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FOR IMMEDIATE RELEASE
October 18, 2008

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CITY OF LOS ANGELES DEFEATED IN PUBLIC DISCLOSURE CASE

JUDGE ORDERS TRANSPARENCY IN AGENDAS

LOS ANGELES – Los Angeles County Superior Court Judge David P. Yaffe rebuked the City of Los Angeles and its Planning Commission on October 6, 2008, ruling against them in a Brown Act trial prosecuted by Pasadena land use attorney Robert P. Silverstein of The Silverstein Law Firm.

The Brown Act is California’s “Open Meetings” or “Sunshine” law. It requires government decisions to be made in the open.

The victory for Silverstein and his client, Aaron Epstein, will force the City of Los Angeles to change how it informs the public about environmental and land use decisions taken under the California Environmental Quality Act (“CEQA”).

“The City was hiding major environmental decisions from the public,” said Silverstein, who represents property owners, business owners and community groups in eminent domain and land use litigation against local governments.

In the lawsuit, Silverstein alleged that “the City and the Planning Commission have engaged in . . . a pattern and practice of knowingly violating the Brown Act by failing to agendize CEQA approvals and major actions such as approvals of EIRs for massive development projects”

The lawsuit alleged the City’s actions were intended “to discourage public participation at required hearings”

In the ruling, Judge Yaffe found that the “City Planning Commission of the City of Los Angeles repeatedly posted agendas of its meetings . . . that clearly disclosed each action that it intended to take or discuss at a meeting *except* actions to be taken or considered under the California Environmental Quality Act.”

Judge Yaffe found that the “only information in the agenda[s] that in any way referred to CEQA was a cryptic reference like the following: “CEQA: ENV-2005-7720-EIR.” Silverstein described it as “City gobbledygook.”

“Such cryptic references are meaningless to most members of the public and do not in any way describe the particular action to be taken at the meeting under the California Environmental Quality Act,” Yaffe ruled.

The decision will impact all future City of Los Angeles public agendas involving environmental decisions.

The ruling “commands” the City “to describe in its posted agendas” environmental actions “with the same degree of clarity, particularity, and detail” as the City was agendizing non-environmental issues.

The ruling also declares the City’s deceptive actions as “unlawful,” and “to be discontinued.”

Jon S. Perica, a retired 20-year City of Los Angeles Zoning Administrator, observed: “What a great victory for public information and due process. This ruling should influence other jurisdictions throughout the state.”

“This is a tremendous victory for open government,” said Terry Francke, General Counsel of Californians Aware, a public interest group that advocates for transparency in government. “That the City of Los Angeles routinely concealed major environmental decisions cannot be defended as a simple mistake. It is this type of secrecy that the Brown Act exists to prevent,” said Francke, who also drafted the 1994 legislative revisions to the Brown Act.

“Unfortunately, the Los Angeles City Council once again forced the public to litigate a case to the bitter end, rather than simply comply with a clear requirement of law that is designed to assure transparency,” Silverstein said.

“The City hid environmental decisions affecting the quality of life of millions of residents,” said Aaron Epstein, a Los Angeles resident and business owner who stepped in as plaintiff when Silverstein’s original client, prominent Hollywood activist and preservationist Robert Nudelman, died in May 2008.

Silverstein has won several high profile cases against the City of Los Angeles.

Silverstein stopped the City of Los Angeles and the Los Angeles Community Redevelopment Agency's eminent domain action in a nationally watched case at Hollywood and Vine for his client Bernard Luggage, a 60-year-old family-owned business.

Silverstein saved the historic Florentine Gardens from eminent domain by the City of Los Angeles for a fire station project.

Silverstein recently won a trial which prohibited the City of Los Angeles' practice of denying appeal rights under the Subdivision Map Act. The Los Angeles County Superior Court held the City's practice to be in "irreconcilable conflict" with the City Charter.

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