

**CALIFORNIA COASTAL COMMISSION**

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Hearing Date: August 9, 2005  
Commission Action:



PR  
SP

# Tu13b

## RECORD PACKET COPY

### STAFF REPORT: APPEAL - NO SUBSTANTIAL ISSUE

**LOCAL GOVERNMENT:** City of Los Angeles

**LOCAL DECISION:** Approved with No Special Conditions

**APPEAL NUMBER:** A-5-VEN-05-239

**APPLICANT:** City of Los Angeles Department of Public Works

**APPELLANTS:** C.V. Beck, Lisa Ezell, John Davis et al (see list on Page Two)

**PROJECT LOCATION:** Intersection of Windward Avenue & Main Street (Venice traffic circle), Venice, City of Los Angeles, Los Angeles County.

**PROJECT DESCRIPTION:** Appeal of City of Los Angeles Local Coastal Development Permit No. 05-01 approved for the installation of a 72-inch tall Robert Graham art sculpture entitled "Torso" (and stainless steel base for total project height of 11.5 feet) within the Venice Windward traffic circle median.

#### **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles Local Coastal Development Permit No. 05-01.
2. City of Los Angeles Cultural Affairs Commission Approval of Public Arts Project entitled "Torso", May 6, 2004.
3. Los Angeles City Council Motion regarding Public Arts Project entitled "Torso", May 28, 2004 (Exhibit #4, p.2).

#### **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that the local government's approval of the local coastal development permit for the proposed development raises **no substantial issue** with regard to the Chapter 3 policies of the Coastal Act. The Commission's role at the "substantial issue" phase of an appeal of a local government action taken prior to certification of its local coastal program is to decide whether the appeal of the local government action raises a substantial issue as to conformity with the Chapter 3 policies of the Coastal Act. In this case, the local government's approval of the coastal development permit does not violate the Chapter 3 policies of the Coastal Act. The appellants do not agree with the staff recommendation. **The motion to carry out the staff recommendation is on Page Five.**

**I. APPELLANTS' CONTENTIONS**

The following 49 persons have appealed the City of Los Angeles approval of Local Coastal Development Permit No. 05-01:

C.V. Beck, Lisa M. Ezell, John Davis, Rev. Steven H. Weller, Regina Weller, Pamela Shamshiri, Meg Paulson, Tim Paulson, Donna Ganzoni, Brian Ollman, Heidi Ollman, Stephanie Green, James R. Smith, Chic Campbell, Paul Shaffer, Regina Risoles, Bill Teufel, Eric Vollmer, Sylviane Dungan, Susan D. Williams, Eric Ahlberg, Beth Tate, Janet Gervers, Dean Henderson, Nancy McCullogh, Brad Kay, Joy Ballin, Carol Berman, Paul Herzog, Fred Michael Crawford, Laura Crawford, Rich Braaksma, Sherilynn Braaksma, John E. Harris, Susan Harris, Lorenzo Hurtado, Deborah Hurtado, Suzanne Happ, Haines Hall, Tim Gribble, Poppy Gee, Chris Giquinto, Michele Sommerbath, Michael Crews, Judy Contreras, Hillary Greene Shugrve, G. Fialka, Joshua Woollen and Audrey Woollen.

Local Coastal Development Permit No. 05-01 approves the installation of a 72-inch tall Robert Graham art sculpture entitled "Torso" on a stainless steel base within the Venice Windward Traffic Circle Median in the North Venice area (See Exhibits). The applicants' grounds for the appeal are as follows:

- The proposed public art project violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area and would not enhance visual quality.
- The City's plan to install public art in the traffic circle did not involve sufficient public participation. A fountain or more appropriate artwork should be considered instead.
- The proposed nude, headless and limbless "Torso" offends some of the appellants. The project site is one block from a church that several of the appellants attend.
- The proposed public art project is a visual distraction and a traffic hazard.
- The cost to install the public art would waste \$70,000 of taxpayers' money.
- The local coastal development permit is invalid because the City does not have a certified Local Coastal Program (LCP) under which the Coastal Commission has delegated permitting authority. The City improperly construed the provisions of the California Environmental Quality Act (CEQA). The City violated the Brown Act. [John Davis – See Exhibit #11].

The appellants are requesting that the Commission overturn the City's approval of the local coastal development permit for the proposed project.

## **II. LOCAL GOVERNMENT ACTION**

On May 6, 2004, the City of Los Angeles Cultural Affairs Commission approved the acceptance into the City art collection a Robert Graham art sculpture entitled "Torso" that Roy Doumani was donating to the City. The Cultural Affairs Commission also authorized the installation of "Torso" in the Venice traffic circle (a.k.a. the Venice Windward traffic circle median). The approval of the Los Angeles City Council was also required before the sculpture could be actually accepted by the City. On May 28, 2004, the Los Angeles City Council passed a motion authorizing the acceptance of the donated "Torso" sculpture and its installation at the Venice traffic circle (Exhibit #4, p.2). On June 17, 2004, the Department of Public Works accepted the actual sculpture on behalf of the City.

On March 17, 2005, the City of Los Angeles Bureau of Engineering (Public Works Department) held a public hearing for Local Coastal Development Permit No. 05-01 for the proposed installation of the artwork in the Venice traffic circle. City records indicate that approximately twenty people attended the hearing (in addition to City staff). On March 21, 2005, the City of Los Angeles Bureau of Engineering issued a Notice of Decision approving Local Coastal Development Permit No. 05-01 with standard conditions to address the following: receipt and acknowledgement of the permit, permit expiration, interpretation, assignment of permit, notice that the terms and conditions run with the land, and notice that State Coastal Commission approval may be required.

Lisa M. Ezell, John Davis, Janet Gervers, Sylvianne Dungan and Rev. Steven H. Weller appealed the City's March 21, 2005 approval of the local coastal development permit to the City of Los Angeles Board of Public Works. On May 23, 2005, the Board of Public Works denied the appeals and upheld the approval of Local Coastal Development Permit No. 05-01 for the installation of the proposed public art project at the Venice traffic circle.

On May 24, 2005, the Commission's South Coast District office in Long Beach received the City's Notice of Final Action for its approval of Local Coastal Development Permit No. 05-01 and established the twenty-working day appeal period. During the appeal period, which ended on June 22, 2005, the Commission's Long Beach office received appeals from 49 persons. The Commission's South Coast District office notified the City Bureau of Engineering upon receipt of the first appeal (from C.V. Beck on June 21, 2005). On June 24, 2005, Commission staff received from the City a copy of its local coastal development permit file. On June 24, 2005, Commission staff also received from the City a 49-day waiver so the substantial issue hearing could be delayed until the Commission's August hearing in Southern California.

## **III. APPEAL PROCEDURES**

Section 30600(b) of the Coastal Act provides that prior to certification of its Local Coastal Program (LCP), a local jurisdiction may, with respect to development within its area of jurisdiction in the coastal zone and consistent with the provisions of Sections 30604, 30620 and 30620.5, establish procedures for the filing, processing, review, modification, approval or denial of a coastal development permit. Pursuant to this provision, the City of Los Angeles developed a permit program in 1978 to exercise its option to issue local coastal development permits.

Sections 13301-13325 of Title 14 of the California Code of Regulations provide procedures for issuance and appeals of locally issued coastal development permits. Section 30602 of the Coastal Act allows *any* action by a local government on a coastal development permit application evaluated under Section 30600(b) to be appealed to the Commission. The standard of review for such an appeal is the Chapter 3 policies of the Coastal Act. [Cal. Pub. Res. Code §§ 30200 and 30604.]

After a final local action on a local coastal development permit application, the Coastal Commission must be noticed within five days of the decision. After receipt of such a notice which contains all the required information, a twenty working-day appeal period begins during which any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission. [Cal. Pub. Res. Code § 30602.]

Any appeal of the local action is then analyzed to determine if a substantial issue exists as to conformity with Chapter 3 of the Coastal Act (Sections 30200-30265.5). [Cal. Pub. Res. Code § 30625(b)(1).] Unless the Commission finds that the appeal raises no substantial issue, the Commission then holds a public hearing in which it reviews the coastal development permit as a de novo matter. [Cal. Pub. Res. Code §§ 30621 and 30625.]

At this point, the Commission may decide that the appellants' contentions raise no substantial issue as to conformity with Chapter 3 of the Coastal Act, in which case the action of the local government stands. Or, the Commission may find that a substantial issue exists with respect to the conformity of the action of the local government with Chapter 3 of the Coastal Act if it finds that the appeal raises a significant question regarding consistency with the Chapter 3 policies of the Coastal Act. If the Commission finds that a substantial issue exists, then the hearing will be continued as a de novo permit request. Section 13321 of the Coastal Commission regulations specifies that de novo actions will be heard according to the procedures outlined in Sections 13114 and 13057-13096 of the Commission's regulations.

#### IV. DUAL PERMIT JURISDICTION

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the *Dual Permit Jurisdiction* area, the Coastal Act requires that the development which receives a local coastal development permit also obtain a "dual" coastal development permit from the Coastal Commission. For projects located inland of the areas identified in Section 30601 (*Single Permit Jurisdiction*), the City of Los Angeles local coastal development permit is the only coastal development permit required. The proposed development is not located within the *Dual Permit Jurisdiction*.

#### V. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that **no substantial issue exists** with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to California Public Resources Code Section 30625(b)(1).

Staff recommends a **YES** vote on the following motion:

**MOTION:**

*"I move that the Commission determine that Appeal No. A-5-VEN-05-239 raises **NO SUBSTANTIAL ISSUE** as to conformity with Chapter 3 of the Coastal Act."*

A majority of the Commissioners present is required to pass the motion.

**Resolution to Find No Substantial Issue for Appeal A-5-VEN-05-239**

The Commission hereby finds that Appeal No. A-5-VEN-05-239 presents no substantial issue with respect to conformity with the Chapter 3 policies of the Coastal Act.

**VI. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. Project Description**

The City of Los Angeles (the applicant) proposes to install a Robert Graham art sculpture entitled "Torso" within the Venice traffic circle (Exhibit #2). See Exhibit #3 for a photograph of the proposed Venice "Torso". The 72-inch tall aluminum sculpture would be placed on a concrete and stainless steel base for total project height of 11.5 feet (Exhibit #2, p.2). The Venice traffic circle is a round-about located at the intersection of Windward Avenue and Main Street in North Venice, about one thousand feet inland of the Venice boardwalk and beach (Exhibit #1). This intersection was part of Abbot Kinney's original "Venice of America" canals system, until it was filled in 1927.

**B. Factors to be Considered in Substantial Issue Analysis**

Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with Chapter 3 of the Coastal Act. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;

4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that **no substantial issue** exists with respect to whether the local government action conforms with the provisions of Chapter 3 of the Coastal Act for the reasons set forth below.

### **C. Substantial Issue Analysis**

The appellants assert, among other things, that the proposed development does not conform to the Chapter 3 policies of the Coastal Act. Specifically, the appellants assert that:

- The proposed public art project violates Section 30251 of the Coastal Act because it is not visually compatible with the character of the surrounding area and would not enhance visual quality.
- The City's plan to install public art in the traffic circle did not involve sufficient public participation. A fountain or more appropriate artwork should be considered instead.
- The proposed nude, headless and limbless "Torso" offends some of the appellants. The project site is one block from a church that several of the appellants attend.
- The proposed public art project is a visual distraction and a traffic hazard.
- The cost to install the public art would waste \$70,000 of taxpayers' money.
- The local coastal development permit is invalid because the City does not have a certified Local Coastal Program (LCP) under which the Coastal Commission has delegated permitting authority. The City improperly construed the provisions of the California Environmental Quality Act (CEQA). The City violated the Brown Act. [John Davis – See Exhibit #11].

The appellants are requesting that the Commission overturn the City's approval of the local coastal development permit for the proposed public art project. The standard of review is only whether the appeal raises a substantial issue as to conformity with Chapter 3 of the Coastal

Act, Cal. Pub. Res. Code §§ 30200-265.5, (hereinafter "Chapter 3").<sup>1</sup> [Cal. Pub. Res. Code § 30625(b)(1); 14 C.C.R. § 13321.] In this case, the local government's findings for the approval of the coastal development permit support its determination that the proposed development conforms to the policies of Chapter 3 of the Coastal Act. Therefore, the appeals raise no substantial issue as to conformity with Chapter 3.

Applying the five factors listed in the prior section further clarifies that the appeal raises no "substantial" issue with respect to Chapter 3, and the appeals do not implicate Chapter 3 policies to a level of significance necessary to meet the substantiality standard of Section 30265(b)(1).

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent with Chapter 3 of the Coastal Act. The appellants assert that the proposed public art project violates Section 30251 because it is not visually compatible with the character of the surrounding area and would not enhance visual quality.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The scenic and visual qualities of the Venice area are a resource of public importance. In addition to highly scenic areas like the canals and historic walk streets, the Commission has protected visual resources throughout the entire Venice area by assuring that new development does not impede visual or physical access and that the scale of development conforms with the scale of the surrounding development.

In this case, the project site (Venice traffic circle) is not located next to the beach, the canals, or any walk street where the Commission has found the visual environment to be of particular significance. The project site is located about one thousand feet inland of the boardwalk and beach, at the intersection of Windward Avenue and Main Street (Exhibit #1). Established residential neighborhoods occupy the areas north and east of the traffic circle. The Main Street and Pacific Avenue commercial areas are northwest and west of the site. As the traffic circle is approached from the beach, the streetscape is mixture of two-to-four-story structures (some of which have historic arcades with cast concrete column heads), various on-site signs, sidewalk retail sales (e.g. clothing, jewelry and sunglasses), and parking lots. The existing development appeals to a variety of tastes.

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<sup>1</sup> Unless otherwise indicated, all subsequent statutory references are to sections within the Coastal Act. Cal. Pub. Res. Code §§ 30000 *et seq.*

The Venice traffic circle is an historical artifact representing the circle at the terminus of the historic canal system. A change in the shape of the circle would raise visual quality issues, but the proposed project would not change the shape of the traffic circle.

The City's findings for approval of the local coastal development permit state that the proposed project will not interfere with existing views. This is true. The traffic circle is situated inland of the beach, behind two blocks of two-to-four-story buildings, so the project site is not visible from the beach or boardwalk. The existing views of the project site from the surrounding areas consist of existing buildings, the five paved streets that enter the traffic circle, and urban landscaping. The proposed placement of an 11.5-foot tall sculpture or statue in the Venice traffic circle would not adversely affect any public views through or across the traffic circle. It would also not adversely affect any public views toward or from the shoreline area. The proposed artwork is not as tall as any of the buildings in the area, and is no wider than a mature tree. The mass and scale of the proposed project is proportional to the size of the traffic circle and the surrounding buildings (which include a former market now being used as a mail processing facility, the post office, and two-story commercial buildings). Therefore, the proposed project is not large enough to have any significant effect on the public's view of the coastal resources in the area. Therefore, the impact of this development on the visual resources of this area of Venice does not raise a significant Coastal Act issue.

The issue raised by the appeals, however, is not one of view blockage, but an issue of taste in art. The appellants are not objecting to the placement of any sculpture in the Venice traffic circle, but are objecting to the placement of "Torso" in the circle. Several of the applicants state that the proposed nude, headless and limbless "Torso" offends them. They assert that "Torso" is degrading to women and potentially harmful to children who see it. While the City determined that "the proposed project will in fact provide aesthetic improvements by providing a positive visual enhancement to the area," the appellants could not disagree more. The appeals also assert that "Torso" would distract drivers and create a traffic hazard, where a less provocative artwork may not be as distracting. The appellants, who assert that the City excluded them from the decision-making process when the decision was made in 2004 to place "Torso" in the traffic circle, have requested a more active role in determining what type of statue or other artwork should be placed in the traffic circle. They say "Torso" is simply not visually compatible with the character of the surrounding area.

While the Commission recognizes that people may disagree on what type of artwork is good or appropriate for the project site, the Commission finds that the record supports the City's conclusion that the proposed project is consistent with Section 30251. Regardless of what is portrayed by the artwork, the placement of an 11.5-foot tall sculpture in the Venice traffic circle would not be out of character with the surrounding densely developed urban landscape and would not degrade the visual quality of the area.<sup>2</sup> Similar public artworks, by Robert Graham and many other artists, are displayed in public areas throughout Los Angeles County. An artwork that is provocative or controversial does not make the art visually incompatible with the surrounding area or degrade the visual quality of the areas. The City conclusion regarding the consistency of the proposed development with the Chapter 3 policies is correct. The controversy surrounding "Torso" and the process under which the City chose the location for its display do not raise any substantial issues in regards to the Chapter 3 policies of the Coastal Act.

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<sup>2</sup> The appellants also allege that the proposed project would not enhance visual quality, but that provision of Section 30251 only applies in visually degraded areas, which this is not.



Moreover, this Commission's role at the "substantial issue" phase of an appeal is not to reassess the evidence in order to make an independent determination as to consistency of the project with Chapter 3, but only to decide whether the appeals of the local government's action raise a substantial issue as to conformity with those standards. In this case, the local government's decision correctly applied the policies of Chapter 3, was amply supported by the facts, and was consistent with the law. Thus, the appeals raise no substantial issue regarding conformity therewith.

The second factor is the scope of the development approved by the local government. The scope of the approved development is limited to the placement of an 11.5-foot tall public artwork within a public-right-of-way. Thus, even if the project were to raise an issue regarding consistency with Chapter 3 policies, the small scope of the approved development would not support a finding that the appeals raise a "substantial" issue.

The third factor is the significance of the coastal resources affected by the decision. The appellants assert only that "Torso" is not visually compatible with the character of the surrounding area. As indicated above, this is not an area that the Commission has recognized as having visual resources of particular significance. Thus, again, even if the local approval were to raise an issue regarding consistency with Chapter 3 policies, the significance of the resources affected would not support a finding that the appeals raise a "substantial" issue.

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This is designed to avoid leaving decisions in place that could create a precedent for how the relevant provision of the LCP is to be interpreted, assuming the local government has a certified LCP. In this case, the City does not have a certified LCP. The City's interpretation of the policies of the certified LUP has not been raised in these appeals. Nonetheless, the Commission does not find any negative precedential value in the City's interpretation of the policies of the certified LUP or Chapter 3, in this case.

The final factor is whether the appeals raise local issues, or those of regional or statewide significance. These appeals raise a localized issue related to the City's choice of public art, and the process the City used to decide where to display such public art, but the appeals do not raise any issues of statewide significance.

Therefore, in conclusion, the Commission finds that the local government's action does not raise any substantial Chapter 3 issues because the City's decision is consistent with Chapter 3 and allows a small scale project that does not affect any particularly significant resources or set any adverse precedent, and the appeals raise only local issues. Therefore, no substantial issue exists with respect to the Chapter 3 policies of the Coastal Act.

#### **D. Responses to Appellants' Specific Contentions**

The previous section assessed the appeal under the applicable standard of review – whether it raised a substantial issue as to conformity with Chapter 3 of the Coastal Act. The appellants have also raised several specific grounds for the appeals that are not directly relevant to that standard. Nevertheless, the Commission responds to each of the appellants' specific contentions below.

- The City's plan to install public art in the traffic circle did not involve sufficient public participation. A fountain or more appropriate artwork should be considered instead.

This process that a local government uses to decide which artwork is displayed, whether it is a statue, water fountain or other artwork, is a local issue that raises no substantial issue in regards to Chapter 3 of the Coastal Act. This decision (what and where) necessarily must be made before the project can be reviewed for compliance with the Coastal Act. The Commission is not an appellate body of general jurisdiction and does not have authority to review allegations of alleged due process violations in the City's procedures. The coastal development permit process is used only to determine whether the proposed development complies with the Coastal Act. If appellants feel that the City violated non-Coastal Act related procedural requirements, their remedy is in court. By the time the local coastal development permit was processed, the City had already decided that it wanted to display "Torso" in the Venice traffic circle. The Commission can overturn the City's decision in this matter only if it finds that a substantial issue exists with respect to the Chapter 3 policies of the Coastal Act, and the appeals do not raise a substantial issue.

- The proposed nude, headless and limbless "Torso" offends some of the appellants. The project site is one block from a church that several of the appellants attend.

Although the location, mass and scale of any development may raise Coastal Act issues, the subject or content of the artwork in question is not relevant. Chapter 3 of the Coastal Act provides no relief from offense by provocative, tasteless or questionable art. Therefore, the Commission cannot act as a censor of public art. Again, the choice of which public artwork to display in the Venice traffic circle is a local issue that raises no substantial issue in regards to Chapter 3 of the Coastal Act.

- The proposed public art project is a visual distraction and a traffic hazard.

The purpose of the proposed project is to display an artwork so that the general public can view it. It is debatable whether "Torso" is any more distracting than some of the advertising that permeates the Venice Beach area or the beach goers who stroll through the area in their beach attire on the way to the boardwalk. Moreover, Chapter 3 of the Coastal Act contains no policy requiring the prevention of distractions along public thoroughfares. The hazard-related policies (Sections 30232, 30250, 30253, 30262 and 30263) relate to the development and transportation of oil and hazardous substances; hazardous industrial development; areas of high geologic, flood, or fire hazard; and hazards related to oil and gas development, respectively. In any case, the vehicle operators, cyclists, skaters and pedestrians who pass by or through the Venice traffic circle are obligated to pay attention and be on alert for one another, regardless of the potential distractions.

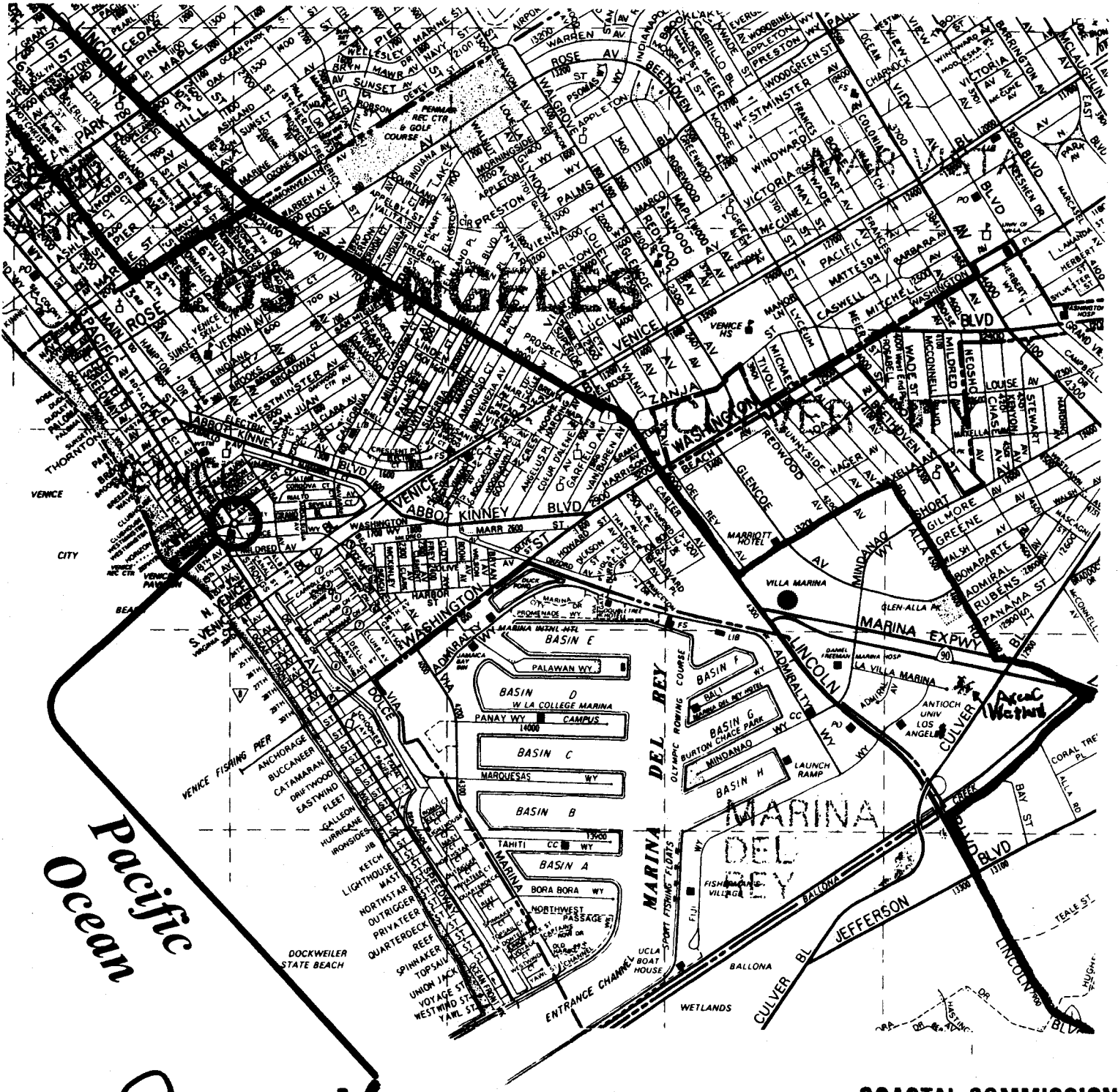
- The cost to install the public art would waste \$70,000 of taxpayers' money.

This again is a local issue that raises no substantial issue in regards to Chapter 3 of the Coastal Act.

- The local coastal development permit is invalid because the City does not have a certified Local Coastal Program (LCP) under which the Coastal Commission has delegated permitting authority. The City improperly construed the provisions of the California Environmental Quality Act (CEQA). The City violated the Brown Act. [John Davis – See Exhibit #11].

These contentions do not raise an issue in regards to consistency of the local decision with the policies of Chapter 3. In addition, the City of Los Angeles issues local coastal development permits without a certified LCP pursuant to Section 30600(b) of the Coastal Act (See Section III on Page Three). Local Coastal Development Permit No. 05-01 is a valid permit under Section 30600(b) of the Coastal Act. In regards to CEQA and the Brown Act, it is not the Commission's role to resolve conflicts over compliance with these laws. The Commission has a limited appellate authority/jurisdiction as defined by Section 30625(b). The Commission is not a judicial body of general jurisdiction, as its review is limited to assessing conformity with Chapter 3. The Brown Act and the California Environmental Quality Act are not within Chapter 3. The appellant John Davis has recourse in the State courts of general jurisdiction, as do the other appellants. The Commission does note, however, that the Brown Act, Cal. Gov't Code §§ 54950-963, does not apply to State agencies. Cf. Cal. Gov't Code §§ 54951 (defining "local agency" for purposes of the Brown Act) and 54952 (defining "legislative body" for purposes of the Brown Act).

# VENICE, CA



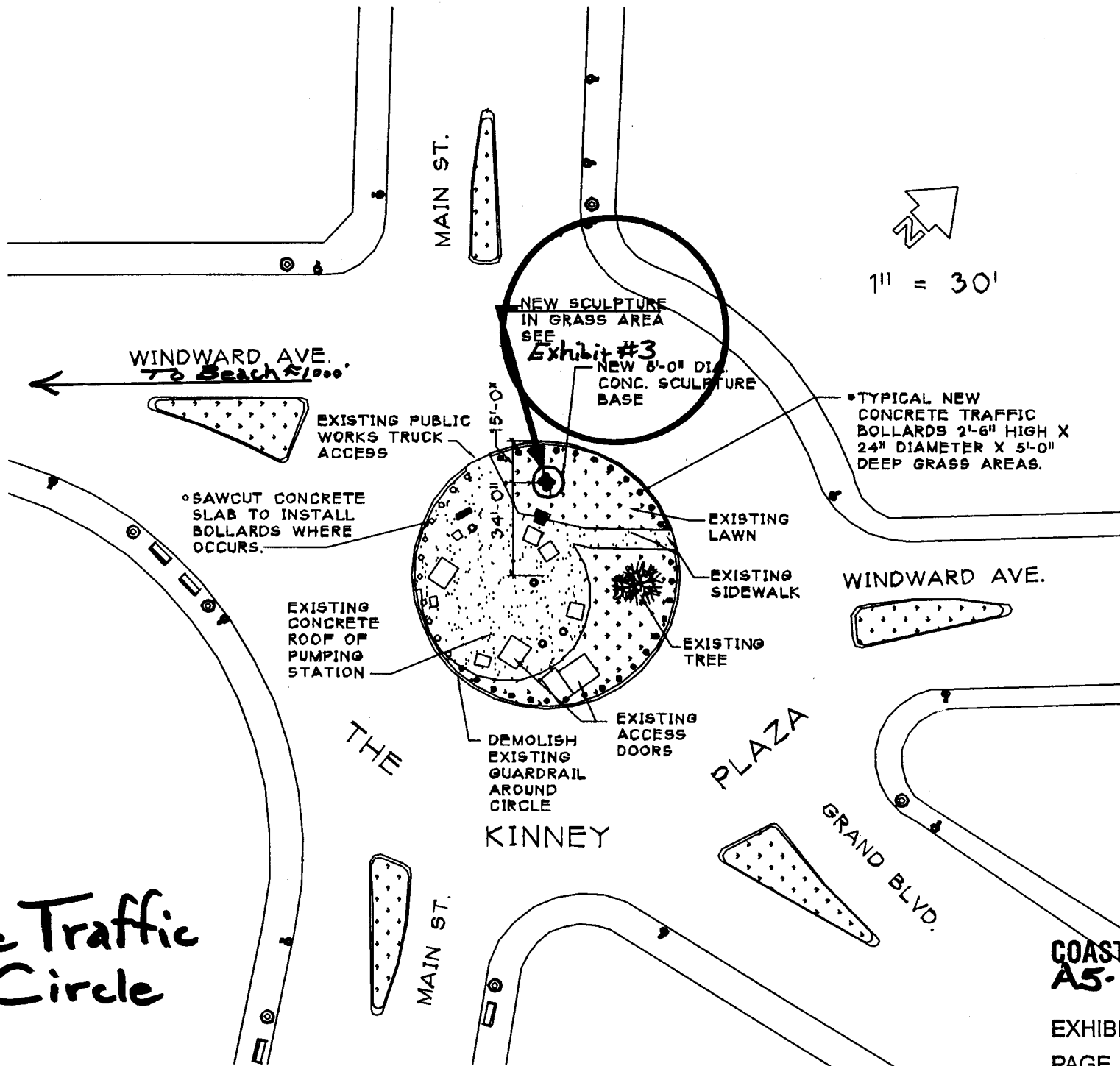
Pacific Ocean

Site: Venice Traffic Circle

COASTAL COMMISSION  
A5-VEN-05-239

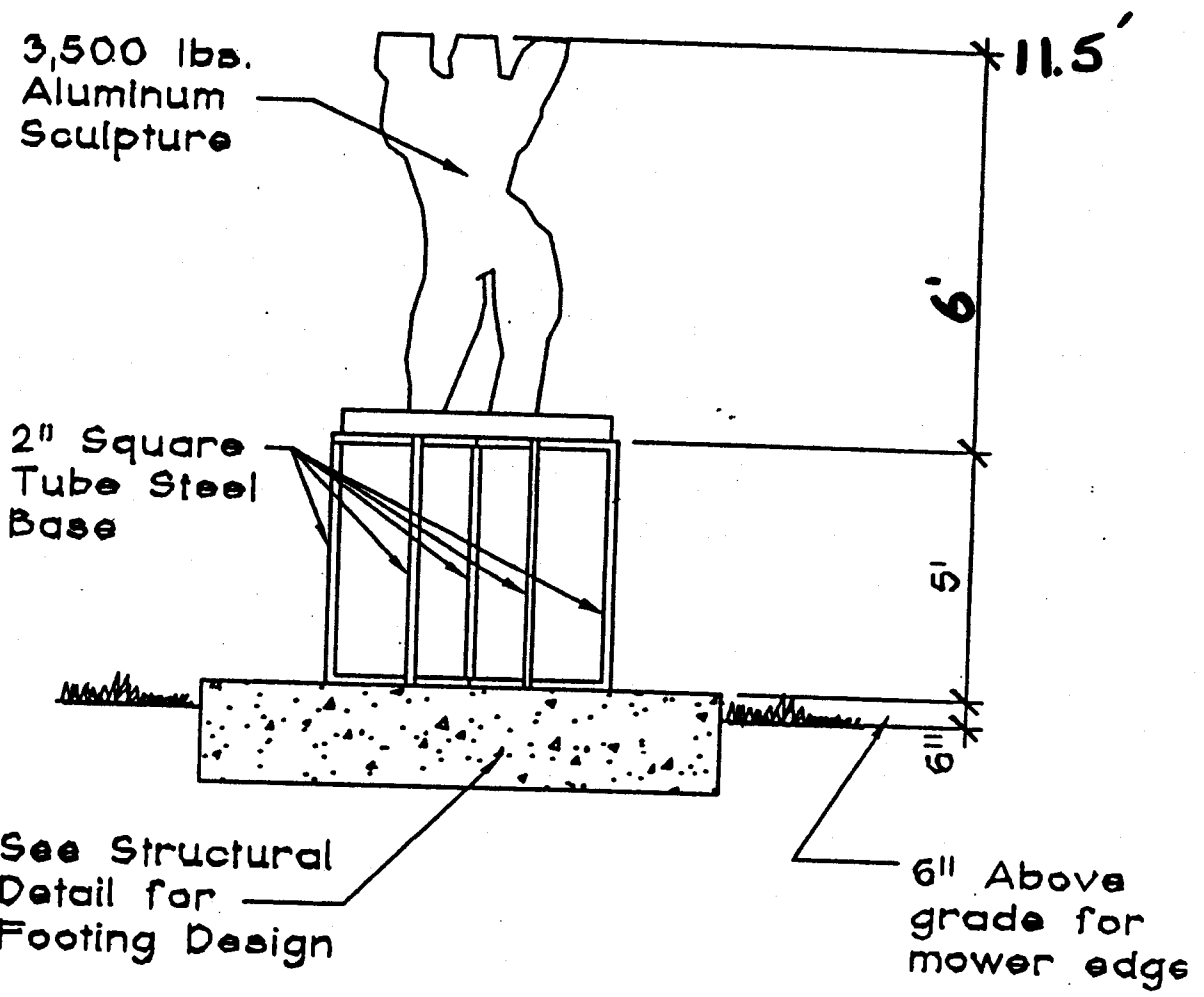
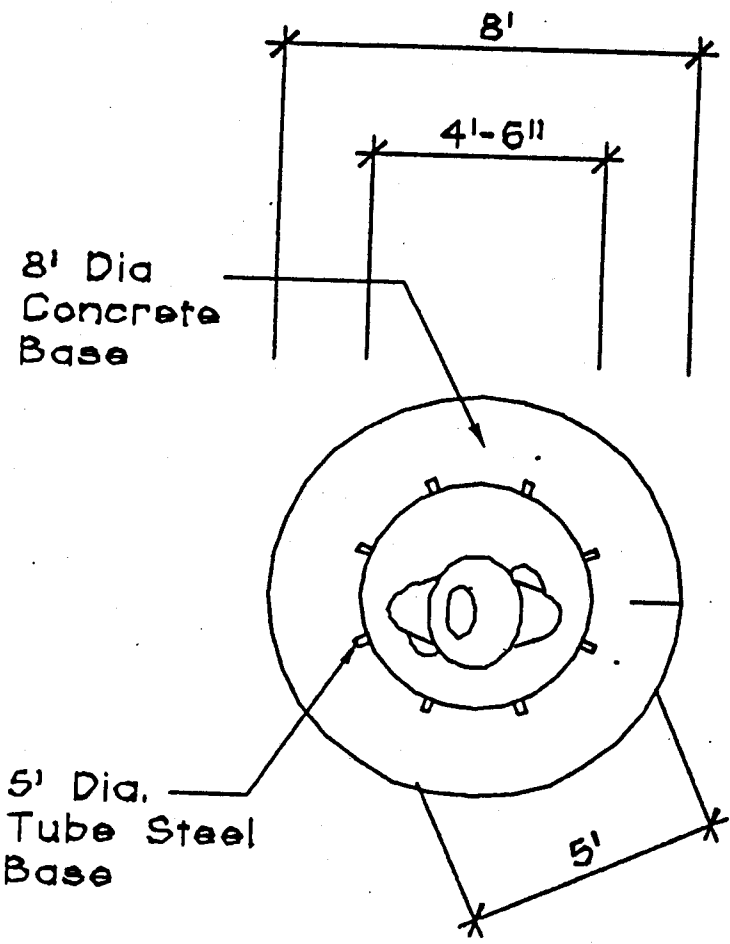
EXHIBIT # 1  
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# Venice Traffic Circle



COASTAL COMMISSION  
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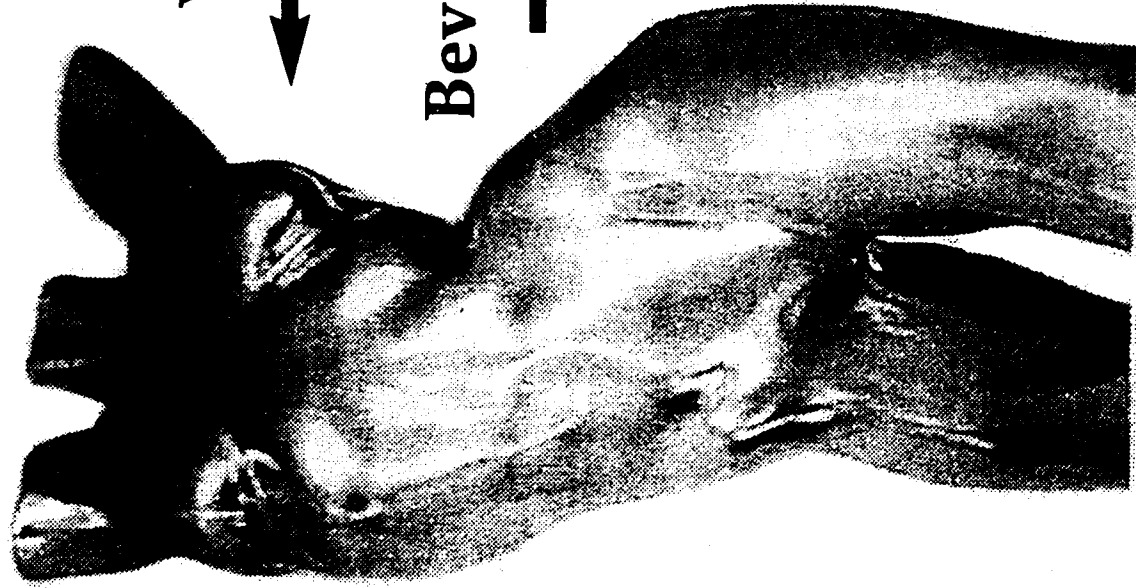


Sculpture Plan and Elevation

AS-VEN-05-239

FREE VENICE BEACHHEAD • April 2005 • 3

# A Tale of Two Statues



Venice Torso



Beverly Hills Torso



Exhibit #3



# CINDY MISCIKOWSKI

City of Los Angeles  
Councilwoman, Eleventh District  
President Pro Tempore

**Committees**  
Chair, Public Safety

Vice-Chair, Budget & Finance

Member, Commerce, Energy &  
Natural Resources

Meg Caldwell, Chair  
California Coastal Commission  
200 OceanGate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4316

**RECEIVED** June 23, 2005  
South Coast Region

JUN 29 2005

Re: Item Number A5VEN05239

CALIFORNIA  
COASTAL COMMISSION

Dear Chairperson Caldwell and Commissioners:

I am writing in support of the Venice Traffic Circle Project, a proposal to erect a sculpture by the world-renowned Venice artist Robert Graham in the center of the Windward Circle. This "Torso" sculpture was a gift to the City of Los Angeles by Venice benefactor Roy Doumaini, and is valued at \$350,000. The installation of this piece of art is part of the City and community's overall efforts to make the entrance to the Venice Boardwalk more attractive to the public and to highlight Venice's role in the forefront of culture in Southern California.

After approximately 2 years of public forums and meetings, including the City's Cultural Affairs Commission and the Board of Public Works, the City officially accepted the sculpture with the intent to install it in Windward Circle. I am thrilled to have been able to utilize funds from Council District Eleven's discretionary accounts to pay for the installation.

I understand that there has been an appeal by residents in Venice objecting to the substance of the sculpture. As is well known, art is extremely subjective, as it is in this case. While there are some that view this sculpture as not appropriate for Windward Circle, there are many others who believe it would be a wonderful addition to this public place. The installation will not reduce public access to the beach, obstruct views, nor have a negative impact on the natural environment. Objections having to do with the content of the art should not be the basis for the denial of a Coastal Development Permit. Venice is full of a wide range of "art", all of which serves to enrich the community.

As the Councilwoman representing this coastal area for the last three years, I am very proud to have had the opportunity to represent the City in accepting a piece of art by Robert Graham, whose sculptures are in prominent places, not only in the City of Los Angeles, but all over the world. I hope that this will be the impetus for many more such donations, and that other Venice artists will be encouraged to display their work on City property.

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**COASTAL COMMISSION**  
**A5-VEN-05-239**

EXHIBIT # 4

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MAY 21 2004

The Windward Circle is the gateway to the Venice Boardwalk, one of the largest tourist attractions in the City of Los Angeles. Since the Boardwalk underwent a major renovation several years ago and the merchants in the Windward Circle area are taking steps to improve their area, as well.

A sculpture by world renowned artist Robert Graham, entitled "Torso" has been donated by Roy Doumani for placement in the center of the Windward Circle. On May 6, 2004, the Cultural Affairs Commission accepted the sculpture into the City art collection for placement in the Circle. Gifts valued at over \$5000 also require the approval of the City Council for final acceptance. The Robert Graham sculpture has been appraised at a \$350,000 value.

Action is needed to accept this gift and to authorize its placement in the center of Windward Circle near the Venice Boardwalk.

I THEREFORE MOVE that the Council accept the donation by Roy Doumani of a 72" high sculpture entitled "Torso" with a base 48" high, made of aluminum, which was accepted by the Cultural Affairs Commission into the City Art Collection on May 6, 2004, and hereby also thank the donor on behalf of the City.

I FURTHER MOVE that the Department of Public Works be authorized, requested and instructed, as appropriate, to permit the placement of this sculpture in the center of Windward Circle near the Venice Boardwalk, and to issue any "no fee" permits as may be needed for this purpose.

MO  
**ADOPTED**

MAY 28 2004

LOS ANGELES CITY COUNCIL

PRESENTED BY:

*Cindy Miscikowski*  
CINDY MISCIKOWSKI  
Councilwoman, 11<sup>th</sup> District

SECONDED BY:

*Paul H. ...*

MAY 21 2004

COASTAL COMMISSION  
AS-VEN-05-239

EXHIBIT # 4  
PAGE 2 OF 2

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AR

# Why I Am Appealing Placing This Statue in the Circle

By Janet Gervers

Windward Circle is the HEART of Venice. The Greater Venice Community needs to be included in important decisions related to our Neighborhood – and part of the overall process.

This is in addition to developing a process for placing public art in Venice. The voices of Venetians have largely been ignored and excluded in regard to the Coastal Development Permit granted for a public project installation of a Robert Graham sculpture, "Torso," on the Venice Traffic Circle median referred to as Windward Circle in this letter.

At the public hearing on March 17, the architect of the project stated that a number of meetings had been held in the past year regarding this matter.

However, these meetings were for groups with privately-held memberships, not for the Greater Venice Neighborhood, nor advertised to the

greater Venice neighborhood.

As a resident, business owner, and active member of the community (President, Venice Art Collective; Member, Venice Art Council) located directly off of Windward Circle, I never received a flyer or any other kind of notice for these meetings nor did the majority of our neighborhood.

Essentially, a small exclusive group in Venice has been privvy to the information regarding Windward Circle. It should be noted that our own Venice Chamber of Commerce was not included in these exclusive presentations.

Does this adequately represent the voice of the Venice community? Simply put- NO!

In addition, the proposed art does not reflect the Venice Community in any way. Public art in the center of the community needs to have the visual connection that goes beyond artist name recognition – plus something that leaves a lasting legacy that the community is proud of in future generations.

Leaders of various community groups must be contacted to spread the word about projects impacting our community. In light of an art related project, with Venice as a reknowned art center

—continued on page ten

## Statue – continued from page 3

– and with so many art groups this is the first place to turn to in establishing an inclusive dialogue within our community.

These are my recommendations in regard to the permit for the Graham sculpture and ANY public art to be placed in the Venice Neighborhood:

### **DENY the Permit for reasons stated above.**

However, a conditional permit could be approved based on these parameters:

A. Community Guidelines and Process established for Public Art in Venice by a panel of representatives from a cross-section of leaders from Venice Art Groups. A group can easily be formed by the month of May for this purpose with an Open Call to Artists to submit works of art. (Guidelines can be based on existing guidelines such as the cities of West Hollywood and Culver City, respectively - no need to reinvent the wheel.)

B. Public works of art, especially in the heart of our community must be visually reflective of the Venice community and must go beyond an artist living in Venice.

C. If Graham chooses to create a new piece that follows the above, then the permit may be granted - conditional as stated. Note the sculpture is not cast yet. Also note that this closely resembles his art in Beverly Hills and is very representative of that community. In no way does it represent the community of Venice and is very derivative of the said Beverly Hills sculpture. Venice is a unique community and deserves unique works of art that reflect our community.

It is critical that the establishment of Community Guidelines/Process by leaders and members of Venice art groups takes place for any public art or project in Venice.

In addition, our public tax dollars need to be effectively appropriated for community projects with objectives voiced by our community.

The small, exclusive group that currently sponsors this project is not aligned with the objectives of the Greater Venice Community. It is inappropriate to allow them to determine how our tax dollars are spent!

COASTAL COMMISSION  
AS-VEN-05-239

EXHIBIT # 5

PAGE 1 OF 1

6-18-2005

CDP# 05-01

DEAR COASTAL COMMISSION,

I WORK AT THE VENICE POST OFFICE AT THE WINDWARD TRAFFIC CIRCLE WHERE I WILL SEE THE SCULPTURE EVERY DAY AND I FEEL IT IS INAPPROPRIATE FOR THAT LOCATION. THE SCULPTURE IS TO BE IN AN EXTREMELY PROMINENT LOCATION IN THE COMMUNITY BUT IT LACKS COMMUNITY IN ITS DESIGN AND HAS AROUSED MUCH OPPOSITION. A PROJECT IN THAT LOCATION NEEDS BROAD PUBLIC INPUT AND SUPPORT.

THE TORSO IS TOO SIMILAR TO OTHER GRAHAM SCULPTURES IN THE L.A. AREA AND LACKS ANY CONNECTION TO THE VENICE COMMUNITY OR ITS HISTORY. ONE PRACTICAL CONSIDERATION IS THAT THE VENICE TRAFFIC CIRCLE IS A VERY TROUBLESOME INTERSECTION WITH CONFUSING TRAFFIC PATTERNS WHERE COLLISIONS AND NEAR MISSES ARE QUITE COMMON. THE LAST THING THIS INTERSECTION NEEDS IS A PROMINENT VISUAL DISTRACTION, ESPECIALLY ONE WITH A MIRROR FINISH EXPOSED TO OUR VENICE SUNSHINE.

COASTAL COMMISSION  
AS-VEN-05-239

EXHIBIT # 6  
PAGE 1 OF 1



DEAN HENDERSON

Re: Supplementary Letter to Coastal Permit CDP# 05-01 Appeal  
To: California Coastal Commissioners

Date: June 21, 2005  
From: Lisa M. Ezell

I am a Venice homeowner, art historian, and collect art. I am opposed to the proposed installation of the Robert Graham "Torso" and below are several reasons why the project should be stopped.

**First** of all, art related to Venice's rich civic and cultural history would be more appropriate for the Venice Circle Island, or a fountain that would bring movement and music by its falling water to a location where the entire area was originally a canal.

**Secondly**, why should we look a gift horse in the mouth? After all, this sculpture is a gift to our city (by generous Venice Peninsula art collector Roy Doumani) and it is valued at \$350,000. It is by an internationally renowned local artist and requires solely the investment of an estimated \$75,000 of our city's funds for its complex installation. This gift was accepted by local city councilwoman Cindy Miscikowski (who owns a small Graham "Torso" or two, herself), and the Windward Avenue Improvement Association has pledged to pay for all future maintenance of the sculpture. **Because** art for locations with **civic importance** is traditionally chosen by one of two methods. Either an open call for entries, or by the invitation of a select group of artists (the artists chosen by a committee such as the Los Angeles Cultural Affairs Department) to submit designs for the project. Many Venice residents are unhappy that our community were not allowed to consider any other choices or options for this important location.

**Thirdly**, the "Torso" project was by its designation as "**a minor street or sidewalk alteration,**" able to avoid many of the standard requirements for the placement of public art. It was made exempt from many of the provisions of the California Environmental Quality Act. For example, the public hearing notices for the "Torso" were required to be given only to residents and business owners within 100 feet of the project! One local artist said she resented that she was required to notify all residents within a 2 mile radius for her own proposed mural project in a Venice street, yet the "Torso" that is proposed to be placed in our city center was allowed to shirk even this requirement. Public notification of the meetings held regarding the "Torso" proposal was inadequate. There was never a notice for any of these meetings published in the Los Angeles Times. One meeting was publicized by the handing out of flyers on the the Venice Boardwalk, where the tourists and weekend pleasure-seekers are, not the residents of the community. The meetings were mostly attended by members of the special interest groups who sponsored them.

**Fourthly**, it is inappropriate for this location (literally our Venice Town Square). There are 5 streets that meet at the Venice Circle, and bordering its west side is the Venice Post Office with its beautifully preserved 1941 W.P.A. mural by Edward Biberman depicting the founder of Venice. This site is not just another location for public art. Art located at this site will be, by virtue of its historic and central location in Venice, a **civic monument**, and as such, make a statement to the world about our community. The Graham "Torso" is foremostly inappropriate as a civic monument for this location by its similarity to the 2003 "Torso" commissioned by the Rodeo Drive Committee for Beverly Hills (located in a median at the intersection of Rodeo and Dayton). The Venice "Torso" has a more nubile body, its hip cocked in a more eroticized pose (to see the Beverly Hills "Torso", go to the artist's website, [www.robertgraham-artist.com](http://www.robertgraham-artist.com), click on Public Works, and then click on Torso at the far right of the screen). The Venice torso's arms are cut off, their stumps level with the neck.

COASTAL COMMISSION  
AS-VEN-05-239  
EXHIBIT # 7  
PAGE 1 OF 2

Re: Supplementary Letter to Coastal Permit CDP# 05-01 Appeal  
To: California Coastal Commissioners

Date: June 21, 2005  
From: Lisa M. Ezell

Page 2

Should our civic center sculpture match that of Beverly Hills? We don't have a lot in common with Beverly Hills, which is a more high-style, money-driven and manicured sort of place. What makes Venice special is its diverse community. The environment here is a little rough around the edges, but there is a large concentration of writers, poets, and visual artists who live next door to preachers and teachers, musicians, and skateboarders. The Venice community could not be more different than Beverly Hills and we deserve unique art!

**Lastly**, the "Torso" is a representation that is insensitive to the dignity of women. The sculpture is a headless and limbless nude female torso. From the top of the stump of the neck to mid-thigh where the legs end, the statue's height is 6'. It is made of solid cast aluminum, polished to a shiny finish, weighs 3,500 lbs., and will be mounted on a 4 1/2' steel base on top of a 1' tall concrete footing, standing altogether, 11 1/2' in height. It is so massive that a 2' high X 8' square concrete base is required underground to support its weight. Its placement would be one block from the Venice Foursquare Church where Pastors Steve and Regina Weller holds meetings for battered women and former prostitutes. And seven local churches use the Venice Traffic Circle Island on International Prayer Day to gather together and pray. The "Torso" in this location is a choice of art that is insensitive to our community.

In 1994, Pulitzer Prize-winning author Alice Walker was awarded a Graham designed statuette of a nude limbless female torso for being a California "state treasure." Walker, who had just completed a book and a film about female genital mutilation, was outraged. "Imagine my horror when...I was presented with a decapitated, armless, legless woman on which my name hung from a chain." she told the San Francisco Chronicle. I do not know what Alice Walker did with her sculpture, but we won't be able to hide this one under the bed or in the back of the closet.

The "Torso" has divided our community. It is too bad that Robert Graham, who could possibly be the best artist in our community to create a sculpture that would reflect upon and celebrate Venice in its centennial year, has instead chosen to place yet another "Torso." The "Torso" is a recurring theme for Robert Graham. It expresses his ego and ensures his legacy in a location that would be visible to himself when he steps out the door of his fortress-like home on Windward Avenue. If only he would make good on his assertion to Venice Magazine in the May 2005 issue, where he was asked, "What is the role of the artist in society today?" He answered, "Always the same thing. To be able to make something that enriches peoples lives."

Commissioners, please join Venice residents who believe that it is not wrong to "look a gift horse in the mouth," and would like to go about selecting art for the Venice Windward Circle with more community involvement and include an open call or at least have other options for this **historically important civic location in the heart of Venice.**

Sincerely,

Lisa M. Ezell

COASTAL COMMISSION

EXHIBIT # 7  
PAGE 2 OF 2

: Addendum to my appeal / KG 10R50 LDP #  
Sylvane Dunqan 05-01

(1)

THE DONOR OF THE "TORSO" AND THE ARTIST  
HAVE A VISION OF VENICE INFLUENCED BY  
THEIR AGE, AND WHERE THEIR RESIDENCE  
IS - THEY ARE "BOARDWALK" ORIENTED AND  
INFLUENCED; AND THEIR UNDERSTANDING  
OF VENICE IS LIMITED TO THE ATMOSPHERE  
OF THE BOARDWALK WHERE LOS ANGELES  
PEOPLE NOT VENICE PEOPLE PARADE,  
DURING THE WEEKEND, SHOWING OFF  
TO EACH OTHER, WITH MINIMUM CLOTHING  
ON - THE DONOR LIVES OFF THE BOARDWALK  
AND SO DOES THE ARTIST - AND THE SMALL  
GROUP THAT PUSHED THE "TORSO" THROUGH  
THE CITY, HAS SPECIAL INTEREST AROUND  
THE BOARDWALK AND WINDWARD  
CIRCLE AND NO RESPECT FOR THE  
LARGE MAJORITY OF THE COMMUNITY  
WHICH LOVES THE WHOLE OF VENICE;  
NOT ONLY THE SMALL STRETCH OF  
SAND AND THE T-SHIRT VENDORS OF  
THE BOARDWALK - VENICE IS A VERY DIVERSE

COMMUNITY → A PART FROM THE T SHIRT VENDORS.  
THE BOARDWALK IS LOVED THRUOUT THE  
WORLD FOR ITS ARTISTS AND FREE  
SPEECH PEOPLE - VENICE IN GENERAL,  
IS KNOWN FOR ITS ARTISTIC & INTELLECTUAL  
COMMUNITY - PAINTERS, POETS, FILMMAKERS  
BUT IT HAS ALSO AN AFRICAN AMERICAN  
AND LATINO COMMUNITY AND MORE AND  
MORE, A MORE AFFLUENT INTERNATIONAL  
INVESTOR GROUP IS MOVING IN VENICE -  
FOR ALL THESE RESIDENTS THE "TORSO"  
IS LIKE AN ALIEN "DUMPED" ON US  
BY A SPECIAL INTEREST GROUP WHO  
COLLECT R. GRAHAM AND WANT TO SEE  
HIS WORK IN VENICE - THIS "TORSO" HAS  
NOTHING TO DO WITH THE WHOLE COMMUNITY  
OF PEOPLE WHO LIVE / WORK IN VENICE -  
AND IF THE PROPER OUTREACH HAD  
BEEN DONE IT WOULD NEVER HAVE  
BEEN ACCEPTED BY THE CITY . BECAUSE:

1 - THE WOMEN OF VENICE FIND IT DEGRADING TO WOMEN AND DO NOT WANT TO SEE IT ERECTED IN THE GATEWAY TO OUR COMMUNITY WHICH THE WINDWARD CIRCLE IS -

2 - VENICE PEOPLE ALSO FIND THIS TORSO TO LOOK "LAS VEGAS" OR "RODEO DRIVE" AND NOT VENICE IT DOES NOT TALK ABOUT THE VENICE COMMUNITY OR TALK TO IT - IT IS BLAND, VULGAR, INAPPROPRIATE AND IT DEGRADES OUR NEIGHBORHOOD

3 - THEREFORE WE DO NOT WANT IT. THIS MONUMENT DOES NOT BELONG IN OUR COMMUNITY AND WE DO NOT WANT TO SPEND \$75,000.0 TO ERECT IT - AND WE DO NOT WANT TO HAVE TO SEE IT WHEN WE GO TO THE POST OFFICE, THE BANK, THE



COFFEE SHOP - THE BOARDWALK:  
VENDORS AND BOARDWALK WATCHERS  
MAY THINK THAT A HEADLESS,  
LIMBLESS, NAKED WOMAN, HIPSWAYING  
REPRESENTS VENICE IF THEIR  
INTEREST IS SOLELY FOCUSED ON  
THE BODY OF YOUNG WOMEN

[FROM SHOULDER TO THIGH] HIPSWAYING  
AS THEY WALK IN THEIR STRING BIKINI  
ON THE BOARDWALK.

THESE WOMEN GAZERS AND ROBERT  
GRAHAM COLLECTORS CANNOT RULE OVER  
THE MAJORITY OF THE PEOPLE OF VENICE  
WHO DO NOT WANT TO BE REPRESENTED  
BY A HEADLESS, LIMBLESS, HIPSWAYING  
NUDE WOMAN, A 6 FOOT SHINY TORSO  
IN BAD TASTE, IMPOSED ON US EVEN  
THOUGH ABOUT 150 people signed a  
petition against it when they

Finally heard about what was (3)  
happening to Venice - Also there  
were about 50 out appeals - forms  
sent to the city and Coastal  
Commission against the "Torso" -  
Our community feels degraded  
by it; and by the way a  
Special interest group managed  
to get the city [through  
very inadequate public out-  
reach] to impose it on the  
people of Venice, on our main  
town square -

Shirley D. [Signature]

COASTAL COMMISSION

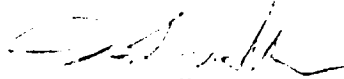
EXHIBIT # 8  
PAGE 5 OF 5

The Venice Circle sits at the place of the original lagoon where gondoliers would launch their boats nearly 100 years ago. Now, this site exists as a blank concrete canvas at the hub of our community. The opportunity to enhance the Circle area itself is the greatest chance to represent what we as an artistic and historical community stand for.

Surrounding the Circle, the theme of the area is already imbedded in place. The mural just across the street depicts the original canals of Venice, including some of its famous early inhabitants. The nearby post office contains a painting that shows Abbott Kinney and his vision for Venice in progress. All along the sidewalks from the circle to the beach, there are ornately decorated arches that stand as a remaining landmark of an era that the community of Venice strives to preserve.

Non-historical artwork also relates to the area. The sidewalks and bus-stop posts have ocean-like waves built into their design. The architecture of the nearby buildings also have a uniquely Venice look and feel.

These are just a couple examples of artwork that connect to Venice, historically and aesthetically. The shiny nude torso that is proposed to stand in the epicenter of our town does neither.



Joshua Woollen  
2009 Dell Ave  
Venice, CA 90291  
310.574.3984

# Statue of Imitation

By Carol Fondiller

It must have been a slow news day for the L.A. Times on Saturday April 16th when it ran one of it's boiler plate "oh those Wacky Venetians" stories on the front page. Below the fold, but definitely on the Front Page.

This time, it was about the objections of the Venice Community to the placing of a torso on the Venice Traffic Circle. And as usual those funny zanies at the Times missed the point.

The point missed was a lack of process in the choice of art work, and the perception that if one were famous enough and had rich patrons, one could dump anything they wanted in Venice.

We're certain that Robert Graham is a sensitive artist. And, he is a resident of Venice.

But, just because he is an artist and therefore has elevated sensibilities does not mean that he or any other artistry-poo that inhabits Venice has get a right to shove his stuff on Venice. That Damned Masonic Symbol at the end of Windward Avenue is bad enough.

And bad enough is the fact that the statue is a legless armless headless torso - but what's a memorial to Elizabeth Short, the Black Dahlia, got to do with Venice?

Suddenly Mr. Doumani, a Peninsula resident, promises several hundred thousand dollars for this statue and the cash strapped city - can't afford beach benches - comes across with some matching funds. When people objected to the lack of process, they were threatened with the withholding of any more artworks in the future. "Well if you had little children don't like oatmeal, you won't get any more food in the future."

It isn't as if people in Venice didn't have Visions about what to do about the traffic circle. In previous issues of the Beachhead, many creative and wonderful ideas about how to make the circle outstanding were published. And the Beachhead is certain there are more innovative ideas out there.

But the process was ignored, and about six business people who form the circle business association decided what they wanted, and bedazzled by Mr. Graham's fame, accepted the torso statue.

But in a renaissance style mix of expensive art and high politics the L.A. Times pursued the matter in an attempt to shame the people of Venice. Venice ain't what it was, the editorial (Thursday, April 21) claimed, no more free thinkers and diversity. Just soaring property values and gentrification.

COASTAL COMMISSION  
AS-VEN-05-239

EXHIBIT # 10

PAGE 1 OF 1

DEAR FOLKS AT THE COASTAL COMMISSION:

I FEEL THE STATUE IS CONTRARY TO THE COLORFUL AND LIFE-AFFIRMING QUALITIES OF VENICE. A FOUNTAIN, ALA THE BRAND AND BEAUTIFUL ONES OF VENICE, ITALY, WOULD BE MORE APPROPRIATE. THIS

ARTICLE WRITTEN BY CAROL FONDILLER EXPRESSES HOW I FEEL ABOUT HAVING THIS COLD STEEL HEADLESS ARM LEG AND LEGLESS "TORSO" PUT IN SUCH A PROMINENT PLACE IN OUR TOWN. THANK YOU.

SUSAN D. WILLIAMS



Venus de Milo lost her arms during her full and active life.

NOTE THAT THE ARM LESS NESS - WAS NOT PUR-

POSELY DONE HERE BY MICHAEL ARZELLO. A VANDAL REMOVED HER ARMS. (A VIOLENT ACT.)

APPEAL OF CDP 05-01  
BY: JOHN DAVIS  
PO 10152 MARINA DEL REY CA 90295  
DATE: JUNE 20, 2004

Honorable Coastal Commissioners,

Substantial Questions surrounding CDP 05-01 are unanswered requiring the Coastal Commission to consider this appeal at a public hearing are below.

Coastal Commission Regulations § 13115 define Grounds for Appeal and the California Coastal Act § 30625 (b) define Substantial Issue Determination and § 13119 defines the standard of review.

CDP 05-01 does not meet the requirements of Public Resources Code Sections 30604(b) and (c) for the following reasons.

In issuing Coastal Development Permits the Coastal Commission must conform to its Regulations. In acting on behalf of the Commission the City of Los Angeles has failed that duty in the following respects.

Pursuant to the California Coastal Commission Regulations (Title 14, Division 5.5) (CCCR) hereinafter, § 13113 and Public Resources Code § 30303 (b), it appears that there are no appeal procedures of a decision of local government to issue Coastal Development Permits (CDP) hereinafter unless the Coastal Commission has certified a Local Coastal Program (LCP hereinafter) for that permit area.

There is no Certified LCP in the community of Venice, CA where the City of Los Angeles issued CDP 05-01.

Therefore City of Los Angeles Ordinance No. 151603 that claims to empower the City of Los Angeles to issue said CDP is inconsistent the CCR and California Coastal Act (CCA hereinafter) in that there is no appeal procedure for a CDP approved by a Local Entity without a certified LCP for that permit area.

Therefore CDP 05-01 is invalid on its face.

Even if the City of Los Angeles could issue CDP 05-01 in the community of Venice without first having a certified LCP this application can be further invalidated in that the name shown on the first page of the application is the department of Public Works – Bureau of Engineering.

On the last page the signature of the Authorized Agent appears however there is no signature of the Applicant authorizing the Agent and binding it as the representative of the Applicant therefore the application is invalid on its face. CCR § 130533 . 5 (c)

**COASTAL COMMISSION**  
**AS-VEN-05-239**  
EXHIBIT # 11  
PAGE 1 OF 6

2

requires the Applicants signature however it is absent therefore the permit is invalid on its face.

ATTACHMENT 1

CCR § 130533 . 5 (a) (d) requires and adequate description including plans etc., sufficient to determine whether the project complies with all relevant policies of the Coastal Act. Only one computer-generated view of the project is presented. One half of the project is not shown therefore the application fails to meet the criteria established by this code and therefore the application is invalid on its face.

CCR § 13056 requires that the Executive Director shall only file the application after reviewing and finding it complete. For the reasons stated above the application is not complete and therefore invalid on its face.

CCR § 13054 (3-b) has not met in CDP 05-01 violating the CCR thereby.

CCR § 13057 (1) (2) (3) (4) (5) (6) were not adequately addressed or entirely absent from the City Staff Report invalidating the application.

§ 13507 (6-c-3) requires responses to significant environmental points raised during the evaluation of the proposed development as required by the CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) hereinafter. The Staff Report is insufficient in this regard. The City Staff Report claims this is a minor alteration of a sidewalk or street and therefore exempt from CEQA. This is FALSE. The proposed development is of a MONUMENT and is therefore not exempt from CEQA. Furthermore the City adopted FALSE FINDINGS regarding CEQA and termed it an error in the Staff Report.

CCR § 13012 describes Major Public Works. CDP 05-01 may be a major public work and the City of Los Angeles has not provided substantial evidence as defined by CEQA that the project will cost less than one hundred thousand dollars. No consideration of future maintainance has been considered for instance.

Furthermore I also incorporate the following issues I brought up before the City of Los Angeles at a public hearing regarding CDP 05-01.

To: City of Los Angeles Board of Public Works  
Re: Coastal Development Permit No. CDP 05-01  
From John Davis  
PO 10152 Marina del Rey CA 90295  
Transmitted via email on May 20, 2005

5/23/05

Honorable Board of Public Works Members,

**COASTAL COMMISSION**

EXHIBIT # 11  
PAGE 2 OF 6

Provisions the U.S. Coastal Zone Management Act of 1972, the California Coastal Zone Management Plan, the California Coastal Act, the California Ralph M. Brown Act, The California Environmental Quality Act, and the California Code of Procedures contradict this application and are enumerated in detail in this letter I submitted via email on May 20, 2005.

#### ILLEGAL COASTAL DEVELOPMENT PERMIT APPLICATION

The Applicant for this Coastal Development Permit is not the same applicant as shown on the Application for Approval of Public Artwork to the City of Los Angeles Cultural Affairs Department Public Art Division referred to in your Staff Report.

The approval by Cultural Affairs did not require public taxpayer money. This application estimates a cost to taxpayers of seventy thousand dollars. Therefore you cannot fall back to those hearings to claim they in any way affect this application submitted by a different applicant and under different circumstances.

If acting as an Agent, the Applicant must sign the Application for Coastal Development Permit. The City Council by failing to sign, as the Applicant has not conformed to the California Coastal Act therefore the application for this coastal development permit is invalid and now moot under the law.

This Application falsifies the height of the project and is incomplete. Item 4. C falsely that this development will not affect access to the Coastal Zone. In fact this development is visually divisive and will repel people from the Coastal Zone to avoid it.

Glare reflected from the sun may also temporarily blind drivers and creates a safety hazard causing people to use other routes in the Coastal Zone further reducing access.

The application does correctly state on item 7 that the development will not provide public recreational opportunities.

Answers to item 10 are false. The development would be visible from Dockweiler State Park looking down Windward Ave.

#### ILLEGAL PROCEDURES BY THE CITY ENGINEER

This hearing is predicated on an unlawful hearing conducted by the City Engineer and is therefore also unlawful.

The Brown Act, California Codes Government Code § 54950-54963, defines this board as a legislative body and grants it the ability to take action within its subject matter jurisdiction.

**COASTAL COMMISSION**

EXHIBIT # 11  
PAGE 3 OF 6

The City Engineer is not a legislative body, therefore the prior hearing was unlawful as was the proposed issuance of a Coastal Development Permit by it.

**GOVERNMENT CODES CONTRIDICTING THIS APPLICATION**

§ 54952  
§ 54952.2. (a)(b)  
§ 54952.6

**PUBLIC RESOURCES CODE DIVISION 20 , THE CALIFORNIA COASTAL ACT OF 1976 CONTRIDICTING THIS APPLICATION**

In the Absence of a certified Local Coastal Plan, Chapter Three Policies of the Coastal Act govern development in the Venice coastal zone.  
Granting this application violates the following sections of the Public Resources Code.

§ 30006  
§ 30110  
§ 30251  
§ 30254

Furthermore approving this permit would constitute a violation of the California Coastal Zone Management Plan ( CaCZMP)

**TITLE 14 CALIFORNIA CODE OF REGULATIONS CHAPTER 3. GUIDLINES FOR IMPLIMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT CONTRIDICTING THIS APPLICATION**

Ara J. Kasparian on behalf of the City has signed a Notice of Exemption pursuant to Article 3, Section 3 – City CEQA Guidelines by unlawfully utilizing false and misleading information not consistent with CEQA Guidelines.

The Application is not exempt under Public Resources Code § 21080(b) 1-15 and the City provides no evidence to support it's contention.

Only one half of the proposed Coastal Development is depicted leaving this Board and the Public to only guess what the other half looks like. There is no complete schematic view of the entire proposed development.

There is also significant Public Controversy surrounding this application.

§ 15020  
§ 15021  
§ 15022  
§ 13096  
§ 21080.5 (D)(2)(A)

**FEDERAL COASTAL ZONE MANAGEMENT ACT OF 1972**

(16 U.S.C. 1451 et seq.) As amended CONTRIDICTS THIS APPLICATION

**COASTAL COMMISSION**

EXHIBIT # 11  
PAGE 4 OF 6



**BOARD OF PUBLIC WORKS  
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**CITY OF LOS ANGELES  
CALIFORNIA**



JAMES K. HAHN  
MAYOR

DEPARTMENT OF  
PUBLIC WORKS

BUREAU OF  
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GARY LEE MOORE, P.E.  
CITY ENGINEER

650 SOUTH SPRING ST., SUITE 200  
LOS ANGELES, CA 90014-1911  
213-847-8766

<http://eng.lacity.org>

March 30, 2005

Mr. John Davis  
P.O. Box 10152  
Marina del Rey, CA 90295

Dear Mr. Davis:

This letter is in response to your correspondence to Ms. Valerie Lynne Shaw, President of the Board of Public Works, asserting that the City Engineer's review of Coastal Development Permit application No. 05-01 (for a sculpture to be placed in Windward Circle) violates state law, specifically the Coastal Act, Brown Act and the Environmental Quality Act.

The California Coastal Act of 1976 is set forth in the State Public Resources Code (PRC), Division 20 (Sections 30000 – 30900). The Act describes the policies and general procedures whereby the development and use of the State's coastline is controlled through the issuance of Coastal Development Permits. The City of Los Angeles issues Coastal Development Permit for most developments in the Coastal Zone under the authority of the PRC Section 30600(b) and Section 12.20.2 of the Los Angeles Municipal Code.

Chapter 1, Article 2, § 12.20.2 of the municipal code, gives the City Engineer the authority to approve, conditionally approve or disapprove any application for a coastal development permit under the provisions of the California Coastal Act of 1976. The municipal code also establishes procedural requirements.

A "notice of intent" must be posted "at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development a notice that an application has been made for a Coastal Development Permit. Such notice shall contain specific information as to the nature of the proposed development and be in a form as prescribed for that purpose." (municipal code section 12.20.2 E) This notice was posted on street lighting posts along Windward Circle, one on each of the five blocks formed by the intersecting streets, on February 14, 2005.

"To the extent possible, any Permit application for Development within the Coastal Zone shall be processed in accordance with established policies and procedures of a permit granting authority in conformance with the provisions of this Code. For those projects for which no hearing would otherwise be required by law, the appropriate City agency shall notify by mail, at least ten (10) days prior to the hearing the following:

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- (a) those persons whose names appear on the list of property owners within 100 feet of the boundary of the site of the proposed development;
- (b) an occupant of all residences, including apartments, within 100 feet of the boundary of the site of the proposed development. This requirement can be met by mailing such notice to "occupant" of the subject residence.
- (c) those persons known or thought to have a particular interest in the application and
- (d) all other persons requesting notice.

At the public hearing, all interested persons shall be afforded a reasonable opportunity to testify and present evidence." (municipal code section 12.20.2 F)

The Notice of Public Hearing was mailed on February 17, 2005 to all owners and occupants of property within 100 feet of Windward Circle and all parties known to have a particular interest in the project. The mailing list was based upon the latest records of the Los Angeles County Assessor and the City Engineer. Based on the requirements stated in the municipal code, the public hearing for the proposed project was adequately noticed.

The Ralph M. Brown Act was enacted in 1961 to assure government is conducted in the open. Also known as the "Open Meetings Law", the law is found in Government Code Section 54950-54961. Although you assert that the City Engineer's actions violated the Brown Act, the act does not allow nor prevent the City Engineer from conducting a public hearing and issuing coastal permits. The Brown Act does set minimum standards for providing public access to and involvement in governmental actions. The coastal permit process laid out in the Municipal Code, which includes a 10-day advance public notice, complies with the minimum standards of the Brown Act.

The California Environmental Quality Act identifies a list of classes of projects which do not have a significant effect on the environment and which are therefore do not require the preparation of an environmental document. These categorical exemptions include minor alteration of existing public facilities (Class 1) and minor public or private alterations to the condition of land, water and/or vegetation (Class 4). The proposed placement of a sculpture within the Windward Circle median island is "categorically exempt" project.

Should you have further questions, please contact Ara Kasparian of my staff at (213) 847-8815.

Sincerely,



Gary Lee Moore, P.E.  
City Engineer

cc: Ms. Valerie Lynne Shaw, President of the Board of Public Works  
Ms. Ellen Stein, Vice-President of the Board of Public Works

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Carol Beck

From: "Carol Beck" <rexbeck@msn.com>  
To: "Carol Beck" <rexbeck@msn.com>  
Sent: Saturday, June 04, 2005 11:45 AM  
Subject: PUBLIC PROCESS, PLEASE

**RECEIVED**  
South Coast Region  
JUN 8 2005  
CALIFORNIA  
COASTAL COMMISSION

June 4, 2005

Coastal Commission  
200 Oceangate, 10th floor  
Long Beach, Ca 90802

RE: Permit # 562 TORSO

Dear Commissioners,

This will let you know, in no uncertain terms, that I support a public process only, in this matter. There is no place for cronyism, and secret deals, rather than a public process which supports and encourages local artists to submit their best ideas, and also that of the Venice community at large ... we all might be very pleasantly surprised at what would emerge from such a public process.

Thanks for listening and for your appropriate responsiveness.

Sincerely,



C.V. Beck, a Venice resident  
1053 Elkgrove Avenue, # 1  
Venice, CA 90291-5721

COASTAL COMMISSION  
AS-VEN-05-239

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