



1 **INTRODUCTION**

2 1. This action challenges the failure of the City of Los Angeles (“City”) to comply  
3 with the clearly stated requirement of its Charter and its General Plan Framework Element to  
4 prepare Annual Growth and Infrastructure Reports.

5 2. Section 216 of the City Charter mandates that “Every officer or board of the City  
6 government shall make and present to the Mayor and Council an annual report relating to their  
7 work, and any other reports as may be required by the Charter or by the Council, by ordinance.”

8 3. The City is also charged under the Government Code with preparing, updating,  
9 and implementing a “General Plan” that governs all land use approvals within the City. The  
10 General Plan consists of the Framework Element, which provides overall guidance for the future  
11 of the City, various other citywide elements including the state-mandated elements such as the  
12 Transportation, Open Space and Land Use among others.

13 4. The Framework Element<sup>1</sup> contained in the City’s General Plan requires an annual  
14 report on growth and infrastructure in order to establish a system for the monitoring of growth,  
15 infrastructure, and services (“Annual Report”). This Annual Report is designed to be used as  
16 the basis to guide future capital investments and development decisions, as a mechanism to  
17 gauge the appropriateness of the estimates for capital improvement and to provide for their  
18 modification over time.

19 5. The City has failed to fully perform its duties to monitor and report on population  
20 growth and infrastructure and services as required by the City’s General Plan as it has not  
21 prepared an Annual Growth report since 2000. After the most recent growth and infrastructure  
22 report was done in 2000, there have been no Annual Reports to guide the City’s investment in  
23 infrastructure or help establish growth and services policies. A copy of the Table of Contents  
24 and Executive Summary of the 2000 Annual Growth Report is attached as Exhibit A. The entire  
25

26  
27 

---

<sup>1</sup> The Framework Element Executive Summary was available on the internet as of October  
28 2008 at <http://cityplanning.lacity.org/cwd/framwk/chapters/00/00.htm>.

1 Annual Report was available at <http://www.lacity.org/pln/DRU/agr98/agr98.pdf> as of October  
2 2008.

3 6. The City's failure to prepare these annual reports violates its City Charter and its  
4 Framework Element.

5  
6 **JURISDICTION**

7 7. This Court has jurisdiction over the writ action under section 1085 of the Code of  
8 Civil Procedure.

9 **PARTIES**

10 8. Petitioner Fix the City is an unincorporated association formed in September  
11 2008. It is a coalition of groups and individuals who live in the City of Los Angeles and would  
12 be affected by the City's failure to prepare Annual Reports. Petitioner's members include  
13 residents and taxpayers of the City of Los Angeles who will be adversely affected by  
14 continuing development in the City uninformed by the Annual Reports described herein, and  
15 who are aggrieved by the acts, decisions and omissions of the City as alleged in this Petition.  
16 Petitioner is suing on behalf of its member groups and others who will be similarly affected.  
17 Petitioners bring this action on their own behalf and in the interest of the general public.

18 9. Respondent City of Los Angeles is a political subdivision of the State of  
19 California.

20 10. Real parties named as Does I to X are given fictitious names because their names  
21 and capacities are unknown to Petitioner at present.

22 **STATEMENT OF FACTS**

23 **FRAMEWORK ELEMENT**

24 11. In order to determine whether City infrastructure and services (such as wastewater  
25 treatment, water supply and transportation infrastructure) are meeting the City's current and  
26 near-future population growth's needs (and thus whether and how development should be  
27 approved), the City's General Plan, Framework Element (hereinafter "Framework Element")  
28 requires the City to analyze: (1) population projections provided by Southern California

1 Association of Governments (“SCAG”); and (2) the City’s own actual monitoring of the City’s  
2 population growth, infrastructure and services to gauge the appropriateness of the estimates and  
3 provide for their modification over time, so that actual growth can be accommodated when and  
4 if it should occur.

5 12. The background of the City’s Framework Element adoption was explained in  
6 *Federation of Hillside and Canyon Associations v. City of Los Angeles* (2005) 126 Cal.App.4<sup>th</sup>  
7 1180 (“*Federation of Hillside & Canyon Associations*”). There, the Court stated: “The General  
8 Plan Framework, an element of the city's general plan, states policies, objectives, and goals for  
9 the long-term growth of the city. The General Plan Framework influences but is separate from  
10 other general plan elements, which together comprise the general plan.”

11 13. The Framework Element includes proposed operational and physical  
12 improvements to traffic systems and infrastructure, policies to encourage the use of public  
13 transit and reduce vehicle trips, and other measures to reduce traffic congestion and improve  
14 accessibility. It identifies several programs necessary to implement the Framework Element,  
15 including a proposed “Transportation Improvement Mitigation Plan” (TIMP), described as a  
16 program to mitigate the transportation impacts of the Framework Element's land use and growth  
17 policies. The Framework Element provides for the City to continue to monitor population and  
18 employment growth and the effects on transportation.

19 14. The City amended the Framework Element in July 1996. The final environmental  
20 impact report for the amendment stated that even with the mitigation measures the cumulative  
21 adverse impacts of the Framework Element’s land use and growth policies on the Los Angeles  
22 region would be significant and unavoidable.

23 15. The litigation in *Federation of Hillside and Canyon Associations v. City of Los*  
24 *Angeles* (2005) 126 Cal.App.4<sup>th</sup> 1180 and the case that preceded it (*Federation of Hillside and*  
25 *Canyon Associations v. City of Los Angeles* (2004) 126 Cal.App.4<sup>th</sup> 1180) involved California  
26 Environmental Quality Act (“CEQA”) challenges to the City’s approval of an environmental  
27 impact report (EIR) and adoption of a statement of overriding considerations for approval of the  
28 Framework Element amendment.

1           16.    The Framework Element, Executive Summary states: “A System for the annual  
2 monitoring of growth, infrastructure, and services, used as the basis to guide future capital  
3 investments and development decisions, [will be] used as a mechanism to gauge the  
4 appropriateness of the estimates and provide for their modification over time.” As such, the  
5 Framework Element requires the City to systematically monitor its actual population growth (as  
6 opposed to merely “projected” population growth as reported by SCAG), the sufficiency of City  
7 infrastructure and services, and to periodical report the data collected as a result of the  
8 monitoring. The data is then to be reported to the City’s decisionmakers, including the City  
9 Council, for the express purpose of informing all development decisions within the City. It is  
10 intended to be available to the general public, the City’s commissions, and the City’s  
11 Neighborhood Councils. This monitoring and data collection tells the City whether population  
12 growth is outpacing infrastructure and services, and whether development approvals should be  
13 focused, limited or delayed based on the City’s ability or inability to timely accommodate its  
14 population growth with the necessary infrastructure and services required to support residents,  
15 workers, and business owners.

16           17.    The Framework Element “establish[es] policies to best accommodate [the City’s]  
17 growth when and if it should occur” and “provides a means for accommodating new population  
18 and employment in a manner which enhances rather than degrades the environment.”

19           18.    The Transportation Chapter of the Framework Element calls for development of a  
20 multimodal approach to mobility, providing a variety of choices--including shuttles and light  
21 rail systems as well as the more traditional fixed route buses--that will ensure access to jobs for  
22 those who do not own a car. The Infrastructure and Public Services Chapter calls for provision  
23 of fire protection, police, library, recreational, and other services at adequate levels in every  
24 neighborhood of the City.

25           19.    The Framework Element addresses the infrastructure and public services  
26 necessary to support that growth in the City's population and economy as it moves into the 21<sup>st</sup>  
27 century. Chapter 9 (Infrastructure and Public Services) names 13 infrastructure systems:  
28 Wastewater, Stormwater, Water, Solid Waste, Police, Fire, Libraries, Parks, Power, Schools,

1 Telecommunications, Street Lighting, Urban Forest. Chapter 8 deals with all transportation  
2 infrastructure. Chapter 4 addresses Housing. Chapter 6 addresses Open Space and  
3 Conservation. All of these infrastructure systems were addressed in the three Annual Reports  
4 that were prepared before the City stopped preparing such reports in 2000.

5 20. The Framework Element anticipated that the linkage between future growth and  
6 services will occur through the implementation of a monitoring program that provides  
7 information regarding "real" demands and service levels in order to guide public decisions  
8 regarding infrastructure and service investments. It stated that successful application of this  
9 system would mitigate the need to restrict development to ensure adequate level of service.  
10 Conversely, in the absence of this system as development is unrestricted, there is no way to  
11 ensure adequate levels of infrastructure services wastewater, stormwater, water, solid waste,  
12 police, fire, libraries, parks, power, schools, telecommunications, street lighting, urban forests,  
13 transportation, housing, open space and conservation.

14 21. The Framework Element's implementation section describes each of the adopted  
15 implementation programs and identifies funding sources, a performance schedule, and those  
16 City departments responsible for implementation.

17 22. The Framework Element is implemented in a major part by the establishment of a  
18 program to monitor growth and public service and infrastructure demands and capacities and  
19 the preparation of an Annual Report on Growth and Infrastructure, based on information  
20 compiled by the monitoring program.

21 23. The Framework Element states: "The General Plan Framework Element is  
22 implemented by a comprehensive program of strategies that encompass amendments of existing  
23 and preparation of new plans, ordinances, development standards, and design guidelines;  
24 *conduct of studies and analyses*; capital investments; coordination of economic development  
25 activities; modifications of City procedures and development review and approval processes;  
26 and interagency coordination." (Emphasis added.)

27 24. The Growth and Capacity Chapter of the Framework Element describes the  
28 importance of the monitoring and annual reporting for guiding land use and development

1 decisions within the City of Los Angeles: “After the Framework Element is adopted, the City  
2 will establish a growth monitoring program that will provide important information regarding  
3 the accuracy of future growth estimates and the distribution of that new development by  
4 community plan area. This monitoring program will annually document what has actually  
5 happened to the City’s population levels, housing construction, employment levels, and the  
6 availability of public infrastructure and public services....The information from such a  
7 monitoring system will be presented to the City Council in the form of an Annual Report on  
8 Growth and Infrastructure.”

9 **Annual Growth and Infrastructure Reporting Ended in 2000.**

10 25. For a few years after its 1996 adoption of the Framework Element, the City  
11 prepared the Annual Growth & Infrastructure Reports as required by the Framework Element.

12 26. On or about April 20, 2000, the City prepared its third, and its last, “Annual  
13 Report on Growth and Infrastructure.”

14 27. This 2000 Annual Report stated:

15 It is our [the City Department of Planning’s] hope that this and future reports become  
16 useful tools in understanding change in the city, analyzing need, developing plans,  
17 monitoring progress and informing public debate. The Department of City Planning is  
18 commit[t]ed to providing this information to you and the public, and to assisting you in  
making public policy and decisions based on this information.

19 (See Exhibit A).

20 28. The executive summary of the 2000 Report stated “The preparation of this report  
21 fulfills a requirement of the General Plan Framework Element to monitor growth and to report  
22 on the adequacy of supporting public services and infrastructure.”

23 29. This 2000 Report was the swansong of the City’s Annual Reports. No annual  
24 reports were prepared after the 2000 Report.

25 30. On November 2, 2007, the Miracle Mile Residents Association (MMRA)  
26 objected to the lack of preparation of Annual Reports. In a letter to Director of City Planning  
27 Gail Goldberg, MMRA wrote:

28 Only by measuring consumption of City services can the public and their representatives  
get the information required to know how (or if) this City can support more growth and

1 what kind of growth that should be. Simply put, we need the charter-mandated accurate  
2 assessment of the viability of our infrastructure. The City must complete the annual and  
3 5 year reviews from 1998 to the present.

4 31. On November 19, 2007, Tract No. 7260 Association, Inc., representing an area  
5 containing over 1000 homes, asked that the City “complete this critical analysis of the state of  
6 our infrastructure.”

7 32. The City did not respond meaningfully to either of these letters.

8 33. Members of a homeowners association objected to the approval of a revised  
9 Housing Element without information that would be supplied by the Annual Reports. The  
10 City’s response stated

11  
12 The comment expresses concern about the . . . preparation of Annual Reports on  
13 Growth and Infrastructure. The comment pertains to the Framework Element and  
14 does not address the analyses or findings of the Draft EIR for the proposed Housing  
15 Element Update. The Growth and Infrastructure Report is a program contained in the  
16 Framework Element of the General Plan (Program P-43) and is a part of the  
17 Mitigation Monitoring Program (MMP) for the Framework Element. Three separate  
18 annual Growth and Infrastructure Reports were prepared. The Department has since  
19 compiled the essential published information such as population estimates and an  
20 inventory of new development on its website rather than in a stand alone report in  
21 order to provide more up-to-date information and greater access to this information.  
22 In addition, all of the departments and agencies in the City involved in the  
23 development of infrastructure provide regular infrastructure reports regarding their  
24 activities. The Department monitors the reports prepared by other city departments  
25 and agencies as well as the information posted on their various web sites regarding  
26 growth and infrastructure.

27 34. The City’s Response to comments on the Housing Element confirms that the City  
28 has not done the mandatory Annual Report since the 2000 Annual Report.

35. In April 2008, petitioner Environmental And Housing Coalition of Los Angeles  
filed a CEQA case against the City of Los Angeles, challenging its failure to adequately address  
impacts to infrastructure, among other impacts, as it approved an ordinance to increase the  
density of housing in the City of Los Angeles. This case is pending in Department SE-H of the  
Los Angeles Superior Court, case number BS114338.



1 **The City’s Mandatory Duties Pursuant to the Framework Element**

2 44. The Framework Element mandates that the City perform certain enumerated  
3 duties regarding monitoring and reporting on population growth, infrastructure and services.  
4 Chapter 1, Item Number 8 of the Framework Element states:

5 **Annual Review**

6 The Department of City Planning shall annually review the need to comprehensively  
7 update the citywide elements, including the Framework Element and the community  
8 plans. The results of this annual review *shall be reported to the City Planning*  
9 *Commission, the City Council, and the Mayor through the Annual Report on Growth and*  
10 *Infrastructure.* This report shall recommend which citywide element or community plan  
11 should be updated and why. These recommendations shall be based on an evaluation of  
12 changing circumstances, trends, and other information provided by the Monitoring  
13 System. [Emphasis added].

14 45. The Framework Element, P43, provides that at the end of each fiscal year, the  
15 Planning Department must prepare an Annual Report on Growth and Infrastructure based on  
16 the results of the Monitoring Program, which will be published at the end of each fiscal year  
17 and “**shall include** information such as population estimates and an inventory of new  
18 development” (emphasis added). This report is intended to provide City staff, the City Council,  
19 and service providers with information that can facilitate the programming and funding of  
20 capital improvements and services. Additionally, this report will inform the general plan  
21 amendment process. Information shall be documented by relevant geographic boundaries, such  
22 as service areas, Community Plan Areas, or City Council Districts. (Framework Element, at p.  
23 10-18.)

24 46. As the date of filing this petition, the City has failed to prepare an Annual Report  
25 on Growth and Infrastructure (hereinafter “Annual Report”) since the Annual Report published  
26 in 2000 for the years 1996-1998. Thus, Annual Reports have not been produced for years 1999  
27 to the present.

28 47. Petitioner has no available administrative remedies before Respondent City.

1           48.    Petitioner has no right of appeal from Respondents’ failure to act and do not have  
2 a plain, speedy, and adequate remedy in the ordinary course of law other than the relief sought  
3 in this petition. The action is timely filed.

4           49.    Respondents have a present legal duty and present ability to perform the  
5 mandatory duties enumerated in General Plan, as set forth herein.

6           50.    The General Plan Framework Element imposes a clear ministerial duty upon the  
7 City. The General Plan confers no discretion upon the City according to these terms.

8           51.    Petitioners are entitled to a writ of mandate under California Code of Civil  
9 Procedure §1085 in that Respondents have failed to perform the mandatory ministerial duties  
10 set forth in the General Plan as identified herein.

11           52.    Fix the City’s members as residents and property owners, and all members of the  
12 public for whom Petitioners bring this action, must rely upon information provided through the  
13 General Plan’s mandated process and programs. Without this information, the public and  
14 elected officials cannot be certain that City infrastructure and services will serve and protect  
15 them. For example, the City’s sanitation, water supply, electricity and transportation  
16 infrastructure are essential City functions and services which the City must preserve for existing  
17 residents, workers and business owners. Failure of respondent City to provide updated,  
18 accurate Annual Reports to its land use decisionmakers impairs the decisionmaking process and  
19 integrity on issues of great concern to health, safety, general welfare, and quality of life.

20 **The City’s Mandatory Duty to Make Annual Reports Pursuant to the City Charter**

21           53.    As stated above, Section 216 of the City Charter mandates that “Every officer or  
22 board of the City government shall make and present to the Mayor and Council an annual report  
23 relating to their work, and any other reports as may be required by the Charter or by the  
24 Council, by ordinance.”

25           54.    By failing to prepare the Annual Reports required by the Framework Element, the  
26 City has violated City Charter section 216 in addition to violating the requirements of the  
27 Framework Element.

28

1           55. Charter section 216 is an integral part of the system of governance created by the  
2 City’s Charter. Beginning in July 1, 2000, the Charter created a citywide system of  
3 neighborhood councils and the Department of Neighborhood Empowerment to support it.  
4 Specifically, the neighborhood council system was established “[t]o promote more citizen  
5 participation in government and to make government more responsive to local needs ....” (Los  
6 Angeles City Charter, Article IX, Section 900.1.) The Charter mandates that neighborhood  
7 councils “shall have an advisory role on issues of concern to the neighborhood.” (*Id.*, emphasis  
8 added.) The City’s Charter also specifies that “Neighborhood councils shall monitor the  
9 delivery of City services in their respective areas and have periodic meetings with responsible  
10 officials of City departments, subject to their reasonable availability.” (City Charter, Art. IX,  
11 Sec. 910.)

12           56. The neighborhood councils’ position in this citywide system is no less important  
13 than that of other City boards, commissions, councils and committees. In comparison to many  
14 other City boards, the neighborhood councils have broader jurisdiction to advise City leaders on  
15 a myriad of issues, including the right to “present to the Mayor and Council an annual list of  
16 priorities for the City budget.” (City Charter, Art. IX, Sec. 909.) Article IX of the Charter,  
17 applicable regulations, and the Citywide Plan for a System of Neighborhood Councils are  
18 designed to give deference to the representative advisory actions of the neighborhood councils  
19 and to empower them. Neighborhood councils are entitled to weigh in on City business before  
20 decisions are made and are expected to bring issues of community concern to City departments  
21 and leaders. However, without the Annual Growth and Infrastructure Reports required by the  
22 Framework Element to provide the vital information that Neighborhood Councils need as the  
23 basis for their advice to the City’s departments and leaders, the Neighborhood Councils, and the  
24 larger public that they represent, are unable to participate in City policy deliberations in a  
25 meaningfully informed way. Thus, the City’s failure to perform its mandatory duty of  
26 preparing annual growth and infrastructure reports hamstring the Neighborhood Councils in  
27 their vital role in the participatory system carefully orchestrated by the Charter.  
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioner Prays:

3 1. For a peremptory writ of mandate ordering the City to prepare an Annual Growth  
4 and Monitoring Report for the period covering 1999 to the present and continue to prepare an  
5 Growth and Monitoring Report annually in compliance with the City Charter and the General  
6 Plan Framework Element;

7 2. For Petitioner’s costs and attorney fees pursuant to Code of Civil Procedure  
8 section 1021.5; and

9 3. For other and further relief as the Court finds proper.

10 DATED: November \_\_, 2008

Respectfully Submitted,  
CHATTEN-BROWN & CARSTENS

11  
12 By: \_\_\_\_\_  
13 Douglas P. Carstens  
14 Attorneys for Petitioners  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, the undersigned, declare that I am an officer of Fix the City, a Petitioner in this action. I have read the foregoing PETITION FOR WRIT OF MANDATE and know the contents thereof, and the same is true of my own knowledge.

I declare under penalty of perjury that the foregoing is true and correct. Executed this \_\_\_th day of November 2008, in Los Angeles County, California.

---

James O’Sullivan

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28