Susan Brandt-Hawley/SBN 75907 1 Superior Court of California **BRANDT-HAWLEY LAW GROUP** County of Los Angeles 2 P.O. Box 1659 46151 90012 DEC 01 2016 Glen Ellen, CA 95442 3 707.938.3900, fax 707.938.3200 Sherri R. Carter, Executive Officer/Clerk susanbh@preservationlawyers.com 4 Deputy 5 Attorney for Petitioner Los Angeles Conservancy 6 7 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA 9 FOR THE COUNTY OF LOS ANGELES 10 11 12 Case No. LOS ANGELES CONSERVANCY, a non-profit corporation; BS166487 13 14 Petitioner, Environmental Leadership 15 **CEQA Challenge** 16 CITY OF LOS ANGELES, 17 CITY COUNCIL OF THE CITY OF PETITION FOR 18 LOS ANGELES, LOS ANGELES WRIT OF MANDAMUS DEPARTMENT OF CITY PLANNING: 19 and Does 1 to 5; 20 Respondents. 21 22 AG-SCH 8150 SUNSET BOULEVARD 23 OWNER, L.P., and Does 6 to 10; Real Parties in Interest. Petition for Writ of Mandamus

Petitioner Los Angeles Conservancy alleges:

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# Introduction

1. Hollywood's evocative Lytton Savings mid-century bank can be feasibly integrated into the proposed 8150 Sunset Boulevard mixed-use development project.

The city's environmental impact report (EIR) says so — Lytton Savings can be adaptively reused within a comparably-sized, economically-viable architectural design.



As the EIR explains, the bank design "was strategically conceived as a modern multi-media showcase for Modern art, architecture, and interior design ... related directly to its Sunset Boulevard context" with a "distinctive folded plate concrete roof."

When, as here, fundamental project objectives can be met without the wasteful demolition of an historic resource, CEQA prohibits any such needless cultural loss.

The Los Angeles Conservancy thus seeks this court's peremptory writ enforcing CEQA's substantive mandates. Lytton Savings should remain an iconic presence on Sunset.

Petition for Writ of Mandamus

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2. This court has jurisdiction under Public Resources Code sections 21168 and Code of Civil Procedure section 1094.5. The parties and project site are located in the City and County of Los Angeles.

## **Environmental Leadership CEQA Challenge**

3. The Governor certified the subject 8150 Sunset Boulevard project as a leadership project under Public Resources Code sections 21182-21184 *et seq.* and it is subject to California Rules of Court, Rule 3.2223, and other associated statutes and rules for leadership projects. The person or entity that applied for certification of the project as a leadership project must, if the matter goes to the Court of Appeal, make the payments required by Public Resources Code section 21183(f).

#### **Parties**

4. The Los Angeles Conservancy is a membership-based nonprofit corporation that works through advocacy and education to recognize, preserve, and revitalize the historic architectural and cultural resources of Los Angeles County.

Founded in 1978 as part of the community-based effort to prevent demolition of the Los Angeles Central Library, the Conservancy now has 6,000 member households and hundreds of volunteers, making it the largest group of its kind in the United States.

Conservancy members include community residents and concerned citizens who enjoy and appreciate Los Angeles County's cultural, architectural, and historic resources,

including those in Hollywood such as Lytton Savings. The Conservancy brings this petition on behalf of all others similarly situated that are too numerous to be named and brought before this court as petitioners. Conservancy staff and members objected to the approval of demolition of Lytton and exhausted administrative remedies.

- 5. Respondents City of Los Angeles, its City Council, and its Department of City Planning referred to in the 8150 Sunset Boulevard project Notice of Determination (NOD) as the lead agency, are collectively referred to in this petition as the city.
- 6. Real party in interest AG-SCH 8150 Sunset Boulevard Owner, L.P., is the project applicant (applicant) for the 8150 Sunset Boulevard project.
- 7. Does 1 to 10 are fictitiously named respondents and real parties in interest whose true names and capacities are currently unknown to the Conservancy. If and when true names and capacities are known, the Conservancy will amend this petition.

## **General Allegations**

8. The paragraphs below refer to and rely on information in documents that will be lodged with this court as part of the record of proceedings.

## **Environmental Setting**

- 9. The two and a half-acre project site at the foot of the Hollywood Hills lies on the eastern edge of the Sunset Strip, about seven miles northwest of downtown Los Angeles, on a block bounded by Sunset Boulvard, Havenhurst Drive, and Crescent Heights Boulevard. The area is a highly urbanized and active area of Hollywood.
  - 10. The primary Lytton Savings building located on the project site was

constructed between 1959 and 1960 in the post war New Formalist Modern

Architecture style. An addition to the bank for the Lytton Center for the Visual Arts was constructed in 1961-62. The architect for the original building and additions was Kurt W. Meyer of Hagman & Meyer. *Architectural Digest* reviewed the "California modern architectural design" and extensive use of glass, marble, and native stone, as well as the architect's attention to the slope of the site and design of part of the main building below ground level.

### 8150 Sunset Boulevard Project and Approval Process

- 11. Following preparation of an initial study and a public scoping session in 2013, the city published a Draft EIR in 2014. As analyzed in the Draft EIR, the project was initially proposed to include multiple buildings over a single podium structure with various elements up to 16 stories. The North Building was proposed to include two levels with a rooftop terrace containing commercial uses. The South Building was proposed to contain commercial uses on the first two levels, residential uses on levels three through 15, and a rooftop restaurant/lounge on the top level. The Draft EIR considered a no-project alternative and six other alternatives that explored different building heights and layouts, including two alternatives that proposed the adaptive reuse of Lytton Savings, acknowledged as a qualified CEQA historic resource.
- 12. The city provided a 62-day public comment period on the Draft EIR from November 2014 to January 2015. Via almost a thousand written letters and emails, many agencies, organizations, and individuals commented on the draft, presenting fact-

based concerns that the project would obstruct views, impair overall visual quality, result in operational impacts on air quality, increase traffic, and provide insufficient on-site parking. The Conservancy was among the commenters, objecting to the approval of demolition of Lytton Savings and advocating for adaptive reuse.

- 13. The applicant then developed a new project alternative, Alternative 9, the "Enhanced View Corridor and Additional Underground Parking Alternative," designed by architect Frank Gehry, that became the project proposal considered for approval. Alternative 9 continued to call for the demolition of Lytton Savings.
- 14. The Conservancy repeatedly raised concerns throughout the administrative process regarding the proposed project's unlawful demolition of the Lytton Savings building. The city addressed mitigations for the proposed demolition of Lytton Savings, such as a bank relocation feasibility study, relocation of two on-site art works, recordation, and construction salvage, but failed to reasonably and adequately respond to the Conservancy's suggested preservation alternatives.
- 15. The city published the Final EIR in May 2016 and held public hearings culminating with the City Council's approval of the revised project on November 1 and the filing of the NOD the same day. The city approvals acknowledge that the project would have significant environmental impacts to historical resources, noise, vibration, and traffic, and approved a statement of overriding considerations. The city made findings that preservation alternatives were infeasible, over the objections of the Conservancy and others. The city certified the EIR and approved a master conditional use permit, a density bonus and related incentives, and a site plan.

- 16. As recited in the NOD, the approved 8150 Sunset Boulevard project would be a mixed-use development of 229 residential units, including 26 units for very low income households, 65,000 square feet of commercial uses, and 820 parking spaces within four subterranean and semi-subterranean levels.
  - 17. This action is timely filed within 30 days of the filed NOD.
- 18. The Conservancy has no plain, speedy, and adequate remedy in the ordinary course of law. Issuance of a peremptory writ is needed to avoid immediate, severe, and irreparable harm to Los Angeles residents. The City of Los Angeles has the capacity to correct its violations of law but has failed and refused to do so.

## **Violations of the California Environmental Quality Act**

- 19. The Conservancy incorporates all previous paragraphs as if fully set forth.
- 20. The city abused its discretion and failed to act in the manner required by law in approving the 8150 Sunset Boulevard project with demolition of Lytton Savings.
- 21. The city conceded that demolition of Lytton Savings would have a significant environmental impact to an historic resource but failed to adequately analyze or adopt feasible alternatives that would avoid demolition, including but not limited to preservation alternatives 5 and 6 identified in the CEQA process, or to make findings supported by substantial evidence that a project alternative that does not include demolition of Lytton Savings would be infeasible to accomplish the fundamental project objectives.
  - 22. City findings, including but not limited to the findings regarding the

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infeasibility of preservation alternatives 5 and 6 or other alternatives for adaptive reuse of Lytton Savings, and findings to support the statement of overriding considerations, are not supported by substantial evidence in the whole of the administrative record and in fact are contrary to facts and analysis in the project EIR.

23. The EIR failed to adequately respond to comments regarding the feasibility of project alternatives to demolition of Lytton Savings.

## Wherefore, the Los Angeles Conservancy prays:

- 1. That the Court issue a peremptory writ of mandate ordering the respondents to set aside and void their approvals relating to the 8150 Sunset Boulevard project, including demolition permits, and to refrain from further consideration of approval pending full compliance with CEQA;
- 2. For a temporary stay of any physical actions pursuant to construction or pre-construction of the 8150 Sunset Boulevard project pending issuance of the writ, including interior or exterior pre-demolition and demolition actions;
  - 3. For costs and attorney fees pursuant to CCP section 1021.5; and
  - 4. For such other and further relief as the Court finds proper.

December 1, 2016

BRANDT-HAWLEY LAW GROUP

Susan Brandt-Hawley Attorney for Petitioner Los Angeles Conservancy

#### Verification

I, Susan Brandt-Hawley, am an attorney for Petitioner Los Angeles Conservancy whose members are located outside of Sonoma County where I have my law offices, and so I verify this petition on its behalf. I have read this petition and know its contents.

The matters stated in it are true based on my knowledge, except matters that are stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge and that this declaration is executed on December 1, 2016, at San Francisco, California.

Susan Brandt-Hawley

### CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

- Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.
- Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

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Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

#### Applicable Reasons for Choosing Court Filing Location (Column C)

- 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
- 2. Permissive filing in central district.
- 3. Location where cause of action arose.
- 4. Mandatory personal injury filing in North District.
- 5. Location where performance required or defendant resides.
- 6. Location of property or permanently garaged vehicle.

- 7. Location where petitioner resides.
- 8. Location wherein defendant/respondent functions wholly.
- 9. Location where one or more of the parties reside.
- 10. Location of Labor Commissioner Office.
- 11. Mandatory filing location (Hub Cases unlawful detainer, limited non-collection, limited collection, or personal injury).

Civil Case Cover Sheet Category No.	Type of Action (Check only one)	Applicable Reasons - See Step 3 Above
Auto (22)	□ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
Uninsured Motorist (46)	□ A7110 Personal Injury/Property Damage/Wrongful Death ~ Uninsured Motorist	1, 4, 11
Asbestos (04)	□ A6070 Asbestos Property Damage □ A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
Medical Malpractice (45)	□ A7210 Medical Malpractice - Physicians & Surgeons □ A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
Other Personal Injury Property Damage Wrongful Death (23)	<ul> <li>□ A7250 Premises Liability (e.g., slip and fall)</li> <li>□ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)</li> <li>□ A7270 Intentional Infliction of Emotional Distress</li> <li>□ A7220 Other Personal Injury/Property Damage/Wrongful Death</li> </ul>	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

3 1 Other Personal Injury/ Property Damage/ Wrongful Death Tort

Auto

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Non-Personal Injury/ Property Damage/ Wrongful Death Tort

**Employment** 

Contract

중동원국 문장주론동 Unlawful Detainer Real Property

	V. Oity of Los Angeles, et al.	
Civil Case Cover Sheet Category No.	Type of Action: (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	☐ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1, 2, 3
Defamation (13)	☐ A6010 Defamation (slander/libel)	1, 2, 3
Fraud (16)	☐ A6013 Fraud (no contract)	1, 2, 3
Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
Other (35)	□ A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Wrongful Termination (36)	☐ A6037 Wrongful Termination	1, 2, 3
Other Employment (15)	□ A6024 Other Employment Complaint Case □ A6109 Labor Commissioner Appeals	1, 2, 3 10
	☐ A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
Breach of Contract/ Warranty (06) (not insurance)	A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)  A6019 Negligent Breach of Contract/Warranty (no fraud)  A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 1, 2, 5 1, 2, 5
Collections (09)	<ul> <li>□ A6002 Collections Case-Seller Plaintiff</li> <li>□ A6012 Other Promissory Note/Collections Case</li> <li>□ A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)</li> </ul>	5, 6, 11 5, 11 5, 6, 11
Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1, 2, 5, 8
Other Contract (37)	<ul> <li>□ A6009 Contractual Fraud</li> <li>□ A6031 Tortious Interference</li> <li>□ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)</li> </ul>	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9
Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels	2, 6
Wrongful Eviction (33)	□ A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)	<ul> <li>□ A6018 Mortgage Foreclosure</li> <li>□ A6032 Quiet Title</li> <li>□ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)</li> </ul>	2, 6 2, 6 2, 6
Unlawful Detainer-Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
Unlawful Detainer-Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
Unlawful Detainer- Post-Foreclosure (34)	☐ A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
Unlawful Detainer-Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2, 6, 11

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	A Civil Case Cover Sheet)			B Typerof Action	C Applicable Reasons See Step 3
	Category No.			(Check only one)	Above
	Asset Forfeiture (05)		A6108	Asset Forfeiture Case	2, 3, 6
ew	Petition re Arbitration (11)	_ A	A6115	Petition to Compel/Confirm/Vacate Arbitration	2, 5
Judicial Review	Writ of Mandate (02)	Ø A	A6151	Writ - Administrative Mandamus	(8)
		_ A	A6152	Writ - Mandamus on Limited Court Case Matter	2
		_ A	A6153	Writ - Other Limited Court Case Review	2
	Other Judicial Review (39)	□ <i>F</i>	A6150	Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	D #	A6003	Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	_ A	46007	Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	_ A	<b>A6006</b>	Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	_ <i>p</i>	<b>A6035</b>	Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<i>/</i>	46036	Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	_ <i>A</i>	46014	Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
	Enforcement of Judgment (20)	□ <i>f</i>	46141	Sister State Judgment	2, 5, 11
<b>#</b> #		_ A	<b>46160</b>	Abstract of Judgment	2, 6
Enforcement of Judgment		`	46107	Confession of Judgment (non-domestic relations)	2, 9
force Judg			46140	Administrative Agency Award (not unpaid taxes)	2, 8
E e			A6114	Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
•			46112	Other Enforcement of Judgment Case	2, 8, 9
<u>v</u>	RICO (27)		A6033	Racketeering (RICO) Case	1, 2, 8
Miscellaneous Civil Complaints		D /	A6030	Declaratory Relief Only	1, 2, 8
	Other Complaints	_ A	<b>46040</b>	Injunctive Relief Only (not domestic/harassment)	2, 8
	(Not Specified Above) (42)	<b>0</b> A	A6011	Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
≥ ່ວົ		_ A	<b>46000</b>	Other Civil Complaint (non-tort/non-complex)	1, 2, 8
	Partnership Corporation Governance (21)	_ A	A6113	Partnership and Corporate Governance Case	2, 8
		0	A6121	Civil Harassment	2, 3, 9
Suga Suga	Other Petitions (Not Specified Above) (43)		A6123	Workplace Harassment	2, 3, 9
कुन्तुः Miscellaneous Civil Petitions		_ <i>A</i>	A6124	Elder/Dependent Adult Abuse Case	2, 3, 9
200 100 100 100 100 100 100 100 100 100		_ A	A6190	Election Contest	2
နှံ့်င်			A6110	Petition for Change of Name/Change of Gender	2, 7
		o /	A6170	Petition for Relief from Late Claim Law	2, 3, 8
ф			A6100	Other Civil Petition	2, 9
		<del></del>			

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**Step 4: Statement of Reason and Address**: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON:			ADDRESS: 200 North Spring Street	
□ 1. □ 2. □ 3. □ 4. □ 5. □	] 6. 🗆 7. 🗀 8. Ø 9.	□ <b>10</b> . □ <b>11</b> .		
city: Los Angeles	STATE:	ZIP CODE: 90012		
p 5: Certification of	Assignment: I cer	tify that this o	ase is properly filed in theCentral	District o

Dated: December 1, 2016

(SIGNATURE OF ATTORNEY/FILING PARTY)

# PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

- 1. Original Complaint or Petition.
- 2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
- 3. Civil Case Cover Sheet, Judicial Council form CM-010.
- Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
- 5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
- 6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
- Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.