protections are expressly authorized by state law.<sup>1</sup> Similar just cause ordinances to prevent ‘renovictions’ have been enacted by Long Beach, San Francisco, Richmond, and a number of other cities.

In response to this proposal for stronger eviction protections, some in the city have suggested that offering a few webinars to educate renters about their rights is sufficient.<sup>2</sup> We disagree. As federal stimulus talks fail, renters are bracing for a wave of evictions.<sup>3</sup> We saw renovictions in South Pasadena this summer, in violation of the L.A. County eviction moratorium no less. The problem is not theoretical. Educating tenants about protections they don’t have is no solution at all.

---

<sup>1</sup> Where the local just cause ordinance is more protective than state law, the local ordinance shall apply. Civil Code § 1946.2(g)(1)(B). The Assembly Floor Analysis of AB 1482 states, “This bill protects existing ordinances while allowing local governments in the future to adopt new ordinances that are more protective of tenants than this bill...[A]ny jurisdiction may adopt a new just cause ordinance or amend an existing one provided that at a minimum it provides the same level of protection from eviction that this bill does. With new or amended ordinances, jurisdictions can go further than this bill by limiting causes, providing greater relocation assistance, or adding stronger tenant protections. However, they cannot enforce a new or amended ordinance that is weaker.”

<sup>2</sup> On October 13, city staff asked the Planning Commission to recommend to the City Council continuing with Housing Rights Center education and outreach, and adoption of an Occupancy Inspection Ordinance—ostensibly in response to advocates’ request for stronger eviction protections. The Planning Commission discussed tenant protections, and city officials responded to the Commissioners’ concerns by stating that if the Housing Rights Center educates renters about their rights, no further action is needed. City Attorney Highsmith also argued that South Pasadena’s status as a general law city precludes it from expanding on state eviction protections, though the plain language and legislative intent of AB 1482 do not support her position.

<sup>3</sup> “With Stimulus Talks Stalled, Renters—and Landlords—Brace for New Wave of Evictions,” NBC News, October 7, 2020. <https://www.nbcnews.com/business/business-news/stimulus-talks-stalled-renters-landlords-brace-new-wave-evictions-n1242466?fbclid=IwAR3pN-5rKLGcGFn-ICVVumf8XNBVTNtaiy4Zda6DDkctwOTNsAcnojRxbC8>

We demand action, not placation. Please pass the attached urgency ordinance effective immediately.

Signed,

1. Sean Abajian
2. Evelyn Allen
3. Anne Bagasao
4. Matthew Barbato
5. David Beadle
6. Sierra Betinis
7. Katrina Bleckley
8. Lauren Bronco
9. Anny Celsi
10. Jennifer De Ladurantey
11. Grace Dennis
12. Alan Ehrlich
13. Justin Ehrlich
14. Stephanie Ehrlich
15. Elisabeth Eilers
16. Teresa Eilers
17. Owen Ellickson
18. Betty Emirharian
19. Sarah Erlich
20. Rachel Hamilton
21. Will Hoadley-Brill
22. Matt Hubbard
23. Mariana Huerta Jones
24. Che Hurley
25. Ella Hushagen
26. Amy Jones
27. William Kelly
28. Afshin Ketabi
29. Kristen Kuhlman
30. Caitlin Lainoff
31. Anthony Le Beau
32. Emelia Lomeli
33. Sofia Lopez
34. Casey MacGregor-Toshima
35. Ian Marshall
36. Jan Marshall
37. Richard Marshall
38. Abby McCrate
39. Linda McDermott
40. Banjong Muninnopmas
41. Robyn Nedelcu
42. Juana Perez
43. Noah Perez-Silverman
44. FJ Pratt
45. Andrea Seigel
46. Allie Schreiner
47. Delaine Shane
48. Alexandra Shannon
49. Sean Singleton
50. John Srebalus
51. Levi Srebalus
52. Karen Taylor
53. Nick Taylor
54. Katie Telser
55. Andrew Terhune
56. Cassandra Terhune
57. Madeline Tolle
58. Helen Tran
59. Amy Turk
60. Madeline Veach
61. John Wang
62. Jean Yu
63. Brandon James Yung
64. Evelyn G. Zneimer



**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SOUTH PASADENA AMENDING THE SOUTH PASADENA  
MUNICIPAL CODE BY ADDING ARTICLE IX,  
RELATING TO JUST CAUSE FOR TERMINATION OF  
TENANCIES AND DECLARING THE URGENCY THEREOF**

**WHEREAS**, the California State Legislature adopted the Tenant Protection Act of 2019 (the “Act”), and the Act became effective by its own terms as of January 1, 2020; and

**WHEREAS**, the Act provides certain tenants of residential real property with just cause eviction protections under certain circumstances; and

**WHEREAS**, the Act provides that a local ordinance adopted after September 1, 2019 requiring just cause for termination of a residential tenancy shall supersede California Civil Code Section 1946.2 only if the ordinance is “more protective” than Section 1946.2; and

**WHEREAS**, the City Council finds that an urgency measure is necessary and essential to prevent the irreparable injury tenants would suffer from eviction and displacement during a pandemic or at any time during a statewide housing shortage; and

**WHEREAS**, the City Council finds that an urgency measure is necessary and essential to further the important interests of the State in passing the Act, which law the City supports, and to strengthen provisions of the Act susceptible to abuse; and

**WHEREAS**, in South Pasadena there have been several reports of no-fault evictions, some during the Los Angeles County eviction moratorium, initiated under the substantial remodeling provision of the Act, yet providing no evidence of substantial remodeling as defined in the Act; and

**WHEREAS**, the City Council desires to adopt an ordinance with just cause termination of tenancy provisions that are more protective than Civil Code Section 1946.2; and

**WHEREAS**, certain aspects of public peace, health, and safety in the City are not adequately protected presently, because of the lack of regulation of certain no-fault evictions from residential rental housing, and it is in the interest of the City, of owners and residents of rental units, and of the community as a whole to protect affordable housing within the City and prevent displacement during a pandemic; and

**WHEREAS**, the City Council has the power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety, via exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code section 36937.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** ARTICLE IX is added to the South Pasadena Municipal Code to read as follows:

**ARTICLE IX  
JUST CAUSE FOR TERMINATION OF TENANCIES**

**Chapter 9.150** Findings and purpose.

(a) In accordance with California Civil Code Section 1946.2(g)(1)(B), the City Council finds that the provisions of this Article IX regulating just cause terminations of tenancies are more protective than California Civil Code Section 1946.2 for the following reasons:

(1) The just cause for termination of a residential tenancy under this Article IX is consistent with California Civil Code Section 1946.2.

(2) This Article IX provides additional tenant protections that are not prohibited by any other provisions of applicable law.

**Chapter 9.152** Just cause termination of tenancy protections.

(a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this ~~Section~~Chapter, “just cause” includes either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the **California** Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this ~~Section~~**Chapter** or any other provision of law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the **California** Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of ~~this code~~ the **California Civil Code**, and Sections 13113.7 and 17926.1 of the **California** Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the **California** Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the **California Civil Code** of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the **California** Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) (i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(ii) For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(B) Withdrawal of the residential real property from the rental market.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the [California](#) Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) All pending notices of termination issued on or after January 1, 2020 but before the effective date of this Chapter by a residential real property owner for no-fault just cause described in subparagraph 2(D) of subdivision (b) shall be null and void and of no force or effect. Before an owner of residential real property issues a notice to terminate a tenancy for no-fault just cause described in subparagraph 2(D) of subdivision (b), the owner shall have obtained all necessary permits for the substantial remodel from all applicable governmental agencies. All termination notices for no-fault just cause described in subparagraph 2(D) of subdivision (b) shall include a copy of all issued permits and include reasonably detailed information regarding each of (i) the scope of the substantial remodeling work, (ii) why it cannot be reasonably accomplished in a safe manner with the tenant in place, and (iii) why it requires the tenant to vacate for at least 30 days.

(de) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in [subparagraphs 2\(A\), 2\(C\) or 2\(D\)](#) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in [subparagraph 4\(A\)](#).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on withdrawal of the residential real property from the rental market under [subparagraph 2\(B\)](#) of subdivision (b), the owner shall, regardless of the tenant's income, assist the tenant to relocate by providing a direct payment to the tenant as described in [subparagraph 4\(B\)](#).

(3) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this ~~Section~~[Chapter](#). If the owner elects to waive the rent for the final month of the tenancy as provided in [subparagraph \(B\)](#) of [paragraph \(1\)](#), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(4) (A) If an owner of residential real property issues a notice to terminate a tenancy based on a no-fault just cause described in [subparagraphs 2\(A\), 2\(C\) or 2\(D\)](#) of subdivision (b), the amount of relocation assistance or rent waiver shall be equal to one month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If an owner of residential real property issues a notice to terminate a tenancy based on withdrawal of the residential real property from the rental market under [subparagraph 2\(B\)](#) of subdivision (b),

(i) The amount of relocation assistance payment per tenant shall, for notices to terminate a tenancy issued between October 15, 2020, and December 31, 2020, be equal to \$5,748, with a maximum payment per unit not to exceed \$17,244. An additional payment equal to \$3,832 shall be due each elderly (62 years or older) or disabled tenant.<sup>1</sup> Payment amounts shall be adjusted annually beginning the first day of January, 2021, according to the percentage increase in the area Consumer Price Index.

(ii) Half of any relocation assistance shall be provided within 15 days of service of the notice to terminate the tenancy. The other half shall be provided within three business days upon certification that the tenant has vacated the rental unit by no more than two calendar days after the date provided in the notice to terminate the tenancy, as extended (if applicable).

(C) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(D) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(5) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(ef) This ~~Section~~Chapter shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the California Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the California State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

---

<sup>1</sup> San Francisco Residential Rent Stabilization and Arbitration Board, 578 Relocation Payments—37.9A 1/29/20 [Adjusted here for 20.5% Bankrate.com cost of living discount.] For alternate calculation on a per-unit basis, *see also* City of Richmond, Notice of Entitlement to Permanent Relocation Payment and, in Some Instances, a Greater Amount of Permanent Relocation Payment. [http://www.ci.richmond.ca.us/DocumentCenter/View/51952/Relocation\\_Payment\\_Entitlement](http://www.ci.richmond.ca.us/DocumentCenter/View/51952/Relocation_Payment_Entitlement)

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A Corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this ~~Section~~Chapter using the following statement:

“This property is not subject to the rent limits imposed by Section 194 7 .12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and

families of very low, low, or moderate income, as defined in Section 50093 of the **California** Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the **California** Health and Safety Code or comparable federal statutes.

(fg) An owner of residential real property subject to this ~~Section~~**Chapter** shall provide notice to the tenant as follows:

(1) For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Section 1632 **of the California Civil Code**.

~~(g) — (1) This section does not apply to the following residential real property:~~

~~(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.~~

~~(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case the local ordinance shall apply. For purposes of this subparagraph, an ordinance is "more protective" if it meets all of the following criteria:~~

~~(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.~~

~~(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.~~



~~(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.~~

~~(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.~~

~~(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.~~

(h) Any waiver of the rights under this ~~Section~~ **Chapter** shall be void as contrary to public policy.

(i) For the purposes of this ~~Section~~ **Article**, the following definitions shall apply:

(1) “Owner” and “residential real property” have the same meaning as those terms are defined in Section 1954.51 ~~of the California Civil Code~~.

(2) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

**SECTION 2.** This ordinance is an urgency ordinance duly adopted by the City Council by a vote of \_\_\_ of its members and shall take effect at 12:00 a.m. on \_\_\_\_\_, 2020. The City Clerk shall certify to a separate roll call and vote on the question of the emergency of this ordinance and to its passage by the vote of \_\_\_ members of the City Council of the City of South Pasadena, and cause the same to be posted in three conspicuous places in the City of South Pasadena.

**SECTION 3.** This ordinance shall also be adopted by the City Council as a regular ordinance, to the end that in the event of any defect or invalidity in connection with the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be and become effective on the thirty-first (31st) day after it is approved by the Mayor.

**SECTION 4.** Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

**PASSED, APPROVED AND ADOPTED** on this \_\_\_th day of October, 2020.

---

Robert S. Joe, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk

\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the \_\_th day of October, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal)

---

**From:** Ella Hushagen [REDACTED]  
**Sent:** Wednesday, October 21, 2020 4:16 PM  
**To:** John Srebalus  
**Cc:** City Council Public Comment; Maria Ayala  
**Subject:** Re: General Written Public Comment - 10/21/20 City Council Meeting  
**Attachments:** 2020-10-21 Just Cause Ord Public Comment.pdf; Att\_1\_South\_Pas\_Substantial\_Remodel\_Ord.pdf

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Staff,

If at all possible, please include the attached ordinance in the agenda packet (not the version I sent at 3:54), along with the letter signed by 72 people. I apologize for my mistake.

Thanks.

Ella

On Wed, Oct 21, 2020 at 3:54 PM Ella Hushagen [REDACTED] wrote:  
Dear City Staff,

Kindly include this version of our letter, signed by 72 people, in the agenda packet for tonight's City Council meeting. Please include the proposed ordinance as well (attached).

Thank you very much.

Ella Hushagen

On Wed, Oct 21, 2020 at 11:37 AM John Srebalus [REDACTED] wrote:  
Dear City Staff,

Attached please find a written public comment signed by 64 members of the public and including a draft urgency ordinance for consideration.

Kind Regards,  
John Srebalus

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF SOUTH PASADENA AMENDING THE SOUTH PASADENA  
MUNICIPAL CODE BY ADDING ARTICLE IX,  
RELATING TO JUST CAUSE FOR TERMINATION OF  
TENANCIES AND DECLARING THE URGENCY THEREOF**

**WHEREAS**, the California State Legislature adopted the Tenant Protection Act of 2019 (the “Act”), and the Act became effective by its own terms as of January 1, 2020; and

**WHEREAS**, the Act provides certain tenants of residential real property with just cause eviction protections under certain circumstances; and

**WHEREAS**, the Act provides that a local ordinance adopted after September 1, 2019 requiring just cause for termination of a residential tenancy shall supersede California Civil Code Section 1946.2 only if the ordinance is “more protective” than Section 1946.2; and

**WHEREAS**, the City Council finds that an urgency measure is necessary and essential to prevent the irreparable injury tenants would suffer from eviction and displacement during a pandemic or at any time during a statewide housing shortage; and

**WHEREAS**, the City Council finds that an urgency measure is necessary and essential to further the important interests of the State in passing the Act, which law the City supports, and to strengthen provisions of the Act susceptible to abuse; and

**WHEREAS**, in South Pasadena there have been several reports of no-fault evictions, some during the Los Angeles County eviction moratorium, initiated under the substantial remodeling provision of the Act, yet providing no evidence of substantial remodeling as defined in the Act; and

**WHEREAS**, the City Council desires to adopt an ordinance with just cause termination of tenancy provisions that are more protective than Civil Code Section 1946.2; and

**WHEREAS**, certain aspects of public peace, health, and safety in the City are not adequately protected presently, because of the lack of regulation of certain no-fault evictions from residential rental housing, and it is in the interest of the City, of owners and residents of rental units, and of the community as a whole to protect affordable housing within the City and prevent displacement during a pandemic; and

**WHEREAS**, the City Council has the power to enact an urgency ordinance, not in conflict with general laws, as necessary to protect public peace, health, and safety, via exercise of the powers provided to cities in Article XI, Section 7, of the California Constitution, and in compliance with Government Code section 36937.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**SECTION 1.** ARTICLE IX is added to the South Pasadena Municipal Code to read as follows:

**ARTICLE IX  
JUST CAUSE FOR TERMINATION OF TENANCIES**

**Chapter 9.150** Findings and purpose.

(a) In accordance with California Civil Code Section 1946.2(g)(1)(B), the City Council finds that the provisions of this Article IX regulating just cause terminations of tenancies are more protective than California Civil Code Section 1946.2 for the following reasons:

(1) The just cause for termination of a residential tenancy under this Article IX is consistent with California Civil Code Section 1946.2.

(2) This Article IX provides additional tenant protections that are not prohibited by any other provisions of applicable law.

**Chapter 9.152** Just cause termination of tenancy protections.

(a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for 12 months, the owner of the residential real property shall not terminate the tenancy without just cause, which shall be stated in the written notice to terminate tenancy. If any additional adult tenants are added to the lease before an existing tenant has continuously and lawfully occupied the residential real property for 24 months, then this subdivision shall only apply if either of the following are satisfied:

(1) All of the tenants have continuously and lawfully occupied the residential real property for 12 months or more.

(2) One or more tenants have continuously and lawfully occupied the residential real property for 24 months or more.

(b) For purposes of this ~~Section~~Chapter, “just cause” includes either of the following:

(1) At-fault just cause, which is any of the following:

(A) Default in the payment of rent.

(B) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the **California** Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation.

(C) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(D) Committing waste as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(E) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this ~~Section~~**Chapter** or any other provision of law.

(F) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the **California** Penal Code, on or off the residential real property, that is directed at any owner or agent of the owner of the residential real property.

(G) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(H) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of ~~this code~~ the **California Civil Code**, and Sections 13113.7 and 17926.1 of the **California** Health and Safety Code.

(I) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the **California** Code of Civil Procedure.

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the **California** Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the **California Civil Code** of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the landlord, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the **California** Code of Civil Procedure.

(2) No-fault just cause, which includes any of the following:

(A) (i) Intent to occupy the residential real property by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.

(ii) For leases entered into on or after July 1, 2020, clause (i) shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the owner to terminate the lease if the owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the residential real property. Addition of a provision allowing the owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).

(B) Withdrawal of the residential real property from the rental market.

(C) (i) The owner complying with any of the following:

(I) An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

(II) An order issued by a government agency or court to vacate the residential real property.

(III) A local ordinance that necessitates vacating the residential real property.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

(D) (i) Intent to demolish or to substantially remodel the residential real property.

(ii) For purposes of this subparagraph, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential real property vacated, do not qualify as substantial rehabilitation.

(c) Before an owner of residential real property issues a notice to terminate a tenancy for just cause that is a curable lease violation, the owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the **California** Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) All pending notices of termination issued on or after January 1, 2020 but before the effective date of this Chapter by a residential real property owner for no-fault just cause described in subparagraph 2(D) of subdivision (b) shall be null and void and of no force or effect. Before an owner of residential real property issues a notice to terminate a tenancy for no-fault just cause described in subparagraph 2(D) of subdivision (b), the owner shall have obtained all necessary permits for the substantial remodel from all applicable governmental agencies. All termination notices for no-fault just cause described in subparagraph 2(D) of subdivision (b) shall include a copy of all issued permits and include reasonably detailed information regarding each of (i) the scope of the substantial remodeling work, (ii) why it cannot be reasonably accomplished in a safe manner with the tenant in place, and (iii) why it requires the tenant to vacate for at least 30 days.

(de) (1) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on a no-fault just cause described in subparagraphs 2(A), 2(C) or 2(D) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in subparagraph 4(A).

(B) Waive in writing the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) For a tenancy for which just cause is required to terminate the tenancy under subdivision (a), if an owner of residential real property issues a termination notice based on withdrawal of the residential real property from the rental market under subparagraph 2(B) of subdivision (b), the owner shall, regardless of the tenant's income, assist the tenant to relocate by providing a direct payment to the tenant as described in subparagraph 4(B).

(3) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this ~~Section~~Chapter. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(4) (A) If an owner of residential real property issues a notice to terminate a tenancy based on a no-fault just cause described in subparagraphs 2(A), 2(C) or 2(D) of subdivision (b), the amount of relocation assistance or rent waiver shall be equal to one month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.

(B) If an owner of residential real property issues a notice to terminate a tenancy based on withdrawal of the residential real property from the rental market under subparagraph 2(B) of subdivision (b),



(i) The amount of relocation assistance payment per tenant shall, for notices to terminate a tenancy issued between October 15, 2020, and December 31, 2020, be equal to \$5,748, with a maximum payment per unit not to exceed \$17,244. An additional payment equal to \$3,832 shall be due each elderly (62 years or older) or disabled tenant.<sup>1</sup> Payment amounts shall be adjusted annually beginning the first day of January, 2021, according to the percentage increase in the area Consumer Price Index.

(ii) Half of any relocation assistance shall be provided within 15 days of service of the notice to terminate the tenancy. The other half shall be provided within three business days upon certification that the tenant has vacated the rental unit by no more than two calendar days after the date provided in the notice to terminate the tenancy, as extended (if applicable).

(C) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(D) The relocation assistance or rent waiver required by this subdivision shall be credited against any other relocation assistance required by any other law.

(5) An owner's failure to strictly comply with this subdivision shall render the notice of termination void.

(ef) This ~~Section~~Chapter shall not apply to the following types of residential real properties or residential circumstances:

(1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.

(2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the California Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the California State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

(4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.

---

<sup>1</sup> San Francisco Residential Rent Stabilization and Arbitration Board, 578 Relocation Payments—37.9A 1/29/20 [Adjusted here for 20.5% Bankrate.com cost of living discount.] For alternate calculation on a per-unit basis, *see also* City of Richmond, Notice of Entitlement to Permanent Relocation Payment and, in Some Instances, a Greater Amount of Permanent Relocation Payment.  
[http://www.ci.richmond.ca.us/DocumentCenter/View/51952/Relocation\\_Payment\\_Entitlement](http://www.ci.richmond.ca.us/DocumentCenter/View/51952/Relocation_Payment_Entitlement)

(5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.

(6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.

(7) Housing that has been issued a certificate of occupancy within the previous 15 years.

(8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

(A) The owner is not any of the following:

(i) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

(ii) A Corporation.

(iii) A limited liability company in which at least one member is a corporation.

(B) (i) The tenants have been provided written notice that the residential property is exempt from this ~~Section~~Chapter using the following statement:

“This property is not subject to the rent limits imposed by Section 194 7 .12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code and the owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation.”

(ii) For a tenancy existing before July 1, 2020, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.

(iii) For any tenancy commenced or renewed on or after July 1, 2020, the notice required under clause (i) must be provided in the rental agreement.

(iv) Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).

(9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and

families of very low, low, or moderate income, as defined in Section 50093 of the **California** Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the **California** Health and Safety Code or comparable federal statutes.

(~~fg~~) An owner of residential real property subject to this ~~Section~~**Chapter** shall provide notice to the tenant as follows:

(1) For any tenancy commenced or renewed on or after July 1, 2020, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.

(2) For a tenancy existing prior to July 1, 2020, by written notice to the tenant no later than August 1, 2020, or as an addendum to the lease or rental agreement.

(3) The notification or lease provision shall be in no less than 12-point type, and shall include the following:

“California law limits the amount your rent can be increased. See Section 1947.12 of the Civil Code for more information. California law also provides that after all of the tenants have continuously and lawfully occupied the property for 12 months or more or at least one of the tenants has continuously and lawfully occupied the property for 24 months or more, a landlord must provide a statement of cause in any notice to terminate a tenancy. See Section 1946.2 of the Civil Code for more information.”

The provision of the notice shall be subject to Section 1632 **of the California Civil Code**.

~~(g) — (1) This section does not apply to the following residential real property:~~

~~(A) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted on or before September 1, 2019, in which case the local ordinance shall apply.~~

~~(B) Residential real property subject to a local ordinance requiring just cause for termination of a residential tenancy adopted or amended after September 1, 2019, that is more protective than this section, in which case the local ordinance shall apply. For purposes of this subparagraph, an ordinance is "more protective" if it meets all of the following criteria:~~

~~(i) The just cause for termination of a residential tenancy under the local ordinance is consistent with this section.~~

~~(ii) The ordinance further limits the reasons for termination of a residential tenancy, provides for higher relocation assistance amounts, or provides additional tenant protections that are not prohibited by any other provision of law.~~

~~(iii) The local government has made a binding finding within their local ordinance that the ordinance is more protective than the provisions of this section.~~

~~(2) A residential real property shall not be subject to both a local ordinance requiring just cause for termination of a residential tenancy and this section.~~

~~(3) A local ordinance adopted after September 1, 2019, that is less protective than this section shall not be enforced unless this section is repealed.~~

(h) Any waiver of the rights under this ~~Section~~ **Chapter** shall be void as contrary to public policy.

(i) For the purposes of this ~~Section~~ **Article**, the following definitions shall apply:

(1) “Owner” and “residential real property” have the same meaning as those terms are defined in Section 1954.51 ~~of the California Civil Code~~.

(2) “Tenancy” means the lawful occupation of residential real property and includes a lease or sublease.

**SECTION 2.** This ordinance is an urgency ordinance duly adopted by the City Council by a vote of \_\_\_ of its members and shall take effect at 12:00 a.m. on \_\_\_\_\_, 2020. The City Clerk shall certify to a separate roll call and vote on the question of the emergency of this ordinance and to its passage by the vote of \_\_\_ members of the City Council of the City of South Pasadena, and cause the same to be posted in three conspicuous places in the City of South Pasadena.

**SECTION 3.** This ordinance shall also be adopted by the City Council as a regular ordinance, to the end that in the event of any defect or invalidity in connection with the adoption of this ordinance as an emergency ordinance, the same shall, nevertheless, be and become effective on the thirty-first (31st) day after it is approved by the Mayor.

**SECTION 4.** Certification. The City Clerk will certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

**PASSED, APPROVED AND ADOPTED** on this \_\_\_th day of October, 2020.

---

Robert S. Joe, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk

\_\_\_\_\_  
Teresa L. Highsmith, City Attorney

**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the \_\_th day of October, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

\_\_\_\_\_  
Evelyn G. Zneimer, City Clerk  
(seal)

October 21, 2020

General Public Comment: Demand for a local urgency ordinance to protect tenants.

We respectfully request that the City Council enact an urgency ordinance to strengthen eviction protections for South Pasadena tenants in furtherance of public peace, health, and safety under Article XI, Section 7, of the California Constitution, and in compliance with Government Code § 36937. The proposed legislation is designed to stem the tide of evictions served under the pretense of “substantial remodeling,” also known as “renovictions.” Such evictions require no proof by landlords that any remodeling will actually be performed, much less that remodeling will be substantial.

The proposed ordinance builds on state law by requiring landlords to obtain all necessary permits in advance of issuing an eviction notice, and describe in the eviction notice the nature of the remodel and why it requires the tenant to vacate for at least 30 days. The proposed ordinance also increases relocation assistance to tenants when a property owner removes rental housing from the market. Such protections are expressly authorized by state law.<sup>1</sup> Similar just cause ordinances to prevent ‘renovictions’ have been enacted by Long Beach, San Francisco, Richmond, and a number of other cities.

In response to this proposal for stronger eviction protections, some in the city have suggested that offering a few webinars to educate renters about their rights is sufficient.<sup>2</sup> We disagree. As federal stimulus talks fail, renters are bracing for a wave of evictions.<sup>3</sup> We saw renovictions in South Pasadena this summer, in violation of the L.A. County eviction moratorium no less. The problem is not theoretical. Educating tenants about protections they don’t have is no solution at all.

---

<sup>1</sup> Where the local just cause ordinance is more protective than state law, the local ordinance shall apply. Civil Code § 1946.2(g)(1)(B). The Assembly Floor Analysis of AB 1482 states, “This bill protects existing ordinances while allowing local governments in the future to adopt new ordinances that are more protective of tenants than this bill...[A]ny jurisdiction may adopt a new just cause ordinance or amend an existing one provided that at a minimum it provides the same level of protection from eviction that this bill does. With new or amended ordinances, jurisdictions can go further than this bill by limiting causes, providing greater relocation assistance, or adding stronger tenant protections. However, they cannot enforce a new or amended ordinance that is weaker.”

<sup>2</sup> On October 13, city staff asked the Planning Commission to recommend to the City Council continuing with Housing Rights Center education and outreach, and adoption of an Occupancy Inspection Ordinance—ostensibly in response to advocates’ request for stronger eviction protections. The Planning Commission discussed tenant protections, and city officials responded to the Commissioners’ concerns by stating that if the Housing Rights Center educates renters about their rights, no further action is needed. City Attorney Highsmith also argued that South Pasadena’s status as a general law city precludes it from expanding on state eviction protections, though the plain language and legislative intent of AB 1482 do not support her position.

<sup>3</sup> “With Stimulus Talks Stalled, Renters—and Landlords—Brace for New Wave of Evictions,” NBC News, October 7, 2020. <https://www.nbcnews.com/business/business-news/stimulus-talks-stalled-renters-landlords-brace-new-wave-evictions-n1242466?fbclid=IwAR3pN-5rKLGcGFn-ICVVumf8XNBVTNtaiy4Zda6DDkctwOTNsAcnojRxbC8>

We demand action, not placation. Please pass the attached urgency ordinance effective immediately.

Signed,

1. Sean Abajian
2. Evelyn Allen
3. Alexander Aquino
4. Anne Bagasao
5. Matthew Barbato
6. David Beadle
7. Sierra Betinis
8. Katrina Bleckley
9. Lauren Bronco
10. Anny Celsi
11. Amber Chen
12. Janna Conner-Niclaes
13. Jennifer De Ladurantey
14. Grace Dennis
15. Alan Ehrlich
16. Justin Ehrlich
17. Stephanie Ehrlich
18. Elisabeth Eilers
19. Teresa Eilers
20. Owen Ellickson
21. Betty Emirharian
22. Sarah Erlich
23. Rachel Hamilton
24. Michelle Hammond
25. Joseph Hernandez
26. Will Hoadley-Brill
27. Matthew Hubbard
28. Mariana Huerta Jones
29. Che Hurley
30. Ella Hushagen
31. Amy Jones
32. William Kelly
33. Afshin Ketabi
34. Kristen Kuhlman
35. Caitlin Lainoff
36. Anthony Le Beau
37. Emilia Lomeli
38. Sofia Lopez
39. Casey MacGregor-Toshima
40. Ian Marshall
41. Jan Marshall
42. Richard Marshall
43. Abby McCrate
44. Linda McDermott
45. Sally McKissick
46. Banjong Muninnopmas
47. Adam Murray
48. Robyn Nedelcu
49. Raf Niclaes
50. Juana Perez
51. Noah Perez-Silverman
52. FJ Pratt
53. Andrea Seigel
54. Allie Schreiner
55. Delaine Shane
56. Alexandra Shannon
57. Sean Singleton
58. John Srebalus
59. Levi Srebalus
60. Karen Taylor
61. Katie Telser
62. Andrew Terhune
63. Cassandra Terhune
64. Madeline Tolle
65. Helen Tran
66. Judith Trout
67. Amy Turk
68. Madeline Veach
69. John Wang
70. Jean Yu
71. Brandon James Yung
72. Evelyn G. Zneimer

**Regular City Council Meeting**  
**E-mail Public Comment 10/21/2020**

**AGENDA ITEM NO. 10**  
**Receive and File an Update on the 2021 Housing**  
**Element**

1. Tom Williams



---

**From:** Tom Williams [REDACTED]  
**Sent:** Monday, October 19, 2020 1:48 PM  
**To:** City Council Public Comment  
**Subject:** Comments for SoPas CC Mtg. 102120 Item 10

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

DATE 10/19/20

TO: City of South Pasadena, City  
Council/Clerk [ccpubliccomment@southpasadenaca.gov](mailto:ccpubliccomment@southpasadenaca.gov)

FROM: Dr. Tom Williams, Director, LA-32 Neighborhood Council Northeast District

[REDACTED]  
[REDACTED]

SUBJECT: City Council Agenda 102120 Item 10

RE: Comments on Item 10

10. Receive and File an Update on the 2021 Housing Element Recommendation It is recommended that the City Council receive and file an update on the 2021 Housing Element.

***As indicated by Item 13 of this City Council Meeting, the City objects to the SCAG's request for appropriate housing within the City of South Pasadena. Until the required housing projected to 2045 is approved by all agencies and jurisdictions, the Housing Element Recommendation(s) may be subject to significant change based on the considerations of Item 13 and appropriate county, regional, and state assignments and approvals.***

***Receipt and filing of the "Update" and its influences on future housing considerations in South Pasadena may distort housing opportunities and considerations and fair, legal social justice issues and influences which could expose the city and projects to judicial review.***

***Recommendation: Continue the item until the State, regional, and local authorities consider and approve the City's position regarding the responsible and suitable development of all classes of housing within South Pasadena and then make appropriate modifications for the updated Housing Element.***

**Regular City Council Meeting**  
**E-mail Public Comment 10/21/2020**

**AGENDA ITEM NO. 11**

**Approval of Request to the Attorney General  
Regarding City Attorney's Authority to Provide  
Confidential Information to Individual  
Councilmember Regarding Prior Closed Sessions and  
Prior Deliberations**

1. Chris Bray

---

**From:** Chris Bray [REDACTED]  
**Sent:** Tuesday, October 20, 2020 11:13 AM  
**To:** City Council Public Comment  
**Subject:** public comment, october 21 city council meeting, agenda item 11

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

(Public comment for the October 21 city council meeting, agenda item 11.)

Councilmembers,

In two weeks, an election may replace a majority of the South Pasadena City Council. In the face of that election, your city attorney now argues that she has an ethical obligation to withhold information from new members of the legislative body that provides policymaking and oversight functions for the City of South Pasadena. She has falsely framed the issue before the council. The matter at hand is whether or not the city council as a whole should be *equally informed* about the city's legal affairs and legal spending.

Apply the argument Ms. Highsmith makes tonight about Councilmember Rossi to December. The implication is that the city attorney will insist on keeping Councilmembers Zneimer, Erlich, and Donovan in the dark on the city's legal controversies, because it's somehow her ethical obligation to keep information from her client if the client's oversight body has new people on it. If a majority of the city council is new, then a majority of the city council must be kept entirely in the dark, because *ethics*. For an alternative hypothetical, I look forward to watching Teresa Highsmith tell a new councilmember, "I'm sorry, Councilmember Primuth, but I can't tell you anything about my invoices. You obviously don't understand attorney-client privilege."

The issue before you tonight is that every member of the South Pasadena City Council should be *equally* informed about all city business. You should replace a city attorney who argues against that premise.

Chris Bray  
[REDACTED]

**Regular City Council Meeting**  
**E-mail Public Comment 10/21/2020**

**AGENDA ITEM NO. 12**

**Public Hearing:**

**Project No. 2355-APP - Appeal of the Planning Commission's Decision to Approve Project No. 2191-HDP/TRP – Hillside Development Permit for the street extension of Moffat Street, which will be a private street extending westward from the northern end of Lowell Avenue to allow access to seven lots in the City of Los Angeles and a Tree Removal Permit (APN No's: 5310-006-039, 5310-006-038, 5310-005-010, 5310-005-011, and 5310-005-004)**

1. Neilesh Mutyala
2. Courtney Rice
3. Sergio Delgado
4. Allegra Inganni
5. Lowell Abellon
6. Allan Heifetz
7. Soo-Hyun Chung
8. Steven Rivera
9. Ashley Sandoval
10. Mia Hernandez
11. Jessica Leyva
12. Elwing Suong Gonzalez
13. Nancy Ladner

- 14.Amanda Rojas
- 15.Ashaki Jackson
- 16.Ernesto Vazquez
- 17.Jillian Ryan
- 18.Rachel Jones
- 19.Rickey Perez
- 20.Leticia Callela-Austin
- 21.Wendy Gutschow
- 22.Angie Prasad
- 23.Sharon Alcazar
- 24.Joan Manansala
- 25.Guadalupe Salcedo
- 26.Chris Alvarado
- 27.Laura DeLoretta
- 28.Eck Chaiboonma
- 29.Carmelita Salazar
- 30.Marleen Munoz
- 31.Stephen A. Scheck
- 32.Tuni Chatterji
- 33.John Nelson
- 34.Kenneth Simoneit
- 35.Kate Dollenmayer
- 36.Priscilla Nunez
- 37.Laura Escobar
- 38.Brenda Contreras
- 39.Rolando Thorbourne
- 40.Micah Haserjian
- 41.Jacqueline G.
- 42.Sofia L.

---

**From:** Neilesh Mutyala [REDACTED]  
**Sent:** Friday, October 16, 2020 5:19 PM  
**To:** City Council Public Comment  
**Cc:** Joanna Hankamer; Malinda Lim; Kanika Kith  
**Subject:** Agenda Item 12: Letter from Counsel  
**Attachments:** McKeithen Ltr. to City of South Pasadena - 10.13.20.pdf

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

With respect to Project No. 2355-APP (Agenda Item 12),

Planning commission staff and the Applicant's attorney reached a conclusion regarding Grantor and Grantee status in the relevant ingress and egress easement. My letter contending this point is included as Exhibit B of Micah Haserjian's appeal. It begins with:

"At the July 14th Planning Commission meeting, during which this Permit application was discussed in context of public comments, Commissioner Dahl requested the following: 'From the residents on La Fremontia, who originally had the claim that they had Grantor status...I would like to give them a chance to weigh in that they concur with that designation that they have no approval authority in this decision.'"

Yet, since then and after my letter submitted to Planning Commission in support of my neighbor's appeal, no one from the City has complied with Commissioner Dahl's request.

Thus in preparation for this appeal hearing, I've retained Counsel to further analyze the permit, easement and appeal documentation. Jesse B. McKeithen from Donahue Fitzgerald reviewed the material and concluded that the Applicant and City's position "is misplaced." Attached is his full letter, which I'd like to submit as part of this public comment for the record.

Thank you,  
Neilesh Mutyala

October 13, 2020

**ELECTRONIC MAIL**

Joanna Hankamer

Director of Planning and Community Development

Planning and Building Department

City of South Pasadena

1414 Mission Street

South Pasadena, California 91030

South Pasadena City Council

City of South Pasadena

1414 Mission Street

South Pasadena, California 91030

Re: Project No. 2191-HDP/TRP – Hillside Development Permit and Tree Removal Permit

Dear Director Joanna Hankamer and Councilmembers of the South Pasadena City Council:

Our law firm has been engaged by Mr. Neilesh Mutyala, the homeowner of [REDACTED] to submit this letter in support of Mr. Micah Haserjian's appeal of the Planning Commission's approval of the above-referenced matter. We disagree with the contention in Mr. Stephen A. Scheck's letter to the Planning and Building Department of the City of South Pasadena, dated June 25, 2020, that the authority to approve grade changes to the easement area at issue vested with the City of South Pasadena (the "City"), particularly considering that the grantor, the City's former Community Redevelopment Agency (the "Grantor"), no longer exists. As explained below, the factual record and relevant case law demonstrate that it was the City's intent to remove itself from any such authority relating to the land and that such authority was transferred from the City to Mr. Mutyala and the three other private homeowners who own the land that the easement crosses and who are the successors to the Grantor.

Mr. Scheck represents HDP Moffatt Street LLC and Planet Home Living (collectively, "Developer"). Developer is the owner of seven lots on the south side of the former Moffatt Street in the City of Los Angeles immediately adjacent to the southern boundary of the City of South Pasadena. The Developer's property is landlocked and has access to the existing Moffatt Street via a Right-of-Way Easement ("Access Easement") granted by the Grantor across the privately owned property set forth in Schedule B of the Access Easement.

The Access Easement was recorded on June 14, 1962 in Book D1649, Page 122, and granted in place of the former Moffat Street, which was a public street vacated by the City in 1962. The Grantor of the easement was the City's Community Redevelopment Agency which



previously owned the real property set forth in Schedule B. That real property was eventually subdivided and developed, and the resulting lots are now privately owned. Notwithstanding the succession of ownership of the property underlying the easement area, Developer contends that certain authority vested to the Grantor remains vested with the City. However, the factual record and legal precedent establish that the Grantor passed this authority to approve grade changes to the Access Easement along to the Grantor's successors who are the owners of the private properties underlying the servient estates, including Mr. Mutyala.

### Analysis

Mr. Mutyala is a successor to the Grantor; Mr. Mutyala resides at 2050 La Fremontia Street, South Pasadena, which property underlies a portion of the area covered by the Access Easement.

The burden imposed on the servient tenement by an easement created by a written instrument, such as here with respect to Mr. Mutyala's property, is determined by the terms of the instrument. *See City of Pasadena v. California-Michigan Land & Water Co.* (1941) 17 Cal. 2d 576, 579. Here, the Access Easement places certain conditions on the use of the easement. Line 22 of page 2 expressly requires that the "Grantees shall make no changes in the grade of said Moffatt Street (vacated) without first obtaining the approval of the Grantor."

It is well settled law that the transfer of real property passes all easements attached to it even though such easements are not specifically mentioned in the grant, unless such easements are expressly excluded. Civ. Code § 1104; *see Jones v. Sanders* (1903) 138 Cal. 405, 411. "The principle is, that where ... the owner of an entire estate sells a portion, the purchaser takes the tenement, or portion sold, *with all the benefits and burdens which appear*, at the time of the sale, to belong to it, as between it and the property which the vendor retains." *Rosebrook v. Utz* (1941) 45 Cal. App. 2d 726, 729 (emphasis added). The principle applies to both the dominant and the servient estates. *Id.* (noting that the principle is "entirely reciprocal" for both estates).

As the owner of the property underlying the servient estate and as the successor to the Grantor, Mr. Mutyala accordingly enjoys all the benefits and burdens on the property which appeared at the time of his purchase of the same; this includes the burden on his property created by the Access Easement. Similarly, Developer, as the successor for the Grantees, enjoys all the benefits and burdens on its property. The benefit of right of access along the vacated Moffatt Street however is conditioned on certain restrictions. One such condition, which is at issue here, obligates the Grantees and their successors to first obtain the Grantor's successors' approval on grade changes to the vacated Moffatt Street.

Developer contends that the authority to approve changes to the grade of the vacated Moffatt Street does not run with the land to the successors of the Grantor because the language of the Access Easement is supposedly "clear" in its intent to reserve this authority for the Grantor. As support, Developer identifies a limited and specific instance where the Access Easement included certain "successors or assigns" language with respect to the Grantor to argue that this was the only instance where the Grantor intended to reserve certain conditions to their

successors. However, Developer's contention is unavailing, especially upon considering a more complete version of the record regarding the easement and the City's intent related thereto.

The paramount goal of interpreting a writing creating an easement is to determine the intent of the parties. *See Zissler v. Saville* (2018) 29 Cal. App. 5th 630, 639, *reh'g denied* (Dec. 27, 2018). Where the intent is not entirely clear, as is the case here, courts may look at extrinsic evidence. "In ascertaining the intent of the parties, the court may resort to extrinsic evidence not only to resolve a facial ambiguity but to determine the existence of and resolve a latent ambiguity. [Citations.] An ambiguity is latent if the resort to extrinsic evidence reveals that what appears to be perfectly clear language is in fact susceptible of more than one reasonable interpretation. [Citations.]" *Id.* at 644. Here, extrinsic evidence contradicts the Developer's contention that the Access Easement clearly intended to reserve the authority to approve grade changes on the vacated Moffatt Street for the Grantor.

Specifically, minutes from the City Council's meeting on December 27, 1961 contradict Developer's assertion of a supposed "clear" intent by the City to retain the authority to approve changes to grade on the vacated Moffatt Street. Those minutes indicate that the City Attorney "stated once the street is vacated, it becomes private property, and the City would have no power whatsoever. He would not want the City to retain any rights as it would lead to endless litigation." The CRA Attorney stated at the same meeting: "The Agency would grant the easements which would go along with the sale to private owners." Similarly, the minutes of the February 14, 1962 City Council meeting reflect that the City Attorney expressed concern relating to the City retaining control over any changes to the grade of the vacated Moffatt Street, and "urged that this be omitted." In response, the City Council stated that "the City of South Pasadena should be divorced from anything to do with the vacated portion of Moffatt Street after it has been vacated."

Such exchanges between the City Attorney and City Council do not indicate a "clear" intent by the City to retain authority to approve grade changes to Moffatt Street. On the contrary, the minutes indicate quite the opposite: that it was the City's intent to allow such authority to run with the land and to the Grantor's successors. The City ultimately sought to be "divorced" from the vacated portion of Moffatt Street, not to forever retain authority related to the same, as Developer now contends. Furthermore, the Community Redevelopment Agency is no longer in existence. The authority to approve grade changes would therefore return to the City, notwithstanding the City Council's express intent that they did not want anything to do with the land. The proposed result runs in stark contrast to the express intent of the City Council.

Developer's attempt to portray the issue relating to the easement as clear and settled under the law and the language of the Access Easement is misplaced. Mr. Mutyala is one of the successors to the Grantor. Pursuant to the Access Easement and the City's intent related thereto, Developer's use of the easement relating to changing grades on the vacated portion of Moffatt Street is conditioned on first obtaining Mr. Mutyala's approval of the change.

Thank you for your consideration of this submission on behalf of Mr. Mutyala.

Very truly yours,

A handwritten signature in blue ink that reads "Jesse B. McKeithen". The signature is written in a cursive style with a long horizontal line extending to the right.

Jesse B. McKeithen

JBM:ksj

---

**From:** Courtney Rice [REDACTED]  
**Sent:** Sunday, October 18, 2020 6:34 PM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12, PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

I am a homeowner in El Sereno and recently learned about a decision made by South Pasadena to allow an OC-based developer to build a private road to undeveloped landlocked lots on a hill in El Sereno. I STRONGLY OBJECT to the approval of this road and development for many reasons:

1. The land lies within El Sereno. The legal right to approve this road construction does NOT lie within South Pasadena.
2. To my knowledge, no plans for this road, as approved, were ever produced by the developer. Furthermore, there are no plans for the haul route or staging area, and they would permanently take away the parking for many neighbors, including street parking for an apartment complex.
3. The road would connect to Lowell Ave in LA, but the City of LA has not been included in the planning process.
4. The building of the road could upset the foundations of the existing homes surrounding the area, as it would require an extensive amount of excavating and digging into the bedrock near a fault zone.
5. The developer wants to build luxury homes on these lots. What our community needs is more AFFORDABLE housing. Luxury housing is NOT NEEDED and would furthermore lead to rising housing costs and displacement of our most vulnerable community members.
7. The construction of this road and future development on these lots would also displace an array of already threatened wildlife and multiple endangered Southern California Black Walnut trees.
8. There has been no environmental impact study or report to ensure the health and safety for people living nearby due to the increased traffic on narrow streets.

Finally, there has been NO ENGAGEMENT WITH THE COMMUNITY regarding this project. To me, that indicates a developer who does not have the interests of the community at heart. As such, I strongly oppose the approval of Project #2355-APP.

Thank you for accepting my comment.

Courtney Rice

8 year homeowner and resident, El Sereno

3 year small business owner, El Sereno

---

**From:** Sergio Delgado [REDACTED]  
**Sent:** Monday, October 19, 2020 2:38 PM  
**To:** City Council Public Comment  
**Cc:** Sergio Delgado  
**Subject:** Agenda Item 12 PROJECT NO. 2355-APP

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

ccpubliccomment@southpasadenaca.gov

Are city does not need any more new Building what it needs is protection and safety. Instead build something can can better us all like a garden or a park. There is little black walnut trees left in el sereno when back in the days it was abundant. Money is not always important.

Agenda Item 12 PROJECT NO. 2355-APP

Sent from my iPhone

---

**From:** Allegra Inganni [REDACTED]  
**Sent:** Monday, October 19, 2020 4:29 PM  
**To:** City Council Public Comment  
**Subject:** Moffat Street extension

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

I am writing as a resident and homeowner on Atlas Street in Los Angeles. I oppose the Moffat Street extension project for a number of reasons:

- 1) The direct construction and property value impact on my neighbors living on Moffat Street and Lowell Ave.
- 2) The general noise and debris issues associated with a huge construction project for all neighbors in the area, not just those on the streets named. That project could take years and includes getting utilities up a precarious hillside. It is a massive undertaking.
- 3) The environmental impact of the project to the undeveloped land on that hill for animals, the trees that will be removed, and the permanent change to the landscape. That hill represents a small piece of rural life in a big, busy city. That untouched land is incredibly important for the natural balance in the area.
- 4) The potential hazards and damage to Atlas street specifically from not only construction debris run off, but the long term increased earthquake, mudslide, water run off, and earthquake concerns. Having massive houses looming above our street does not provide us with the stability and comfort in an earthquake prone part of the world.

I am unclear who benefits from this project besides the real estate/architect firms behind this. Why would South Pasadena or Los Angeles support this when there were clearly many, many neighbors and constituents opposed in the previous meetings? I implore the Council to reconsider this unnecessary, disruptive, and potentially dangerous project.

Thank you  
Allegra Inganni

---

**From:** Lowell Abellon [REDACTED]  
**Sent:** Monday, October 19, 2020 5:20 PM  
**To:** City Council Public Comment  
**Subject:** Project No. 2355-APP Appeal of the Planning Commission's Decision to Approve Project No. 2191-HDP/TRP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

As a resident of El Sereno, I am troubled by South Pasadena illegally acting as the lead agency on a project outside South Pasadena's jurisdiction. This project would affect Los Angeles residents in my neighborhood. South Pasadena gave up all rights to the El Sereno easement in the 1960's—a fact South Pasadena is not being forthcoming with, with all involved.

This project is being illegally pushed forward by South Pasadena in order to avoid the production of a CEQA report, and if the project moves forward, it could have damaging effects on the surrounding community, traffic, existing properties in the area, as well as to the wildlife and ecosystem in that area.

South Pasadena does not have the right to approve this project, and that authority should not be given to South Pasadena.

Thank you.

**Lowell Abellon**  
Senior Visual Brand Manager

LRW | A Material Company



---

**From:** Allan Heifetz [REDACTED]  
**Sent:** Tuesday, October 20, 2020 9:20 AM  
**To:** City Council Public Comment  
**Subject:** AGENDA ITEM 12 - PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Allan Heifetz  
[REDACTED]

10/20/2020

To Whom it May Concern,

I wanted to join my neighbors and appeal the decision made by South Pasadena allowing an OC-based developer to build a private road to undeveloped land-locked lots on a hill in El Sereno. The private road would disrupt the foundations of the existing homes. This would permanently take away parking for many neighbors. The developer is ignoring the concerns of the community. The luxury homes that are planned to be built will lead to rising housing costs and displacement of our most vulnerable community members.

Thank you



---

**From:** Soo-Hyun Chung [REDACTED]  
**Sent:** Tuesday, October 20, 2020 10:16 AM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12 PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi

I'm a resident of [REDACTED] and I am extremely concerned about the development that is happening on the border of LA and South Pasadena. It is not just a blight to the area, it will clear endangered natural assets that need our protection. The development is out of character for the area and would create traffic and congestion and overpopulation in a small area that has a very narrow street. It is specifically being piecemealed because the developers are trying to avoid an environmental report. South Pasadena needs to stop this development instead of pretending they can do nothing about it!

thank you

Susan Chung

---

**From:** steve 84 [REDACTED]  
**Sent:** Tuesday, October 20, 2020 11:01 AM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Imperialism within our own borders is hardly unheard of. Yet here we are again. In 2020. Taking land that does not not belong to you for the sake of your own. White privilege must be curtailed. You (south pasadena) cannot do whatever you want simply because you have a "permit" to do so. Action for action's sake does not make you progressive. It makes you greedy. It shrivels your already small hearts.

You all are a disgrace.

I really hope this project doesn't happen, that the people who's land will be most affected will gather their voices and stop what is happening.

Shame on you.

Steven Rivera.

---

**From:** Ashley Sandoval [REDACTED]  
**Sent:** Tuesday, October 20, 2020 11:10 AM  
**To:** City Council Public Comment  
**Subject:** Agenda Item#12: Project NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

This comment is in regards to agenda item #12: Project NO. 2355-APP.

I am a resident of Monterey Hills/El Sereno and reject the decision made by South Pasadena allowing the OC-based developer to build a private road to undeveloped landlocked lots on a hill in El Sereno. **The legal right to approve this road construction DOES NOT lie with South Pasadena**, it lies with the private property owners that own the land the easements run through.

**No plans** for this road as approved were ever produced by the developer. This road would connect to Lowell Ave in LA but the **City of LA has not been included** in the planning process. The building of the private road **would disrupt the foundations** of the existing homes surrounding the area as it would require an **extensive amount of excavating and digging into the bedrock near a fault zone**. There are no plans for the haul routh or staging area and they **would permanently take away the parking** for many neighbors including the street parking for an apartment complex. The developer is ignoring the concerns of the community.

The developer wants to build luxury homes on these LA lots, immediately displacing an array of already threatened wildlife and multiple endangered South California Black Walnut Trees. It would furthermore lead to rising housing costs and displacement of our most targeted community members. The construction of these 2 projects (the private road and later the houses) would **create health issues** for those living nearby and **increase traffic dramatically** on a very narrow street, Lowell Ave. This project is being piecemealed in order to avoid having to produce an environmental report (CEQA).

Kind Regards,

Ashley Genz-Sandoval, RDN, CSP

"The river never drinks its own water. The tree never tastes its own fruit. The field never consumes its own harvest. They selflessly strive for the well-being of all those around them." ~ Mewari proverb, India

---

**From:** Mia Hernandez [REDACTED]  
**Sent:** Tuesday, October 20, 2020 11:21 AM  
**To:** City Council Public Comment  
**Subject:** MIA HERNANDEZ AGENDA ITEM 12 PROJECT NO.2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

MIA HERNANDEZ AGENDA ITEM 12 PROJECT NO.2355-APP

To whom it may concern:

Hello,

My name is Mia Hernandez and I am a resident of El Sereno. I am reaching out to you to express my concern and disapproval of the city of South Pasadenas' decision to allow illegal construction within my community.

This proposed project will dramatically disrupt life and the already threatened wildlife within the community. In addition to, further contributing to the displacement and gentrification that has already been ravaging our community. I strongly urge that you reconsider this decision and allow community members of El Sereno to **ultimately** make their decision on what will be allowed in our community. The City of South Pasadena has absolutely **NO** business making such an important decision for the people of El Sereno.

Thank you for your time,

--

Mia Hernandez

---

**From:** Jessica Leyva [REDACTED]  
**Sent:** Tuesday, October 20, 2020 11:24 AM  
**To:** City Council Public Comment  
**Subject:** Agenda Item#12 Project #2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Jessica Leyva  
I feel like what is happening with this project is illegal and irresponsible.

I am concerned about this project for the following reasons:

The legal right to approve this road construction does not lie with South Pasadena, it lies with the private property owners that own the land the easement runs through.

NO PLANS for this road as approved were ever produced by the developer. This road would connect to Lowell Ave in LA but the City of LA has not been included in the planning process. The building of the private road would disrupt the foundations of the existing homes surrounding the areas as it would require an extensive amount of excavating and digging into the bedrock near a fault zone. There are no plans for the haul route or staging area and they would permanently take away the parking for many neighbors, including street parking for an apartment complex. **The developer is ignoring the concerns of the community.**

The developer wants to build luxury homes on these LA lots, immediately displacing an array of already threatened wildlife and multiple endangered **Southern California Black Walnut Trees**. It would *furthermore* lead to rising housing costs and displacement of our most vulnerable community members. The constructions of these 2 projects ( the private road and later the houses) would create **health issues** for those living nearby and **increase traffic dramatically** on a very narrow street, Lowell Ave.  
**This project is being piecemealed in order to avoid having to produce and environmental report (CEQA).**

Thank you for your time-  
Jessica Leyva

---

**From:** Elwing Suong Gonzalez [REDACTED]  
**Sent:** Tuesday, October 20, 2020 12:07 PM  
**To:** City Council Public Comment  
**Subject:** Re: Agenda item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Agenda item 12 Project No. 2355-APP

The City of South Pasadena has NO RIGHT to approve road construction in an area that does not lie in its limits and the City of Los Angeles has not been included in this planning process!

This proposed construction potentially violates the rights of the property owners and residents of the affected areas in terms of potential displacement, increased traffic and related health issues, as well as impacting the wildlife and plantlife of the area - including multiple endangered Southern California Black Walnut Trees. The piecemealing of this project in order to avoid having to produce an environmental impact report is also unconscionable.

Sincerely,  
Dr. Elwing Suong Gonzalez

---

**From:** Nancy Ladner [REDACTED]  
**Sent:** Tuesday, October 20, 2020 12:11 PM  
**To:** City Council Public Comment  
**Subject:** Fwd: Agenda Item 12, Project No 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

This comment is for Agenda Item 12, Project No 2355-APP (the road construction around E. Moffatt St.) I hope it can be read at the public hearing, or somehow included for the panel to see.

My name is Nancy Ladner. I have been following and opposing this project all year. I attended the in-person hearings before the planning commission in March.

It appears that South Pasadena agreed with its many concerned residents by denying the road construction through Moffatt Street. This was the right decision because the extension would damage the character of the neighborhood, displace coyotes and bobcats into the neighborhood, and would have very negative effects in the adjoining Los Angeles neighborhood.

However, South Pasadena's decision to allow the road construction to be built through a Los Angeles street, is baseless. The City of South Pasadena does not have jurisdiction to approve a project in a different city. If South Pas wanted to allow construction on South Pas land, but did not want to allow the extension through Moffatt Street, the correct decision would have been to deny the Moffat Street extension and nothing further. It was improper and without any reasonable grounds for South Pas to approve construction of a road in the City of Los Angeles.

Furthermore, I can see that the Los Angeles land on which the street would be built is very narrow and steep, and it is my understanding that the developer did not submit a plan for this alternative road. This makes South Pasadena's approval of this project even more irresponsible. It is approving a project it has not even reviewed (because it has no jurisdiction to do so) and allowing the developer to push through construction in Los Angeles without getting proper approval through Los Angeles. This decision should be REVERSED.

Thank you,

Nancy Ladner

---

**From:** Amanda Rojas [REDACTED]  
**Sent:** Tuesday, October 20, 2020 12:12 PM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12: project No.2355-APP URGENT\*\*

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello there,

My name is Amanda Rojas and I live on the border between South Pasadena and El Sereno. I recently heard of a project no. 2355-APP, about a developer trying to build a private road through Lowell avenue. As a citizen of this community, I am speaking out against this. Not only that there is no environmental report, but the city of Los Angeles and especially the El Sereno community are not included in this plan and I guarantee are not for it. Our neighborhood is already being gentrified and the hills have been taken up so much for expensive properties, raising the housing market cost and destroying the natural beauty of these hills. I hope you do not try to even touch this land for the greed of homes. Go build them somewhere else!



---

**From:** Ashaki M. Jackson [REDACTED]  
**Sent:** Tuesday, October 20, 2020 12:41 PM  
**To:** City Council Public Comment  
**Subject:** Public Comment on Agenda Item 12, Project 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

I submit this comment as a long-time resident of the [REDACTED]

It has come to our attention that Orange County developers seek to increase residential density and traffic just north of our homes on behalf of South Pasadena. This news is disappointing given our neighborhood's long history of preventing the 710 expansion through/above/beneath our homes. Then, we were deeply concerned about environmental decline, increased traffic, plummeting property value, and worse, imminent domain, and we are still watching developers closely as they leisurely survey our area.

The news is also disconcerting because two cities that are not Los Angeles are partnering to build in Los Angeles. This seizure feels dishonest and, to some extent, outside of agreements made to leave Los Angeles land to Los Angeles.

Moving forward, I request that all residents of Lowell Avenue north of Huntington Drive and adjacent residents (Atlas, Stillwell, Richard Circle) receive full transparency when our neighborhood is discussed in any way, including as inconsequential, for proposed developments. It is our narrow streets, our air quality, our quality of life, our beloved and rare flora and fauna, our mountainside, and our input that aren't included in these discussions. We do not deserve this erasure.

Thank you for this moment on record.

Ashaki M. Jackson, MFA, Ph.D.  
Social Psychologist and Program Evaluator  
[REDACTED]

---

**From:** Ernesto Vazquez [REDACTED]  
**Sent:** Tuesday, October 20, 2020 1:46 PM  
**To:** City Council Public Comment  
**Subject:** Item#12 Project No.2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To City of South Pasadena,

I am a resident of El Sereno and I live nearby the proposed project number 2355-APP which is Agenda item #12 for this upcoming meeting on Wednesday October 21, 2020. I am writing this email to opposed the project for the following reasons:

- The right to approve this project is not within the rights of the City of South Pasadena.
- There were no development plans produced or presented to the community by the developer.
- The City of Los Angeles has not approved or been informed of the project.
- Excavation disrupts the foundations of existing homes.
- Extensive excavating will be digging into bedrock that is on or near a faultline.
- There is no plan for hau route or staging area.
- Project permanently removes parking from current tenants and the community.
- The Developer has ignored the concerns that are emerging from the community.

Please take these considerations into account and listen to the community before large projects like these "luxurious apartments" disrupt and displace the current tenants and community by adding unnecessary "homes" which the community can not afford. These projects are reminders that the city and its councilmembers do not hear the concerns from the whole community and only listen to the deep pockets of developers. I hope this statement finds its way to the right individuals who can halt this project.

With regards,

Ernesto Vazquez  
El Sereno Resident Community Member

---

**From:** Jillian Ryan [REDACTED]  
**Sent:** Tuesday, October 20, 2020 3:27 PM  
**To:** City Council Public Comment  
**Subject:** Re: Agenda item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The City of South Pasadena has NO RIGHT to approve road construction in an area that does not lie in its limits and the City of Los Angeles has not been included in this planning process!

This proposed construction potentially violates the rights of the property owners and residents of the affected areas in terms of potential displacement, increased traffic and related health issues, as well as impacting the wildlife and plantlife of the area - including multiple endangered Southern California Black Walnut Trees. The piecemealing of this project in order to avoid having to produce an environmental impact report is also unconscionable.

Sincerely,

Jillian Ryan

[REDACTED]

---

**From:** Rachel Jones [REDACTED]  
**Sent:** Tuesday, October 20, 2020 4:44 PM  
**To:** City Council Public Comment  
**Subject:** Concerned Citizen Against El Sereno Private Road Development

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To South Pasadena City Council,

My name is Rachel Jones, and I am a resident of El Sereno writing to provide public comment regarding Agenda Item 12 Project No. 2355-App. I am deeply concerned that the decision to develop an area of my neighborhood has apparently — somehow — come under the purview of South Pasadena. Indeed I am unclear as to why this development is being managed (or mismanaged) by South Pasadena at all, and certainly would appreciate further explanation.

Beyond the murky legal issues present, and whether it is South Pasadena or Los Angeles that has true jurisdiction over this project, I am certain that the development would cause harm to our community and local ecology by way of disrupting natural habitat, destabilizing residential foundations, reducing both parking and public land, and generally undermining the interests of a rooted community in favor of corporate wealth gain. If there is, in fact, an environmental report that has been conducted in regards to this project, I ask that it be made available to residents immediately. And if there is no environmental impact report, I would like to know why.

Thank you in advancing for recommitting yourselves to community transparency and moral fortitude, i.e. not selling a community and its land to the highest bidder just because it's possible.

Sincerely,  
Rachel Jones

---

**From:** R Perez [REDACTED]  
**Sent:** Tuesday, October 20, 2020 4:55 PM  
**To:** City Council Public Comment  
**Subject:** Agenda item #12 / project no.2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Subject: No to access easement**

No to access easement will cause earth erosion , will harm and displace wild life inhabitants and cause hillside to be compromised along with enviroment.

Rickey perez

Sent from my iPhone

---

**From:** Leticia Callela-Austin [REDACTED]  
**Sent:** Tuesday, October 20, 2020 4:59 PM  
**To:** City Council Public Comment  
**Cc:** [REDACTED]  
**Subject:** Proposed project on La City property?!

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon.

I was just today made aware of a project that your town has decided to approve despite most of the work being in the city of Los Angeles in the area where I live. As a resident of El Sereno for over 30 years, I am both alarmed and disgusted at the lengths the City of South Pasadena has time and again tried to do their way with land and roads without consulting the very residents living on the edge of the City of Los Angeles. As someone who lives on North Lowell Ave., you can bet that I have not heard one PEEP from LA City regarding this matter. Neither have any of my neighbors. The only reason I was even made aware of this was social media. Did South Pasadena ONCE think to consider the residents of El Sereno, many of whom ARE property owners?

This is egregious and you can bet, I will be signing up for all your local city government meetings even if they are on Zoom.

Best,  
Leticia Callela-Austin  
El Sereno MS Educator  
Lifetime resident

Sent from my iPhone

---

**From:** Wendy Gutschow [REDACTED]  
**Sent:** Tuesday, October 20, 2020 7:19 PM  
**To:** City Council Public Comment  
**Subject:** SP City Council Meeting Agenda Item #12

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

In regard to Agenda item #12: Project No. 2355-APP Appeal of the planning commissions decision to approve Project No. 2191-HDP/TRP

This seemingly obscure item to many folks might seem like just another building permit issue. However, the City of South Pasadena's role in granting permission to a private developer to use the easement to access their building site to construct a private road extension of E. Moffat St. screams of scandal. Really? How can the city grant access to land that is not in their city? The development of this road impacts the properties, health and environment around the proposed project. Properties of homeowners that are located in both South Pasadena and El Sereno. You have received opposition to this multiple times and yet you continue to persist. Realizing the city has many issues at hand, this is not to be swept under the rug and approved I hope. Residents and community members of both South Pasadena and the City of Los Angeles have provided public comment that vehemently opposes the City of South Pasadena's role in this project. Do the right thing and deny it, despite the bind it might put the City in with the developer.

Respectfully,

Wendy Gutschow  
South Pasadena resident

---

**From:** Email [REDACTED]  
**Sent:** Tuesday, October 20, 2020 8:24 PM  
**To:** City Council Public Comment  
**Subject:** Re: Agenda item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The City of South Pasadena has NO RIGHT to approve road construction in an area that does not lie in its limits and the City of Los Angeles has not been included in this planning process!

This proposed construction potentially violates the rights of the property owners and residents of the affected areas in terms of potential displacement, increased traffic and related health issues, as well as impacting the wildlife and plantlife of the area - including multiple endangered Southern California Black Walnut Trees. The piecemealing of this project in order to avoid having to produce an environmental impact report is also unconscionable.

Sincerely,

Angie Prasad



---

**From:** Sharon Alcazar [REDACTED]  
**Sent:** Tuesday, October 20, 2020 9:28 PM  
**To:** City Council Public Comment  
**Subject:** Project Number: 2355-APP (2191-HDP/TRP)/ OCT 21 7:30PM AGENDA

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,

Our names are Sharon and Paul Dominguez and we are the owners of [REDACTED]  
[REDACTED]

I am writing to state we ooppose Project No.2355-APP (2191-HDP/TRP), agenda item #12

We are the neighbors of 4519 Lowell and adjacent are the apartments 4520 Lowell Ave.

We reviewed the power point presentation provided by the developer and there a few concerns that are not addressed.

1. Access to new lots through Lowell Ave is not a decision that needs to be made by the city of South Pasadena. The city of South Pasadena is taking an illegal action and supporting the decision of creating a private road through the city of Los Angeles.
2. Lowell Ave is currently a one-way street without the opportunity for easy access. At the moment, tenants from the apartments at 4520 currently use Lowell Ave to park. When emergency vehicles, deliveries, and vehicles drive up the hill and run over the curb where apartments are located or illegally turn into our driveway on a daily basis and vehicles always have difficulty reversing on Lowell due to one way access. Property damage to our property and vehicles also occur on a daily basis.
3. The developer hasn't presented any resolutions for the property owners affected on the Los Angeles property line (including our property).
4. In regards to utilities, sewer and electrical, it mentions the city of Los Angeles will be liable. The electricity and sewer system is located in front of our home and the developer would need to have a point of access to the homes that will be built blocking our backyard view. (how are we protected from trespassing) It is implied homeowners will not have no choice but to comply with the developers demands even though it's been years since he has contacted us.
5. We also oppose the permit for numerous tree removal. Trees should not be removed. They provide oxygen and are organic food resources.
- 6 The developer provided plans and clarifications to the new street development, our biggest concern is the speed limit of cars entering and exiting the private street. Also, in the powerpoint presentation it does not discuss trash collection.
- 7.. The developer also discusses dwelling, landscaping, water drainage, for new homes that are intended to be built in our backyard but he does not go into detail as to where the exit point will be..through our property line?

And how water drainage will affect our property line. Currently when it rains we have puddles of water that form in our backyard due to the hillside.

9. If the private street is granted, we lose the peacefulness of our cul de sac.

10. Plans and approval to the city of Los Angeles have not provided to the city. The decision is not a sustainable solution. The city of South Pasadena does not have the right to dictate the access of a private road through the city of LA. The city of LA needs to be made aware of the decision South Pasadena is trying to impose to "make it easier" for the city to grant access for a private road without disturbing their community.

In summary, we feel that the residents of South Pasadena, enjoy the peacefulness of the dead-end street and would not appreciate the increased traffic due to construction of a private street that would restrict residents of 4519 and 4520 to have access to their parking garages and their home. The hillside behind us has been abandoned for many years and even though the developer states that they won't displace wildlife and the land is sustainable, our biggest fear as residents of 4511 Lowell is that the foundation of our remodeled and surrounding homes will be affected due to the dwelling and constant digging.

We oppose this project all together and do not see the need to build 7 \$1M dollar homes and create a private street in order to access homes. Council members voted against the project in 1961 and we ask that you do so again in 2020. Our beautiful City of Los Angeles does not need 7 additional homes. We feel that his project is not necessary and is not in need of another developer to make millions of dollars based on a decision by the city of South Pasadena that would profit the city of Los Angeles. Thank you for your time.

Best,

**Sharon Alcazar**

[REDACTED]

---

**From:** Joan Manansala [REDACTED]  
**Sent:** Tuesday, October 20, 2020 10:15 PM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12 Project No. 2355-APP Commentary

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am a resident on Maycrest Avenue in El Sereno and I'm reaching out to comment on Agenda Item 12 Project No. 2355-APP.

First: LA City should have lead agency status.

Second: if the project is to move forward, the developer should submit a CEQA Report of the whole project. The community should know how this development will affect it.

Third: I'd rather you just leave my neighbor's easement alone.

Finally: the last thing I want to see on Maycrest, an already congested narrow avenue with many parked cars (bus stops, local business traffic as well) are construction dump trucks adding their size and noise to the already dense traffic. Have them re-routed elsewhere where there is less congestion.

--

Thank you,  
Joan M. Manansala  
[REDACTED]

---

**From:** G S [REDACTED]  
**Sent:** Wednesday, October 21, 2020 9:05 AM  
**To:** City Council Public Comment  
**Cc:** [REDACTED]  
**Subject:** Agenda Item 12, PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning,

As a homeowner in El Sereno, I AM AGAINST THIS PROJECT (PROJECT NO. 2355-APP).

I do not understand how South Pasadena is allowing an OC based developer to build a private road to undeveloped landlocked lots on a hill in El Sereno. Does South Pasadena have legal rights to approve road construction in El Sereno? Since this road will connect to Lowell Ave. in El Sereno has the City of Los Angeles been included in this planning process? Have official plans and an environmental report (CEQA) been required/completed?

My home is located close to Lowell Ave. and am incredibly alarmed at how another city is allowing this construction in my city and neighborhood.

This project will disrupt the foundations of the existing homes surrounding the area, require an extensive amount of excavating near a fault line, permanently remove parking from the homeowners and residents there, displace an array of already threatened wildlife, endanger our Southern California Black Walnut trees, raise housing costs, and displace many people within my community.

As this would require two projects, first the construction of the private road, and then later the building of the "luxury homes", this would create health issues for those living nearby and increase traffic dramatically on a very narrow street, Lowell Ave.

There are also questions as to South Pasadena allowing these homes to obtain South Pasadena addresses. It appears the OC based developers wish to use South Pasadena's school district as a selling point.

South Pasadena City Council and El Sereno representatives please let me know how this is legal?

El Sereno Homeowner  
Guadalupe Salcedo  
[REDACTED]

---

**From:** Chris Alvarado [REDACTED]  
**Sent:** Wednesday, October 21, 2020 11:10 AM  
**To:** City Council Public Comment  
**Subject:** Comment on Agenda Item 12 Project No. 2355-APP.

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am a resident on Maycrest Avenue in El Sereno and I'm reaching out to comment on Agenda Item 12 Project No. 2355-APP.

First, LA City should have lead agency status.

Second, the developer should submit a CEQA Report of the whole development, not piecemeal it.

Last, I do not want to see construction dump trucks up and down Maycrest and Lowell. These are already narrow congested avenues with DASH bus routes.

Have them re-routed elsewhere where there is less congestion.

*Thank you,*

*Chris Alvarado*

---

**From:** Laura DeLoretta [REDACTED]  
**Sent:** Wednesday, October 21, 2020 12:13 PM  
**To:** City Council Public Comment  
**Subject:** Re: Agenda item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

The City of South Pasadena has NO RIGHT to approve road construction in this area and the City of Los Angeles has not been included in this planning process!

This proposed construction violates the rights of the property owners and residents of the affected areas in terms of potential displacement, increased traffic and related health issues, as well as impacting the wildlife and plantlife of the area - including multiple endangered Southern California Black Walnut Trees. The piecemealing of this project in order to avoid having to produce an environmental impact report is also unconscionable.

Sincerely,

Laura DeLoretta

---

**From:** Eck Chaiboonma [REDACTED]  
**Sent:** Wednesday, October 21, 2020 12:25 PM  
**To:** City Council Public Comment  
**Cc:** N-Jan; N-John Nelson; N-Lori Pickell; N-Tim McElearney; N-Lillias Krezel; Debbie Chaiboonma; Derek Chaiboonma; Kira Chaiboonma; N Rolando Thorbourne  
**Subject:** Moffat St extension Agenda item 12, Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Eaksith Chaiboonma. I'm residing at [REDACTED]

I'm objected to the approval of the Moffat Street extension for the following reasons:

1. Displacement of wildlife in the area such as Cayote, Skunk, Possum, etc.
2. Increase local traffic.
3. Create future liabilities (accident injuries, etc.) for the City of South Pasadena.
4. The operating expenses to maintain the street, such as street cleaning, repair & maintenance, plus police services, could be substantial and will last forever. The Developer may promise to pay all these expenses, but they will not be around when the cost occurred.
5. The City is now in financial difficulty or confusion; it's not a fair judgment to get into a new one.
6. I believe you may have broken the "Brown Act" because several of us who live on Maycrest Avenue (close to the subject project ) never receive any notice of the City's meetings.
7. Please ensure that non of the City Council Members ever receive any contributions from this Developer or project's stakeholders.

If there is a future hearing regarding this project, please add my name and address to your mailing notification.

Eck Chaiboonma, [REDACTED]

---

**From:** Carmelita Salazar [REDACTED]  
**Sent:** Tuesday, October 20, 2020 4:26 PM  
**To:** City Council Public Comment  
**Subject:** Road on El Sereno

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I'm emailing you because I disapprove of the decision to build a road on a hill in El Sereno. It disregards the feelings of residents that live there and it also will do harm to wildlife and nature. Please listen to the voices of residents who live there who are also warning of the rising housing costs that may arise by the development of luxury lots in the area.

The legal right to approve this road construction does not lie with South Pasadena but rather to the homeowners of the neighborhood.

Best,  
Carmelita S.



---

**From:** Marleen Munoz [REDACTED]  
**Sent:** Wednesday, October 21, 2020 9:18 AM  
**To:** City Council Public Comment  
**Subject:** El Sereno Development

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,  
>  
> I urge you to reconsider building luxury homes in El Sereno. Doing so would be disastrous to wildlife but also to the El Sereno community. We do not want our housing and living expenses to go up. Please go somewhere else that does not risk displacing people, like Beverly Hills or Encino.  
>  
>

# PALMIERI TYLER

ATTORNEYS AT LAW

**Stephen A. Scheck**  
Direct Dial (949) 851-7221  
Direct Fax (949) 825-5417  
sscheck@ptwww.com

Refer To File No. 37056-003  
Document I.D. 2970018.1

October 14, 2020

## VIA E-MAIL

Joanna Hankamer  
Director of Planning and Community Development  
Planning and Building Department  
City of South Pasadena  
1414 Mission Street  
South Pasadena, California 91030

Re: Project No. 2191-HDP/TRP - Hillside Development Permit and Tree Removal Permit

Ms. Hankamer:

As you know, our firm represents HDP Moffatt Street LLC ("HDP") and Planet Home Living ("PHL") (collectively the "Developer"), the owner of seven lots ("Developer's Property") on the south side of the former Moffatt Street, west of May Crest Avenue, in the City of Los Angeles immediately adjacent to the southerly boundary of the City of South Pasadena (the "City").

Developer's Property is landlocked and has access to the existing Moffatt Street via a Right-of-Way Easement ("Access Easement") granted by the City across the privately owned property immediately to the north of the lots, which property was formerly owned by the City. Such Access Easement (recorded on June 14, 1962 in Book D1649, Page 122) was granted in place of the former Moffat Street which was a public street vacated by the City in 1962. The only means of access to Developer's Property is across the Access Easement which is, as of this date, unimproved.

In connection with Developer's proposed development of Developer's Property, Developer made application with the City to construct a private access drive over the area covered by the Access Easement, which application is identified as Project No. 2191-HDP/TRP. Developer's application and the proposed construction of the private access driveway was discussed at the March 10, 2020 meeting before the City's Planning Commission. The Planning Commission did not issue a determination with respect to my client's application at that time and continued the hearing. Due to technical issues with the City's telephone messaging system that impacted public comment, Developer agreed to further continue the matter to the Planning Commission meeting on July 14, 2020. At the July 14, 2020 meeting, the Planning Commission requested that City Staff and Developer look into an alternative route of access to Developer's

Joanna Hankamer  
October 14, 2020  
Page 2

Property from Lowell Drive instead of Moffatt Street, and further continued the hearing until August 11, 2020.

Following further public comment and discussion, the Planning Commission approved Developer's application by a 3-2 vote at the August 11, 2020 hearing, conditioning such approval, among other things, upon access to Developer's Property coming from Lowell Avenue in the City of Los Angeles.

We have been informed that an appeal of the Planning Commission's approval of Developer's application was timely filed by Micah Haserjian, who resides at 4519 Lowell Avenue in Los Angeles, which property is located immediately to the east of Developer's Property and is at the existing terminus of Lowell Avenue. Mr. Haserjian's appeal incorporates a letter to the City from Neilesh Mutyala, who resides at 2050 La Fremontia Street in South Pasadena, and whose property underlies a portion of the Access Easement. This letter addresses the claims set forth in Mr. Haserjian's appeal and Mr. Mutyala's letter separately.

### **Haserjian Appeal**

The appeal filed by Mr. Haserjian raises several bases upon which he believes the Planning Commission's decision should be overturned. None of those bases are persuasive and each is addressed in turn below:

- **Incomplete Documentation Provided by City**

The first basis for the appeal is that Developer and the City have "withheld" documentation regarding the history of the property from the public. This statement is puzzling. The documentation cited by Mr. Haserjian as having been withheld is in the public domain, as evidenced by the fact that Mr. Haserjian has attached some of such documentation to his appeal. Two of the three documents listed by Mr. Haserjian as being "withheld" are documents that have been recorded against the property. Mr. Haserjian makes no mention of any efforts he has made to contact the County Recorder to obtain copies of the same. We note that Developer's application was originally filed with the City in 2019. Mr. Haserjian has thus had at least ten months to locate any documentation he deems germane to this matter. The fact that he has not done so does not implicate any wrong-doing by the City or Developer. Indeed, Mr. Haserjian provides no evidence that any desired documentation has been withheld by the City or "selectively provided" other than the fact that he does not possess such documentation.

Joanna Hankamer  
October 14, 2020  
Page 3

- Private Property Owners Have Right to Approve Private Driveway

Because this issue is the primary focus of Mr. Mutyala's letter, we have addressed this matter in our response to Mr. Mutyala's claims below.

- Construction of Private Driveway Would Place Undue Burden on Surrounding Property Owners

As noted above, Mr. Haserjian owns the property located at 4519 Lowell Avenue, in the City of Los Angeles, which is located at the "top" of Lowell Avenue immediately adjacent to the current terminus of Moffatt Street. Mr. Haserjian alleges that he has a prescriptive easement claim over a portion of the area covered by the Access Easement with respect to his existing deck and driveway.

While it goes without saying that Developer disagrees with Mr. Haserjian's prescriptive easement claim, the City should be aware that the validity of such claim and Developer's defenses thereto relate to a matter of dispute between private parties that does not fall within the City's approval authority concerning the project. If Mr. Haserjian believes he has a valid prescriptive easement claim, his recourse is through the court system against the owner of the property and the easement holder. A claim for a prescriptive easement does not provide Mr. Haserjian with any recourse against the City as the City is neither charged with nor responsible for determining the validity of such claim and, in fact, lacks the authority or jurisdiction to make such determination. As you are aware, in recognition of the foregoing, Developer agreed to indemnify the City with respect to this matter as part of the application process.

The foregoing notwithstanding, the conditions of approval for the Project issued by the Planning Commission currently require that access to the private driveway be made from Lowell Avenue. The redesigned orientation of such access (as opposed to the originally planned access off of Moffatt Street) will permit Mr. Haserjian to continue to access his house and garage in the same manner as currently exists. To the extent he has access easement rights within the Access Easement (which Developer disputes), Mr. Haserjian will continue to be able to use them after the private driveway has been constructed.

Mr. Haserjian also states that the "subterranean utilities, storm drainage, street lights, and retaining walls" to be constructed within the Access Easement are "not necessary" for Developer to access the Developer's Property and, therefore, this places an "undue burden" on the surrounding property and environment. As you are aware, the scope of improvements that will be constructed within the Access Easement is in conformance with

Joanna Hankamer  
October 14, 2020  
Page 4

applicable law and the requirements of governmental agencies, which include the City's Hillside Development Ordinance and the fire department.

- Proposed Private Driveway Does Not Provide Access to All 13 Lots Appurtenant to the Access Easement

Mr. Haserjian raises concerns on behalf of unnamed property owners who are also beneficiaries of the Access Easement claiming that Developer should be required to consult with such owners regarding the proposed private access driveway. This claim is similarly misguided. Developer owns seven lots that are beneficiaries of the Access Easement. The Access Easement document states that the "*right of ingress and egress shall be used by Grantees individually and as a group in such manner as not to interfere with the ingress and egress of any others of Grantees*". Each of the other benefited lots is free to use the private driveway to be constructed by Developer, however, Developer is under no obligation to construct improvements within the Access Easement benefitting such other lots.

In any event, and contrary to the statement made by Mr. Haserjian that the owner of Lot 12 has not been consulted regarding the project, Developer did, in fact, reach out to such owner several years ago, informed such owner of Developer's plans and even offered to purchase Lot 12. The owner of Lot 12 declined such offer and did not indicate any desire to participate in the project. The owner of Lot 12 is within the 300 foot radius of the project that is entitled to notice of all public hearings and, to Developer's knowledge, has been so notified. Developer does not believe the owner of Lot 12 has attended any public hearing or provided any comments to the City regarding the project. Regardless, Developer's design of the improvements to be constructed within the Access Easement allows for the owner of Lot 12 to access the private driveway as noted above.

- Project Is Not Exempt From CEQA

Mr. Haserjian next alleges that the project is not exempt from the California Environmental Quality Act ("CEQA"). Such allegation is likewise without merit. In the Planning Commission Agenda Report submitted to the Planning Commission in advance of the original hearing on March 10, 2020, the City's Planning & Community Development department noted that the Project is:

"exempt from any California Environmental Quality Act (CEQA) analysis based on State CEQA Guidelines Section 15303, Class 3 – New Construction or Conversion of Small Structures. Class 3 exemption includes water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction."

Joanna Hankamer

October 14, 2020

Page 5

Notwithstanding such determination by City development staff, during the March 10th public hearing before the Planning Commission, some members of the public argued that the construction of the private access drive within the Access Easement must be viewed together with Developer's planned construction of the seven homes on the Developer's Property as a single project to determine the entire project's impact on the environment. Such parties argued that the City would be "piecemealing" the CEQA determination if it only looked at the development of the private access drive without also addressing the construction of the seven homes in neighboring Los Angeles. Such argument is misplaced. The project is not being "piecemealed".

Pursuant to CEQA, a "piecemeal" review of the environmental impacts of a project is prohibited. That is to say, a project cannot be chopped up "into many little ones - each with a minimal impact on the environment - which cumulatively may have disastrous consequences." (*Berkeley Keep Jets Over the Bay Com. v. Board of Port. Comrs.* (2001) 91 Cal.App. 4th 1344).

It is clear that the project is not and cannot be subject to a "piecemeal" analysis under CEQA because both components of the total project - the construction of the private access drive within the City and the construction of seven homes on the Developer's Property - are each independently exempt from CEQA.

As noted above, City staff has determined (and Developer agrees) that the construction of the private access drive within the City is exempt from CEQA pursuant to CEQA Guidelines Section 15303, Class 3.

The construction of the seven homes on Developer's Property located within the City of Los Angeles is likewise exempt from CEQA as it is a "by right" development that does not require any "discretionary" approvals from any governmental agency. CEQA does not apply to proposed agency actions that are ministerial in nature.

The seven homes to be constructed by Developer in the City of Los Angeles will be built in conformance with the Northeast Hillside Ordinance (Ordinance No. 180403) ("NEHO"). On May 4, 2020, Nicole Sanchez, City Planner for Los Angeles City Planning, sent the following e-mail to you, Kanika Kith, Malinda Lim and my client, in response to inquiries regarding the nature of the proposed development on Developer's Property and whether or not it was ministerial in nature:

*"As long as the proposed dwellings comply with the Q Conditions and D Limitations (aka the Northeast Hillside Ordinance) as well as the applicable sections of the Los Angeles Municipal Code, then the dwellings would be "by-right" and would solely need to go through plan check in order to get Planning*

Joanna Hankamer

October 14, 2020

Page 6

*Department approval. The only time a project in this area would need a discretionary review/approval for the construction of the dwellings, is if the dwellings do not comply with the Ordinance or the Code and the applicant would need to request to deviate from the Ordinance or the Code.*

*As of today, I have not seen plans for the proposed dwellings that show compliance with the Ordinance and/or the Code so I can only speak to how the general process works."*

Developer has not yet prepared plans for the development of the seven homes because it first needs to secure physical access to the lots by means of the private access drive. It is my understanding that the City of Los Angeles won't process plans for the proposed homes until such access drive has been, at the very least, approved for construction by the City.

Developer will be submitting plans for the seven homes that will be in conformance with NEHO, and will not be seeking any variance from the application of NEHO which would otherwise be inconsistent with the ministerial processing of such plans. To ensure the foregoing, Developer agreed to the following condition of approval to the project issued by the City, which is identified as condition P-13:

*The developer shall submit preliminary development plans (site plan and elevations) for the construction of either combination of properties reference in Condition P-11 to the City of Los Angeles Planning and provide documentation from the City of Los Angeles confirming that the plans as presented will not be subject to discretionary review.*

The foregoing condition, which must be satisfied prior to the City's issuance of a grading permit, will ensure that the construction of the seven homes will be exempt from CEQA, and therefore the project cannot be subject to "piecemealing".

- Proper Coordination With City of Los Angeles Regarding Street Connection to Lowell Avenue Has Not Been Completed

Mr. Haserjian alleges that the project has not been coordinated with the City of Los Angeles with respect to the connection of the Access Easement to Lowell Avenue (which is in the City of Los Angeles). Such argument is disingenuous at best. The Planning Commission, acting in response to public comments and concern with an overburdening of the existing Moffatt Street in the City, conditioned its approval of the private driveway upon Developer's agreement to obtain access from Lowell Avenue. Such condition is enumerated as condition P-22 in the conditions of approval, and requires Developer to provide

Joanna Hankamer

October 14, 2020

Page 7

*"documentation demonstrating approval from the City of Los Angeles for the private street connection to Lowell Avenue"* prior to issuance of a grading permit.

To further delay Developer's project until such time as City of Los Angeles has approved access off of Lowell Drive would unfairly delay Developer's project. The foregoing condition of approval protects the City and ensures that development of the private driveway will not proceed until such time as the City of Los Angeles has approved the linkage from Lowell Avenue.

- Project Would Be Detrimental to Environment, etc.

Developer's Project is in full compliance with all applicable environmental laws and the City's conditions concerning the replacement of any trees. While it is true that the lots have not been developed, they have existed as legal, buildable lots since the tract map creating such lots was recorded in 1920. It is unfortunate that the neighbors view Developer's Property as "open space" because it has not been open space for 100 years. Developer will develop the Developer Property in full compliance with existing laws.

- Effects of COVID-19 Make Approval of the Project Irresponsible

Mr. Haserjian believes that the current COVID-19 pandemic has limited public comment on this matter. We disagree. This matter has been the subject of three public hearings before the Planning Commission. The first, on March 10, 2020, was a normally conducted, live meeting that lasted several hours and provided dozens of individuals with the opportunity to share their concerns regarding the project with City Staff and the Planning Commission. That live hearing was followed by a second hearing before the Planning Commission on July 14, 2020, which was conducted virtually due to the pandemic. Members of the public were able to deliver telephonic, e-mail and written comments to the Planning Commission prior to that hearing, and many did so. Finally, there was a third Planning Commission hearing held virtually on August 11, 2020, prior to which members of the public were again able to submit their comments.

Indeed, the reason project approval required three hearings is precisely because the Planning Commission was responding to questions and concerns raised by members of the public through the comment processes made available. Community voices were clearly heard, and the Planning Commission required certain conditions on the project (as described above) in response to those voices.



Joanna Hankamer  
October 14, 2020  
Page 8

### **Mutyala Letter**

The letter from Mr. Mutyala that was incorporated in Mr. Haserjian's appeal raises two claims (with the first claim handled in two parts) as to why the Planning Commission's decision should be overturned. As with the claims set forth in Mr. Haserjian's appeal, we find that neither of Mr. Mutyala's claims offers compelling grounds to overturn the Planning Commission's approval of the project. Each such claim will be addressed in turn:

- **Grantor & Grantees Intent and Successors and Rights Transferred in the Easement**

These two matters are listed separately in Mr. Mutyala's letter, but they are actually two parts of the same argument: that the owners of the properties underlying the Access Easement, as successors-in-interest to the City, have the right to approve any change to the grade of "Moffatt Street (vacated)".

Developer's position, raised first in my June 25, 2020, letter to you and again at the public hearing on July 14, 2020, is that the language of the recorded Access Easement does not support such argument and that the clear language of the document supports that only the City would have the right to approve any grade change. Such position is restated below.

Line 22 of page 2 of the Access Easement states that "Grantees shall make no changes in the grades of said Moffatt Street (vacated) without first obtaining the approval of the Grantor." As noted in his letter, Mr. Mutyala believes that because he is the successor owner of the La Fremontia Street property that he is now the "Grantor" under the Access Easement and, therefore, Developer is required to obtain his approval if it desires to change the grade of the area covered by the Access Easement. Developer disagrees with such contention.

The rules governing succession to the benefits and burdens of appurtenant easements are clear. An "appurtenant easement" is an easement that runs in favor of particular property, as is the case with the Access Easement. The creators of easements are free to specify the terms on which successors will be bound or benefited by easements and the manner in which the burdens and benefits may be transferred.

The law is clear that the benefits of an appurtenant easement pass *automatically* with the dominant estate (*Rosebrook v. Utz* [1941] 45 CA 2d 726, 729). No instrument of transfer is necessary. Accordingly, the benefits of the Access Easement run in favor of Developer as a successor-in-interest as owner of seven of the lots granted access from Moffatt Street thereunder even in the absence of specific language in the document to that effect.

Joanna Hankamer  
October 14, 2020  
Page 9

By contrast, benefits retained in favor of the servient estate, which is the property burdened by the easement (in this case, the property owned by Mr. Mutyala), do not pass automatically with ownership of the servient estate. Such benefits will only run in favor of such successors *if such right is clearly stated in the document creating the easement*. No such statement is included in the Access Easement.

The Access Easement defines "Grantor" as "The Community Redevelopment Agency of the City of South Pasadena, California", which owned the property underlying the Access Easement at the time the Access Easement was granted in 1962. The Access Easement defines "Grantees" as "the owners of the lots located in the City of Los Angeles abutting the south line of Moffatt Street, a public street in the City of South Pasadena".

Although there are a total of seventeen references to "Grantor" and "Grantees" in the document (seven references to Grantor and ten references to Grantees), there are only three that also reference such parties' successors and/or assigns.

Two such references relate to the successors and assigns of Grantees. Such statements are blanket in nature, with the first reference located in the granting clause which actually grants the easement itself, and the second reference in the final paragraph of the document in which Grantor reaffirms that the easement has been conveyed to Grantees.

The granting clause of the Access Easement, set forth in lines 26 and 27 on page 1, states that "Grantor hereby grants to Grantees *and each of their successors and assigns*, an easement for ingress and egress from and to said lots described in Schedule B . . ." (emphasis added).

The final paragraph of the Access Easement, set forth in lines 12 and 13 on page 3, reads: "TO HAVE AND TO HOLD the above-mentioned easement and right unto the Grantees, *their successors and assigns*, forever." (emphasis added).

The document is clear, in these two references, that all rights in the easement as set forth in the document run in favor of the Grantees as they existing in 1962 when the Access Easement was recorded, as well as in favor of the successors and assigns in ownership of the lots referenced therein, which includes Developer. This also comports with the general rule governing the rights of successors to a grantee under a grant of easement noted above.

By contrast there is only one reference to the successors and assigns of Grantor. On page 2 of the document, the grant of easement is made subject to four separate restrictions. The fourth and final such restriction (set forth in line 1 on page 3) states that "Grantor, *its successors or assigns*, agrees not to deposit or permit or allow to be deposited, earth, rubbish, debris or any other substance or material . . . or to construct any fences or other structures on

Joanna Hankamer  
October 14, 2020  
Page 10

said right-of-way strip so as to interfere with the right of ingress and egress herein granted to the Grantees" (emphasis added). By its clear terms, the only provision of the Access Easement that is expressly intended to be binding upon the successors and assigns of Grantor is actually a *restriction* on the rights of Grantor.

There is no reference in the document that any other rights of Grantor, including the right to approve any change in grade of the access easement area (as set forth in lines 22 through 24 on page 2), inures to the benefit of the successors-in-interest as owners of the property underlying the easement.

Pursuant to the rules of general contract interpretation, if the parties to a contract use specific language with respect to one aspect of the contract (as they did when referencing "Grantor, its successors or assigns" in lines 1 and 2 on page 3 with respect to the restrictions binding upon Grantor's successors), but do not use the same specific language in other areas of the contract (as they failed to do in lines 22 through 24 on page 2 with respect to the approval rights of Grantor concerning approval of a grade change), then the failure to use such specific language is deemed to reflect the intention of the parties to treat such contract provisions differently.

If the original Grantor under the Access Easement had intended that the right to approve grade changes in the easement area would be a right exercisable by its successors in ownership of the property, then the original Grantor would have included specific language stating so. The original Grantor did not do so. In addition, the original Grantor could have included a general clause in the final paragraph stating that all rights under the document inured to the benefit of its successors and assigns, as it did with respect to the easement and rights of the Grantees. The original Grantor did not do that either.

In light of the foregoing, the interpretation of the Access Easement required under law is that the right to approve any grade change within the easement area does NOT run in favor of Grantor's successors in ownership of the property underlying the easement area. Accordingly, neither Mr. Mutyala nor any other owner of property underlying the Access Easement has the right to approve proposed changes to the grade thereof. Such approval right remains vested in the City.

Mr. Mutyala disagrees with the foregoing on the basis of meeting minutes of the City Council from 1961 and 1962 relating to the grant of the Access Easement which he believes reflect the intent of the City that the subsequent owners of the properties underlying the Access Easement would have the right to approve any grade change. We do not find Mr. Mutyala's argument dispositive.

Joanna Hankamer  
October 14, 2020  
Page 11

At the outset of our response, we note that Mr. Mutyala makes the claim that our statement of intent is based upon "an incomplete record of documents provided by the applicant" and then notes that certain historical meeting minutes were "included by developer" or "excluded by developer". Such statement implies that Developer attempted to mislead City Staff, the Planning Commission and now the City Council. This is puzzling as Developer did not provide any of the documents cited by Mr. Mutyala in any of its submittals. In any event, all of the documents cited are public record.

The summary set forth in the meeting minutes that Mr. Mutyala believes reflects the intent of the City to have no lingering obligations under the Access Easement did not, however, make it into the document. The meeting minutes from December 27, 1961 and subsequently on February 14, 1962, predate the execution of the Access Easement by five months and two and one-half months respectively. It therefore appears that the sentiments that appear in the meeting minutes as cited in Mr. Mutyala's letter changed between the February 14, 1962 City Council meeting and the City's subsequent execution of the Access Easement document more than two months later.

If, in fact, the Council ultimately determined that the City was to have no role in approving grade changes, they could have and would have included clear language in the document to that effect. Such language would likely have included a specific reference that Grantor's successors and assigns had the right to approve the grade change (language which we note above was included in other sections of the Access Easement, but omitted from the provision concerning approval of the grade change), as well as specific language that the City would have no further duties or obligations under the document after the underlying properties had been sold. Again, no such language appears in the document. Although his name and signature on the Access Easement are not fully legible, the "Attorney for the Agency" approved the form of the Access Easement before it was signed by the City. It is safe to assume that such individual was the same City attorney who raised concerns about lingering obligations. It stands to reason that he would have included clear language in the document had the City Council ultimately determined it was desired or necessary.

The reference cited by Mr. Mutyala to "all other easements which may be in the future granted or created by Grantor for any public utilities or for services to the lots owned by the Grantees" was intended to cover, and did in fact cover, such future easements granted by "Grantor" - i.e., the City of South Pasadena. On January 19, 1966, when it still owned the properties underlying the Access Easement, the Community Redevelopment Agency of the City of South Pasadena, as the City's predecessor-in-interest, granted an easement to the City of Los Angeles, for use by the Department of Water and Power, a Right of Way Easement for "all facilities for the transportation, transmission and distribution of water and electrical energy", which easement was recorded in the Official Records of Los Angeles County on February 23, 1966.

Joanna Hankamer

October 14, 2020

Page 12

The "tri-party easement" proposed by Developer as cited by Mr. Mutyala did not, as Mr. Mutyala states, constitute an "admission" by Developer that Mr. Mutyala is "one of the Grantors" who maintains the rights associated with the first condition of the Easement. The purpose of the "tri-party easement" was for Mr. Mutyala, as the current owner of one of the properties underlying the Access Easement, and Developer, as the holder of the Access Easement, to grant a new easement to Mr. Haserjian for his driveway due to the fact that Mr. Haserjian's lot is not an express beneficiary of the Access Easement. That is to say, Mr. Haserjian's current driveway located within the Access Easement encroaches both upon Mr. Mutyala's lot and Developer's easement rights. The purpose of the proposed "tri-party easement" was to address such encroachment and grant Mr. Haserjian rights over the private drive area. Such proposal was broached by Developer in an effort to resolve the concerns raised by a neighboring property owner. Unfortunately, Mr. Haserjian has been unwilling to meet or even discuss this matter with Developer notwithstanding Developer's numerous attempts to do so.

Finally, I feel compelled to respond to Mr. Mutyala's personal attack on me. He quotes my June 25, 2020, letter to the City and states that it included a "knowing falsehood". Such allegation could not be further from the truth and reflects either disingenuousness on Mr. Mutyala's part, or his lack of understanding of the binding effect of recorded documents. Contrary to his allegation that the quoted statement is a "conclusion supporting [Mr. Mutyala's] argument", the quoted statement instead only further supports Developer's position.

As noted above in our discussion of the proper interpretation of the Access Easement, there is only one reference in the document to the successors and assigns of Grantor. On page 2, it states that "Grantor, *its successors or assigns*, agrees not to deposit or permit or allow to be deposited, earth, rubbish, debris or any other substance or material . . . or to construct any fences or other structures on said right-of-way strip so as to interfere with the right of ingress and egress herein granted to the Grantees" (emphasis added). Mr. Mutyala is a "successor and assign" of the City in ownership of the property impacted by the Access Easement and, therefore, is bound by the burdens of the easement and expressly liable for violations of the restriction therein set forth even if such violations were committed by a previous owner. The fact that Mr. Mutyala just purchased his property this year, and that the improvements constructed within the area covered by the Access Easement were constructed prior to his ownership of the property, are not relevant factors.

The Access Easement was recorded against title to Mr. Mutyala's property at the time he acquired it. Accordingly, he had record notice of the terms and conditions set forth therein and, as a successor-in-interest as owner of the property, is bound by the restrictions and express obligations of the easement as described more fully in this letter above. In addition, Mr. Mutyala and Developer spoke on the telephone before Mr. Mutyala closed

Joanna Hankamer  
October 14, 2020  
Page 13

escrow on his acquisition, during which call Developer informed Mr. Mutyala of its plans for the shared driveway and even subsequently delivered their proposed plans showing what they anticipated constructing. Notwithstanding the foregoing, in light of the statements in his letter, I can only assume that Mr. Mutyala did not understand the impact of the recorded Access Easement as set forth above. Regardless, Mr. Mutyala's lack of understanding does not excuse him from liability.

- Precedent in why this matters and the Permit should be denied

Mr. Mutyala concludes his letter by citing "precedent" as to why the Planning Commission's approval of the project should be denied. The fact that grading the Access Easement may be difficult and has been recognized as such in the past is not relevant as to the City's approval of the private driveway. Indeed, the "precedent" cited by Mr. Mutyala is merely a restatement of many of the same objections raised in Mr. Haserhjian's appeal.

### Conclusion

As you know, our client has acted diligently and in good faith throughout this process to provide requested information, documentation and responses to the inquiries of both City Staff and members of the Planning Commission. Although we acknowledge that COVID-19 added an unanticipated delay into this process, our client worked for many months to address the valid concerns raised by the neighbors, City Staff and members of the Planning Commission in an ultimately successful effort to obtain Planning Commission approval of the private access drive. We believe that the language of the Access Easement and California law are both very clear, and that access to our client's lots from Moffatt Street is required. To facilitate such access, our client has designed the private access drive in compliance with the City's Hillside Development Ordinance, which is what is required to develop the currently existing legal access owned by our client, as well as the conditions of approval placed upon the project by the Planning Commission.

As noted during our appearances before the Planning Commission, access to the former Moffatt Street was granted by the City in 1962. To the extent that our client has complied with current City ordinances and California law in the design of the private access drive, which we believe is the case, approval of such private access drive must be granted. To the extent the City denies Developer's right to construct the private driveway across the Access Easement, which is the only means to legally access Developer's lots, Developer will suffer significant financial harm.

Joanna Hankamer  
October 14, 2020  
Page 14

Please let me know if you have any questions regarding the foregoing.

Very truly yours,



Stephen A. Scheck

cc: Kanika Kith, Planning Manager (via e-mail)  
Malinda Lim, Associate Planner (via e-mail)  
Michael Marini (via e-mail)  
David French (via e-mail)

---

**From:** Tuni Chatterji [REDACTED]  
**Sent:** Wednesday, October 21, 2020 1:23 PM  
**To:** City Council Public Comment  
**Subject:** RE: Agenda Item 12 PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear reader(s):

I am writing to **STRONGLY OPPOSE** the decision made by South Pasadena to allow an OC based developer to build a private road to undeveloped landlocked lots in El Sereno.

As a resident and homeowner in El Sereno, **I feel strongly that this land be left unharmed** as building this road and subsequent housing on these lots will mean displacement and disruption to current residents. Expensive housing in the area will cause further harm to local communities and perpetuates the displacement of local residents via egregious gentrification practices. Building on this land will destroy natural habitat and wildlife communities.

Furthermore,

- South Pasadena is illegally acting as the Lead Agency on a project that affects Los Angeles
- South Pasadena gave up these rights to the easement in the 1960's
- This project is being piecemealed in order to avoid having to produce a CEQA report
- The property owner that the easement lies on it strongly opposed to this project and was lied to and later threatened by the developer

Thank you for your time,  
Tuni Chatterji



---

**From:** john nelson [REDACTED]  
**Sent:** Wednesday, October 21, 2020 1:54 PM  
**To:** City Council Public Comment  
**Subject:** No to Moffat St extension!!! Agenda item 12, Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern,

I strongly object to the approval of the Moffat Street extension for a number of reasons:  
This extension has not been openly discussed with the local residents that will be adversely affected (I found out about the possible extension from a neighbor today).  
There will be an increase in local traffic and crime affecting our quiet cul-de-sac neighborhood.  
There will be an obvious displacement of wildlife and forestation to Tree City .  
These issues will result in a decrease in home values.  
I do NOT see any benefit to the local residents or the City of South Pasadena.

This smells of local corruption!

I request to be notified of any future discussions on this matter.

Thank you,

John Nelson  
[REDACTED]

20 year resident and homeowner

---

**From:** kenneth simoneit [REDACTED]  
**Sent:** Wednesday, October 21, 2020 2:01 PM  
**To:** City Council Public Comment  
**Subject:** Project No. 2355-AAP (2191-HDP/TRP)

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I, owner/resident at [REDACTED] reject this project along with my neighbors in S Passdena and El Sereno. There is no benifit to the city or its property owners and residents. I and my family along with my neighbors will have to put up with traffic, parking and an increased incidents of graffiti, we have safety issues with the current intersection of Maycrest / Moffit, an uncontrolled 4-way with poor visibility, with motorist looking for short cuts past current congestion. I chose this house 25 years ago for the peace and quite, schools for my children, now just weeks from retirement all may end. Too late in the game for me to leave, do the right thing and reject this useless project, which only benifits LA County and the developer and not S Passdena or its property owners/residents.

Kenneth Simoneit-Owner/Resident  
[REDACTED]

---

**From:** Kate Dollenmayer [REDACTED]  
**Sent:** Wednesday, October 21, 2020 2:06 PM  
**To:** City Council Public Comment  
**Subject:** comment on Agenda Item 12, project no. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am writing to strongly oppose the building of a private road on an easement to connect to lots in the City of Los Angeles, which was not included in the planning process. This project will destroy trees and wild habitats, eliminate parking and open space for existing residents, and contribute to gentrification. This project is not in the interest of our community; it is in the interest of making profits for an out-of-town real estate developer.

Sincerely,  
Kate Dollenmayer  
L.A. County resident, former resident of South Pasadena

---

**From:** Priscilla Nunez [REDACTED]  
**Sent:** Wednesday, October 21, 2020 2:16 PM  
**To:** City Council Public Comment  
**Subject:** Agenda Item 12 Project No. 2355-APP

CAUTION: This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is Scilla

I am writing in regards to agenda item 12.

I want to express my objection to this project that planet home living wants to pursue to build a private access road off Moffat street with the Intent to build luxury homes.

Although the client has a right to use the road based on a "right of way easement" granted by the city in 1962, they don't have a right to build on this property.

I am opposed to this project because

- The community of South Pasadena and Los Angeles are strongly opposed to the development
- The development provides no benefit to the public interest; in fact, it creates harm to the people's livelihoods, their health, their property, and the environment
- The development is not within the rights of ingress and egress and it would overburden the easement
- The plans would violate our rights as property owners of 4519 Lowell Ave and the prescriptive easement we have a right to
- The easement states only rights for ingress and egress to streets in the City of Los Angeles
- The development induces future growth for which the developers refuse to submit design plans on
- They would be cutting down trees that are currently in danger and their plan to replace with a different species of tree is not comparable. CA Black Walnut trees provide invaluable habitat and source of food for many species of wildlife.
- Today, the Black Walnut tree is an endangered tree species due to the loss of habitat from development, overgrazing, and increased recreational use of walnut woodlands. Tree planting programs promote the restoration of CA Black Walnut woodlands in Los Angeles County. It would be a shame to reverse the efforts of Los Angeles to resort these trees for the benefit of wealthy people looking for more luxurious places to live than they currently do already.
- The developers plan to build these luxury homes at the expense of the lives of people in the community. A story that happens far too often.

I strongly oppose the construction of this road on the basis of an easement.

Thank you for your time.

Scilla Nuñez

---

**From:** Laura Escobar [REDACTED]  
**Sent:** Wednesday, October 21, 2020 2:27 PM  
**To:** City Council Public Comment  
**Subject:** Protect El Sereno from OC developer

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi My name is Laura Escobar and I was born and raised in LA. I am opposed to allowing OC developers into our neighborhoods to bring destruction of wildlife and the local community. I am requesting you oppose this "developer" who is really the guise of corporate greed.

**From:** Brenda Contreras [REDACTED]  
**Sent:** Wednesday, October 21, 2020 3:17 PM  
**To:** City Council Public Comment  
**Subject:** Public Comment- October 21, 2020 - Agenda Item 12 - Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Mayor and City Council Members,

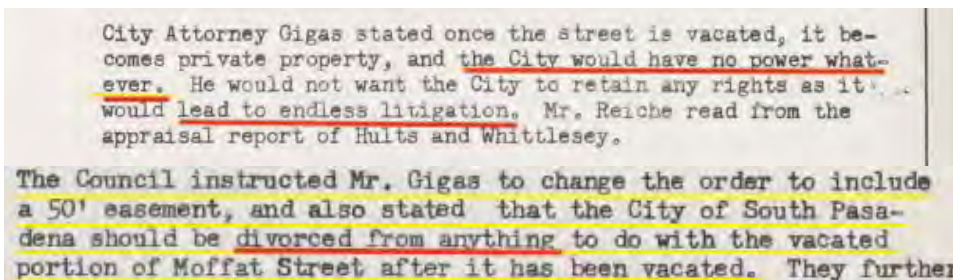
My name is Brenda Contreras and I am appalled by the illegal activities taking place within the City of South Pasadena. The sole purpose of building this private road is to serve lots in Los Angeles. The houses are contingent to the road. These are not separate projects. What Planet Home Living is doing is classic PIECEMEALING.

Piecemealing is defined as "dividing a project into two or more pieces and evaluating each piece in a separate environmental document, rather than evaluating the whole of the project in one environmental document. **This is explicitly forbidden by CEQA.**" *Source*

<https://ceqaportal.org/tb/CEQA%20Project%20Description%202020%20Update.pdf>

South Pasadena has NO AUTHORITY WHATSOEVER TO MAKE DECISIONS FOR THE LEAD AGENCY, DENY THE ROLE OF LEAD AGENCY, AND WIPE THEIR HANDS CLEAR OF THIS MESS ONLY FOR LOS ANGELES TO HAVE TO PAY THE PRICE AND DEAL WITH THE MOUNTING CONSEQUENCES.

Historical records state that South Pasadena gave up all rights to the easement in the 1960's and are "divorced from anything to do with" the land in question and "**the City [of South Pasadena] would hold no power whatever.** [...] as it would lead to endless litigation." The rights to the easement were transferred to the private property owners. *Source: South Pasadena City Council Meeting Minutes from December 27, 1961 and February 14, 1962.* These documents were purposefully **OMITTED**.



City Attorney Gigas stated once the street is vacated, it becomes private property, and the City would have no power whatever. He would not want the City to retain any rights as it would lead to endless litigation. Mr. Reiche read from the appraisal report of Hults and Whittlesey.

The Council instructed Mr. Gigas to change the order to include a 50' easement, and also stated that the City of South Pasadena should be divorced from anything to do with the vacated portion of Moffat Street after it has been vacated. They further

Approval of this project is **ILLEGAL and UNETHICAL**. South Pasadena may have green lighted the construction of an empty street to nowhere. The R1 by-right zoning of the landlocked, hillside lots from 1923 is antiquated. The lots in Los Angeles are up for rezoning this year and the community will be pushing for a zone change.

**STOP ACTING AS LEAD AGENCY. SOUTH PASADENA HAS NO JURISDICTION IN THIS MATTER.** You are derailing this private matter into "endless litigation" which is exactly why the City of South Pasadena gave up all rights in the 1960's.

Sincerely,  
Brenda Contreras

---

**From:** [REDACTED]  
**Sent:** Wednesday, October 21, 2020 3:23 PM  
**To:** City Council Public Comment  
**Subject:** Moffat Extension - Agenda Item 12 PROJECT NO. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

How is it that residents of South Pasadena who are within feet not miles of the proposed Moffat Street extension were not notified of this proposed giveaway to a developer in another city. This appears to be highly unusual and since we are kept in the dark it would suggest something sinister is occurring behind the scenes to keep the people of South Pasadena from knowing that the South Pasadena City Council could be approving the extension of Moffat.

The South Pasadena residents who would be affected by the increase in traffic and other changes to their environment have not been notified. Typically, when a resident wants to make some minor changes, they end up having to notify neighbors up to several blocks away and address any objections. I live on a street that intersects Moffat but was never notified, even though the proposed change will affect the entire street.

As of now I urge you to decline this E. Moffat St. extension request.

Sincerely

Rolando Thorbourne  
[REDACTED]



---

**From:** Micah Haserjian [REDACTED]  
**Sent:** Wednesday, October 21, 2020 3:32 PM  
**To:** City Council Public Comment  
**Cc:** Robert Joe; Malinda Lim; Joanna Hankamer; Kanika Kith; Diana Mahmud; Michael Cacciotti  
**Subject:** Public Comment: Oct 21, 2020 City Council Agenda Item 12 Project 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council Members,

Thank you for taking the time to review my appeal in detail to the Moffat St project.

In addition to the points brought up during our presentation, I would like to make as a public comment my rebuttal to the South Pasadena Planning Department's responses to my appeal. The planning department is advocating for my appeal to be denied by avoiding topics and presenting a false picture through providing incomplete and/or inaccurate information.

Below is my response in sequence to my appeal points listed in the planning department staff report on this agenda item:

1. The question of why Moffat St was vacated was brought up by the Planning Commission in the March 2020 meeting. Staff responded by providing only meeting minutes from one council meeting in 1962, deliberately withholding meeting minutes that prove South Pasadena would have no rights to the easement after Moffat St was vacated. They also withheld the actual order to vacate Moffat St, and the city has still not responded to my PRA submission to provide this document. We cannot accept a decision made based on incomplete documentation -- specifically documentation proving that their approval is illegal.
2. The input from the property owner of the easement that lies through 2050 La Fremontia is being completely ignored in this response. The planning commission tasked the planning department with reaching out to this property owner to clarify before the last planning commission meeting, and they failed to do so. Since then his legal counsel has sent a letter explaining why the right to approve this project lies with the private property owners, not South Pasadena. This **can not** be ignored.
3. Our legal right to a prescriptive and equitable easement supersedes any right of South Pasadena to approve a street design that would destroy our property and access. Additionally, hillside road requirements have a **minimum width of 20 feet**, leaving 10 feet of access in the design that can be eliminated. No sidewalk is necessary or required, let alone a 5 foot sidewalk on a private driveway. The developers have stated they are not willing to work around our deck, and the city of South Pasadena seems to be okay with this illegal design.
4. Section (2) of the easement document states: "Said right of ingress egress shall be used by Grantees individually and **as a group in such manner as not to interfere with the ingress and egress of any others of Grantees...**" It is clear that by building a wall blocking Lot 28 from accessing the street, this is interfering with the ingress and egress of a Grantee. In order to regain access in the current design, the large retaining wall would have to be destroyed and rebuilt, which may not be feasible given the topography and at least would be prohibitively expensive for an individual to do so. The proposed plans also do not include a curb cutout for Lot

12, and neither of these Grantees have been contacted to discuss this proposed change in their access rights. All Grantees on the easement document must be involved with this project.

5. South Pasadena is acting as the lead agency in claiming a CEQA exemption, as there is no concurrence with the City of LA for this exemption claim. There is no condition of approval where the developer must submit **approved** plans for the construction in the city of Los Angeles before constructing the private street. This leaves it impossible to know whether the project is subject to discretionary review or not. According to the city of LA, construction of the street must occur before they grant any approvals in the city of LA. Thus, it is impossible for this project to be exempt from CEQA currently as the private street would already be constructed before we know whether the development project in LA is exempt or not. This is a classic case of piece-mealing by the developer to avoid CEQA compliance.

6. The full street plans submitted to the Planning Commission show a connection to the public portion of Moffatt St. As stated in the July meeting agenda, there is a "large elevation differential (grade change) between Lowell Avenue and the proposed access street". This means with the connection to Lowell Ave the entire grade from the previous street plans needs to be revisited, and the developer has only provided insufficient plans for the portion connecting to Lowell Ave. The lack of response from the City of LA regarding this project is not sufficient to excuse the planning department from proper coordination on this project.

7. The CEQA exemption is invalid for reasons previously stated. Additionally, there are multiple protected Southern California Black Walnut trees that would need to be removed in order to construct this street. No tree removal permits have been applied for these trees. This staff response is quite frankly insulting, as it ignores all of the proven negative impacts gentrification has on the community as well as the impacts the construction and increased traffic has to the displacement of wildlife and trees has on the environment.

8. The voicemail option is a welcome addition, however, many are not informed on these new methods of public participation thus making it difficult to be impactful. The public needs an option to join the online meeting and speak during the meeting when it is their time. This is how the City of Los Angeles conducts their meetings and it is effective and not difficult to manage.

Regards,  
Micah Haserjian

---

**From:** y g [REDACTED]  
**Sent:** Wednesday, October 21, 2020 3:43 PM  
**To:** City Council Public Comment  
**Subject:** Agenda item 12 Project No. 2355-APP

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As a community member, I do not approve of the actions that South Pasadena have taken in part to have this development recklessly approved to please developers that are not of the community. El Sereno is a majority immigrant working class community, unfortunately people not of the community want to build their developments no matter what the cost is. This is an incredibly racist project that should have never been approved! Shame on you South Pasadena, we see what your actions prioritize despite.

This proposed construction violates the rights of the property owners and residents of the affected areas in terms of potential displacement, increased traffic and related health issues, as well as impacting the wildlife and plantlife of the area - including multiple endangered Southern California Black Walnut Trees. The piecemealing of this project in order to avoid having to produce an environmental impact report is also unconscionable.

South Pasadena gave up all rights to the easement in the 1960's. South Pasadena has no right to approve this road since they gave up their easement rights in the 1960's. This is one of several dishonest actions that South Pasadena has taken.

Dishonest actions that South Pasadena have taken are:

- 
- South Pasadena is illegally acting as the Lead Agency on a project that affects Los Angeles.
- 
- 
- South Pasadena withheld meeting minutes to cover up the fact that they don't have any rights to approve this project.
- 
- 
- Later this year the Northeast Los Angeles Community Plan will be revisiting the zoning of these lots on the hill (last revisited 21 years ago). The community believes the R1 zoning of the landlocked lots is antiquated and we will be working with the Advisory Committee
- to make sure that this hill and other hills like it in El Sereno are properly zoned to serve the needs of our community today not the community of El Sereno in 1923. South Pasadena may have essentially approved a private street to nowhere. This is irresponsible.
-

Dishonest actions by developers, Planet Home Living:

- 
- This
- project is being piecemealed in order to avoid having to produce a CEQA report
- 
- 
- No
- one has seen plans for the development that would happen in LA. Allowing for the developers to build whatever they please. There is no accountability with South Pasadena or the developers, Planet Home Living.
- 
- 
- The
- property owner that the easement lies on is strongly opposed to this project and was lied to and later threatened by the developer.
- 
- 
- The
- developer has not produced any real plans for the construction of the private street connecting to Lowell Ave.
- 

Sincerely,

Jacqueline G.

---

**From:** Sofia L [REDACTED]  
**Sent:** Wednesday, October 21, 2020 3:49 PM  
**To:** City Council Public Comment  
**Subject:** Public Comment - Agenda Item 12

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is Sofia Laguna and I am writing in regards to Agenda Item 12.

I want to express my objection to this project that Planet Home Living wants to pursue to build a private access road off of Moffatt Street with the intent to build luxury homes. I am opposed to this project because the community of South Pasadena and Los Angeles are strongly opposed to the development. This development creates harm to the community member's livelihood, health, property, and the environment.

The developers would cut down the endangered Black Walnut Tree for this development and replace it with a different species of tree that is not comparable. It would be a shame to reverse efforts to restore these trees in Los Angeles just to benefit the wealthy people who are seeking luxurious homes. Additionally, the development of these homes would displace community members and lead to rising housing costs.

I strongly oppose the proposed construction on this road. Thank you for your time.

Sofia

**Regular City Council Meeting**  
**E-mail Public Comment 10/21/2020**

**AGENDA ITEM NO. 13**  
**Approval of a Draft Letter Appealing the City's**  
**Regional Housing Needs Assessment Allocation**

1. Tom Williams

---

**From:** Tom Williams [REDACTED]  
**Sent:** Monday, October 19, 2020 1:50 PM  
**To:** City Council Public Comment  
**Subject:** Re: Comments for SoPas CC Mtg. 102120 Item 13

**CAUTION:** This email originated from outside of the City of South Pasadena. Do not click links or open attachments unless you recognize the sender and know the content is safe.

DATE 10/19/20

TO: City of South Pasadena, City  
Council/Clerk [ccpubliccomment@southpasadenaca.gov](mailto:ccpubliccomment@southpasadenaca.gov)

FROM: Dr. Tom Williams, Director, LA-32 Neighborhood Council Northeast District

[REDACTED]  
[REDACTED]

SUBJECT: City Council Agenda 102120 Item 13

RE: Comments on Item #13

13. Approval of a Draft Letter Appealing the City's Regional Housing Needs Assessment Allocation Recommendation It is recommended that the City Council approve a draft letter appealing the City's Regional Housing Needs Assessment (RHNA) allocation.

***No Draft Letter was provided for public review and comment.***

***Continue this item until draft letter is available to the Public.***