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January 19, 2022

FIRST CLASS AND VIA EMAIL

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City of Santa Ana
City Attorney's Office
20 Civic Center Plaza
Santa Ana, California 92702

Re: 2702 North Bristol, Santa Ana

Dear Ms. Gomez and members of the City Attorney's Office:

I am writing in response to the letter of January 5, 2022, in which Ms. Gomez invited comments on the hearing regarding adoption of a Resolution of Necessity to acquire a portion of the property at 2702 N. Bristol Street, Santa Ana 92706 ("the property"). The hearing is scheduled for February 1, 2022.

I represent Metro Star, LLC, the owner of the property. This is the property at the northwest corner of Bristol and Memory Lane, perhaps best known for the political signs that are posted on the chain link fence around the property. This letter is written in opposition to the Resolution of Necessity.

The City has attempted to take a portion of the property on the perimeter of the property. On October 13, 2021, the city made an offer of \$135,000. It has always been my client's contention that taking the perimeter would render the entire property unusable under current city codes and therefore the only proper action by the city is to take the entire property if there is to be any taking at all, or to provide relief from the city codes by way of a variance. The city has refused to consider taking the entire property.

In addition, the demand by the city for the perimeter has created a cloud on the property that has rendered the property unsalable on the open market. As a precaution, I submitted a claim to the city, which the city rejected. My client and the city agreed to several extensions of the

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deadline to file a lawsuit while they attempted to negotiate a resolution. The city then refused to grant any more extensions, which led me to file on August 20, 2021, a complaint in the Orange County Superior Court for inverse condemnation, declaratory relief, injunction, and violation of civil rights. The name of the case is *Metro Star, LLC v. City of Santa Ana*, Case No. 30-2021-01218780-CU-EI-CVC.

My client had previously looked at developing the property and had obtained a variance regarding parking and setbacks in 2012. My client did not pursue it then. We renewed discussions with the city on the basis that these variances could be revived. As I have stated, the project only works with the variances.

While this case has been pending we have continued to work with the Planning Department to try to resolve this matter. Most recently the parties agreed to stay the court proceedings while the planning process continues. The court agreed to stay proceedings through June 30, 2022, and has scheduled a case management conference for July 19, 2022.

In light of the agreement by the parties to stay the proceedings in the inverse condemnation matter, it seems contradictory for the city to be pushing to file its own eminent domain lawsuit while we are still working on a resolution through the planning process.

My client's architect, Nathan Menard, has submitted plans to the planning department which entail the use of variances on parking and lot size in light of the proposed taking of the perimeter. However, on December 26, 2021 (yes, the letter is dated the day after Christmas), the city planner wrote a letter which seemingly discards the possibility of a variance.

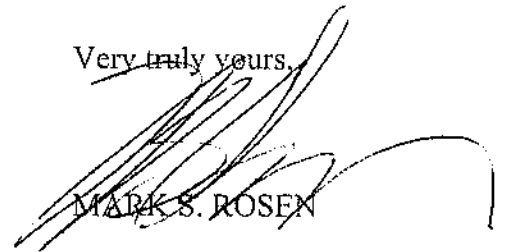
Now we have received a notice that the city council will have on its agenda for February 1, 2022, a Resolution of Necessity to acquire by eminent domain the perimeter property. This is being understood by us as a heavy-handed effort to foreclose further negotiations and place our client at a disadvantage in developing the property.

My client believes that it is improper to take the perimeter property by eminent domain unless a variance is permitted that would make the remaining portion of the property usable. In the absence of that, the proper course of action is for the city to make an offer to take the entire property.

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I understand that negotiations with staff are not final until the City Council approves an agreement. My client has acted in good faith and has held up pursuing his inverse condemnation action until the matter is resolved. We think the city should do the same and let the negotiations and the planning application play out before pushing the issue to litigation by adopting the resolution.

Very truly yours,

A handwritten signature in black ink, appearing to read 'MARK S. ROSEN', is written over the typed name. The signature is stylized with a large, sweeping flourish that extends to the right.

MARK S. ROSEN