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Attorneys for Plaintiffs-Petitioners  
Concerned Residents of Benedict Canyon;  
Martha Karsh and Bruce Karsh

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL JUDICIAL DISTRICT

CONCERNED RESIDENTS OF BENEDICT  
CANYON, an unincorporated association;  
MARTHA KARSH and BRUCE KARSH,

Plaintiffs-Petitioners,

v.

LOS ANGELES FIRE DEPARTMENT;  
CHIEF BRIAN CUMMINGS, CHIEF MARK  
STORMES, CHIEF TIMOTHY KERBRAT,  
and INSPECTOR TERRY O'CONNELL,  
each in their official capacities; LOS  
ANGELES BOARD OF FIRE  
COMMISSIONERS; CITY OF LOS  
ANGELES,

Defendants-Respondents.

TOWER LANE PROPERTIES, INC., a  
California Corporation,

Real Party in Interest.

CONFORMED COPY  
ORIGINAL FILED  
SUPERIOR COURT OF LOS ANGELES  
COUNTY OF LOS ANGELES

DEC 21 2012

John A. Clarke, Executive Officer/Clerk  
BY *Cristina Grijalva* Deputy  
Cristina Grijalva

CASE NO. **BS 140952**

**PETITION FOR WRIT OF MANDATE AND  
COMPLAINT FOR DECLARATORY  
RELIEF FOR FIRE DEPARTMENT'S  
VIOLATIONS OF THE FIRE CODE AND  
UNDERGROUND RULEMAKING**

[Code of Civil Procedure § 1085]

## INTRODUCTION

1. The City of Los Angeles and the Los Angeles Fire Department are ignoring critical fire safety requirements at the proposed site of a massive residential compound in Benedict Canyon. Plaintiffs-Petitioners Concerned Residents of Benedict Canyon and Martha and Bruce Karsh bring this action to ensure that the Department enforces the Fire Code's emergency access provisions, which mandate that secondary vehicular access be provided for homes and other structures at the end of very long dead-end streets absent a public variance process that ensures that safety risks are properly mitigated.

2. Over the last decade, Benedict Canyon has experienced a dramatic increase in fires coupled with a decline in prompt emergency responses from the Fire Department.<sup>1</sup> For this reason, the community was deeply concerned when it learned that the Department decided to ignore the Fire Code's emergency access requirements and "sign off" on plans for a sprawling, multi-structure estate at the end of a narrow private street called Tower Lane. The Fire Department's sign-off is part of the City's plan-check process for the issuance of building and grading permits for the proposed residential compound.

3. Tower Lane, a private street, is the sole means of access to three lots – 9933, 9937, and 9941 Tower Lane (the "Property"). The City has designated the Property as part of a "Very High Fire Hazard Severity Zone," which the Fire Code defines as an area "that poses a significant threat of fire" because of factors such as topography, fire protection, and fire history. (Fire Code, § 57.02.02.) Indeed, just a few months ago, a wildfire erupted a few miles from the Property near Coldwater Canyon Drive and Mulholland Drive, and two years ago another burned along Benedict Canyon Drive requiring over 100 firefighters to contain the blaze. Firefighting efforts are severely restricted in this area because of very long and narrow canyon roads and low water supply.<sup>2</sup>

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<sup>1</sup> Welsh et al., *Investigation of LAFD Response Times Finds Deeper Flaws*, L.A. Times (Nov. 15, 2012), <http://articles.latimes.com/2012/nov/15/local/la-me-lafd-fire-response-20121116>.

<sup>2</sup> L.A. Fire Dept. (Sept. 14, 2010) *Large Residence Burns in Benedict Canyon*, <http://lafd.blogspot.com/2010/09/large-residence-burns-in-benedict.html>; L.A. Observed, *Fires Burning in Canyons Above Bel-Air and Beverly Hills*, [http://www.laobserved.com/archive/2012/09/fires\\_burning\\_in\\_the\\_cany.php](http://www.laobserved.com/archive/2012/09/fires_burning_in_the_cany.php); see also L.A. Fire Dept. (Apr. 12, 2007) *Brush Fire Damages Three Homes in Beverly Hills*, <http://lafd.blogspot.com/2007/04/brush-fire-damages-three->

1           4.       In 2009, the Property was purchased by Tower Lane Properties, Inc. ("TLP"), an  
2 entity which, according to its lawyers, is owned and controlled by Saudi Arabia's Prince Abdulaziz  
3 ibn Abdullah ibn Abdulaziz al Saud. TLP proposes to develop the Property's three lots as a single  
4 unified development with three single-family homes and multiple accessory structures totaling  
5 approximately 85,000 square feet.<sup>3</sup> **That is far larger than the White House and approximately**  
6 **the size of the Hearst Castle compound.** The sheer scope of the massive compound and its  
7 construction in an inaccessible residential area presents significant fire risks to nearby homes and  
8 residents, as well as first responders who must travel long, narrow roads to reach the Property.

9           5.       Los Angeles City Councilmember Paul Koretz, the President of the Benedict  
10 Canyon Association, the President of the Federation of Hillside and Canyon Associations,  
11 members of Concerned Residents of Benedict Canyon, the Karshes, and many other residents of  
12 local hillside communities have written letters to the Fire Department and testified before the Los  
13 Angeles Board of Fire Commissioners ("Fire Commission") expressing concerns about the lack of  
14 secondary vehicular access at the Property. The Fire Department, however, has dismissed these  
15 concerns out of hand.

16           6.       Instead of enforcing the secondary vehicular access requirement under Fire Code  
17 Section 57.09.03.C, the Fire Department has approved, with no public review whatsoever, TLP's  
18 outlandish plan to build a forty-foot staircase, accessed from the street below across a purported  
19 emergency "access" route that *trespasses* over a neighbor's private property (so it is really no  
20 access at all), and then ascends up a steep hill, hundreds of feet away from many of the structures  
21 proposed for the Property. This is an extreme and dangerous variance from the Fire Code.

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22           homes-in.html (another recent fire near the proposed residential compound, requiring over 200  
23 Firefighters to gain control of the blaze).

24           <sup>3</sup> The exact size of the compound is unknown because TLP refuses to share a stable project  
25 description with the community. In a letter to Councilmember Koretz's staff dated October 18,  
26 2010, TLP's architect described the project as totaling **85,631** square feet. Seven months later,  
27 TLP purported to reduce the compound to "only" **60,986** square feet by replacing a 27,317  
28 square foot "Son's Villa" with a 5,156 square foot building, along with other changes.  
Thereafter, in a letter dated June 10, 2011, TLP's architect indicated that TLP did not plan to  
build the 5,156 building. Instead, the smaller building was a placeholder to induce the City to  
process grading permits. Despite repeated requests from the community, TLP has refused to  
confirm that it will not build the additional structure at a later date. Accordingly, TLP appears  
to be piecemealing an unprecedented residential compound of about 85,000 square feet.

7. The Fire Department has permitted this variance without following the Code's mandatory process. Fire Code Section 57.01.28 requires an application to the Bureau of Fire Prevention and Public Safety, an investigation by the Fire Marshal, and final approval by the Fire Commission supported by specific findings before variances may be approved.

## PARTIES

2. Plaintiffs-Petitioners Martha and Bruce Karsh are residents of Benedict Canyon in Los Angeles, California. The Karshes' home is located next to the Property.

4. Defendant-Respondent Los Angeles Board of Fire Commissioners is the five-member civilian board charged with overseeing the Fire Department. The Fire Commission supervises, controls, regulates, and manages the Fire Department and has the power to make and enforce all rules and regulations necessary to carry out these responsibilities. (See L.A. City Charter, §§ 501, 506.)

1           5.       Defendants-Respondents Chief Brian Cummings, Chief Mark Stormes, Chief  
2 Timothy Kerbrat, and Inspector Terry O'Connell (the "Fire Officials") are Fire Department  
3 officers and/or employees who are responsible for enforcing the Fire Code and ensuring that TLP's  
4 proposed residential compound complies with the Fire Code and that any variance is obtained  
5 through the Code's prescribed procedures.

6           6.       Respondent City of Los Angeles is a municipal corporation and charter city,  
7 organized and existing under the laws of the State of California, and including among its  
8 departments the Los Angeles Fire Department. (See Los Angeles City Charter, §§ 500, 520.)

9           7.       Real Party in Interest Tower Lane Properties, Inc., is a corporation existing under  
10 the laws of the State of California and is the owner of the Property.

### 11                                   **JURISDICTION AND VENUE**

12           8.       The Court has jurisdiction pursuant to section 1085 of the Code of Civil Procedure.  
13 Venue is proper in the County of Los Angeles, where all parties and the Property are located.

### 14                                   **ALLEGATIONS**

#### 15       **A.     Property Background**

16           9.       Benedict Canyon's residents have endured a decade of improper activity on the  
17 Property, which is perched on a large knoll towering above neighboring residences. (Exhibit A.)  
18 The Property has been vacant since the prior owner demolished the approximately 8,000 square  
19 foot residence that once stood at the site. The prior owner also carried out extensive illegal  
20 grading and construction – accumulating thirteen Orders to Comply from the Los Angeles  
21 Department of Building and Safety and a recorded Certificate of Substandard Property.

22           10.      TLP acquired the Property in 2009. Since that time, TLP has not resolved the  
23 Orders to Comply or Certificate of Substandard Property and instead has attempted to exploit the  
24 prior owner's illegal groundwork and construction, incorporating hazardous conditions and  
25 unpermitted structures into its proposed residential compound. All the while, TLP has attempted  
26 to conceal its plans, giving conflicting and misleading information to the community.

27           11.      Thousands of hillside residents and their elected officials, the Benedict Canyon  
28 Association, the Bel Air-Beverly Crest Neighborhood Council, the Federation of Hillside and

1 Canyon Associations, Concerned Residents of Benedict Canyon, and the Karshes have sought to  
2 ensure that this project complies with the Municipal Code, the many Orders to Comply issued for  
3 the Property, and the California Environmental Quality Act ("CEQA"). To date, however, TLP  
4 has claimed that it may build its unprecedented compound "by right" and that it is exempt from  
5 minimizing environmental impacts through the CEQA process. TLP's representatives expressly  
6 stated that "*public input is irrelevant.*"

7 **B. The Fire Department Fails to Require the Code-Mandated Secondary Vehicular Access**

8 12. Whether by gross negligence or by design, the Fire Department has been complicit  
9 in TLP's effort to avoid any public process, undermining the safety of Benedict Canyon residents,  
10 their homes, and the first responders who handle emergencies in the hillside community. The Fire  
11 Department signed off on TLP's plans to build a massive compound at the end of Tower Lane  
12 without requiring the secondary vehicular access mandated by Fire Code Section 57.09.03.C, and  
13 without directing TLP to obtain a discretionary variance from this critical safety requirement if  
14 such access is impractical or creates unnecessary hardship.

15 13. Fire Code Section 57.09.03.C specifically addresses the public safety hazards  
16 presented by long dead-end streets like Tower Lane. It mandates that "when required access is  
17 provided by an improved street, fire lane or combination of both" that is "700 feet in length from  
18 the nearest cross street, at least one additional ingress-egress roadway shall be provided."

19 14. The proposed mega-compound will have four dwellings and multiple accessory  
20 structures located on the Property's three lots. The main residence will be located almost **1,500**  
21 **feet** from the nearest cross-street with Tower Road, and the other structures on the Property also  
22 are beyond the 700 foot requirement. (See Exhibit B.) Under the plain terms of the Fire Code,  
23 secondary vehicular access is required, but the Fire Department signed off on plans that do not  
24 comply with this critical life-safety requirement.

25 15. On October 9, 2012, attorneys for Plaintiffs-Petitioners sent a letter and detailed  
26 exhibits to Fire Chief Brian Cummings, Deputy Chief Mark Stormes, and the Fire Commission  
27 demonstrating that the plans for TLP's proposed residential compound violate the Fire Code by not  
28 providing secondary access for emergency vehicles.

1           16.     On November 20, 2012, many members of the community also attended a meeting  
2 of the Fire Commission to testify about their concerns regarding the proposed residential  
3 compound's non-compliance with the Fire Code. These community members included, among  
4 others, the President of the Benedict Canyon Association, the President of the Federation of  
5 Hillside and Canyon Associations, members of Concerned Residents of Benedict Canyon, and  
6 Plaintiff-Petitioner Martha Karsh. But, instead of addressing community concerns and directing  
7 TLP to provide secondary vehicular access, the Fire Department allowed TLP to deviate from the  
8 Code without proper process while providing only non-vehicular "secondary access" that relies on  
9 an illusory path of foot travel that trespasses on neighboring land and traverses a long distance that  
10 includes steep, angled stairs that provide no meaningful fire access.

11     **C.     The Fire Department Purports to Allow an Illegal Variance**

12           17.     TLP's alternative "access" would force first responders to travel the distance of  
13 almost three football fields (836 feet) from Benedict Canyon Drive up Delresto Drive (another  
14 dead-end street) toward the northwest corner of the Property; trespass across a neighbor's private  
15 property; ascend approximately 40 feet along zigzagging cement steps and a narrow, twisting steel  
16 staircase; and then run hundreds of feet to the multiple structures on the Property. (Exhibit C.)

17           18.     TLP's proposed "access" does not satisfy the Fire Code's requirement for  
18 secondary vehicular access. The Fire Code requires the provision of an "additional ingress-egress  
19 roadway" – not a staircase hung on the side of a steep hill. (Fire Code, § 57.09.03.C [emphasis  
20 added].) TLP's staircase fails utterly to remedy the hazard created by the long, narrow,  
21 substandard street serving the Property. If Tower Lane or Tower Road is blocked, fire engines and  
22 first responders will have inadequate access to the compound to protect people and property, and  
23 prevent a fire from spreading to nearby homes, and beyond, especially as wind-borne embers are a  
24 particular hazard in these canyons. Expecting first responders to carry fire hoses and other heavy  
25 emergency equipment up a steep, zigzagging staircase hanging from a virtual cliff is clearly  
26 contrary to the letter and spirit of the Fire Code and dangerously ignores life-safety concerns.

27           19.     The Fire Department's sign-off for TLP's proposed access not only eviscerates the  
28 Fire Code's mandate to provide secondary vehicular access, but also ignores the legal process for

1 granting deviations from the Fire Code. Although the Department purported to approve non-  
2 vehicular secondary access at the Property, this approval was *ultra vires*. Under the Fire Code, the  
3 Department **must** direct Tower Lane to obtain a variance from the Fire Commission pursuant to  
4 Fire Code Section 57.01.28.

5 20. Fire Code Section 57.01.28 specifies that a property owner must prepare and submit  
6 an application for a variance to the Bureau of Fire Prevention and Public Safety. (Fire Code, §  
7 57.01.28.C.) The Fire Marshal must then initiate an investigation into the variance application and  
8 transmit his or her recommendation to the Fire Commission. (*Id.*, subd. D.) In turn, the Fire  
9 Commission may only grant a variance upon making specific findings – (1) that strict enforcement  
10 of the Fire Code is impractical or creates unnecessary hardship or is otherwise unwarranted, and  
11 (2) the requested variance is in conformity with the spirit and purpose of the Fire Code and will  
12 secure the public safety. (*Id.*, subd. A.) The Fire Department did not follow this process here, nor  
13 did it follow any other process beyond its staff’s arbitrary decision making.

14 **D. The Fire Department Ignored the Conclusions of the Department of City Planning**

15 21. The Fire Department’s actions are particularly troubling and perplexing because  
16 they directly contradict the Department of City Planning’s conclusion about emergency access.

17 22. Tower Lane serves the Property’s three lots under a private street approval dated  
18 February 24, 2000, which contains several conditions. Despite the Department of City Planning’s  
19 unprecedented efforts to help TLP comply with these conditions,<sup>4</sup> TLP nevertheless refused to  
20 comply and, instead, attempted an end-run around the conditions’ life-safety requirements.

21 23. One of these conditions – Condition 12 – tracks the Fire Code’s mandate for  
22 secondary vehicular access. The Condition states: “Fire lanes, where required, and dead-ending  
23

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24 <sup>4</sup> Under the Municipal Code’s private street provisions, the 2000 approval expired almost a  
25 decade ago when the approval’s conditions were not satisfied within three years. As a result,  
26 TLP was obligated to apply for a new private street approval, which is a discretionary Planning  
27 Department action that requires CEQA review. However, over the community’s strong  
28 objections, the Planning Department ignored this Municipal Code deadline and took the  
extraordinary step of granting TLP an indefinite extension of time in which to satisfy the  
conditions. Despite the Planning Department’s over-generous concession to TLP, TLP  
nevertheless still refused to comply with the private street conditions. Plaintiffs-Petitioners  
objected to the Planning Department’s unprecedented and unlawful extension, and reserves the  
right to challenge that in the future.



1 streets shall terminate in a cul-de-sac or other approved turning area. **No dead-ending street or**  
2 **fire lane shall be greater than 700 feet in length or secondary access shall be required.”**

3 (Exhibit D, at p. 4 [emphasis added].)

4 24. On behalf of the Department of City Planning, the City Attorney informed TLP on  
5 October 7, 2012, that “[t]he conditions **cannot be waived or modified at the Fire Department**  
6 **counter.** If Tower Lane proposes to **waive or modify these conditions** *in any way*, it will be  
7 required to apply for a **new private street modification, which would require environmental**  
8 **review.”** (Exhibit E, at p. 2 [emphasis added].)

9 25. In a memorandum dated November 7, 2012, the Director of Planning concluded –  
10 contrary to the Fire Department – that TLP’s plans “**do not comply** with Condition No. 12 of the  
11 Private Street approval requiring secondary vehicular access for a dead-end street or fire lane  
12 greater than 700 feet in length from the nearest intersection.” (Exhibit F [emphasis added].)

13 26. TLP’s representatives attacked the Director of Planning’s memorandum in a letter  
14 dated November 29, 2012. Among other things, they contended that the Director “knowingly  
15 misrepresented” Condition 12 to require vehicular access, and further claimed that “the condition  
16 has been satisfied as evidenced by the Fire Department approval of Tower Lane’s current plans,  
17 which provide for secondary access via Delresto Drive.” (Exhibit G.)

18 27. Responding by letter dated December 7, 2012, the Department of City Planning  
19 again confirmed its position stating that “the secondary access referred to in condition 12 is clearly  
20 [required to be] vehicular access.” Further, rejecting TLP’s attempt to “divide and conquer” by  
21 somehow convincing the Fire Department to waive or modify the access requirement, the Planning  
22 Department stated that it “will not accept this waiver for purposes of the private street clearance.”  
23 The letter also noted that TLP may “pursue an administrative remedy by applying to Planning for a  
24 new Private Street approval that either eliminates or modifies Condition 12.” (Exhibit H.)

25 28. Like Condition 12 of the private street approval, Section 57.09.03.C of the Fire  
26 Code is clear that TLP’s proposed residential compound must have a secondary roadway for  
27 emergency vehicles. Also like the private street approval, the Fire Code provides a public process  
28 under which TLP may seek permission to modify or eliminate this requirement, if necessary.

1 Inexplicably, the Fire Department refuses to follow these clear provisions of the Fire Code. The  
2 Fire Department's refusal to enforce these laws is a deeply troubling dereliction of duty.

3 29. Plaintiffs-Petitioners are informed and believe and thereon allege that *the Fire*  
4 *Department has not processed any variances pursuant to Fire Code, § 57.01.28.C*, for many  
5 years, if it has ever done so, and does not in fact or practice ever follow the legal requirements of  
6 Fire Code, § 57.01.28.C, instead relying on its staff's arbitrary application of personal preferences  
7 in place of the legal requirements governing fire safety in the City of Los Angeles. There is no  
8 reason whatsoever, in a project of this enormity and risk, to excuse Fire Department enforcement.

9 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

10 30. Plaintiffs-Petitioners have exhausted all administrative remedies available to them,  
11 and have no plain, speedy, or adequate remedy at law to compel the Fire Department to comply  
12 with its legal obligations under the Fire Code. Specifically, Plaintiffs-Petitioners have written  
13 letters to the Fire Department, Fire Officials, and Fire Commission, and have also testified before  
14 the Fire Commission, regarding the need for secondary vehicular access at the Property, or a  
15 variance from the Fire Commission, if such access would be impractical or create undue hardship.

16 31. No further administrative remedies are available to Plaintiffs-Petitioners to  
17 challenge the Fire Department's actions and, to the extent the City contends that administrative  
18 remedies are available to Plaintiffs-Petitioners, the pursuit of any such remedies would be futile.

19 **FIRST CAUSE OF ACTION**

20 **(PETITION FOR WRIT OF MANDATE UNDER CODE OF CIVIL PROCEDURE**

21 **§ 1085 – VIOLATION OF FIRE CODE § 57.09.03)**

22 32. Plaintiffs-Petitioners reallege and incorporate in full all preceding paragraphs by  
23 this reference.

24 33. The Fire Department and Fire Officials acted arbitrarily and capriciously and  
25 contrary to law by signing off on TLP's plans to build a residential compound at 9933, 9937, and  
26 9941 Tower Lane without the secondary vehicular access mandated by Fire Code Section  
27 57.09.03.

1 **SECOND CAUSE OF ACTION**

2 **(PETITION FOR WRIT OF MANDATE UNDER CODE OF CIVIL PROCEDURE**

3 **§ 1085 – VIOLATION OF FIRE CODE § 57.01.28)**

4 34. Plaintiffs-Petitioners reallege and incorporate in full all preceding paragraphs by  
5 this reference.

6 35. The Fire Department, Fire Commission, and Fire Officials acted arbitrarily and  
7 capriciously and contrary to law by allowing TLP to deviate significantly from the Fire Code's  
8 secondary vehicular access requirement without directing TLP to obtain a variance pursuant to Fire  
9 Code Section 57.01.28.

10 **THIRD CAUSE OF ACTION**

11 **(DECLARATORY RELIEF – FIRE CODE VIOLATIONS)**

12 36. Plaintiffs-Petitioners reallege and incorporate in full all preceding paragraphs by  
13 this reference.

14 37. An actual controversy exists regarding whether the Fire Department and Fire  
15 Officials violated the access requirements of Fire Code Section 57.09.03 by signing off on TLP's  
16 plans for its proposed residential compound, and whether the Fire Department, Fire Commission,  
17 and Fire Officials violated the variance procedures of Fire Code Section 57.01.28 by failing to  
18 direct TLP to obtain a variance.

19 38. Plaintiffs-Petitioners are accordingly entitled to declaratory relief to establish their  
20 rights and the duties of the Department, Fire Commission, and Fire Officials with respect to their  
21 compliance with Fire Code Sections 57.09.03 and 57.01.28 in reviewing TLP's proposed  
22 residential compound. Plaintiffs-Petitioners further request any and all necessary equitable relief,  
23 including a permanent injunction, to compel the Fire Department, Fire Commission, and Fire  
24 Officials to comply with their obligations under Fire Code Sections 57.09.03 and 57.01.28.

25 **FOURTH CAUSE OF ACTION**

26 **(DECLARATORY RELIEF – UNLAWFUL UNDERGROUND RULEMAKING)**

27 39. Plaintiffs-Petitioners reallege and incorporate in full all preceding paragraphs by  
28 this reference.



1           5.       For injunctive relief compelling the Fire Department, Fire Commission, and Fire  
2 Officials to apply Fire Code Sections 57.09.03 and 57.01.28 to TLP's proposed residential  
3 compound, and enjoining the Fire Department from engaging in a pattern and practice of unlawful  
4 underground rulemaking;

5           6.       For attorneys' fees and costs; and

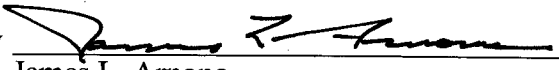
6           7.       For such further relief as the Court deems appropriate and just.

7 Dated: December 20, 2012

Respectfully submitted,

8 LATHAM & WATKINS LLP

9 James L. Arnone  
Benjamin J. Hanelin  
10 Joseph B. Frueh

11 By   
12 James L. Arnone  
13 Attorneys for Plaintiffs-Petitioners Concerned  
Residents of Benedict Canyon; Martha Karsh and  
14 Bruce Karsh  
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**VERIFICATION**

I, Bruce Karsh, declare:

1. I am a Plaintiff and Petitioner in this action. I have read the foregoing Complaint and Petition and am familiar with its contents. All facts alleged in the Complaint and Petition are either true of my own knowledge, or I am informed and believe them to be true, and on that basis allege them to be true.

2. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 20<sup>th</sup> day of December, 2012, at Los Angeles, California.

  
\_\_\_\_\_  
BRUCE KARSH

LA\2998458

# **EXHIBIT A**

# **EXHIBIT A**







# **EXHIBIT B**

# **EXHIBIT B**



NOTE: NO VERTICAL FRAMING TO BE DONE UNTIL ALL HYDRANTS ARE INSTALLED AND OPERATIONAL, AND THE FIRE LANE IS INSTALLED TO THE FIRE DEPARTMENT'S SATISFACTION.

FIRE HYDRANTS TO BE INSTALLED IN THE CITY OF LOS ANGELES SHALL HAVE A GENERAL APPROVAL ISSUED BY THE LOS ANGELES CITY FIRE DEPARTMENT. SPECIFICATIONS: SIZE 2 1/2" X 4" 4" X 4" DFH.

ONLY 1 1/2" . . . PENTAGONAL NUTS SHALL BE ACCEPTED ON STEMS AND PROTECTIVE CAPS.

CLOW / RICH JAMES JONES #3700 Fluted Barrel #702 Lido or 425 Mueller A-480-E

1) 1400 GPM AT FARTHEST FIRE HYDRANT 2) GPM AT ANY INTERMEDIATE FIRE HYDRANT (S) 3) TOTAL GPM 1400 @ 20 PSI

NO FRAMING SHALL BEGIN UNTIL: A. ROADWAY IMPROVED TO FIRE DEPARTMENT SATISFACTION AND APPROVAL. B. FIRE HYDRANTS HAVE BEEN INSTALLED AND ARE FULLY OPERATIONAL.

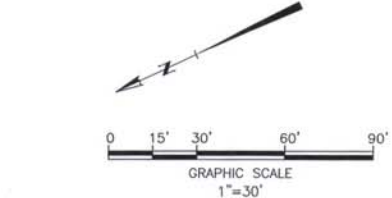
NO TEMPORARY CERTIFICATE OF OCCUPANCY SHALL BE ISSUED UNTIL FIRE LANES ARE PAINTED AND POSTED.

HYDRANTS AND ACCESS LOS ANGELES FIRE DEPARTMENT APPROVED MILLAGE PEAKS FIRE CHIEF

BY 10-26-1

PROPOSED 6" PVC C900-CL250 PIPE

IDENTICAL POINT



DIAL TOLL FREE 1-800-422-4133 AT LEAST TWO DAYS BEFORE YOU DIG

UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA

SCALE HORIZ. 1" = 30'

FIRE DEPARTMENT SITE PLAN EXHIBIT PROPOSED 6" DIA. FM SERVICE FIRE LINE FOR 9941, 9937, & 9933 TOWER LANE, LOS ANGELES, CA.

SHEET 1 OF 1 SHEETS INDEX NUMBER

PLANS PREPARED BY: LC ENGINEERING GROUP, INC.

DATE DIV./DIST. ENGR.

REVISION DESCRIPTION NO.

CITY OF LOS ANGELES CITY ENGINEER ROBERT S. HORII

DATE 10/25/10 10/25/10 DESIGNED LCE DRAWN LCE CHECKED SUPERVISED PROJECT ENGR. ASST. DIV./DIST. ENGR. R. E. NO. R. E. NO.



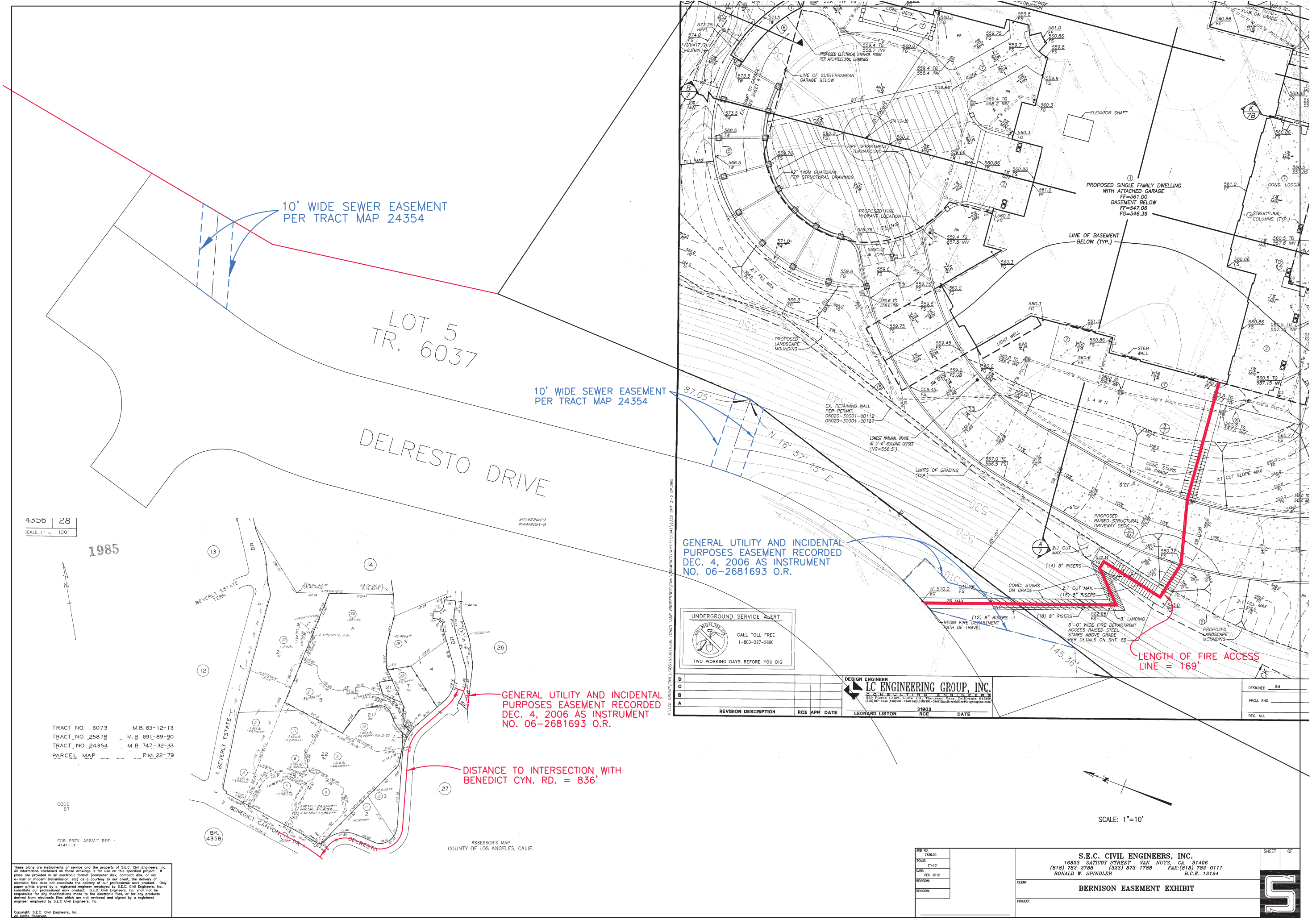
## Distances Added

[illegible]



# **EXHIBIT C**

# **EXHIBIT C**



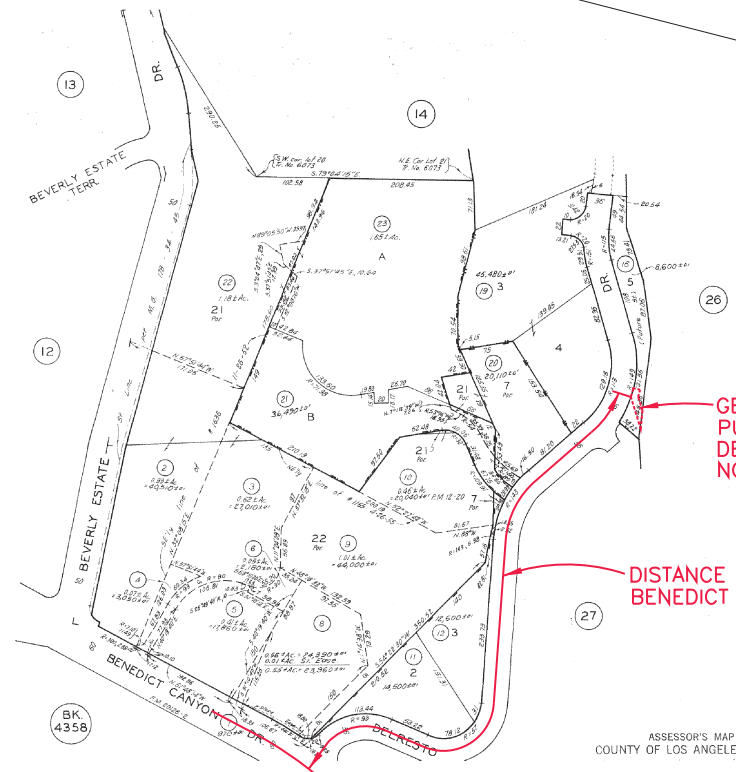
4356 28  
SCALE 1" = 100'

1985

TRACT NO. 6073 M.B. 63-12-13  
TRACT NO. 25878 M.B. 691-89-90  
TRACT NO. 24354 M.B. 747-32-33  
PARCEL MAP P.M. 22-79

CODE  
67

FOR PREV. ASSMT' SEE:  
4347-17



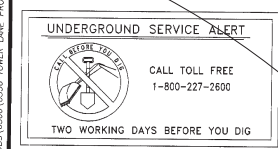
GENERAL UTILITY AND INCIDENTAL  
PURPOSES EASEMENT RECORDED  
DEC. 4, 2006 AS INSTRUMENT  
NO. 06-2681693 O.R.

DISTANCE TO INTERSECTION WITH  
BENEDICT CYN. RD. = 836'

10' WIDE SEWER EASEMENT  
PER TRACT MAP 24354

10' WIDE SEWER EASEMENT  
PER TRACT MAP 24354

GENERAL UTILITY AND INCIDENTAL  
PURPOSES EASEMENT RECORDED  
DEC. 4, 2006 AS INSTRUMENT  
NO. 06-2681693 O.R.



DESIGN ENGINEER  
**LC ENGINEERING GROUP, INC.**  
889 Pierce Court, Suite 101, Thousand Oaks, California 91320  
(805) 497-2244 (805) 497-7148 FAX: (805) 497-7148

REVISION	DESCRIPTION	RCE	APP	DATE
D				
C				
B				
A				

LEONARD LISTON 31902 RCE DATE

SCALE: 1"=10'

JOB NO.  
7616.00  
SCALE:  
1"=10'  
DATE:  
DEC. 2012  
REVISION:  
REVISION:

**S.E.C. CIVIL ENGINEERS, INC.**  
16823 SATICOY STREET VAN NUYS, CA 91406  
(818) 782-2788 (323) 873-1788 FAX: (818) 782-0111  
RONALD W. SPINDLER R.C.E. 13194

**BERNISON EASEMENT EXHIBIT**

SHEET OF



These plans are instruments of service and the property of S.E.C. Civil Engineers, Inc. All information contained on these drawings is for use on this specific project. If plans are provided in an electronic format (computer disk, compact disk, or via e-mail or modem transmission, etc.) as a courtesy to our client, the delivery of electronic files does not constitute the delivery of our professional work product. Only paper prints signed by a registered engineer employed by S.E.C. Civil Engineers, Inc. constitute our professional work product. S.E.C. Civil Engineers, Inc. shall not be responsible for any modifications made to the electronic files, or for any products derived from electronic files which are not reviewed and signed by a registered engineer employed by S.E.C. Civil Engineers, Inc.

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# **EXHIBIT D**

# **EXHIBIT D**

CITY OF LOS ANGELES  
CALIFORNIA



RICHARD J. RIORDAN  
MAYOR

DEPARTMENT OF  
CITY PLANNING  
221 N. FIGUEROA STREET  
LOS ANGELES, CA 90012-2601

CITY PLANNING  
COMMISSION

PETER M. WEIL  
PRESIDENT

JORGE JACKSON  
VICE-PRESIDENT

MARNA SCHNABEL

ROBERT L. SCOTT

NICHOLAS H. STONNINGTON

GABRIELE WILLIAMS  
COMMISSION EXECUTIVE ASSISTANT  
(213) 580-5234

EXECUTIVE OFFICES  
16TH FLOOR

CON HOWE  
DIRECTOR  
(213) 580-1160

FRANKLIN P. EBERHARD  
DEPUTY DIRECTOR  
(213) 580-1163

GORDON B. HAMILTON  
DEPUTY DIRECTOR  
(213) 580-1165

ROBERT H. SUTTON  
DEPUTY DIRECTOR  
(213) 580-1167

FAX: (213) 580-1176

INFORMATION  
(213) 580-1172

Decision Date: FEB 24 2000

Appeal Period Ends: MAR 10 2000

Page Jenkins Trustee of BP. 9 Trust  
433 N. Camden Drive, #500  
Beverly Hills, CA 90210

L. Liston & Associates, Inc.  
290 Conejo Ridge Avenue, #102  
Westlake, CA 91361

Re: Private Street No. 0275-B  
Council District : 5  
Existing Zone: RE20-1-H  
Community Plan: Bel Air-Beverly Crest  
CE No.: 98-0548  
Fish and Game: Exempt

## PRIVATE STREET APPROVAL

Pursuant to Chapter 1, Article 8, of the Los Angeles Municipal code, the Deputy to the Director of Planning approved a modification to Private Street No. 0275-B to provide legal access to Parcel No. 3, as a legal building site located at 9941 Tower Lane to be served by a private street as indicated on the revised map of Private Street No. 0275-B, stamp-dated December 3, 1999, lying westerly of Tower Grove Drive and southeasterly of Delresto Drive. The Deputy to the Director of Planning will advise the Department of Building and Safety that the necessary permits may be issued pursuant to this approval following receipt of satisfactory evidence of compliance with the following conditions:

1. That a minimum 20-foot wide private street easement be provided from Tower Road, including a turnaround area at the terminus satisfactory to the City Engineer.
2. That any necessary street, sewer and drainage easements be dedicated to the City.
3. That the owners of the property record an agreement stating that they will maintain the private street and the emergency access road, keep the private street and

PUBLIC COUNTER & CONSTRUCTION SERVICES CENTER  
201 NORTH FIGUEROA STREET, ROOM 300 • (213) 977-6083  
VAN NUYS - 6251 VAN NUYS BLVD., 1<sup>ST</sup> FLOOR, VAN NUYS 91401 • (818) 756-8596

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emergency access road, free and clear of obstructions and in a safe condition for vehicular use at all times.

4. That satisfactory arrangements be made with the Power System and the Water System of the Department of Water and Power with respect to water mains, fire hydrants, service connections and public utility easements.
5. That the private street be posted in a manner prescribed in Section 18.07 of the Los Angeles Municipal Code (Private Street Regulations).
6. That a copy of the private street easement and the emergency access road easement be submitted to the City Engineer (Land Development Group) for approval. An additional copy shall be submitted to the West Los Angeles District Office of the Bureau of Engineering.
7. That the requirements in connection with grading and construction in and adjacent to public rights of way or private streets be complied with in a manner satisfactory to the City Engineer.
  - a. Cut or fill slopes should be no steeper than 2:1 (horizontal to vertical).
  - b. The toes and crests of all cut and fill slopes shall be located on private property and shall be set back 2 and 3 feet, respectively, from the property line.
  - c. Where fill overlies cut slopes, the fill shall be keyed horizontally into bedrock a minimum width of 12 feet or the slope shall be overexcavated a minimum of 12 feet and replaced as a compacted fill slope.
  - d. The consulting soils engineer shall provide methods of mitigating the effects of expansive soil which may underlie public property and private streets. This method proposed must be approved by the City Engineer prior to the approval of plans.
  - e. All streets shall be founded upon firm, natural materials or properly compacted fill. Any existing loose fill, loose soil, or organic material shall be removed prior to placement of engineered fill.
  - f. Fill material shall be compacted to a minimum of 90 percent relative compaction as defined in the Bureau of Engineering Standard Plan S-610. fill shall be benched into competent material.



- g. All slopes shall be planted and an irrigation system installed as soon as possible after grading to alleviate erosion.
  - h. Slopes that daylight adversely-dipping bedding shall be supported by either a retaining wall or designed buttress fill.
  - i. Adequate perforated pipe and gravel sub-drain systems approved by the City Engineer shall be placed beneath canyon fills and behind retaining walls.
  - j. Where not in conflict with the above, the recommendations contained in the Pacific Soils Engineering, Inc. geotechnical report dated October 1, 1965, by the consulting geologist, Joseph F. Riccio, PhD, and the consulting civil engineer, Leonard S. Deutsch, RCE 10432, shall be implemented. In addition, the recommendations contained in the Mountain Geology, Inc., supplemental geotechnical report dated February 27, 1998, by the consulting engineering geologist, Jeffrey W. Holt, CEG 1200, and in the West Coast Geotechnical report, dated March 6, 1998, by the consulting civil engineer, Leonard Liston, RCE 31902, shall be implemented.
- 8. That the following improvements be constructed under permit in conformity with plans and specifications approved by the City Engineer or that the construction be suitably guaranteed satisfactory to the City Engineer.
  - a. Grade the private street as required with side slopes satisfactory to the City Engineer.
  - b. Improve the private street by the construction of suitable surfacing to provide a 20-foot roadway, together with suitable improvement of the turning area, and any necessary removal and reconstruction of existing improvements, all satisfactory to the City Engineer.
- 9. Submit plot plans indicating access road and turning area for Fire Department approval.
- 10. The width of private roadways for general access use and fire lanes shall not be less than 20 feet clear to the sky.
- 11. Fire lane width shall not be less than 20 feet. When a fire lane must accommodate the operation of Fire Department aerial ladder apparatus or where fire hydrants are installed, those portions shall not be less than 28 feet in width.
- 12. Fire lanes, where required, and dead-ending streets shall terminate in a cul-de-sac

or other approved turning area. No dead-ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

13. Adequate off-site public and on-site private fire hydrants may be required. Their number and location to be determined after the Fire Departments review of the plot plan.
14. Private streets and entry gates will be built to City standards to the satisfaction of the City Engineer and the Fire Department.
15. Construction of public or private roadways shall not exceed 15 percent in grade.
16. That the applicant shall record the necessary deeds to legalize the three lots through Parcel Map Exemption No. 98-054.

#### FINDINGS OF FACT (CEQA)

On June 8, 1999, the private street modification was issued a Notice of Exemption (CE98-0548) for a Categorical Exemption under Article VII, Section 1, Class 5 Category 1 of the City CEQA Guidelines. This is for minor lot line adjustments which do not create new parcels nor change in land use or density. The Advisory Agency has readopted the clearance because the site has contained 3 lots. Two of the lots were established under PS. 275-B. A third lot, which includes the existing residence, is a deed cut lot with 20 feet of legal frontage but no access on Del Resto Drive. Private Street 275-B granted access to two lots, however, the private street ended approximately 60 feet from the lot line for the second parcel. The lot line adjustment under CE 98-0548 moved the lot line between Parcel 2 and Parcel 1 of the private street to give Parcel 2 access to the street. The Private Street Modification is extending the street northerly on Parcel 2 to give access to Parcel 3 which, though it has frontage on Del Resto Drive, had access through Parcel 2 to Tower lane. Thus, no new lots have been established and the use of the existing Categorical Exemption is permissible.

The Deputy Advisory Agency, certifies that Categorical Exemption CE 98-0548 reflects the independent judgement of the lead agency and determined that this project would not have a significant effect upon the environment.

The subject project, which is located in Los Angeles County, will not have an impact on fish or wildlife resources or habitat upon which fish and wildlife depend, as defined by California Fish and Game Code Section 711.2

In light of the above, the project qualifies for the De Minimis Exemption for Fish and Game

fees (AB 3158).

FINDINGS OF FACT (LAMC)

In connection with the approval of the modification to Private Street No. 275-B, the Advisory Agency of the City of Los Angeles, pursuant to Section 18.02 of the Los Angeles Municipal Code (Private Street Regulations), makes the prescribed findings as follows:

- (a) THERE EXISTS ADEQUATE AND SAFE VEHICULAR ACCESS TO THE PROPERTY FROM A PUBLIC STREET OVER A PRIVATE STREET FOR POLICE, FIRE, SANITATION AND PUBLIC SERVICE VEHICLES.

The recommendations of the City Engineer and Fire Department have been incorporated in the conditions of approval to assure adequate and safe vehicular access to the property.

- (b) AN ADEQUATE WATER SUPPLY IS AVAILABLE TO THE PREMISES FOR DOMESTIC AND FIRE FIGHTING PURPOSES.

The Department of Water and Power has reviewed the project and deemed the water supply adequate provided that the project is in compliance with its regulations.

- (c) AN APPROVED METHOD OF SEWER DISPOSAL IS AVAILABLE.
- (d) THE LOT OR BUILDING SITE IS OR WILL BE GRADED AND ENGINEERED IN ACCORDANCE WITH THE GRADING REGULATIONS OF THE CITY OF LOS ANGELES AS SET FORTH IN ARTICLE I OF CHAPTER 3 OF THIS CODE.

Condition No. 7 has been imposed to assure that the site is graded in conformance with the recommendations of the Geotechnical Section of the Bureau of Engineering and the Grading Division of the Department of Building and Safety.

- (e) ANY PROPOSED NAME OF A PRIVATE STREET HAS BEEN OR SHALL BE APPROVED BY THE CITY ENGINEER APPLYING THE STANDARDS

SET FORTH IN SUBDIVISION 6 OF SUBSECTION A OF SECTION 17.52  
OF THIS CODE.

Sincerely,

Con Howe  
Director of Planning

  
EMILY GABEL-LUDDY  
Deputy to the Director of Planning

EGL:CR:oss

Note: If you wish to file an appeal, it must be filed within 15 calendar days from the decision date as noted in this letter. For an appeal to be valid to the Board of Zoning Appeals, it must be accepted as complete by the City Planning Department and appeal fees paid in Room 300-N, 201 North Figueroa Street prior to expiration of the above 15-day time limit. Such appeal must be submitted in triplicate on Form CP-7769.

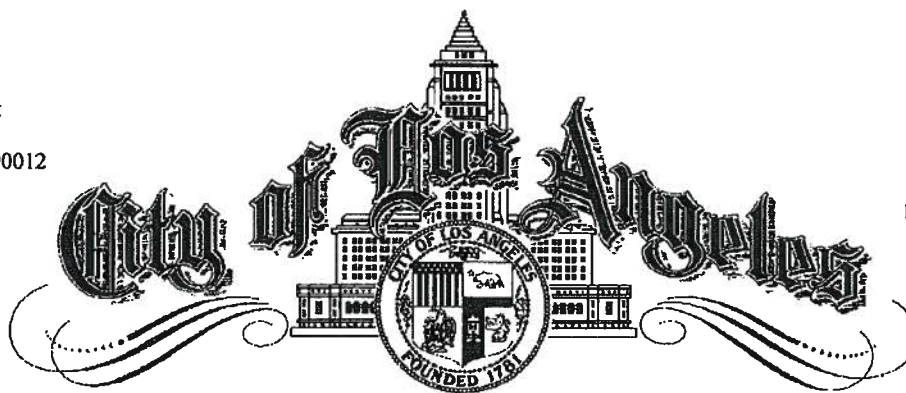
If you have any questions, please call Subdivision staff at (213) 580-5535.

a:ps275ltr

# **EXHIBIT E**

# **EXHIBIT E**

City Hall East  
200 N. Main Street  
Room 701  
Los Angeles, CA 90012



(213) 978-8100 Tel  
(213) 978-8312 Fax  
CTrutanich@lacity.org  
[www.lacity.org/atty](http://www.lacity.org/atty)

DIRECT DIAL: (213) 978-8068  
FAX: (213) 978-8214

**CARMEN A. TRUTANICH**  
City Attorney

September 7, 2012

**BY MAIL AND E-MAIL**

Benjamin Reznik, Esq.  
Matthew D. Hinks, Esq.  
Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067-4308

Re: 9933, 9937 and 9941 W. Tower Lane

Dear Messrs. Reznik and Hinks:

This serves as the Department of City Planning's ("Planning") response to Mr. Hink's July 27, 2012, letter regarding the unresolved private street clearance for the project proposed for 9933, 9937 and 9941 W. Tower Lane (the "Project").

As you know, on June 26, 2012, George Muhlsten of Latham & Watkins wrote a letter to the Director of Planning arguing that: (1) numerous conditions of Planning's 2000 private street modification approval for the Tower Lane Properties were never complied with (such as the requirements for a 20 foot roadway, dedications, and construction of turnaround); (2) the approval states that it becomes void if all of the conditions of approval are not completed or fulfilled within three years; and (3) because three years elapsed without compliance with the conditions, Tower Lane must now apply for a new private street approval, which is a discretionary action requiring environmental review.

Tower Lane has made two arguments in reply. First, Tower Lane argues that "[t]he conditions stated in the approval were not conditions to the approval itself, but rather were conditions to the issuance of subsequent permits based on the approval" and that the three year deadline in the 2000 approval was simply "misplaced." (July 27, 2012

letter, pp. 3, 7.) Planning disagrees with this argument. The approval was conditional, and was intended to expire within three years if the conditions were not satisfied.

Second, Tower Lane argues that the City is estopped from voiding the private street modification because: (1) the conditions were essentially carried over from the original 1966 private street approval, and Planning issued a letter on March 30, 1970 stating that "all of the conditions of this private street as set forth by the Deputy Director of Planning for Parcels A and B on March 3, 1966 have been complied with" and (2) the City issued certificates of compliance in 2002 certifying that 9933, 9937 and 9941 Tower Lane constitute legal lots, which by definition means that each lot has legal access. Tower Lane further argues that it purchased the properties in good faith reliance on the certificates of compliance.

Planning believes that the certificates of compliance should not have been issued because the private street conditions were never satisfied. Nonetheless, in light of Tower Lane's reliance on the certificates, Planning will not void the private street.<sup>1</sup> As this outcome is inconsistent with the original intent of the 2000 Private Street Modification approval, if Tower Lane's neighbors or other community members bring a lawsuit arguing that the private street approval is void, Tower Lane will need to make its own reliance arguments. The City will not litigate that issue on Tower Lane's behalf.

Your July 27, 2012 letter argues that the conditions of the year 2000 modification approval "continue to run indefinitely with the affected property in order to ensure that any future development of the property does not conflict with the conditions." (July 27, 2012 letter a p. 7.) This statement is a clear admission that Tower Lane knew when it purchased the property that it would have to comply with the private street conditions if it sought to develop the lots. As such, Tower Lane has no reliance argument that would excuse compliance with the conditions now.

**For that reason, before Planning will remove the private street clearance for the Project permit applications, Tower Lane must demonstrate that the approved plans will result in a development that complies with all of the conditions in the year 2000 approval. The conditions cannot be waived or modified at the Fire Department counter. If Tower Lane proposes to waive or modify these conditions in any way, it will be required to apply for a new private street modification, which would require environmental review.**


---

<sup>1</sup> This letter speaks only to the Planning Department's initial decision. An administrative body reviewing an appeal of the issuance of building permits may reach a different conclusion.

Matthew D. Hinks, Esq.  
Jeffer Mangels Butler & Mitchell LLP  
September 7, 2012  
Page 3

Please work with Jim Tokunaga in Planning to demonstrate compliance with all conditions. He can be reached at (213) 978-1372.

Sincerely,

  
Michael J. Bostrom  
Deputy City Attorney

MJB:zra

CC: Jim Tokunaga  
David Weintraub  
George Muhlsten, Esq.  
Jim Arnone, Esq.



# **EXHIBIT F**

# **EXHIBIT F**

**CITY OF LOS ANGELES**  
**INTER-DEPARTMENTAL CORRESPONDENCE**

November 7, 2012

TO: Robert Ovrom, General Manager  
Department of Building and Safety

FROM: Michael J. LoGrande  
Director of Planning



SUBJECT: PRIVATE STREET CLEARANCE FOR 9933, 9937, AND 9941 TOWER LANE

On September 7, 2012, the Department of Planning advised the applicant that the Private Street Clearance for the subject properties' grading and building permit applications would not be cleared without the Planning Department's determination that the project plans comply with all conditions of the February 24, 2000 Private Street Approval modifying Private Street No. 275-B (Tower Lane) to provide access to 9941 Tower Lane. The applicant was also advised that the conditions could not be waived or modified at the Fire Department counter. The current plans for the project do not comply with Condition No. 12 of the Private Street Approval requiring secondary vehicular access for a dead-end street or fire lane greater than 700 feet in length from the nearest intersection. Because the project plans do not comply with all conditions of the Private Street Approval, the private street clearance has not been cleared and no permits shall be issued for the subject properties. If the applicant requests a waiver or modification of Condition No. 12 of the February 24, 2000 Private Street Approval, the applicant must apply to the Department of Planning for a new private street modification, which will require environmental review.

**EXHIBIT G**

**EXHIBIT G**

November 29, 2012

**VIA ELECTRONIC MAIL AND U.S. MAIL**

Michael J. Bostrom  
Deputy City Attorney  
City Hall East  
200 N. Main Street  
Room 701  
Los Angeles, CA 90012

Re: Tower Lane Properties, Inc. ("Tower Lane"); 9933, 9937 and 9941 Tower Lane; Compliance with Private Street No. PS-275-B

Dear Mr. Bostrom:

Thank you for forwarding and making available to us the materials you received from Latham & Watkins in recent days. We appreciate your courtesy.

However, we were shocked to discover among the materials a memorandum dated November 7, 2012 from Michael LoGrande, Director of Planning, to Bud Ovrom, General Manager of the Department of Building and Safety, which had not previously been provided to us by the City. Mr. LoGrande's memorandum asserts that the current plans for the above-referenced properties do not comply with Condition No. 12 of the February 24, 2000 Private Street Approval, and that therefore the clearance for the pending building and grading permits will not be issued and, consequently, the permits are not to be issued for the subject properties.

Mr. LoGrande is wrong in that he misrepresents the actual condition in question and ignores the fact that the condition has been previously cleared. Accordingly, we demand that the City Attorney's office intervene to rectify this situation so that we can avoid yet another lawsuit as result of the City's arbitrary and discriminatory treatment of our client.

We have exchanged a great deal of correspondence with the City in respect to the private street clearances. As you will recall, we wrote to you initially on July 27, 2012. Prior to that time, the City had removed clearances previously obtained by Tower Lane in respect to the private street in response to correspondence received from Latham & Watkins contending that the 2000 Private Street Approval was conditional and that the prior owner of the properties had not timely complied with the conditions of approval. In our July 27 letter, we demonstrated that the 2000 Private Street Approval was not conditional, and offered evidence of repeated instances

in which the City recognized as much, including through issuance of the Certificates of Compliance in 2002. We further demanded that the City reinstate all clearances that had previously been issued but were later revoked and/or added as a result of correspondence from Latham & Watkins.

You responded on September 7, 2012, and indicated that, "in light of Tower Lane's reliance" on the Certificates of Compliance issued by the Department in 2002 certifying that 9933, 9937 and 9941 Tower Lane constitute legal lots, the City Planning Department "will not void the private street." However, you also indicated that "before Planning will remove the private street clearance for the Project permit application, Tower Lane must demonstrate that the approved plans will result in a development that complies with all of the conditions in the year 2000 Private Street Approval." We have done exactly that.

We have continued to work with all of the relevant agencies over the last several months, including the Planning Department, Bureau of Engineering and Fire Department to demonstrate full compliance. In relevant part, representatives of Tower Lane have worked extensively and cooperatively with the Fire Department to demonstrate compliance with Condition Nos. 9 through 15, all of which relate to fire access and adequacy of hydrants and were originally made part of the 2000 Private Street Approval by the Fire Department. As a result of those efforts, on October 17, 2012, the Fire Department issued a memorandum to Mr. LoGrande pertaining to "Private Street 275-B" stating that "[t]he Fire Department has reviewed and approved plot plans [for the subject properties.] You may clear Conditions 9 through 15." A copy of the memorandum is attached hereto. In light of the October 17 Fire Department memorandum, Mr. LoGrande's November 7 memorandum is both puzzling and very disturbing.

Moreover, Mr. LoGrande's memorandum is factually wrong to the extent it claims that Tower Lane's plans do not comply with Condition No. 12. That condition states:

12. Fire lanes, where required, and dead-ending streets shall terminate in a cul-de-sac or other approved turning area. No dead-ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

Notably, while Mr. LoGrande's memorandum asserts the condition requires "secondary *vehicular* access", he has chosen to insert the word "vehicular" where it has never before existed. Condition No. 12 requires only "secondary access"; the fact that Mr. LoGrande would knowingly misrepresent the stated condition is suspicious. However, the conclusion of his memorandum leaves no doubt as to the City's motivation and obvious intent: namely, yet another illegal effort to force our client into a discretionary application and environmental review where no such legal obligation otherwise exists.

Furthermore, the condition has been satisfied as evidenced by the Fire Department approval of Tower Lane's current plans, which provide for secondary access via Delresto Drive. In particular, the plans demonstrate Fire Department access from Delresto Drive to an entry door

Michael Bostrom  
November 29, 2012  
Page 3

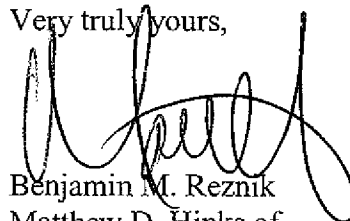
into the main residence on 9941 Tower Lane of less than 150 ft., which satisfies the Fire Department access requirements as well as Section 57.09.03 of the Los Angeles Municipal Code.

Finally, the City has previously cleared these conditions when it issued to the prior owner of the properties grading and building permits to construct a subterranean garage for 14 cars, retaining walls and related work. Millions of dollars have been expended in reliance on these permits and today the permits in question are a continuation of the work previously completed.

Accordingly, Mr. LoGrande's memorandum must be rescinded immediately and, as Tower Lane has exhaustively demonstrated full compliance of all conditions contained in the 2000 Private Street Approval, the private street conditions must be cleared forthwith.

Once again, all rights and remedies are expressly reserved.

Very truly yours,

A handwritten signature in black ink, appearing to read 'B. Reznik', written over the typed name.

Benjamin M. Reznik  
Matthew D. Hinks of  
Jeffer Mangels Butler & Mitchell LLP

MH:mh  
Enclosure

cc: Michael LoGrande, Director of Planning (via electronic mail)  
Bud Ovrom, General Manager of Building & Safety (via electronic mail)

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

October 17, 2012

TO: Michael J. LoGrande  
Director of Planning  
  
Attention: Jim Tokunaga

FROM: Los Angeles Fire Department

SUBJECT: PRIVATE STREET 275-B

Subject property has been investigated by members of the Fire Department.

RECOMMENDATION:

The Fire Department has reviewed and approved plot plans. You may clear Conditions 9 through 15.

BRIAN L. CUMMINGS  
Fire Chief



Mark Stormes, Fire Marshal  
Bureau of Fire Prevention and Public Safety

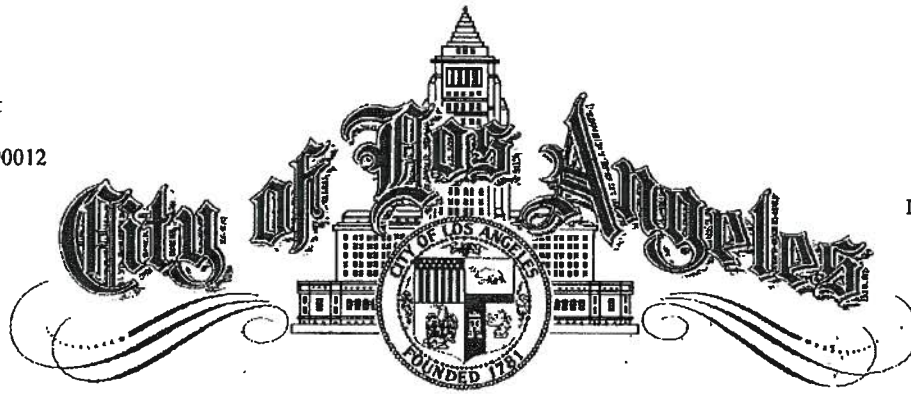
TOC\rab

# **EXHIBIT H**

# **EXHIBIT H**



City Hall East  
200 N. Main Street  
Room 701  
Los Angeles, CA 90012



(213) 978-8100 Tel  
(213) 978-8312 Fax  
CTrutanich@lacity.org  
[www.lacity.org/atty](http://www.lacity.org/atty)

DIRECT DIAL: (213) 978-8068  
FAX: (213) 978-8214

**CARMEN A. TRUTANICH**  
City Attorney

December 7, 2012

**BY MAIL AND E-MAIL**

Matthew D. Hinks, Esq.  
Jeffer Mangels Butler & Mitchell LLP  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067-4308

Re: 9933, 9937 and 9941 W. Tower Lane

Dear Mr. Hinks:

This serves as the Department of City Planning's ("Planning") response to your November 29, 2012 letter concerning the private street clearance for the project proposed for 9933, 9937 and 9941 W. Tower Lane (the "Project").

On September 7, 2012, I wrote to you on behalf of Planning stating that in light of Tower Lane Properties' reliance on the Certificates of Compliance issued for the above-referenced parcels, Planning would not void the private street approval even though the conditions of that approval were not timely satisfied.

My letter also stated that in light of Tower Lane Properties' admission that it knew when purchasing the properties that it would have to comply with the private street conditions when it sought to develop the lots, "Tower Lane must demonstrate that the approved plans will result in a development that complies with all of the conditions in the year 2000 approval" before Planning will sign the private street clearance for the Project permits.

My letter also stated that "[t]he conditions cannot be waived or modified at the Fire Department counter. If Tower Lane proposes to waive or modify these conditions in

Matthew D. Hinks, Esq.  
Jeffer Mangels Butler & Mitchell LLP  
December 7, 2012  
Page 2

any way, it will be required to apply for a new private street modification, which would require environmental review."

Notwithstanding my letter, it appears that Tower Lane Properties has petitioned the Fire Department to waive at the counter the Fire Code requirement of having secondary access whenever a street or fire lane dead ends for more than 700 feet. As stated in my September 7<sup>th</sup> letter, Planning will not accept this waiver for purposes of the private street clearance. The Fire Department certainly has jurisdiction over the Fire Code, but it does not have jurisdiction over Private Streets. Planning has jurisdiction over Private Streets.


Condition No. 12 of the 2000 Private Street approval states:

12. Fire lanes, where required, and dead-ending streets shall terminate in a cul-de-sac or other approved turning area. No dead-ending street or fire lane shall be greater than 700 feet in length or secondary access shall be required.

Tower Lane Properties must comply with this condition before Planning will issue a clearance for the Private Street. Additionally, contrary to your argument, the secondary access referred to in condition 12 is clearly vehicular access.

Tower Lane Properties must either comply with Condition 12 as it is written, or alternatively, it may pursue an administrative remedy by applying to Planning for a new Private Street approval that either eliminates or modifies Condition 12.

Sincerely,

  
Michael J. Bostrom  
Deputy City Attorney

MJB:zra

CC: Jim Tokunaga  
David Weintraub  
George Mhlsten, Esq.  
Jim Arnone, Esq.