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PLATED PERSONAL CHEF SERVICES LTD
D/B/A SAUCY BIRD

**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

PLATED PERSONAL CHEF SERVICES LTD,
a New York corporation d/b/a Saucy Bird,

Petitioner and Plaintiff,

vs.

CITY OF LOS ANGELES, a municipal
corporation; CITY OF LOS ANGELES CITY
COUNCIL; and DOES 1 through 10, inclusive,

Respondents and Defendants.

CASE NO. 24STCP02773

**VERIFIED PETITION FOR WRIT OF
MANDAMUS AND COMPLAINT FOR
INJUNCTIVE RELIEF**

[Code Civ. Proc. §1085]

Petitioner and Plaintiff PLATED PERSONAL CHEF SERVICES LTD D/B/A SAUCY
BIRD (“Saucy Bird”) alleges as follows:

1 **INTRODUCTION**

2 1. This case arises out of the City’s improper decision to convert the parking lot at
3 2377 Midvale (“Lot 707”), the only public off-street parking lot serving approximately two-dozen
4 businesses – including the only public off-street ADA-compliant parking in the area – into a
5 facility for homeless people. Despite repeated assurances to area business owners that the Project
6 would not begin until the City found adequate substitute parking for these businesses, the City
7 closed Lot 707 with no notice, leaving the local businesses and patrons that relied on that lot with
8 no available parking and causing irreparable harm.

9 2. The City had taken the Lot by eminent domain in 1990, with a resolution of
10 necessity conclusively establishing why this parking was vital for the businesses in this area. With
11 the current project, however, the City changed the use of that Lot in violation of the law and
12 without following the proper procedures, causing significant harm to the public and property and
13 business owners who have relied on that parking since 1990.

14 3. Because the surrounding neighborhoods are permit-parking only after 6 p.m.,
15 parking on Pico Boulevard is prohibited between the hours of 4-7 pm, and there are no other
16 available off-street lots, there is quite literally nowhere else to park. By improperly converting the
17 use of Lot 707, so that patrons simply cannot visit these businesses, the City has effectively
18 destroyed any chance at survival for the two dozen businesses along that stretch of Pico and has
19 caused them irreparable harm.

20 **PARTIES**

21 4. Petitioner and Plaintiff Plated Personal Chef Services Ltd. d/b/a Saucy Bird is a
22 corporation organized under the laws of New York and licensed to do business in California, with
23 its principal place of business in Los Angeles County at 10914 W. Pico Boulevard, Los Angeles
24 90064. Saucy Bird is a chicken restaurant. Brian Collesano is the principal of Saucy Bird. Saucy
25 Bird is approximately 100 feet from Lot 707.

26 5. Respondent and Defendant City of Los Angeles is a California charter city located
27 in the County of Los Angeles, California.

1 only public off-street parking facility for the nearby businesses in the area and provides the only
2 public off-street ADA parking for those businesses.

3 12. Parcel 2 abuts single-family homes to the east, west and north.

4 13. On July 24, 2023, Council District 5 announced the Project **after** site selection had
5 been completed, and **after** a vendor and provider had already been selected by the Councilmember.
6 Unlike other homeless projects, the Midvale Project failed to abide by the required processes,
7 namely there had been no prior Council file, no Council motion to initiate the project, no eminent
8 domain analysis, and no Project application prior to the approval. Most relevant here, there was no
9 change of use resolution, motion or ordinance.

10 14. The Project faced significant public opposition, both because of the secrecy
11 involved and because of the nature of the project itself. Various stakeholders proposed other
12 locations that would have been less expensive and provided more beds, but they were ignored.

13 15. On August 10, 2023, the Los Angeles Board of Transportation Commissioners held
14 an “informational” session on the Project. The informational session did not provide the public
15 with a staff report. The Board took no action at the informational session.

16 16. On September 29, 2023, the Bureau of Engineering issued its CEQA exemption
17 report.

18 17. On September 29, 2023, the CAO issued a report recommending the use of the lot
19 for modular interim housing and partial funding for the Project, but only for site preparation and
20 the modular units, not for operation expense or restoration of the parking lot.

21 18. On October 4, 2023, the Los Angeles Housing and Homeless Commission held a
22 public hearing to approve Project funding for the purchase of the sleeping huts. There was no staff
23 report from Los Angeles Housing Department, Los Angeles General Services Department, or site
24 suitability report from the CAO.

25 19. On October 12, 2023, the Board of the Los Angeles Transportation Commission
26 held a public hearing on the Project. The Commission President continued the item to October 18,
27 2023, due to lack of information on the Project.

1 20. On October 16, 2023, the Mayor fired the President of the Board of Transportation
2 Commissioners, whom she had just reappointed a month earlier.

3 21. On October 20, 2023, the City Council approved the use of Lot 707 for a low-
4 barrier interim housing project, but only approved partial funding for the Project. The October 20,
5 2023 approval did not include a change of use resolution or authorization to change the use of Lot
6 707 from a public parking facility to a homeless facility.

7 22. On October 27, 2023 the Mayor approved the City Council’s action.

8 23. At that point, the Project still had a nearly \$1 million shortfall, according to the
9 council office; thus, before the Project could actually be considered final, the Council had to come
10 up with additional funding. Accordingly, on June 7, 2024, a motion to move \$980,000.00 from the
11 “Emergency Stabilization Beds Grant” to the Project was referred to the Housing and
12 Homelessness Commission of the City Council.

13 24. On June 10, 2024, in an entirely unrelated council file, the council reallocated an
14 additional \$1.2M from another project to the Midvale Project. This reallocation is not disclosed in
15 the Midvale council file.

16 25. On June 11, 2024, the Council adopted the motion and approved the funding.

17 26. On June 13, 2024, the Mayor approved the Council’s action, making approval of the
18 Project final.

19 **SINCE AT LEAST 1990, THE CITY HAS RECOGNIZED**
20 **THE VITAL NEED FOR PUBLIC OFF-STREET PARKING IN THIS AREA**

21 27. The City of Los Angeles acquired the property at 2377 Midvale and adjacent parcels
22 by eminent domain in 1990 for the express purpose of establishing a public off-street parking lot.
23 Ordinance No. 166003, introduced by then-councilman Zev Yaroslavsky, and passed by the City
24 Council on April 11, 1990, and approved by Mayor Tom Bradley on April 18, 1990, stated that
25 “the public interest and necessity” required the City to take this property and use it for “public off-
26 street parking facilities” for the businesses along this stretch of Pico. The Ordinance stated that
27 this parking use was “most compatible with the greatest public good.”
28

1 28. The affected stretch of Pico was subsequently made subject to an “anti-gridlock”
2 zoning ordinance, pursuant to LAMC §80.70 and Ordinance No. 177753. Parking is therefore
3 prohibited between the hours of 4-7 p.m.; the rules are strictly enforced, and cars are towed
4 immediately.

5 29. The surrounding residential neighborhood does not allow street parking after 6 p.m.
6 except by permit for residents. These rules are also strictly enforced, and cars are ticketed
7 immediately.

8 30. There are no other public lots nearby and no private parking available.

9 31. There is thus almost no available parking in the area for patrons of the businesses on
10 this portion of Pico after 4pm, except for the spaces in Lot 707. Patrons of these businesses use
11 Lot 707.

12 **COUNCIL DISTRICT 5 RECOGNIZED THE ONGOING NECESSITY OF PARKING BY**
13 **REPEATEDLY PROMISING NOT TO BEGIN WORK ON THE PROJECT UNTIL IT**
14 **HAS OBTAINED SUBSTITUTE PARKING FOR THE AFFECTED BUSINESSES**

15 32. The Councilmember repeatedly promised colleagues and stakeholders that the City
16 would not begin dismantling Lot 707 until it had secured adequate alternate parking for the
17 businesses affected by the loss of Lot 707.

18 33. For example, during an August 7, 2023 zoom call with the public, in response to the
19 question of whether replacement parking was being secured, Council Member Katy Yaroslavsky
20 said: “Yes. We're in discussions with owners of private lots nearby to open them to the public, like
21 joint shared-use parking agreements. This includes Hudson Properties, which owns the West Side
22 Pavilion property just south right across the street from the proposed project site. We hope to be
23 able to announce a partnership soon so that if that parking is needed, we'll figure out whether it's a,
24 a shared valet for local where, where those cars will be parked across the street, or if people will
25 just be able to park there across the street and walk, walk wherever they need to go.”
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27
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1 34. At that same meeting, she also told the public the Council would not simply “ignore
2 the impacts there will be by removing the available parking,” but that “some shared parking
3 agreement will be worked out.”

4 35. At the October 20, 2023 City Council Meeting immediately preceding the vote on
5 the Project, Council Member Yaroslavsky stated: “For the businesses on Pico, *you have my word*
6 that we’re going to secure additional parking **before we break ground** on this Project.”

7 36. She made the same promise in a video posted to her official FaceBook page: “*I*
8 *made a commitment to secure additional parking for local businesses before we break ground on*
9 *this Project.*”

10 37. These promises show the City’s understanding that the public parking lot is vital to
11 the continued success of these businesses.

12 **THE CITY BREAKS ITS PROMISE TO SECURE ADDITIONAL PARKING BEFORE**
13 **BEGINNING WORK ON THE LOT**

14 38. On Friday August 16, 2024, at approximately 4:35 p.m., the City informed some
15 affected business owners along Pico – but not all of them – that the Lot would be closed effective
16 Sunday August 18.

17 39. By Monday morning August 19, 2024, fencing had been installed around the lot and
18 parking was no longer permitted there. No notices were posted, and the public was not informed
19 where parking was available. As of Monday, August 19, 2024, the City began demolishing the lot
20 in preparation for building the Project. They installed a mobile office and brought in a dumpster,
21 along with excavator vehicles such as a backhoe and skidsteer. Trees were cut down and portions
22 of asphalt removed. Parking equipment and wheel blocks were removed.

23 40. No additional or substitute parking has been secured, though the City falsely
24 claimed to have secured replacement parking. Even if it had been true, the identified parking was
25 too far away to mitigate the negative impact and inconvenience on business operations for
26 Petitioner and its neighbors.

1 41. The businesses that relied on Lot 707 now have **no off-street parking** for their
2 patrons, **no parking at all** during the hours of 4-7 pm, and no available street parking in the
3 surrounding neighborhood after 6 p.m. In addition, there are no public off-street ADA-compliant
4 spaces available.

5 **WITHOUT LOT 707 OR SUBSTITUTE PARKING, PETITIONER HAS SUFFERED AND**
6 **WILL CONTINUE TO SUFFER IRREPARABLE HARM**

7 42. Without Lot 707, the public has little to no available parking, especially during the
8 busy dinner hours of 4-7 pm. They are unable to park on the street in front of the restaurant;
9 indeed, even food delivery services like Uber Eats and Door Dash cannot leave their cars outside
10 for the two minutes it takes to run in and pick up an order because they will be immediately towed.
11 In fact, they cannot even stop as Pico is Tow-away, No Stopping from 4pm to 7pm.

12 43. Even before the Lot was closed to the public without notice, local businesses began
13 to feel the effects of the impending loss of the Lot. For example, Petitioner is informed and
14 believes and on that basis alleges that a new tenant was about to sign a lease for one of the spaces
15 on this stretch of Pico, but when he learned of the Project, he rejected the location.

16 44. Petitioner is informed and believes and on that basis alleges another tenant had
17 plans to expand but was denied because of the lack of parking.

18 45. Petitioner is informed and believes and on that basis alleges that the prospects of
19 this project and now action by the City have already resulted in a negative business climate and
20 increase in vacancies in the neighborhood along Pico.

21 46. Petitioner would not have signed its lease if Lot 707 had not been available because
22 the on-street parking without that lot is not sufficient for the needs of the restaurant. Indeed, the
23 success of the restaurant depends on the ability of customers to visit throughout the day, especially
24 during evening hours. Convenient and accessible parking is crucial for attracting and retaining
25 customers during these peak dining hours.

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FIRST CAUSE OF ACTION
Violation of Code of Civil Procedure §1245.245(a)
As Against all Defendants

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4 47. Petitioner refers to and incorporates by reference each and every allegation set forth
5 in the preceding paragraphs.

6 48. The City acquired Lot 707 through its powers of eminent domain for public off-street
7 parking facilities by duly executing a proper Resolution of Necessity as set forth in Ordinance No.
8 166003.

9 49. The recently-approved homeless housing facility project represents a change of use
10 from public off-street parking to homeless interim housing.

11 50. The Eminent Domain Law requires the condemning agency to adopt a Resolution of
12 Necessity as a prerequisite to being able to use the power of eminent domain. Code of Civil
13 Procedure §§1240.040, 1245.230. A Resolution of Necessity requires that certain findings be made,
14 including: (1) The public interest and necessity require the proposed project; (2) The proposed project
15 is planned or located in the manner that will be the most compatible with the greatest public good
16 and the least private injury; and (3) The property is necessary for the proposed project. Code of Civil
17 Procedure §§ 1240.030, 1245.230.

18 51. Following an acquisition by eminent domain, a change of use from the use contained
19 in the adopted Resolution of Necessity that supported the original acquisition requires the City to
20 adopt a new Resolution of Necessity authorizing the new use. That new Resolution of Necessity must
21 be adopted by a super-majority of the City Council. Code of Civil Procedure §1245.245(a). Pursuant
22 to Code of Civil Procedure §1245.245(a), the resolution must contain the following information:

- 23 a. A general statement of the new public use that is proposed for the property and a
24 reference to the statute that would have authorized the public entity to acquire the
25 property by eminent domain for that use;
- 26 b. A description of the general location and extent of the property proposed to be used
27 for the new use, with sufficient detail for reasonable identification; and

1 c. A declaration that the governing body has found and determined each of the
2 following:

- 3 i. The public interest and necessity require the proposed use.
- 4 ii. The proposed use is planned and located in the manner that will be most
5 compatible with the greatest public good and least private injury.
- 6 iii. The property described in the resolution is necessary for the proposed use.

7 52. The City failed to adopt a Resolution of Necessity authorizing the new use or to make
8 the findings necessary to support such a resolution.

9 53. The unauthorized change in use has caused direct and irreparable harm to
10 Petitioner/Plaintiff.

11 54. Petitioner has no plain, speedy and adequate remedy at law. An injunction is
12 necessary to enjoin Respondents from taking any action to further interfere with public use of Lot
13 707 as a parking lot, and to restore Lot 707 to its lawfully approved public parking lot use.

14 55. A clear, present and ministerial duty exists for Respondents to act in compliance with
15 Code of Civil Procedure §§1245.245(a) and 1085. Petitioner has no plain, speedy or adequate remedy
16 available to it in the ordinary course of law to redress the claims alleged in this Petition. Petitioner
17 and the public generally will suffer irreparable harm if the Court does not issue mandamus directing
18 the City to revoke its approvals of the Project and all contracts and approvals based thereon and to
19 restore Lot 707 to its lawfully approved public parking lot use.

20
21 **PRAYER**

22 1. For a peremptory writ of mandamus requiring the City to comply with the
23 mandatory and ministerial duties under state and local laws, requiring it to void the Project and all
24 contracts, approvals, entitlements and permits that may have been issued by the City for or in
25 furtherance of the Project;

1 2. For an injunction to enjoin Respondents from taking any further action to interfere
2 with public use of Lot 707 as a parking lot, and to restore Lot 707 to its lawfully approved public
3 parking lot use;

4 3. For attorney fees;

5 4. For costs of suit incurred herein; and

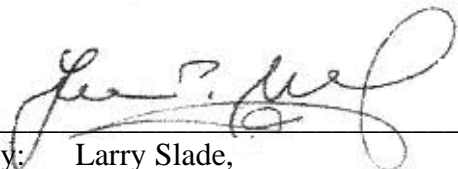
6 5. For such other further relief as the Court deems just and proper.

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8 Dated: August 28, 2024

LAW OFFICES OF DARIN MARGULES, PLC

9
10 By *Darin Margules*
11 Darin Margules
12 Attorney for Petitioner/Plaintiff
13 Saucy Bird

14 SLADE LAW

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16 
17 By: Larry Slade,
18 Attorney for Petitioner/Plaintiff
19 Saucy Bird

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VERIFICATION

I, Brian Collesano, am the principal of the Petitioner in the above-entitled matter. I have read the foregoing Petition and know the contents thereof. The same is true of my own knowledge except those matters which are stated on information and belief, and as to those matters, I believe to be true.

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

Executed this 28 day of August, 2024 in Los Angeles, California.


Brian Collesano