

# APPROVED

APR 15 2021

## BOARD OF RECREATION AND PARK COMMISSIONERS

**BOARD REPORT**

NO. 21-064

DATE April 15, 2021

C.D. 13

### BOARD OF RECREATION AND PARK COMMISSIONERS

SUBJECT: PARK FEES – REFUND FOR VTT-66044 AND RELATED CASE CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR – DECOMMITMENT OF PARK FEES FROM LAS PALMAS SENIOR CITIZEN CENTER – NEW SENIOR CITIZEN AND CHILD CARE CENTER (PRJ21175) (PRJ21176) PROJECT

AP Diaz	_____	M. Rudnick	_____
H. Fujita	_____	<i>for</i> C. Santo Domingo	<i>DF</i> _____
J. Kim	_____	N. Williams	_____

*M. Stuee*  
 \_\_\_\_\_  
 General Manager

Approved   X                        Disapproved \_\_\_\_\_                      Withdrawn \_\_\_\_\_

### RECOMMENDATIONS

1. Approve the refund of payment from 5545 Virginia Ave Owner, LLC for One Hundred Thirty-Seven Thousand, Sixteen Dollars (\$137,016.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
2. Approve the refund of payment from 5544 Virginia Ave Owner, LLC for Two Hundred Sixteen Thousand, Nine Hundred Forty-Two Dollars (\$216,942.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
3. Approve the refund of payment from 5637-5667 SM BI Member LLC for Two Million, One Hundred Forty Thousand, Eight Hundred Seventy-Five Dollars (\$2,140,875.00), in accordance with the detail set forth in this Report, subject to the approval of the Mayor and City Council;
4. Direct the Board of Recreation and Park Commissioners (Board) Secretary to transmit this report to the Mayor in accordance with Executive Directive No. 3 (Villaraigosa Series);
5. Approve the decommitment of Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) in Park Fees from the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project;
6. Direct the Department of Recreation and Parks' (RAP) Chief Accounting Employee or designee to, upon receipt of the necessary approvals, issue a refund check for each refund approved in Recommendations No. 1 through 3 from Fund 302, Department 89, Account 89716H WO# QT066044; and

## BOARD REPORT

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7. Authorize RAP's Chief Accounting Employee to make technical corrections as necessary to carry out the intent of this Report.

### SUMMARY

RAP is in receipt of a request for refund of park acquisition and development fees paid to RAP pursuant to Los Angeles Municipal Code (LAMC) Section 17.12 in connection with Vesting Tentative Tract (VTT) project number 66044. A refund claim (Claim No. 154475) was filed on February 22, 2021 by the current owners/applicants of the Project with VTT-66044 and related Case No. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR ("Claimant") in the amount of Two Million, Four Hundred Ninety-Four Thousand, Eight Hundred Thirty-Three Dollars (\$2,494,833.00). On February 24, 2017, RAP received three (3) checks totaling Two Million, Four Hundred Ninety-Four Thousand, Eight Hundred Thirty-Three Dollars (\$2,494,833.00) for VTT-66044, which was for a residential project located at 5661 Santa Monica Boulevard.

The three (3) checks received by RAP were in the following amounts from the following entities:

- One Hundred Thirty-Seven Thousand, Sixteen Dollars (\$137,016.00) from 5545 Virginia Ave Owner, LLC
- Two Hundred Sixteen Thousand, Nine Hundred Forty-Two Dollars (\$216,942.00) from 5544 Virginia Ave Owner, LLC
- Two Million, One Hundred Forty Thousand, Eight Hundred Seventy-Five Dollars (\$2,140,875.00) from 5637-5667 SM BI Member LLC

The provisions of LAMC Section 17.12 which was in effect at the time these Park Fee payments were made required that no final subdivision map be approved or recorded unless land within the subdivision has been dedicated to the City for park or recreational purposes, and that, as an alternative to land dedication, a fee in-lieu (Park fee) could be paid within one year after Council approves the final map.

Further, then LAMC Section 17.07 (N) instructed RAP to process and approve refunds of Park fees, upon written request of the project subdivider, if the final subdivision map was not recorded. However, it did not establish any procedures relative to how a Park fee refund request was to be reviewed, processed, and approved by RAP, nor did it describe what documentation the refund claimant would need to provide to RAP in order to guarantee that the final subdivision map would not be recorded. Additionally, it did not require that the refund request be filed on any specific form nor that it be filed by a certain date.

The City's refund provisions and procedures for certain fees are found in LAMC Sections 22.12 and 22.13. LAMC Sections 22.12(a) and 22.13(a) authorize the head of the Department to approve refunds of tax, license fees, permit fees, or application fees without the prior approval of the City Council, if such refund does not exceed a certain monetary limit. That monetary limit is subject to adjustment at the beginning of each fiscal year and the amount of the adjustment is calculated by the City Controller. The current limit of Department head refund authority is

## BOARD REPORT

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Fifty-Two Thousand, Three Hundred Seventy-One Dollars (\$52,371.00). All refunds request over that limit are subject to the prior approval of the City Council.

The Claimant has indicated that the map proceedings on VTT-66044 and related case no. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR have been terminated, as confirmed in letters from the Department of City Planning (Attachment 2) confirming such termination. Thus, in accordance with LAMC 17.12 and the previous provisions of LAMC Section 17.07 (N) which was in effect at the time the Claimant made the Park Fee payment at issue, RAP staff recommends the approval of the claim for refund of Park Fees paid to RAP.

### Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project

Previously, the Board approved the allocation and commitment of Four Million, Seven Hundred Forty-Eight Thousand, One Hundred Seventy-Nine Dollars and Six Cents (\$4,748,179.06) in Quimby and Park Fees to the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project (Report No. 18-234). The commitment of Park Fees to the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project included Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) paid in connection with VTT-66044 and CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR.

The previously approved scope of work of the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) includes the demolition of the existing senior center and the construction of new senior center and child care center (Report No. 18-234). The Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project is currently in the design phase. Design of the Project is being managed by the Architectural Division of the Bureau of Engineering (BOE).

Upon approval of this Report, Two Million, Four Hundred Forty-Seven Thousand, Eight Hundred Fifty-Nine Dollars and Thirty-Seven Cents (\$2,447,859.37) in Park Fees will be decommitted from the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project.

The total amount of funding available for the Las Palmas Senior Citizen Center – New Senior Center and Childcare Center (PRJ21175) (PRJ21176) Project will be Two Million, Three Hundred Thousand, Three Hundred Nineteen Dollars and Sixty-Nine Cents (\$2,300,319.69).

### ENVIRONMENTAL IMPACT

The proposed action consists of a financial transaction. By its nature, such transaction will have no effect on the environment. Section 21065 of the California Public Resources Code (PRC), as well as Section 15378, Chapter 19 of California Environmental Quality Act (CEQA) Guidelines define “Project” as an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, no CEQA clearance is required for this action.

## BOARD REPORT

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### FISCAL IMPACT

The approval of this Report will not have an impact on RAP's General Fund.

### STRATEGIC PLAN INITIATIVES AND GOALS

Approval of this Board Report advances RAP's Strategic Plan by supporting:

**Goal No. 7:** Maintain a Diverse and Dynamic Workforce

**Outcome No. 3:** Excellent customer service provided to all park users

**Result:** RAP's commitment to excellent customer service extends beyond the park user experience to RAP's interactions with the development community. Being responsive and expeditious regarding all Park Fee and Quimby requests is paramount to excellent customer service.

This Report was prepared by Meghan Luera, Management Analyst, Planning, Maintenance and Construction Branch.

### ATTACHMENTS

- 1) Claim for Refund Form – Claim #154475
- 2) Termination Letters for VTT-66044 and CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR

Form Gen. 85 (Rev. 2/74)

DISTRIBUTION:

- ORIG. — City Council
- DUR. — Controller (if Approved)
- TRIP. — Claimant

CITY OF LOS ANGELES  
**CLAIM FOR REFUND OVER \$5000**

Sec. 22.12 Los Angeles Municipal Code

RESERVE FOR FILING STAMP

CLAIM NO. **154475**

**NOTE:** A Claimant may be required to submit to examination under oath. (Charter Section 217.)  
Presentation of a false claim is a felony. (California Penal Code Section 72.)

**TO: CITY CLERK, Room 395, City Hall, Los Angeles 90012**

1. PRINT NAME OF CLAIMANT (Last) (First) (Middle)

5601-5667 Santa Monica Blvd. (LA) Owner, LLC (see also Attachment A)

2. BUSINESS ADDRESS (Street) (City) (State)

4700 Wilshire Los Angeles CA

3. MAILING ADDRESS (Street) (City) (Zip Code) 4. PHONE NO.

Same (323) 860-1725

5. CITY DEPARTMENT TO WHICH PAYMENT WAS MADE 6. DATE PAID 7. AMOUNT CLAIMED

Department of Recreation and Parks 2/24/2017 \$ \$2,494,833

8. STATE WHETHER RECEIPT, LICENSE OR PERMIT, ENTER NO. AND ATTACH

Receipts numbered 27197, 27696, 27198

9. LOCATION OF JOB

5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue

10. REASONS FOR FILING CLAIM (Use Supplementary sheets if necessary)

See Attachment A

STATE OF CALIFORNIA

County of Los Angeles

} ss.

being duly sworn, deposes and says:

that \_\_\_\_\_ are the claimant(s) in the above-entitled claim; that \_\_\_\_\_ have read the foregoing claim and \_\_\_\_\_ sheets attached thereto, know(s) the contents thereof, and that the same is true of \_\_\_\_\_ own knowledge, except as to the matters which are therein stated on information or belief, and as to those matters that \_\_\_\_\_ he believe(s) it to be true.

SIGNATURE AND TITLE OF CLAIMANT

DATE

2/22/2021

SUBSCRIBED AND SWORN TO BEFORE ME

SIGNATURE OF DEPUTY CITY CLERK OR NOTARY PUBLIC

this 22<sup>nd</sup> day of February 2021

**SEE ATTACHED**

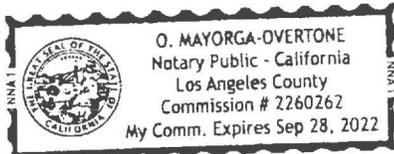
2021 FEB 23 AM 10:47  
CITY CLERK  
9/5-05

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of Los Angeles

Subscribed and sworn to (or affirmed) before me on this 22<sup>nd</sup>  
day of February, 2021, by Shaul Kuba  
Vice President

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



(Seal)

Signature

A handwritten signature in blue ink, appearing to be 'Shaul Kuba', written over a horizontal line.

## Attachment A

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

February 23, 2021

**VIA EMAIL**

Mr. Darryl Ford  
Department of Recreation and Parks  
221 North Figueroa St., Suite 400  
Los Angeles, CA 90012

Re: Claim for Refund Attachment A: Marketplace Project – Park Fees Reimbursement Request

Dear Darryl:

As we discussed during our call on January 5, 2021, 5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC, and 5545 Virginia Avenue (LA) Owner, LLC (collectively, “Owner”) is seeking a refund of the Park Fees (aka Quimby Fees) previously paid for the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue (“Property”) located in the Hollywood area of the City. The Park Fees were paid for the Marketplace project, which was approved by the City Council on August 17, 2007 (case numbers CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044; CF 07-1824) (the “Project”).<sup>1</sup>

The Project proposed the development of 437 residential units and approximately 377,900 square feet of commercial uses. In the process of clearing conditions for the Project, Owner paid to the City a total of \$2,494,833 in Park Fees on February 24, 2017. The receipt for the Park Fees is enclosed at Exhibit 1.

As a result of changing market conditions, Owner did not develop the Project and is now selling the Property and terminating the Project approvals. Owner has not obtained any building permits for the Project, has not recorded VTT-66044, and has not otherwise effectuated the Project’s Zone Change. Because the Project included a Vesting Tentative Tract Map (“VTTM”), the Project is vested under the Los Angeles Municipal Code (“LAMC”) version in effect when the application was deemed complete, which did not include a requirement that a claim for refund of Park Fees be submitted within any particular timeframe so long as the final map is not recorded.

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<sup>1</sup> Prior to the application of any extension related to the tolling of deadlines as a result of COVID-19, the Project’s approvals do not expire until August 17, 2021.

Owner is making this Claim for Refund request and concurrently has requested that the Department of City Planning terminate case numbers CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 pending confirmation from the City Attorney's Office that terminating the Project's cases will not affect Owner's right to the Claim for Refund by virtue of terminating the cases. A copy of this contingent termination request is enclosed at Exhibit 2.

A detailed justification for the refund of Park Fees is provided below.

**A. Park Fees Background**

The Project includes two conditions that provide for Park Fees. One condition is related to the VTTM and the other is related to the Zone Change:

VTT Condition C-3 provides: Prior to the recordation of the final map, the subdivider shall pay or guarantee the payment of a park and recreation fee based on the latest fee rate schedule applicable. The amount of said fee to be established by the Advisory Agency in accordance with Section 17.12 of the Los Angeles Municipal Code and to be paid and deposited in the trust accounts of the Park and Recreation Fund.

(T) Condition 10 provides: Recreation and Parks. Per Section 12.33 of the Municipal Code, the applicant shall dedicate land for park or recreational purposes and/or pay the applicable Quimby fees for the construction of condominiums, or Recreation and Park fees for construction of apartment buildings.

In satisfaction of these conditions, on February 24, 2017, Owner paid \$2,494,833 to the Department of Recreation and Parks ("RAP").

**B. Vested Version of LAMC Entitles Owner to Refund of Park Fees**

Because the Project approved in 2007 includes a VTTM, the Project is vested under the prior LAMC version in effect when the application was deemed complete. The prior LAMC did not include the City's Park Fee Ordinance 184,505, which imposed a requirement that Park Fee refunds must be requested within one year of payment and did not take effect until January 11, 2017 (*see* LAMC Section 12.33). Accordingly, the LAMC as vested and applied to the Project allows an applicant to request a refund of Park Fees at any time prior to the recordation of a final map, and if the request is made in that period, requires RAP to issue the refund. Specifically, LAMC Section 17.07(N) (as vested) provides: "[i]f the final map is not recorded, then, upon the written request of the subdivider, the Department of Recreation and Parks shall process and approve the refund of such fees to the subdivider."

LAMC Section 22.12(a), which provides that a claim for refund must be filed within 12 months of payment, does not apply to fee refunds processed under 17.07(N). It is a well settled principle of statutory construction that a general provision is controlled by one that is more specific, the more specific being treated as an exception to the general. (*See e.g. San Francisco*

*Taxpayers Assn. v. Board of Supervisors*, 2 Cal. 4th 571, 577 (1992).) Because LAMC Section 17.07(N) provides a specific rule for refunds of Park Fees prior to the recordation of a final map, Section 17.07(N) controls. Processing a refund for the Project after the 12-month period in Section 22.12(a) is consistent with how RAP processed the refund request for the Sunset & Gordon project in 2019 (CPC-2007-515-GPA-ZC-HD-CU-CUB-ZV-ZAA-SPR-SPE-SPP, VTT-68501) (discussed further below). There, RAP processed a refund request that was submitted 7 years after the developer made its Park Fees payment.

Further, the LAMC (as vested) explains that the Park Fees required “may be used *only* for the purposes of providing park or recreational sites and facilities which will serve such subdivision and the future residents therein.” (LAMC Section 17.12(E), emphasis added.) Without a subdivision for the Project or any future residents, the City lacks a basis to retain the Park Fees. Accordingly, consistent with the vested version of LAMC Section 17.07(N) the Owner is entitled to a refund of the Park Fees.

Importantly, LAMC Section 12.33.A (as vested) applies the same procedures regarding the administration of Park Fees for a subdivision to a Zone Change:

“No zoning ordinance which permits a multiple residential use shall immediately and finally rezone any property . . . until a dedication of land has been made or assured or a payment in lieu thereof made or guaranteed. The land dedicated or the payment received shall be used for park or recreational purposes and *shall be subject to the restrictions, conditions, exemptions and credits of . . . Section 17.12 of this chapter* . . . The required dedication or payment shall be in an amount calculated in the same manner as provided in Section 17.12 . . .” (emphasis added).

Therefore, when a subdivision project also involves a Zone Change and a refund is required under LAMC Section 17.00, et seq. for the subdivision, such a refund also would be required for the Zone Change. Further, since the Project’s Zone Change remains subject to a “T” Tentative classification it has never been effectuated, as discussed further below in Section E. Now that the Owner is terminating the VTTM and Zone Change, the fees that would have been required for the Zone Change under (T) Condition 10 are no longer required and should be refunded consistent with the process for subdivisions.

### **C. Processing a Refund for the Project is Consistent with Prior RAP Actions**

As noted above, processing a Park Fees refund for the Project is consistent with how RAP processed such a refund request for the Sunset & Gordon project in 2019 (CPC-2007-515-GPA-ZC-HD-CU-CUB-ZV-ZAA-SPR-SPE-SPP, VTT-68501), which was in a similar procedural position to this Project. Specifically, both projects vested under the same version of the LAMC, both projects include a VTTM and Zone Change, and both projects sought to terminate the VTTM and Zone Change and receive a refund of the Park Fees. The Sunset & Gordon project requested its Park Fees refund and terminated that project’s VTTM and Zone Change over seven years after the Park Fees payment, and the City Council approved that project’s refund.

The RAP Board Report (No. 19-158) to the Board of Recreation and Parks Commissioners makes clear that because the Sunset & Gordon project vested under a prior version of the LAMC, a refund would be processed because the VTTM had been terminated. Specifically, the RAP Board Report notes that the applicable LAMC Section 17.07(N):

“ . . . instructed RAP to process and approve refunds of Quimby fees, upon written request of the project subdivider, if the final subdivision map was not recorded. However, it did not establish any procedures relative to how a Quimby fee refund request was to be reviewed, processed, and approved by RAP, nor did it describe what documentation the refund claimant would need to provide to RAP in order to guarantee that the final subdivision map would not be recorded. Additionally, it did not require that the refund request be filed on any specific form or that it be filed by a certain date.”

Accordingly, the RAP Board Report followed the LAMC Section 17.07(N) (as vested) provisions that are specific to the refund of Park Fees rather than the more general refund provisions that are included elsewhere in the LAMC. Since the Planning Department had terminated the Sunset & Gordon entitlements, RAP recommended approval of the claim for refund of Park Fees. Similarly, once the Marketplace Project’s VTTM and Zone Change are terminated, RAP should process the refund for the Project.

#### **D. The Quimby Act and Case Law Support the Issuance of a Refund**

In addition to a refund of the Project’s Park Fees being consistent with the LAMC, issuing a refund also is consistent with the Quimby Act. The Quimby Act (Cal. Gov. Code Section 66477) authorizes local governments to impose fees for park or recreational purposes as a condition of approving a tentative tract map. (*Id.* at 66477(a).) The fees “are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.” (*Id.* at 66477(a)(3)(A).) Further, the fees “shall bear a reasonable relationship to the use of the park and recreational facilities by the future inhabitants of the subdivision.” (*Id.* at 66477(a)(5).) Courts have found that when a tentative map has been approved but a final map has not been filed or recorded, and a project is abandoned, the subdivider is entitled to a refund of Park Fees. (*See e.g. Wright Development Co. v. City of Mountain View*, 53 Cal. App. 3d 274, 375 (1975) where the court determined that because the subdivision did not come into existence, the requirement to pay the fee did not apply, and the fee should be returned.) Here, the Owner is abandoning the Project, has not recorded the final map, and has formally requested that the VTTM and Zone Change be terminated. Accordingly, because there will not be a subdivision or inhabitants on the Project site under the Project’s previously approved entitlements, the Quimby Act and case law support the issuance of a refund for the Park Fees paid for the Project.

#### **E. The City Restores Property to its Prior Zone when a Zone Change is not Effectuated**

When we spoke on January 5, you inquired into the process the City has to restore a property to a prior zone when a Zone Change is not effectuated, such as the Project’s Zone

Change. Pursuant to LAMC Section 12.32.G, the (T) Tentative Classification remains on the property subject to the Zone Change until the recordation of a final parcel or tract map or by posting of guarantees through the B-permit process of the City Engineer. While such a property remains in the (T) Classification the property only can be used “for the purposes permitted in the zone applicable to the property prior to its T Tentative classification.” (LAMC Section 12.32.G.1.d.) No other purpose is permitted. If the Zone Change is later terminated or expired, LAMC Section 12.32.G.1(h) provides that “the zoning authorized thereby shall become null and void, the rezoning proceeding shall be terminated, and the property thereafter may only be utilized for those purposes permitted prior to the commencement of the rezoning proceedings and shall be so redesignated.” LAMC Sections 12.32.G.1(j) and (k), provide the procedures for the City to restore property to its prior zoning when a (T) Tentative classification is terminated or expired.

Accordingly, once the Project’s Zone Change has been terminated the City has a process to restore the property to its prior zoning.

\*\*\*\*\*

As detailed herein, the Owner is entitled to a refund of the Park Fees. Should you have any questions about processing the refund please do not hesitate to contact me at 213.891.7758.

Very truly yours,



Duncan Joseph Moore  
of LATHAM & WATKINS LLP

Attachments

cc: Mr. Craig Bullock, Planning Director, Council District 13  
Adrienne Khorasanee, Esq., City Attorney’s Office  
Mike Dundas, Esq., City Attorney’s Office

## Exhibit 1

**BOARD OF RECREATION AND  
PARK COMMISSIONERS**

SYLVIA PATSAOURAS  
PRESIDENT

LYNN ALVAREZ  
VICE PRESIDENT

MELBA CULPEPPER  
PILAR DIAZ  
MISTY M. SANFORD

ARMANDO X. BENCOMO  
COMMISSION EXECUTIVE ASSISTANT II

**CITY OF LOS ANGELES  
CALIFORNIA**



**ERIC GARCETTI  
MAYOR**

**DEPARTMENT OF  
RECREATION AND PARKS**

EXECUTIVE OFFICE  
P.O. BOX 86328  
LOS ANGELES, CA 90008-0328

(213) 202-2833

MICHAEL A. SHULL  
GENERAL MANAGER

February 21, 2017

Oliver Baker  
CIM Group  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

Oliver Baker  
CIM Group  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

Case/Tract No: VTT-66044  
Council District No: 13  
Future Zone: (T)(Q)RAS4-2D  
Site Address: 5661 Santa Monica  
Boulevard

**PARK FEE CALCULATION**

In accordance with the provision of Section 17.12 of the Los Angeles Municipal Code, the Department of Recreation and Parks on the above date, determined that a fee in the following amount be paid or suitably granted with the Department of Recreation and Parks prior to the recordation of the final tract map or parcel map.

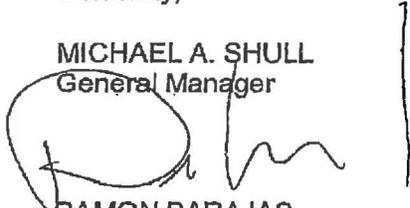
No. of dwelling units/lots approved	437 (375 and 62)
Units/Lots being requested	437 (375 and 62)
Existing zone/Future zone within project	C4-1VL & R4-1VL/(T)(Q)RAS4-2D
Fee per unit	\$5,709.00
<b>SUB TOTAL</b>	<b>\$2,494,833.00</b>
<b>TOTAL FEE TO BE PAID</b>	<b>\$2,494,833.00</b>

This calculation is based upon the current year Quimby rates. Fees may be paid prior to recordation of the final map, or may be guaranteed to be paid within one year after Council approval of the final map. If this fee is not paid by March 1<sup>st</sup>, 2017 the amount of the fee shall automatically be subject to recalculation by Recreation and Parks.

If provision to guarantee payment is desired, arrangements must be made with the Department of Recreation and Parks. In the event that final map approval does not occur within six (6) months of receipt of a guarantee of payment, the amount of the fee is subject to recalculation. Checks should be made payable to the Department of Recreation and parks and may be mailed to 221 N. Figueroa St., 4<sup>th</sup> floor. Los Angeles, CA 90012. Please attach a copy of this letter to your payment.

Sincerely,

MICHAEL A. SHULL  
General Manager

A handwritten signature in black ink, appearing to read 'Ramon Barajas', is written over the typed name and title. The signature is stylized and includes a large loop at the beginning.

RAMON BARAJAS  
Assistant General Manager

MAS/RB:wc

Cc: Reading file



City of Los Angeles  
DEPARTMENT OF RECREATION AND PARKS

No 27197

Date 02-24 2017

Received from 5637-5667 SANTA MONICA, LLC

TWO MILLION ONE HUNDRED FORTY-FOUR THOUSAND EIGHT HUNDRED SEVENTY DOLLARS \$2,140,870.00

for VTT 66044 CD 13 TR RAS4-20

5661 SANTA MONICA, B.W.

DEPARTMENT OF RECREATION AND PARKS

Account Commerica 1167

By [Signature]

Form 21



City of Los Angeles  
DEPARTMENT OF RECREATION AND PARKS

No 27696

Date 02-24 2017

Received from 5345 VIRGINIA AVE OWNER, LLC

ONE HUNDRED THIRTY-SEVENTH THOUSAND SIX HUNDRED SEVENTY DOLLARS \$137,016.00

for VTT 66044 - CD 13 TR RAS4-20

5361 SANTA MONICA, B.W.

DEPARTMENT OF RECREATION AND PARKS

Account Commerica Bank 1024

By [Signature]

Form 21



City of Los Angeles  
DEPARTMENT OF RECREATION AND PARKS

No 27198

Date 02 24 2017

Received from 5344 VIRGINIA AVE OWNER, LLC

TWO HUNDRED SEVENTY-THOUSAND NINE HUNDRED FORTY FOUR DOLLARS \$216,944.00

for VTT 66044 CD 13 TR RAS4-20

5661 SANTA MONICA B.W.

DEPARTMENT OF RECREATION AND PARKS

Account Commerica Bank 1028

By [Signature]

Form 21



## Exhibit 2

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

February 23, 2021

Ms. Jane Choi  
City of Los Angeles Department of City Planning  
200 N. Spring Street, Room 621  
Los Angeles, CA 90012  
[jane.choi@lacity.org](mailto:jane.choi@lacity.org)

Re: Termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044

Dear Jane:

Our clients 5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC, 5545 Virginia Avenue (LA) Owner, LLC are the current owner/applicants (“Owner”) of the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue.

Owner is submitting a conditional request that the Director of Planning terminate the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR<sup>1</sup> and VTT-66044 following a confirmation we have requested from the City Attorney’s Office that is described below. Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 were previously approved by the City Council on August 17, 2007 (CF 07-1824). Enclosed is a letter from the Owner confirming that Latham & Watkins, LLP is Owner’s agent for purposes of requesting the termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044. In addition, we also have enclosed a sample termination letter.

Owner will not develop the project contemplated by Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 and is seeking a refund of previously paid Quimby/Park Fees. However, the Department of Recreation and Parks will not process the Owner’s Refund Request of Quimby/Park Fees until the project has been terminated with the Department of City Planning. Accordingly, Owner is seeing termination of the prior cases subject to confirmation from the City Attorney’s Office on a single issue. Specifically, Owner’s

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<sup>1</sup> The General Plan Amendment related to Case No. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR resulted in the addition of a footnote to the General Plan Map. As the footnote has already been added to the General Plan Map, Owner is not requesting that the footnote be removed.

**LATHAM & WATKINS** LLP

termination request is contingent upon the City Attorney's Office confirming that terminating the Project's cases will not affect the application of the 2007 Los Angeles Municipal Code to Owner's Refund Request under the vested rights provided by VTT-66044. Once confirmation has been received from the City Attorney's Office, we respectfully request the termination of the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044.

Should you have any questions or if you would like any additional information please do not hesitate to contact me at (213) 891-7758.

Very truly yours.

A handwritten signature in blue ink, appearing to read "Duncan Joseph Moore".

Duncan Joseph Moore  
of LATHAM & WATKINS LLP

Enclosures

cc: Mr. Craig Bullock, Planning Director, Council District 13  
Adrienne Khorasanee, Esq., City Attorney's Office  
Mike Dundas, Esq., City Attorney's Office

5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC,  
5545 Virginia Avenue (LA) Owner, LLC  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

February 22, 2021

Jane Choi  
City of Los Angeles Department of City Planning  
200 N. Spring Street, Room 621  
Los Angeles, CA 90012  
[jane.choi@lacity.org](mailto:jane.choi@lacity.org)

Re: Termination of Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044)

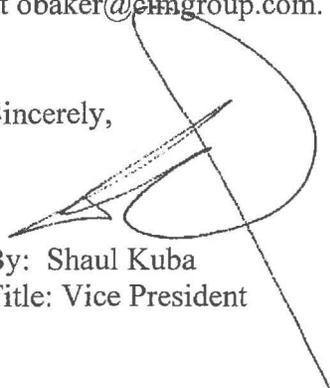
Dear Jane:

5601-5667 Santa Monica Blvd. (LA) Owner, LLC, 5544 Virginia Avenue (LA) Owner, LLC, 5545 Virginia Avenue (LA) Owner, LLC are the current owners ("Owner") of the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue.

This letter confirms that DJ Moore of Latham & Watkins, LLP is authorized to act as Owner's agent with respect to terminating Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044.

Should you have any questions or if you would like any additional information please contact me at [obaker@eingroup.com](mailto:obaker@eingroup.com).

Sincerely,



By: Shaul Kuba  
Title: Vice President

[ ], 2021

**Previous Owner/Applicant**

St. Andrews - Santa Monica, LLC  
c/o Juri Ripinsky  
4114 Sepulveda Blvd., Suite L – 2nd Floor  
Culver City, CA 90232

**Previous Representative**

Iacobellis and Associates  
11145 Tampa Avenue, Ste 10 B  
Northridge, CA 91326

**Current Owner/Applicant**

David Thompson, Vice President and Chief  
Financial Officer  
5601-5667 Santa Monica Blvd. (LA) Owner, LLC,  
5544 Virginia Avenue (LA) Owner, LLC, 5545  
Virginia Avenue (LA) Owner, LLC  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

**Current Representative**

DJ Moore  
Latham & Watkins LLP  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071-1560

**Case Number:** CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR & VTT-66044

**Address:** 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue

**Plan Area:** Hollywood

**C.D.:** 13 – O'Farrell

**CEQA No:** ENV-2005-7720-EIR; SCH 2005111018

**TERMINATED**

The current Owner/Applicant of the properties located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue has requested that the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 be terminated. Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044 were previously approved by the City Council on August 17, 2007 (CF 07-1824).

Accordingly, the Director of Planning hereby terminates the Zone and Height District Change, Zone Variance, Zone Adjustment, Determination and Site Plan Review, and Vesting Tentative Tract Map related to Case Nos. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR and VTT-66044, and directs that the cases be Terminated and the matter filed. Any portion of your fees paid to the City, if available for refund, is subject to submittal, review and approval of an appropriate claim refund application which is available online at the Department of City Planning's website: <http://cityplanning.lacity.org> or at the Department's public counters.

If you have any questions regarding this matter, please contact Jane Choi at (213) 978-1379 or [jane.choi@lacity.org](mailto:jane.choi@lacity.org).

Vincent P. Bertoni, AICP  
Director of Planning

Jane Choi  
Principal City Planner

OFFICE OF THE CITY CLERK

City of Los Angeles

Claim for Refund Form

(Over \$5,000)

Please mail the original signed form to (copies and faxes not accepted):

Address: Office of the City Clerk  
200 North Spring Street  
Room 395, City Hall  
Los Angeles, CA 90012

Hours: 8:00 am to 4:30 pm, Monday – Friday

Phone: (213) 978-1133

You may also bring the form to our Public Counter at the above address during regular business hours.

Reminder: Please make a copy for your own records.

DEPARTMENT OF  
CITY PLANNING

COMMISSION OFFICE  
(213) 978-1300

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DEPUTY DIRECTOR

LISA M. WEBBER, AICP  
DEPUTY DIRECTOR

VACANT  
DEPUTY DIRECTOR

March 26, 2021

David Thompson, Vice President and Chief  
Financial Officer (O)(A)  
5601-5667 Santa Monica Blvd. (LA) Owner,  
LLC, 5544 Virginia Avenue (LA) Owner,  
LLC, 5545 Virginia Avenue (LA) Owner, LLC  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

DJ Moore (R)  
Latham & Watkins LLP  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071-1560

RE: Vesting Tentative Tract No. 66044  
Related Case: VTT-66814 / CPC-2006-4392-  
GPA-ZC-ZV-HD-ZAA-ZAI-SPR  
CPC-2006-4401-GPA-ZC-ZV-HD-ZAA-ZAI-  
SPR

Council District: 13  
Community Plan: Hollywood

WITHDRAWAL AND TERMINATION  
RECEIVED AND FILED

Vesting Tentative Tract Map No. 66044 for the project located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue in the Hollywood Community Plan area was approved by the Advisory Agency on April 30, 2007. The Map was appealed twice, and the second level of appeal of VTT-66044 was denied and the map approved by the City Council on August 17, 2007 (CF 07-1824). The Tract Map expires on August 17, 2021.

On February 23, 2021, the Applicant through their Representative submitted a written request to terminate Vesting Tentative Tract Map No. 66044 as the Applicant is no longer pursuing the project. The Owner/Applicant has also requested that the related case (Case No. CPC 2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR) be terminated.

In view of the above, and in accordance with provisions of the State Subdivision Map Act and Section 17.03 of the Los Angeles Municipal Code, the Advisory Agency on March 26, 2021 agreed to terminate all proceedings relative to Vesting Tentative Tract No. 66044 and directed that the map be received and filed.

VINCENT P. BERTONI, AICP  
ADVISORY AGENCY

*Deborah Kahen*

Deborah Kahen, AICP  
Deputy Advisory Agency

**DEPARTMENT OF  
CITY PLANNING**

COMMISSION OFFICE  
(213) 978-1300

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LISA M. WEBBER, AICP  
DEPUTY DIRECTOR

VACANT  
DEPUTY DIRECTOR

March 26, 2021

**Owner/Applicant**

David Thompson, Vice President and Chief  
Financial Officer  
5601-5667 Santa Monica Blvd. (LA) Owner,  
LLC, 5544 Virginia Avenue (LA) Owner,  
LLC, 5545 Virginia Avenue (LA) Owner, LLC  
4700 Wilshire Boulevard  
Los Angeles, CA 90010

**Representative**

DJ Moore  
Latham & Watkins LLP  
355 South Grand Avenue, Suite 100  
Los Angeles, CA 90071-1560

Case No. CPC-2006-4392-GPA-ZC-ZV-HD-  
ZAA-ZAI-SPR

Related Case: VTT 66044, VTT-66814,  
CPC-2006-4401-GPA-ZC-ZV-HD-ZAA-ZAI-  
SPR

Addresses: 5661 W. Santa Monica Boulevard,  
5539 – 5545 W. Virginia Avenue, and 5536 –  
5542 W. Virginia Avenue  
Council District: 13  
Community Plan: Hollywood

WITHDRAWAL AND TERMINATION  
RECEIVED AND FILED

Case No. CPC-2006-4392-GPA-ZC-ZV-HD-ZAA-ZAI-SPR for the project located at 5661 W. Santa Monica Boulevard, 5539 – 5545 W. Virginia Avenue, and 5536 – 5542 W. Virginia Avenue in the Hollywood Community Plan area was approved by the City Council on August 17, 2007 (CF 07-1824). The project also included the approval of Vesting Tentative Map No. 66044. The Tract Map and the CPC entitlements expire on August 17, 2021.

On February 23, 2021, the Applicant through their Representative submitted a written request to terminate the CPC case, relative to the Zone and Height District Change, Zone Variance, Zone Adjustment, Zoning Administrator's Interpretation and Site Plan Review entitlements and VTT-66044, as the Applicant is no longer pursuing the project.

In view of the above, and in accordance with provisions of Los Angeles Municipal Code, the Planning Department on March 26, 2021 agreed to terminate all proceedings relative to the CPC case relative to the Zone and Height District Change, Zone Variance, Zone Adjustment, Zoning Administrator's Interpretation and Site Plan Review and directed that the matter be received and filed.

VINCENT P. BERTONI, AICP  
Director of Planning

*Deborah Kahen*

Deborah Kahen, AICP  
Senior City Planner