

1 **THE SILVERSTEIN LAW FIRM, APC**
2 ROBERT P. SILVERSTEIN (State Bar No. 185105)
3 JAMES S. LINK (State Bar No. 94280)
4 215 North Marengo Avenue, 3rd Floor
5 Pasadena, CA 91101-1504
6 Telephone: (626) 449-4200
7 Facsimile: (626) 449-4205
8 Robert@RobertSilversteinLaw.com

Electronically FILED by
Superior Court of California,
County of Los Angeles
11/04/2024 10:20 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By J. Lopez, Deputy Clerk

9 Attorneys for Petitioner
10 FIX THE CITY, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 FIX THE CITY, INC., a California
14 Nonprofit Corporation,

15 Petitioner and Plaintiff,

16 vs.

17 CITY OF LOS ANGELES, a municipal
18 corporation; the CITY OF LOS
19 ANGELES CITY COUNCIL; and
20 DOES 1 through 10, inclusive,

21 Respondents and Defendants

Case No. 23STCP04410

**PETITIONER'S OBJECTIONS TO
CITY'S CERVANTES AND WEE
DECLARATIONS**

**[Petitioner's Reply Trial Brief,
Supplemental Request for Judicial Notice,
and Reply to City's Evidentiary
Objections, filed concurrently herewith]**

Trial Date: November 14, 2024

Time: 9:30 a.m.

Dept.: 85

[Hon. James C. Chalfant]

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504

1 Petitioner Fix the City, Inc. (“Petitioner”) makes the following objections to the
2 below specified content in the declarations of Roy Cervantes and Charles Wee, which
3 declarations were filed with Respondents City of Los Angeles and Los Angeles City
4 Council’s (“City”) opposition trial brief. Petitioner requests that all such objections be
5 sustained. The Court’s ruling on each objection is requested to be indicated by checkmark
6 or Judge’s initials on the line next to “Sustained” or “Overruled” as to each such objection.

7

8 **I. OBJECTIONS TO DECLARATION OF ROY CERVANTES.**

9

10 **OBJECTION NUMBER 1.**

11 **Materials Objected To:**

12 **Paragraph 3:**

13 “LADOT operates off-street public parking facilities including parking lots for the
14 City of Los Angeles. Among those parking lots has been Lot 707 at the intersection of
15 Midvale Avenue and Pico Boulevard. City general fund monies derived from public taxes
16 are used to pay for the parking enforcement operation component of LADOT parking
17 facilities, as is the case for Lot 707. The Office of Parking Enforcement and Traffic
18 Control issues tickets for violation of parking facility payment rules and the Parking
19 Operations and Support Division oversees the collection of payment for those tickets for
20 violation. Staff from the Office of Parking Enforcement and Traffic Control and the
21 Parking Operations and Support Division are funded by the General Fund.”

22 **Grounds for Objection:**

23 Inadmissible secondary evidence. “Under the secondary evidence rule, oral
24 testimony is generally inadmissible to prove the content of a writing. (See Evid. Code, §
25 1523, subd. (a).)” Mai v. HKT Cal, Inc. (2021) 66 Cal.App.5th 504, 514, fn. 4. Mr.
26 Cervantes testifies to the alleged source of the payments for parking enforcement.
27 Certainly, there are records showing the funding for parking enforcement for parking lots.
28 The testimony violates the secondary evidence rule.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ruling By The Court	Sustained: _____	Overruled: _____
----------------------------	-------------------------	-------------------------

II. OBJECTIONS TO DECLARATION OF CHARLES WEE.

OBJECTION NUMBER 1.

Materials Objected To:

Page 3, line 12:

“unique system of modular units that can be used as dwelling units and as program operational space and which were used to create the Midvale Project.”

Grounds for Objection:

Lack of foundation; speculative. “Cases dismissing expert declarations in connection with summary judgment motions do so on the basis that the declarations established that the opinions were either speculative, lacked foundation, or were stated without sufficient certainty.’ [Citation.] ‘[U]nder Evidence Code section 801, the trial court acts as a gatekeeper to exclude speculative or irrelevant expert opinion.’ [Citation.]”
Sanchez v. Kern Emergency Medical Transportation Corp. (2017) 8 Cal.App.5th 146, 155-156.

Mr. Wee’s declaration is styled as an expert opinion. The opinion that the LifeArk system is unique lacks foundation because Mr. Wee provides no evidence of other systems that exist for sheltering the homeless and thus provides no foundation for his opinion. It is thus also speculative.

Ruling By The Court	Sustained: _____	Overruled: _____
----------------------------	-------------------------	-------------------------

1 **OBJECTION NUMBER 2.**

2 **Materials Objected To:**

3 Page 3, line 23:

4 “allowing more people to be sheltered at each project location compared to other
5 existing options.”

6 **Grounds for Objection:**

7 Lack of foundation; speculative. “Cases dismissing expert declarations in
8 connection with summary judgment motions do so on the basis that the declarations
9 established that the opinions were either speculative, lacked foundation, or were stated
10 without sufficient certainty.’ [Citation.] ‘[U]nder Evidence Code section 801, the trial court
11 acts as a gatekeeper to exclude speculative or irrelevant expert opinion.’ [Citation.]”
12 Sanchez v. Kern Emergency Medical Transportation Corp. (2017) 8 Cal.App.5th 146, 155-
13 156.

14 Mr. Wee’s declaration is styled as an expert opinion. The opinion that the LifeArk
15 system allows more people to be sheltered lacks foundation because Mr. Wee provides no
16 evidence of other systems that exist for sheltering the homeless and thus provides no
17 foundation for his opinion. It is thus also speculative.

Ruling By The Court	Sustained: _____	Overruled: _____
----------------------------	-------------------------	-------------------------

22 Dated: Nov. 4, 2024

THE SILVERSTEIN LAW FIRM, APC

24 By:

/s/ Robert P. Silverstein

ROBERT P. SILVERSTEIN
JAMES S. LINK

Attorneys for Petitioner FIX THE CITY, INC.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, ESTHER KORNFELD, declare:

I am a resident of the state of California and over the age of eighteen years, and not a party to the within action; my business address is The Silverstein Law Firm, 215 North Marengo Ave, Third Floor, Pasadena, California 91101-1504. On November 4, 2024, I served the within document(s):

PETITIONER’S OBJECTIONS TO CITY’S CERVANTES AND WEE DECLARATIONS

by transmitting the document(s) listed above via e-mail to the person(s) named below at the respective e-mail addresses and receiving confirmed transmission reports indicating that the document(s) were successfully transmitted.

CASE NAME: FIX THE CITY, INC., a California Nonprofit Corporation v. CITY OF LOS ANGELES, a municipal corporation; et al.
CASE NO.: 23STCP04410

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

Executed on November 4, 2024, at Pasadena, CA.

/s/ Esther Kornfeld
ESTHER KORNFELD

SEE ATTACHED SERVICE LIST

SERVICE LIST

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Office of the Los Angeles City Attorney
Robert Mahlowitz, Deputy City Attorney
200 N. Spring Street
Los Angeles, CA 90012
Email: Robert.Mahlowitz@lacity.org
Email: Leilany.Roman@lacity.org

*ATTORNEYS FOR CITY OF LOS ANGELES
AND CITY OF LOS ANGELES CITY
COUNCIL*

THE SILVERSTEIN LAW FIRM, APC
215 North Marengo Avenue, 3rd Floor
Pasadena, CA 91101-1504