

TSO'S

DEC 5, 2016

GRIEVANCE

Subject: Tso's Grievance RE: The ERNC's November 1, 2016 Approval of The Bird Nest LLC's CUP Application Case No. ZA-2016-1406-ZAD, 1554 W. Hill Drive

From: Kerrin Tso (ktso18@yahoo.com)

To: lisa.kable.blanchard@ernc.la; executive@eaglerockcouncil.org;

Cc: thomas.soong@lacity.org;

Date: Monday, December 5, 2016 2:09 AM

Pursuant to Article XI (A) through (E) of the Eagle Rock Neighborhood Council By-Laws (ERNC By-Laws) I am filing a grievance against the Eagle Rock Neighborhood Council (ERNC) with respect to its November 1, 2016 decision and action, related to its approval to the City of Los Angeles Department of Planning and City Council District 14 of The Bird Nest LLC's conditional use permit application. This grievance is based upon the failure of both the ERNC and the Eagle Rock Neighborhood Council Land Use and Planning Committee (ERNC LUPC) to comply with the following governing documents: Los Angeles City Charter Section 900, City of Los Angeles Neighborhood Councils Rules, Standards and Best Practices, the ERNC By-Laws, The Brown Act, the Neighborhood Council Board Member Code of Conduct Policy and the Americans With Disabilities Act

Before the ERNC informs either the City of Los Angeles Department of Planning or City Council District 14 that it approved The Bird Nest LLC's conditional use permit application my grievance and any potential complaint regarding these same issues must be resolved. The ERNC immediately must advise me of any determination that it intends to proceed with the City approval process so that I may forward a copy of this grievance to both the City of Los Angeles Department of Planning and City Council District 14.

I

Two ERNC Board Members' Respective Violations of the Neighborhood Council Board Member Code of Conduct Policy

David Greene and Chloe Renee Zielger's bias against 200+ Eagle Rock stakeholders, who signed over 200+ petitions' opposing The Bird Nest LLC's permit application, violated the City of Los Angeles Neighborhood Council Board Member Code of Conduct Policy. Please note that all supporting documents will be presented to the Ad Hoc Grievance Panel that is to be randomly selected.

A. Violations of Chloe Renee Ziegler, an ERNC Board Member

On November 3, 2016, at 2:59 pm Chloe Renee Ziegler, an ERNC board member, wrote disparaging remarks about me to Matt Hemingway, another ERNC board member. When the vote was taken by the ERNC Board regarding The Bird Nest LLC's permit application at the November 1, 2016 ERNC Board meeting Mr. Hemmingway was the chairperson. In addition to Ms. Ziegler's comments about me that I will present to the Grievance Panel, Ms. Ziegler's prejudice against the adjacent neighbors and surrounding neighbors of the proposed project is evidenced by her statement as follows:

"Basically, the neighbors dream of NOTHING ever happening there, the property to stay as is, and the

current owner to continue to pour in thousands of \$\$ for their peace of mind and *privileged life style*. *I think that we should open a center for homeless people and drug users, and prostitutes, and recovering KKK and Scientology members.* I hope that you back my plan when I next present it. Faithfully yours, CRZ." (Italics only added.)

In that same writing Ms. Zielger expresses her belief that only "the Catholic Church" will prevent "all the options she fears might come true" - the "she" being me. Clearly, Ms. Ziegler was/is not an advocate for the Eagle Rock stakeholders' living adjacent to the former Bekin's estate and the surrounding neighbors of the former Bekin's Estate. Instead it may reasonably be deduced that Ms. Ziegler was/is an advocate of the Catholic Church. During the November 1, 2016 ERNC meeting Ms. Zielger also treated me with lack of respect as evidenced by her repeatedly and inappropriately asking me what I personally wanted to have constructed at the site. All of the aforementioned actions of Ms. Zielger violate the City of Los Angeles Neighborhood Council Board Member Code of Conduct Policy, City Charter Section 900, the Eagle Rock Neighborhood Council By-Laws and the City of Los Angeles Neighborhood Councils Rules, Standards and Best Practices.

B. Violations of David Greene, Chair of the ERNC LUPC, Immediate Past President of the ERNC and ERNC Board Member

David Greene, Chair of the ERNC LUPC, Immediate Past President of the ERNC and ERNC Board Member, chaired the October 18, 2016 ERNC LUPC meeting that recommended approval of The Bird Nest LLC's permit application for religious use. Following that meeting on October 24, 2016, Katrina Perez, a member of the ERNC LUPC, informed Mr. Greene that she was "impressed with the volume of signatures" - as of that date only 106 petitions all in opposition to The Bird Nest LLC's project had been presented at the October 18, 2016 ERNC LUPC meeting. On October 24, 2016, Mr. Greene wrote to Ms. Perez the following: "*A straight up NIMBY vote will not get the neighbors what they want, which is the status quo.*" (Italics only added.) Mr. Greene's describing the adjacent neighbors and surrounding neighbors of the former Bekin's Estate as simply presenting a "not in my backyard" position demonstrates Mr. Greene's lack of respect for each one of the petitioners in opposition to the project in violation of the City of Los Angeles Neighborhood Council Board Member Code of Conduct Policy, City Charter Section 900, the Eagle Rock Neighborhood Council By-Laws and the City of Los Angeles Neighborhood Councils Rules, Standards and Best Practices.

II

The Brown Act Violations

Subsequently, on October 28, 2016, Mr. Greene recommended to Brian Bowman, another member of the ERNC LUPC, that Mr. Bowman should copy Mr. Greene or the "whole LUPC" on any explanation of Mr. Bowman's vote to "a citizen" regarding The Bird Nest LLC's permit application because Mr. Greene stated "these kinds of direct emails are often fishing expeditions for perceived shenanigans. Sunlight usually keeps the conspiracy theories down to a minimum". Shortly thereafter, Mr. Bowman sent Mr. Greene, the ERNC, the ERNC LUPC, Lisa Kable Blanchard, Chair of the ERNC, an explanation of his vote on October 18, 2016 to recommend approval of The Bird Nest LLC's permit application for religious use; Mr. Bowman's October 28, 2016 communication constitutes a violation of The Brown Act. Interestingly, Mr. Bowman also voiced his opinion that I had "a lot of criticism of Mr. Greene almost in a conspiritorial (sic) sense".

Mr. Greene's October 28, 2016 written response and advice to Mr. Bowman appears to reference Mr. Greene's October 26, 2016 written explanation to Ms. Kable Blanchard, the ERNC, the ERNC LUPC

that extensively describes what Mr. Greene believed occurred at the October 18, 2016 ERNC LUPC meeting. Mr. Greene lengthily explained "what the recommendation the ERNC Land Use committee made after the meeting last week". Mr. Greene's long written explanation provided to the ERNC (and ERNC LUPC) members before the ERNC November 1, 2016 meeting violated The Brown Act. On October 26, 2016, Mr. Greene extensively discussed his point of view and argued his personal opinions. Two other ERNC LUPC members, James Panozzo and Mr Bowman, sent out additional follow-up communications to both the ERNC (and ERNC LUPC) members regarding Mr. Greene's improper communication, thus constituting two additional Brown Act violations. The Brown Act prohibited/prohibits Mr. Greene, Mr. Panozzo and Mr. Brown "from engaging in any form of communication among one another outside of a public meeting that leads to a majority developing a concurrence on an action to be taken."

Given his official status Mr. Greene knew and knows that the "purpose of the Brown Act is to avoid secrecy in government. Neighborhood Council board members and committee members are representative of the stakeholders in their area. The discussions and actions of the Neighborhood Council must be conducted at publicly noticed meetings." Government Code Section 54952.2.

"Government Code Section 54950 states: 'In enacting this chapter the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.'" Mr. Greene's October 26, 2016 illegal written communication distributed information to the ERNC in order for that governmental body to "gather information or formulate a point of view on" The Bird Nest LLC's permit application, i.e., "an issue that is within the subject matter jurisdiction" of the ERNC before the ERNC's meeting on November 1, 2016 to address that specific permit application.

By way of background, on October 26, 2016 at 2:19 pm Mr. Greene also sent me the improperly distributed information, which he previously sent to the "Boulevard Sentinel about the Bekins case". In that illegal communication Mr. Greene also gave his opinion about the 106 petitions, which opposed the project. He stated as follows: "At the meeting, we received 2 different sets of written petitions. One that was a straight up objection to the case, and another that included language about a hotel/homeless shelter use, *which was misleading and not helpful to the discussion....* In the end, after talking to many neighborhood residents, *it seemed that on the whole, they wouldn't mind the retreat use*, if there were no major construction on the site, and if the size of any new building matched what the Archdiocese has been saying -- which is that it will be used for 8-10 priests at a time. Building 25 hotel-like rooms doesn't match that claim, and the developers had no good reason for why it was necessary, other than saying that it was 'what the Archdiocese wanted.'" (Italics only added).

A. The Archdiocese of Los Angeles' Identification of This Project as a "hotel/motel" with 23-25 Guest Rooms

Facts establish Mr. Greene's erroneous information to the ERNC, the ERNC LUPC, the press and me on October 26, 2016. First, the Archdiocese of Los Angeles is the applicant on the Environmental Assessment Form for the Project at 1554 W. Hill Drive, Los Angeles, CA 90041. On April 14, 2016, both Robert Kvassay and Tom Stemnock swore and stated that the Project at 1554 W. Hill Drive was not a "Residential project". The Project was listed as a "Commercial, Industrial or Other Project".

Included in that Commercial, Industrial or Other Project Section was a category labeled "Number of units if hotel/motel"; Under that "Number of units if hotel/motel" Mr. Kvassay and Mr. Stemnock marked 23-25 guest rooms, 3 stories, 40 foot height, 27 parking spaces, 9-5 hours of operation, 5 days a week, 2 Chapels- 15 seats and 50 seats, 6-8 employees per shift, Security lighting, gated driveway.

Contradicting the Archdiocese of Los Angeles representative's sworn statement set forth in the April 24, 2016 Archdiocese's Environmental Assessment Form, the *approved October 18, 2016 minutes of the ERNC LUPC* state that the Archdiocese "requests:...A 28' 25-bedroom house."

B City's Project Description of a "25 Room Hotel on Single Family Home Site"

On April 25, 2016, shortly after The Bird Nest LLC filed its permit application and after the Archdiocese filed its Environmental Assessment Form on April 24, 2016 (curiously for the same project) Weston Pringle, a *City Department of Transportation staffer, identified the proposed facility on the Eagle Rock Property as a "Hotel"* in the Traffic Study Assessment by the City Department of Transportation, that was included in one of the 6 attachments presented in my opposition to info@ernc.la before the October 18th ERNC LUPC meeting. On April 21, 2016, Katheryn Hudson filed an application on behalf of The Bird Nest, LLC for the City to grant The Bird Nest, LLC a conditional use permit "for the construction and operation of a Religious Retreat Facility in the R1-1 zone" located on the "irregularly shaped" 2.8 acre "Single Family home site" at 1554 Hill Drive, Los Angeles, CA 90041. Neither The Bird Nest, LLC nor Ms. Hudson nor the Archdiocese of Los Angeles currently owns the Eagle Rock Property.

The Bird Nest LLC's conditional use permit application seeks the City's authorization to construct in a "R1-1 Zone" a three story 30,300 square foot hotel with 23-25 bedrooms and 23-25 separate baths; a large kitchen, two dining rooms, meeting rooms, offices, two chapels and 27 covered parking spaces; however, the ERNC failed to consider that the Environmental Assessment Form for that same project identifies The Archdiocese of Los Angeles as being the applicant "requesting the conditional use permit.

C. Speakers at the October 18, 2016 ERNC LUPC Meeting Rebut Mr. Greene's Illegal Communication With the ERNC

Since I was not at the meeting I forwarded Mr. Greene's communication to two persons, who were present at the October 18, 2016 ERNC LUPC meeting. Both were clear that there was no evidence that "the neighborhood residents wouldn't mind the retreat use." Included below is one response:

"The Bekins portion was 2 hours at the most. This came after 1+ hours of the Oxy recreational center presentation. There was a man in the front row who was a first time attendee. He lives on Mt Washington and "owns a house on Eagle Vista". His main concerns were crowd noise and light pollution and took over the conversation with David Greene. This went back and forth without restriction. During the Bekins presentation, there were 16+ against the CUP, no one was for it, until this man from Mt Washington took over again and suggested 25 small cottages or other buildings for the retreat. As the night wore on, over 1/2 left. All were against the CUP.

NO indication or evidence "that on the whole, the neighborhood residents wouldn't mind the retreat use". 2. There will be major construction on site. 3. The 25 hotel-like rooms are the key to eventual usage!

Building 25 homes is not an option and a scare tactic. The owner stated he will NOT tear down the estate, and it would be foolish to do so. There is a third option, keep the estate and build 6 or 7 high-end homes on the remaining building sites."

Included below is another response:

"I beg to differ in David's assertion that 'on the whole, they wouldn't mind the retreat use...' On the contrary, several of the speakers that night, myself included, objected to the project in its entirety. There was indeed talk later in the night about reducing the size of the project but, even with that caveat, there was no indication that the majority (or whole) of residents in attendance were okay with the retreat use.

David indicates that developers had no good reason for why a 25 room hotel is necessary, but I recall discussion that night that they needed a hotel that large because they were planning on having a group gathering of 40 or more Bishops at the retreat at least twice a year. This, in an R-1 zoned area!"

D. Mr. Greene's Written Communications With "the potential developers of the Bekins Estate RE: HCM Status Before the October 18, 2016 ERNC LUPC Meeting

On November 28, 2016, I became aware of the following:

1) On July 6, 2016 Mr. Greene sent Mr. Stemnock and two other people (names redacted on my copy) a letter, informing them that on July 5, 2016, the ERNC "voted unanimously to request that the owner(s) and applicant in this case formally apply for Historic-Cultural Monument status for the property and grounds, as per Sec. 22.171.10 of the LAMC.... The application for HCM status must be made before" the ERNC LUPC and ERNC "will schedule a vote on this case, and therefore before a formal recommendation is made to the Planning Department about the Conditional use Permit and Director's Determination being requested." Office of Councilmember Jose Huizar was copied. An inquiry should be made as to whether Mr. Greene posted this July 6, 2016 letter on the ERNC's website.

2) Two months later on September 8, 2016, Mr. Greene wrote: "Hi all, Forwarding you a letter from the potential developers of the Bekins Estate, regarding the ERNC's request that HCM status be applied for...I went ahead and highlighted the relevant sections, amid the chaff and misdirection. (Spoiler: They said No.)" That same date, Kevin Ocubillo responded, "Hello, Thanks for sharing David. I just gave it a read." The ERNC provided me with no documents to indicate who "all" were in Mr. Greene's September 8, 2016 message so it is unknown if this constituted a Brown Act violation. An inquiry also should be made as to whether Mr. Greene posted the "letter from the potential developers of the Bekins estate" on the ERNC website. Additionally, an inquiry should be made as to whether Mr. Greene produced the letter to either the ERNC or ERNC LUPC at any of those entities' respective meetings. Any failing to do so would constitute a Brown Act violation.

E. Social Media

A review of the following persons' postings on social media sites, including on a neighborhood social media site known as Next Door, also will show violations of The Brown Act: Dave Greene, Matt Hemingway, Suzanne Smith, another ERNC Board member, as well as any and all ERNC Board members, who posted comments, opinions and information on social media websites before the November 1, 2016 ERNC meeting. All of their communications would constitute violations of The Brown Act. There also was an alleged ERNC member, who identified himself as Hans Von Wienerhshnitzel on social media; a determination as to who that person is should be made in reviewing

this grievance.

III

The ERNC's Violations of City Charter Section 900 and Article II of the Eagle Rock Neighborhood Council By-Laws

The ERNC did not "make government more responsive to local needs" when it voted to approve The Bird Nest LLC's conditional use permit application. Before the November 1, 2016 ERNC members' vote regarding The Bird Nest LLC's permit over 290 petitions, which opposed approval of the permit, had been presented to the ERNC:

- 1) On October 18, 2016, Frank Defoe, an Eagle Rock stakeholder, presented 106 petitions in opposition to the permit at the ERNC LUPC meeting.
- 2) Before the November 1, 2016 ERNC meeting I sent to each of the members 125 scanned petitions in opposition to the permit.
- 3) At the November 1, 2016 ERNC meeting I presented an additional 59 petitions in opposition to the permit. Since Councilman Huizar's deputy had the 106 petitions, presented on October 18, 2016, in her back seat on November 1, 2016, despite my request to inspect those 106 petitions I was not given access in order to determine which petitions were duplicates before the November 1, 2016 ERNC meeting.

The aforementioned petitions, which all opposed The Bird Nest LLC's permit application set forth the local needs of adjacent owners residing next to the property at 1554 Hill Drive, Los Angeles, owners/residents within 500 feet of the property at 1554 Hill Drive, Los Angeles, the surrounding neighborhood of the property at 1554 Hill Drive, Los Angeles, Eagle Rock residents, retirees, realtors, teachers, and others in the Eagle Rock community; all of the 290 petitions opposed/oppose approval of The Bird Nest LLC's conditional use permit. Rather than deny The Bird Nest LLC's conditional use permit application (allegedly authorized by Los Angeles Municipal Code Section 12.24 W.9 to build a church) the ERNC voted to approve that permit on November 1, 2016. In doing so the ERNC made no finding that The Bird Nest LLC had a "lasting interest in the completed project" (as required in the application).

The ERNC's approval of the permit evidences complete disregard for the stated concerns of the Eagle Rock stakeholders that are required conditional use permit findings:

- The project will not "enhance the built environment in the surrounding neighborhood".
- The project will not "perform a function or provide a service that is essential or beneficial to the community, city or region".
- The project's "location, size, height, operations and other significant features" will not be "compatible with the adjacent properties and the surrounding neighborhood".

As a result, the ERNC failed to comply with both City Charter Section 900 and its own mission

statement. The ERNC did not assure "effective Stakeholder participation and interaction" regarding "the decision-making" involved with The Bird Nest LLC conditional use permit application.

IV

The Eagle Rock Neighborhood Council's Violation of Article II (B)(8) of the Eagle Rock Neighborhood Council By-Laws by Failing to Have Fair, Open and Transparent Procedures Regarding Its Review of The Bird Nest LLC's Permit Application

A. Eagle Rock Neighborhood Council's Failure to Communicate With Adjacent Neighbors and Neighbors Within 500 Feet of The Project, a 3-Story 30,300 Square Foot Hotel at 1554 Hill Drive

Shortly before the October 18, 2016 ERNC LUPC meeting to consider The Bird Nest LLC's Conditional Use Permit Application my mother, received a Notice of Public Meeting. That notice was mailed on October 10, 2016 from Santa Clarita, CA, and succinctly informed my mother that the ERNC "will discuss and vote on the entitlement of the application above" on October 18, 2016, and November 1, 2016. On October 26, 2016, David Greene, Chairperson of the ERNC LUPC and Immediate Past President of the ERNC informed me, "The notice you received in the mail *was sent by the applicant*. The ERNC requires this of all applicants."

Since the ERNC seemingly made no inquiry it remains unknown if the applicant provided notice to all adjacent neighbors to the property and other neighbors within 500' of the property at 1554 Hill Drive. It also is unknown if any board member of the ERNC asked the applicant for any proof as to who received notice. Additionally, the ERNC also has yet to explain why the applicant provided late notice to adjacent neighbors to the property at 1554 Hill Drive and possibly other neighbors within 500' of the property at 1554 Hill Drive.

The ERNC's lack of communication and lack of outreach regarding The Bird Nest LLC's project to construct a 3-Story 30,300 Square Foot Hotel at 1554 Hill Drive did not "occur in a timely manner, allowing stakeholders enough time to learn about issues and provide feedback" to the ERNC. As a result, the ERNC violated the City of Los Angeles Neighborhood Councils Communications Rule (Charter Section 906(a)(4); Plan Art. III, Sec. 2 (c)(iii)(3)) and the Standards and Best Practices for Following the Rule. The ERNC's lack of any outreach to improve stakeholder involvement in this important land use issue also should be considered in this grievance: No forum was conducted by either the ERNC LUPC or the ERNC before October 18, 2016 and November 1, 2016, respectively, and no door to door outreach was conducted by either the ERNC LUPC or the ERNC before October 18, 2016 and November 1, 2016, respectively.

Additionally, the ERNC itself did not provide relevant communication to many Eagle Rock stakeholders "with facts about" the 3-Story 30,300 Square Foot Hotel "an issue of concern" to Eagle Rock stakeholders "and possible action by city government" before the ERNC LUPC October 18, 2016 meeting and the ERNC November 1, 2016 meeting. That lack of communication constitutes a separate violation of the City of Los Angeles Neighborhood Councils Communications Rule (Charter Section 906(a)(4); Plan Art. III, Sec. 2 (c)(iii)(3)) and the Standards and Best Practices for Following the Rule. Instead the ERNC delegated its outreach duties to the agent and representative of The Bird Nest LLC.

Given Mr. Greene's terse response to me regarding the late notice I recently asked Tom Stemnock of The Planning Associates, Inc. why The Bird Nest LLC sent late notice to adjacent neighbors to 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive and other neighbors within the circle on the

radius map before the October 18, 2016 ERNC LUPC meeting. I have attached the radius map below. Mr. Stemnock is the agent and representative of The Bird Nest LLC as well as the lobbyist for the Archdiocese of Los Angeles. As a land use planner Mr. Stemnock is undoubtedly very familiar with the strict notice requirements set forth in Section 12.24 of the Los Angeles Municipal Code and the ERNC's similar notice requirement. I also requested an explanation from Mr. Stemnock as to why the circle on the radius map, depicting the former Bekins Estate at 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive, Los Angeles, CA 90041, does not extend 500 feet beyond the "boundaries of the property" i.e., 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive, Los Angeles CA 90041. I asked Mr. Stemnock to confirm that The Bird Nest LLC used this map to provide notice to adjacent neighbors as well as certain other neighbors, who reside 500 feet beyond the extensive "boundaries of the property". To date I have not received any response from Mr. Stemnock.

On November 28, 2016, I explained to Lisa Kable-Blanchard, Chairperson of the ERNC, that simply using a google map to determine the distance from one home to 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive would be inaccurate because the distance begins from any exterior boundary of the former Bekin's Estate as shown by the circle on the attachment. Given the scale on the attachment "within 500 feet of the exterior boundaries of the property involved" would be an additional 2.5 inches from each side of the circle, marking all of the extensive boundaries of No. 70, i.e., the former Bekin's Estate at 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive. The attached map depicts Portion of Lot 2, Tract No 532, and portion of Lot 59, Watts Subdivision of a part of the Rancho San Rafael M.R. 5-200-201, i.e., the former Bekin's Estate.

Notwithstanding The Bird Nest LLC's obligation to provide notice to neighbors within 500 feet of the boundaries of the former Bekin's Estate the ERNC failed to address the procedural flaws with Mr. Stemnock regarding the late notice given by The Bird Nest LLC to adjacent neighbors to 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive and neighbors within 500 feet from all exterior borders of the large 124,319 square foot property.

To have a fair and transparent process the ERNC should have confirmed that The Bird Nest LLC provided notice to all adjacent neighbors to the property as well as other neighbors within 500' of the exterior boundaries of the property at 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive. Since the ERNC delegated its obligations to The Bird Nest LLC the ERNC should have at minimum questioned why the notice was mailed from Santa Clarita on October 10, 2016 when the ERNC LUPC meeting was scheduled on October 18, 2016 to discuss and vote on this important issue, involving the property rights of adjacent neighbors and surrounding neighbors of the property at 1550 Hill Drive, 1554 Hill Drive and 5332 N. Dahlia Drive.

Included in the grievance is an issue as to whether the ERNC posted the meeting agendas regarding The Bird Nest LLC conditional use permit application in 5-7 physical locations before either the ERNC LUPC October 18, 2016 meeting or the ERNC November 1, 2016 meeting. The ERNC's failure to do so would violate City of Los Angeles Neighborhood Council Meetings Rule 4 pursuant to Commission Policy # 2010-02.

B) David Greene's Failure to Post My Opposition at info@ernc.la Before the October 18, 2016 ERNC LUPC Meeting

Mr. Greene's previously described NIMBY characterization of Eagle Rock stakeholders and my alleged "fishing expedition" for "perceived shenanigans" also must be considered when addressing his violations of the ERNC By-Laws. The "applicant's notice" mailed out to my mother on October 10,

2016, from Santa Clarita specifically stated that I could send my comments regarding The Bird Nest LLC's conditional use permit application to info@ernc.la, and I did so on October 16, 2016 as soon as I was able to prepare an opposition. Please see the attached notice below. My October 16, 2016 opposition was based upon facts with supporting documentation that I will present to the grievance panel.

For over a month I have been trying to determine if David Greene posted my "comments"/opposition sent on October 16, 2016 to info@ernc.la before the ERNC LUPC October 18th meeting. I was at a work conference on October 18, 2016, and I was unable to attend the October 18th meeting; however, I assumed that my opposition would be included for consideration. Three members of my family attended the October 18th ERNC LUPC meeting, and they believed that the land use committee members present at the meeting chose to ignore my lengthy opposition with 6 attachments. I have contacted many of the ERNC LUPC members to determine if any member received my opposition, and I contacted all seven of the ERNC LUPC members, who attended the October 18, 2016 meeting. Five of the seven members of the ERNC LUPC, who attended the October 18, 2016 meeting, did respond to me; those five members of the ERNC LUPC replied that they did not receive my opposition and the supporting documentation in the 6 attachments. Therefore, *at least five of the seven ERNC LUPC members, who attended the October 18th meeting, did not review my opposition and the 6 attachments before the October 18, 2016 ERNC LUPC meeting.*

On October 26th, 2016, Mr. Greene and I exchanged a few email messages in my attempt to determine if he posted my opposition. Mr. Greene responded, "I'll have to check to see what I forwarded to whom... I know I forwarded your email and materials, and redacted your name and return address, but not sure who all received it." To date Mr. Greene has not provided me with any additional response.

On November 28, 2016, I learned the following:

- 1) On October 19, 2016, Tom Stemnock, who presented The Bird Nest LLC's position at the ERNC LUPC October 18, 2016 meeting sent David Greene an email requesting "the petitions that were submitted last night".
- 2) On October 19, 2016, six minutes after Mr. Stemnock sent his request Mr. Greene forwarded to "Tom" my opposition, which I sent to Mr. Greene on October 16, 2016 before the ERNC LUPC meeting. Mr. Greene did not redact my mother's name from the first sentence in my opposition when he improperly forwarded my opposition to Tom, who is the lobbyist for the Archdiocese as well as agent and representative of the applicant, The Bird Nest LLC. The opposition, which Mr. Greene sent to Tom, was my opposition that I addressed to the ERNC LUPC members only on October 16, 2016. As required by the notice I addressed that opposition to info@ernc.la for posting and for all the ERNC LUPC members to review before the October 18, 2016 meeting: NOT the Archdiocese's lobbyist and the representative of The Bird Nest LLC.
- 3) Mr. Greene posted the agenda for the October 18, 2016 ERNC LUPC meeting on October 18, 2016 - two days after he received my opposition as evidenced by his email to Tom when he forwarded my opposition to him. Questionably, Mr. Greene failed to include my October 16, 2016 opposition when he posted the ERNC LUPC October 18, 2016 agenda on October 18, 2016.
- 4) On October 21, 2016, Mr. Greene then forwarded my opposition to an unknown person (name redacted from my copy) with copies to Kevin Ocubillo, Transportation and Planning Deputy of

Councilman Jose Huizar, Executive@ernc.la, Sean Starkey, Field Deputy of Councilman Jose Huizar and Zenay Locra, another Field Deputy of Councilman Jose Huizar. Rather than post my opposition to The Bird Nest LLC's permit application to the members of the ERNC LUPC (to whom I directed my opposition) Mr. Greene unilaterally and improperly decided to send my opposition to Tom, the agent and representative of The Bird Nest LLC and lobbyist for the Archdiocese of Los Angeles; an elected City politician's office, i.e., City Councilman Huizar's Office and some other unknown person or entity. "The Charter's purpose of creating a Neighborhood Council system was to promote more *citizen* participation, i.e., private .community members." Mr. Greene's forwarding my opposition to City Councilman Huizar's Office on a "politically" charged permit violated the primary purpose of the City Charter as it relates to neighborhood councils in Los Angeles.

Mr. Greene's improper disclosure of my mother's name to Tom Stemnock and City Council District 14 members also constitutes an unwarranted invasion of her personal privacy. Without either my permission or my mother's permission Mr. Greene provided my mother's personal information as set forth in my opposition, which I addressed only to the members of the ERNC LUPC before that committee's October 18, 2016 meeting. For the same reason that elected City officials are excluded from serving on the ERNC Mr. Greene's actions did not promote more citizen participation. Instead the current Chair of the ERNC LUPC, Immediate Past President of the ERNC and ERNC board member took it upon himself to unilaterally forward both a private community member's opposition to the project to an elected politician's office as well as petitions signed by private community members. on an issue, which Mr. Greene acknowledged as involving "so much political power".

C) 106 Petitions Presented in Opposition to The Bird Nest LLC's Conditional Use Permit Application on October 18, 2016 and the October 18, 2016 ERNC LUPC Meeting Speakers' Cards

On October 16, 2016, I requested David Greene to set forth on the record how many Eagle Rock stakeholders were in support of the permit application at the October 18th ERNC LUPC meeting; I also advised him that the names of those supporters should be included as part of The Bird Nest LLC's permit application. Mr. Greene did not comply with my written request. Even though speakers cards were filled out at the October 18, 2016 ERNC LUPC meeting the ERNC currently has none of those speakers cards, which are public documents. Included in the ERNC LUPC meeting minutes of October 18, 2016 is only one reference to "106 petitions, ... submitted to the LUPC". No mention is made that the 106 petitions submitted were all in opposition to The Bird Nest LLC's permit application. On October 18, 2016, no petitions were submitted in support of The Bird Nest LLC's permit application.

Even though David Greene informed Frank Defoe in writing that Mr. Greene would bring the petitions presented (to the ERNC LUPC on October 18, 2016 in opposition to The Bird Nest LLC's permit application) to the ERNC November 1, 2016 meeting Mr. Greene did not attend the ERNC November 1, 2016 meeting. NO ONE from the ERNC LUPC brought the 106 petitions, which Mr. Defoe presented on October 18, 2016. Before the November 1, 2016 ERNC meeting I asked to see the petitions, which Mr. Defoe presented, and I was told to contact Sean Starkey, field deputy to Councilman Jose Huizar because Councilman Huizar's office had the 106 petitions. On November 1, 2016, when I spoke with Mr. Starkey he told me that I would not be able to see the opposition own petitions because they were in the backseat of another one of Councilman Huizar's field deputies' car. I was not able to inspect the 106 petitions, which Mr. Defoe presented, until November 28, 2016. Since November 2, 2016, I made a request to inspect the 600+ petitions, which Robert Kvassay presented to the ERNC..On December 1, 2016, the ERNC finally provided me with copies of the petitions, which Robert Kvassay presented to the ERNC on November 1, 2016.

On November 28, 2016, I learned that on October 21, 2016, Mr. Greene scanned all of the 106 petitions, presented to the ERNC LUPC members on October 18, 2016, and sent those scanned petitions to an unknown person (name redacted from my copy), Kevin Ocubillo, Sean Starkey, Zenay Loera - all field deputies of Councilman Jose Huizar. Therefore, City Council District 14 received scanned copies of all 106 petitions even though Mr. Greene provided the original 106 petitions to Councilman Huizar's office. On October 26, 2016, Mr. Greene implied to the ERNC, ERNC LUPC and the Boulevard Sentinel that Mr. Greene reviewed the 106 petitions at the October 18, 2016 ERNC LUPC meeting; however, that was not the case as evidenced by the following:

1) On October 19, 2016, Tom Stemnock wrote to Mr. Greene, "David, Just a reminder regarding the petitions that were submitted last night. Could you please forward them to me? Thanks, you run a good meeting!" In stark contrast to Mr. Greene's lack of response to me, Mr. Greene responded to Mr. Stemnock's message *six minutes later*! Mr. Greene provided Mr. Stemnock not only my opposition but also "a blank copy of the petition, that was presented to the LUPC last night".

2) On October 21, 2016 at 3:32 pm, three days after the ERNC LUPC meeting, Mr. Greene wrote to an unknown person (name redacted on my copy), Kevin Ocubillo, the executive team of the ERNC, Sean Starkey and Zenay Loera the following: *"Follow up: I just noticed that the paper petitions include additional language that was not on the emailed version. Attached is a scan. These are the petitions that were signed by residents. Copying to Zenay and Sean at CD-14. David"*. Based upon this evidence, Mr. Greene failed to review and consider the petitions, presented on October 18, 2016, until he scanned and forward the petitions and my opposition (without redacting my mother's name) to unknown persons and Council District 14 three days after the ERNC LUPC meeting!

Mr. Greene's bias in favor of The Bird Nest LLC and The Archdiocese of Los Angeles is demonstrated by his quick response to Tom Stemnock regarding the petitions - unbelievably 6 minutes from the time of delivery. In stark contrast, it was necessary for me to present a Public Records Act in order to inspect the same scanned 106 petitions, presented on October 18, 2016. I was not given access to the 106 petitions until November 28, 2016! In addition, the ERNC required payment from me for copying the petitions under that same act even though the same had been scanned and presented to others. It also was necessary for me to present a Public Records Act request to inspect the petitions, which Robert Kvassay presented to the ERNC on November 1, 2016. Even though I requested to see those 600+ petitions on November 2, 2016, the ERNC failed to provide them until the evening of December 1, 2016, after the ERNC consulted with the City Attorney's Office.

When reviewing my grievance it should be noted that after Mr. Greene provided Mr. Stemnock, Council District 14 and an unknown (to me) person with the 106 petitions, presented to the ERNC LUPC members on October 18, 2016, St. Dominic's Church in Eagle Rock included a flyer in its October 30, 2016 church bulletin regarding "The Catholic Archdiocese of Los Angeles House of Prayer's" open house that same day at 1554 Hill Drive. A cursory review of the petitions, presented by Mr. Kvassay on November 1, 2016 that he obtained on October 30, 2016 show a similarity in format to the petition, which I drafted, as well as the format of the petition in opposition to the project with text Mr. Greene stated in his illegal communication were "misleading and not helpful to the discussion".

Pointedly, it was/is absolutely unfair and inconsistent for Mr. Greene to comment on the stated concerns of 106 petitions' opposing the project because they were extremely concerned that their property will be devalued and traffic will increase. The Eagle Rock stakeholders, who oppose the

project, also are very concerned that a conditional use permit could be amended in the future to allow rental apartments, a substance abuse treatment center or even a homeless shelter despite its being in a residential zone. Instead the approved October 18, 2016 ERNC LUPC minutes focus upon the following: "The Kvassay Family Trust currently pays \$20K/ month to maintain this property. Years ago they received an offer to tear down the house and develop the property to become 20 to 25 houses." Rather than bringing both concerns to the discussion it was unfair to address only the potential development of 20-25 homes on the site.

All of the aforementioned actions demonstrate that the ERNC and Mr. Greene did not act in a fair, open and transparent manner with respect to the procedures involved in the business of reviewing The Bird Nest LLC's permit application in violation of the Eagle Rock Neighborhood Council By Laws Article II (8).

D) Lack of a Quorum at Both the October 18, 2016 ERNC LUPC Meeting and the November 1, 2016 ERNC Meeting

The ERNC violated Eagle Rock Neighborhood Council By Laws Article VII Section 1 (E) because it failed to have two ERNC Directors, "as nominated by the Board" to co-chair the ERNC LUPC on October 18, 2016. Eagle Rock Neighborhood Council By Laws Article VII Section 1 (E) also sets forth that the ERNC LUPC "shall consist of up to seventeen members." The Eagle Rock Neighborhood Council By Laws Article VII Section 1 (E) also fail to establish what constitutes a quorum for any ERNC LUPC meeting. Given the aforementioned provisions a proper quorum would be nine members. Accepting the ERNC LUPC's "eventually declared" quorum of seven members on October 18, 2016 has no supporting basis. For example, if the ERNC LUPC only was comprised of five members would the quorum then be limited to three members in order to vote on a land use recommendation?

On November 28, 2016, Lisa Kable Blanchard, Chairperson of the ERNC, informed me that one of the voting members at the November 1, 2016 ERNC meeting was not authorized to vote. Even though Ms. Kable Blanchard expressed her opinion that it would not change the vote she is incorrect. *A quorum did not exist when the ERNC voted on November 1, 2016 to approve The Bird Nest LLC permit application: A violation of Eagle Rock Neighborhood Council By Laws Article V Section 2.* That governing section sets forth: "The quorum shall be ten members of the Board." If that one person, who voted at the November 1, 2016 ERNC meeting, was disqualified from voting no quorum existed when the vote occurred. "Thus, in general, no action may be taken when a quorum has been lost or never achieved."

V

The ERNC's and The ERNC LUPC's Violation of the Americans With Disabilities Act

Both the ERNC and the ERNC LUPC violated the Americans With Disabilities Act (ADA) and the City's Guide to Accessible Event Planning. The location where both the ERNC and the ERNC LUPC held their respective meetings on November 1, 2016 and October 18, 2016, was not an accessible meeting site. Such a site "means more than just providing ramps for wheelchair bound individuals" and disabled parking spaces. *The elevator at the meeting site did not have a working elevator: A violation of both the ADA and The Brown Act. "Any congregation of a majority of members (or the number that constitutes a quorum) to hear, discuss, or deliberate upon any matter within the neighborhood council's jurisdiction. ... Must be conducted at an ADA accessible facility."* On November 5, 2016, I asked both the ERNC and the ERNC LUPC members how long the elevator at the meeting site has

been out of order, and when will it be fixed? To date I have yet to receive a response. It also is very difficult to view the "2016 Neighborhood Council Eagle Rock Elections Canvass of Votes" on the ERNC website. The City has a web accessibility policy. For purposes of this grievance the ERNC and ERNC LUPC should present evidence that it complied with the City's web accessibility policy in setting up its website, which provided information about The Bird Nest LLC's permit application. All of ERNC's services, programs and activities must be ADA compliant. "Our country's largest minority group (almost 19% of the population)" are disabled. The voices of many of our senior Eagle Rock homeowners and residents, who may be disabled, deserve to be heard at an accessible meeting site.

VI. Conclusion

For all of the aforementioned reasons my grievance should be granted, and the ERNC's approval of The Bird Nest LLC should be voided. This grievance brings "sunlight" to many "shenanigans". Facts establish that the ERNC validated both the wrongful conduct of one forceful person's beliefs and bias against the Eagle Rock stakeholders' living adjacent to or nearby to the former Bekin's Estate. Favoritism, extended to "political power" and a powerful religious organization, tainted what should have been a fair and transparent process of reviewing The Bird Nest LLC's permit application.

Sincerely,

Kerrin Tso

Attachments

- Notice Regarding ERNC Meetings and The Bird Nest LLC's Permit Application.pdf (146.94KB)
- Conditional Use Permit Findings for Approval.pdf (339.36KB)

EMAILS BETWEEN
TSO
AND
ERNC
RE DEC 2016
GRIEVANCE

Subject: Your Grievance
From: Lisa Kable Blanchard (lisa.kable.blanchard@ernc.la)
To: ktso18@yahoo.com;
Cc: elise.ruden@lacity.org; thomas.soong@lacity.org; Executive@eaglerockcouncil.org;
Date: Tuesday, December 6, 2016 3:18 PM

Dear Ms. Tso,

Your emails have been received.

As per Section 22.818 of Article 3 of Chapter 28 of the Los Angeles Administrative Code, all grievances against a Neighborhood Council must go through the Department of Neighborhood Empowerment's "Neighborhood Council Grievance Portal." Here is a direct link for your convenience:

<https://lacity.quickbase.com/d b/bki8tm99k>

Per the agenda for the December 6th meeting, it was created at the Executive Committee meeting last Tuesday and was posted in a timely fashion on our website and at ER City Hall. FYI- Agendas are posted in our website calendar section, which is on the front page, and under the "agendas and minutes" tab. We will not be able to change the agenda for this month at this time.

Thank you,

Lisa Kable-Blanchard
ERNC President and At-Large Director

Subject: Tso's Grievance Submitted on December 5, 2016 in Accordance With the ERNC's By-Laws
From: Kerrin Tso (ktso18@yahoo.com)
To: lisa.kable.blanchard@eaglerockcouncil.org;
Cc: thomas.soong@lacity.org; Executive@eaglerockcouncil.org;
Date: Sunday, December 18, 2016 7:19 PM

Ms. Kable-Blanchard,

Please note that I previously filed a grievance with the ERNC in accordance with the ERNC's by-laws. The ERNC should follow its own by-laws with respect to the grievance, which I filed on December 5, 2016.

Thank you,

Kerrin Tso

From: Lisa Kable Blanchard <lisa.kable.blanchard@eaglerockcouncil.org>
To: Kerrin Tso <ktso18@yahoo.com>
Cc: Thomas Soong <thomas.soong@lacity.org>; "Executive@eaglerockcouncil.org" <Executive@eaglerockcouncil.org>
Sent: Saturday, December 17, 2016 7:24 AM
Subject: Re: Tso's Grievance Submitted on December 5, 2016

Ms. Tso,

The DONE grievance policy can be accessed here:

<https://empowerla.org/wp-content/uploads/2016/03/Grievance-Policy.pdf>

The ERNC will follow our bylaws once we have received the grievance from DONE. Again, Thomas Soong is copied here if you have any questions.

Thank you.

Lisa Kable-Blanchard
ERNC President & At-Large Director

Sent from my iPad

On Dec 16, 2016, at 9:31 PM, Kerrin Tso <ktso18@yahoo.com> wrote:

Dear Ms. Kable-Blanchard,

Please note that I filed my grievance before the ERNC's last meeting in accordance with the ERNC's by-laws. I do expect for that grievance to be processed according to the ERNC's by-laws.

Thank you,

Kerrin Tso

From: Lisa Kable Blanchard <lisa.kable.blanchard@eaglerockcouncil.org>
To: Kerrin Tso <ktso18@yahoo.com>
Cc: Thomas Soong <thomas.soong@lacity.org>; Executive@eaglerockcouncil.org
Sent: Wednesday, December 14, 2016 7:13 PM
Subject: Re: Tso's Grievance Submitted on December 5, 2016

Ms. Tso,

As of today, DONE has not received a grievance from you through the portal. This must happen before anything can go forward.

Thomas Soong from DONE is copied on this email. You should feel free to contact him directly if you have any questions.

Best,
Lisa Kable-Blanchard
ERNC President & At-Large Director

Sent from my iPhone

On Dec 9, 2016, at 12:07 AM, Kerrin Tso <ktso18@yahoo.com> wrote:

Dear Ms Kable Blanchard,

Thank you for providing me with DONE's grievance policy. I look forward to meeting with the ad hoc grievance panel as provided by the ERNC's Bylaws in Article XI. In accordance with the ERNC By-Laws I understand that my grievance will be placed on the agenda of the next regular Eagle Rock Neighborhood Council meeting.

Please advise if you notified the City of Los Angeles Department of Planning or City Council District 14 of my December 5, 2016 grievance when you sent any letter, which declared "that on November 1, 2016" the Eagle Rock Neighborhood Council (ERNC) made certain recommendations regarding The Bird Nest LLC's conditional use permit application. If you did not provide any information to either of them regarding my December 5, 2016 grievance then I am requesting the names of all persons, who you sent the ERNC's letter, regarding The Bird Nest LLC Conditional Use Permit Application Case ZA-2016-1406-CU-ZAD, approved as Agenda Item 1 at the Eagle Rock Neighborhood Council meeting on December 6, 2016.

I appreciate your anticipated response.

Sincerely,

Kerrin Tso
