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LOS ANGELES COUNTY SUPERIOR COURT
FOR THE STATE OF CALIFORNIA

CEQA CASE requires
CEQA JUDGE

16 SAVEVALLEYVILLAGE,)
17 an unincorporated association)

18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
vs.)

20 THE CITY OF LOS ANGELES,)
21 CITY COUNCIL OF THE CITY)
22 OF LOS ANGELES, et alia,)

23 Respondents-Defendants.)
24)
25)
26)
27)
28)

CASE: **BS160 608**
Related case BS 157989 assigned to
The Honorable, Judge
Department 15
Petition filed: February 19, 2016

PETITIONER SAVEVALLEYVILLAGE'S
MEMORANDUM IN OPPOSITION TO
RESPONDENTS' GENERAL DEMURRER,
EXHIBIT

DATE: Tuesday, December 13, 2016
TIME: 8:30 a.m.
DEPT: 15

Petitioner SaveValleyVillage's Opposition to Respondents' Demurrer.

Pet SVV's Opposition to Demurrer

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

NOV 28 2016

Sherri R. Carter, Executive Officer/Clerk
By Shamya Bolden, Deputy

ORIGINAL

TABLE OF CONTENTS FOR SAVE VALLEY VILLAGE'S OPPOSITION
TO RESPONDENTS' GENERAL DEMURRER

HEADING	PAGE
1. The Sorry State of the Fiefdom Angeles	1
2. In a Feudal Society, the Rulers are above The Law of the Land	2
3. The Mental Processes Privilege Does Not Immune City Councilmembers from Civil Lawsuits	3
4. The Defense of Ward Courtesy is Not Basis for Demurrer	4
5. The Council's Failure to Understand How Vote Trading Violates the Brown Act	5
6. Injunctions May Issue to Prohibit the Violation of a Public Duty	6
7. An Assertion that Council's Conduct is Non-Justiciable Places The City Council Above the Law	6
8. The Petition Alleges Facts Sufficient for a Demurrer	9
9. The Enjoining the Violation of a Public Duty Does Not Require the Court to Direct The Affirmative Steps the City Councilmembers Should Take	10
10. CEQA Provides No Grounds for Demurrer	11
11. The City Misunderstands SVV's Comments on Council Rule 48a	13

1	12. Summary	13
2		
3	13. Conclusion	14

4	AUTHORITY	PAGES
5		
6	<i>Arroyo Vista Partners v. County of Santa Barbara</i>	
7	732 F. Supp. 1046, 1056 (1990 C.D. Cal.)	10fn4
8	<i>Baker v Carr</i> (1962)	
9	369 U.S. 186	6fn2
10	<i>Blank v. Kirwan</i>	
11	(1985) 39 Cal.3d 311, 216 Cal.Rptr. 718	4
12		
13	<i>Board of Social Welfare v. County of L. A.,</i>	
14	(1945) 27 Cal.2d 98, 101, 162 P. 2d 627	8
15	<i>County of Riverside v. Superior Court,</i>	
16	(2002) 27 Cal.4th 793, 118 Cal.Rptr.2d 167	4
17	<i>Fuller v. San Bernardino Valley Mun. Wat. Dist.,</i>	
18	(1966) 242 Cal.App. 2d 52, 51 Cal. Rptr. 120	7
19	<i>Harman v City and County of San Francisco</i>	
20	(1972) 7 Cal. 3d 150; 159 101 Cal. Rptr. 880	8, 9
21	<i>Kliest v City of Glendale</i>	
22	(1976) 56 Cal.App.3d 770, 128 Cal.Rptr. 781	11-12
23		
24	<i>Mitchell v. Gonzales</i>	
25	(1991) 54 Cal.3d 1041, 1 Cal.Rptr.2d 913	10
26	///	

1	<i>Pitts v. Perluss</i>	
2	(1962) 58 Cal.2d 824, 27 Cal.Rptr. 19	8
3		
4	<i>Speegle v. Board of Fire Underwriters</i>	
5	(1946) 29 Cal. 2d 34, 172 P. 2d 867	9fn3
6		
7	Statutes	
8	<i>Code Civil Procedure</i> § 452	9fn3
9	<i>Government Code</i> , §§ 54950 <i>et seq</i>	5
10	<i>Government Code</i> § 54953(a)	5
11	<i>Penal Code</i> , § 86	7
12		
13	Treatises and Articles	
14		
15	LA Times, <i>A \$72-million Apartment Project. Top Politicians.</i>	
16	<i>Unlikely Donors, Who Wrote the Checks to Elected</i>	
17	<i>Officials Weighing Approval?</i> , by David Zahniser and	
18	Emily Alpert Reyes	7
19		
20	February 7, 2016, Zwartz Talk, <i>The Corruption Eradicator,</i>	
21	<i>The 3/15/45 City Council.</i>	11
22		
23		
24		
25		
26		
27		
28	Table of Contents & Authorities	

1 **Petitioner SaveValleyVillage's Memorandum in Opposition to**
2 **Respondents' Demurrer to the First Amended Petition**

3
4 **1. The Sorry State of the Fiefdom Angeles**

5
6 Describing a criminal enterprise as a work of beauty may seem strange,
7 but the Los Angeles City Council's unlawful voting pact merits both admiration
8 and condemnation. It functions so effortlessly that it should be called the Rolls
9 Royce of criminal operations. Tens of thousands of times in a row it functions
10 without a hitch producing an endless stream of unanimous votes upon
11 unanimous votes. It has been said that the likelihood of so many unanimous
12 votes occurring by chance has to be less than one in infinity. Who has seen such
13 a marvel?
14
15

16
17 All a councilmember needs to do is work out some deal with a developer
18 and place the project on the City Council agenda and it automatically receives
19 unanimous approval. No councilmember need do so much as lean forward in
20 his chair to activate his voting button. Truly we have arrived at the apex of the
21 technology with automated corruptionism.
22

23 Due to the agreement to always vote Yes for each and every project which
24 is placed on the City Council agenda, it does not matter how many laws the
25 project violates. It does not matter how millions of tax dollars are given away.
26
27

1 It does not matter how many hundreds of thousands of extortion-bribes were
2 exchanged in order to be placed on the City Council agenda. No matter what –
3
4 yes, literally **no matter what** – the project receives unanimous approval.
5

6
7 So here we have these pipsqueak pests – a gaggle of citizens in the form
8 of SaveValleyVillage – who have the gall to challenge turning the Los Angeles
9 City Council into a **feudal council** where each Lord and Lady is the supreme,
10 nay the sole and supreme, authority within his/her fiefdom provided that they
11 give pledge fealty to the Prince. These peons have the effrontery to assert that
12 the City Council has a duty to abide by the law.
13
14
15

16 2. In a Feudal Society, the Rulers are above The Law of the Land

17
18 The law of the California is found in Penal Code 86 which makes trading
19 one vote for another vote a criminal act. The serfs have asserted that the Lords
20 and Ladies and their Council, thus, have a duty **not** to engage in a vote trading
21 pact, no matter how well it greases the palms of everyone's hands.
22
23

24
25 There is lore in the annuals of the realm's legal cases which says that mere
26 serfs are citizens and citizens have the legal right to file a Petition with the court
27

1 to stop public officials from violating the law. The Lords and Ladies object by
2 way of their Demurrer that no mere citizen has standing to bring such a lawsuit.
3
4 However, the citizens do not pretend to be the District Attorney and they are not
5 criminally prosecuting the City Council.

6 Nor, does the civil lawsuit jeopardize the Lords and Ladies by depriving
7 them of their criminal protections. Most of inhabitants of the Los Angeles know
8 that when a civil action is filed, the person may be found liable and yet in a
9 criminal action for the same conduct, the individual may be found not guilty.
10
11 Angelenos colloquially know this as The Rule of the OJ Case. ¹

12 The Council and its members have demurred to the complaint on number
13
14 of grounds – none are meritorious, but some quite curious.
15
16

17
18 **3. The Mental Processes Privilege Does Not Immune**
19 **The City Councilmembers from Civil Lawsuits**

20 The mental processes privilege is no basis for a demurrer. It is a rule
21 concerning discovery and limits the area of inquiry opposing counsel may make.
22

23
24 ¹
25 If the councilmembers fear that this civil litigation poses undue risk of criminal
26 liability, their option would be to seek a Stay of the civil case until the criminal
27 prosecutions have been completed. Such a motion should provide plenty of material
28 for the court jesters as the March 2017 city elections draw near.

1 The Petition is silent on whether the Petitioner needs to even ask a council-
2 member any questions and if so, what would be the nature and extent of the
3 questions. Furthermore, the privilege is not absolute and can be tested only
4 within the context of the exact information which a plaintiff may seek. *County*
5 *of Riverside v. Superior Court*, (2002) 27 Cal.4th 793, 118 Cal.Rptr.2d 167
6 (“All these privileges depend on an assessment of whether the public interest in
7 nondisclosure outweighs the public interest in disclosure.” *Riverside* 118
8 Cal.Rptr.2d at 176) Thus, the claim of mental [deliberative] privilege has no
9 place in a demurrer.
10
11
12

13 **4. The Defense of Ward Courtesy is Not Basis for Demurrer**
14

15 Since demurrers are limited to the allegations in the Petition, which makes
16 no mention of Ward Courtesy, this claim is a defense, and likewise, it is
17 inappropriate in a demurrer. *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318, 216
18 Cal.Rptr. 718 If later the Lords and Ladies wish to argue that it is their
19 intention to engage in Ward Deference, then they have to establish that defense
20 at trial. Of course, they will be asserting a defense which involves their mental
21 deliberative process privilege which they claim the do not wish to waive. That
22 issue, however, is a matter for another day.
23
24
25

26 ///
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28

1 **5. The Council's Failure to Understand**
2 **How Vote Trading Violates the Brown Act**

3
4 Since the Brown Act (*Government Code*, §§ 54950 *et seq.*) requires
5 deliberations to take place in public after proper notice, a prior determination
6 based upon a secret, non-public vote trading agreement violates the Brown Act
7 (*Gov't Code* § 54953(a)). The fact that the Council's demurrer purports to deny
8 the existence of the vote trading agreement is evidence of the Council's desire
9 to keep it secret. Secret determinations that control the outcome of City Council
10 votes violate The Brown Act.
11
12
13
14

15 One supposes that if the Council held a public discussion and all those
16 Lords and Ladies who said that the agenda item was a very bad idea, then the
17 Council states, "Although the City's giving almost \$200 million to the Grand
18 Avenue Project in order to aggrandize the wealth of the developer is a horrible
19 idea, we shall all vote Yes due to our participation in the Vote Trading agree-
20 ment that requires that we all Vote Aye," then the Vote Trading Agreement
21 would not be secret and would not violate the Brown Act.
22
23
24

25
26 ///
27

1 **6. Injunctions May Issue to Prohibit**
2 **the Violation of a Public Duty**

3
4 The city asserts that a Writ cannot issue to compel legislators' discre-
5 tionary acts (Demurrer 1:21]. Petitioner, however, does not seek to compel a
6 discretionary duty but to enjoin the violation of a public duty. The City makes
7 no claim that a court may not order it to cease and desist.
8

9
10
11 **7. An Assertion that Council's Conduct is Non-Justiciable**
12 **Places The City Council Above the Law**

13 Although princes and their lords and ladies have from time to time in
14 history claimed that they are above the Law, King Louis XIV claimed that he
15 was the law. Richard Nixon claimed that if the president does it, it is legal. And
16 James I of Great Britain believed in the divine right of kings. ²
17

18
19

20 2

21 The US Supreme Court in *Baker v Carr*, (1962) 369 U.S. 186, 215, 7 L. Ed. 2d
22 663, 678, 82 S. Ct. 691 has said that legislature's conduct is not beyond the reach of
23 judicial scrutiny even when the matter of voting is involved. In SVV's case, however,
24 the court wishes to say that the State Legislature's enactments concerning how City Council's
25 should conduct themselves are beyond enforcement by the courts. That strange notion places
26 the City Council of Los Angeles above the State Legislature. The City has not claimed that these
27 statutes are unconstitutional, but merely that the courts are powerless to enforce the laws as to
28 any city council. [If the court has the power "to seek it in the legislative journals in order
 to preserve the enactment. [Cite] The political question doctrine, a tool for
 maintenance of governmental order, will not be so applied as to promote only

1 The City has liberally sprinkled the words Justiciability and non-Justici-
2 ability through its demurrer. One should note that invoking the Doctrine of
3 Justiciability pre-supposes that the objectionable conduct is in fact occurring.
4 There no need to resort to such convoluted legal mumbo-jumbo as Justiciability
5 if there were no vote trading pact by which billions of city dollars have flowed
6 into developers pockets over the past decade. As the LA Times recently
7 explained in its October 30, 2016 article, *A \$72-million Apartment Project. Top*
8 *Politicians. Unlikely Donors, Who Wrote the Checks to Elected Officials*
9 *Weighing Approval?*, by David Zahniser and Emily Alpert Reyes, there is a
10 concomitant flow of developer dollars into the campaign chests, discretionary
11 funds, and private charities of Prince and his Lords and Ladies.
12

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14
15
16 Petitioner SVV does not seek any standing under *Penal Code*, § 86, but
17 rather under a Citizen's Lawsuit. The City asserts the Straw Man Argument that
18 Petitioner was bringing the lawsuit directly under Penal Code, § 86. In
19 actuality, Penal Code § 86 provides the public duty by which the courts may
20 judge the councilmembers' actions. *Fuller v. San Bernardino Valley Mun. Wat.*
21 *Dist.*, (1966) 242 Cal.App. 2d 52, 57-59, (51 Cal. Rptr. 120)
22
23

24
25
26 disorder.
27

1 "The fundamental aspect of standing is that it focuses on the party
2 seeking to get his complaint before a . . . court, and not in the issues he
3 wishes to have adjudicated." [CITE] A party enjoys standing to bring
4 his complaint into court if his stake in the resolution of that complaint
5 assumes the proportions necessary to ensure that he will vigorously
6 present his case. (*Baker v. Carr* (1962) 369 U.S. 186, 204) *Harman v*
City and County of San Francisco, (1972) 7 Cal. 3d 150; 159 101 Cal.
Rptr. 880

7
8 The rule is stated thus in American Jurisprudence 73, section 320:
9 "[B]y the preponderance of authority ... where the question is one
10 of public right and the object of the mandamus is to procure the
11 enforcement of a public duty, the relator need not show that he has
12 any legal or special interest in the result, since it is sufficient that he
13 is interested as a citizen in having the laws executed and the duty in
14 question enforced. *Board of Social Welfare v. County of L. A.*,
(1945) 27 Cal.2d 98, 101, 162 P. 2d 627

15 [W]e concluded that petitioner could properly assert his
16 standing to maintain this action since he is a citizen with a
17 substantial interest in the enforcement of the director's public duty.
18 [Cite] *Pitts v. Perluss*, (1962) 58 Cal.2d 824, 829, 27 Cal.Rptr. 19

19
20 All residents of the City of Los Angeles have a substantial interest that the
21 city councilmembers not cast their votes according to a Vote Trading Pact which
22 the State has criminalized as a form of bribery, i.e. a vote for a vote. Standing
23 is established for a Citizen's lawsuit, like for a Taxpayer's lawsuit, by looking
24 at the government's transgression, i.e. the duty which is violated.
25
26
27

1 The purpose of taxpayer (and citizen lawsuits) is to "enable a large body
2 of the citizenry to challenge governmental action which would otherwise
3 go unchallenged in the courts because of the standing requirement."
4 [Cite] *Harman, supra* 7 Cal. 3d 150, 160 fn 1

5
6 Petitioner SaveValleyVillage has alleged the public duty which the
7 councilmembers individually and collectively breach, and by its nature, bribery
8 constitutes public harm, which this court has the power to enjoin.
9

10 11 **8. The Petition Alleges Facts Sufficient for a Demurrer**

12 As the above shows, all the necessary elements of a Citizen's Lawsuit are
13 alleged. Respondents fail to point to any element of the cause of action which
14 is missing. The most one may say of their general demurrer is that they believe
15 they have some defenses which they may assert provided they are able to
16 produce admissible evidence. At this stage where the issue is Legal Sufficiency,
17
18 Petitioner need not conclusively establish causation.³ Reasonable men can find
19 that the alleged vote trading agreement is a substantial factor in the City
20
21

22 3

23 Petitions must be read as a whole so that each part is given the meaning that it
24 derives from the overall context. "Allegations must be liberally construed, with a
25 view to substantial justice between the parties." (*Code Civ. Proc.*, 452), which is not
26 served when technical forfeitures or feigned inability to understand the pleading
27 prevent a trial on the merits. *Speegle v. Board of Fire Underwriters*, (1946) 29 Cal.
28 2d 34, 42, 172 P. 2d 867

1 Council's unanimous voting over 99.9% of the time in thousands of Projects,
2 then causation has been sufficiently plead. *Mitchell v. Gonzales* (1991) 54
3 Cal.3d 1041, 1052, 1 Cal.Rptr.2d 913 No one can seriously claim the
4 unanimous voting pattern is by mere chance or that (fifteen) 15 councilmembers
5 over a ten (10) year period agree on everything all the time. The City's counter
6 explanation of Ward Courtesy lacks all factual support in the Petition, and
7 provides no foundation for a demurrer. ⁴

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10
11
12 **9. The Enjoining the Violation of a Public Duty**
13 **Does Not Require the Court to Direct The Affirmative**
14 **Steps the City Councilmembers Should Take**

15 Contrary to defendants' assertion, a prohibition does not compel any
16 discretionary action. Some think that the present way is the only way and the
17

18
19 ⁴

20 The sole case which Respondents' mention is a *federal case*, *Arroyo Vista*
21 *Partners v. County of Santa Barbara*, 732 F. Supp. 1046, 1056 (1990 C.D. Cal.),
22 which expressly noted that Petitioner therein had not alleged that the behavior
23 violated any statute. Thus, there was no standard by which to evaluate petitioner's
24 claim. In this instance, however, Petitioner SVV has alleged that the Vote Trading
25 Pact violates three state statutes, The Brown Act, the Penal Code, and CEQA (The
26 *Public Resources Code*.) Respondents' federal case, however, is inapplicable at the
27 demurrer stage where one does not weigh evidence of ward courtesy as opposed to
28 criminal vote trading. Penal Code § 86 only applied to city councils in 2006 which
is sixteen (16) years after the *Arroyo* Case. Respondents cite no authority that a prior
case supersedes a subsequently enacted statute.

1 only recourse is for the court to direct the City how to behave. Far from it.
2 There are many ways the City can devise so that this type of vote trading does
3 not occur. One option rather than running the City as a criminal enterprise is
4 called the 3/15/45 City Council. See **Exhibit #1**, <http://bit.ly/1W74Er9>
5 February 7, 2016, Zwartz Talk, *The Corruption Eradicator*, *The 3/15/45 City*
6 *Council*. Starting, page 8
7
8
9

10. CEQA Provides No Grounds for Demurrer

11
12 The case of SaveValleyVillage v City of LA Case # BS 157989 [SVV I]
13 has no precedent nor res judicata impact on Petitioner objecting to the use of the
14 Consent Calendar in lieu of the City Council's making its own independent
15 review and consideration of EIRs prior to adopting them. SVV I involved a
16 Mitigated Negative Declaration [MND], where the Department of Planning hid
17 all the relevant documents until after the petitioner had filed its Opening Brief,
18 and this case involves all types of Environment Impact Reports EIRs] and does
19 not address the issue of collusion between developers and the Department of
20 Planning. The law is clear that the council has to independently consider the
21 matter even if its final conclusion may be to adopt a prior determination.
22
23 Petitioner SVV complains that by placing an EIR on the Consent Calendar, the
24 City of Los Angeles violates the holding in *Kliest v City of Glendale*, (1976) 56
25
26
27

1 Cal.App.3d 770, 778-779, 128 Cal.Rptr. 781.

2 The state guidelines require that the decision-making body or
3 administrative official having final approval authority over a project
4 involving a substantial effect upon the environment **review and**
5 **consider an EIR** before taking action to approve or disapprove the
6 project. (State Guidelines, § 15085, subd. (g).) The requirement
7 exists in part because 'only by this process will the public be able to
8 determine the environmental and economic values of their elected
9 and appointed officials . . . ' *Kliest, supra* 56 Cal.App.3d 778

10 CEQA is clear that the City Council's own **independent review and**
11 **consideration** is required before it may adopt prior determinations. While
12 much of the CEQA work may be delegated, the city council's duty to actually
13 review and consider the EIR is non-delegable. *California Clean Energy*
14 *Committee v City of Woodland* (2014) 225 Cal.App.4th 173, 194-195, 170
15 Cal.Rptr.3d 488

16 No CEQA provision allows a city council to a conduct a secret review in
17 private with each councilmember allegedly reviews some, all or none of the EIR
18 in their offices or reading a summary by their staff and then allowing the City
19 Council's vote tabulator automatically vote Yes. Perhaps someone does not
20 understand the meaning of the words "review and consider" and the
21 requirements of the Brown Act that actions not be based secret deliberations.⁵
22
23

24 ⁵

25 SVV has never contended that the City Council has to allow additional public
26
27

1 **11. The City Misunderstands SVV's Comments**
2 **on Council Rule 48a**

3 The petition mentions Council Rule 48a in order to show the two ways
4 which a councilmember may satisfy his/her duty, under the Vote Trading
5 agreement. He/she can either lean forward and activate their Yes button or they
6 can do nothing knowing that a Yes vote will be automatically recorded.
7

8 SVV does not object to the way Council Rule 48a is written. While most
9 systems add the Non Votes to whichever side had the majority of the votes cast
10 on the theory that the non-voting councilmembers acquiesce in the majority
11 decision of others, there appears to be no California law which requires that
12 Non-Votes be added to the majority.
13
14

15 **12. Summary**
16

17 Since power tends to corrupt and absolute power corrupts absolutely,
18 invoking Non-Justiciability to place the City Council above the law is a naive
19 ploy to protect the prerogatives of gaggle of corrupt businessmen and politicians.
20

21 Although billions of dollars have been sucked out of the City over the last
22 fifteen years, there are many more billions waiting to be looted. Measure HHH
23

24 discussion. The issue is the City Council as decision-making body duty to
25 independently review and consider EIRs. Whether the public may comment during
26 the City Council's review and consideration is a separate matter which Petitioner does
27 not raise.

1 just threw another \$1.2 Billion on the table. Making the City Council's
2 operations above the law is an invitation to more serious criminals. MS-13
3 would probably enjoy the respectability of running a City Council. There can be
4 no gainsaying that the Yakuza is sufficiently sophisticated in business to push
5 out the present pikers, nor is there a lack of Russian "businessmen" eager to set
6 up shop in a country where the courts have declared corrupt city councils are
7 beyond the reach of the courts.
8

9
10 A wiser course of action would be to allow the serfs to have their day in
11 court and present their case that the time for feudalism is gone and now is the
12 time for governments to function according to the rule of law.
13
14
15

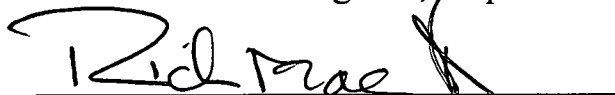
16 12. Conclusion

17 Petitioner SaveValleyVillage respectfully requests that Respondents'
18 Demurrer be denied in all respects.
19

20
21 DATED: November 25, 2016

22 Edward W. Pilot, A Professional Corp., and
23 Richard S. MacNaughton, Esq.

24 By



25 Richard S. MacNaughton, Esq.
26 Co-counsel for SaveValleyVillage
27
28

11/28/2016

EXHIBIT #1

Exhibit #1

<http://bit.ly/1W74Er9>

February 7, 2016,

Zwartz Talk

The Corruption Eradicator, The 3/15/45 City Council

by Scott Zwartz

Exhibit #1

<http://bit.ly/1W74Er9>

February 7, 2016,

Zwartz Talk

The Corruption Eradicator, The 3/15/45 City Council

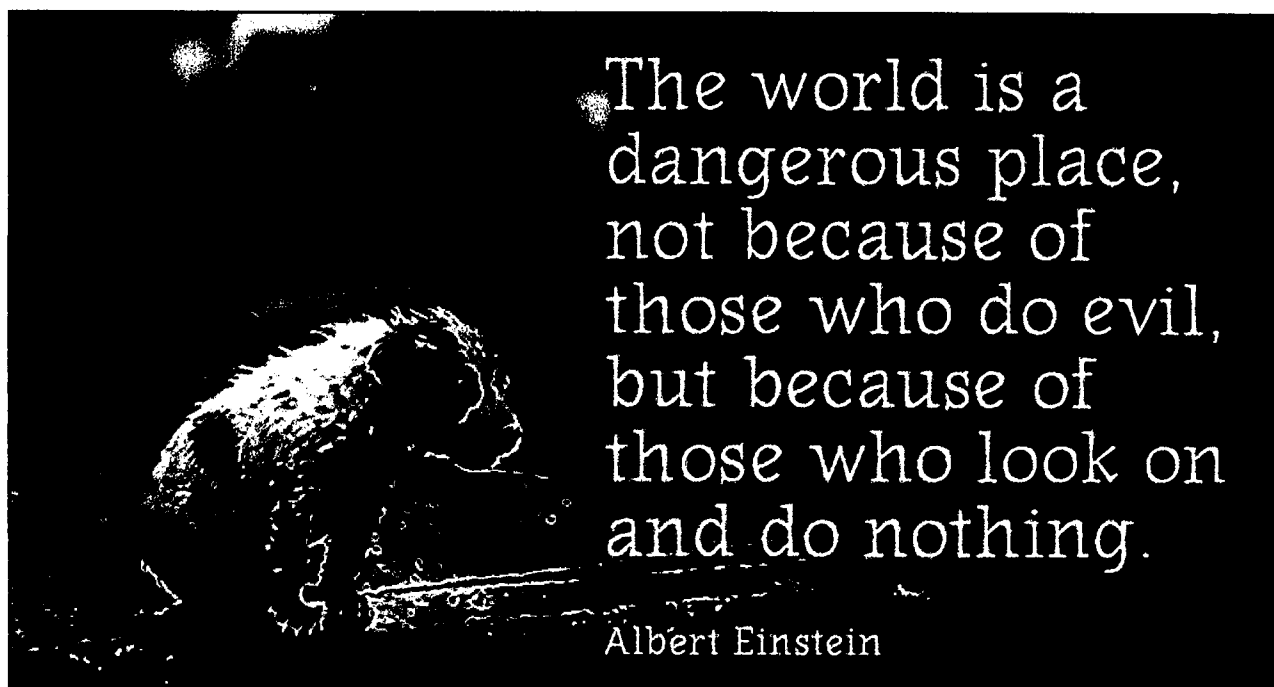
by Scott Zwartz

11/28/2016

Zwartz Talk

How To Eradicate Corruption at L.A. City Council

The Corruption Eradicator



The 3/15/45 City Council

by Scott Zwartz

February 2016

11/28/2016

The Road to Hell is Paved with Good Intentions

When the framers of California's State Constitution mandated that all municipal elections be non-partisan, their intention was to keep the corrupting influence of political parties out of local government. Their good intentions have resulted in Los Angeles's City Council's becoming a nightmare of corruption.

The Fatal Constitutional Error Of Geographic Exclusivity.

Geographic exclusivity means each councilmember is the sole and only representative for his/her council district. He/she is the sole and only person who decides how to use that vote. The power from one person's having exclusive control of a council district leads to corruption.

"Power tends to corrupt and absolute power corrupts absolutely,"

Lord Acton 1887.

The power which comes with one person's having complete control over a council district means that the councilmember may use his/her one vote in the way which maximizes his/her power.

That is exactly what each Los Angeles City Councilmember has done. He/she has traded his one vote in order to maximize his/her own personal power. All 15 councilmembers have an agreement that none will ever vote against a construction project in another council district. The seductive power of the "I'll Scratch Your Back, You'll Scratch Your Back" voting agreement is overwhelming and it lies at the core of all of Los Angeles problems. It gives each councilmember a free hand to do whatever he/she wants within his/her own geography territory with no regard to how much harm it may cause the rest of the City.

The Myths for the Lazy, The Foolish and The Corrupt

Angelenos tell themselves some silly myth. They pretend that the councilmembers only defer to other councilmembers out of respect. When they defer over 99% of the time, they are engaged in an voting agreement which Penal Code 86 has criminalizes. Penal Code 86 has no exception, "It is OK

to have a voting agreement if you say you are only deferring to another councilmember." When Councilmember #4 defers to Councilmember #2 on the basis that councilmember will defer to him, they both have violated Penal Code 86. When all 15 reciprocally defer to each other, all 15 councilmembers are engaging in a criminal behavior which can carry a four (4) year prison term for each violation.

The Deferment Myth:

Mandatory Deferment v Rebuttable Presumption

We know that we are not dealing with a deferring which is similar a Rebuttable Presumption. In that case, a councilmember would start his review of a construction project with the presumption that the councilmember in whose district the project will be constructed "got it right."

When the other councilmembers discovered evidence that the originating councilmember "got it wrong" or that the project would harm other council districts, then the Rebuttable Presumption would disappear and councilmembers would be free to vote No. The fact that there is never a No Vote on a construction project from another council district shows that we are not dealing with an Rebuttable Presumption agreement by which councilmember only have to show initial deference. Rather, we have an agreement on how to vote with no regard to the merits of the project.

It's a huge myth that 100% of the time every construction project is perfect and causes not harm. If they were true, Los Angeles would not be in its current mess with the worse infrastructure in the nation.

The Efficiency Myth

Everyone Benefits When The City Council Always Agrees

In December 2010, then Council President Eric Garcetti was boastful that under his tutelage, the Los Angeles City Council voted unanimously over 99.35% of the time. He took this unanimity to be a mark of efficiency. The "I'll Scratch Your Back, You'll Scratch Your Back" voting agreement is efficient in suppressing dissent and it is efficient in allowing developers to run roughshod over all of the Los Angeles. This efficiency placed a huge amount of power in the hands of a tiny, tiny number of people.

The City of Los Angeles has about 3,957,022 people. It takes only two persons to have the Los Angeles City Council unanimously approve a project over which the other 3,957,020 people have no say. All it takes, for example, is one developer who wants to needlessly destroy one of Marilyn Monroe's old homes and one councilmember, Paul Krekorian CD #2, to decide that the home should be destroyed. It is irrelevant how many of the other 3.9 Million Angelenos want to save and move the home to another location. All Krekorian has to do is place the construction project on the city council agenda and due to the "I'll Scratch Your Back, You'll Scratch Your Back" voting agreement, the city council unanimously approves the demolition.

Yes, the "I'll Scratch Your Back, You'll Scratch Your Back" voting agreement is very efficient — it is particularly efficient in destroying democracy. When the whims of two people overrides the desires of over 3.9 million other residents, we do not have a democracy. We have a Kletocracy, a form of Garcettism, where anyone can steal or destroy anything he wants so long as he gets one councilmember to agree with him.

Penal Code 86 Criminalized

"I'll Scratch Your Back, You'll Scratch Your Back" Voting Agreement

Generally, we think of politics being the process of vote trading with measures being decided by political parties. The most we ask is that the wheeling and dealing not be conducted solely out-of-sight in back rooms deals. Los Angeles City Council, it turns out, is the the most corrupt voting system in the entire nation. All decisions are the product of secret vote trading pact. It's similar to a jet trail in the sky; maybe you did not see the jet fly overhead, but when you look up into the sky, you know that jet was there. The unanimous agreement 99% of the time without any public discussion of most of the items is the proof of the vote trading pact which has governed Los Angeles City Council for a decade.

The ubiquitous unanimous voting at city council and Penal Code 86 actually are the logical results of the State Constitution which requires that all municipal elections must be **non-partisan**. It was believed that by removing political parties, they would remove the corruption. They were wrong! In the absence of political parties, individual councilmembers had to find some way to have their measures enacted by the entire city council. How do you get 8 out of 15 other councilmembers to support you without any vote trading?

While the elected officials had to deal with the real world of politics, the theoreticians thought that they could force each elected official to independently and rationally investigate each measure and then make an informed vote. Presto! In 2006 the State Legislature amended Penal Code 86 to make any type of voting agreement a form of criminal bribery. No councilmember may agree to give or without his/her vote in return that another councilmember will give or withhold a vote on this or another matter. Legally speaking, buying a vote with a return vote is no different from buying a vote for cash. It is criminal bribery to buy a vote by giving a councilmember a paid trip to Hawaii or

by getting the councilmember's grandson admitted to a ritzy private school, and it is criminal bribery to approve a construction project in CD 13 knowing that all the other councilmembers will then approve any construction project that you want in your council district. The unanimous vote trading pat which governs Los Angeles City Council is the worse vote trading agreement possible.

In the typical give and take of political horse trading, the political parties thrash about over special bills and each party puts forth its objections and desires as to a particular bill. While we know this system is likewise filled with unethical behavior, at least each project gets attention. At the Los Angeles City Council, there is no attention to individual items of the agenda. As Councilmember David Ryu indicated — it's a waste of time to study some construction project when you know everyone will vote Yes.

The Results of this Criminal Voting System

Has Devastating Los Angeles

The criminal voting agreement is the reason we have the worst streets in the nation, why we are the most park-poor large city, while our sidewalks are so atrocious that we lost a \$1.3 Billion lawsuit for our sidewalks being non-ADA compliant, why Angelenos are needlessly dying because we have given billions of dollars to real estate developers rather than fund more paramedics, it is why the LAPD is being under-trained, under-manned while violent crime and property crimes escalate, why we cannot attract new employers to the city, why the city's pension fund faces multi-billion deficits, housing costs are soaring, why Los Angeles has become an exodus city from which Family Millennials are fleeing, our middle class tax base is eroding, etc. When each council member can build whatever he wants with no regard for the law, The General Plan, the zoning or the Specific Plans, we have a city which is run for, by the developers and of the developers. No matter how many laws a development may break, the criminal voting agreement requires that it be unanimously approved.

These are not the Opinions of a Few Disgruntled Activists

The Movers and Shakers sounded the same alarm in 2013. In the December 2013 report of the 2020 Commission, The Time for Truth, the leading downtown lawyers (especial *macher* Mickey Kantor, Esq.), who helped create the mess, decried Los Angeles' decline. [2020 Commission Time for Truth] <http://www.la2020reports.org/>

Los Angeles is barely treading water while the rest of the world is moving forward. We risk falling further behind in adapting to the realities of the 21st century and becoming a City in decline. A Time for Truth page 1

The follow-up report, A Time For Change (<http://www.la2020reports.org/>), however, showed that downtown leaders were clueless about the origins of Los Angeles's woes and had no solution. As many of Mickey Kantor's cohorts were attorneys at the prestigious law firms who represented the real estate speculators in Los Angeles, they did not want anything to interfere with their business. As matters stood, a developer's attorneys only had to be "nice" to a single councilmember in order to have their client's project approved by City Council. The "I'll Scratch Your Back, You'll Scratch Your Back" voting agreement was the foundation of millions of dollars in attorney fees and to make matters even better, no matter how many laws a project violated, there was no chance the developer's attorneys could not deliver. All they had to do was to make nice with one councilmember and the project would be unanimously approved. In other words, Mickey Kantor and his cohorts are prime examples of (allegedly) good people who allow evil to thrive by their silence.

Most people believe that the purpose of a City Council is to consider various measures, undertake study of the measures, and then Vote Yes or No on each measure based on their own analysis and the wishes of their constituents. That is not the L.A. system. The Los Angeles system is dramatically different.

Councilmembers have an agreement that no councilmember will Vote No on any construction project in another council district. Thus, when a project comes up for a vote, councilmembers have two options: (1) Vote Yes, (2) Not To Vote. If enough councilmembers simply did not vote, then a bad project could not get a majority of the members to vote Yes. In order to pass each construction project must receive a majority of the members of the entire 15 member city council. That simply means, there must be 8 members who vote Yes.

The hidden Secret that is Destroying Los Angeles

However, each council project always passes unanimously. One has to wonder, how can every single councilmember vote for every single construction project every single time. Why don't we see some Non-Votes. In L.A. you will never see 5 Yes Votes, 5 No Votes and 5 Non-votes (abstentions). Here's why.

The Astounding Council Rule 48a

Council Rule 48a requires that every non-vote has to be automatically counted as Yes Vote. People can see how this matter operates by watching Channel 35's city council sessions or by going to the City's webpage and calling up old council sessions or watching the live streaming as the council votes. Many councilmembers are not voting; they are milling about behind their chairs,

smoozing with aides and other councilmembers, leaving the council chambers for rest room breaks, yet within 2 seconds, the clerk reports unanimous approval.

We can see with our own eyes Council Rule 48a in operation. People, whom we see are not voting, are counted as having voted Yes.

Without Council Rule 48a, it is possible many of these horrible projects would not be approved. Look at The Millennium Project which straddles the active Hollywood earthquake fault line. Is it not strange that not a single councilmember was at least wary enough to Not Vote? We will never know. If a councilmember does not vote, the complete absence of his/her vote is counted as a YES vote. That violates the requirement that 8 members (physical human beings who are present in the room must vote yes). Nowhere on earth, except in Los Angeles, is zero members voting counted as unanimous Yes Vote.

This raises an interesting question: Because measures have to pass with a majority of members Voting Yes, how can we count members who do not vote towards the majority?

The answer is: we cannot — unless we wish to break the law. The Council Rule 25 requires:

Council Rule 25: Ten members of the Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time until a quorum is present and may compel the attendance of the absentees. Except as otherwise required by the Charter or other law, or by these Rules where not inconsistent therewith, **action by the Council shall be taken by a majority vote of the entire membership of the Council.**

Council Rule 25 requires a majority vote of the entire **membership**, which is 8 members, actually voting Yes. There must be eight (8) living and breathing councilmembers who themselves are actually voting in order to obtain a majority to pass anything. When a councilmember is walking round the council chamber and does not vote, that member did not vote. This is what we call a tautology. A non-vote means that the councilmember did not vote. A member who did not vote may not be counted a part of the 8 members who voted.

The council's voting machine automatically votes for all members unless they quickly press the "no button." When one views the voting at City Council, they witness the following.

- (1) Call the Vote, two second pause
- (2) Tabulate the Vote, one second pause
- (3) Unanimous vote reported.

Due to the automatic tally of all Yes Votes and all Non-Votes together with a single report of unanimity, there is no way for anyone to know whether 8 councilmembers voted Yes or only 5 votes Yes or whether zero votes yes.

When one watches the City Council voting, it is clear that very often enough councilmembers are not close enough to their desks to vote. In fact, in some cases, one can see that so many councilmembers are not voting that there were not 8 members who voted. Yet, the machine shows unanimous Yes. That is a fraud on the public who believes that all the members had voted Yes. The public does not suspect that perhaps no member voted.

It is unconstitutional, unlawful, and unjustifiable for the City Council to report its vote tallies as if the **members** had voted. Instead, we have criminal voting agreement where members do not vote No, knowing that the council's voting machine **will then make it look as if the member had voted.**

Unless 8 Councilmembers Actually Vote Yes,

the Measure Does Not Legally Pass

Angelenos need to realize that they are watching a criminal voting conspiracy. They think that they are seeing a process whereby eight (8) or more council**members** have actually voted in favor of a project, when in reality there is no way to know if even one councilmember voted Yes.

We pay each Los Angeles City Councilmember \$187,160.00 per year plus we provide them perks and benefit packages. In return, the least they could do is bother to vote at council sessions.

Here is the Solution

The Alternative to the Current Corrupt System is the 3/15/45 City Council.

Here's the new system. Each council district will have three (3) at large councilpersons. As there are fifteen (15) council districts, that means the City Council will have 45 members. This number is consistent with other large metropolitan areas.

Chicago has 50 councilmembers. Their districts are called "wards" And each councilmember represents and serves 54,000 resident.

New York City has 51 councilmembers and each serves 158,824 residents.

San Francisco has 11 councilmembers and each serves 77,273 residents

Present day L.A. City Council has 15 councilmembers, and each serves 330,468 residents [The City's population in 2015 is 4,957,022 people.] The Los Angeles City Council has the worst per resident representation in the entire nation.

Increasing the number of L.A. councilpersons to 45 will still leave Chicago and San Francisco with a better ratio of residents per councilmember. Chicago will have 54,000 residents per councilmember, San Francisco will have 77,273 residents per councilmember and Los Angeles will

have 110,156 residents per councilperson.

Thus, the new 3/15/45 City Council will move Los Angeles from being dead last in representation to being third best in representation.

The Goal of the 3/15/45 City Council

The goal of the 3/15/45 City Council, however, is to destroy the present criminal voting system. Merely expanding the number of councilmembers will not achieve that goal. The problem is that each member has geographic exclusivity which makes him/her the dictator within his district. The only way to limit his/her power is to counter-balance it with other power.

The key to ending corruption is a new balance of power and that requires destroying **geographic** exclusivity. Geography exclusivity is easily destroyed. When each council district has three councilmembers all who serve at large and will who are elected in the same election, no councilperson will be the exclusive voice for his people. All councilpersons will be in competition with each other to get Votes for the next election. Since only the top three vote-getters will be one of the three councilpersons, no one's position is secure. They will have to work and earn their \$187,610.00 per year.

How Geographic Exclusivity is Destroyed

When each councilperson has one out of three votes, no single councilperson can deliver his/her entire district in support of another district. If councilperson #1 is a shill for the developers and votes yes for a project in another district, the other two councilpersons are likely to vote No.

Here's why the other councilpersons will not also shill for developers. Since all councilpersons in one district have to run against each other in the same election, they are all competing against each other, knowing that the top three vote-getters will become councilpersons. When councilperson #1 is the developers' shill, candidates #2 and candidate #3 concentrate on voters with other interests. Councilperson #2 may appeal to voters with a passionate interest in the schools, or parks, or street repair, or in DWP reform, or in traffic improvement. Candidate #3 may be the anti-developer person and there may be enough anti-developer candidates to make him one of the three. Appealing to the non-developer votes can gain the other candidates enough votes to come in 2nd or 3rd in the election and hence become a councilperson.

Under the new 3/15/45 city council, the council candidates know that they can oppose the mega-developers or any other special interest group like billboard companies and still be elected. It does not matter if the developer candidate out spends everyone else 100 to 1 in order to get elected. There still will be two other councilpersons who are not beholden to the developers.

As Councilmember Garcetti proved, under the current system, one may remain councilmember until terms limits kick him out of office, and he will never have to pay any attention to anyone except to the mega-developers with their mega-bucks. If Councilmember Garcetti had had two other CD 13 councilmembers, they would not supported the Millennium Earthquake Towers, they would not

have supported the fatally flawed Hollywood Community Plan, or the Target Store at Sunset and Western. Instead, the other two CD 13 councilmembers would have been more likely championed a better quality of life for Hollywoodians — not more profits for mega-developers.

How destroying Geographic Exclusivity

Destroys The Criminal Voting Practices

Under the 3/15/45 system, retaliation against a councilperson who votes against a bad project in another district is impossible. While Councilperson #1 may want everyone to vote for his bad project, when one or two of the other councilpersons from his own district vote No, there is no way for him to retaliate against councilpersons from another district. So what if two councilpersons from San Pedro vote against a Project in the Valley and councilperson #1 tries to retaliate by voting No on a San Pedro project. There are still two other councilpersons from his district to support the project in the San Pedro area. The present criminal voting pact is held together by the threat of retaliation, but when Geographic Exclusivity is destroyed, the ability to retaliate is destroyed.

The same would be true for Councilmember Krekorian's CD 2. All three CD #2 councilmembers would not have allowed Marilyn Monroe's home to be unlawfully demolished. With three councilpersons representing the same council district, no single councilperson can guarantee a developer that his project will be approved despite his breaking the law. The other councilpersons will have a vested interest in exposing the unlawful behavior.

Certain key points of the 3/15/45 City Council need to be emphasized.

- 1) Each district has three (3) councilpersons.
- 2) Each councilperson serves at large. No councilperson will ever be allowed to have exclusive control over a geographic area. That means no sub-districts.
- 3) All three councilpersons have to run in the same election against each other. There will be no staggered elections within a council district. Competition among the three councilpersons is crucial in order to create a balance of power. No competition = no balance of power
- 4) Because all three councilpersons are elected in the same election, that requirement reduces the number of votes needed to become a councilperson. The third top vote-getter may receive less than 20% of the vote.
- 5) More people are likely to vote when they realize that the chances of their obtaining some representation is much higher.

Right now, a challenger has to get 51% of the vote to unseat a councilmember and that is very hard. The challenger has poor name recognition. When voters see a familiar name on the ballot, they

overwhelmingly vote for that name. [That's the way things are, not the way they should be.]

With the new 3/15/45 city council, there will be an absolute guarantee that there will be three (3) winners in each election. Thus, the percentage of votes necessary to become a councilperson is much lower. Someone with only 20% might come in third place. Under the present system, that person has no chance to become a councilmember.

Another way to phrase it is that the emphasis shifts away from trying to drive someone out of office to trying to gain enough votes to be one of the three who is put into office. That requires a lower total number of votes for the third candidate.

The likelihood that more citizens will vote is much higher with the new 3/15/45 city council. Voters will realize that there is a good chance that their candidate will win one of the three seats. People do not vote when they see it as hopeless, but they do take the time to vote when there is a realistic opportunity to put "their guy/gal" into office.

Also, under this new system, the most dishonest and the most honest councilpersons have to behave properly. They all have to strive to please the voters. But, let's say one councilperson has the deep pocket support of the mega-developers? So what? He won't have the power to get approval of the developer's projects as he has only 1 out of 45 votes. Rather, projects will be judged on their merits – something that never occurs under the present system.

How would this 3/15/45 system have worked in real life Hollywood during the 2000's? For one thing, Hollywood would have had a new Target Store years ago. When Councilmember Garcetti demanded that Target construct an unlawful project which violated SNAP, Target would have moved to the next councilmember who wouldn't be making extortionist demands. Garcetti would have lacked the power to carry out his alleged threat to prevent Target from building unless they built what he wanted. Target would have walked out on Garcetti and gone to a councilmember who wasn't involved in extortion.

Thus, it is vital that we break the Geographic Exclusivity which each councilmember holds. Even two councilmembers are likely to collude. The triad of three makes collusion virtually impossible as it will be so very easy for the voters to kick one or two of them out of office.

Summary

If we want to leave our children a less corrupt city, now is the time to institute the 3/15/45 City Council.

This entry was posted on 02/07/2016 by [scottzwardz](#).

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11/28/2016

Proof of Service By Email and Hand Delivery

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California and I am over the age of eighteen (18) years and I am not a party to this within action. My business address is 1916 North Saint Andrews Place, Hollywood, CA 90068

On Monday, November 28, 2016, I served the following documents:

1. PETITIONER SAVEVALLEYVILLAGE'S MEMORANDUM IN OPPOSITION
TO RESPONDENTS' GENERAL DEMURRER, EXHIBIT
on all interested parties by emailing and hand delivery as indicated below:

Attorney and Address

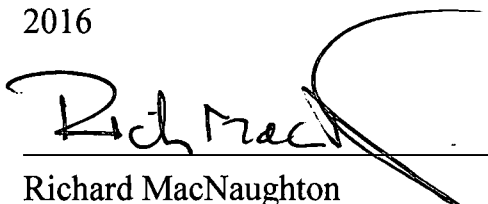
Email and hand Delivery

Gabriel Dermer, Esq.
City Attorney Mike Feuer' Office
Los Angeles City Attorney Office
200 North Main Street Room 675
Los Angeles, CA 90012

Email

Gabriel.dermer@lacity.org

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed at Hollywood, California on Monday November 28, 2016


Richard MacNaughton

11/28/2016