

**Novelo, Lilia**

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**From:** Jomsky, Mark  
**Sent:** Friday, April 25, 2014 5:13 PM  
**To:** Official Records - City Clerk  
**Subject:** Fwd: Letter for December 13, 2010 Council Agenda Packet  
**Attachments:** image001.png; ATT00001.htm; scan0007.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Richard McDonald" <[rmcdonald@hrbc.com](mailto:rmcdonald@hrbc.com)>  
**To:** "Jomsky, Mark" <[mjomsky@cityofpasadena.net](mailto:mjomsky@cityofpasadena.net)>  
**Subject:** FW: Letter for December 13, 2010 Council Agenda Packet

Mark -- Attached is a copy of the letter I submitted to the Mayor and City Council for the December 13, 2010 hearing on the Constance Hotel project. Although already part of the administrative record, please provide a copy of it to each of them for Monday's hearing on it, which is Agenda Item No. 19. In addition, I will be sending you two other e-mails to be copied and delivered to them for it in a moment. Thank you, and have a good weekend.

Richard A. McDonald, Esq.

Law Office of Richard A. McDonald

Of Counsel, Horgan, Rosen, Beckham & Coren, L.L.P.

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[[cid:image002.png@01CEAEF4.DCC9A9A0](#)]

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-----Original Message-----

From: Richard McDonald

Sent: Wednesday, December 08, 2010 8:21 PM

To: Jomsky, Mark

Cc: Beck, Michael; Mermell, Steve; Fuentes, Theresa; Steinmeyer, John

Subject: Letter for December 13, 2010 Council Agenda Packet

Mark -- Per your e-mail instructions last week, the applicant for the Colorado at Lake Project that is being considered by the City Council on Monday, December 13, 2010, respectfully requests that the attached letter be included in the Council's Agenda packet. Please contact me directly if you have any questions or need anything else. Thank you.

Richard A. McDonald, Esq.

Law Office of Richard A. McDonald

Of Counsel, Horgan, Rosen, Beckham & Coren, L.L.P.

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LAW OFFICES OF  
**HORGAN, ROSEN, BECKHAM & COREN**  
A LIMITED LIABILITY PARTNERSHIP

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December 8, 2010

Mayor William J. Bogaard  
Vice-Mayor Victor M. Gordo  
Hon. Council Members Haderlein, Holden, Johnson, Madison, McAustin and Tornek  
City Council of the City of Pasadena  
100 North Garfield Avenue, Rm. S249  
Pasadena, California 91109

Re: Colorado at Lake -- December 13, 2010 Appeal of BOZA Decision for C.U.P. No. 5209

Dear Mayor Bogaard and Honorable Members of the City Council:

Thank you in advance for your consideration of the appeal that has been filed and paid for by the Unite Here Union, Local 11, based out of Los Angeles, California. We understand that they, and the Coalition for Responsible Development (the "Coalition"), are now represented by Andrew Kahn of Davis, Cowell & Bowe, LLP of San Francisco, California.

As will be explained at the hearing, the Colorado at Lake project is a mixed-use project at the intersection of Colorado and Lake, in the heart of Pasadena's Financial District. Consistent with the General Plan and Central Business District Specific Plan, the Project is designed and intended to create a vibrant, sustainable, pedestrian friendly commercial area that includes the rehabilitation and restoration of the Historic Constance Hotel and the historic storefronts facing Colorado Boulevard.

As you also may recall, on November 24, 2008, the City Council unanimously approved the application for a landmark designation of the Constance Hotel under Municipal Code Section 17.62.050. To implement that decision, we have designed a project that is well-below the allowable FAR, fully complies with the General Plan and all of the City's development standards, implements the vision in the Central Business District Specific Plan and is widely

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supported by Pasadena Heritage, the Chamber of Commerce, the South Lake Avenue Business District Association, members of the Playhouse District, and numerous local business and community leaders. Other than appellants, there has been no opposition from any neighborhood associations or other groups in our City.

The citizen advisory commissions that reviewed the project also expressed support for it. For example, in its letter of September 3, 2010, the Transportation Advisory Commission stated: "Overall, TAC supports the project and believes walkability and the condition of the immediate area will benefit from redevelopment. . . . The Commission was uniformly impressed with the traffic study, particularly the shared parking analysis."

Similarly, in its May 2010 study for the Playhouse District entitled, "Using Arts as an Economic Generator in the Playhouse District", the Community Land Use & Economics Group LLP found that, "Virtually all successful arts and cultural events have several components the Playhouse District currently lacks", including "[a] boutique hotel, reflecting some aspect of the district's personality and providing space for small conferences, meetings and events."

When combined with the Final Environmental Impact report (the "Final EIR"), the data presented to the Hearing Officer on October 20 and to the Board of Zoning Appeals on November 17, we firmly believe that substantial evidence exists for the Council to make the necessary findings for the requested entitlements and that this project will help spur growth East on Colorado Blvd. and North on Lake Avenue, which is consistent with the current General Plan and goals of many people currently involved in the General Plan Update now underway.<sup>1</sup>

Having said that, we should point out that the proposed project is not the original project, but rather Project Alternative No. 3, which reduces the size of the office building so that we can preserve and restore the historic retail frontage along Colorado Boulevard.

More specifically, the primary objectives for the project have stayed the same, i.e., to renovate and preserve the existing historic landmark to Secretary of the Interior standards by returning the Constance Hotel to its original use, and to develop an underutilized site that will attract and retain businesses while promoting local job growth east of Lake Avenue.

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As stated on page V-11 of the FEIR, in order to comply with the development standards of the Zoning Code, the project requires the following entitlements: (1) Conditional Use Permit to restore the former Constance Hotel building; (2) Minor Conditional Use Permits for new construction in a Transit oriented Development area, and for shared, tandem and valet parking; and (3) A Minor Variance for a reduction in loading spaces to preserve the historic courtyard at the Hotel. ***As expressly stated on page V-11 of the Final EIR, "the project is consistent with the Central District Plan designated land use intensities and would not conflict with any land use plan, policy or regulation" of the City of Pasadena.***

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As stated on page I-4 of the Final EIR, however, Project Alternative No. 3 "would reduce total development (converted and new) to approximately 90% of that proposed by the project while still converting the former Constance Hotel structure to the proposed hotel use (156 rooms converted and new) . . . . The proposed office building and associated Phase 2 and 3 restaurant and retail space of approximately 196,000 square feet would be reduced to approximately 154,000 square feet. Total site development and reuse of approximately 261,000 square feet would be reduced to approximately 235,000 square feet. A new parking structure would be built, but unlike the proposed project, it would include above grade parking in addition to on grade and subterranean parking, as well as provision of limited shared parking with 2 N. Lake across Colorado Boulevard. . . . Under [this option], the retention of existing retail uses along Colorado Boulevard and the reduction in new development would also allow for the existing hotel courtyard to remain with a new internal paseo that links to the street."

Further, Alternative No. 3 "reduces both occupancy driven (e.g., traffic, utilities) and physical (e.g., aesthetics, historic resources) impacts of the proposed project, as well as meets or exceeds most project objectives. In particular, the removal of remnant historic fabric present in the 1926 Colorado Boulevard storefronts that would be removed with the proposed project would be retained and integrated into the alternative. Consequently, the alternative (with either the hotel or residential option) would reduce a significant unmitigated impact of the project to historical resources, to a less than significant level."

***As such, "Alternative 3 would be considered environmentally superior to the proposed project, and would meet or exceed many project objectives."***

Despite this record, we understand that Mr. Kahn has submitted a letter calling for the revision and re-circulation of the FEIR.<sup>2</sup>

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<sup>2</sup> Although Mr. Kahn's November 30 letter states the Coalition "includes several Pasadena residents who regularly use the streets where this proposed project would be located", the address for the two residents identified on page one of his letter is in West Pasadena, i.e., approximately five miles away from the proposed Project's location. In addition, Peter Dreier is a Professor at Occidental College, which is in Los Angeles and even further west of the proposed Project's location. Neither, therefore, has the requisite "beneficial interest" required under California CEQA law to challenge the FEIR, nor any direct and substantial interest, over and above any interest held in common with the public in general, that shows they will be adversely impacted by the environmental impacts of proposed Project. Lastly, to date, Professor Drier and the union have objected to the project on competitive economic grounds that are not within the zone of interests protected under CEQA. In particular, I met with Rachel Torres and James Elmendorf, who is the Director of Public Policy for the Los Angeles Alliance for a New Economy in March 2010, and with Rachel and Derek Smith, Political Director for Unite Here Local 11, in July 2010. On both occasions, the union stated that it would oppose the proposed project unless the project applicant ***unconditionally*** agreed to sign the union's card check neutrality agreement. Since then, their objections to the proposed project have been over the alleged wages to be paid prospective hotel workers and affordable housing, both of which are



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As explained below, there is ***no evidence*** to support Mr. Kahn's request. Rather, as explained on page VI-43 of the FEIR, the Alternative 3 hotel option would generate 19% less daily trips than the proposed project and there would be an estimated 644 trips to self parking at 2 N. Lake, which is considerably less than the 1,007 valet and self-park trips estimated under the proposed project.

***Based upon our review of the FEIR and the detailed traffic study/analyses in Appendix I, we believe that Mr. Kahn and the union's traffic expert have mistaken Alternative Option No. 3 in the traffic study for Project Alternative No. 3 in the FEIR. In fact, the 100 room alternative Mr. Kahn references is the "Reverse Engineered" Alternative, which is Project Alternative No. 4.<sup>3</sup>***

To leave no doubt, pages VI -42 to VI-56 of the Final EIR set-forth a 14 page summary of the detailed traffic analysis undertaken by the City's traffic consultant for Alternative No. 3, complete with references to the appendices containing the data supporting the analysis. ***The additional analysis for Alternative No. 3 is over and above the exceedingly detailed analysis for the proposed project set-forth in Section IV-E of the FEIR, which is 63 pages in length and includes:***

1. A comprehensive data collection effort to develop a detailed description of existing conditions within the study area. The assessment of conditions relevant to the traffic study included an inventory of the street system, traffic volumes on those facilities, and operating conditions at key intersections and street segments.

2. Fifteen local intersections identified and analyzed, plus 12 roadway segment locations identified and analyzed, plus an assessment of conditions for the proposed project ***and for each phase***. Current daily traffic counts also were conducted during April 2008 at two of the analyzed street segments (Mentor Avenue between Union Street and Colorado Boulevard and Mentor Avenue between Green Street and Cordova Street) and during May 2009 at the remaining locations using machine counters. Existing daily traffic volumes are summarized in Table IV.E-3.

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beyond the scope of CEQA and the City's ordinances governing this project. We, therefore, continue to object to the consideration of the appeal and incorporate by reference herein our November 3, 2010 (8:27 p.m.) and November 4, 2010 (3:49 p.m.) e-mails to staff stating those objections in more detail accordingly.

<sup>3</sup> For the record, all of the traffic issues raised by the union's traffic consultant have already been shown to be misunderstandings similar to Mr. Kahn's misunderstanding and have been addressed and completely disproven by the City's traffic consultant (Raju & Associates) in the FEIR and written memoranda that we understand will be provided (or made available) to you.

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3. Compilation of weekday morning and evening peak hour traffic counts from data collected at 10 of the 15 analyzed intersections during April and May 2008, with Year 2008 traffic counts were factored upward 1.5 percent per year to reflect existing 2009 conditions. The remaining five intersection counts were collected in April and May 2009 to reflect typical weekday operations during current year 2009 conditions. Exhibits depicting existing traffic volumes for 2009 AM and PM peak hour conditions are provided in Appendix I of this EIR.

4. The existing traffic volumes presented in the project traffic study in Appendix I to this FEIR also were used in conjunction with the level of service methodologies to determine the existing operating conditions at the analyzed intersections. Table IV.E-2 on page IV.E-6 summarizes the results of the intersection capacity analysis for existing conditions at the analyzed intersections.

5. A total of 20 signalized pedestrian intersections were identified within 1,300 feet from the project site and the project traffic study in Appendix I of the FEIR provides a list of the 26 bus stops and existing amenities at each stop for these bus lines that are within approximately 1,300 feet of the project site, all of which were included in the analysis.

6. On top of which, thirty-six related projects were identified within the study area, and the trip generation estimates for the related projects were included in the analysis and are shown in Table IV.E-7.

7. Beginning at pg IV.E-44, the parking evaluation consists of examining the proposed parking supply for the proposed project, by phase, in relation to the parking requirements of the various uses based on anticipated and estimated parking demand for each phase of the proposed project. An assessment of proposed parking supply for the proposed project as a whole also was prepared by Raju Associates staff conducting parking demand surveys on a typical weekday, noting down the peak parking utilization (or maximum number of cars parked at the site) every hour between the hours of 9:00 a.m. and 6:00 p.m. Parking utilization surveys were performed on a typical weekday in July and August 2009. The project traffic study (Appendix I of this EIR) summarizes the parking utilization surveys at 2 N. Lake Avenue as well.

Lastly, as explained in the staff reports and FEIR, the alternative traffic analysis for the project alternatives were not the basis for the mitigation measures outlined in the FEIR. Rather, the traffic and environmental study of the original project formed the basis for those mitigation measures and the project applicant agreed to all of the measures that still applied under Project Alternative No. 3. As such, shifting to Project Alternative No. 3 eliminated certain significant historic and intersection impacts, but did not change the scope of the analysis for the original project or the agreed-upon mitigation measures.

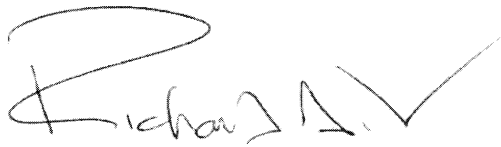
In sum, we have put together a project that we firmly believe is in the best interest of the community and is widely supported by the community. We, therefore, ask that you reject the

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appeal, affirm the Board of Zoning Appeals November 17, 2010 decisions and grant all of the requested entitlements.

Thank you for your consideration of our request and please do not hesitate to contact me if you have any questions.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Richard A. McDonald, Esq.", with a large, stylized initial "R" and a checkmark-like flourish at the end.

RICHARD A. MCDONALD, ESQ

CC: CITY MANAGER  
CITY CLERK  
CITY ATTORNEY

## Novelo, Lilia

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**From:** Jomsky, Mark  
**Sent:** Friday, April 25, 2014 6:56 PM  
**To:** Official Records - City Clerk  
**Subject:** Fwd: Class Action Complaint  
**Attachments:** image001.png; ATT00001.htm; Second Amended Complaint.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

**From:** Richard McDonald <[rmcdonald@hrbc.com](mailto:rmcdonald@hrbc.com)>  
**Date:** April 25, 2014 at 4:36:38 PM PDT  
**To:** "Mark Jomsky - City of Pasadena ([mjomsky@cityofpasadena.net](mailto:mjomsky@cityofpasadena.net))" <[mjomsky@cityofpasadena.net](mailto:mjomsky@cityofpasadena.net)>  
**Subject:** **FW: Class Action Complaint**

Mark --

Here is the third document that we would like copied and given to the Mayor and City Council for Monday night's hearing on the Constance, Agenda Item No. 19. Thank you again.

Richard A. McDonald, Esq.  
Law Office of Richard A. McDonald  
Of Counsel, Horgan, Rosen, Beckham & Coren, L.L.P.  
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04/28/2014  
Item 19

M.O. 12/15/10

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

JAN 10 2010

John A. Clarke/Executive Officer/Clerk  
By Amber Lafleur-Clayton Deputy  
AMBER LAFLEUR-CLAYTON

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9 Attorneys for Plaintiff  
10 WILLIAM DOUSHKESS, individually, and on behalf  
of a class of similarly situated individuals

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
13

14 WILLIAM DOUSHKESS, individually, and  
15 on behalf of a class of similarly situated  
individuals,

16 Plaintiff,

17 v.

18 RUCHEL ENTERPRISES, dba PASADENA  
MANOR, a California corporation; RANDY  
19 ADLER, an individual; LONGWOOD  
MANAGEMENT CORPORATION, a  
20 California corporation; FRANCESCA  
PECORARO, an individual; and DOES 1  
21 through 20, inclusive,

22 Defendants.  
23  
24  
25  
26  
27  
28

) NO. BC436794 [CLASS ACTION]  
)  
) Assigned for All Purposes to  
) The Hon. Elizabeth Allen White - Dept.  
) 48

) **SECOND AMENDED COMPLAINT**  
) **FOR:**

- ) 1. **STATUTORY VIOLATIONS AND VIOLATIONS OF CITY OF PASADENA MUNICIPAL ORDINANCES;**
- ) 2. **UNFAIR COMPETITION**
- ) 3. **DECLARATORY RELIEF**

KNAPP,  
PETERSEN  
& CLARKE

1 William Doushkess, individually, and on behalf of a class of similarly situated  
2 individuals (hereinafter "Plaintiff") alleges as follows:

3 1. Plaintiff at all relevant times was a competent adult resident of the County of  
4 Los Angeles, State of California. Plaintiff at all times relevant herein was a tenant of those  
5 certain residential assisted living premises known as and located at 910 East Colorado  
6 Boulevard, Pasadena, California 91101 (the "Pasadena Manor" or the "Property").

7 2. Doushkess at all times relevant herein resided in the dwelling unit at the  
8 Pasadena Manor known as and located at Unit 707. (the "Premises").

9 3. Plaintiff is informed and believes and thereon alleges that the Property,  
10 including the Premises, is located within the County of Los Angeles, State of California,  
11 and that the acts and events herein alleged occurred within the judicial district of the  
12 County of Los Angeles.

13 4. Plaintiff is informed and believes and thereon alleges that defendant Ruchel  
14 Enterprises, d.b.a. Pasadena Manor (hereinafter "Ruchel") is an active California  
15 corporation, entitled to do business in, and doing business in, the county of Los Angeles,  
16 State of California, and was at least one of the owners of the Property, and that defendant  
17 Randy Adler ("Adler") is the agent for Ruchel for the Property (and also the CFO of  
18 Longwood Management Corporation, Ruchel's management agent) and is a resident in the  
19 County of Los Angeles. Plaintiff is further informed and believes and thereon alleges that  
20 defendant Longwood Management Corporation ("Longwood") is an active California  
21 Corporation entitled to do business in and doing business in the County of Los Angeles  
22 State of California, and that Longwood is the management agent for Ruchel for the  
23 Property and that defendant Francesca Pecoraro ("Pecoraro") is the Administrator of the  
24 Property for Ruchel and is a resident of the County of Los Angeles, State of California.

25 5. Plaintiff alleges that at all times mentioned herein, Ruchel, Adler, Longwood,  
26 and Pecoraro and the DOE defendants, DOES 1 through 20, inclusive, were the agents,  
27 employees, partners, or co-adventurers of each of their co-defendants, and in doing the  
28 things alleged in this Complaint, were acting within the course and scope of that agency,

1 employment, or other status. Unless otherwise specified herein, the allegations directed to  
2 the defendants include the Doe Defendants.

3         6. Plaintiff brings this action in his individual capacity and on behalf of a class  
4 of similarly situated individuals.

5         7. Doushkess is informed and believes and thereon alleges that he has rented and  
6 occupied the Premises, pursuant to a written rental lease agreement (the "Lease") drafted by  
7 and with Ruchel. Doushkess alleges that he occupied the Premises since on or about  
8 October 1989 through and until the date of on or about August 20, 2007, when Doushkess  
9 moved out of the Premises (the "Doushkess Moveout Date"). Doushkess alleges herein that  
10 he was obliged to vacate the Premises against his will, pursuant to the Termination Notice  
11 given to him by Defendants, and each one of them, on or about July 12, 2007, ordering  
12 Doushkess to vacate his Premises on or before August 20, 2007. Doushkess further alleges  
13 that Defendants and each of them did not pay to Doushkess any relocation monies  
14 whatsoever in connection with, or by way of compensation for, Defendants' Termination  
15 Notice, and Doushkess's involuntary move, at Defendants' command, from the Premises.

16         8. Doushkess is informed and believes and thereupon alleges that Doushkess did  
17 faithfully pay such rents as were due under the Doushkess Lease and as were demanded of  
18 him by Defendants up to and including the Doushkess Moveout Date and has otherwise at  
19 all times faithfully performed all of the Doushkess's obligations under the Doushkess Lease  
20 with Ruchel.

21         9. Doushkess is further informed and believes and thereon alleges that, after  
22 Doushkess vacated his Premises and the Property on or about August 20, 2007, he returned  
23 the next day to remove the remainder of his belongings and personal property that he had  
24 been forced to leave behind (the "Doushkess Possessions"), as the Termination Notice  
25 period had been too short to allow him time to find alternative accommodation and to move  
26 all his possessions. He was met at the door of the Premises by Defendant Pecoraro, who  
27 told him, as he tried to enter the Premises to remove his Possessions, that if Doushkess set  
28 foot in the Premises, she would call the police and have him arrested as a trespasser. When

KNAPP,  
PETERSEN  
& CLARKE

1 Doushkess explained to Pecoraro that all he wanted was some time to collect the remainder  
2 of his belongings, which included some 800 or more motor car magazines from the US and  
3 Europe dating back to the 1960's [and including a signed autograph of Manuel Fangio, the  
4 5 time World F1 Champion], Pecoraro informed Doushkess that they would store his  
5 Possessions in the Premises and that he could collect them from there after one week to ten  
6 days. Faced with the threat of being reported to the police and arrested as a trespasser,  
7 Doushkess did not try to enter the Pasadena Manor and the Premises to retrieve his  
8 Possessions, and was forced to acquiesce to Pecoraro's command, and to come back on  
9 another day.

10 10. Doushkess is informed and believes and thereon alleges that when he returned  
11 to the Pasadena Manor some seven days later, and was this time granted access to the  
12 Property and to the Premises, none of the Doushkess Possessions were there to be found,  
13 and his collection of magazines, books and motor racing memorabilia, some of which he  
14 traded on EBay for fun and profit, were missing.

15 11. Plaintiff is informed and believes and thereon alleges that, at the time that  
16 Ruchel and the other Defendants, and each of them, sent to Plaintiff and the Class the  
17 Termination Notices referred to hereinabove, Ruchel was already well advanced in  
18 negotiations to sell the Property to a property development company named Singpoli, and,  
19 wishing to provide the buyer, Singpoli, with vacant possession, terminated Plaintiff's  
20 tenancy, together with the termination of the tenancies of all of the other assisted living  
21 residential tenants of the Pasadena Manor. Plaintiff is informed and believes and thereupon  
22 alleges that Ruchel's intentions, and its actions, were to exit the residential assisted living  
23 market at the Pasadena Manor, and that the Premises were, and have been, taken  
24 permanently off the rental market and that the new buyer, Singpoli, which is a well-known  
25 property development company, will be, or already is, replacing each rental dwelling unit  
26 with a condominium conversion unit.

27 12. Plaintiff is informed and believes and thereon alleges that the Property is  
28 located in the City of Pasadena and is subject to the Pasadena Municipal Code ("PMC").



1           13. Plaintiff is informed and believes and thereon alleges that Title 9, §9.75.060,  
2 of the PMC provides that, in all events, where a rental unit is taken permanently off the  
3 rental market, the landlord must pay relocation fees to the displaced tenants in an amount as  
4 follows, per the PMC: "For households at or below 140% of the median income, by  
5 household size, landlord shall pay a relocation allowance equal to two (2) months fair  
6 market rents as established by the U.S. Department of Housing and Urban development  
7 ("HUB") for a rental unit of a similar size. In addition to the relocation allowance, Landlord  
8 shall also pay a moving expense allowance in the amount of \$1,000.00 for adult households  
9 or \$3,000.00 for households with dependents, disabled or senior members." Moreover, said  
10 title provides for annual adjustments upward in the amount of such relocation assistance.

11           14. Plaintiff is informed and believes and thereon alleges that Plaintiff, and the  
12 class of similarly situated individuals, by virtue of their Leases with Ruchel that are clearly  
13 marked "rental agreement" and that call for payment of "rent", in any and all events qualify  
14 and fall under the provisions and terms of the PMC, Title 9, section 9.75.060 et seq., and  
15 that Ruchel in all events had, and has, a statutory obligation under said section of the PMC  
16 to pay to Plaintiff, and to the class of similarly situated individuals, relocation fees per said  
17 code section of the PMC.

18           15. Plaintiff is informed and believes and thereupon allege that Defendants, and  
19 each of them, have failed and refused to pay such relocation compensation as set forth  
20 under section 9.75.060 of the PMC to Plaintiff and the class of similarly situated  
21 individuals. Moreover, Plaintiff alleges that Defendants, through their management  
22 company, Longwood, and their onsite manager, Pecoraro, held one or more meetings with  
23 large groups of the residents of the Pasadena Manor, and at those meetings told the  
24 residents, including Plaintiff, that Defendants were exempt from the PMC and did not owe  
25 to Plaintiff or the other residents any relocation compensation whatsoever, and would not  
26 pay any such compensation. Defendants and each of them did further inform Plaintiff, as  
27 well as the other residents of the Property, that those persons that did not leave by the  
28 termination date of August 20, 2007, would face ejection from the Property by the

KNAPP,  
PETERSEN  
& CLARKE

1 sheriff's department and that they would remain homeless in the streets.

2 16. Plaintiff is informed and believes and thereon alleges that the Property had  
3 170 assisted living residential dwelling units, that most, if not all, of these units were  
4 occupied prior to August 20, 2007, and that Defendant Ruchel failed and refused to pay any  
5 relocation assistance to any of the tenants, including, Plaintiff, in an amount which is  
6 currently estimated to be approximately \$600,000.

7 17. Plaintiff is further informed and believes and thereon allege that, Plaintiff and  
8 each member of the class were given 39 days notice of the termination of their tenancies  
9 calculated as the number of days from the July 12, 2007 date of the giving of the  
10 Termination Notice to Plaintiff and all tenants of the Pasadena Manor, and the mandated  
11 move-out date of August 20, 2007. These termination notices were not served upon the  
12 designated representatives of Plaintiff and the class members as provided for in 22 CCR  
13 Section 87224. Moreover, the Pasadena Municipal Code did not intend to immunize the  
14 termination of the tenancies of Plaintiff and the class from the relocation assistance  
15 provision by its reference to permitting "lawful" termination of tenancies under state law.

16 **CLASS ACTION ALLEGATIONS**

17 18. Plaintiff brings this lawsuit as a class action on behalf of himself and all other  
18 similarly situated individuals as members of a proposed Plaintiff Class pursuant to  
19 California Code of Civil Procedure Section 382 and California State Law. This action  
20 satisfies the numerosity, commonality, typicality, adequacy, predominance and superiority  
21 requirements applicable to a class action proceeding.

22 19. The Class is defined as:

23 Class: All persons in the State of California who resided at the  
24 Pasadena Manor at the time defendants issued their notice of eviction of  
25 July of 2007.

26 Excluded from the Class are Defendants, any entity in which  
27 Defendants have a controlling interest or which has a controlling interest in  
28 Defendants, and Defendants legal representatives, assigns and successors.

1 Also excluded are the judge to whom this case is assigned and any member  
2 of the judge's immediate family.

3 20. **Numerosity:** Although the exact number of Class Members is uncertain and  
4 can only be ascertained through appropriate discovery, the number is great enough such that  
5 joinder is impracticable. Moreover, Plaintiff is informed and believes and based thereon  
6 alleges that there are approximately 170 class members. The disposition of the claims of  
7 these Class Members in a single class action will provide substantial benefits to all parties  
8 and to the Court.

9 21. **Typicality:** The claims of the representative Plaintiff are typical of the claims  
10 of the Class in that the representative Plaintiff, like all Class Members, resided on the  
11 premises of the Pasadena Manor and received a notice of termination of his tenancy, and his  
12 tenancy was in fact terminated. The representative Plaintiff, like all Class Members, has  
13 been damaged by Defendants statutory violations and/or is entitled to relief based on those  
14 statutory violations in that he and/or his representative has not received proper notice of the  
15 termination of his tenancy. Furthermore, the factual bases of Defendants misconduct are  
16 common to all Class Members and represent a common thread of deliberate misconduct  
17 resulting in the same relief being available to all Members of the Class.

18 22. **Commonality:** There are numerous questions of law and fact common to  
19 Plaintiff and the Class which predominate over any questions affecting only individual  
20 Class Members. These common legal and factual issues include the following.

21 a. Whether the Premises of the Pasadena Manor were taken off the  
22 market as residential premises;

23 b. Whether Defendants failed to provide sufficient notices of the  
24 termination of the tenancies of the residents of Pasadena Manor, and whether the content of  
25 the notices was otherwise unlawful pursuant to the provisions of the Pasadena Municipal  
26 Code;

27 c. Whether notice was not given to tenants' responsible persons;

28 d. The relief available to class members as a result of the failure to

1 comply with the Pasadena Municipal Code at the time of notice of termination, and  
2 termination, of the tenancies of all residents of the Pasadena Manor in July and August of  
3 2007;

4 e. Whether Defendants engaged in unfair competition or unfair deceptive  
5 acts or practices when they furnished Plaintiff and class members with notice of the  
6 termination of their tenancies, and threatened to evict them from the Property;

7 f. Whether Defendants conduct constitutes a violation of the Unfair  
8 Business Practices Act, California Business & Professions Code section 17200 et seq.;

9 g. Whether Plaintiff and the Class are entitled to compensatory, and  
10 statutory damages and the amount of such damages;

11 h. Whether Defendants should be ordered to disgorge, for the benefit of  
12 the Class, all or part of the ill-gotten profits they received from the unlawful termination of  
13 the tenancies of the Pasadena Manor in or around July of 2007, or to make full restitution to  
14 Plaintiff and the Members of the Class.

15 23. **Adequate Representation:** Plaintiff will fairly and adequately protect the  
16 interests of the Class. Plaintiff has retained counsel with substantial experience in  
17 prosecuting class actions—including, without limitation, consumer class actions, actions  
18 involving defective products, and wage and hour class actions. Plaintiff and his counsel are  
19 committed to prosecuting this action vigorously on behalf of the Class and have the  
20 financial resources to do so. Neither Plaintiff nor his counsel has any interest adverse to  
21 those of the Class.

22 24. **Predominance and Superiority:** Plaintiff and the Members of the Class have  
23 all suffered and will continue to suffer harm and damages as a result of Defendants  
24 unlawful and wrongful conduct. A class action is superior to other available methods for the  
25 fair and efficient adjudication of the controversy. Absent a class action, most Members of  
26 the Class would likely find the cost of litigating their claims prohibitively high and would  
27 therefore have no effective remedy at law. Because of the relatively small size of the  
28 individual Class Member's claims, it is likely that only a few Class Members could afford

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1 to seek legal redress for Defendants misconduct. Absent a class action, Class Members will  
2 continue to incur damages and Defendants misconduct will continue without remedy. Class  
3 treatment of common questions of law and fact would also be superior to multiple  
4 individual actions or piecemeal litigation in that class treatment will conserve the resources  
5 of the courts and the litigants, and will promote consistency and efficiency of adjudication.

6 **FIRST CAUSE OF ACTION**

7 **(Violations Of The Pasadena Municipal Code)**

8 25. Plaintiff hereby incorporates by reference the preceding allegations of this  
9 complaint, as if fully set forth herein.

10 26. Plaintiff brings this cause of action on behalf of himself and all similarly  
11 situated class members. The Premises and those of all similarly situated class members, and  
12 the Property, are subject to the Pasadena Municipal Code, including, without limitation,  
13 Title 9, §9.75.060 of said PMC.

14 27. Said §9.75.060 of the PMC mandates that a landlord that exits the rental  
15 business and seeks to remove rental units permanently from the rental market, must pay a  
16 relocation fee to the displaced tenant.

17 28. Doushkess was the tenant of Ruchel's at the Premises, which Premises [as  
18 well as the entire Property] Ruchel sold, with vacant possession, to Singpoli, the property  
19 development company, for development as condominium units, and therefore permanently  
20 removed said Premises from the rental market.

21 29. Ruchel failed to honor its obligations to Doushkess (and all other tenants of  
22 the Property) with regard to the payment of relocation fees as set forth in §9.75.060 PMC,  
23 and in fact, Ruchel refused to, and never did pay, any such relocation fees to Doushkess.  
24 Nor did Ruchel pay such fees to the other similarly situated class members, all other tenants  
25 of the Property at the time the Property was sold.

26 30. Defendants, in connection with the sale of the Property, gave all tenants of the  
27 Pasadena Manor a notice of eviction that their tenancies had been terminated. The notice  
28 was not furnished to the tenants' responsible persons.

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1 31. As a direct and proximate result of Defendants' conduct as described  
2 hereinabove, Doushkess and all similarly situated individuals, have suffered damages in the  
3 amount of at least \$9,500 per person, and in such further amounts as will be proved at trial,  
4 as well as for pre-judgment interest on these sums in accordance with proof at the time of  
5 trial.

6 32. Plaintiff and all similarly situated class members are thus entitled to the  
7 amount of the relocation assistance provided for by PMC Section 9.75.060, as well as  
8 punitive damages as authorized by the Pasadena Municipal Code.

9 33. Plaintiff also prays for his attorneys' fees and costs of suit, pursuant to the  
10 provisions of Pasadena Municipal Code Section 9.75.060, the private attorney general  
11 theory, and based on the common fund theory, as well as any other applicable contract,  
12 statute, or law authorizing such attorneys' fees.

13 **SECOND CAUSE OF ACTION**

14 **(Unfair Competition)**

15 34. Plaintiff hereby incorporates by reference the allegations of the preceding  
16 paragraphs of the complaint, as if fully set forth herein.

17 35. Plaintiff brings this cause of action against Defendants on behalf of himself  
18 and on behalf of the Members of the Class.

19 36. California Business & Professions Code section 17200 prohibits acts of  
20 "unfair competition," including any "unlawful, unfair or fraudulent business act or practice"  
21 and "unfair, deceptive, untrue or misleading advertising."

22 37. Defendants deliberately violated the provisions of the California  
23 Administrative Code, and the PMC, when advising tenants of the termination of their  
24 tenancies, threatening to evict them, when failing to furnish notice to responsible persons  
25 and when failing to furnish them with the relocation assistance required by the PMC.

26 38. Defendants concealed and failed to disclose to Plaintiff and the Class their  
27 violation of the above referred to statutes and municipal ordinances.

28 39. By their conduct alleged herein, defendants have engaged in unfair

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1 competition and unlawful, unfair, and fraudulent business acts and practices.

2 40. As a direct and proximate result of Defendants unfair, unlawful and deceptive  
3 practices, Plaintiff and the Class have suffered and will continue to suffer actual harm and  
4 losses.

5 41. Defendants have been unjustly enriched and should be required to make  
6 restitution to Plaintiff and the Class pursuant to sections 17203 and 17204 of the Business  
7 & Professions Code.

8 **THIRD CAUSE OF ACTION**

9 **(Declaratory Relief)**

10 42. Plaintiff hereby incorporates by reference the allegations of the preceding  
11 paragraphs of the complaint, as if fully set forth herein.

12 43. Plaintiff brings this cause of action against Defendants on behalf of himself  
13 and on behalf of the Members of the Class.

14 44. An actual controversy now exists between Plaintiff, in his individual capacity,  
15 as well as on behalf of the class of similarly situated individuals, and defendants, as to the  
16 following conduct on the part of defendants and each of them:

17 a. Whether defendants' termination of the tenancies of Plaintiff and other  
18 residents of Pasadena Manor and their threats of forcible eviction violated the provisions of  
19 the PMC, and the California Administrative Code, referred to herein, and whether such  
20 conduct constituted unlawful, deceptive and/or unfair business acts or practices, pursuant to  
21 BCP section 17200, et seq.;

22 45. Unless the Court issues an appropriate declaration of rights, the parties will  
23 not know whether defendants' practices and policies comply with the law, and there will  
24 continue to be disputes and controversy, by and large evading judicial review, surrounding  
25 the practices of defendants.

26 WHEREFORE, Plaintiff prays for judgment as follows:

27 1. An order certifying the proposed Plaintiff Class, designating Plaintiff as the  
28 named representative of the Class and designating the undersigned as Class Counsel;

- 1           2.     For general, compensatory, statutory damages and punitive damages in a sum
- 2 according to proof;
- 3           3.     For restitution and disgorgement of profits, in accordance with proof;
- 4           4.     For prejudgment interest in accordance with proof;
- 5           5.     For costs and attorneys' fees;
- 6           6.     A trial by jury of any and all issues in this action so triable of right;
- 7           7.     For a Declaration as prayed for in the third cause of action;
- 8           8.     For such other and further relief as the Court may deem just and proper.

9 Dated: January 10, 2011

KNAPP, PETERSEN & CLARKE



By: \_\_\_\_\_

Stephen M. Harris  
Attorneys for Plaintiff  
WILLIAM DOUSHKESS, individually  
and on behalf of a class of similarly  
situated individuals

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**PROOF OF SERVICE**  
**Doushkess v. Ruchel Enterprises**  
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STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action. My business address is 550 North Brand Boulevard, Suite 1500, Glendale, California 91203-1922. On January 10, 2011, I caused the foregoing document(s) described as SECOND AMENDED COMPLAINT FOR: 1. STATUTORY VIOLATIONS AND VIOLATIONS OF CITY OF PASADENA MUNICIPAL ORDINANCES; 2. UNFAIR COMPETITION; 3. DECLARATORY RELIEF to be served on the interested parties in this action as follows:

by placing a true copy thereof enclosed in sealed envelope(s) addressed as stated on the attached mailing list.

**BY MAIL:** I sealed and placed such envelope for collection and mailing to be deposited in the mail on the same day in the ordinary course of business at Glendale, California. The envelope was mailed with postage thereon fully prepaid. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 10, 2011, at Glendale, California.

\_\_\_\_\_  
Marlinda Ochoa  
(Type or print name)

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(Signature)

**SERVICE LIST**  
**Doushkess v. Ruchel Enterprises**  
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