

1 **CARMEN A. TRUTANICH**, City Attorney (SBN: 86629X)  
2 **TERRY P. KAUFMANN MACIAS**, Deputy City Attorney (SBN: 137182)  
3 **MARY J. DECKER**, Deputy City Attorney (SBN: 148255)  
4 701 City Hall East  
5 200 North Main Street  
6 Los Angeles, California 90012  
7 Telephone: (213) 978-8233  
8 Facsimile: (213) 978-8214  
9 E-Mail: [terry.kaufmann-macias@lacity.org](mailto:terry.kaufmann-macias@lacity.org)

6 Attorneys for Respondents  
7 CITY OF LOS ANGELES; CITY COUNCIL  
8 OF LOS ANGELES; and CITY OF  
9 LOS ANGELES DEPARTMENT OF PLANNING

10 **SUPERIOR COURT OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

12 LUCILLE SAUNDERS, an individual, and  
13 LA BREA-WILLOUGHBY COALITION, a  
14 California unincorporated association,  
15 LA MIRADA AVENUE NEIGHBORHOOD  
16 ASSOCIATION OF HOLLYWOOD, a  
17 California unincorporated association; SAN  
18 PEDRO PENINSULA HOMEOWNERS  
19 UNITED, INC., a California tax-exempt  
20 corporation; GRANADA HILLS ALLIANCE  
21 FOR SMART GROWTH, a California  
22 unincorporated association; HOLLYWOOD  
23 HERITAGE, INC., a California tax-exempt  
24 corporation; OLD GRANADA HILLS  
25 RESIDENTS' GROUP, a California tax-exempt  
26 corporation; Residents Against Cut-Thru Traffic  
27 (ReACT), a California unincorporated  
28 association; SAN PEDRO PENINSUAL  
HOMEOWNERS COALITION, a California  
unincorporated association; R  
NEIGHBORHOODS ARE 1, a California  
unincorporated association; WESTWOOD  
SOUTH OF SANTA MONICA BLVD.  
HOMEOWNERS ASSOCIATION, a California  
tax-exempt corporation,

Petitioners,

Case No.: BS 115435  
[Related to Case No. BS117832]

Assigned to the Honorable James C. Chalfant,  
Dept. 85

Action Filed: June 20, 2008

**RESPONDENTS' CITY OF LOS  
ANGELES, CITY COUNCIL OF LOS  
ANGELES, AND CITY OF LOS  
ANGELES DEPARTMENT OF  
PLANNING OPPOSITION TO OPENING  
BRIEF OF SAUNDERS, ET AL., AND FIX  
THE CITY**

[City's Appendix, Declaration of Terry P.  
Kaufmann and Request for Judicial Notice;  
Declarations of Con Howe, Jane Blumenfeld,  
and S. Gail Goldberg; and Objections to  
Petitioners' Appendix filed concurrently]

Date: September 13, 2010  
Time: 9:30 a.m.  
Dept.: 85

Original Action Filed: June 20, 2008  
CEQA Claim Filed: October 9, 2009

1 v.

2 CITY OF LOS ANGELES; CITY COUNCIL  
3 OF LOS ANGELES; and CITY OF LOS  
4 ANGELES DEPARTMENT OF PLANNING;  
and DOES 1 through 10,

5 Respondents.

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6  
7 FIX THE CITY, an unincorporated association;

8 Petitioner,

9 v.

10 CITY OF LOS ANGELES,

11 Respondent,

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12  
13 DOES 1 to 10;

14 Real Parties in Interest.

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1 **I. INTRODUCTION**

2 The underlying litigation seeks a writ of mandate and declaratory and injunctive relief on  
3 behalf of numerous petitioners (hereafter, “the Saunders Petitioners”, “Fix the City”, and/or  
4 collectively, “the Petitioners”), consisting of neighborhood associations in two related lawsuits  
5 responded to in this single opposition. The lawsuits allege the City has failed to carry out three of 70  
6 implementation programs in the City’s General Plan Framework Element: Program 42, establishment  
7 of a Monitoring Program to assess the status of development activity and supporting infrastructure and  
8 public services within the City; Program 43, preparation of an Annual Report on Growth and  
9 Infrastructure (Annual Report); and Program 44, establishment of a transportation database.  
10 Petitioners allege the City breached its mandatory duty to implement Programs 42, 43, 44. The  
11 Saunders Petitioners seek an order from the court enjoining the City from all future development,  
12 including zoning ordinances, specific plan amendments, general plan amendments, tentative  
13 subdivision maps and development agreements, until the City implements these three programs in the  
14 exact format dictated by Petitioners. The Saunders Petitioners also assert that the City failed to breach  
15 its mandatory duty to update the Hollywood Community Plan. Petitioners are not entitled to any of the  
16 requested relief, however, because they have failed to establish a mandatory duty on the part of the  
17 City to act in the manner they demand. Chapter 10 of the Framework Element specifically provides   
18 that “Program Implementation is contingent on the availability of adequate funding, which is likely to  
19 change over time due to economic conditions, the priorities of Federal and regional governments and  
20 funding agencies, and other conditions.” Moreover, the Framework specifies that “the amounts and  
21 sources of funding, initiation dates, responsible agencies and the detailed work scope of programs may   
22 be changed without requesting amendments to the General Plan Framework Element.” As set forth  
23 below, the City complies with Chapter 10 in implementing Framework Programs 42, 43 and 44. The  
24 City also is in the process of updating the Hollywood Community Plan, a draft of which is now  
25 available on line. Injunctive relief would cause undue adverse impacts to the public health, safety and  
26 welfare, as identified below. In addition, such relief is particularly inappropriate given that this action  
27 was filed two years ago and delayed by Petitioners, prima facie evidence that the Saunders Petitioners’  
28 claim of harm is specious at best. The petition and complaint should be denied.

1 **II. STATEMENT OF FACTS**

2 The City adopted the General Plan Framework Element by resolution on December 11, 1996.  
3 City's CEQA Administrative Record (AR), pp. SAU00003-85, also attached to City's Appendix  
4 ("CA") at Tab 1, filed concurrently. For brevity's sake and to protect the environment, the City  
5 incorporates the CEQA record as part of its record in this action without lodging a separate copy.  
6 Unlike other state-mandated elements in the City's General Plan, the Framework Element is an  
7 optional element. Cal. Gov't Code §§ 65300, 65302.

8 The stated purpose of the Framework Element is the:

9 "establish[ment of] the broad overall policy and direction for the entire general plan. It is a  
10 discretionary element of the general plan which looks to the future and replaces Concept Los Angeles  
11 and the Citywide Plan (adopted in 1974). It provides a citywide context and a comprehensive long-  
12 range strategy to guide the comprehensive update of the general plan's other elements – including the  
13 community plans which collectively comprise the Land Use Element. The Framework Element also  
provides guidance for the preparation of related general plan implementation measures including  
Specific Plans, ordinances, or programs, including the Capital Improvements Program." CA:995

14 "The Framework Element sets forth a conceptual relationship between land use and  
15 transportation on a citywide basis and defines new land use categories which better describe the  
16 character and function of the City as it has evolved over time. In addition, it sets forth an estimate of  
17 population and employment growth for a 15 to 20 year time period that can be used to guide the  
18 planning of infrastructure and public services. This, however, does not represent a limit on growth or a  
19 mandated level of growth in the City or its community plan areas. Traditionally, such 'end-state'  
20 limits have proven ineffective in guiding growth and public infrastructure and service investments and  
21 in responding to the changing needs of a city's residents and its economy. In its place, the Framework  
22 Element establishes a program to annually monitor growth, its impacts, and infrastructure and service  
needs that will be documented in a report to the City Council and pertinent service departments and  
agencies. This will provide decision makers and planners with the information that is essential in  
shaping growth in a manner that can mitigate its impacts, minimize development costs, conserve  
natural resources and enhance the quality of life in the City." *Id.*

23 "Implementation of the General Plan Framework Element will be achieved through plans,  
24 ordinances, standards and guidelines, studies, capital improvements, economic development  
25 procedures, administrative procedures, and coordination with other governmental agencies,  
26 coordination and joint partnerships with private landowners and developers, and development review  
27 procedures. Many of the Element's policies will be implemented by the revision of the community  
plans and the Municipal Code, which is the basic mechanism through which the City regulates the use  
and development of land. The full-text Element specifies the implementation programs associated  
with each Framework Element policy." CA:994

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1 The Framework Element consists of 10 chapters setting forth various goals, policies and  
2 objectives to provide guidance on growth and capacity, land use, housing, urban form and  
3 neighborhood design, open space and conservation, economic development, transportation and  
4 infrastructure and public facilities. CA:996. The Framework Element also states: “A diversity of  
5 programs are specified to implement the General Plan Framework Element’s policies. *Their timing is*  
6 *contingent on the availability of adequate funding.*” Emphasis added. CA:993. This same discussion  
7 addressing the timing of program implementation identifies 12 key Framework programs in addition to  
8 the two at issue here, Programs 42 and 43. *Id.* at 893-894.

9 The last chapter in the Framework Element, Chapter 10: Implementation Programs, “is a  
10 synopsis of measures that implement the General Plan Framework Element policies and standards, and  
11 makes clear how the plan policies are to be applied.” CA:996. There are approximately 70 programs.  
12 CA:999-1022.

13 The introductory paragraphs to Chapter 10 – Implementation Programs, state:

14 “An implementation program is an action, procedure, program, or technique that carries out general  
15 plan policy. However, not all plan policies can be achieved in any given action, and in relation to any  
16 decision, some goals may be more compelling than others. On a decision-by-decision basis, taking  
17 into consideration factual circumstances, it is up to the decision makers to decide how to best  
18 implement the adopted policies for the general plan in any way which best serves the public health,  
19 safety and general welfare.

20 The General Plan Framework Element is implemented by a comprehensive program of strategies that  
21 encompass amendments of existing and preparation of new plans, ordinances, development standards,  
22 and design guidelines; conduct of studies and analyses; capital investments; coordination of economic  
23 development activities; modifications of City procedures and development review and approval  
24 processes; and interagency coordination. This section describes each of the implementation programs,  
25 and identifies the agency(ies) responsible for their implementation, funding sources, and a schedule  
26 for their performance. Each program is preceded by the letter ‘P’ and a number which are used as a  
27 reference in the preceding chapters of the Framework Element by the pertinent policy(ies) which it  
28 implements.

**Program implementation is contingent on the availability of adequate funding, which is likely to  
change over time due to economic conditions, the priorities of Federal and regional governments  
and funding agencies, and other conditions. The programs should be reviewed periodically and  
prioritized, where necessary, to reflect funding limitations and the City’s objectives. In addition,  
amounts and sources of funding, initiation dates, responsible agencies and the detailed work  
scope of programs may be changed without requesting amendments to the General Plan  
Framework Element.”** Emphasis added. CA:999.

1 **III. STANDARD OF REVIEW**

2 The court may not issue a writ of mandate pursuant to C.C.P. § 1085 in the absence of a  
3 mandatory duty. The petitioner must establish that a public body or official has a clear, legal and  
4 usually ministerial duty to act, and has refused to do so and that the petitioner has a clear, present and  
5 beneficial right to performance of that duty. *Morris v. Harper* (2001) 94 Cal.App.4th 52, 58; *Building*  
6 *Industry Assoc. v. Marin Municipal Water Dist.* (1991) 235 Cal.App.3d 1641, 1645-1646. Although a  
7 court may order a public body to exercise its discretion in the first instance when it has refused to act at  
8 all, which is not the case here, the court will not compel the exercise of that discretion in a particular  
9 manner or to reach a particular result. *Building Industry Assoc.* at 235 Cal.App.3d 1645-1646.  
10 Moreover, when the duty of a public body is broadly defined, as it is here, the manner in which it  
11 carries out that responsibility ordinarily requires the exercise of discretion. Under such circumstances,  
12 mandate is not available. *Id.* This well-established rule stems from the separation of powers doctrine:  
13 that the separate branches of government are autonomous and not subject to control by others. This  
14 doctrine has been held fully applicable to local government. *City and County of San Francisco v.*  
15 *Cooper* (1975) 13 Cal.3d 898, 915, fn. 7. When a writ of mandate is sought with respect to a  
16 governmental body, it is essential that the court determine whether the act the petitioner seeks to  
17 compel is a legislative act, involving the exercise of discretion, or a purely ministerial act. A court is  
18 without power to interfere with purely legislative action, such as a general plan (Gov't Code §  
19 65301.5) in the sense that it may not command or prohibit legislative acts. Again, the reason for this is  
20 a fundamental one: it would violate the basic constitutional concept of the separation of powers among  
21 the three coequal branches of government. If the underlying act involves the exercise of discretionary  
22 legislative power, a court will interfere by mandamus only if the action taken is fraudulent or so  
23 palpably unreasonable and arbitrary as to indicate an abuse of discretion as a matter of law. This  
24 standard is highly deferential, as it should be when the court is asked to intervene with respect to the  
25 exercise of legislative discretion by an elected governmental body. A court cannot inquire into the  
26 wisdom of a legislative act or review the merits of a local government's policy decisions and is limited  
27 to determining whether the public agency's action was arbitrary, capricious or entirely without

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1 evidentiary support, or procedurally unfair. *Federation of Hillside and Canyon Assoc. v. City of Los*  
2 *Angeles* (2004) 126 Cal.App.4th 1180.

3  
4 **IV. ARGUMENT**

5 **A. THE FRAMEWORK ELEMENT ON ITS FACE DOES NOT IMPOSE ANY**  
6 **MANDATORY DUTY ON THE CITY TO COMPLY WITH PROGRAMS 42, 43, OR 44 IN**  
7 **ANY PARTICULAR MANNER OR WITHIN ANY PARTICULAR TIME**

8 The resolution of this case revolves around the interpretation of the language of the Framework  
9 Element. The interpretation of a general plan is a question of law. In construing the Framework  
10 Element, the court's primary task is to ascertain the intent of the City Council so as to effectuate the  
11 purpose of the law. *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807, 825.  
12 To do so, the court examines the language of the Framework Element, giving the words their ordinary,  
13 commonsense meaning and according significance to *all* words used, if possible. The words of the  
14 Framework Element provide the most reliable indicator of legislative intent. Where, as here, they are  
15 clear and unambiguous, there is no need for judicial construction and a court may not indulge in it. *Id.*  
16 The court must presume that every word, phrase, and provision of the Framework Element was  
17 intended to have some meaning and perform some useful function. A construction implying that  
18 words were used in vain, or that they are surplusage, should be avoided. In addition, where different  
19 words are used in the same connection in different parts of the Framework Element, it is presumed that  
20 the legislative body intended different meanings. *Twain Harte Homeowners Association, Inc. v.*  
21 *County of Tuolumne* (1982) 138 Cal.App.3d 664, 699 [interpreting general plan, court declined to find  
22 general plan was required to contain a specific action program in order for the housing element to meet  
23 government code requirements].

24 Because general plans or policy statements are often semantical exercises which require  
25 considerable interpretation on the part of persons charged with implementing them (*Bownds v. City of*  
26 *Glendale* (1980) 113 Cal.App.3d 875, 883; *108 Holdings, Inc. v. City of Rohnert Park* (2006) 136  
27 Cal.App.4th 186, 203), courts should defer to the legislative body's interpretation of its plans if it  
28 presents a reasonable interpretation. *Alberstone v. California Coastal Comm.* (2008) 169 Cal.App.4th

1 859, 866 [interpretation of Malibu Local Implementation Program]; *Friends of Lagoon Valley v. City*  
2 *of Vacaville* (2007) 154 Cal.App.4th 807, 816.

3 At the same time the City Council set forth the goals, objectives and policies to be achieved by  
4 the Framework Element, and to identify the programs to implement these policies, the Council was  
5 careful to consider and plan for factors which might arise which would impact the City's ability to  
6 carry out some of these policies and programs. To this end, the Council added a broad caveat to  
7 program implementation, stating that the programs could change due to a wide variety of factors,  
8 including "other" unspecified conditions. CA:999 ["Program implementation is contingent on the  
9 availability of adequate funding, which is likely to change over time due to economic conditions, the  
10 priorities of Federal and regional governments and funding agencies, and *other conditions*. The  
11 programs should be reviewed periodically and prioritized, where necessary, to reflect funding  
12 limitations and the City's objectives. *In addition, amounts and sources of funding, initiation dates,*  
13 *responsible agencies and the detailed work scope of programs may be changed without requesting*  
14 *amendments to the General Plan Framework Element.*" Emphasis added.]; see also CA:993 ["A  
15 diversity of programs are specified to implement the General Plan Framework Element's policies.  
16 *Their timing is contingent on the availability of adequate funding.*" Emphasis added.] Petitioners'  
17 failure to even mention this language in their briefs belies their claim that the City's duties are  
18 mandatory. The plain language makes clear that the decision makers did not create a mandatory duty  
19 on the part of the various departments with responsibility for implementing the Framework Element.  
20 On the contrary, the City Council clearly contemplated that the timing, method, manner and financing  
21 of preparation of various Framework programs, including the annual growth and infrastructure reports,  
22 as well as the detailed of the scope of work of each program, was subject to change due to changes in  
23 funding, priorities and "other conditions", without going back to Council.

24 The Planning Department, charged with implementing many of the Framework Element  
25 Programs, has consistently interpreted the language of Chapter 10 as discretionary and not mandatory.  
26 Howe Decl., ¶ 3 ["The EIR that accompanied the GPF analyzed the status of the City's infrastructure  
27 and its capacity to accommodate the growth forecast in the GPF. The policy and land use  
28 recommendations of the GPF were predicated on that analysis. Since forecast growth and actual

1 growth could deviate, the intent was to monitor growth and, if it occurred at a faster pace or in a  
2 different way than the GPF and its EIR predicted, to make recommendations for changes as  
3 appropriate in the City's Community Plans and citywide elements"; ¶¶ 4-7, 8 ["As then-Director of  
4 Planning charged with overseeing the Planning Department's role with respect to the GPF, this change  
5 in format was consistent with GPF program implementation set forth in Chapter 10 of the GPF"];  
6 Petitioners' Appendix (PA):797-800, 809-812, 839-844. The Department's interpretation is entitled to  
7 great deference. Based on this language, Petitioners are incorrect in stating that the City has a  
8 mandatory duty to prepare the Annual Reports or establish the monitoring program and transportation  
9 database in any particular format or manner or within any particular time.

10 In addition to ignoring the relevant language, Petitioners' briefs focus and rely heavily on the  
11 use of the word "shall" or "will" in numerous places in the Framework Element discussing the various  
12 implementation programs, including the programs at issue in this action. *See e.g.*, CA:997, 998.  
13 Petitioners' contentions to the contrary, the word "shall" does not always mean the statute is  
14 mandatory. *Thompson v. Board of Trustees* (1904) 144 Cal.281 283 [court held it was more  
15 reasonable to suppose that words in an ordinance, "the board of trustees *shall* submit to said voters",  
16 were intended as a mere rule of procedure for the guidance of the board, and not to be construed as  
17 mandatory]; *Woods v. Department of Motor Vehicles* (1989) 211 Cal.App.3d 1263, 1266. In fact, here,  
18 in the relevant sections of the Framework Element, the Council chose the words, "contingent upon"  
19 (CA:13) in conjunction with the availability of adequate funding or the existence of a variety of other  
20 factors and conditions to modify any requirement to implement various Framework Programs.  
21 Contingent is defined as: "1. Liable to occur but not certain; possible. 2. Dependent on conditions or  
22 occurrences not yet established; conditional." American Heritage College Dictionary, 3d Edition,  
23 1993. The use of the words "contingent upon," on their face, makes clear that the City Council  
24 intended flexibility in program implementation. Even if the use of the word "shall" is of mandatory  
25 import, because the City Council used different, permissive, discretionary language when it adopted  
26 Chapter 10, it is presumed that the Council intended a different meaning and effect when directly  
27 addressing the method, manner and timing of program implementation. *Crespin v. Kizer* (1990) 226  
28 Cal.App.3d 498, 513. Petitioners' interpretation of the Framework Element would render the language

1 in Chapter 10 and elsewhere mere surplusage, an interpretation contrary to all well-accepted rules of  
2 statutory construction.

3         Petitioners improperly focus on only three Programs, while ignoring all others in support of  
4 their argument that the City breached its mandatory duty under the Framework Element. While  
5 Petitioners may wish to focus on certain Framework programs and ignore others, because policies and  
6 programs in a general plan reflect a range of competing interests, the City has broad discretion to  
7 weigh and balance the plan's policies and programs when applying them. *Friends of Lagoon Valley*,  
8 154 Cal.App.4th at 815-817; *Federation of Hillside and Canyon Assoc.*, 126 Cal.App.4th 1194-1195.  
9 Recognizing the many variables that could affect Framework policies, goals, objectives and programs,  
10 the Council expressly stated that "not all plan policies can be achieved in any given action, and in  
11 relation to any decision, some goals may be more compelling than others. On a decision-by-decision  
12 basis, taking into consideration factual circumstances, it is up to the decision makers to decide how to  
13 best implement the adopted policies for the general plan in any way which best serves the public  
14 health, safety and general welfare. CA:999.<sup>1</sup>

15         Under circumstances such as these, where no mandatory duty can be established, a writ of  
16 mandate may not issue, the requested injunctive relief is inappropriate and the petition and complaint  
17 for declaratory and injunctive relief should be denied.

18         **B. THE ACTIONS OF THE PLANNING DEPARTMENT WITH RESPECT TO ITS**  
19 **MONITORING PROGRAM, TRANSPORTATION DATABASE AND GROWTH REPORTS**  
20 **ARE NOT ARBITRARY OR CAPRICIOUS OR ENTIRELY LACKING IN EVIDENTIARY**  
21 **SUPPORT AND ARE CONSISTENT WITH THE FRAMEWORK ELEMENT**

22         The City's actions with respect to the Framework Element are subject to review under ordinary  
23 mandamus pursuant to Code of Civil Procedure section 1085. Gov't Code § 65301.5; *Bunnett v.*  
24 *Regents of the University of California* (1995) 35 Cal.App.4th 843, 848 [professor's challenge to  
25 university's implementation of its retirement plan subject to review by means of ordinary mandamus].

26 <sup>1</sup> Of the 70 Implementation Programs identified in the Framework Element, various other City  
27 Departments were assigned responsibility for carrying out other Implementation Programs, for  
28 example, the five-year Capital Improvement Program (CIP) (P31). CA:1012. A true and correct copy  
of the most recent CIP is attached to the CA at Tab 4. The CAO is currently in the process of working  
on the next update.

1 When review is sought by means of ordinary mandate, the inquiry is limited to whether the action was  
2 arbitrary, capricious, or entirely lacking in evidentiary support. *Id.* at 849.

3 **1. The City Has Implemented Program 43 Consistent With Chapter 10**

4 The City has implemented Program 43, the preparation of Annual Reports, consistent with  
5 Chapter 10 of the Framework Element. The main purpose of the growth monitoring program was to  
6 ascertain, on a continuing basis, if growth was occurring faster than or in significantly different ways  
7 than that predicted and analyzed in the GPF and its accompanying EIR. Howe Decl., ¶ 4. As set forth  
8 in the City's discovery responses, the Planning Department prepared three bound Annual Reports on  
9 Growth and Infrastructure, covering the years 1990-1994, 1994-1996, and 1996-1998. PA:797-800,  
10 809-812, 839-844. These documents reported on the recent population and employment figures and  
11 development activity. They also included a geographic breakdown (by Community Plan area) of  
12 existing public community facilities, and scheduled improvements from the City's Capital Program.  
13 That information was already publically available, but appeared in the published documents in a  
14 graphically clear and readable format. Howe Decl., ¶ 4.

15 According to the Planning Department, each of the three reports required the services of two  
16 designated, full-time employees, and took approximately one year to complete. The Director of  
17 Planning at the time became concerned about the format and utility of the Reports. Howe Decl., ¶ 5.  
18 The lag time needed to graphically lay out the document, have it printed and mailed out meant that by  
19 the time the published documents were in people's hands, much of the data, especially that on  
20 development activity, was out-of-date. Other information, such as community facilities (e.g., number  
21 and location of library branches and police and fire stations) was static from year to year, and did not  
22 need to be repeated annually. Howe Decl., ¶ 5. As well, in the subsequent years, the City's budget did  
23 not permit staffing resources in the Planning Department to increase despite the fact that there was a  
24 significant increase in the department's work program. As a result, in the exercise of discretion, these  
25 two positions were reallocated in order to accomplish the Department's higher priorities and required  
26 responsibilities set forth in to the City Charter and other applicable laws. PA:797-800, 809-812, 839-  
27 844.

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1 As a result, the Department thereafter took advantage of new technology and significantly  
2 expanded the information it made available to the public on its website. Howe Decl., ¶ 6. Staff was  
3 directed to collect building permit data and to report it on the website on a quarterly and annual basis,  
4 and by different geographies (Community Plan areas, Area Planning Commission areas). Population  
5 and employment data and estimates, although not as dynamic, were also presented by different  
6 geographies and posted on the website. The City Council, Mayor and City Planning Commission were  
7 notified of these changes in a transmittal letter for the third published version of the Annual Report on  
8 Growth and Infrastructure dated April 20, 2000. Howe Decl., ¶8 [“In the absence of any feedback  
9 from the City Council, City Planning Commission or Mayor on the previous published documents, I  
10 determined that this was a more accessible and time and cost effective way to report, particularly in  
11 light of the available new technology and increase in Planning Department work programs at the same  
12 time as staff reductions.”]

13 Since 2001, the Planning Department has prepared annual growth reports covering the years  
14 1999 to the present, consisting of population projections and estimates, employment estimates, and  
15 building permit activity, including housing construction activity. The population and employment data  
16 is updated annually, with the population estimates shown at the citywide level and at the Area Planning  
17 Commission level (there are seven such areas). The building permit information is updated quarterly,  
18 as well as annually, and provides the information at a citywide level, the Area Planning Commission  
19 level, and the Community Plan level. PA:797-800, 809-812, 839-844; Howe Decl., ¶ 7-8. The City’s  
20 CEQA Administrative Record contains a sample of this information for representative years 2002 and  
21 2008 at pp. SAU2178-2941. Due to the voluminous number of pages for each of these years, the City  
22 has not included them in its Appendix. Instead, the City has only attached the table of contents  
23 describing the nature of these documents to its Appendix at Tab 3.

24 Although the infrastructure information was no longer included in the Annual Reports due to its  
25 static nature (Howe Decl., ¶5), all infrastructure and public service information (with the exception of  
26 MTA, a regional agency and 3 proprietary agencies) is compiled annually into a single document,  
27 entitled “Detail of Department Programs Supplement” and adopted by the City Council as part of its  
28 adoption of the annual budget. All of the infrastructure and public service information of each

1 department is also available each June on the City's web site. PA:797-800, 809-812, 839-844. The  
2 Planning Department relies on the certified Environmental Impact Report (EIR) prepared for the  
3 General Plan Framework Element, which concluded that, at the citywide level, the City has adequate  
4 infrastructure to service a population of 4.3 million people. At the time of the adoption of the  
5 Framework Element, the Southern California Associations of Government (SCAG) projected that the  
6 City would reach a population of 4.3 million people in the year 2010. Since that time, Los Angeles has  
7 experienced demographic and economic shifts, including an increase in out-migration, a decrease in in-  
8 migration, loss of jobs, and an aging baby boom generation, such that SCAG now projects that the  
9 City will not reach 4.3 million people until the year 2030. As set forth above, the Planning Department  
10 regularly monitors its population estimates and projections, to verify the City is well below the 4.3  
11 million people estimate made by SCAG and the population for which the Framework Element EIR  
12 concluded there is adequate infrastructure to support. PA:797-800, 809-812, 839-844.

13 The Planning Department has also determined that the Community Plan update process is the  
14 most meaningful way to analyze growth and infrastructure impacts at the community-wide level, to  
15 reflect the planned distribution and potential shifts in the distribution of the city's population and is in  
16 the process of updating these plans. CA at Tab 5. The New Community Plans will include a chapter  
17 entitled "Community Facilities and Infrastructure." This chapter will integrate citywide policies  
18 established in the Framework Plan with community specific infrastructure and public facilities goals,  
19 will identify the infrastructure and public facilities required to serve the specific needs of each  
20 community, and will address both the adequacy of existing public facilities as well as what is needed to  
21 support future development and accommodate the growth that will be projected for each community.  
22 The Infrastructure and Public Facilities chapter of each Community Plan will evaluate existing  
23 facilities and services of each type of infrastructure and public facility, identify the relevant level-of-  
24 service standard for each, identify the need or gap that may exist for each infrastructure type in order to  
25 reach the full build-out of the plan, and potential funding sources to meet the needs. PA:797-800, 809-  
26 812, 839-844; *see also* CA at Tab 6. [draft Hollywood Community Plan update].

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1 In addition, at the project level, the City analyzes growth and infrastructure impacts through the  
2 process provided by CEQA. PA:797-800, 809-812, 839-844; Goldberg Decl., ¶ 17. All of these  
3 actions are consistent with Program 43 and Chapter 10 of the Framework Element.

## 4 2. The City Established a Monitoring Program (Program 42)

5 The Planning Department has, in fact, established a monitoring program consistent with the  
6 provisions of the Framework Element. Blumenfeld Declaration (Decl.) at ¶ 7; Howe Decl., 7-8, 10  
7 [“during my tenure as Director of Planning, and to my knowledge since my retirement, the Department  
8 has implemented the policies and recommendations of the GPF, consistent with the CPF and, in  
9 particular, its Chapter 10 – Implementation Programs. It has continuously monitored growth  
10 (population, employment, housing), reported on them in the most effective format, and utilized both  
11 GPF estimates, actual growth data, and newer, available estimates in all aspects of its planning and  
12 zoning duties”]. On an ongoing basis, the Department, including its demographic staff, secured,  
13 analyzed and produced reports regarding demographic and building activity to assure that neither  
14 deviated from the Framework Element. The Planning Department regularly met with the Southern  
15 California Association of Governments (SCAG) regarding population projections and estimates for the  
16 region and for the City of Los Angeles. The Department coordinated SCAG’s population modeling  
17 with the City’s Framework policies, so that the portion of regional growth projected by SCAG for Los  
18 Angeles was allocated pursuant to Los Angeles’ growth policies, as set forth in the Framework  
19 Element. Blumenfeld Decl., ¶¶ 7, 9 [“the Planning Department has always monitored growth and  
20 development and worked with the 11 technical departments to track infrastructure”]; ¶ 10 [The  
21 Department, including under my direction during my tenure with the City, then works closely on a  
22 regular basis with the 11 other departments (including one which is not even under the jurisdiction of  
23 the City at all – the LAUSD\_ to make sure that growth and projected development continue to be in  
24 sync with the Framework and to apprise them of changes in projected growth and/or changes to the  
25 general plan (i.e. where different densities of development are permitted”]; ¶ 11 [“The Department also  
26 tracks where [different kinds of uses are permitted to occur in the various commercial, industrial, retail  
27 zones], how many square feet are added each quarter, and what parts of the city permits have been  
28 issued for each type of use. This information is provided and available to all applicable City

1 departments. This information is what is required for the water planners, the police planners, the park  
2 planners, transportation planners and other infrastructure planners to determine the infrastructure  
3 necessary to serve the population in all parts of the city”]. *See also* PA:801-802 (CMP monitoring),  
4 862.

5 While Petitioners may wish that the Department engaged in additional, unspecified monitoring,  
6 nothing more was required under the Framework Element.

7 **3. The City Has Established a Transportation Database (Program 44)**

8 The Saunders Petitioners reference to Program 44 is contained in a single sentence in a footnote  
9 to their opening brief (at page 2, fn. 2). Without more, these Petitioners have waived any challenged  
10 regarding Program 44. Nevertheless, the City has established a transportation database that contains  
11 the information identified in P44 (Framework Element, p.10-18). *See* PA:844-847, 862.

12 **C. THE CITY IS UPDATING THE HOLLYWOOD COMMUNITY PLAN**  
13 **ALTHOUGH NOT REQUIRED TO DO SO BY STATE LAW OR THE GENERAL PLAN**

14 The Saunders Petitioners erroneously contend the City is in violation of its General Plan for  
15 failing to update, revise and approve the Hollywood Community Plan. Neither state law nor the  
16 Framework Element requires the City to update its general plan or any element of its general plan with  
17 the exception of its Housing Element. Cal. Gov’t Code §§ 65300 *et seq.*, 65583. The Framework  
18 Element text makes clear that it does not require the immediate update of the community plans and  
19 other citywide elements: “Given the size and complexity of the City, the process of updating the  
20 community plans and the citywide elements takes time. The Framework Element’s Long-Range Land  
21 Use Diagram and associated land use policies take effect incrementally, as each comprehensive  
22 community plan update is adopted.” *Id.* at 1-7. Nevertheless, the City is in the process of updating the  
23 Hollywood Community Plan, as well as others. CA at Tabs 5-6.

24 **D. PETITIONERS ARE NOT ENTITLED TO INJUNCTIVE RELIEF**

25 The Saunders Petitioners ask this court to stop all development in the City. These petitioners  
26 seek to enjoin approval of any zoning ordinances, whether or not these ordinances have anything  
27 directly to do with growth or infrastructure. These petitioners seek to enjoin approvals of specific plan  
28 amendments, development agreements and tentative subdivision maps, even if any of these approvals

1 might actually scale down development, or provide fees which would actually provide for  
2 infrastructure, such as park fees (Gov't Code § 66477, Quimby Act) and school facilities fees (Gov't  
3 Code § 66478). These Petitioners seek to enjoin general plan amendments, even though such an  
4 injunction would prevent the adoption of any community plan updates, including the Hollywood  
5 Community Plan which the Saunders Petitioners contend the City is required to update and approve,  
6 and which will include a detailed growth and infrastructure analyses at the community plan level.  
7 These Petitioners seek to enjoin these actions even though they may be substantially affecting the  
8 rights of third parties not before this court.

9       As set forth in *City of Tiburon v. Northwestern Pacific Railroad Co.* (1970) 4 Cal.App.3d 160,  
10 179, a case decided on demurrer and relied on by the Saunders Petitioners, “[i]njunction ‘is an  
11 extraordinary power, and is to be exercised always with great caution’”. *Id.* at 179. “The power  
12 therefore, should rarely, if ever, be exercised in a doubtful case. ‘The right must be clear, the injury  
13 impending and threatened, so as to be averted only by the protective prevent process of injunction.’  
14 Citations omitted.” *Id.* This is **not** such a case.

15       Injunctive relief under the facts presented here is improper. Petitioners contend without  
16 relevant or otherwise admissible evidentiary support that an injunction is necessary because individual  
17 projects are being approved which are inconsistent with the Framework Element. City’s Objections to  
18 Petitioners’ Appendix. As a preliminary matter, the Saunders Petitioners filed this action in June 20,  
19 2008. It is now two years later, as the result of several actions by Petitioners, including, though not  
20 limited to, the filing of an amended petition and their last minute filing of a CEQA petition. Yet these  
21 petitioners contend they are being harmed by the “City continuing to process engorged development  
22 entitlements and approve millions of building permits every year.” This delay in prosecution alone  
23 belies Petitioners claim of harm, let alone the type of harm that would warrant issuance of such a  
24 draconian remedy. More significantly, injunctive relief should be denied because, as set forth above,  
25 the City has complied with its requirements under the Framework Element. Petitioners have presented  
26 no evidence whatsoever supporting a causal connection between the harm alleged and the City’s  
27 actions with respect to its implementation of Programs 42, 43 or 44. In addition, the Framework  
28 Element was not intended to control individual development projects. It specifically states: “While the

1 Framework Element incorporates a diagram that depicts the generalized distribution of centers,  
2 districts, and mixed-use boulevards through the City, it does not convey or affect entitlements for any  
3 property. The Framework Element provides *guidelines* for future updates of the City's community  
4 plans. It does not supersede the more detailed community and specific plans." Emphasis added.  
5 CA:991. "The Framework Element is not sufficiently detailed to impact requests for entitlements on  
6 individual parcels. Community plans will be more specific and will be the major documents to be  
7 looked to for consistency with the general plan for land use entitlements." CA:995. In addition, the  
8 Framework Element clearly contemplates that the development review processes and approvals should  
9 continue, even offering developers and private property owners flexible, alternative incentives to  
10 provide private land for public use, and an expedited development process with permitting assistance,  
11 while at the same time requiring fees for certain infrastructure projects. CA:1021. Nothing in the  
12 Framework Element contemplates that development should be stopped if a program is not  
13 implemented in the exact format as stated therein

14 Moreover, the injunctive relief requested by the Saunders Petitioners would cause undue  
15 adverse impacts related to the public health, safety and welfare. Goldberg Decl., ¶ 4. If new  
16 development is stopped, older, obsolete, unsafe buildings will not be replaced. New commercial and  
17 industrial projects that provide jobs and a significant portion of the City's tax base, that help fund  
18 infrastructure, will not occur. Badly needed housing will not be built, and the remaining housing stock  
19 will become even more expensive as it supplies an increasing demand. The City typically adds  
20 between 6,000 and 12,000 new housing units each year (depending on the economy), which is far  
21 below that needed to house the City's population. Most of these units require zoning actions by the  
22 City, which have time limits regarding their use. Many entitlements would lapse if the city was unable  
23 to approve developments for one year. Additionally, if no zoning actions were permitted for one year,  
24 the development at the City's soon-to-be-opened light rail stations would not occur just as the  
25 economic recovery is expected to begin. The City is depending on linking new infill development with  
26 transit and has spent several years and several million dollars creating new plans, zoning, design  
27 guidelines and other tools that will soon be ready for adoption. If these actions cannot occur for the  
28 one year it would take to 2 planning employees to prepare an Annual Report in the same manner and

1 format as previously prepared, the City will have permanently missed the opportunity to maximize  
2 transit-oriented, small growth development. Goldberg Decl., ¶ 4.

3 An injunction against the adoption of zoning ordinances would also have adverse impacts not  
4 recognized or ignored by Petitioners. Zoning ordinances fix codes that have become problematic.  
5 Many zoning ordinances have little to do with the development of buildings on parcels of land. They  
6 are, rather, enabling ordinances that create processes and procedures (i.e., new conditional use  
7 categories, creation of parking district possibilities, ways for people with disabilities who need ramps  
8 to live in their houses, etc.), new tools for decision makers to use in appropriate situation (overlay  
9 zones, historic preservation district rules, pedestrian district rules, etc.) Enjoining the City from  
10 approving any further zoning ordinances will preclude the creation of helpful, problem solving new  
11 tools in communities throughout the City. Goldberg Decl., ¶ 5.

12 The City is required to respond to a number of State mandates that necessitate zoning and other  
13 development actions. For example, the City is required to provide 112,876 units of housing between  
14 2006 and 2014. Meeting this obligation requires hundreds of new housing projects throughout the city;  
15 it also requires that the City meet the needs of people in all economic segments of our city and people  
16 with all types of needs (including people with disabilities, homeless people, large families, female-  
17 headed households, etc.). *Id.* at ¶ 6. The requested injunction would render this obligation impossible.

18 While the State requires that cities adopt General Plans, it does not require State approval of  
19 any Plan elements with one exception. The State requires that all cities amend their General Plans  
20 every 5 years by adopting a new Housing Element. And these Housing Elements must be deemed  
21 compliant by the State Department of Housing and Community and Economic Development. The  
22 injunction proposed by petitioners and plaintiffs would preclude the City from complying with this  
23 State requirement. If the City cannot amend its General Plan for one year, depending on when the one  
24 year begins, it will be in violation of State law. The City is currently scheduled to begin work on the  
25 next required Housing Element in 2010. Goldberg Decl., ¶ 7.

26 Housing, particularly affordable housing, has reached crisis proportions in Los Angeles.  
27 Meeting this need requires the recycling of the City's older housing stock so that it can be replaced  
28 with modern, safe, and sanitary housing. Since approximately 90% of all multi-family residential

1 buildings built in Los Angeles typically contain less than 30 units, several thousand new buildings  
2 must be built in this time period. And, since there is virtually no vacant land, meeting this obligation  
3 requires new infill development. No new development for one year will likely compound the current  
4 foreclosure problem and increase the already high median rent and housing price so that additional Los  
5 Angeles residents will be priced out of housing. Goldberg Decl., ¶ 8.

6 Charter schools are one of the solutions to the City's education problem. Like housing, new  
7 charter schools typically require zoning and development actions by the City. Charter schools require  
8 zoning actions that typically take 6-9 months to complete and must be coordinated with the opening of  
9 the school year. If no such actions can occur for one year, parents and students depending on the  
10 opening of new schools will have difficulty finding appropriate school placements. *Id.* at ¶ 9.

11 In November 2008, voters approved Measure R by a two-thirds majority, committing a  
12 projected \$40 billion to traffic relief and transportation upgrades throughout the county over the next  
13 30 years. Measure R will help fund dozens of critical transit and highway projects, create more than  
14 210,000 new construction jobs and infuse an estimated \$32 billion into the local economy. Measure R  
15 will provide the matching funds for the Expo light rail line on the Westside, a light rail connector in  
16 Downtown Los Angeles, a Crenshaw corridor transit project, extension of the Metro Gold Line, the  
17 Foothill Extension of the Metro Gold Line, a rail connection to LAX, a Green Line Extension to the  
18 South Bay, a San Fernando Valley I-405 Corridor transit project, North-South Corridor transit project  
19 in the San Fernando Valley, and numerous highway capacity and operations improvements. Measure  
20 R does not fully fund all projects. A projected \$4.5 billion must come from federal and state sources.  
21 However, other cities are competing for these same sources, and in order for the City to compete  
22 successfully for these funds, the City must assure that there are supportive land uses and projects  
23 within ½ mile of each station stop that will increase transit ridership. These actions are what will  
24 convince federal lawmakers to invest in L.A. Without the ability to change land use where appropriate  
25 and fix necessary codes, the city will not be able to build transit, reduce automobile dependency, and  
26 control urban sprawl. The City must take visible, effective land use actions within the next year in  
27 order to have any chance of competing for federal transportation dollars. City staff has been working  
28 closely with Metro staff to prepare applications for funding, committing to such actions, as laid out in

1 the City's General Plan. Goldberg Decl., ¶ 10.

2 Los Angeles just experienced extensive wildfires, which are a part of the City's ecology.  
3 Earthquakes are similarly a part of Los Angeles' geology. The City needs to be able to rebuild when  
4 people's homes and business are destroyed by natural disasters. Again, an injunction would impede  
5 this ability. Goldberg Decl., ¶ 11.

6 The City has developed ordinances that create affordable home ownership opportunities for  
7 working families. However, such opportunities require the subdivision of lots into airspace. No entry  
8 level home ownership is possible without the ability to approve subdivision maps. The requested  
9 injunction would halt this potential home ownership. Goldberg Decl., ¶ 12.

10 The City has a Housing Trust Fund that facilitates the construction of several hundred units of  
11 affordable housing each year. The Trust Fund money typically represents one of many sources of  
12 funding for affordable housing. Most of these projects require zoning actions, which if not permitted,  
13 would preclude the construction of such projects. Goldberg Decl., ¶ 13.

14 The City is about to consider a new Bicycle Plan, which has cost nearly \$500,000 and taken  
15 more than a year of development and public outreach. A comprehensive, new bicycle plan is another  
16 important step toward providing transportation options for residents, improving our air quality, and  
17 addressing the national obesity and public health problem. The proposed action would preclude the  
18 adoption of this amendment to the General Plan. Goldberg Decl., ¶ 14.

19 The City of Los Angeles has applied for \$1.85 billion in job creation and infrastructure  
20 investment projects through President Obama's American Recovery and Reinvestment Act. To date,  
21 the City has been awarded nearly \$800 million. Much of this money has been allocated for job  
22 training and creation of thousands of permanent and temporary employment opportunities, particularly  
23 jobs in construction. These construction jobs depend on the development of new residential,  
24 commercial, and industrial buildings. If development were to halt, there would be a dearth of jobs for  
25 newly trained individuals who need employment and the stimulus money would not be stimulating the  
26 economy as intended. Also, there are strict deadlines associated with expending stimulus dollars  
27 awarded to the City. Any delay would mean (1) foregoing the already allocated funds and (2)

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1 jeopardizing the City's eligibility and ability to compete for additional rounds of stimulus funding that  
2 are expected in the next few years. Goldberg Decl., ¶ 15.

3 In addition, the City is required to take many other mandatory actions pursuant to the California  
4 Government Code, including, but not limited to, compliance with the Permit Streamlining Act, the  
5 Subdivision Map Act, and the State Density Bonus Law, actions that would be jeopardized if  
6 petitioners and plaintiffs' request for injunctive relief is granted. Goldberg Decl., ¶ 16.

7 An injunction to prevent development because some groups in the City favor no growth or fear  
8 that every project may adversely affect infrastructure, is unwarranted. Every development application  
9 for a project as defined in the California Environmental Quality Act (CEQA) goes through an  
10 environmental analysis to determine whether the project will have a significant adverse impact on the  
11 environment, including the project's potential impact on infrastructure. If a project is determined to  
12 have an impact on infrastructure, among other things, environmental conditions are imposed to  
13 mitigate the impacts to a level of insignificance. These projects are either approved with an  
14 Environmental Impact Report (EIR) or a Mitigated Negative Declaration (MND). If the project  
15 impacts cannot be mitigated to a level of insignificance, the decisionmaking body either denies the  
16 project or adopts it subject to a Statement of Overriding Considerations. Goldberg Decl., ¶17. Projects  
17 that have been approved and not challenged are presumed not to have an effect on the environment.

18 None of the cases proffered by the Saunders Petitioners support their request for injunctive  
19 relief. *City of Tiburon v. Northwestern Pac. R.R. Co.*, *supra*, 4 Cal.App.3d 160, is an inapposite case  
20 addressing a railroad's demurrer to a city's complaint for declaratory relief regarding the status of land  
21 conveyed by the railroad. The discussion regarding injunctive relief is dicta and merely provides that  
22 the right to injunctive relief, if any, will depend upon the facts adduced at trial. *Id.* at 178.

23 *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, involved a  
24 successful CEQA and general plan consistency challenge to specific projects. The case does not stand  
25 for the proposition that a citywide injunction like the one the Saunders Petitioners request, is an  
26 appropriate remedy. In *Camp v. Board of Supervisors of Mendocino County* (1981) 123 Cal.App.3d  
27 334, the appellate court held that injunctive relief prohibiting the adoption of zoning ordinances or  
28 approval of subdivision maps, with the exception of final maps under certain circumstances, was an

1 appropriate remedy where the court also found that the County's general plan violated mandatory  
2 provisions of state law, Cal. Gov't Code § 65300. But the difference between *Camp* and the facts  
3 presented here are entirely distinguishable. Unlike the state law requirements for the nine mandatory  
4 general plan elements, the Framework Element is not mandatory. Moreover, the state law does not  
5 contain the critical caveat and distinction in the Framework Element that Petitioners choose to ignore –  
6 that is, the Framework Element states that the timing of the programs “is contingent on the availability  
7 of adequate funding.” Framework Element Chapter 10 – Implementation Programs (CA:999), states,  
8 in pertinent part, “Program implementation is contingent on the availability of adequate funding, which  
9 is likely to change over time due to economic conditions, the priorities of Federal and regional  
10 governments and funding agencies, and other conditions. The programs should be reviewed  
11 periodically and prioritized, where necessary, to reflect funding limitations and the City's objectives.  
12 In addition, amounts and sources of funding, initiation dates, responsible agencies, and the detailed  
13 work scope of programs may be changed without requesting amendments to the General Plan  
14 Framework Element.”

15 Issuance of the requested injunction which will prohibit all development in the City will intrude  
16 into the legislative and zoning and planning functions of the City, which courts are loathe to do. *See*  
17 *e.g., Garat v. City of Riverside* (1991) 2 Cal.App.4th 259, 303, fn. 33. Instead, should the trial court  
18 determine that the City has a mandatory duty to prepare the Annual Reports in the exact same form as  
19 the three original reports were prepared, or a mandatory duty to establish a different type of monitoring  
20 program or transportation database, the court should do no more than issue a writ directing the City to  
21 comply with the Framework Element, but not direct the City to exercise its discretion in any particular  
22 manner. “There are at least two desirable goals of sound government served by this approach: (1) It  
23 better enables the courts to maintain an appropriate distance and disinvolvement from the legislative  
24 function of plan/ordinance adoption; and (2) it better enables the courts to refrain from making  
25 (perhaps unwarranted) assumptions as to what should be invalidated and what should not – it is  
26 conceivable, for instance, that once a general plan were amended so as to be brought into compliance  
27 with state law, it would be unnecessary to amend extant zoning enactments to come into conformity  
28 with that general plan.” *Garat*, 2 Cal.App.4th at 303.

1           **D. CHARTER § 216 IS INAPPLICABLE TO THE ANNUAL REPORTS BECAUSE**  
2           **IT APPLIES TO REPORTS REQUIRED BY ORDINANCE AND NOT BY RESOLUTION**

3           Petitioner Fix the City erroneously contends the City violated Charter § 216 of its Charter. The  
4 same principles of construction applicable to statutes apply to the interpretation of municipal charters.  
5 The court looks first to express language to ascertain meaning. The court's function is simply to  
6 ascertain and declare what is, in terms or in substance, contained in the charter, and not to insert what  
7 has been omitted or to omit what has been inserted. *United Assoc. of Journeymen and Apprentices of*  
8 *the Plumbing and Pipefitting Industry v. City and County of San Francisco* (1995) 32 Cal.App.4th 751.

9           Charter Section 216 provides: "Every officer or board of the City government shall make and  
10 present to the Mayor and Council an annual report relating to their work, and any other reports as may  
11 be required by the Charter or by the Council, *by ordinance.*" Emphasis added. CA at Tab 7. The  
12 Annual Reports are part of the General Plan Framework Element. The Framework Element was  
13 adopted by *resolution*, not by ordinance. CA at Tab 1. Therefore, on its face, Charter Section 216 is  
14 inapplicable here.

15  
16           **V. CONCLUSION**

17           For the foregoing reasons, Respondent City of Los Angeles respectfully requests the petitions  
18 for writ of mandate and complaint for declaratory and injunctive relief be denied.

19 Dated: August 12, 2010

Respectfully submitted,

20           **CARMEN A. TRUTANICH**, City Attorney  
21           **TERRY P. KAUFMANN MACIAS**, Deputy City Attorney  
22           **MARY J. DECKER**, Deputy City Attorney

23           By   
24           **TERRY P. KAUFMANN MACIAS**  
25           Deputy City Attorney

26           Attorneys for Respondents  
27           CITY OF LOS ANGELES; CITY COUNCIL  
28           OF LOS ANGELES; and CITY OF LOS ANGELES  
              DEPARTMENT OF PLANNING

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**PROOF OF SERVICE**

I, the undersigned, say: I am over the age of 18 years and not a party to the within action or proceeding. My business address is 701 City Hall East, 200 North Main Street, Los Angeles, California 90012.

On August 12, 2010, I served the foregoing documents described as **RESPONDENTS' CITY OF LOS ANGELES, CITY COUNCIL OF LOS ANGELES, AND CITY OF LOS ANGELES DEPARTMENT OF PLANNING OPPOSITION TO OPENING BRIEF OF SAUNDERS, ET AL., AND FIX THE CITY** on all interested parties in this action by placing copies thereof enclosed in a sealed envelope addressed as follows:

Sabrina Venskus Esq.  
Emilee Moeller, Esq.  
Venskus & Associates, APC  
21 S. California Street, Suite 204  
Ventura, California 93001

- BY MAIL -I deposited such envelope in the mail at Los Angeles, California, with First class postage thereon fully prepaid. I am readily familiar with the business practice for collection and processing of correspondence for mailing. Under that practice, it is deposited with the United States Postal Service on that same day, at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one (1) day after the date of deposit for mailing in affidavit; and/or
- BY PERSONAL SERVICE - ( ) I delivered by hand, or ( ) I caused to be delivered via Los Angeles City Attorney Document Services Division, such envelope to the offices of the addressee with delivery time prior to 5:00 p.m. on the date specified above.
- BY FACSIMILE TRANSMISSION - I caused the document to be transmitted to the offices of the addressee via facsimile machine at telephone number \_\_\_\_\_ on the date and time specified on the Transmission Report.
- BY ELECTRONIC TRANSMISSION – I caused the document to be transmitted to the offices of the addressee via E-mail address to venskus@lawsv.com prior to 5:00 p.m. on the date specified above.
- BY OVERNIGHT COURIER - I deposited such envelope in a regularly maintained overnight courier parcel receptacle prior to the time listed thereon for pick-up. Hand delivery was guaranteed by the next business day.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 12, 2010, at Los Angeles, California.

  
\_\_\_\_\_  
PAULETTE JONES