



Additional Documents Distributed for the City Council Regular Meeting of January 18, 2023

Item No.	Agenda Item Description	Distributor	Document
CS 9.	City of South Pasadena, et al. vs California Department of Transportation, et al. (LASC Case No. 21STCP01779)	Care First South Pasadena	Email to Council
CS 9.	City of South Pasadena, et al. vs California Department of Transportation, et al. (LASC Case No. 21STCP01779)	Linda Esposito	Email to Council
CS 9.	City of South Pasadena, et al. vs California Department of Transportation, et al. (LASC Case No. 21STCP01779)	Mark Gallatin	Email to Council
CS 9.	City of South Pasadena, et al. vs California Department of Transportation, et al. (LASC Case No. 21STCP01779)	Christopher Sutton	Email to Council Received after 1/18/23 deadline
CS 9.	City of South Pasadena, et al. vs California Department of Transportation, et al. (LASC Case No. 21STCP01779)	Christopher Sutton	Email to Council Received at meeting
2.	PUBLIC COMMENT – GENERAL	Clarence Au-Young	Email to Council
2.	PUBLIC COMMENT – GENERAL	Anthony Wen Lai	Email to Council
2.	PUBLIC COMMENT – GENERAL	Yvonne LaRose	Email to Council
2.	PUBLIC COMMENT – GENERAL	Yvonne LaRose	Email to Council
2.	PUBLIC COMMENT – GENERAL	Chris Bray	Email to Council
2.	PUBLIC COMMENT – GENERAL	Ben Tansey	Email to Council

City Council Regular Meeting Additional Documents
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2.	PUBLIC COMMENT – GENERAL	Clarence Au-Young	Email to Council
5.	COUNCILMEMBER COMMUNICATIONS	Michael A. Cacciotti	PowerPoint
6.	CITY MANAGER COMMUNICATIONS	Arminé Chaparyan	PowerPoint
10.	Authorize amendments to Professional Services Agreement with MV Cheng and Associates, Inc., for Temporary Staffing Services in a total not-to-exceed amount of \$199,400, for a new total not-to-exceed amount of \$344,000	Josh Betta	Email to Council
10.	Authorize amendments to Professional Services Agreement with MV Cheng and Associates, Inc., for Temporary Staffing Services in a total not-to-exceed amount of \$199,400, for a new total not-to-exceed amount of \$344,000	Josh Betta	Email to Council Received after 1/18/23 deadline
11.	Approve fund allocation and appropriate of funds and Award of Contract to Raftelis for the South Pasadena Police Department Organizational Assessment, in an amount not-to-exceed \$99,500	Tucker Nelson	Email to Council
11.	Approve fund allocation and appropriate of funds and Award of Contract to Raftelis for the South Pasadena Police Department Organizational Assessment, in an amount not-to-exceed \$99,500	Tucker Nelson	Email to Council
12.	Authorization of Appointments and Reappointments to City Boards, Commissions, and Committees	Yvonne LaRose	Email to Council
13.	Direction on City Attorney Services	John C.	Email to Council
13.	Direction on City Attorney Services	Chris Bray	Email to Council
13.	Direction on City Attorney Services	Chris Bray	Email to Council Received after 1/18/23 deadline
15.	Introduction and First Reading of an Ordinance to amend the SPMC Chapter 36 (Zoning) pertaining to emergency shelters, transitional housing and low barrier navigation centers, mixed-use development permit processing, multi-family regulations including floor area ratios, lot coverage and single-family uses, and parking requirements near defined transit stops for compliance	Angelica Frausto-Lupo	PowerPoint

City Council Regular Meeting Additional Documents
January 18, 2023

	with associated State Laws and Draft Housing Element Programs; approval of exemptions from further review under the California Environmental Quality Act (Guidelines §§ 15061(B)(3) And 15378)		
15.	Introduction and First Reading of an Ordinance to amend the SPMC Chapter 36 (Zoning) pertaining to emergency shelters, transitional housing and low barrier navigation centers, mixed-use development permit processing, multi-family regulations including floor area ratios, lot coverage and single-family uses, and parking requirements near defined transit stops for compliance with associated State Laws and Draft Housing Element Programs; approval of exemptions from further review under the California Environmental Quality Act (Guidelines §§ 15061(B)(3) And 15378)	Yvonne LaRose	Email to Council

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**Public Comment
January 18, 2023
Closed Session
Item No. 9**

From: [Care First South Pasadena](#)
To: [City Council Public Comment](#)
Cc: [care-first-sp-](#) [REDACTED]
Subject: General public comment: Caltrans houses
Date: Tuesday, January 17, 2023 9:31:53 PM
Attachments: [2023-01-18 Caltrans houses general 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.

Please include this public comment in the additional materials for tomorrow night's City Council meeting.

Thank you!

Care First South Pasadena



January 18, 2023

General Public Comment

Caltrans Properties Present a Remarkable Opportunity for Affordable Housing



Amid the housing crisis, we urge the City to redevelop vacant, decrepit Caltrans properties into affordable housing instead of turning them over to private owners.

The State has given South Pasadena a historic opportunity to add affordable housing to its neighborhoods. Under State law, the City gets to buy at least 20 vacant Caltrans properties at the very low prices Caltrans paid in the 1960s (think: under six-figures). In exchange, the State law requires that the City facilitate their conversion to housing affordable to low- and moderate-income renters and buyers. This new affordable housing stock will benefit rent-burdened low- and moderate-income South Pasadenans, workers in the South Pasadena economy like teachers, public servants, and retail employees, young people just starting their careers, and seniors who live on fixed incomes, among many others.

There are seven (7) historic properties and 13 non-historic properties located throughout the City. Under State law, non-historic properties cannot be sold at market rates, and must remain affordable for the next 45 to 55 years (depending on whether they are rented or owned). The City is allowed to sell the seven (7) historic properties to private buyers at market rates, so long as it builds three (3) affordable units for each house within its borders.

Some City Council Members and 710 freeway fighters have advocated a position that would violate State law. They want South Pasadena to buy and sell all 20 vacant Caltrans homes to private owners, kicking the can down the road as to development of new affordable housing later.

We urge the leadership of our City to embrace, not rebuke, the opportunity presented by the vacant Caltrans houses. Their conversion to affordable housing is an opportunity to:

- Create income-diverse neighborhoods;
- Increase the racial and ethnic diversity of our City and schools;
- Further fair housing by integrating affordable housing rather than concentrating it along transit corridors;
- Add density to residential areas to meet environmental and housing goals;
- Create a broader sales tax base;
- Add to the vibrancy, resilience and dynamism of South Pasadena.

The City should explore innovative options for using vacant and historic Caltrans properties to expand affordable, such as:

- Redeveloping the lots into duplexes, triplexes, and quads;
- Dividing lots into smaller parcels for redevelopment in furtherance of recent State law changes;
- Creating ADUs or Single-Room Occupancy units; and
- Creating both affordable rentals and ownership opportunities for condominiums or cooperatives.

For too long, South Pasadena has privileged single-family houses over multifamily housing – part of a long-held pattern that has locked low-income people and people of color out. It is time for South Pasadena to be part of the solution to the region’s related crises of skyrocketing housing costs, homelessness, and overcrowding.

Signed,

- | | |
|------------------------|-------------------------|
| 1. Alexander Aquino | 20. Sandy Shannon |
| 2. Omari Ferguson | 21. Anne Bagasao |
| 3. Ella Hushagen | 22. Alia Kate |
| 4. William Kelly | 23. Adam Timm |
| 5. Helen Tran | 24. Priscilla Zaragoza |
| 6. Andrew Terhune | 25. Estephany Gamez |
| 7. Cassandra Terhune | 26. Allie Schreiner |
| 8. Che Hurley | 27. Ayaka Nakaji |
| 9. Laboni Hoq | 28. Roberto Gonzalez |
| 10. Julia Moreno Perri | 29. F. J. Pratt |
| 11. Rich Elbaum | 30. Lisa Watson |
| 12. John Srebalus | 31. Leslie Ito |
| 13. Natasha Prime | 32. Sarah Erlich |
| 14. Rob Grant | 33. Gayle Tomita-Oswald |
| 15. Rachel Orfila | 34. John E. Oswald |
| 16. Matthew Barbato | 35. Alexandra Ramirez |
| 17. Gretchen Schulz | 36. Noel Garcia |
| 18. Bianca Richards | 37. Rebecca Bergman |
| 19. Belinda Bao | 38. Sean Singleton |

39. Andrea Seigel
40. Sean Meyer
41. Frederick Eberhardt
42. Minoli Ratnatunga
43. Cassandra Kaldor
44. Barbara Eisenstein
45. Phung Huynh
46. Josh Albrektson
47. Jacinta Lincke
48. Alan Ehrlich
49. Justin Ehrlich
50. Stephanie Ehrlich
51. Banjong Muninnopmas
52. David Santana
53. Lance Santana
54. Alan Man Kwai Lai
55. Andre Lai
56. Maia Lai
57. Tuki Phugphud-Barnes
58. Abby McCrate
59. Erica
60. Victoria Patterson
61. Chris Patterson
62. Cole Patterson
63. Ry Patterson
64. Linda S. Wah
65. Grace Dennis
66. Kristina Wong
67. Owen Ellickson
68. Caitlin Lainoff
69. Colin Burgess
70. Emily Cline
71. Isabel Chin
72. Matt Glesne
73. Laurent Borredon
74. Amber Jaeger
75. Megan Adams
76. Pablo Marrero
77. Lucy Williams

From: [L Esposito](#)
To: [City Council Public Comment](#)
Subject: Closed Session Item #C 9, City of South Pasadena vs Caltrans
Date: Wednesday, January 18, 2023 9:18:20 AM
Attachments: [Jan "23 petition to CC.pdf](#)
[2023 Petition Signatures SB391.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 Officials,

Please see attached document and accompanying SB381 signature page for today's Closed Session Item #C 9, City of South Pasadena vs Caltrans.

Sincerely,

—Linda Esposito

Disposition of Vacant CalTrans Homes: Restore Our Neighborhood (Meridian Ave., Oneonta Dr., Bonita Dr.)



On behalf of the 710 corridor neighborhoods, I am submitting our comments, plus a petition previously submitted in 2021 and 2022.

In order to restore the neighborhoods to pre-Caltrans occupation to comply with the Roberti Law, **our position is that these houses be sold to qualified home buyers to restore and live in them.**

Additionally, at two Closed Session meetings last fall, 60 people attended in person to echo their support for restoring the corridor through home ownership.

We feel the SB381 law proposed and now passed does not restore our corridor neighborhoods to pre-Caltrans occupation.

We support plans proposed for Caltrans house sales to existing tenants and South Pasadena Preservation Sale Plans for vacant houses.

Our area has been blighted for decades. As residents of the former 710 corridor, and adjacent, in South Pasadena, we are disproportionately affected by any state and local legislation related to the disposition of the Caltrans housing. We disagreed with the language of 381 last year and still disagree now that the legislation and accompanying regulations are final.

It is our understanding that two amendments were added which render the legislation financially infeasible for South Pasadena. All of the other problems stated in the petition are still valid and now these fatal flaws make it even more of a problem.

Caltrans has mismanaged these properties for over 50 years by subjecting their tenants to substandard living conditions, failing to maintain vacant homes, and ignoring the neighboring homeowners who live with their negligence and the devaluation of the properties in our neighborhood.



We residents want the city to facilitate the following:

IMMEDIATE SALE AND RESTORATION OF VACANT, UNOCCUPIED CALTRANS PROPERTIES TO QUALIFIED, OWNER-OCCUPIED BUYERS

NO OUTSIDE "HRE" MANAGEMENT OF PROPERTIES

We want all, unoccupied, vacant properties to be sold to a pool of qualified buyers who will restore the properties and become the resident home owner.

We DO NOT want any unoccupied, vacant properties to be managed by a Housing Related Entity ("HRE") and managed as "affordable housing". **This is a duplicate Caltrans problem!** Additionally, the city has lacked enforcement on the maintenance of other entities like Esperanza Housing in our neighborhoods. Sell to qualified buyers who can rehabilitate their property and reside there. Homeownership brings a sense of stability, belonging to a community and pride of ownership.

• HOMEOWNERSHIP FOR CURRENT CALTRANS TENANTS RESIDING IN THEIR HOME

We want our neighbor-CT tenants to be guaranteed priority to purchase their property. The Roberti Act promised these tenants the option to buy years ago. Many are waiting for ownership to do the necessary home restorations. Many of the CT tenants buying their houses are affordable. We understand that affordable home ownership houses will be put back on the tax rolls, but affordable rentals do not go back on the tax rolls which is why the city needs to help these tenants with the process to purchase their houses and navigate the CT bureaucracy.



3 lost parking spaces due to unstable hillside. Bonita and Oneonta Drs. are restricted to parking on one-side only.

• NO LOT SPLITS OR ZONE CHANGES OTHER THAN THOSE MANDATED BY PRESENT STATE LAW

We DO NOT want any Caltrans properties to be allowed to be demolished in order for a buyer to then build any other type of home than is already mandated by present law. Already, our neighborhood is at its capacity. Adding more parking, more potholes on the streets from overuse, more sewer line issues by adding density is an overburden to our already dense neighborhood.

These Caltrans houses have been off the tax rolls for 58 years and the only way to put them back on the tax rolls and the vacant ones to be restored if for homeownership, not rentals for 55 years if SB 381 is

implemented. We also support the city helping the existing tenants navigate Caltrans complicated system to the eventual goal of home ownership.

Property tax is the largest generator of the city's general fund and the loss of which prompted the city forefathers to go to court to stop the State of California from buying any more houses in 1973. All the Caltrans houses need to be put back on the tax rolls and the money generated from the sales used for affordable housing in South Pasadena.

Our city's #1 income is our property taxes! Put these properties back on the county tax rolls. We have patiently waited decades for these homes to sell. Please allow the sales to continue with the existing Roberti Act without additional legislation.

Sincerely,

Linda Esposito and Neighbors (Meridian Ave., Oneonta Ave., Bonita Dr.)

Please see attached Petition Signature Page.

Petition Signatures SB391

Joanne Nuckols
Tom Nuckols
Victoria Patterson
Chris Patterson
Cole Patterson
Ry Patterson
Laurance Lau
Callie Lau
Delaine Shane
Russel Shane
Ann Ogawa
Ava Herrera
Blair Slattery
Bonnie Kingry
Brian Bright
Brock Carlson
Doug Watkins
Ed Herrera
Emily Beaghan
Grace Song
Jean-Claude Jones
Jenny Bright
Jerry Wong
Matthew Burmood
Barry Kleinman
Phil Stalker
Billy Reed
Linda Esposito
Matthew Barbato
Larry McGrail
Marko Chase
Fahren James
Danzy Senna
Natasha Prime
Richard Guerrero
Megan Guerrero
Po Lin
Bert DeMars
Brandon Fox
Jamie Drinville
Chris Mathews
Michael Kemp

Mila Renken
Megan Guerrero
Christine Chin
Colleen Grace
Ezequiel Quezada
Michele Clark
Marko Chase
Anne Rector
Raymond Givigian
Kathleen Baumann
Traci Samczyk
Veronica Aremonta
Sally Takada
Heidi Owen
Esther Mar
Joo Lee
Christine Feldman
Jeannie Rodriguez
Julian Cardenas
Lawrence Wingard
Lily Guzman
Charl Greene
Michael Girvigian

From: [Mark Gallatin](#)
To: [City Council Public Comment](#)
Subject: Closed session public comment on Agenda Item C.9
Date: Wednesday, January 18, 2023 11:16:00 AM
Attachments: [Public comment 1-18-23.docx](#)

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.

Attached please find public comment on this agenda item which I am submitting on behalf of the South Pasadena Preservation Foundation Board of Directors. Thank you.

The Board of Directors of the South Pasadena Preservation Foundation wishes to take this opportunity to thank the South Pasadena City Council for its continuing efforts to date to find a fair, equitable and cost-effective resolution to the acquisition and disposition of the Caltrans surplus properties. We note that the City is once again at an inflection point with the opportunity for a strategic 'reset' given the new composition of the City Council. We again urge the City Council to seize the opportunity to work through a complex set of circumstances and achieve a relatively smooth, cost-efficient and home-grown outcome to repairing the neighborhood fabric of our small city.

With the hiring of the imminently qualified Dario Frommer as Special Counsel for the 710 surplus properties and related issue, the City now has in place the ideal team for dealing with myriad related issues, such as 626 Prospect litigation, determining the best most expedient, cost-effective outcome for the vacant houses, how best to assist South Pasadena market-rate and affordable tenants. The structure to achieve solutions to these issues has been provided by the opportunity to achieve a global settlement with Caltrans under the aegis of the Prospect litigation. In a global settlement, Caltrans would benefit too and no South Pasadena house, neighborhood or tenant would be left behind.

We reiterate for your consideration the bullet points below, presented to you in September, which represent some of the highlights of the South Pasadena Preservation Foundation plan for the surplus properties developed by our board. The SPPF board consists of highly experienced working professionals in architecture, construction, city planning, engineering and historic preservation.

- SOUTH PASADENA PRESERVATION FOUNDATION'S ALTERNATE PLAN FOR CALTRANS HOME SALES WOULD RETURN THE VACANT HOMES TO PRIVATE HOMEOWNERSHIP, RAISING OVER \$65,000 IN PROPERTY TAX REVENUES FOR THE CITY OF SOUTH PASADENA IN THE FIRST YEAR ALONE.
- SELLING THE VACANT HOMES TO PRIVATE OWNERS INSTEAD OF PURCHASE BY THE CITY OR A HOUSING RELATED ENTITY WOULD GENERATE OVER \$20,000,000 IN CAPITAL TO CREATE AFFORDABLE HOUSING THROUGHOUT THE COMMUNITY.
- SEVERAL VACANT CALTRANS HOMES HAVE RECENTLY BEEN BROKEN INTO BY ATTEMPTED SQUATTERS. COMMUNITY SAFETY DEMANDS THAT A SOLUTION TO VACANCIES AND BLIGHT BE FOUND QUICKLY AND THAT NEIGHBORHOODS BE RESTORED. SPPF'S PLAN WOULD SAVE THE CITY THE COST OF BEING RESPONSIBLE FOR THE SECURITY OF THE VACANT CALTRANS HOMES, A COST THAT WOULD BE BORNE BY OUR POLICE DEPARTMENT, NOT ONLY IN DOLLARS BUT IN VALUABLE MANHOURS.
- THE SPPF ALTERNATIVE PLAN WOULD BE SELF-FUNDING IN THE SENSE THAT THE PRIVATE PURCHASERS OF THE HOMES WOULD PROVIDE THE FUNDING FOR THEIR ACQUISITION, SAVING THE CITY THE APPROXIMATELY \$2.2 MILLION NEEDED TO ACQUIRE ALL 20 VACANT PROPERTIES CURRENTLY OFFERED TO THE CITY BY CALTRANS.

In closing, at a hearing before the California Transportation Commission in January 2021, current Caltrans Director Tony Tavares, then head of Caltrans Los Angeles office, said he "would welcome an exit strategy" to the longstanding dilemma of the Caltrans properties in South Pasadena. We are now at a point where both the SPPF Board of Directors and the South Pasadena City Council would also welcome an exit strategy. SPPF has that strategy. Let us work together to achieve it.

From: [Christopher Sutton](#)
To: [City Council Public Comment](#)
Subject: 1-18 Item C.9. - Closed Session -Caltrans" Limits on South Pasadena Purchasers
Date: Wednesday, January 18, 2023 1:08:18 PM
Attachments: [2022-09-09 Caltrans" Dabney Declaration CONFORMED \(6 pages\).pdf](#)
[2023-01-11 Petitioners Reply Brief - conformed \(10 pages\).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 South Pasadena City Council and Staff:

Attached are the following two documents filed in Flores etc v Dept of Transportation, LA Superior Court case number 19STCP03681, pending since 2019.

Three South Pasadena Tenants (Angela Flores, Marysia Wojcik, and Priscela Izquierdo) sued for a court order that Caltrans sell them their homes at an "affordable price" instead of the "inflation adjusted price" imposed by Caltrans.

The following are attached:

1. **DECLARATION OF CAROLYN DABNEY** filed by Caltrans on 12-9-2022.
2. **PETITIONERS' REPLY BRIEF** filed 1-11-2023 by my office for Flores, Wojcik and Izquierdo.

Caltrans now asserts that tenants will be disqualified from buying their homes under its 2022 new Emergency Regulations based on "Calculated Affordable Price," "positive dollar value," and "monthly housing costs." These rules create a hypothetical price and hypothetical housing cost and would allow Caltrans to determine that a tenant is "too poor to purchase" without any relation to the actual price of the house or their ability to obtain financing via Calif-HFA (which has promised them 100% loan insurance).

These rules will harm all Caltrans tenants in South Pasadena, Pasadena, and El Sereno unless repealed or overturned by a court. Our court hearing is on 1-25-2023.

- - - Christopher Sutton 1-18-2023

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2 **JERALD M. MONTOYA Deputy Chief Counsel**
3 **STEVEN J. DADAIAN, Assistant Chief Counsel**
4 **ERICK L. SOLARES, Assistant Chief Counsel**
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13 **RAZMIG KHAYALIAN, Deputy State Attorney, Bar Number 301792**
14 Attorneys for Defendants and Respondent, The People of the State of California,
15 acting by and through the Department of Transportation,
16

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF LOS ANGELES, SECOND APPELLATE DISTRICT
19

20 ANGELA FLORES, an individual
21 MARYSIA WOJCIK, an individual
22 PRISCELA IZQUIERDO, an individual

Case No.: 19STCP03681
Appellate Case No.: B309918

[Honorable Judge Mitchell Beckloff]
Dept. 86

Petitioners and Plaintiffs,

DECLARATION OF CAROLYN DABNEY
IN SUPPORT OF RESPONDENT AND
DEFENDANT CALTRAN'S OPENING
BRIEF

-vs-

Trial
Date: January 25, 2023
Time: 9:30 a.m.
Dept.: 86

DEPARTMENT OF TRANSPORTATION
OF THE STATE OF CALIFORNIA,

Respondent and Defendant.

23
24
25
26 I, Carolyn Dabney, do declare as follows in my capacity as an employee of the
27 California Department of Transportation (Caltrans):

28 1. I have 15 years' experience with Caltrans and I have been in my current position

1 since 2017.

2 2. As the Program Manager for the State Route 710 Property Sales, I am responsible for
3 overseeing the sales of properties along the SR 710 Gap in Los Angeles County. This
4 includes the adoption of regulations to implement the Roberti Act.

5 3. I have personal knowledge of Caltrans' efforts to sell properties under the Roberti Act
6 since June 2017. My knowledge of events prior to that date are based on information and
7 belief acquired through documents or other institutional knowledge.

8 4. In the 1950s through the 1990s, Caltrans acquired approximately 454 single family
9 residential properties and 6 commercial properties to close a gap along State Route 710
10 between State Routes 210 and 5 (710 Gap). Caltrans used State Highway Account (SHA)
11 money for the acquisitions. No Federal money was used for the acquisitions.

12 5. In 2012, to comply with the 2007 court order from a lawsuit involving the City of
13 South Pasadena, Caltrans began developing regulations. To develop the sales process and
14 regulatory language, Caltrans consulted with the Department of Housing and Community
15 Development (HCD) and the California Housing Finance Authority (CalHFA).

16 6. In July 2016, Caltrans adopted regulations to facilitate sales under the Act. Those
17 regulations are published in Title 21 of the California Code of Regulations, section 1475
18 through 1491. (Sec RFJN ¶15, Ex. 5)

19 7. Caltrans started the first phase of sales in December 2016 by mailing written notices of
20 conditional offer prior to sale, pursuant to section 1479 of the regulations. That first phase is
21 known as "Phase 1" and included 42 properties

22 8. Before any sales contracts had been sent out in Phase 1, I was advised of a potential
23 legal conflict between Article XIX, section 2 of the California Constitution and the Roberti Act
24 and the regulations.

25 9. After reviewing the issue, Caltrans determined it was legally obligated to set a
26 minimum sales price for Affordable Price sales and Reasonable Price sales by adjusting its
27 original acquisition process for inflation.

28 10. In January 2018, Caltrans sent sales offers to potential Affordable Price buyers in

1 Phase 1. The sales offers reflected the inflation adjusted minimum sales price.

2 11. Seven tenants agreed to the inflation adjusted minimum sales price.

3 12. Five tenants sued Caltrans, challenging the inflation adjusted minimum sales price.

4 13. Two of the five tenants agreed to the inflation adjusted minimum sales prices during
5 the litigation.

6 14. In March 2019, in the matter of UCT v. California Department of Transportation, the
7 Court ruled the inflation adjusted minimum sales price and the selection of the California
8 Consumer Price index (Cal-CPI) to make the inflation adjustment were underground
9 regulations. (RFJN ¶ 9, Ex. 9)

10 15. In response to the March 2019 court ruling, Caltrans conferred with HCD and CaHFA
11 in drafting emergency regulations.

12 16. The Emergency Regulations were adopted in May 2019. (RFJN ¶ 6, Ex. 6) is a true
13 and correct copy of the STD. 400 for those regulations. It shows the regulations were approved
14 by OAL. It also has a filed endorsed stamp from the Secretary of the State. It also includes the
15 regulatory amendments adopted by the Emergency Regulations.

16 17. The Emergency Regulations became effective on May 31, 2019. Under the authority
17 of the Emergency Regulations, Caltrans completed the sales of two properties to tenants at
18 Affordable Prices and one property at a Reasonable Price to the City of Pasadena. Caltrans
19 also received bids from other housing-related entities on 19 other properties.

20 18. Pursuant to the Emergency Regulations, Caltrans sent petitioners sales contracts
21 reflecting the inflation adjusted minimum sales prices required by the Emergency Regulations.

22 19. After taking the actions described above on the properties remaining in Phase 1,
23 Caltrans allowed the Emergency Regulations to expire by operation of law on November 28,
24 2019.

25 20. On July 23, 2021 SB 51 was adopted by the Legislature, and on December 13, 2021,
26 the SB 51 Emergency Regulations were adopted. (SB 51 and the corresponding emergency
27 regulations pertained to the El Sereno properties). (RFJN ¶ 7, Ex. 7)

28 21. On September 28, 2021 SB 381 was adopted by the Legislature, and on April 7, 2022,

1 the SB 381 Emergency Regulations were adopted. (SB 381 and the corresponding
2 emergency regulations pertained to South Pasadena properties). (RFJN ¶ 8, Ex. 8)

3 22. There were a number of changes to the SB 381 Emergency Regulations that pertain to
4 the sales of Caltrans owned property in the city of South Pasadena. SB 381 did not impact the
5 sales process for affordable sales. Neither SB 51 nor SB 381 altered the sales process for
6 affordable sales except for setting the minimum sales price at the original acquisition price
7 (unadjusted for inflation).

8 23. However, when adopting emergency regulations for SB 51, Caltrans took the
9 opportunity to address lessons learned from Phase 1 sales. Caltrans changed its policy that was
10 in place during Phase 1 sales.

11 24. Under Phase 1, Caltrans offered affordable buyers the opportunity to purchase
12 regardless of their Calculated Affordable Price. Many of the Phase 1 buyers had a negative
13 Calculated Affordable Price (meaning their income was insufficient to afford the monthly
14 housing cost).

15 25. The current regulations require an affordable buyer to have a Calculated Affordable
16 Price with a positive dollar value (refer to Section 1481 (b)(E) of the SR 710 regulations).
17 (RFJN ¶ 8, Ex. 8)

18 26. Other revisions adopted under Emergency Regulations as a result of lessons learned
19 include:

20 • Solicitation process was revised to separate a tenant's interest in buying from the
21 process of collecting documentation to support eligibility. Under the original
22 regulations, a Notice of Conditional Offer Prior to Sale was sent to tenants/occupants
23 providing a 120-day response to indicate interest in purchasing and submitting evidence
24 of eligibility (including income documentation). Under Emergency Regulations,
25 Caltrans now sends a Notice of Solicitation with a 30-day response for the tenant to
26 express interest in purchasing. Caltrans then follows-up with a Request for
27 Documentation and provides a 60-day response period.

28 • Expanded documentation required for household income. An affordable buyer

1 must submit income documentation from all sources identified in 1481 (c)(2).

- 2 • Timelines reduced (see first bullet...time reduced from 120 days to 90 days).
- 3 • Requires an appraisal to be updated at time of escrow if the appraisal is older
- 4 than six months (refer to Section 1476 (a)(9)).

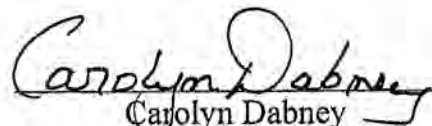
5 27. Additionally, the Emergency Regulations allow for any Phase 1 property that was
6 offered for sale and entered escrow between July 26, 2016 and December 12, 2021 to proceed
7 to close escrow (refer to Section 1475 (h)). This was added to capture any Priority 5 properties
8 (sales to FMV buyers) as well as 626 Prospect Ave. (RFJN ¶ 8, Ex. 8)

9 Specifically, the language contained in Section 1475 (h) of the SB 381 regulations
10 provides that,

11 "Properties Previously Offered but Not Sold. If a Property was offered for sale
12 pursuant to Chapter 9.5 between July 26, 2016 and December 12, 2021 and entered
13 escrow but did not close escrow, then the Department shall close escrow and finalize
14 the sale pursuant to the terms of the executed sales contract. **If a Property was offered**
15 **for sale pursuant to Chapter 9.5 between July 26, 2016 and December 12, 2021**
16 **and did not enter escrow, then the Property shall be offered for sale as specified in**
17 **Sections 1477 through 1477.3, as applicable [emphasis added]."**

18 I declare under penalty of perjury, under the law of the State of California, that the
19 foregoing is true and correct. As to those matters that are stated on my information and
20 belief, I believe them to be true.

21
22 Executed this 9th day of December 2022 at Los Angeles, California.

23
24 
25 Carolyn Dabney
26 Declarant
27
28

1 DECLARATION OF SERVICE

2 I am employed in the County of Los Angeles, State of California. I am over the age of
3 eighteen years and not a party to the within entitled action. My business address is 100 South Main
4 Street, Suite 1300, Los Angeles, California 90012-3702. On December 9, 2022, I served (a) true
5 copy(ies) of the following document(s): DECLARATION OF CAROLYN DABNEY IN SUPPORT
6 OF RESPONDENT AND DEFENDANT CALTRAN'S OPENING BRIEF, on the interested
7 party(ies) to the said action:
8

9 Christopher Sutton
10 Law Office of Christopher Sutton
11 586 La Loma Road
12 Pasadena, CA 91105
13 Tel: (626) 683-2500
14 Fax: (626) 405-9843
15 Email: christophersutton.law@gmail.com

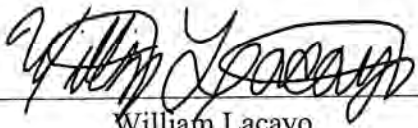
16 Gilbert Saucedo
17 Law Office of Gilbert Saucedo
18 714 W. Olympic Blvd., Suite 450
19 Los Angeles, CA, 90015
20 Tel: (213) 748-0808
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22 Email: gs.law@att.ent

23 By the following means:

24 [X] **ELECTRONIC SERVICE:** The above-referenced document(s) were transmitted on
25 this date as a PDF document by electronic mail to the party or parties identified above
26 using the email address(es) indicated, pursuant to California Rules of Court 2.251 and
27 Code of Civil Procedure section 1010.6.

28 I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 9, 2022, at Los Angeles, California.



William Lacayo
Declarant

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2 **CHRISTOPHER SUTTON [State Bar No. 116284]**
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15 Attorney for All Petitioners and Plaintiffs
16 Angela Flores, Marysia Wojcik, and Priscela Izquierdo

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CENTRAL DISTRICT, STANLEY MOSK COURTHOUSE

ANGELA FLORES, an individual;
MARYSIA WOJCIK, an individual; and
PRISCELLA IZQUIERDO, an individual;

Petitioners and Plaintiffs,

vs.

DEPARTMENT OF TRANSPORTATION OF
THE STATE OF CALIFORNIA, public entity;
OFFICE OF ADMINISTRATIVE LAW OF
THE STATE OF CALIFORNIA, a public entity;
DOES 1 THROUGH 100, inclusive;

Respondents and Defendants.

CALIFORNIA HOUSING FINANCE
AGENCY, public entity,

Real Party In Interest.

CASE NO. 19STCP03681

**PETITIONERS' REPLY
IN FAVOR OF JUDGMENT**

HEARING:

DATE: Wed., Jan. 25, 2022

TIME: 9:30 am

DEPT: 86

JUDGE: Mitchell L. Beckloff

Prior Status Conferences:
October 19, 2022 , Dept. 86
September 9, 2022, Dept. 86
August 19, 2022, Dept. 86

Case Filed: August 27, 2019
Remittitur: June 3, 2022
Appeal Case: B309918

1 **PETITIONERS’ REPLY IN FAVOR OF JUDGMENT**

2 **1. Summary of Reply Argument.**

3 Caltrans seeks to perpetuate the harmful impacts on petitioners of its “inflation adjusted
4 price” via its 2022 regulations. Caltrans’ manager admits the “inflation adjusted price” was a
5 2018 and 2019 invention. In effect, she admits Caltrans violated the California Constitution
6 by administrative action based on a false view that the Roberti Law was unconstitutional or
7 that Caltrans could refuse to follow it. Since 1979, the Roberti Law imposed plain and clear
8 duties on Caltrans to sell excess properties to lower income tenants at an “affordable price.”
9 Since 1972, Streets & Highways Code § 118.6 has required the excess properties be sold
10 within one year “. . . to the greatest extent possible.” In 2018, Caltrans deemed the properties
11 excess and also deemed the petitioners eligible to buy an “affordable price.” The facts of
12 those decisions triggered Caltrans’ duties to the petitioners. The *facts* have not changed.

13 Now, five years later, petitioners have not received valid offers from Caltrans, even
14 though it admits the “original acquisition price” applies, and was known for each home.
15 Caltrans’ delays via its invalid “inflation adjusted price,” and via its 2022 regulations,
16 continue to be an abuse of discretion and unfair to petitioners. *As applied to the petitioners*,
17 the 2022 regulations violate the Roberti Law and basic fairness. The Court should enter
18 judgment for petitioners and determine the exact text of the judgment base on the parties
19 submitting proposals.

20 **2. Caltrans Seeks to Extend and Perpetuate the Unfair Impacts**
21 **of Its “Inflation Adjusted Price” to Prejudice These Petitioners.**

22 The Legislature formally banned the “inflation adjusted price.” But it *always* violated
23 the Roberti Law, as this Court now should hold. The 2022 regulations seek to extend the
24 impact of the 2018 and 2019 illegal pricing by *presuming* today that any delays were not
25 attributable to Caltrans. They delays were wholly Caltrans’ doing. Petitioners should not be
26 forced to run the gamut of new hostile regulations which seek to disqualify all lower income
27 tenants who are “too poor to purchase” by applying a “Calculated Affordable Price” and a
28 “positive dollar value.” See **21 CCR §1481(b)(1)(E), and § 1481.2(c)**, and ¶s 24 & 25 of the

1 Dabney Declaration. Caltrans admits its 2022 regulations impose this result, even though:
2 **“SB381 did not impact the sales process for affordable sales. Neither SB51 nor**
3 **SB381 altered the sales process for affordable sales except for setting the minimum**
4 **sales price at the original acquisition price (unadjusted for inflation).”**

5 Dabney Decl., page 4, ¶22. Caltrans admits its 2022 regulations went beyond what was
6 intended in SB381 or SB51. They go beyond the Roberti Law by imposing a new standard
7 of “Calculated Affordable Price,” “monthly housing costs,” and “positive dollar value” at **21**
8 **CCR § 1481(b)(1)(E) and 21 CCR § 1481.2(c)** to disqualify petitioners. In 2023, Caltrans
9 now may deem a buyer “too poor to purchase” based on an imagined future purchase loan
10 without regard to a buyer’s actual access to funds from savings, friends, family, grants from
11 non-profit entities or cities, or the 100% purchase loan insurance offered to all the Route 710
12 tenants by the California Housing Finance Agency. Caltrans seeks to predict without any
13 basis that a buyer will *never* qualify for *any* purchase loan. Caltrans would thereby deny any
14 sale and deny a buyer even the chance to seek purchase financing. Application of the 2022
15 regulations to petitioners would be unfair and contrary to the Roberti Law in letter and spirit.

16 **3. Petitioners Have Never Argued or Admitted The 2022 Regulations**
17 **Were Valid or Even Applied to Their Purchases of The Homes;**
18 **The 2022 Regulations Violate the Roberti Law If Applied to Petitioners.**

19 Caltrans misrepresents petitioners’ 2018 lawsuit and this lawsuit as filed in 2019. It
20 misrepresents the Court of Appeal decision. Petitioners could not have foreseen in 2019 the
21 April 2022 regulations or the 2022 Caltrans attempts to disqualify lower income tenants
22 based on being “too poor.” The 2022 regulations are unfair to petitioners and violate the
23 Roberti Law. Neither could the Court of Appeal in March 2022 foreseen the later-enacted
24 April 2022 regulations or their onerous impacts and their violation of the Roberti Law.

25 **4. Caltrans Now Admits That Its 2018 “Inflation Adjusted Price”**
26 **Always Violated California Constitution at Article III Section 3.5.**

27 In paragraphs 8, 9, and 10 of the Dabney Declaration and in its Brief of December 9,
28 2022, at page 4, lines 10-15, Caltrans states the “inflation adjusted price” was imposed based

1 on a misperceived violation of Article XIX section 2 of the California Constitution (use of
2 gas taxes). Caltrans' mis-perception ignored the Legislature's findings in Govt. Code §
3 54235 and in AB512, Stats 2022, Chapter 940, Sec. 1. Caltrans ignored the 2009 Attorney
4 General's Opinion, which rejected the constitutional infirmity of the Roberti Law. Caltrans
5 ignored Article III section 3.5: Administrative agencies cannot decide on unconstitutionality
6 or refuse to enforce statutes. The "inflation adjusted price" was illegal from its inception as a
7 violation of Article III section 3.5 and violated the spirit and letter of the Roberti Law: The
8 importance of affordable housing is the legislative findings. And even Article XIX Section 2
9 allows for "mitigation" of harmful impacts highway construction. The Roberti Law is such
10 lawful mitigation as the Legislature has expressly found repeatedly.

11 **5. Caltrans Cites to The Dabney Declaration**
12 **For Evidence It Does Not Contain.**

13 At page 3 lines 22-25, page 4 lines 2-5 and 21-22, the Caltrans Brief cites to facts that
14 do not appear anywhere in the Dabney Declaration. These are mere arguments and not
15 evidence. This Court, in its 2019 judgment in petitioners' first lawsuit did not reach the
16 *substantive* validity of the "inflation adjusted price. Once it found an "underground
17 regulation," it deferred any ruling on the other merits. Caltrans' brief implies that this Court
18 decided all issues in the 2018-2019 lawsuit. It did not.

19 **6. Caltrans Confuses and Conflates Terms of the 2019 and 2020 Judgments.**

20 Caltrans conflates the 2019 judgment by Judge Bekloff and the 2020 judgment by Judge
21 Chalfant (overturned on appeal). It gives an erroneous impression of the 2019 judgment,
22 which merely found an APA "underground regulation" violation *and no more*.

23 **7. The Five Year Delay in Selling Petitioners Their Homes**
24 **Undermines Their Statutory Appreciation-Sharing Rights, Which**
25 **Would Now Entitled Them to 100% of Appreciation After Five Years.**

26 The unfairness of Caltrans' delays in selling the homes to petitioners also impacted their
27 right to *appreciation-sharing* found at 21 CCR § 1481.1(c) *Resale*. Under the Roberti Law
28 "affordable price" purchasers do not acquire 100% of a property's value, but only the value

1 they paid. A lien remains in place for the difference between the “affordable price” paid and
2 the “market value” at the time. The lien is non-collectible unless the property later is resold
3 at a market price. It is a “silent second” held by the state, lower in priority than a purchase
4 price loan, if any. See **Gov. Code 54237.7(b) and 21 CCR § 1481.1 (c) Resale**.

5 A property’s appreciation upon a resale is divided between a buyer and the state under a
6 five-year formula. See, **21 CCR § 1481.1 (c) Resale**. For each year after the original sale a
7 buyer is entitled to 20% more of the accrued appreciation, if the property is ever resold. After
8 five years, a buyer is holds 100% of the accrued appreciation. The “silent second” remains.
9 A future resale creates three types of proceeds: (1) the price paid by a buyer, (2) the “silent
10 second” lien held by the state, and (3) accrued appreciation in the property, if any.

11 The properties should have closed escrow at the “affordable price” in early 2018. But
12 the “inflation adjusted price” disrupted the sales and led to lawsuits. The delays meant the
13 “appreciation sharing” schedule did not begin. The delays also now mean that any “market
14 value” would be higher with inflation, increasing the amount of the state’s “silent second”
15 lien, and reducing the buyer’s “appreciation sharing,” even after five years. These changes in
16 “appreciation sharing” were unfair to petitioners and were a direct result of the improper
17 “inflation adjusted price” delays imposed by Caltrans. A judgment for petitioners needs to
18 address this unfair delay in petitioner’s “appreciation sharing.”

19 **8. Caltrans Seeks to Equate Changes In Statutes To Its Regulation Changes**
20 **Without Discussing Whether the 2022 Regulations Are Unfair or Illegal.**

21 Throughout its Brief Caltrans argues that its 2022 regulations deserve the same respect
22 as the statutory amendments in SB51 and SB381. This is an incorrect application of the
23 priorities between regulations and statutes. As set forth in the cases cited by Caltrans, the
24 statutes prevail over conflicting regulations. The 2022 regulations overtly conflict with the
25 Roberti Law by imposing the “too poor to purchase” standards, which are speculative. The
26 2018 and 2019 eligibility of petitioners should stand. The “original purchase prices” and
27 “fair market values” Caltrans determined in 2018 should stand. The facts underlying the
28 2018 prices have not changed. Caltrans is bound by its 2018 decisions favoring petitioners as

1 a matter of fairness and due its unclean hands in its improper “inflation adjusted prices.”

2 **9. Caltrans’ 2022 Regulations Seek to Pre-Judge Whether Petitioners**
3 **Are Able to Obtain Future Financing to Purchase Their Homes**
4 **And Thereby Would Prevent All Sales at An “Affordable Price.”**

5 Nothing in the Roberti Law places an income floor on low income buyers. Nor does the
6 Roberti Law, nor SB51, nor SB381, empower Caltrans to adopt regulations which conflict
7 with the law and which disqualify buyers based on a “Calculated Affordable Price” or a
8 “monthly housing costs” or a “positive dollar value” as found in the 2022 regulations at
9 **21 CCR § 1481(b)(1)(E) and 21 CCR § 1481.2(c)**. These regulations now allow Caltrans
10 in 2023 to impose a “too poor to purchase” standard based on pure speculation about a
11 buyer’s future ability to acquire funds to purchase. These are irrational and speculative rules.
12 They arbitrary and capricious. They were not authorized by SB51 or SB381. They also
13 overtly violate the affordable housing goals and processes of the Roberti Law.

14 **10. The Facts Should Apply as of March 30, 2018, The Date Petitioners**
15 **Filed Their First Lawsuit Against the “Inflation Adjusted Price.”**

16 The applicable facts and applicable law are different parts of any judgment. The *facts* in
17 this case should be applied as of March 30, 2018, when petitioners first sued to invalidate the
18 “inflation adjusted price.” The relief they now seek is prospective based on the *law* in 2023.
19 Caltrans’ 2022 regulations are self-serving and unfair if applied to petitioners. In 2018 and
20 2019, Caltrans twice determined that the *facts* supported its decisions that these properties
21 were “excess” and supported its decisions that petitioners were eligible to purchase at
22 “affordable” prices. The *facts* have not changed. Caltrans should not be allowed to changed
23 the *facts* five years later by making petitioners reapply under new, onerous and illegal rules.

24 **11. If Petitioners Had Closed Escrow in 2018 for Affordable Prices**
25 **There Incomes and Eligibility Would Never Be Tested Again.**

26 Under the Roberti Law and the regulations in place in 2018 and 2019 once a tenant buys
27 the property *their income and eligibility is never tested again*. Yet the delays after 2018 and
28 2019 were caused by Caltrans’ misconduct and unclean hands. Now, Caltrans wants these

1 three petitioners to start all over again and re-apply and re-prove the incomes under the new
2 and more onerous 2022 regulations. Caltrans now reserves to itself the ability to deny all
3 eligibility to purchase if a tenant is deemed “too poor to purchase.” This standard was not
4 applied in 2018 or 2019, as the Dabney Declaration admits at page 4, ¶s 24 & 25:

5 “24. Under Phase 1, Caltrans offered affordable buyers the opportunity to purchase
6 regardless of their Calculated Affordable Price. Many of the Phase 1 buyers had a negative
7 Calculated Affordable Price (meaning their income was insufficient to afford the monthly
8 housing cost).”

9 “25. The current regulations require an affordable buyer to have Calculated Afford-
10 able Price with a positive dollar value (refer to section 1481 (b)(E) of the SR 710
11 regulations). (RFJN ¶ 8, Ex. 8)”

12 This is an admission that Caltrans now seeks to impose new more restrictive standards on
13 petitioners than it did in 2018 and 2019. But only if petitioners are forced to re-apply and
14 start the process anew. Elsewhere, Caltrans admits numerous other tenants succeeded in
15 completing the sales process and even paid the higher “inflation adjusted price” with no lack
16 of financing despite not meeting the more onerous income standards. This inconsistency
17 proves that application of the 2022 regulations would be arbitrary and capricious. In all
18 fairness, Caltrans should be held to the eligibility decisions it made on petitioners’ purchases
19 in 2018 and 2019. It also should not be allowed to change any of the “original purchase
20 price” or “fair market value” determinations it applied to these properties in 2018 and 2019.
21 The Roberti Law does not allow for a “too poor to purchase” standard to deprive petitioners
22 of affordable housing. To allow Caltrans to impose such new and onerous regulations would
23 be to perpetuate the illegal impacts of the “inflation adjusted prices” it imposed in 2018 and
24 2019. It would reward a wrongdoer.

25 **12. Cases Cited By Caltrans Equating its 2022 Regulations With Statutes**
26 **Are Inapposite and Mis-cited for Inapplicable Holdings.**

27 In footnote 2 on page 9 of its brief, Caltrans cites to cases for the proposition that its
28 2022 *regulations* should apply with equal force as *statutes* and without regard to any conflict

1 with the Roberti Law, and that the 2022 regulations compel petitioners to re-apply anew and
2 to meet new standards and prove that they are not “too poor to purchase.” Caltrans is wrong.

3 In **Smith v. Regents of University of California** (1976) 58 Cal.App.3d 397, at 403, an
4 employee sought mandamus for reinstatement. He argued that the trial court used the wrong
5 standard of review, seeking independent judgment review rather the substantial evidence
6 test. His layoff was based on a lack of funds and his poor performance. **Smith** was decided
7 based on the ***facts***. The actual entire holding in **Smith** cited by Caltrans at page 403 actually
8 supports petitioners claims herein that the ***statute*** governs:

9 Generally the same rules of construction and interpretation that apply to statutes govern the
10 construction and interpretation of rules and regulations of administrative agencies. (Cal.
Drive-In Restaurant Assn. v. Clark, 22 Cal.2d 287, 292 [140 P.2d 657, 147 A.L.R. 1028].)

11 Fundamental rules of statutory interpretation require that a statute be read as a whole, and its
12 various parts harmonized so as to give effect to legislative intent. Whenever possible, effect
13 should be given to every word, phrase, and clause so that no part or provision will be useless or
14 meaningless. (Weber v. County of Santa Barbara, 15 Cal.2d 82 [98 P.2d 492]; Select Base
Materials v. Board of Equal., 51 Cal.2d 640 [335 P.2d 672]; Code Civ. Proc., § 1858).

14 Thus, **Smith** does not stand for the holding asserted, but that the Court must look to the
15 entirety of the statute to judge whether regulations are valid and if they even apply.

16 In **People ex rel. Deukmejian v CHE, Inc.** (1983) 150 Cal App.3d 123, at 135, the
17 attorney general sued a restaurant located on public land to compel access modifications for
18 disabled persons. The Court of Appeal reversed a summary judgment in favor of the
19 restaurant, stating at page 135-136 (the pages cited by Caltrans) as follows:

20 For, “[w]hile it is true that as a general rule statutes are not to be given retroactive effect
21 unless the intent of the Legislature cannot be otherwise satisfied [***cite omitted***], an exception to
22 the general rule is recognized in a case where the legislative amendment merely clarifies the
23 existing law. [***cites omitted***] The rationale of this exception is that in such an instance, in
24 essence, no retroactive effect is given to the statute because the true meaning of the statute has
25 been always the same. [***cites omitted***] This statutory rule of construction applies equally to
26 administrative regulations. [***cite omitted***]

27 We reject CHE's apparent argument the statutory and regulatory scheme always authorizes
28 separate primary entrances for handicapped and nonhandicapped patrons. Because we find the
required primary entrance must necessarily be burdened by a substantial flow of pedestrian
traffic, a public restaurant entrance used by no patrons other than the physically handicapped
cannot realistically be a “primary entrance.”

The **CHE** court recites the importance the Legislature places on rights of the disabled. Thus,
Caltrans misapplies the case, and **CHE** supports petitioners claims, because the Roberti Law
and other laws reflect the importance of affordable housing. Caltrans’ claim that its 2022

1 regulations barring people who are “too poor to purchase” override the statute is not justified
2 nor is it consistent with the holding in CHE. It is also an unfair assertion as to petitioners.

3 In Union of American Physicians v. Kizer (1990) 223 Cal.App.3d 490, 505 a doctors group
4 challenged statistical procedures used by an agency. The trial court held this an underground
5 regulation. The Court of Appeal generally affirmed. But the jump cite page does not support
6 Caltrans’ contentions and actually supports petitioners. The statute prevails.

7 **13. Petitioners’ Rights To Purchase Are Still Founded on the Roberti Law,
8 And the Amendments in SB51 and SB381 Did Not Repeal Those Rights.**

9 Petitioners’ rights to purchase their homes at an “affordable price” remain in the Roberti
10 Law. Nothing in the 2021 amendments altered petitioners’ statutory rights to buy their homes
11 as such rights existed in 2018 and 2019 and based on the *facts* at that time. Petitioners have
12 never agreed that the 2022 Caltrans regulations are consistent with the Roberti Law. In fact,
13 the 2022 regulations violate the statute by denying the right to purchase if a tenant’s income
14 is too low without even allowing the tenant a chance to seek financing. The 2022 regulations
15 improperly presumed a future event that Caltrans cannot predict, and there is no basis to
16 make such a prediction. This new limitation is irrational and contrary to the letter and spirit
17 of the Roberti Law by presuming without any foundation that three petitioners cannot
18 purchase directly or *ever* find financing or grants to purchase at their homes at the lower
19 original acquisition prices of: \$23,733 (Flores), \$33,600 (Wojcik) and \$314,000 (Izquierdo).
20 Caltrans’ admits at Dabney Decl., page 4, ¶22, that neither SB51 nor SB381 altered any
21 purchase rights. By implication, Caltrans is also admitting that the 2022 regulations went
22 beyond the scope of the statute. The 2022 regulations violate the Roberti Law, are arbitrary,
23 capricious, and completely lacking any evidentiary support as applied to these petitioners.

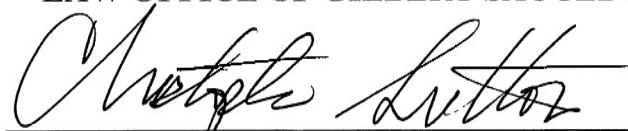
24 **14. Conclusion: Enter Judgement for Petitioners.**

25 Petitioners urge the Court to enter judgment for them and against Caltrans, and to decide
26 the exact type and scope remedies later based on text submitted by the parties.

27 **DATED: January 11, 2022. LAW OFFICE OF CHRISTOPHER SUTTON**

28 **LAW OFFICE OF GILBERT SAUCEDO**

By



CHRISTOPHER SUTTON, attorneys for petitioners

1 **PROOF OF MAIL AND ELECTRONIC SERVICE**

2 **ANGELA FLORES et al v. DEPT. OF TRANS., etc., Case 19STCP043681**
3 **Court of Appeal, Second Appellate District, Case B309918, Remittitur on June 3, 2022**
4 Los Angeles County Superior Court, Central District, Stanley Mosk Courthouse
111 North Hill Street, 8th Floor, Los Angeles, California 90012
Case assigned to Hon. Mitchell L. Beckloff, Dept. 86, Courtroom Tel: (213) 830-0785

5 I am over the age 18 years and am not a party to this lawsuit. I am employed at an office of
6 an attorney in this lawsuit with a business address and telephone number of 586 La Loma
Road, Pasadena, California 91105-2443 and (626) 683-2500, respectively.

7 On **January 11, 2023**, I served a duplicate copy of the attached document on the attorneys of
8 record in this case and entitled "**PETITIONERS' REPLY IN FAVOR OF JUDGMENT**"
9 by placing a true and correct copy of the document within an envelope addressed as set forth
below bearing prepaid U.S. First Class postage and the addresses set forth below for delivery
10 to the addresses. I then personally deposited each envelope with the U.S. Postal Service at
Pasadena, California on this date.

11 Erick Solares, Esq.
12 Kirtsen Bowman, Esq.
a.k.a. Kirsten Monette Reicherter, Esq.
13 Peter A. Ackeret, Esq.
14 Jerald Michael Montoya, Esq.
15 Erin Elise Mackey Holbrook, Esq.
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of the State of California
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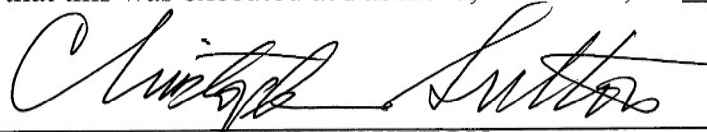
16 Office of Attorney General Xavier Becerra
17 State of California Department of Justice
300 South Spring Street, Suite 1700
18 Los Angeles, California 90013

Served Pursuant to C.R.C. 8.29(c)

19 **Electronic Service**

20 I sent a duplicate of the above document by email to each email address above from my email
address of christophersutton.law@gmail.com, and have received emails from these email
addresses related to this lawsuit in the past.

21 I declare under penalty of perjury under the laws of the State of California that the above is
22 true and correct and that this was executed at Pasadena, California, on **January 11, 2023**.

23 

24 **CHRISTOPHER SUTTON**



Christopher Sutton <christophersutton.law@gmail.com>

1-18 Item C.9. - Closed Session -Caltrans' Limits on South Pasadena Purchasers

Christopher Sutton <christophersutton.law@gmail.com>

Wed, Jan 18, 2023 at 1:07 PM

To: ccpubliccomment@southpasadenaca.gov

Bcc: "JoanneNO710@aol.com" <JoanneNO710@aol.com>, Roberto Flores <betozapatista@me.com>, Angela Flores <angelaluciaf@gmail.com>, Marysia Wojcik <marysiawojcik@hotmail.com>, Priscela Izquierdo <priscela@acaciamcorp.com>, Mike Izquierdo <mbi@acaciamcorp.com>, timothy ivison <tittppiii@gmail.com>

Dear South Pasadena City Council and Staff:

Attached are the following two documents filed in Flores etc v Dept of Transportation, LA Superior Court case number 19STCP03681, pending since 2019.

Three South Pasadena Tenants (Angela Flores, Marysia Wojcik, and Priscela Izquierdo) sued for a court order that Caltrans sell them their homes at an "affordable price" instead of the "inflation adjusted price" imposed by Caltrans.


The following are attached:

1. **DECLARATION OF CAROLYN DABNEY** filed by Caltrans on 12-9-2022.
2. **PETITIONERS' REPLY BRIEF** filed 1-11-2023 by my office for Flores, Wojcik and Izquierdo.

Caltrans now asserts that tenants will be disqualified from buying their homes under its 2022 new Emergency Regulations based on "Calculated Affordable Price," "positive dollar value," and "monthly housing costs." These rules create a hypothetical price and hypothetical housing cost and would allow Caltrans to determine that a tenant is "too poor to purchase" without any relation to the actual price of the house or their ability to obtain financing via Calif-HFA (which has promised them 100% loan insurance).

These rules will harm all Caltrans tenants in South Pasadena, Pasadena, and El Sereno unless repealed or overturned by a court. Our court hearing is on 1-25-2023.

--- Christopher Sutton 1-18-2023

2 attachments **2022-09-09 Caltrans' Dabney Declaration CONFORMED (6 pages).pdf**
2647K **2023-01-11 Petitioners Reply Brief - conformed (10 pages).pdf**
8293K

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15 Attorney for All Petitioners and Plaintiffs
16 Angela Flores, Marysia Wojcik, and Priscela Izquierdo

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF LOS ANGELES**
19 **CENTRAL DISTRICT, STANLEY MOSK COURTHOUSE**

20 ANGELA FLORES, an individual;
21 MARYSIA WOJCIK, an individual; and
22 PRISCELLA IZQUIERDO, an individual;
23
24 Petitioners and Plaintiffs,

25 vs.

26 DEPARTMENT OF TRANSPORTATION OF
27 THE STATE OF CALIFORNIA, public entity;
28 OFFICE OF ADMINISTRATIVE LAW OF
THE STATE OF CALIFORNIA, a public entity;
DOES 1 THROUGH 100, inclusive;

Respondents and Defendants.

CALIFORNIA HOUSING FINANCE
AGENCY, public entity,

Real Party In Interest.

CASE NO. 19STCP03681

**PETITIONERS' REPLY
IN FAVOR OF JUDGMENT**

HEARING:

DATE: Wed., Jan. 25, 2022
TIME: 9:30 am
DEPT: 86
JUDGE: Mitchell L. Beckloff

Prior Status Conferences:
October 19, 2022, Dept. 86
September 9, 2022, Dept. 86
August 19, 2022, Dept. 86

Case Filed: August 27, 2019
Remittitur: June 3, 2022
Appeal Case: B309918

1 **PETITIONERS' REPLY IN FAVOR OF JUDGMENT**

2 **1. Summary of Reply Argument.**

3 Caltrans seeks to perpetuate the harmful impacts on petitioners of its “inflation adjusted
4 price” via its 2022 regulations. Caltrans’ manager admits the “inflation adjusted price” was a
5 2018 and 2019 invention. In effect, she admits Caltrans violated the California Constitution
6 by administrative action based on a false view that the Roberti Law was unconstitutional or
7 that Caltrans could refuse to follow it. Since 1979, the Roberti Law imposed plain and clear
8 duties on Caltrans to sell excess properties to lower income tenants at an “affordable price.”
9 Since 1972, Streets & Highways Code § 118.6 has required the excess properties be sold
10 within one year “. . . to the greatest extent possible.” In 2018, Caltrans deemed the properties
11 excess and also deemed the petitioners eligible to buy an “affordable price.” The facts of
12 those decisions triggered Caltrans’ duties to the petitioners. The *facts* have not changed.

13 Now, five years later, petitioners have not received valid offers from Caltrans, even
14 though it admits the “original acquisition price” applies, and was known for each home.
15 Caltrans’ delays via its invalid “inflation adjusted price,” and via its 2022 regulations,
16 continue to be an abuse of discretion and unfair to petitioners. *As applied to the petitioners,*
17 the 2022 regulations violate the Roberti Law and basic fairness. The Court should enter
18 judgment for petitioners and determine the exact text of the judgment base on the parties
19 submitting proposals.

20 **2. Caltrans Seeks to Extend and Perpetuate the Unfair Impacts**
21 **of Its “Inflation Adjusted Price” to Prejudice These Petitioners.**

22 The Legislature formally banned the “inflation adjusted price.” But it *always* violated
23 the Roberti Law, as this Court now should hold. The 2022 regulations seek to extend the
24 impact of the 2018 and 2019 illegal pricing by *presuming* today that any delays were not
25 attributable to Caltrans. They delays were wholly Caltrans’ doing. Petitioners should not be
26 forced to run the gamut of new hostile regulations which seek to disqualify all lower income
27 tenants who are “too poor to purchase” by applying a “Calculated Affordable Price” and a
28 “positive dollar value.” See 21 CCR §1481(b)(1)(E), and § 1481.2(c), and ¶s 24 & 25 of the

1 Dabney Declaration. Caltrans admits its 2022 regulations impose this result, even though:
2 **“SB381 did not impact the sales process for affordable sales. Neither SB51 nor**
3 **SB381 altered the sales process for affordable sales except for setting the minimum**
4 **sales price at the original acquisition price (unadjusted for inflation).”**

5 Dabney Decl., page 4, ¶22. Caltrans admits its 2022 regulations went beyond what was
6 intended in SB381 or SB51. They go beyond the Roberti Law by imposing a new standard
7 of “Calculated Affordable Price,” “monthly housing costs,” and “positive dollar value” at **21**
8 **CCR § 1481(b)(1)(E) and 21 CCR § 1481.2(c)** to disqualify petitioners. In 2023, Caltrans
9 now may deem a buyer “too poor to purchase” based on an imagined future purchase loan
10 without regard to a buyer’s actual access to funds from savings, friends, family, grants from
11 non-profit entities or cities, or the 100% purchase loan insurance offered to all the Route 710
12 tenants by the California Housing Finance Agency. Caltrans seeks to predict without any
13 basis that a buyer will *never* qualify for *any* purchase loan. Caltrans would thereby deny any
14 sale and deny a buyer even the chance to seek purchase financing. Application of the 2022
15 regulations to petitioners would be unfair and contrary to the Roberti Law in letter and spirit.

16 **3. Petitioners Have Never Argued or Admitted The 2022 Regulations**
17 **Were Valid or Even Applied to Their Purchases of The Homes;**
18 **The 2022 Regulations Violate the Roberti Law If Applied to Petitioners.**

19 Caltrans misrepresents petitioners’ 2018 lawsuit and this lawsuit as filed in 2019. It
20 misrepresents the Court of Appeal decision. Petitioners could not have foreseen in 2019 the
21 April 2022 regulations or the 2022 Caltrans attempts to disqualify lower income tenants
22 based on being “too poor.” The 2022 regulations are unfair to petitioners and violate the
23 Roberti Law. Neither could the Court of Appeal in March 2022 foreseen the later-enacted
24 April 2022 regulations or their onerous impacts and their violation of the Roberti Law.

25 **4. Caltrans Now Admits That Its 2018 “Inflation Adjusted Price”**
26 **Always Violated California Constitution at Article III Section 3.5.**

27 In paragraphs 8, 9, and 10 of the Dabney Declaration and in its Brief of December 9,
28 2022, at page 4, lines 10-15, Caltrans states the “inflation adjusted price” was imposed based

1 on a misperceived violation of Article XIX section 2 of the California Constitution (use of
2 gas taxes). Caltrans' mis-perception ignored the Legislature's findings in Govt. Code §
3 54235 and in AB512, Stats 2022, Chapter 940, Sec. 1. Caltrans ignored the 2009 Attorney
4 General's Opinion, which rejected the constitutional infirmity of the Roberti Law. Caltrans
5 ignored Article III section 3.5: Administrative agencies cannot decide on unconstitutionality
6 or refuse to enforce statutes. The "inflation adjusted price" was illegal from its inception as a
7 violation of Article III section 3.5 and violated the spirit and letter of the Roberti Law: The
8 importance of affordable housing is the legislative findings. And even Article XIX Section 2
9 allows for "mitigation" of harmful impacts highway construction. The Roberti Law is such
10 lawful mitigation as the Legislature has expressly found repeatedly.

11 **5. Caltrans Cites to The Dabney Declaration**

12 **For Evidence It Does Not Contain.**

13 At page 3 lines 22-25, page 4 lines 2-5 and 21-22, the Caltrans Brief cites to facts that
14 do not appear anywhere in the Dabney Declaration. These are mere arguments and not
15 evidence. This Court, in its 2019 judgment in petitioners' first lawsuit did not reach the
16 *substantive* validity of the "inflation adjusted price. Once it found an "underground
17 regulation," it deferred any ruling on the other merits. Caltrans' brief implies that this Court
18 decided all issues in the 2018-2019 lawsuit. It did not.

19 **6. Caltrans Confuses and Conflates Terms of the 2019 and 2020 Judgments.**

20 Caltrans conflates the 2019 judgment by Judge Bekloff and the 2020 judgment by Judge
21 Chalfant (overturned on appeal). It gives an erroneous impression of the 2019 judgment,
22 which merely found an APA "underground regulation" violation *and no more*.

23 **7. The Five Year Delay in Selling Petitioners Their Homes**
24 **Undermines Their Statutory Appreciation-Sharing Rights, Which**
25 **Would Now Entitled Them to 100% of Appreciation After Five Years.**

26 The unfairness of Caltrans' delays in selling the homes to petitioners also impacted their
27 right to *appreciation-sharing* found at 21 CCR § 1481.1(c) *Resale*. Under the Roberti Law
28 "affordable price" purchasers do not acquire 100% of a property's value, but only the value

1 they paid. A lien remains in place for the difference between the “affordable price” paid and
2 the “market value” at the time. The lien is non-collectible unless the property later is resold
3 at a market price. It is a “silent second” held by the state, lower in priority than a purchase
4 price loan, if any. See Gov. Code 54237.7(b) and 21 CCR § 1481.1 (c) Resale.

5 A property’s appreciation upon a resale is divided between a buyer and the state under a
6 five-year formula. See, 21 CCR § 1481.1 (c) Resale. For each year after the original sale a
7 buyer is entitled to 20% more of the accrued appreciation, if the property is ever resold. After
8 five years, a buyer is holds 100% of the accrued appreciation. The “silent second” remains.
9 A future resale creates three types of proceeds: (1) the price paid by a buyer, (2) the “silent
10 second” lien held by the state, and (3) accrued appreciation in the property, if any.

11 The properties should have closed escrow at the “affordable price” in early 2018. But
12 the “inflation adjusted price” disrupted the sales and led to lawsuits. The delays meant the
13 “appreciation sharing” schedule did not begin. The delays also now mean that any “market
14 value” would be higher with inflation, increasing the amount of the state’s “silent second”
15 lien, and reducing the buyer’s “appreciation sharing,” even after five years. These changes in
16 “appreciation sharing” were unfair to petitioners and were a direct result of the improper
17 “inflation adjusted price” delays imposed by Caltrans. A judgment for petitioners needs to
18 address this unfair delay in petitioner’s “appreciation sharing.”

19 **8. Caltrans Seeks to Equate Changes In Statutes To Its Regulation Changes**
20 **Without Discussing Whether the 2022 Regulations Are Unfair or Illegal.**

21 Throughout its Brief Caltrans argues that its 2022 regulations deserve the same respect
22 as the statutory amendments in SB51 and SB381. This is an incorrect application of the
23 priorities between regulations and statutes. As set forth in the cases cited by Caltrans, the
24 statutes prevail over conflicting regulations. The 2022 regulations overtly conflict with the
25 Roberti Law by imposing the “too poor to purchase” standards, which are speculative. The
26 2018 and 2019 eligibility of petitioners should stand. The “original purchase prices” and
27 “fair market values” Caltrans determined in 2018 should stand. The facts underlying the
28 2018 prices have not changed. Caltrans is bound by its 2018 decisions favoring petitioners as

1 a matter of fairness and due its unclean hands in its improper “inflation adjusted prices.”

2 **9. Caltrans’ 2022 Regulations Seek to Pre-Judge Whether Petitioners**
3 **Are Able to Obtain Future Financing to Purchase Their Homes**
4 **And Thereby Would Prevent All Sales at An “Affordable Price.”**

5 Nothing in the Roberti Law places an income floor on low income buyers. Nor does the
6 Roberti Law, nor SB51, nor SB381, empower Caltrans to adopt regulations which conflict
7 with the law and which disqualify buyers based on a “Calculated Affordable Price” or a
8 “monthly housing costs” or a “positive dollar value” as found in the 2022 regulations at
9 **21 CCR § 1481(b)(1)(E) and 21 CCR § 1481.2(c)**. These regulations now allow Caltrans
10 in 2023 to impose a “too poor to purchase” standard based on pure speculation about a
11 buyer’s future ability to acquire funds to purchase. These are irrational and speculative rules.
12 They arbitrary and capricious. They were not authorized by SB51 or SB381. They also
13 overtly violate the affordable housing goals and processes of the Roberti Law.

14 **10. The Facts Should Apply as of March 30, 2018, The Date Petitioners**
15 **Filed Their First Lawsuit Against the “Inflation Adjusted Price.”**

16 The applicable facts and applicable law are different parts of any judgment. The *facts* in
17 this case should be applied as of March 30, 2018, when petitioners first sued to invalidate the
18 “inflation adjusted price.” The relief they now seek is prospective based on the *law* in 2023.
19 Caltrans’ 2022 regulations are self-serving and unfair if applied to petitioners. In 2018 and
20 2019, Caltrans twice determined that the *facts* supported its decisions that these properties
21 were “excess” and supported its decisions that petitioners were eligible to purchase at
22 “affordable” prices. The *facts* have not changed. Caltrans should not be allowed to changed
23 the *facts* five years later by making petitioners reapply under new, onerous and illegal rules.

24 **11. If Petitioners Had Closed Escrow in 2018 for Affordable Prices**
25 **There Incomes and Eligibility Would Never Be Tested Again.**

26 Under the Roberti Law and the regulations in place in 2018 and 2019 once a tenant buys
27 the property *their income and eligibility is never tested again*. Yet the delays after 2018 and
28 2019 were caused by Caltrans’ misconduct and unclean hands. Now, Caltrans wants these

1 three petitioners to start all over again and re-apply and re-prove the incomes under the new
2 and more onerous 2022 regulations. Caltrans now reserves to itself the ability to deny all
3 eligibility to purchase if a tenant is deemed “too poor to purchase.” This standard was not
4 applied in 2018 or 2019, as the Dabney Declaration admits at page 4, ¶s 24 & 25:

5 “24. Under Phase 1, Caltrans offered affordable buyers the opportunity to purchase
6 regardless of their Calculated Affordable Price. Many of the Phase 1 buyers had a negative
7 Calculated Affordable Price (meaning their income was insufficient to afford the monthly
8 housing cost).”

9 “25. The current regulations require an affordable buyer to have Calculated Afford-
10 able Price with a positive dollar value (refer to section 1481 (b)(E) of the SR 710
11 regulations). (RFJN ¶ 8, Ex. 8)”

12 This is an admission that Caltrans now seeks to impose new more restrictive standards on
13 petitioners than it did in 2018 and 2019. But only if petitioners are forced to re-apply and
14 start the process anew. Elsewhere, Caltrans admits numerous other tenants succeeded in
15 completing the sales process and even paid the higher “inflation adjusted price” with no lack
16 of financing despite not meeting the more onerous income standards. This inconsistency
17 proves that application of the 2022 regulations would be arbitrary and capricious. In all
18 fairness, Caltrans should be held to the eligibility decisions it made on petitioners’ purchases
19 in 2018 and 2019. It also should not be allowed to change any of the “original purchase
20 price” or “fair market value” determinations it applied to these properties in 2018 and 2019.
21 The Roberti Law does not allow for a “too poor to purchase” standard to deprive petitioners
22 of affordable housing. To allow Caltrans to impose such new and onerous regulations would
23 be to perpetuate the illegal impacts of the “inflation adjusted prices” it imposed in 2018 and
24 2019. It would reward a wrongdoer.

25 **12. Cases Cited By Caltrans Equating its 2022 Regulations With Statutes**
26 **Are Inapposite and Mis-cited for Inapplicable Holdings.**

27 In footnote 2 on page 9 of its brief, Caltrans cites to cases for the proposition that its
28 2022 *regulations* should apply with equal force as *statutes* and without regard to any conflict

1 with the Roberti Law, and that the 2022 regulations compel petitioners to re-apply anew and
2 to meet new standards and prove that they are not "too poor to purchase." Caltrans is wrong.

3 In Smith v. Regents of University of California (1976) 58 Cal.App.3d 397, at 403, an
4 employee sought mandamus for reinstatement. He argued that the trial court used the wrong
5 standard of review, seeking independent judgment review rather the substantial evidence
6 test. His layoff was based on a lack of funds and his poor performance. Smith was decided
7 based on the *facts*. The actual entire holding in Smith cited by Caltrans at page 403 actually
8 supports petitioners claims herein that the *statute* governs:

9 Generally the same rules of construction and interpretation that apply to statutes govern the
10 construction and interpretation of rules and regulations of administrative agencies. (Cal.
Drive-In Restaurant Assn. v. Clark, 22 Cal.2d 287, 292 [140 P.2d 657, 147 A.L.R. 1028].)

11 Fundamental rules of statutory interpretation require that a statute be read as a whole, and its
12 various parts harmonized so as to give effect to legislative intent. Whenever possible, effect
13 should be given to every word, phrase, and clause so that no part or provision will be useless or
meaningless. (Weber v. County of Santa Barbara, 15 Cal.2d 82 [98 P.2d 492]; Select Base
Materials v. Board of Equal., 51 Cal.2d 640 [335 P.2d 672]; Code Civ. Proc., § 1858).

14 Thus, Smith does not stand for the holding asserted, but that the Court must look to the
15 entirety of the statute to judge whether regulations are valid and if they even apply.

16 In People ex rel. Deukmejian v CHE, Inc. (1983) 150 Cal App.3d 123, at 135, the
17 attorney general sued a restaurant located on public land to compel access modifications for
18 disabled persons. The Court of Appeal reversed a summary judgment in favor of the
19 restaurant, stating at page 135-136 (the pages cited by Caltrans) as follows:

20 For, "[w]hile it is true that as a general rule statutes are not to be given retroactive effect
unless the intent of the Legislature cannot be otherwise satisfied [cite omitted], an exception to
21 the general rule is recognized in a case where the legislative amendment merely clarifies the
existing law. [cites omitted] The rationale of this exception is that in such an instance, in
22 essence, no retroactive effect is given to the statute because the true meaning of the statute has
been always the same. [cites omitted] This statutory rule of construction applies equally to
23 administrative regulations. [cite omitted]

24 We reject CHE's apparent argument the statutory and regulatory scheme always authorizes
separate primary entrances for handicapped and nonhandicapped patrons. Because we find the
25 required primary entrance must necessarily be burdened by a substantial flow of pedestrian
traffic, a public restaurant entrance used by no patrons other than the physically handicapped
cannot realistically be a "primary entrance."

26 The CHE court recites the importance the Legislature places on rights of the disabled. Thus,
27 Caltrans misapplies the case, and CHE supports petitioners claims, because the Roberti Law
28 and other laws reflect the importance of affordable housing. Caltrans' claim that its 2022

1 regulations barring people who are “too poor to purchase” override the statute is not justified
2 nor is it consistent with the holding in CHE. It is also an unfair assertion as to petitioners.

3 In Union of American Physicians v. Kizer (1990) 223 Cal.App.3d 490, 505 a doctors group
4 challenged statistical procedures used by an agency. The trial court held this an underground
5 regulation. The Court of Appeal generally affirmed. But the jump cite page does not support
6 Caltrans’ contentions and actually supports petitioners. The statute prevails.

7 **13. Petitioners’ Rights To Purchase Are Still Founded on the Roberti Law,
8 And the Amendments in SB51 and SB381 Did Not Repeal Those Rights.**

9 Petitioners’ rights to purchase their homes at an “affordable price” remain in the Roberti
10 Law. Nothing in the 2021 amendments altered petitioners’ statutory rights to buy their homes
11 as such rights existed in 2018 and 2019 and based on the *facts* at that time. Petitioners have
12 never agreed that the 2022 Caltrans regulations are consistent with the Roberti Law. In fact,
13 the 2022 regulations violate the statute by denying the right to purchase if a tenant’s income
14 is too low without even allowing the tenant a chance to seek financing. The 2022 regulations
15 improperly presumed a future event that Caltrans cannot predict, and there is no basis to
16 make such a prediction. This new limitation is irrational and contrary to the letter and spirit
17 of the Roberti Law by presuming without any foundation that three petitioners cannot
18 purchase directly or *ever* find financing or grants to purchase at their homes at the lower
19 original acquisition prices of: \$23,733 (Flores), \$33,600 (Wojcik) and \$314,000 (Izquierdo).
20 Caltrans’ admits at Dabney Decl., page 4, ¶22, that neither SB51 nor SB381 altered any
21 purchase rights. By implication, Caltrans is also admitting that the 2022 regulations went
22 beyond the scope of the statute. The 2022 regulations violate the Roberti Law, are arbitrary,
23 capricious, and completely lacking any evidentiary support as applied to these petitioners.

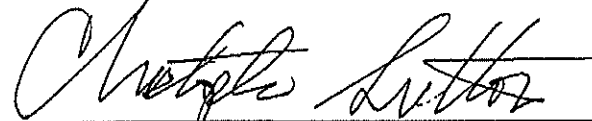
24 **14. Conclusion: Enter Judgement for Petitioners.**

25 Petitioners urge the Court to enter judgment for them and against Caltrans, and to decide
26 the exact type and scope remedies later based on text submitted by the parties.

27 **DATED: January 11, 2022. LAW OFFICE OF CHRISTOPHER SUTTON**

28 **LAW OFFICE OF GILBERT SAUCEDO**

By



CHRISTOPHER SUTTON, attorneys for petitioners

1 **PROOF OF MAIL AND ELECTRONIC SERVICE**

2 **ANGELA FLORES et al v. DEPT. OF TRANS., etc., Case 19STCP043681**
3 **Court of Appeal, Second Appellate District, Case B309918, Remittitur on June 3, 2022**
4 **Los Angeles County Superior Court, Central District, Stanley Mosk Courthouse**
5 **111 North Hill Street, 8th Floor, Los Angeles, California 90012**
6 **Case assigned to Hon. Mitchell L. Beckloff, Dept. 86, Courtroom Tel: (213) 830-0785**

7 I am over the age 18 years and am not a party to this lawsuit. I am employed at an office of
8 an attorney in this lawsuit with a business address and telephone number of 586 La Loma
9 Road, Pasadena, California 91105-2443 and (626) 683-2500, respectively.

10 On **January 11, 2023**, I served a duplicate copy of the attached document on the attorneys of
11 record in this case and entitled "**PETITIONERS' REPLY IN FAVOR OF JUDGMENT**"
12 by placing a true and correct copy of the document within an envelope addressed as set forth
13 below bearing prepaid U.S. First Class postage and the addresses set forth below for delivery
14 to the addresses. I then personally deposited each envelope with the U.S. Postal Service at
15 Pasadena, California on this date.

16 Erick Solares, Esq.
17 Kirtsen Bowman, Esq.
18 a.k.a. Kirsten Monette Reicherter, Esq.
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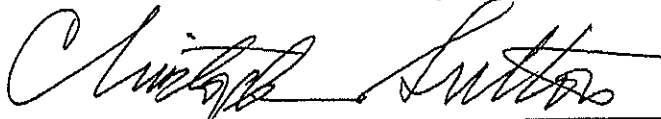
26 Office of Attorney General Xavier Becerra
27 State of California Department of Justice
28 300 South Spring Street, Suite 1700
Los Angeles, California 90013

Served Pursuant to C.R.C. 8.29(c)

29 **Electronic Service**

30 I sent a duplicate of the above document by email to each email address above from my email
31 address of christophersutton.law@gmail.com, and have received emails from these email
32 addresses related to this lawsuit in the past.

33 I declare under penalty of perjury under the laws of the State of California that the above is
34 true and correct and that this was executed at Pasadena, California, on **January 11, 2023**.

35 

36 **CHRISTOPHER SUTTON**

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12 acting by and through the Department of Transportation,
13

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 FOR THE COUNTY OF LOS ANGELES, SECOND APPELLATE DISTRICT
16

17 ANGELA FLORES, an individual
18 MARYSIA WOJCIK, an individual
19 PRISCELA IZQUIERDO, an individual
20

Case No.: 19STCP03681
Appellate Case No.: B309918

[Honorable Judge Mitchell Beckloff]
Dept. 86

Petitioners and Plaintiffs,

DECLARATION OF CAROLYN DABNEY
IN SUPPORT OF RESPONDENT AND
DEFENDANT CALTRAN'S OPENING
BRIEF

-vs-

Trial
Date: January 25, 2023
Time: 9:30 a.m.
Dept.: 86

DEPARTMENT OF TRANSPORTATION
OF THE STATE OF CALIFORNIA,
21

Respondent and Defendant.
22
23
24

25
26 I, Carolyn Dabney, do declare as follows in my capacity as an employee of the
27 California Department of Transportation (Caltrans):

28 1. I have 15 years' experience with Caltrans and I have been in my current position

1 since 2017.

2 2. As the Program Manager for the State Route 710 Property Sales, I am responsible for
3 overseeing the sales of properties along the SR 710 Gap in Los Angeles County. This
4 includes the adoption of regulations to implement the Roberti Act.

5 3. I have personal knowledge of Caltrans' efforts to sell properties under the Roberti Act
6 since June 2017. My knowledge of events prior to that date are based on information and
7 belief acquired through documents or other institutional knowledge.

8 4. In the 1950s through the 1990s, Caltrans acquired approximately 454 single family
9 residential properties and 6 commercial properties to close a gap along State Route 710
10 between State Routes 210 and 5 (710 Gap). Caltrans used State Highway Account (SHA)
11 money for the acquisitions. No Federal money was used for the acquisitions.

12 5. In 2012, to comply with the 2007 court order from a lawsuit involving the City of
13 South Pasadena, Caltrans began developing regulations. To develop the sales process and
14 regulatory language, Caltrans consulted with the Department of Housing and Community
15 Development (HCD) and the California Housing Finance Authority (CalHFA).

16 6. In July 2016, Caltrans adopted regulations to facilitate sales under the Act. Those
17 regulations are published in Title 21 of the California Code of Regulations, section 1475
18 through 1491. (Sec RFJN ¶5, Ex. 5)

19 7. Caltrans started the first phase of sales in December 2016 by mailing written notices of
20 conditional offer prior to sale, pursuant to section 1479 of the regulations. That first phase is
21 known as "Phase 1" and included 42 properties

22 8. Before any sales contracts had been sent out in Phase 1, I was advised of a potential
23 legal conflict between Article XIX, section 2 of the California Constitution and the Roberti Act
24 and the regulations.

25 9. After reviewing the issue, Caltrans determined it was legally obligated to set a
26 minimum sales price for Affordable Price sales and Reasonable Price sales by adjusting its
27 original acquisition process for inflation.

28 10. In January 2018, Caltrans sent sales offers to potential Affordable Price buyers in

1 Phase 1. The sales offers reflected the inflation adjusted minimum sales price.

2 11. Seven tenants agreed to the inflation adjusted minimum sales price.

3 12. Five tenants sued Caltrans, challenging the inflation adjusted minimum sales price.

4 13. Two of the five tenants agreed to the inflation adjusted minimum sales prices during
5 the litigation.

6 14. In March 2019, in the matter of UCT v. California Department of Transportation, the
7 Court ruled the inflation adjusted minimum sales price and the selection of the California
8 Consumer Price index (Cal-CPI) to make the inflation adjustment were underground
9 regulations. (RFJN ¶ 9, Ex. 9)

10 15. In response to the March 2019 court ruling, Caltrans conferred with HCD and CaHFA
11 in drafting emergency regulations.

12 16. The Emergency Regulations were adopted in May 2019. (RFJN ¶ 6, Ex. 6) is a true
13 and correct copy of the STD. 400 for those regulations. It shows the regulations were approved
14 by OAL. It also has a filed endorsed stamp from the Secretary of the State. It also includes the
15 regulatory amendments adopted by the Emergency Regulations.

16 17. The Emergency Regulations became effective on May 31, 2019. Under the authority
17 of the Emergency Regulations, Caltrans completed the sales of two properties to tenants at
18 Affordable Prices and one property at a Reasonable Price to the City of Pasadena. Caltrans
19 also received bids from other housing-related entities on 19 other properties.

20 18. Pursuant to the Emergency Regulations, Caltrans sent petitioners sales contracts
21 reflecting the inflation adjusted minimum sales prices required by the Emergency Regulations.

22 19. After taking the actions described above on the properties remaining in Phase 1,
23 Caltrans allowed the Emergency Regulations to expire by operation of law on November 28,
24 2019.

25 20. On July 23, 2021 SB 51 was adopted by the Legislature, and on December 13, 2021,
26 the SB 51 Emergency Regulations were adopted. (SB 51 and the corresponding emergency
27 regulations pertained to the El Sereno properties). (RFJN ¶ 7, Ex. 7)

28 21. On September 28, 2021 SB 381 was adopted by the Legislature, and on April 7, 2022,

1 the SB 381 Emergency Regulations were adopted. (SB 381 and the corresponding
2 emergency regulations pertained to South Pasadena properties). (RFJN ¶ 8, Ex. 8)

3 22. There were a number of changes to the SB 381 Emergency Regulations that pertain to
4 the sales of Caltrans owned property in the city of South Pasadena. SB 381 did not impact the
5 sales process for affordable sales. Neither SB 51 nor SB 381 altered the sales process for
6 affordable sales except for setting the minimum sales price at the original acquisition price
7 (unadjusted for inflation).

8 23. However, when adopting emergency regulations for SB 51, Caltrans took the
9 opportunity to address lessons learned from Phase 1 sales. Caltrans changed its policy that was
10 in place during Phase 1 sales.

11 24. Under Phase 1, Caltrans offered affordable buyers the opportunity to purchase
12 regardless of their Calculated Affordable Price. Many of the Phase 1 buyers had a negative
13 Calculated Affordable Price (meaning their income was insufficient to afford the monthly
14 housing cost).

15 25. The current regulations require an affordable buyer to have a Calculated Affordable
16 Price with a positive dollar value (refer to Section 1481 (b)(E) of the SR 710 regulations).
17 (RFJN ¶ 8, Ex. 8)

18 26. Other revisions adopted under Emergency Regulations as a result of lessons learned
19 include:

- 20 • Solicitation process was revised to separate a tenant's interest in buying from the
21 process of collecting documentation to support eligibility. Under the original
22 regulations, a Notice of Conditional Offer Prior to Sale was sent to tenants/occupants
23 providing a 120-day response to indicate interest in purchasing and submitting evidence
24 of eligibility (including income documentation). Under Emergency Regulations,
25 Caltrans now sends a Notice of Solicitation with a 30-day response for the tenant to
26 express interest in purchasing. Caltrans then follows-up with a Request for
27 Documentation and provides a 60-day response period.

- 28 • Expanded documentation required for household income. An affordable buyer

1 must submit income documentation from all sources identified in 1481 (c)(2).

- 2 • Timelines reduced (see first bullet...time reduced from 120 days to 90 days).
3 • Requires an appraisal to be updated at time of escrow if the appraisal is older
4 than six months (refer to Section 1476 (a)(9)).

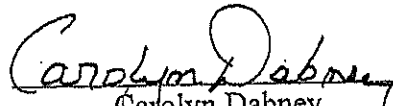
5 27. Additionally, the Emergency Regulations allow for any Phase 1 property that was
6 offered for sale and entered escrow between July 26, 2016 and December 12, 2021 to proceed
7 to close escrow (refer to Section 1475 (h)). This was added to capture any Priority 5 properties
8 (sales to FMV buyers) as well as 626 Prospect Ave. (RFJN ¶ 8, Ex. 8)

9 Specifically, the language contained in Section 1475 (h) of the SB 381 regulations
10 provides that,

11 "Properties Previously Offered but Not Sold. If a Property was offered for sale
12 pursuant to Chapter 9.5 between July 26, 2016 and December 12, 2021 and entered
13 escrow but did not close escrow, then the Department shall close escrow and finalize
14 the sale pursuant to the terms of the executed sales contract. If a Property was offered
15 for sale pursuant to Chapter 9.5 between July 26, 2016 and December 12, 2021
16 and did not enter escrow, then the Property shall be offered for sale as specified in
17 Sections 1477 through 1477.3, as applicable [emphasis added]."

18 I declare under penalty of perjury, under the law of the State of California, that the
19 foregoing is true and correct. As to those matters that are stated on my information and
20 belief, I believe them to be true.

21
22 Executed this 9th day of December 2022 at Los Angeles, California.

23
24 
25 Carolyn Dabney
26 Declarant
27
28

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**Public Comment
January 18, 2023
Item No. 2**

From: [Clarence Au-Young](#)
To: [City Council Public Comment](#)
Subject: Second follow-up to crowded air space over South Pasadena by small aircraft
Date: Wednesday, January 4, 2023 10:45:15 AM

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 is Clarence Au-Young. I am writing again to follow up with the comments I raised in the Dec 7th city council meeting in that there is a significant number of small aircraft flying over South Pasadena. They start as early as 5 am and sometimes continue until midnight, week days and weekends, one plane after another. It appears they are on a designated flight path which I am guessing to and from the El Monte airport.

I followed up with a email on Dec 21st and attended the Dec 21st meeting via Zoom, but thus far I have not seen any demonstrated evidence that the council has taken actions in this matter. Thus I am writing to follow up again today and will attend the council meeting tonight. Thank you.

Clarence

From: [Anthony Wen Lai](#)
To: [City Council Public Comment](#)
Subject: Public Comment re: Installation of ADA Curb Ramps in Monterey Hills Intersections
Date: Sunday, January 8, 2023 11:56:18 AM

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 Cacciotti and esteemed City Council,

The 2010 Census found that 7.7% of South Pasadena households had a member that was 65 years of age or older. In 2020, that number increased to 12.8%, nearly double that of 10 years prior.

Considering the increasing number of elderly members of our population, it is disappointing that South Pasadena, and specifically Monterey Hills has dozens of high-traffic intersections in South Pasadena, that lack curb ramps, as required by the Americans with Disabilities Act and Title 24 of the California Code of Regulations.

A curb ramp cuts through or builds up to the height of the curb, providing a safe, accessible transition from road to sidewalk. Curb ramps benefit people in wheelchairs by allowing smooth travel from the curb or sidewalk to the street.

Furthermore, ramps function to prevent accidents and injury for individuals with disabilities and benefit visually impaired individuals as a detectable warning at hazardous vehicular ways. It is a means to warn these individuals to pause or stop before entering into traffic. Curb ramps benefit parents with children in strollers, the elderly, people making deliveries, etc.

The installation of curb ramps as required by law illustrates the City's commitment to comply with the Federal and State accessibility mandates.

In light of the foregoing, I request that the city take all actions necessary to remediate all non-compliant intersections to which curb ramps have been required by the Americans with Disabilities Act and Title 24 of the California Code of Regulations with urgency.

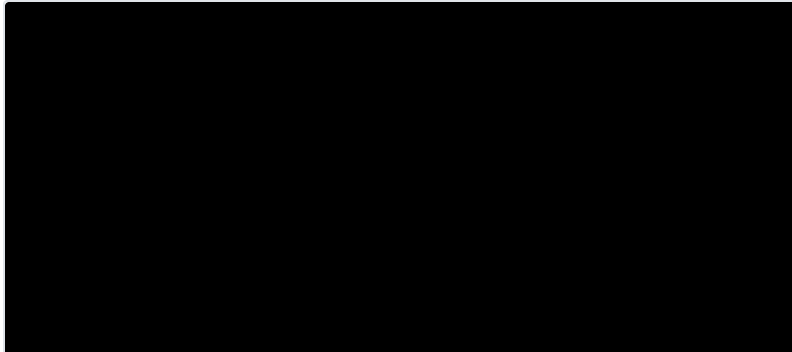
Thank you,

Anthony Lai
Resident

From: [Yvonne LaRose](#)
To: [City Council Public Comment](#)
Subject: Public Comment: Martin Luther King, Jr. Advocate for Freedom and Equity
Date: Sunday, January 15, 2023 8:54:57 PM

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.

[Why Martin Luther King Jr.'s father changed their names](#)



Why Martin Luther King Jr.'s father changed their names

A trip to Germany played a prominent role in the Atlanta minister's decision to adopt the name of the man at the...

Rev. Michael King set in motion historic strides for the United States and the world when he attended a 1934 Baptist World Alliance meeting in Berlin, Germany. Hitler had just become Chancellor; emergence of the Third Reich was taking place.

The [Alliance's response](#) to the German conditions was:

"This Congress deplores and condemns as a violation of the law of God the Heavenly Father, all racial animosity, and every form of oppression or unfair discrimination toward the Jews, toward coloured people, or toward subject races in any part of the world."

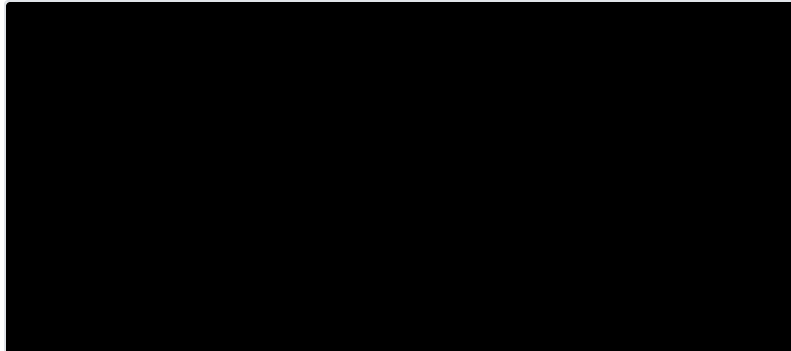
Also influenced during the Germany conference was appreciation of the Protestant Reformation leader, Martin Luther, strides in making changes. Thus by July 23, 1957, [The Rev. Michael King and his son became \(according to their birth certificates\) Martin Luther King](#).

Agitating for Positive Change

Reformer Martin Luther is noted as having said, "[Here I stand, I can do no other.](#)" It appears the U.S.A. King, Jr. had the same philosophy that drove his efforts to oppose racism via marches, speeches, and sit-ins. His intention was to address the oppressions not just in the

United States but on a global basis as in his life he addressed issues like war, world poverty, and class exploitation.

[Using Mahatma Ghandi as a model](#) of nonviolent resistance, King [believed that nonviolent protest is the most effective weapon against a racist and unjust society](#). With King at its helm, the civil rights movement ultimately achieved victories with the passage of the Civil Rights Act in 1964 and the Voting Rights Act in 1965, which embodied in [Title VII which prohibits employment discrimination](#) based on race, color, religion, sex and national origin.



Martin Luther King Jr.: 8 peaceful protests that bolstered civil rights

The Christian Science Monitor

Civil rights leader Martin Luther King Jr. believed that nonviolent protest is the most effective weapon against...

Transportation Equity

The first step in King's battle against racism came in reaction to Rosa Parks' being arrested for refusing to give up her seat on a bus to a White passenger. By December 5, 1955, King (who endorsed nonviolent civil disobedience) organized a bus strike where Alabama Negroes refused to ride the buses for transportation.

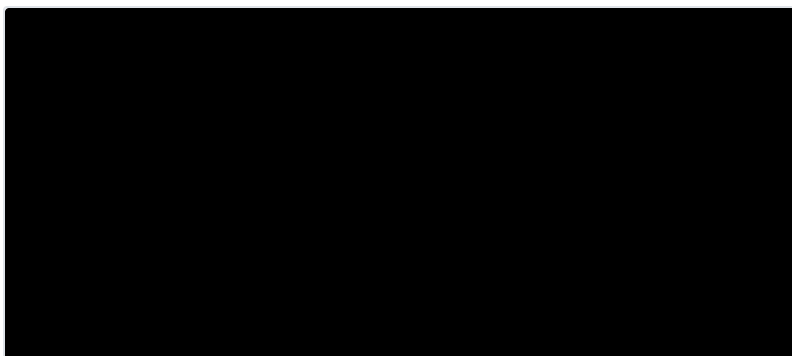
They used alternative modes of transportation until the [Supreme Court ruled in November 1956](#) (381 days later) that segregation on public buses was unconstitutional. The bus boycott ended successfully.



The Birmingham Letter

There were many wars fought against oppression and discrimination. In 1961, [Albany, Georgia became a focal point](#) because of its segregation policies. King was jailed during a mass arrest of peaceful demonstrators. He declined bail until the city changed its policies. There were a few concessions. However, a year later conditions had not changed.

We've heard references to the essay, [Letter from a Birmingham Jail](#). It says that people have a moral responsibility to break unjust laws and to take direct action rather than waiting potentially forever for justice to come through the courts. ([Wikipedia summation](#))



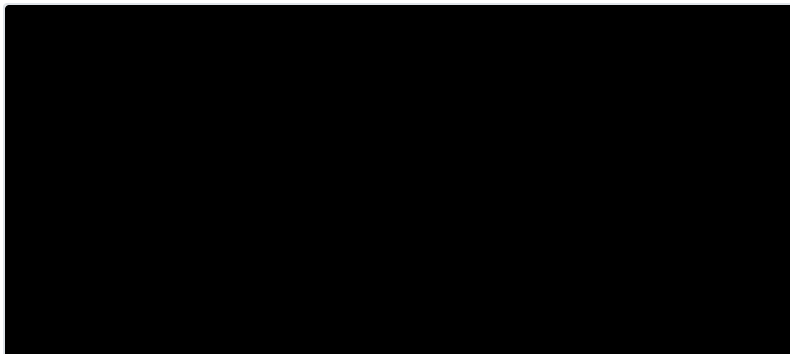
Letter from Birmingham Jail - Wikipedia

The "Letter from Birmingham Jail", also known as the "Letter from Birmingham City Jail" and "The Negro Is Your B...

Right to Vote and the Pettus Bridge

Today it's difficult to appreciate that not everyone who is a citizen has a right to vote, that is, to express how they want their government to operate, especially as that relates to governance over their daily lives and business. That was not the case for women nor for Southern Negroes. The non-violent protest against restrictions on voting rights in 1965 Selma, Alabama aimed to make a change so that those classes of people became entitled to vote and have a say in government.

The demonstration intended to start in Selma and end at the state capital in Montgomery. It became violent as troopers attacked the demonstrators with billy clubs and tear gas. A bus that carried a load of demonstrators was set afire (while the protestors were inside). It's difficult to adequately discuss what came to be known as "[Bloody Sunday](#)". While feeling uplifted at the images of the diverse protestors singing and holding hands as they march, there are the contrasting images of the violence perpetrated on them.

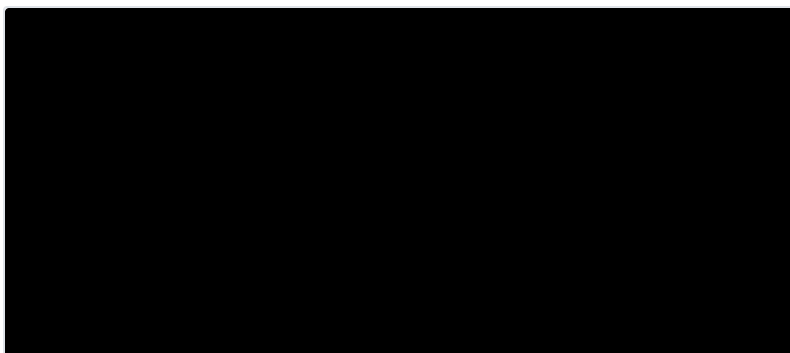


How 'Bloody Sunday' turned the Edmund Pettus Bridge into a symbol of civ...

As civil rights activists attempted to march from Montgomery to Selma. on March 7, 1965, they were met with viol...

A March on Washington for Jobs and Freedom

On August 28 1963, a quarter of a million people rallied in Washington, D.C. to demand an end to segregation, fair wages and economic justice, voting rights, education, and long overdue civil rights protections. It became known as the [March on Washington](#). What was the [response to the march](#)? The passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965 were turning points in the struggle for civil rights. Together the two bills outlawed segregated public facilities and prohibited discriminatory practices in employment and voting.



March on Washington: History Highlights

In 1963, Dr. Martin Luther King Jr. led the March on Washington to call for an end to segregation, economic just...

Sanitation Workers and Having a Dream

Now eclipsed by the events that followed the demonstration, there was the protest and march in support of equity for sanitation workers. The precipitating event was when two Negro workers were not allowed by their co-workers to escape the cold and wet by coming inside the station office. The two took refuge in one of the trash collecting trucks. Unfortunately, somehow the switch was turned on and the truck did what it was supposed to do. It churned its contents. This led to the [1968 Memphis Sanitation Workers Strike](#) and the placards that read "I Am a Man" which symbolized the protestors' demand for recognition of both their humanity, entitlement to a fair and equitable wage, as well as an end to being called a "boy."



The Sanitation Strike, although successful, was the precursor to the end of King's life. It was the event that caused him to deliver his now famous "I Have a Dream" speech. The next day he was assassinated.

For these, and many other reasons, I urge us to remember Martin (Michael) Luther King, Jr., his bravery, audacity, leadership, and selflessness for the sake of those who need a voice so that their rights and needs can be recognized. For these, and many other reasons, I urge us to

continue in his steps toward that dream of which he spoke.

Additional Resources:

[Martin Luther King, Jr.'s Six Principles of Nonviolence handout](#)

[https://www.unodc.org > documents > Secondary](https://www.unodc.org/documents/Secondary)

It is active nonviolent resistance to evil. It is aggressive spiritually, mentally and emotionally. Principle two: *Nonviolence* seeks to win friendship and ...

"Violence never brings peace" - Dr. Martin Luther King Jr.

[https://www.fairhousingnorcal.org > violence-never-bri...](https://www.fairhousingnorcal.org/violence-never-bri...)

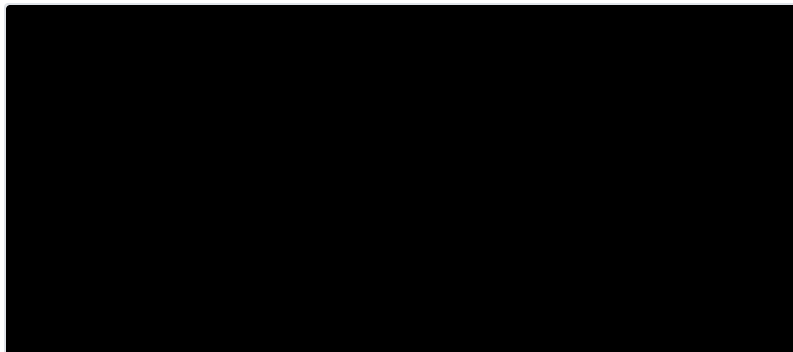
Jan 15, 2021 — *Martin Luther King* approaches, we have an opportunity to reflect on the past year with its many challenges – from COVID, to the police brutality ...

Nonviolence | The Martin Luther King, Jr., Research and ...

[https://kinginstitute.stanford.edu > encyclopedia > nonv...](https://kinginstitute.stanford.edu/encyclopedia/nonv...)

“True pacifism,” or “nonviolent resistance,” King wrote, is “a courageous confrontation of evil by the power of love” (King, Stride, 80). Both “morally and ...

Education: [Crozer Theological Seminary](#)



Nonviolence

As a theologian, Martin Luther King reflected often on his understanding of nonviolence. He described his own “p...

Viva Voce

Yvonne LaRose

Organization Development Consultant: Diversity/Title VII, Harassment, Ethics

From: [Yvonne LaRose](#)
To: [City Council Public Comment](#)
Subject: Public Comment: Salute to Soccer Great, Pele
Date: Sunday, January 15, 2023 9:56:47 PM

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.

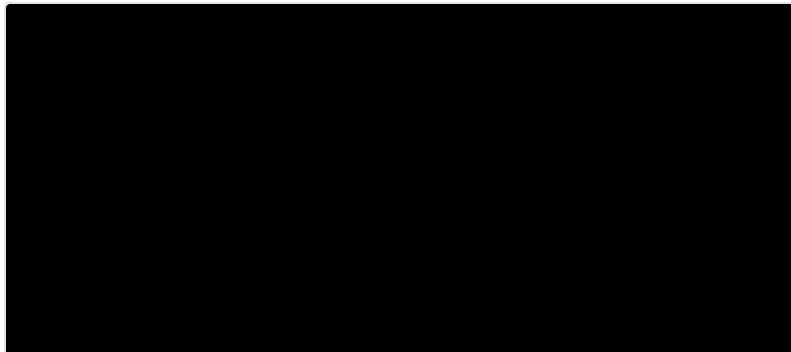
On December 29, 2022, we lost an international soccer great and legend. The Brazilian phenom known only by his first name, Pele, died at age 82 of cancer.

Given that AYSO is starting to replace American football as a favorite community sport (especially in South Pasadena), it seems fitting that we find some way to pay tribute to Pele in honor of his memory and greatness.

What more can I say? Who did not adore him?

He had amazing skill, focus. He was adept at strategy, had more than admirable team spirit and loyalty. He stood head and shoulders above others as a role model in his sport and in his life. How many can claim his accomplishments as their own? No doubt his are guide stones for all of us, in our own endeavors.

[Pelé, Brazilian soccer legend and king of the "beautiful game," dies at 82](#)



Pelé, Brazilian soccer legend and king of the "beautiful game," dies at 82

Pelé led Brazil to victory in the 1958, 1962 and 1970 World Cups and remains one of the team's all-time leading ...

Viva
Yvonne LaRose
Organization Development Consultant: Diversity/Title VII, Harassment, Ethics
Cell: [REDACTED]

From: [Chris Bray](#)
To: [Zahir Robb](#); [Geoff Yantz](#); [Pat Martinez-Miller](#); [kadams](#); [Michele Kipke](#); [KTamis](#)
Cc: [CCO](#); [City Manager's Office](#); [Ben Tansey](#); [Steven Lawrence](#); [talktotasp@gmail.com](#); [City Council Public Comment](#)
Subject: the emerging science regarding mRNA injections and the spUSD and city mandates
Date: Monday, January 16, 2023 2:57:59 PM

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.

All,

The SPUSD has required district employees to be injected with mRNA products, and has fired five employees for declining those products. (I copy City of South Pasadena officials on this message because of their comparable decision to require mRNA injections for patrons of the city's Senior Center, and the fact that the following evidence speaks equally well to that decision.) The school board discussion leading to the vote to implement an employment mandate indicates that this decision was predicated on a claim that a mandate for the uptake of mRNA products would keep employees and students "safe."

A study completed last month by researchers at the Cleveland Clinic, currently in pre-print, concludes that repeated mRNA vaccination against Covid-19 appears to **increase the risk of infection**. Page 9: "The risk of COVID-19 also varied by the number of COVID-19 vaccine doses previously received. The higher the number of vaccines previously received, the higher the risk of contracting COVID-19 (Figure 2)."

<https://www.medrxiv.org/content/10.1101/2022.12.17.22283625v1.full.pdf>

Figure #2 is on pg. 21. Look at it:



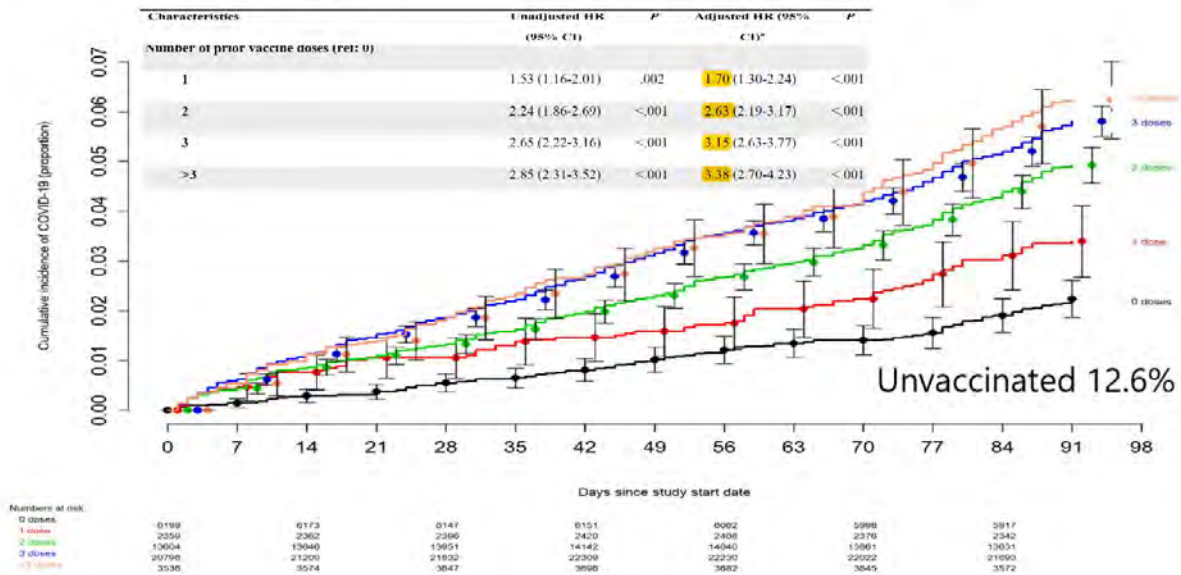
Effectiveness of the Coronavirus Disease 2019 (COVID-19) Bivalent Vaccine

Nabin K. Shrestha,¹ Patrick C. Burke,² Amy S. Nowacki,³ James F. Simon,⁴ Amanda Hagen,⁵ Steven M. Gordon¹

N=50,011

¹Departments of Infectious Diseases, ²Infection Prevention, ³Quantitative Health Sciences, ⁴Enterprise Business Intelligence, and ⁵Occupational Health, Cleveland Clinic, Cleveland, Ohio, USA.

Table 2. Unadjusted and Adjusted Associations with Time to COVID-19



More mRNA injections, more Covid.

Why? A peer-reviewed study by German and Dutch researchers, published on January 12 in *Frontiers of Immunology*, argues that repeated mRNA injection causes a shift in the immune system in which infection-neutralizing antibodies are displaced by infection-enhancing antibodies:

<https://www.frontiersin.org/articles/10.3389/fimmu.2022.1020844/full>

These findings are similar to those in another peer-reviewed paper published last month in *Science Immunology*:

<https://www.science.org/doi/10.1126/sciimmunol.ade2798>

These findings also reflect a long-understood reality in the development of vaccines: a failed vaccine can cause hypersensitivity to infection. See, for example, this 2012 study on a failed vaccine for SARS-CoV-1, "Immunization with SARS coronavirus vaccines leads to pulmonary immunopathology on challenge with the SARS virus":

<https://pubmed.ncbi.nlm.nih.gov/22536382/>

See also this 2012 paper, "Imperfect Vaccination Can Enhance the Transmission of Highly Virulent Pathogens":

<https://journals.plos.org/plosbiology/article/info:doi/10.1371/journal.pbio.1002198>

If you *believe in science*, here it is.

In another development, the argument for a few months, in the game of musical chairs that mRNA advocates have played as they tried to land on an argument they could sit on for a while, was that the mRNA products made by Pfizer and Moderna didn't prevent or reduce the possibility of infection or transmission, but did prevent serious illness or death. But the vaccinated now make up the majority of those who are dying from Covid-19, a fact that no one bothers to dispute anymore. See, for example, this November news story in the *Washington Post*:

"For the first time, a majority of Americans dying from the coronavirus received at least the primary series of the vaccine. Fifty-eight percent of coronavirus deaths in August were people who were vaccinated or boosted, according to an analysis conducted for The Health 202 by Cynthia Cox, vice president at the Kaiser Family Foundation."

<https://www.washingtonpost.com/politics/2022/11/23/vaccinated-people-now-make-up-majority-covid-deaths/>

The SPUSD and the City of South Pasadena implemented mRNA injection mandates in the face of the repeated assertion of false claims by public health officials, such as the CDC director's claim that, "Vaccinated people do not carry the virus, and do not get sick."

https://twitter.com/ClownWorld_/status/1614357826666893313

You were misled. Act on that knowledge. Immediately repeal your vaccine mandates, and -- in the case of the SPUSD's employment mandate -- immediately offer fired employees back pay and a chance to return to the jobs from which they were improperly fired. The mRNA injections marketed by Pfizer and Moderna do not prevent transmission, do not prevent infection, do not prevent serious illness, and do not prevent death. You now have evidence to that effect. Withholding public services or ending employment on the basis of a mandate for a product that **you know to be ineffective** is now a liability issue.

Chris Bray
South Pasadena resident / SPHS parent

From: Ben Tansley
 To: Chris Bray
 Cc: Zahir Rabb, Geoff Yandz, Pat Martinez-Alfaro, KAdam, Michele Kinkle, KTam, CCG, City Manager's Office, Steven Lawrence, Jalkotia, City Council Public Comment
 Subject: Re: The emerging science regarding mRNA injections and the SPUSD and city mandates
 Date: Tuesday, January 17, 2023 10:08:30 AM

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.

Read the full text of the WaPo article Chris has linked in this email. The vaccine's efficacy wears off. Not news. Different variations of the virus emerge over time. Also not news. Don't be fooled.

On Jan 16, 2023, at 2:57 PM, Chris Bray <chrisbray@yahoo.com> wrote:

All,

The SPUSD has required district employees to be injected with mRNA products, and has fired five employees for declining those products. (I copy City of South Pasadena officials on this message because of their comparable decision to require mRNA injections for patrons of the city's Senior Center, and the fact that the following evidence speaks equally well to that decision.) The school board discussion leading to the vote to implement an employment mandate indicates that this decision was predicated on a claim that a mandate for the uptake of mRNA products would keep employees and students "safe."

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medRxiv preprint doi: <https://doi.org/10.1101/2022.12.17.22283625>; this version posted December 19, 2022. The copyright holder for this preprint (which was not certified by peer review) is the author/funder, who has granted medRxiv a license to display the preprint in perpetuity. It is made available under a [CC-BY-NC-ND 4.0 International license](https://creativecommons.org/licenses/by-nc-nd/4.0/).

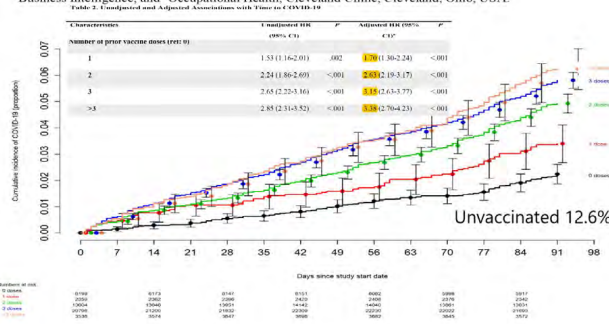


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Chris Bray
 South Pasadena resident / SPHS parent



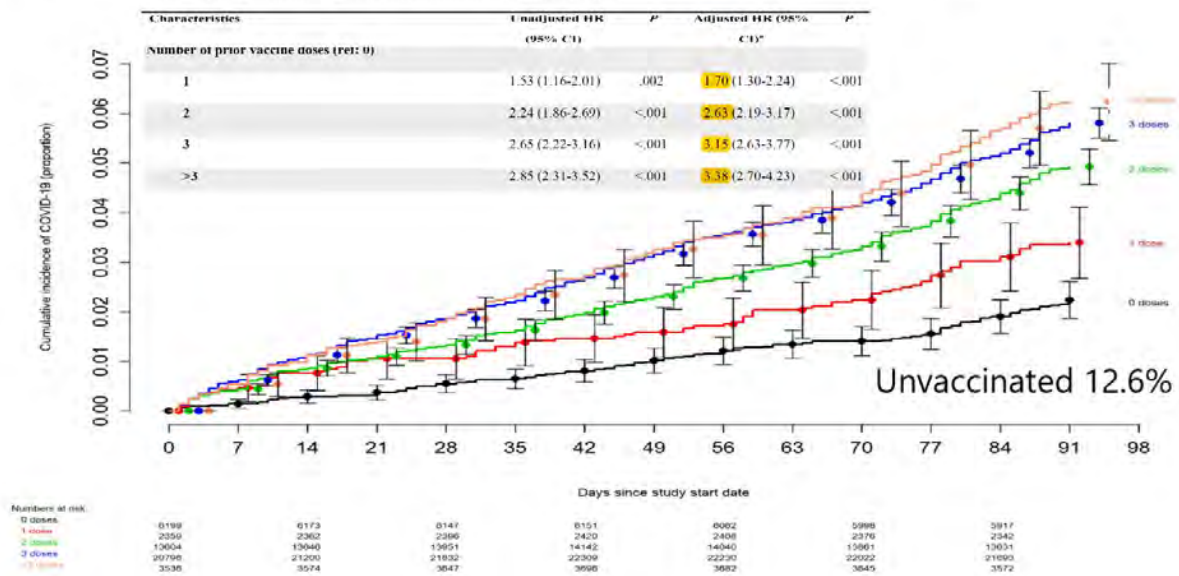
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Table 2. Unadjusted and Adjusted Associations with Time to COVID-19



From: [Clarence Au-Young](#)
To: [City Council Public Comment](#)
Subject: Third follow-up to crowded air space over South Pasadena by small aircraft
Date: Wednesday, January 18, 2023 11:02:37 AM

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 is Clarence Au-Young. I am writing again to follow up with the comments I raised in the Dec 7th city council meeting in that there is a significant number of small aircraft flying over South Pasadena. They start as early as 5 am and sometimes continue until midnight, week days and weekends, one plane after another. It appears they are on a designated flight path which I am guessing to and from the El Monte airport.

I followed up with a email on Dec 21st and attended the Dec 21st meeting via Zoom, but thus far I have not seen any demonstrated evidence that the council has taken actions in this matter. Thus I am writing to follow up again today and will attend the council meeting tonight. Thank you.

Clarence

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City Council Communications

January 18, 2023

Councilmember Michael A. Cacciotti

Updates on Recent Meetings



Community Highlights



Community Highlights



Community Highlights



Community Highlights



Additional Comments

January 3 - 9, 2023

(Hundred block given in place of exact address)

The Weekly Crime Summary is a list of reported auto thefts, burglaries, robberies and other activities occurring in the City of South Pasadena. An alert and well-informed citizen makes you less of a target to a criminal. Remember, call the South Pasadena Police Department to report any suspicious activity.

THEFT

- 1-5-23 to 1-9-23, 1400 block of Fremont (South Pasadena High School). '19, Ford Ecoline. Suspect(s) cuts and removes loss from victim's vehicle. **LOSS: Catalytic converter.**
- 1-8-23, 5 AM to 7 AM, 1500 block of Indiana. '17, Toyota Tundra. Suspect(s) cuts and removes loss from victim's vehicle. **LOSS: Catalytic converter.**
- 1-8-23, 5:35 AM, Camino Verde/El Coronado. '12, Toyota Tundra. Witness see suspects cuts and removes loss from victim's vehicle. Officers locate suspect vehicle one and suspects leads officers on a vehicle pursuit. Officers terminate pursuit as suspect drives at high-speed and erratically. **LOSS: Catalytic converter. SUSPECTS VEHICLE: White, Honda Civic and a tan, SUV. SUSPECTS DESCRIPTION: - (4) Males, wearing masks.**
- 1-7-23, 5 AM to 4:30 PM, 1100 block of Fair Oaks. '22, Honda Civic. Suspect(s) removes loss from victim's vehicle. **LOSS: Reverse camera.**

- 1-3-23, 1 PM to 1-4-23, 12:30 PM, 300 block of Pasadena. Suspect(s) breaks open apartment mailbox and takes loss. **LOSS: Mail.**
- 12-23-22, 3 PM to 1-3-23, 1 PM, 1900 block of Fremont. '06, Ford/'05 GM/'03 Chevy. Suspect(s) cuts and removes loss from three vehicles. **LOSS: Catalytic converters.**
- 1-3-23, 7:10 PM, 900 block of Fair Oaks (Rite Aid). Suspect enters store and takes loss, then exits without paying for loss. **LOSS: Gift cards and miscellaneous items. SUSPECT DESCRIPTION: Male, Hispanic, 45 years, black hooded jacket, green camo pants and carrying a red bag.**
- 1-2-23, unknown time to 1-3-23, 8 AM, 600 block of Stoney (City Yards). '12, VPG MV-1. Suspect(s) cuts and removes loss from victim's vehicle. **LOSS: Catalytic converter.**
- 1-2-23, 12 PM to 1-3-23, 7 AM, 1100 block of Windsor. '07, Honda Civic. Suspect(s) cuts and removes loss from victim's vehicle. **LOSS: Catalytic converter.**

RESIDENTIAL BURGLARY

City Council Communications

January 18, 2023

Mayor Pro Tem Evelyn G. Zneimer

Community Highlights



The City of
So.Pas. float I
worked on the
double gear 2023

Community Highlights



City Manager Comments



CITY OF SOUTH PASADENA COMMUNICATIONS SURVEY

We Want to Hear From You!



Access the survey by scanning the QR Code, visiting our website, or by contacting the Communications team by emailing socialmedia@southpasadenaca.gov or calling (626) 403-7215.

City Manager Comments

Follow us on Twitter!



A screenshot of a Twitter profile page for the City of South Pasadena, California. The profile picture is a circular icon featuring a stylized tree. The header image shows a panoramic view of the city with mountains in the background. The profile name is **SouthPasadenaCA** with the handle **@SouthPasadenaCA**. The bio reads: "The official Twitter page for the City of South Pasadena, California." Below the bio is a link to southpasadenaca.gov and the text "Joined January 2023". At the bottom, it shows "5 Following" and "0 Followers". The navigation tabs at the bottom are "Tweets", "Tweets & replies", "Media", and "Likes", with "Tweets" being the active tab.



SouthPasadenaCA
@SouthPasadenaCA

The official Twitter page for the City of South Pasadena, California.

southpasadenaca.gov  Joined January 2023

5 Following 0 Followers

Tweets Tweets & replies Media Likes

City Manager Comments

Ban on Gas-Powered Leaf Blowers:

- Free demonstration Wednesday, February 8, 2023 at Garfield Park (1000 Park Avenue) between 8 a.m. – 1 p.m.
- Resources available through the Clean Off-Road Equipment Voucher Incentive Program (CORE).
- For more information, scan the QR Code, visit our website, or contact our Public Works Department by calling (626) 403-7240.



Join us at  Garfield Park for a **FREE**

ELECTRIC LEAF BLOWER DEMONSTRATION

Have you heard the buzz around town?
South Pasadena has banned gas-powered leaf blowers!



* Better Health * Cleaner Air * Quieter
* No More Gasoline, Oil, Spark Plugs, Filters

Register for a CARB CORE sponsored rebate for up to 70% off an electric leaf blower, including 2 batteries and a charger, and come test out electric models first-hand that can be purchased from eligible dealers!*

*For more information, please visit www.SouthPasadenaCA.gov/LeafBlowers and www.CaliforniaCore.org

Refreshments will be served!

Wednesday, February 8, 2023
Garfield Park
1000 Park Avenue
Stop by anytime between 8am - 1pm



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Public Comment
January 18, 2023
Item No. 10

From: [Josh Betta](#)
To: [JANET BRAUN](#); [Armine Chaparyan](#); [Jon Primuth](#); [Josh Betta](#); [Domenica Megerdichian](#); [Michael Cacciotti](#); [zhentac\[REDACTED\]](#); [Evelyn Zneimer](#); [Jack Donovan](#); [Desiree Jimenez](#); [City Clerk's Division](#); [Andrew Jared](#); [Misty Cheng](#); jbraun@southpasadena.ca
Cc: [Edward Elsner](#); [Fred Findley](#); [Peter Giuliani Jr](#); [cynthia.avade\[REDACTED\]](#); [Sheila Rossi](#)
Subject: Agenda Item #10 - Contracts with MV Cheng
Date: Monday, January 16, 2023 3:40:34 PM

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.

Mayor,

I would appreciate it if you or one of the City Council would "pull" this item from the Consent Agenda for Council discussion on Wednesday night. I plan on being in attendance.

Could I have the favor of your confirmation of my request -- or someone else on the CC -- in advance of Wednesday night? I will be grateful and most able make appropriate and constructive comments.

Respect.

Josh

From: [Josh Betta](#)
To: [Armine Chaparyan](#); [JANET BRAUN](#); [Jon Primuth](#); [Domenica Megerdichian](#); [Josh Betta](#); [Michael Cacciotti](#); [zhentac \[REDACTED\]](#); [Evelyn Zneimer](#); [Jack Donovan](#)
Cc: [City Clerk's Division](#); [Edward Elsner](#); [Fred Findley](#); [Sheila Rossi](#); [Peter Giulioni Jr](#); [cynthia.avade \[REDACTED\]](#); [Misty Cheng](#); [Maida Alcantara](#); [Andrew Jared](#); [Desiree Jimenez](#)
Subject: Item #10 MV Cheng Contracts
Date: Wednesday, January 18, 2023 2:34:49 PM

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.

Mayor,

I've decided against attending tonight.

In November, Mayor Pro Tem Primuth told me that the department "assessments" were a "CYA" the City Council wanted in place after Armine was hired. The point, he said, was having the assessment in place, by vendor or in house, to use to deflect any future criticisms. Mayor Primuth should confirm or deny my statements on the record.

In this harsh light, I have several times asked Armine to publish a scope of service for the Finance Department assessment. In this same light, I understand why she won't. There is no scope for an assessment in MV CHeng's new contracts, and the drama continues. It is a tribute to my colleague Misty Cheng that she is giving the City another chance.

When will the City learn the value of community trust? The outside employment community (read: potential finance director candidates) is not fooled. The details of the South Pas "continuing crisis" are surprisingly well understood outside the City's corporate borders.

Josh

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Public Comment
January 18, 2023
Item No. 11

From: [Tucker Nelson](#)
To: [Michael Cacciotti](#); [Brian Solinsky](#); [City Council Public Comment](#)
Subject: Council Agenda Item 11
Date: Monday, January 16, 2023 9:14:42 PM

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 All,

I have some thoughts about January 17 city council agenda, item 11. APPROVE FUND ALLOCATION AND APPROPRIATE OF FUNDS AND AWARD OF CONTRACT TO RAFTELIS FOR THE SOUTH PASADENA POLICE DEPARTMENT ORGANIZATIONAL ASSESSMENT, IN AN AMOUNT NOT-TO-EXCEED \$99,500

I read the documents in the agenda packet. I feel that the following areas should be part of the assessment. In no particular order:

- + continuous training of police staff in latest best policing practices along with training in ordinances specific to our city
- + mental & emotional support for staff both from outside medical personnel and from a culture within the department that encourages conversations & feedback
- + support of staff who report misconduct, followed by investigations into the misconduct, and, as appropriate, reporting to the public
- + information about laws regarding wage theft, union-busting, all types of fraud, online bullying & harassment, etc., because these types of crimes are increasing while violent crime is decreasing
- + bringing in outside consultants, as appropriate, in certain situations, such as expert mediators in disputes between neighbors, in cases of domestic violence, etc.

Some or all of the above may already be practiced. If so, I feel that they should be more widely reported. A revision of the police webpage on the city website could include a section for press releases, information on on-going or closed investigations if legal, where to find further information on investigations - which is probably the DA's office, presentations to the city council, etc.

Sincerely,

Tucker Nelson

From: [tkrnelson](#)
To: [Michael Cacciotti](#); [Brian Solinsky](#); [City Council Public Comment](#)
Subject: Council Agenda Item 11
Date: Wednesday, January 18, 2023 11:16:52 AM

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 All,

I have some thoughts about January 17 city council agenda, item 11. APPROVE FUND ALLOCATION AND APPROPRIATE OF FUNDS AND AWARD OF CONTRACT TO RAFTELIS FOR THE SOUTH PASADENA POLICE DEPARTMENT ORGANIZATIONAL ASSESSMENT, IN AN AMOUNT NOT-TO-EXCEED \$99,500

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Sincerely,

Tucker Nelson

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**Public Comment
January 18, 2023
Item No. 12**

From: [Yvonne LaRose](#)
To: [City Council Public Comment](#)
Subject: Item 12 Public Comment: Appointment of Commissioners
Date: Wednesday, January 18, 2023 11:31:26 AM

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 time and effort to evaluate all the applications on file of those who are interested in serving on Commissions and boards is not lost on some of us citizens. We trust and believe those who are selected represent the best of the available candidates who possess the skills, knowledge, professionalism, and investment in our city and citizens to carry out their duties.

Given our strivings to demonstrate and actualize our strong belief in diversity in this city, it would take a major step forward in emphasizing and affirming that belief and conviction to see the 3% demographic also included in the distinguished members of the various commissions and advisory boards.

With that preface, I also want to commend our government officials who have gone through the painstaking selection process.

I also want to welcome and congratulate the new as well as the returning Commissioners and Advisory Board members. We are relying on you, your vision, and your expertise to parse out for us what are among the best options and solutions.

Yvonne LaRose
Organization Development Consultant: Diversity/Title VII, Harassment, Ethics

**Public Comment
January 18, 2023
Item No. 13**

From: [John C.](#)
To: [City Council Public Comment](#)
Subject: For City Council Meeting January 18, 2023 Agenda item 13
Date: Tuesday, January 17, 2023 5:50:31 PM

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 Mayor Jon Primuth and city council members

If the city of South Pasadena is going to get a new law firm/new city attorney they should go with the law firm that Faisal Gill works for and allow Faisal Gill to be come the new South Pasadena City attorney. I think Faisal Gill will be a perfect for the city of South Pasadena and I know some residents would like my idea. This just my suggestion on what the city of South Pasadena should do.

From, John resident of South Pasadena

From: [Chris Bray](#)
To: [City Council Public Comment](#)
Subject: Public Comment, Item #13, "Direction on City Attorney Services"
Date: Wednesday, January 18, 2023 9:29:10 AM

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.

Councilmembers,

I was intrigued by this paragraph in the staff report for this item: "The 2022-23 Adopted Budget provides for \$450,000 for City Attorney services, and as of January 18, 2023, the City's main legal service line item 101-2010-2501-8160-000 has utilized \$423,155.93, or 94.7%, of the budgeted amount."

My view is that the policy failure here can be found in the choice to make a budget for legal services. The most elegant solution is to allow Michael Colantuono to unilaterally announce at the beginning of every fiscal year how much money he feels like taking from the city budget. I propose that he do this while costumed as Scrooge McDuck, sitting on a gold-plated toilet atop an elevated platform, and that he be required to address South Pasadena residents as "You Peasants."

You've been letting the city's absurdly incompetent lawyers run wild on the city treasury for years without the slightest effort at oversight or fiscal restraint — why stop now? Let's call it a local tradition, and work on ways to make it a fun spectacle.

Chris Bray
South Pasadena resident / "You Peasant"

From: [Chris Bray](#)
To: [CCO; City Manager's Office; Andrew Jared](#)
Subject: a collision between the claim and the record
Date: Wednesday, January 18, 2023 8:50:30 PM

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.

All,

City Attorney Andrew Jared argued tonight that Teresa Highsmith was offered to the city to serve as assistant city attorney, but that the city council declined that appointment, and Highsmith is not now regarded as South Pasadena's assistant city attorney. This is also my recollection of the council's discussion. But the "THIRD AMENDMENT TO AGREEMENT FOR LEGAL SERVICES FOR THE CITY OF SOUTH PASADENA" between the city and CHW, signed on 9/15/21, says this:

"The City desires to continue to retain the Firm to discharge the duties of the office of City Attorney of the City of South Pasadena, designate another member of the Firm, Andrew L. Jared as City Attorney, and designate Teresa L. Highsmith as Assistant City Attorney."

<https://opengov.southpasadenaca.gov/WebLink/0/edoc/103288/Colantuono.%20Highsmith%20%20Whatley.%20PC%20-%20Third%20Amendment%20Agreement%20Legal%20Services%209-1-21.pdf>

It appears that the City of South Pasadena has signed an amended contract designating Teresa Highsmith as its assistant city attorney, whatever the practical understanding is.

-cb

Introduction | First Ordinance Reading Zoning Text Amendments for Implementation of Housing Policies

January 18, 2023

Prepared By: Community Development Department

Purpose for Proposed Amendments

- 1. Consistency of City's Zoning Code with State Law**
- 2. Begin to implement Housing Element Programs (prior to adoption)**
 - HE Programs are primary tools for facilitating housing construction to achieve RHNA target.**

City Council initiated the application through a resolution of intention at Joint PC-CC meeting on November 9, 2022

Planning Commission recommended approval of the proposed amendments with certain additions on December 13, 2022

Summary of ZTA

Amend provisions pertaining to:

- 1. Emergency Shelters – Specific Use Standards**
- 2. Transitional Housing and Low Barrier Navigation Centers**
- 3. Multi-Family Residential District Standards**
 - a) Prohibit new single family dwelling units in multi-family districts**
- 4. Mixed-Use Development By-Right in Commercial Districts**
- 5. Parking Exemptions for Projects Near Transit**

Emergency Shelters – Specific Use Standards (SPMC 36.350.250)

Revisions to conform with State Law §65583 (a)(4)

- **Permit emergency shelters in Commercial General zone (CG) with conditional use permit (CUP)**
- **Remove 300 ft. distance from other shelters and certain uses**
- **Increase maximum size and occupancy: Up to 50 (current 12)**
- **Remove citywide cap**
- **Require parking for employees only**

Transitional Housing and Low Barrier Navigation Centers (SPMC 36.230.030)

Revise standards to conform with State Law (AB101)

- **Allow transitional housing, supportive housing and low barrier navigation centers in Commercial Zoning Districts (SPMC 36.230.030)**
- **Create definition for Low Barrier Navigation Centers (SPMC 36.700)**
Low Barrier Navigation Center. A service-enriched facility focused on moving people into permanent housing that may or may not provide on-site temporary living accommodations, and where case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. “Low Barrier” means best practices to reduce barriers to entry.

Multi-Family Residential District Standards (SPMC 36.220.040)

Revise standards to comply with State Law (SB478)

- **Allow higher FAR of 1.25 for multi-family housing in RM and RH Districts**
- **Remove lot coverage requirements in the RM and RH Districts**
- **Prohibit new single family dwellings in the RM and RH Districts**

Mixed-Use Development By-Right in Commercial Districts (SPMC 36.230.030)

Revise standards to streamline development process

- **Replace CUP requirement in CO and CG Districts with “P” – Permitted Use**
- **Add Mixed-Use as “P” – Permitted Use in BP District**
 - **Currently not allowed as a use**

Parking Exemptions for Projects Near Transit (SPMC 36.310.040)

Revise standards to comply with State Law (AB2097), which *prohibits public agencies or cities from imposing a minimum automobile parking requirement on most development projects located within a half-mile radius of a major transit stop.*

- **Based on relevant State law definition of “transit” and “transit stop”, new residential, commercial, and industrial developments within ½ mile of the Mission/Meridian L-line station will be eligible for this exemption to our parking standards.**

Applicable CEQA Exemptions

§ 15061(b)(3) – "common sense exemption"; no possibility of significant environmental impact where conforming to state law

§ 15378(b)(1)– CEQA does not apply to legislation enacted by state legislature (conforming to legislation); (b)(3) the term “project” does not include activities that will not result in direct or indirect physical changes in the environment.

Questions?



Public Comment
January 18, 2023
Item No. 15

From: [Yvonne LaRose](#)
To: [City Council Public Comment](#)
Subject: Item 15 Public Comment: Land Use and Residential Development
Date: Wednesday, January 18, 2023 11:53:59 AM

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.

Some of the proposed new language for the South Pasadena Municipal Code anticipates no longer allowing construction of single family homes, deferring to construction of multi-family and multi-use units instead. This is an effort to meet the housing element mandate that we, South Pasadena, increase the number of dwelling units to 2065 in order to create affordable housing and make a way for a more economically diverse population to be part of our city.

James Loewen, in his book *Sundown Towns*, also recommends developing more affordable housing in order to create a more diverse population. While I understand the desire to have and be able to offer affordable housing (in *any* city, especially South Pasadena), it is concerning that there can no longer be construction of single-family dwellings in this city. The alternative is multi-family units (apartments or condominiums).

The number of units on each lot can spread the square footage cost so that rents are pushed into a more economically feasible range. These multi-unit dwellings come with a social cost. We lose the very desirable atmosphere of "neighborhood" where residents and businesses freely associate with one another because of common characteristics and available resources or conveniences. It can very easily be imagined that the City of Trees will become a Concrete Corridor on the way to Pasadena (and North or East) or Alhambra (and South or East, as well as West).

While I definitely support the proposal of not allowing destruction of older, even historic, homes and encouragement to repair, rehabilitate, and preserve those structures, let us take more time to consider more options than completely closing off construction of new, single-family homes.

There are additional concerns I have regarding Item 15. Again, I would recommend taking more time to consider amending those code sections (all that are before you) in order to take more consideration of the long-range consequences of our actions as they impact both the City as well as the present and future populations.

Yvonne LaRose
Organization Development Consultant: Diversity/Title VII, Harassment, Ethics