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RE: Amicus Letter Supporting Petition for Review in *Hollywoodians Encouraging Rental Opportunities et al. v. City of Los Angeles et al.* (Supreme Court Case No. S257793; Court of Appeal Case No. B285553)

Dear Chief Justice Cantil-Sakauye and Associate Justices,

The National Lawyers Guild Los Angeles (NLG-LA) writes this letter in support of the petition for review filed in *Hollywoodians Encouraging Rental Opportunities et al. v. City of Los Angeles et al.* (Case No. S257793; hereafter *HERO*). NLG-LA writes to express its concerns with the Court of Appeal's published opinion and to stress the importance of the issue presented for review. The California Environmental Quality Act (CEQA) is the bulwark of our state's legal regime for ensuring responsible development, requiring the analysis of potential environmental impacts caused by the discretionary action of any public agency and the disclosure of such impacts to the public. Decades of case law have strengthened this regime by precluding piecemeal analysis of a project's potential impacts and, instead, requiring a comprehensive review of a project's direct, indirect, and cumulative impacts, thereby encouraging responsible and informed decision-making by public agencies. We believe the Court of Appeal's published opinion drastically undermines both the letter and spirit of CEQA by arbitrarily limiting review of a project's impacts on housing and public health.

The National Lawyers Guild (NLG) was founded in 1937 as the country's first racially-integrated bar association of progressive lawyers and jurists who believed that they had a major role to play in the reconstruction of legal values to emphasize human rights over property rights. The Guild is the oldest and most extensive network of public interest and human rights activists working within the legal system. In Los Angeles, Guild attorneys have decades of experience litigating issues pertaining to the State's housing crisis, including CEQA and related land use issues. The sum total of our experiences in these matters forces home a truth in this case that the City of Los Angeles (City) wishes to obscure: development proposals like the one at issue in this case indisputably have concrete and physical impacts on the built environment and public health of our City, whose working class population is increasingly displaced into hours-long commutes or, worse, homelessness by the direct, indirect, and cumulative impacts of projects like the one at issue in this case. These environmental and public health impacts are exactly what CEQA was written to address.



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Rent-stabilized Housing Units Should Have Been Included in the CEQA Analysis of Baseline Physical Conditions

The dispositive issue in this case is whether the rent-stabilized units on the site of the project at issue in this case, which were vacant when the City began its CEQA review, must be included in the baseline analysis of physical conditions impacted by the proposed project. The City succeeded in convincing the trial court and the Court of Appeal that because these units were vacant at the time of the environmental review (due to their previous withdrawal from the rental market under the Ellis Act in 2013), they were no longer residential units in nature and the City therefore did not need to disclose or mitigate the project's adverse effects on the environment and human beings. The appellate court erroneously reasoned that their conversion into hotel units had "no housing-related impacts or displacement of tenants for the City to address in an EIR." The Court of Appeal focused exclusively on the vacant status of the units to conclude that the property, in 2015, "did not include rent-stabilized apartments" even though the units continued to exist in an unaltered state.

The court's reasoning flies in the face of longstanding practices used to determine the rent-stabilized status of residential units. In Los Angeles, a residential unit does not lose its protections under the Los Angeles Rent Stabilization Ordinance when it becomes vacant. In fact, the Ellis Act itself offers specific protections to vacant residential units, penalizing bad-faith Ellis Act evictions that keep the units in the rental market. (Gov. Code § 7060.2, subd. (a).) In this case, the Ellis Act was invoked to remove rent-stabilized units from the rental market to convert the apartment building into condominiums, thereby reducing Los Angeles' overall rental housing stock.

At the time that the City began its environmental review for the project at issue in this case, the only allowable uses on the property were housing, and the property owner could have re-rented the units at any time. Rather than describe the facts on the ground in its review of the Project's baseline conditions, the City's environmental review presented an arbitrary and fictitious baseline where no apartment building existed at all, concluding that the City's housing stock would suffer no impact from the loss of the existing **18** rent-stabilized apartment units.

As the petition for review states, the *HERO* court's opinion will serve as a blueprint for developers to circumvent CEQA disclosure and mitigation, thereby further



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depleting the rapidly disappearing rent-stabilized housing stock in Los Angeles and other cities that have adopted rent-control legislation. The *HERO* opinion will have the most detrimental effect on working-class tenants and communities as developers will rush to file Ellis Act evictions before a project application is filed in order to avoid an extensive CEQA analysis of a project's adverse physical impacts on housing and displacement.

For these reasons, we urge this Court to grant review.

Respectfully submitted,

A handwritten signature in blue ink that reads "Kath Rogers".

Kath Rogers
Executive Director
National Lawyers Guild Los Angeles
cell: 619-886-9259 | NLG-LA.org

PROOF OF SERVICE

I am over the age of 18 and not a party to this action. I am employed in the County of Los Angeles. My business address is 2601 Ocean Park Boulevard, Suite 205, Santa Monica, California 90405-5269.

On **October 10, 2019**, I served true copies of the foregoing document, entitled **Amicus Letter Supporting Petition for Review**, on the persons listed on the service list by **mail**.

I enclosed copies of the foregoing document in envelopes, which I sealed and addressed to the recipients as set forth on the attached service list. I then placed the sealed envelopes, with postage thereon fully prepaid, in the mailbox maintained and serviced by the U.S. Postal Service located at 2601 Ocean Park Boulevard, Santa Monica, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and that I have executed this proof of service in the County of Los Angeles, California, on October 10, 2019.



Lake McManus

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