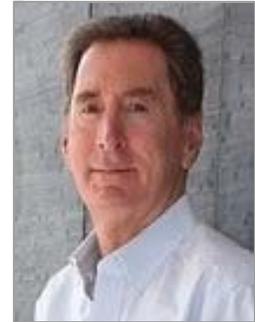


Mansion Development May Impair Cities' Land Use Oversight

By *Paul Weinberg*

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Law360 (March 26, 2019, 4:15 PM EDT) -- The construction and proliferation of mega-mansions, outsized single-family homes often constructed for investment and profit as a business, is now a documented trend. Neighborhoods and municipalities are having to adapt to the impact that the construction of these residences — built as investment vehicles and baubles for the wealthy — has on the fabric of their communities, and on their quality of life (noise, traffic, lights, etc.).



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This trend of building larger and larger homes is mirroring American society in general; the average size of a new single-family home is now 10 percent higher than in 2017, at 2602 square feet, while the median size is 14 percent higher than in 2017 at 2392 square feet.

The proliferation of the “flipping” television programs (“Flip or Flop,” “Flipping Out,” “Masters of Flip,” “Flipping Vegas,” “Texas Flip n’ Move”) has only ignited a groundswell of interest in and a stampede towards a new “cottage” industry of real estate developers buying homes, demolishing them and building something larger (and worth more money) in their place.

Nowhere, however, has this trend become more pronounced than in the Los Angeles area of Southern California. Given the dizzying increase in property values in the Los Angeles County area in the last ten years (the average price of a single-family home in 2008 was \$429,200 compared to \$631,300 in 2018; a 38 percent increase), developers now have an enormous economic incentive to build larger structures to reap greater and greater profits.

Not only has this trend given rise to the problem of “mansionization” (the practice of demolishing smaller, older houses in a neighborhood and replacing them with new ones that occupy the maximum amount of lot space possible and dwarf surrounding dwellings), but the trend also plays into a newfound social trend to show and flash wealth in a very public way, as documented in a recent Wall Street Journal article.[1]

Against this backdrop, it was inevitable that at least one of these mega-developers would run afoul of city zoning and building codes as well as neighborhood opposition. The highest profile one, though, is the very recent mega-mansion built by the celebrity Mohamed Hadid at 901 Strada Vecchia Road, Bel Air, California.

The “saga” of the construction (and interruption) of what was supposed to be a 14,000 square foot house with 2 stories, but turned out to be a 30,000 square foot, 70-foot high single-family home, was well chronicled in a Dec. 14, 2015, article in the [New York Times](#), “A Mansion, a Shell Company and Resentment in Bel Air.”[2] The article lays out the prelude to the problems:

The most notorious new house in Los Angeles hangs from a Bel Air hillside, high above the sprawl and smog, unfinished and unloved.

Outraged neighbors call it "The Starship Enterprise," and in truth it looks like nothing so much as an earthbound space station of curved glass and steel, draped in scaffolding and tarpaulin, roughly 30,000 square feet and nearly 70 feet high.

That height, about twice the legal limit, is among a litany of violations that have stalled construction at 901 Strada Vecchia for more than a year. Without the city's permission, workers tore down the original house and leveled the hillside. Though the site is in an "earthquake-induced landslide area," subsequent inspections found "unsecured open excavations" and other perils. Inspectors also uncovered a host of features, unapproved though befitting a house with an aspirational price tag of \$100 million, among them underground bedrooms and an [IMAX](#) theater.

Matters between Hadid and his neighbors deteriorated so badly that litigation was filed by the neighbors against him, his "holding company" 901 Strada LLC and the city of Los Angeles. It was in fact the latter defendant whose naming was so interesting: the city of Los Angeles was sued precisely because it did not enforce its own rules.

A brief review of the basis for and the allegations in the plaintiffs' lawsuit is instructive.

Two couples that are neighbors of the 901 Strada Vecchia property, John C. and Judith Bedrosian, and Beatriz and Joseph Horacek, filed the lawsuit, but it was the last step in a long line of neighborhood efforts to try to stop the "over construction" and require Hadid to adhere to his originally drawn plans and the scope of the permits to build that he was granted by the city of Los Angeles. The Horaceks' and the Bedrosians' history of involvement in objecting to Hadid's actions was summarized in a Daily Mail article from Nov. 14, 2018.

Horacek and his wife Bibii, along with other neighbors John and Judith Bedrosian, are suing Hadid —father to supermodels Gigi and Bella Hadid —to try to force him to tear down his giant property. And they're accusing LA city officials of trying to cover up an investigation —now headed by the [FBI](#) —of a city building inspector suspected of "taking bribes to look the other way" when illegal construction work was being done on the giant house.[4]

The first amended complaint contains ten counts, listing fraud and deceit, public and private nuisance, violation of various California and Los Angeles Municipal Code sections, "aiding and abetting" and civil conspiracy. It chronicles 11 stop-work orders issued by the city of Los Angeles against Hadid and 901 Strada LLC, the holding company and, in September 2014, Hadid's violation of the first six orders.[5]

Perhaps more boldly, though, the complaint alleges outright bribery by Hadid of a city inspector to get him to "look the other way,"[6] and contemporary news stories flesh out and corroborate that allegation, too.[7]

The contents of these interviews, the deposition and other fact finding is startling. How did a city allow an unpermitted structure of this magnitude to get built and to clearly threaten the slope stability and safety of all the neighbors around it?

Compounding this question, though, is another one that the lawsuit raises: How did the lender let it happen? This is a topic that the plaintiffs raised in their lawsuit as well. The plaintiff's first amended complaint provided details.

Indeed, on information and belief and consistent with the testimony from the construction manager who worked on the Hadid Development, First Credit regularly sent an inspector to the Hadid Property who would monitor the work and progress of the construction. That inspector regularly met with Hadid and others to ensure the security of First Credit's investment in the Hadid Development. The inspector, and First Credit, were thus fully aware of the illegal construction that was occurring at the Hadid Development.[8]

The Los Angeles Superior Court handling the lawsuit, and the sitting judge, Craig Karlan, have now imposed a formal demolition order for the residence of the developer defendant, Hadid and 901 Strada LLC. It is quite sweeping in its coverage; it is clear that massive portions of the structure are going to be removed, including the entire third story of the house, pool decks, columns and the entire roof.[9]

It's hard to overstate just how sweeping an order this is and not to be mindful or cognizant of the fact that it required the extraordinary step of the filing of a lawsuit and a Superior Court judge to take control of the process. The appointment of the judge and the filing of the lawsuit were required to apparently take the actions that the city of Los Angeles was either unwilling or unable to take to stop Hadid from building an unpermitted structure. As a result of these actions, criminal proceedings were brought against Hadid resulting in a misdemeanor conviction, community service and a fine.[10]

Clearly, this is an egregious case. The larger question, though, is are we seeing a trend? Apparently, enough city officials within the city of Los Angeles think so that new legislation at the city of Los Angeles level has been instituted to try to curb the excesses:

Faced with persistent complaints about a "pay to play" culture at Los Angeles City Hall, the City Ethics Commission backed new restrictions Tuesday on political donations from real estate developers seeking city approval for their building plans. The proposed ban would cover a broad array of people "substantially involved" in a proposed development project, including real estate executives, architects, engineers and others. Such donors would also be barred from fundraising or gathering political donations for city officials.
[11]

The infusion of money into the decision-making process for how land is used and how neighborhoods are developed, given the change in the economics of land use and the apparent inability of city and state officials to cope with the change, is requiring municipalities and their citizens to completely rethink how zoning and the construction process are regulated.

This issue also brings up a fundamental truth about the American legal system and its fundamental relationship to business, investment and maintenance of the value and desirability of that investment. If the rule of law is not followed, or can be perverted, then the system breaks, capital flees and investment is effectively stopped, or at least hindered. The flight of capital to the United States from China and the Middle East only points out the accuracy of this opinion; the rule of law exists in the United States to protect investment and to stabilize society and, with it, property values.

Without it, these values and precepts weaken and eventually collapse. No one knows this point better than former Federal Reserve Chairman Alan Greenspan. A tireless proponent of the rule of law in

stabilizing investment and property values, he speaks regularly on the subject, as he did in October of 2008:

Critical to economic growth is a rule of law, particularly protection of the rights of individuals and property. While it is true that over the decades the vast majority of investors have come to our shores to participate in a vibrant, open economy, a remarkably large number have simply viewed the United States as a safe haven for their savings that was not available in their home country...Short of a few ambiguous incidents, I can think of no circumstances where an expanded rule of law and enhanced property rights have failed to increase material prosperity.[12]

Foreign investors can bring with them the norms and practices of other jurisdictions, perhaps with a different moral and legal code than that of the United States. If these norms are permitted to prevail in the American legal system, then the rule of law is eroded, and finally suspended, and economic deterioration and potential chaos can follow.

This result of this trend towards willful violations of zoning and land use laws and objective statistics tracing it is also the subject of a number of scholarly articles nationwide, including an article in *The Urban Lawyer's* Spring 2014 issue, "It's a 'Criming Shame': Moving from Land Use Ethics to Criminalization of Behavior Leading to Permits and Other Zoning Related Acts," by Patricia Salkin, dean and professor of law at Touro Law Center in New York.[13]

Salkin goes into some depth on the subterfuge of using a campaign contribution in exchange for a building permit:

Generally, campaign contributions are not considered to be bribes, even though contributing to a campaign may lead a donor to expect some sort of benefit in return. A campaign contribution, however, can have the same effect as a bribe in that the donor may receive benefits from the elected official as a result of the campaign contribution. They can even be used as a tool to circumvent the bribery statute: the donor can donate to a campaign fund instead of passing money directly to the official.[14]

The larger issue, though, is whether a culture has now been created to where the flow of money has so increased because of the sheer magnitude of value of these projects as well as the proliferation of them that cities and counties are nearly powerless to stop the influence. Land use applicants can and should expect a level playing field when they apply. Perhaps more importantly, neighbors should, too. Neighbors should have the confidence and belief that their rights will be respected and that cities and counties, as well as state governments, will diligently monitor, police and enforce their own regulations so that neighborhoods are protected.

In the Hadid case, the governmental agencies let them down. The pressure that municipalities are getting from developers because of the profit potential may signal the trend of a further deterioration in the quality and extent of municipalities' oversight of the land use process. What's worse, though, is that if the trend continues, the very sanctity of the process and the resulting confidence that it engenders in investors and others with capital will evaporate, and the quality of life will deteriorate for everyone, including the neighbors who are impacted by it.

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[1] “The War of the Los Angeles Megamansions,” Wall Street Journal, September 6, 2018, by Catharine Clark, Page 3, Lines 4 through 21)

[2] “A Mansion, a Shell Company and Resentment in Bel Air,” the New York Times, by Louise Story, December 14, 2015, at pages 1-2.

[3] “A Mansion, a Shell Company and Resentment in Bel Air,” the New York Times.

[4] “Exclusive: Photos reveal Mohamed Hadid’s ‘illegal’ mega mansion that neighbors have branded a ‘gigantic monstrosity’ and ‘danger to the community’ is more than twice the size of the original rendering,” The Daily Mail.com, by Ryan Parry and Neil Blincow, November 14, 2018.

[5] First Amended Complaint, Page 11, Lines 18 through 20

[6] First Amended Complaint, Page 3, Line 26 through Page 4, Line 7.

[7] “FBI investigating possible wrongdoing by inspector on Bel-Air mansion, city investigator testifies,” [Los Angeles Times](#), October 26, 2018, by Emily Alpert Reyes at Page 1 and 2.

[8] First Amended Complaint, Page 20, Line 20 through Page 21, Line 27.

[9] Demolition Plan No. 1 (For 901 Strada Vecchia Road) ordered and filed by Judge Craig Karlan of the Los Angeles County Superior Court on March 7th, 2019.

[10] “Celebrity developer pleads no contest to Bel-Air mega-mansion charges. But what happens to the 30,000-square-foot estate?” Los Angeles Times by Emily Alpert Reyes, Page 2, Paragraph 5 through Page 3, Paragraph 2.

[11] “Ethics panelist targeting builders’ payments – Commission supports new restrictions on donations from developers seeking city approval of plans” – Los Angeles Times, by Emily Alpert Reyes and David Zahniser, February 20, 2019, Pages 1 through 3.

[12] Dr. Alan Greenspan- “Markets and the Judiciary”; Sandra Day O’Connor Project on the State of the Judiciary Conference, Georgetown University School of Law, Washington, D.C. October 2nd, 2008. See also Chairman Alan Greenspan, “Market Economics and the Rule of Law, 2003 Financial Markets Conference of the [Federal Reserve Bank of Atlanta](#), Sea Island Georgia, April 4th, 2003

[13] See, e.g., Patricia E. Salkin, 2009 Ethical Considerations in Land Use, 41 Urban Law, 529 (2009) and Crime Doesn’t Pay and Neither Do Conflicts of Interest in Land Use Decision-making, 40 Urban Law, 561 (2008).

[14] “It’s a ‘Criming Shame...” at Page 255.

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