Beverly Hills
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Planning Commission Report

Meeting Date: May 9, 2013

Subject: **9265-9269 Burton Way**
23-Unit Condominium Project
Public and Commission comment regarding the adequacy of a Draft Environmental Impact Report prepared in conjunction with a request for a Tentative Tract Map, Development Plan Review, Density Bonus Permit, and R-4 Permit to allow the construction of a 6-story, 23-unit condominium building on the property located at 9265-9269 Burton Way.
PROJECT APPLICANT: Empire at Burton Way LLC (Craig Berbarian)

Recommendation: That the Planning Commission:
1. Conduct a public hearing and receive testimony on the Draft EIR and project;
2. Provide staff with comments and direction regarding the content and adequacy of the Draft EIR.

REPORT SUMMARY

The purpose of the May 9th meeting is to review the adequacy of the Draft Environmental Impact Report (DEIR). Discussion regarding the proposed project and necessary findings for approval will take place at a future, noticed public hearing.

The proposed project involves the demolition of all existing structures located at 9265-9269 Burton Way, and construction of a 6-story, 23-unit condominium building in accordance with State Density Bonus standards. Two of the 23 units are designated for very low income households.

This report transmits the DEIR for the condominium project. The report identifies one impact that is significant and unavoidable:

- Cultural Resources (potential historic significance of the structure located at 9269 Burton Way).

The required 45-day public review period of the DEIR began on April 22, 2013 and will end on June 5, 2013. This hearing allows the public and the Commission the opportunity to review the DEIR and comment on the adequacy of the DEIR during the public comment period. This report outlines the

Attachment(s):
A. Draft EIR
B. CEQA Guidelines Section 15064.5 (a) and (b)
C. SBRA Historic Analysis
D. HRG Historic Analysis
E. Levin-Morris Critique of SBRA Report
F. Public Notice
G. Public Comments
H. Architectural Plans

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contents of the DEIR (with specific focus on cultural resources) and discusses a recommendation made by the Cultural Heritage Commission that the subject property not be designated as a historic resource. Staff seeks comments and direction from the Planning Commission regarding the adequacy of the DEIR.

BACKGROUND

File Date	6/1/2012
Application Complete	7/1/2012
Subdivision Deadline	
CEQA Deadline	180 days from CEQA Determination
Permit Streamlining	180 days from Final EIR Certification
Applicant(s)	Empire at Burton Way LLC (Craig Berbarian)
Owner(s)	The Frankel Family Limited Partnership (Karl and Shirley Frankel), and Burton Way Investors Group LLC (Craig Berbarian, Hratch Sarkis, Charly Ghailian, and Ohannes Beudjekian)
Representative(s)	Levin-Morris Architects LLP (Edward Levin)
Prior PC Action	Project preview on 2/28/2013
Prior Council Action	None
CC/PC Liaison	None
CHC Review	CHC review on 4/10/2013. CHC recommended that subject property not be treated as a historic resource.

PROPERTY AND NEIGHBORHOOD SETTING

Property Information

Address	9265-9269 Burton Way
Legal Description	Lots 8 and 9 of Tract 5647, Block 16
Zoning District	R-4
General Plan	Multi-Family Residential – High Density
Existing Land Use(s)	Apartment buildings
Lot Dimensions & Area	109.475' x 130' – 14,232 square feet
Year Built	1945 (9265 Burton Way) and 1927 (9269 Burton Way)
Historic Resource	9265 Burton Way has been assessed, and is not a historic resource 9269 Burton Way has been assessed, and is a potentially historic resource. The property is discussed further in this staff report and the Draft EIR.
Protected Trees/Grove	None

Adjacent Zoning and Land Uses

North	P-S and C-5 – Office (Lakeshore Entertainment and Post Office facilities)
East	R-4 – Residential condominiums
South (across alley)	Single-Family Residential (across Burton Way)
West	R-4 – L'Ermitage Hotel (legally nonconforming in R-4 zone)

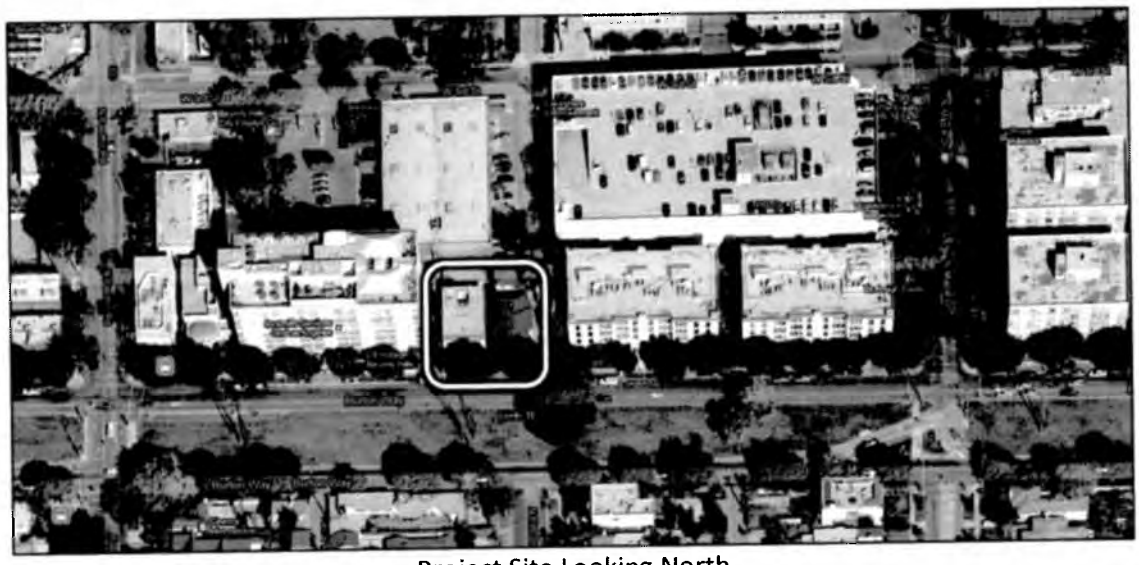
Circulation and Parking

Adjacent Street(s)	Burton Way
Traffic Volume	Average Daily Trips on Burton Way: 32,300

Adjacent Alleys	Two-way, east-west alley at rear of property
Parkways & Sidewalks	Burton Way sidewalk/parkway – 12.5' from face of curb to property line

Neighborhood Character

The project site is located along Burton Way, which transitions to S. Santa Monica Boulevard just west of the project site. The project site is immediately bordered by the 8-story L'Ermitage Hotel to the west, a 4-story condominium building to the east, and commercial office uses to the north. Burton Way is a highly trafficked street, with many of the older apartment buildings and duplexes bordering the street having been previously demolished and replaced with larger apartment or condominium buildings. Single-family residential properties are located across Burton Way to the south; however, Burton Way is wide with a total right-of-way width of 170 feet, which provides a buffer between the different land uses.



Project Site Looking North

Project Site Viewed from Burton Way

PROJECT DESCRIPTION

The project would involve demolition of four existing one- to two-story buildings (two residential buildings and two accessory buildings), as shown in the aerial photo above, and construction of a new 6-story, 72-foot tall condominium building containing 23 residential units and 46 parking spaces. The project is proposed to be constructed in accordance with State Density Bonus standards, which are discussed in more detail later in this report.

The project contains approximately 42,755-square-feet of floor area on a site area of 14,232 square feet, which results in a floor area ratio (FAR) of 3.00. The project includes one level of subterranean parking; one level of at-grade parking with a lobby and gym; five levels of residential units; and a rooftop common area. The project provides a mix of unit types, and two of the 23 units would be designated for "very low income" housing. Access to on-site parking would be provided by two driveways from the existing alley at the rear of the site. One driveway would lead from the alley to the underground parking level, while another driveway would lead to ground-floor parking. The alley provides access between Foothill Road to the west and North Maple Drive to the east. Pedestrians would continue to have direct access to the project site from Burton Way.

Density Bonus

The State of California has identified a regional need for affordable housing. In order to address this need for affordable housing, the State has adopted a statute to encourage the development of affordable housing units. The statute is known as the State Density Bonus, and provides developers with incentives to construct affordable housing, including increased density and relief from certain development standards that might otherwise discourage the development of affordable housing.

The proposed project includes two units designated for very low-income households (households that earn 50% or less of the area median income)[1], and is therefore proposed to be constructed in accordance with State Density Bonus standards (California Government Code Section 65915). Based on the very low income units proposed as part of the project, the applicant seeks the following density bonus and development incentives:

- **Density:** Density Bonus standards allow for a certain percentage increase in density, which is based on the percentage of "total units" (the maximum number of units allowed under General Plan density standards, without the inclusion of bonus units) that are designated for very low income households. In this case, the number of base units that could be built under the City's General Plan is 17 units, and the number of very low income units is two. Therefore, 11.8% (two divided by 17) of the base units would be very low income. The Density Bonus standards state that whenever 11% or more of the "total units" are designated for very low income, a 35% increase in density shall be provided. Further, all density calculations are required to be rounded up to the next whole number. Therefore, approval of the Density Bonus Permit, with

[1] 2013 income limits for very low income households are set forth as follows:

Number of Persons in Household	1	2	3	4	5	6
Maximum Household Income to Qualify as Very Low Income	$29,900	$34,200	$38,450	$42,700	$46,150	$49,550

the inclusion of two very low income units, would allow for a maximum density of 23 units. This calculation is further explained as follows:

Density Calculations

Total Units. This is the number of units allowed under General Plan density standards[2]. The General Plan allows 50 units per acre on the project site, or 1 unit per 871.2 square feet of site area. The site area is 14,232 square feet.	14,232÷871.2 =16.33 (rounds to 17) =17 total units
Percentage of Very Low Income Units. The percentage of very low income units is achieved by dividing the number of very low income units by the "total units." In this case, 2 very low income units are provided.	2÷17 =11.8%
Density Bonus. The State Density Bonus provides for a 35% density bonus whenever 11% or more of the "total units" are very low income. In this case 11.8% of the "total units" are very low income, so the project is eligible for the 35% bonus.	17x35% =5.95 (rounds to 6) =6 bonus units
Maximum Density. This is the total number of units that can be built pursuant to State Density Bonus standards.	17+6 =23 units

- **Height (incentive):** The City's zoning standards allow for a building height of 5 stories or 55 feet. The applicant requests a density bonus incentive to allow building height up to 6 stories and 72 feet. This incentive provides the developer with one additional floor to help accommodate the bonus units, and also provides a cost savings by allowing the developer to build one of the two parking levels at grade.

- **Parking Screening (incentive):** The City's zoning standards require parking spaces to be fully enclosed. The applicant requests the ability to allow a portion of the surrounding walls of the ground floor parking level to be open in order to allow for natural ventilation, thus avoiding installation of a mechanical ventilation system and saving on construction costs.

- **Parking:** Standard parking requirements are based on the number of bedrooms in each unit. The applicant requests that the project be subject to the State Density Bonus parking requirements, which require a maximum of one space for studio and one-bedroom units, and a maximum of two spaces for two- and three-bedroom units (inclusive of guest parking). A comparison on standard parking required for the project versus State Density Bonus standards is set forth on the following page.

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[2] State Density Bonus standards require that whenever there is a conflict between the densities set by the zoning code and General Plan, General Plan densities shall prevail. The zoning code would allow for the construction of 14 units, while the General Plan would allow for the construction of 17 units.

Parking Requirement Comparison

Unit Type	Number of Units	Standard Parking Requirement	State Density Bonus Parking Requirement
Efficiency (Studio)	1	1 (1 per unit)	1 (1 per unit)
1 Bedroom	5	10 (2 per unit)	5 (1 per unit)
2 Bedroom	13	32.5 (2.5 per unit)	26 (2 per unit)
3 Bedroom	4	12 (3 per unit)	8 (2 per unit)
Guest Parking	N/A	6 (1 space per 4 units)	0
Totals	**23**	**62**	**40** (46 are proposed)

GENERAL PLAN[3] POLICIES

The General Plan includes numerous goals and policies that help to guide development in the City. Some policies relevant to the Planning Commission's review of the project include:

- Policy LU 2.6 City History. Acknowledge the City's history of places and buildings, and districts that contribute to the City's identity while accommodating renovations of existing buildings to maintain their economic viability, provided the new construction contextually "fits" and compliments the site or building.
- Policy LU 5.2 Infill and Replacement Housing. Accommodate new and renovated housing within existing neighborhoods that is consistent with contextual parcel sizes, densities, built form and scale.
- Policy LU 16.1 Affordable Housing. Support the development of affordable housing as required by state law.
- Policy H 2.1 Affordable Housing Incentives. Offer incentives, including density bonuses, where feasible to offset or reduce the costs of developing affordable housing. Proactively seek out new approaches in the provision of affordable housing.

ENVIRONMENTAL ASSESSMENT

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines[4], and the environmental regulations of the City. During the environmental assessment process, the City's historic consultant San Buenaventura Research Associates, identified the property located at 9269 Burton Way as a potentially historic resource due to a personage association with a German-Jewish immigrant named Wilhelm Stadthagen. Consequently, an Environmental Impact Report (EIR) has been prepared to fully analyze the potential environmental impacts associated with development of the proposed project. The Draft EIR (DEIR) is currently being circulated for public comment, in accordance with CEQA provisions requiring a 45-day public comment period on EIRs. The 45-day public comment period began on April 22, 2013, and will end on June 5, 2013. During this time, staff will accept public comments on the adequacy of the DEIR, and responses to the comments will be incorporated into the Final EIR.

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[3] Available online at http://www.beverlyhills.org/services/planning_division/general_plan/genplan.asp
[4] The CEQA Guidelines and Statue are available online at http://ceres.ca.gov/ceqa/guidelines

Significant Environmental Impacts. As identified in the Draft EIR (see Table ES-1, Summary of Environmental Impacts), the project would result in the following Significant and Unavoidable Impacts:

- **Cultural Resources**: The proposed Project would involve demolition of the existing buildings at 9265 – 9269 Burton Way. As analyzed in the DEIR, the 9269 Burton Way property is considered a historic resource pursuant to CEQA. Mitigation is required to reduce this impact, but would not reduce it to a less than significant level. The impact would be Class I, significant and unavoidable.

Less Than Significant Environmental Impacts. Although the primary focus of the EIR is Cultural Resources, the Initial Study, which is a component of the EIR, contains information and analysis regarding other environmental topics. The Initial Study discusses the following topics as they relate to development of the project:

- Aesthetics
- Agriculture and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities

Based on the information and analysis set forth in the Initial Study, the proposed project will not result in any significant environmental impacts associated with the above topics, and no mitigation is required with respect to the above topics.

<u>Statement of Overriding Considerations</u>
Pursuant to CEQA regulations, when a public agency decides to approve a project that will cause one or more significant environmental effects, the agency shall prepare a statement of overriding considerations (SOC), which reflects the ultimate balancing of competing public objectives. Specifically, the public agency must find that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment. If the Planning Commission were to agree with the initial determination in the DEIR that the subject property should be treated as a historic resource, and approved the project as proposed, the Planning Commission, or City Council on appeal, would need to adopt a resolution making a statement of overriding considerations.

PUBLIC OUTREACH AND NOTIFICATION

Type of Notice	Required Period	Required Notice Date	Actual Notice Date	Actual Period
Posted Notice	N/A	N/A	5/2/2013	7 Days
Newspaper Notice	N/A	N/A	N/A	N/A
Mailed Notice (Owners & Occupants - 300' Radius, and Single-Family Owners – 500' Radius)	10 Days	4/29/2013	4/19/2013	20 Days
Property Posting	N/A	N/A	N/A	N/A
Website	N/A	N/A	5/2/2013	7 Days

Public Comment

As of the writing of this report, staff has received several public comments. Copies of the comments are provided as Attachment G.

ANALYSIS

Project approval, conditional approval or denial is based upon specific findings for each discretionary application requested by the applicant. A separate meeting will be held to discuss the project, required findings, and land use issues.

The purpose of the subject meeting is to provide the public and the Commission an opportunity to offer comments on the environmental analysis and the adequacy of the EIR during the public comment period, and a staff recommendation along with project analysis will follow the close of the DEIR public comment period.

Staff recommends that the Commission consider the following information as it relates to the content of the EIR.

Historic Assessment Criteria. When assessing a property for eligibility as a historic resource, specific criteria must be considered, which are set forth below for use by the Planning Commission in assessing the subject property.

Pursuant to Public Resources Code Section 21084.1, an "historical resource" is defined as follows:

...For purposes of this section, an historical resource is a resource listed in, or determined to be eligible for listing in, the California Register of Historical Resources. Historical resources included in a local register of historical resources, as defined in subdivision (k) of Section 5020.1, or deemed significant pursuant to criteria set forth in subdivision (g) of Section 5024.1, are presumed to be historically or culturally significant for purposes of this section, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. The fact that a resource is not listed in, or determined to be eligible for listing in, the California Register of Historical Resources, not included in a local register of historical resources, or not deemed significant pursuant to criteria set forth in subdivision

(g) of Section 5024.1 shall not preclude a lead agency from determining whether the resource may be an historical resource for purposes of this section.

Further, CEQA Guidelines Section 15064.5 (a) and (b) offer additional details on the definition of "historical resources." The full text of these sections are provided as Attachment B for reference, and the Planning Commission is specifically asked to consider the definition of "historic resources" set forth in CEQA Guidelines Section 15064.5 (a)(3) as follows:

(a) For purposes of this section, the term "historical resources" shall include the following:

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, 5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

In the event that the Planning Commission determines that the property located at 9269 Burton Way meets one or more of criteria (A) through (D) above, the subject property would be considered a historic resource.

Conflicting Expert Analysis. In order to assess the historic integrity of the site, San Buenaventura Research Associates (SBRA), a sub consultant to the City's environmental consultant (Rincon), was retained to prepare a historic analysis of the subject properties. SBRA identified Wilhelm Stadthagen as a previous owner and occupant of the building at 9269 Burton Way between 1938 and 1943. Stadthagen was a German-Jewish immigrant that was active in the community, and was a member of the Jewish Club of 1933. The SBRA report (Attachment C) outlines the meetings and activities of Stadthagen and the Jewish Club of 1933, and concludes that Stadthagen was an important member of the group, and helped to prevent deportation and forced relocation of German-Jewish immigrants. Based on these events and associations, as detailed in the SBRA report, SBRA concluded that the subject property is an historic resource, and if demolished would result in a significant environmental impact under the provisions of CEQA.

Subsequent to SBRA's determination that the subject property should be considered an historic resource, the applicant's consultant, Historic Resources Group (HRG) prepared their own assessment of the subject property (Attachment D). Contrary to the SBRA report, the HRG report

states that the personage association with the subject property does not exhibit the necessary qualities to qualify as a historic resource, and that the property should not be considered as such. Under this analysis, demolition of the subject property would not result in a significant environmental impact under the provisions of CEQA because no historic resource would exist.

Finally, the applicant, Levin-Morris Architects, conducted additional research on the events and interviews discussed in the SBRA report, and prepared a written critique of the SBRA report, which is provided as Attachment E. The critique alleges there were factual errors and misinterpretations relied upon in the SBRA report, and concludes that with proper clarification of some of the facts and interpretations, the subject property does not meet the criteria required for historic resources.

Cultural Heritage Commission. Pursuant to BHMC §10-3-3208 L.[5], the Planning Commission may request an advisory recommendation from the Cultural Heritage Commission regarding the significance of historic resources as defined by CEQA. At its February 28, 2013 meeting and in accordance with the above provisions, the Planning Commission requested that the Cultural Heritage Commission conduct such a review in order to address the conflicting historic assessments prepared for the subject property and offer a recommendation regarding the historic significance of the subject property.

On April 10, 2013 the Cultural Heritage Commission reviewed the subject property, inclusive of the independent analyses regarding the potential historic significance of the subject property. Based on the entirety of the information presented, the Cultural Heritage Commission found that the subject property, while associated with an intriguing past, did not satisfy any of the criteria necessary to be designated as a historic resource. Consequently, the Cultural Heritage Commission unanimously recommended that the subject property not be treated as a historic resource for the purposes of CEQA. Should the Planning Commission agree with the recommendation offered by the Cultural Heritage Commission, the DEIR would require modification to eliminate the significant and unavoidable impact associated with cultural resources.

Process/Planning Commission Comments and Direction. Since the DEIR is currently within the public comment period, the Planning Commission is asked to comment on the DEIR, with final decisions and action to be taken at a later, noticed public hearing. Although final action will occur at a separate hearing, staff is seeking guidance from the Commission regarding agreement or disagreement with the conclusions regarding environmental impacts set forth in the DEIR. Specifically, staff is seeking the Commission's comments regarding the Cultural Heritage Commission's recommendation regarding the conflicting historic assessments, and whether the subject property should be treated as a historic resource; however, the Commission may also provide comments on any other aspects of the DEIR.

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[5] 10-3-3208 L. Upon request, advise the city council, city departments, and city commissions on the significance of historic resources as defined by CEQA and recommend to the city council, city departments, and city commissions appropriate action in compliance with the city's adopted CEQA procedures;

NEXT STEPS

It is recommended that the Planning Commission receive public comments on the DEIR, provide staff with comments and direction regarding the content and adequacy of the DEIR, and continue the hearing to a date uncertain.

Report Reviewed By:

Jonathan Lait, AICP, City Planner

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ATTACHMENT A

DRAFT EIR

PROVIDED AS A SEPARATE DOCUMENT

(AVAILABLE ONLINE AT WWW.BEVERLYHILLS.ORG/EIR)

ATTACHMENT B

CEQA GUIDELINES SECTION 15064.5 (A) AND (B)

15064.5

(a) For purposes of this section, the term "historical resources" shall include the following:

(1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code, 5024.1, Title 14 CCR, Section 4850 et seq.).

(2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

(3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (Pub. Res. Code, 5024.1, Title 14 CCR, Section 4852) including the following:

(A) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

(B) Is associated with the lives of persons important in our past;

(C) Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

(D) Has yielded, or may be likely to yield, information important in prehistory or history.

(4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code sections 5020.1(j) or 5024.1.

(b) A project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.

(1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

(2) The significance of an historical resource is materially impaired when a project:

(A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources;or

(B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or

(C) Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register of Historical Resources as determined by a lead agency for purposes of CEQA.

(3) Generally, a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995), Weeks and Grimmer, shall be considered as mitigated to a level of less than a significant impact on the historical resource.

(4) A lead agency shall identify potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource. The lead agency shall ensure that any adopted measures to mitigate or avoid significant adverse changes are fully enforceable through permit conditions, agreements, or other measures.

(5) When a project will affect state-owned historical resources, as described in Public Resources Code Section 5024, and the lead agency is a state agency, the lead agency shall consult with the State Historic Preservation Officer as provided in Public Resources Code Section 5024.5. Consultation should be coordinated in a timely fashion with the preparation of environmental documents.

ATTACHMENT C

SBRA HISTORIC ANALYSIS

Historic Resources Report
9265–67 and 9269 Burton Way
Beverly Hills, CA

21 September 2012

Prepared by:

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Executive Summary

This report was prepared for the purpose of assisting the City of Beverly Hills in their compliance with the California Environmental Quality Act (CEQA) as it relates to historic resources, in connection with the proposed demolition of four, one and two-story buildings, including ten existing residential units, and the construction of a six story condominium building including subterranean parking, lobby, gym, and twenty three condominium units. [Figure 1]

This report assesses the historical and architectural significance of potentially significant historic properties in accordance with the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR) Criteria for Evaluation, and City of Beverly Hills criteria. A determination will be made as to whether adverse environmental impacts on historic resources, as defined by CEQA and the CEQA Guidelines, may occur as a consequence of the proposed project, and recommend the adoption of mitigation measures, as appropriate.

This report was prepared by San Buenaventura Research Associates of Santa Paula, California, Judy Triem, Historian; and Mitch Stone, Preservation Planner, for Rincon Consultants, Inc., and is based on a field investigation and research conducted in July and August, 2012. The conclusions contained herein represent the professional opinions of San Buenaventura Research Associates, and are based on the factual data available at the time of its preparation, the application of the appropriate local, state and federal regulations, and best professional practices.

Summary of Findings

The property at 9269 Burton Way was found to be eligible for listing on the NRHP and CRHR under criteria A/1 and B/2, and potentially eligible for designation as a City of Beverly Hills landmark. Consequently this property should be regarded as a historic resource for purposes of CEQA.

The property at 9265-67 Burton Way was found to be ineligible for listing on the NRHP, CRHR or for designation as a City of Beverly Hills landmark. This property was not found to be historic resources for purposes of CEQA. The proposed project was found to have a significant and adverse impact on historic resources after mitigation.

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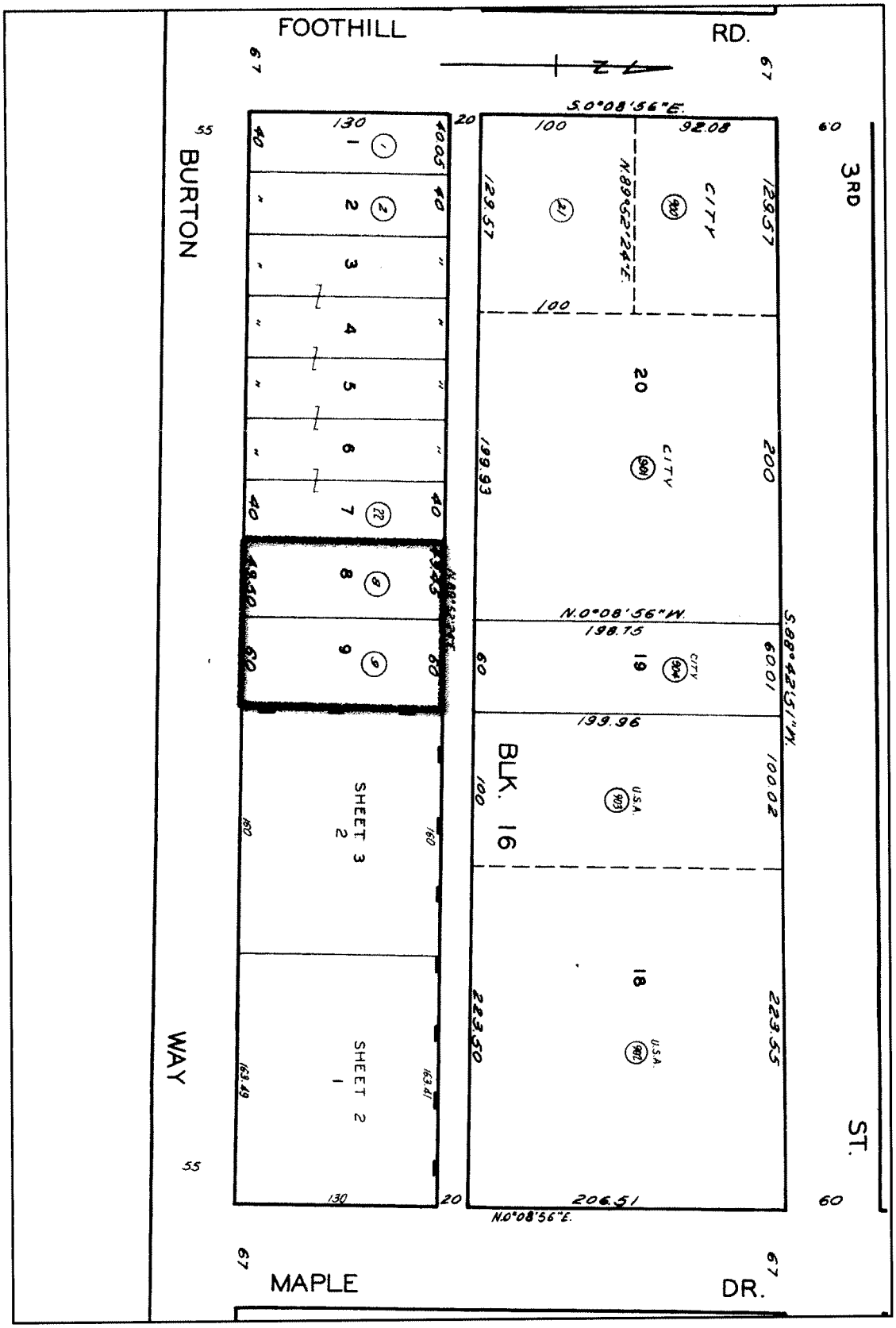

Figure 1. Project Location. [Source: Los Angeles County Assessor, Map Book 4342, page 10]

1. Administrative Setting

The California Environmental Quality Act (CEQA) requires evaluation of project impacts on historic resources, including properties "listed in, or determined eligible for listing in, the California Register of Historical Resources [or] included in a local register of historical resources." A resource is eligible for listing on the California Register of Historical Resources if it meets any of the criteria for listing, which are:

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history. (PRC §5024.1(c))

By definition, the California Register of Historical Resources also includes all "properties formally determined eligible for, or listed in, the National Register of Historic Places," and certain specified State Historical Landmarks. The majority of "formal determinations" of NRHP eligibility occur when properties are evaluated by the State Office of Historic Preservation in connection with federal environmental review procedures (Section 106 of the National Historic Preservation Act of 1966). Formal determinations of eligibility also occur when properties are nominated to the NRHP, but are not listed due to a lack of owner consent.

The criteria for determining eligibility for listing on the National Register of Historic Places (NRHP) have been developed by the National Park Service. Eligible properties include districts, sites, buildings and structures,

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
B. That are associated with the lives of persons significant in our past; or
C. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
D. That have yielded, or may be likely to yield, information important in prehistory or history.

According to the NRHP standards, in order for a property which is found to significant under one or more of the criteria to be considered eligible for listing, the "essential physical features" which define the property's significance must be present. The standard for determining if a property's essential physical features exist is known as *integrity*, which is defined as "the ability of a property to convey its significance." The integrity evaluation is broken down into seven "aspects."

The seven aspects of integrity are: *Location* (the place where the historic property was constructed or the place where the historic event occurred); *Design* (the combination of elements that create the form, plan, space, structure, and style of a property); *Setting* (the physical environment of a historic property); *Materials* (the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property); *Workmanship* (the physical evidence of the crafts of a particular culture or people during any given period of history or prehistory); *Feeling* (a property's expression of the aesthetic or historic sense of a particular period of time), and; *Association* (the direct link between an important historic event or person and a historic property).

The relevant aspects of integrity depend upon the NRHP criteria applied to a property. For example, a property nominated under Criterion A (events), would be likely to convey its significance primarily through integrity of location, setting and association. A property nominated solely under Criterion C (design) would usually rely primarily upon integrity of design, materials and workmanship. The California Register regulations include similar language with regard to integrity, but also state that "it is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register." Further, according to the NRHP guidelines, the integrity of a property must be evaluated at the time the evaluation of eligibility is conducted. Integrity assessments cannot be based on speculation with respect to historic fabric and architectural elements which may exist but are not visible to the evaluator, or on restorations which are theoretically possible but which have not occurred. (CCR §4852 (c))

The minimum age criterion for the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR) is 50 years. Properties less than 50 years old may be eligible for listing on the NRHP if they can be regarded as "exceptional," as defined by the NRHP procedures, or in terms of the CRHR, "if it can be demonstrated that sufficient time has passed to understand its historical importance" (Chapter 11, Title 14, §4842(d)(2))

Historic resources as defined by CEQA also includes properties listed in "local registers" of historic properties. A "local register of historic resources" is broadly defined in §5020.1 (k) of the Public Resources Code, as "a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution." Local registers of historic properties come essentially in two forms: (1) surveys of historic resources conducted by a local agency in accordance with Office of Historic Preservation procedures and standards, adopted by the local agency and maintained as current, and (2) landmarks designated under local ordinances or resolutions. These properties are "presumed to be historically or culturally significant... unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant." (PRC §§ 5024.1, 21804.1, 15064.5)

City of Beverly Hills Municipal Code §10-3-3212: Landmark Designation Criteria

A nominated property may be designated as a landmark if it is more than forty five (45) years of age and satisfies the requirements set forth below.

Properties that are less than forty five (45) years of age can be designated, but in addition to meeting the criteria below, they must also exhibit "exceptional significance" as defined in this article.

For the purposes of this section, any interior space or spaces open to the general public, including, but not limited to, a lobby area, may be included in the landmark designation of a property if the city council finds that the public space(s) satisfies the following criteria:

To be designated as a landmark, a property must satisfy the following criteria:

A. The property meets at least two (2) of the following criteria:
   1. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;
   2. Is directly associated with the lives of significant persons important to national, state, city or local history;
   3. Embodies the distinctive characteristics of a style, type, period, or method of construction;

4. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;
5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;
6. Is listed or has been formally determined eligible by the national park service for listing on the national register of historic places, or is listed or has been determined eligible by the state historical resources commission for listing on the California register of historical resources.

B. The property retains integrity from its period of significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection A of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.

C. The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article. (Ord. 12-0-2617, eff. 2-24-2012)

2. Impact Thresholds and Mitigation

According to the Public Resources Code, "a project that may cause a substantial change in the significance of an historical resource is a project that may have a significant effect on the environment." The Public Resources Code broadly defines a threshold for determining if the impacts of a project on an historic property will be significant and adverse. By definition, a substantial adverse change means, "demolition, destruction, relocation, or alterations," such that the significance of an historical resource would be impaired. For purposes of NRHP eligibility, reductions in a property's integrity (the ability of the property to convey its significance) should be regarded as potentially adverse impacts. (PRC §21084.1, §5020.1(6))

Further, according to the CEQA Guidelines, "an historical resource is materially impaired when a project... [d]emolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources [or] that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant."

The lead agency is responsible for the identification of "potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource." The specified methodology for determining if impacts are mitigated to less than significant levels are the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1995), publications of the National Park Service. (PRC §15064.5(b)(3-4))

3. Historical Setting

General Historical Context

The present-day city of Beverly Hills is located on a portion of the 4,500 acre land grant Rancho Rodeo de las Auguas (sometimes known as San Antonio), awarded around 1820 to Vincente Valdez, a retired sergeant in the Spanish army, and his wife Maria Rita Valdez. After his death in 1828, the land became closely associated with Maria Valdez, who is often regarded as the area's first settler, although she maintained homes both on the rancho and in Los Angeles. Long-running disputes over the title to the ranch lands ultimately led to its sale in 1854 to American developers Benjamin Davis "Don Benito" Wilson, and Henry Hancock, who later sold his interests in the rancho to William Workman. The plans of the new owners to exploit the land for agriculture were thwarted by the prolonged regional droughts of the 1860s and 1870s. Subsequent efforts to develop the rancho with the townsites of Santa Maria and Morocco also came to little. (Cowan, 1956: 68-69; Robinson, 1939: 156-64)

The modern community known as Beverly Hills had its beginning in 1906, when a group of oil investors formed the Rodeo Land and Water Company and hired noted land planner Wilbur F. Cook Jr. to design the community plan. The design, which represented one of the earliest planned communities in the region, anticipated an enclave of homes for the wealthy on the hillsides and more modest homes on the flat lands. The area reserved for the affluent was originally called Beverly Hills, while the less upscale portion of the community was known simply as Beverly. Initially, sales were slow, but the opening of the Beverly Hills Hotel by the Rodeo Land and Water Company in 1912 began to attract more visitors and buyers. The city, still little more than a tiny settlement, was incorporated in 1914.

The first major period of growth in Beverly Hills was concurrent with the regional land boom of the 1920s. The city began the decade as a community in its formative stages, mixing rural, urban and miscellaneous land uses, including the Los Angeles Speedway, which dominated the quadrant of the city south of Wilshire Boulevard and west of Beverly Drive. The settling of the city by entertainment industry personalities began in earnest in 1920, with the construction of Pickfair, the lavish estate of Douglas Fairbanks and Mary Pickford. Other industry notables followed their lead, to the extent that by the end of the 1920s, Beverly Hills had firmly established its reputation as a movie star's enclave.

As the wealth of the entertainment industry was attracted to Beverly Hills during the 1920s and 1930s, so were architects of note. A competitive environment between entertainment industry leaders led to the construction of progressively more opulent homes in the period revival styles popular during these decades, often reflecting both the unprecedented affluence, and the theatrical character, of the movie industry. By the 1930s and 1940s Beverly Hills featured a posh retail district which competed with the Miracle Mile, Hollywood, and Westwood Village for fashionability. During the postwar era, the city became steadily more prominent as one of the Southern California region's major urban centers, as the office and retail district grew upwards and outwards, and pushed further west.

Site-Specific Context

The project site is located within a triangular section of Beverly Hills bounded on the north by Santa Monica Boulevard, on the south by Wilshire Boulevard, and on the east by the city limits. This area was annexed to the city in 1915 and subdivided mainly during the 1920s, but remained substantially undeveloped until after World War II. Burton Way, bisecting the area, was named for Rodeo Land and Water Company president Burton Green. The Santa Monica via Sawtelle line of the Pacific Electric Railroad Line ran down a right-of-way at the

center of Burton Way, connecting to the south side of Santa Monica Boulevard, providing ready access to support later growth. This line was established in 1897 and provided passenger service between Los Angeles and Santa Monica until 1940. The former railroad right-of-way serves as a wide landscaped median today. (Johnson Huemann, 1986: 57-64; Crump, 1983: 232)

4. Potential Historic Resources

Previous Identification Efforts

In 1985-86, consultants contracted to the City of Beverly Hills conducted a historic resources survey of the city in conjunction with the California Office of Historic Preservation. The project site is located within Survey Area 3, which includes the multifamily residential area bounded generally by Wilshire Boulevard on the south, Rexford Drive on the west, and Santa Monica Boulevard on the north. No historically or architecturally significant properties in this area were identified by the survey. Because this survey was completed more than twenty years ago, however, little effort was made to identify and evaluate properties constructed during the 1940s and later. (Johnson Huemann Research Associates, 1986)

Properties Located Within the Project Boundaries

9265-67 Burton Way. This property consists of two buildings. The larger building, located adjacent to Burton Way, is a two-story stucco-clad duplex residence. It features a mainly rectangular plan and a low-pitched hipped roof with shallow, open eaves. Ground-floor entry doors are located on the southern and eastern elevations above two-step concrete stoops covered with swept French Provincial-style projections featuring drapery-scalloped edges. Windows are primarily six-over-six multi-pane wood sash with narrow casings. The two-story building to the north and rear functions as a carport, with two apartment units above. Second story access is via a projecting staircase enclosed with a stepped stuccoed rail. This building's architectural detailing are similar to the main building. Carports on the ground floor open to the alley. The two buildings form a courtyard to the south. [Photos 1-4]

The buildings were constructed in 1945 by Joe Endemiller of Beverly Hills, who is identified in the 1985-86 survey as one of the more prolific multifamily residence builders in the city during this time period. The architect is also indicated on the building permits as Endemiller, suggesting that it was constructed according to a standard plan generated by his office. Shortly after construction the property was evidently sold to Mary F. Burt, who sold it to Louis and Sonia Schultz in 1951. Apparently neither lived on the property and it was utilized as an income property. City directories suggest that the turnover of renters was frequent. The only renter for whom any substantive information was found was Frank E. Mortenson, who served for sixteen years as the executive secretary of the Southern California Retail Druggists Association. He moved to this address at some point after 1944, where he resided until the time of his death in 1946. In his obituary, among other distinctions related to his profession, he was described as "the father of the Fair Trade Acts now effective in 45 States and drafted the California fair trade law, which has served as the model for other States." (City of Beverly Hills Building Permits; Johnson Huemann, 1986: 62; *Los Angeles Times,* 8-26-1951, 5-28-1946; Los Angeles Index to Register of Voters, multiple years)

The abstracted French Provincial and Neocolonial references in the design are characteristic of the Minimal Traditional architectural style as it was commonly employed in the postwar era. The property is a modest example of the style. The property appears to be unaltered.

9269 Burton Way. This property consists of a two-story four-unit residence building adjacent to Burton Way and a detached, single-story garage located adjacent to the alley on the north. The stucco-clad residence is

essentially rectangular in plan and features a symmetrical main (southern) elevation characterized by an entry located above a three-step, tiled stoop, the entry portion of the elevation projecting slightly from the balance of the elevation. The entry door is surrounded with faux quoining and flanked with wrought iron wall sconces. A pair of wood-frame multi-pane casement windows are located on the second floor, above. Flanking the entry are tripartite windows on both the ground and second floors. The lower windows are fixed in the center and flanked with narrow casement lights; the second floor windows are equally divided by three, three-by-two light wood casements. Plaster garland swags are located between the floors. Windows on secondary elevations are mainly single light casements. Window casings are narrow. The roof is flat, with a shallow mansard clad in Spanish tile located above the southern elevation and a single-tile cap on a low parapet on the other elevations. The detached garage building is stucco-clad and rectangular in plan and features a flat roof and a low parapet topped by a single Spanish tile cap. [Photos 5-8]

These buildings were constructed in 1927 by August P. Clos of Los Angeles, apparently as a live-in income property. Clos and his wife Marie lived at this address for about three years, along with the renters of the other units. The architect for the buildings is listed on building permits as the Seaboard Engineering Company of Los Angeles, a firm that evidently provided architectural design in addition to engineering services. No substantial information was found about Clos or Seaboard Engineering. Around 1930 the property was sold to Simeon Le Gasse, a real estate developer or agent, who also utilized it as a live-in income property. No further information was located on Le Gasse. Around 1938-39 this property was purchased by Wilhelm Ernst Stadthagen. (City of Beverly Hills Building Permits)

Wilhelm Ernst Stadthagen

Wilhelm Stadthagen was born in Berlin in 1892 to an affluent and mainly secular Jewish family. After serving in the Army on both the Eastern and Western fronts during the first World War, Stadthagen retuned to Berlin to become a successful real estate developer and broker. By the early 1930s, with the rise of Nazism, he found his business in Berlin increasingly difficult to operate. In 1934 he sold the company for half of what he thought it was worth, and emigrated to London with his second wife, Alice, who had worked as a photographer in Germany. Their first son, Frank, was born in London. Unable to obtain work permits in his profession in Britain, and aware of the increasing likelihood of another war in Europe, he began to explore opportunities in the United States. In April 1936 he travelled to New York City. Although he received employment offers there, the city and the climate were not to his taste, so he undertook a cross-nation trip to examine business conditions elsewhere in the country. The journey was planned to end with stops in Los Angeles and San Francisco, and a return to London. (Stagen, 1972: 16-23)

Stadthagen's reception in Los Angeles was more welcoming than any he'd experienced elsewhere, and he was also impressed by the region's climate and relaxed way of life. An offer was extended to join a small real estate office in downtown Los Angeles, which he accepted. The final leg of his trip to San Francisco was cancelled and he wrote to his wife in London advising that the family should relocate to Los Angeles. Although not mentioned in his personal narrative of his move to the U.S., official immigration records indicate that Wilhelm and Alice Stadthagen reentered the country from Mexico in August 1936, crossing the border on foot from Mexicali. Entering the U.S. from a third country was a common tactic among European refugee immigrants, skirting the nation-based immigration quota system. Mexico and Cuba were frequently used for this purpose during the 1930s.

Stadthagen's wife and son moved into a rented home later that year. A second son, Thomas, was born shortly thereafter. In moving to the area, Stadthagen and his family became part of a growing German-Jewish immi-

grant community on the west side of Los Angeles and Beverly Hills second only in numbers to New York City, composed largely of German Jews who had fled Europe during the 1930s. Departing amicably from his first employer, Stadthagen struck out on his own, opening a real estate firm and investing in property in the area. The first of these was a four-unit apartment building at 9269 Burton Way in Beverly Hills, which also became the family's home. The precise date of the purchase is uncertain, but this event probably occurred in 1938 or 1939. Stadthagen assisted other recent immigrants with resettlement by renting them the remaining apartments in the building. Alice Stadthagen resumed her career as a photographer. (Stagen, 1972: 29-30)

One of the primary support organizations for the immigrant community in Los Angeles was the Jewish Club of 1933, a group formally organized in 1936 out of a more casual network of clubs and organizations providing relief and social support to European Jewish refugees. As his business circumstances stabilized, Stadthagen became gradually more active in this organization, but not prominently at first. The entry of the U.S. into the war in 1941 caused a rapid shift in his thinking about the group's mission and purpose, however, and his level of political and social activism in general. Immediately after the Pearl Harbor attack in December, all ongoing naturalization petitions for German, Italian and Japanese immigrants were immediately placed on hold by the government, and nationals from these countries classified as enemy aliens. Stadthagen experienced this policy change first-hand, as the processing of his petition was halted only days before he was due for swearing in as a U.S. citizen. (Stagen, 1972: 33, 35)

In January 1942, Stadthagen called a meeting at his home to discuss the situation facing German-Jewish immigrants. By his own later account,

> In January, I think it was on my fiftieth birthday[1] if I recall correct, a meeting took place in my apartment, to which I had invited about, between 20 and 25 immigrants, Jewish immigrants of our group, selecting them from their various occupations. I had a doctor, I had a lawyer, I had businessmen in this line, I had businessmen in another line, I had an accountant, from all various lines. And I presented them with the alternative either to be removed and losing the little business or profession they had already built up, and finding themselves in a camp, or doing something about it. And we did something about it. We decided to fight it. We appointed, at that time younger men, who had not started in business yet, to do the detail work and represent the group per se, and that was Felix Guggenheim who had just arrived around 1940 or so, and had not settled in business yet. ... We, or he, got together with similar groups in Seattle and in San Francisco. But I believe, here in Los Angeles we were the most active of all, and the leading group. And we mobilized all the people that we could find to speak in our favor with the government, and the general[2] in San Francisco. (Stagen, 1972: 35-36)

It is unclear if this ad hoc group ever adopted a formal name, but it was referred to in at least one press report as the Committee for Refugee Immigrants of Southern California. The group, chaired by Dr. Felix Guggenheim, Heinz Pinner and Stadthagen recruited important individuals to speak on their behalf. Most prominent among them was the German novelist Thomas Mann, a political refugee himself, who lived in the Los Angeles area during the war. He and the others testified before the Tolan Committee in early 1942, a committee of Congress charged with determining the fate of these immigrant groups. Others known to have testified before the Tolan Committee were novelist and screenwriter Bruno Frank and Beverly Hills attorney Hans Schwarzer. They brought to the committee the message that German Jews who fled Nazism should be treated as natural allies in the war against Hitler, not as enemy aliens. Through their efforts some German nationals living in the

[1] January 22, 1942.

[2] U.S. Army General John L. DeWitt, in charge of military security on the West Coast.

United States were able to avoid deportation, or forced relocation and encampment as befell the Japanese, but they remained under a strict military curfew, among other restrictions, for most of the war. (Hall, 1942; Stagen, 1972: 36; Select Committee, 1942)

Also during 1942 Stadthagen arrived at the conclusion that the cause of German Jews living in the U.S. would be best served by visibly demonstrating an unstinting loyalty to their new country even in the face of official discrimination. He contacted the Treasury Department and formed a War Savings Committee, which in this case was even more pointedly named the Anti-Nazi Savings Committee, with Stadthagen as its chair. The committee held numerous rallies in Pershing Square to sell war bonds, with a variety of Hollywood celebrities in attendance. These events continued throughout the war. (Stagen, 1972: 38-9)

It was felt by Stadthagen and members of the committee that the work of promoting their cause was larger than the group they had convened in his home in early 1942. The natural method for expanding their base of support in the community was through the Jewish Club of 1933, but they found the leadership of that organization unreceptive to taking on the more activist stance that Stadthagen and others argued that the circumstances demanded. Over the next few years Stadthagen and the others in his committee joined the board of the Club, and by 1945 had changed its direction and depth of social and political involvement. Also spinning off from the original meetings at Stadthagen's home in 1942 was a more informal group of ten who met privately once a month and became a kind of brain trust to address issues of anti-semitism and other social and political issues within the Southern California Jewish community. This group was still meeting monthly, as of the early 1970s.

In the postwar years, the reinvigorated Jewish Club of 1933 addressed refugee social issues, such as unemployment, and held cultural events, including lectures, readings and educational programs. As the membership aged, the Club's mission evolved to address the issues of the elderly. Stadthagen served as the Club's president and during his tenure in the 1950s was responsible for obtaining a reparations settlement from the government of West Germany. These funds were used to support the Jewish Home for the Aging and the Westside Community Center. The group was reorganized in 1980 as the Benefactors of The Jewish Club of 1933, Inc. and remains in operation today. (Stagen, 1972: 41-2; *Los Angeles Times,* 9-27-1959; Rothholz, 2008)

Stadthagen and his family lived on Burton Way until 1943, when he combined the family home and office in a building on Wilshire Boulevard. In 1950 the home and office were again separated. By 1949 the Burton Way property had been sold to Clara Oreskes-Speigel, possibly another refugee. She divided one of the units into two in that year and continued to live on the property until at least 1960, along with a variety of tenants. (*Los Angeles Times,* 5-23-1937; United States Census, 1940)

At some point between 1940 and 1943 Wilhelm Stadthagen changed his name to William Stagen. His company, Stagen Realty and Property Management, remains in operation in Beverly Hills today. At his death in 1980 Stagen Reality was said to own or operate numerous large-scale properties, including the Wilshire Theater, Sierra Towers, and Crocker Bank Building in Beverly Hills, as well as other residential and commercial properties. Over the course of his career it was reported that he had "spent much of the profit from his holdings on the Jewish Club of 1933." (*Los Angeles Times,* 9-15-1980)

The property is a modest expression of the Spanish Revival style as it was constructed widely during the Southern California real estate boom of the 1920s. Alterations include the evident enclosure of windows or doors on the eastern and northern elevations, possibly related to the interior reorganization of 1949.

5. Eligibility of Historic Resources

National and California Registers: Significance, Eligibility and Integrity

9265-67 Burton Way. This property does not appear to be eligible for listing under NRHP Criterion A or CRHR Criterion 1 (associations with historic events). While it is associated with the historical theme of the pre-and postwar residential development of Beverly Hills, it appears to be only generally associated with these themes, and represents no known, notable role in these theme. The property does not appear to be eligible for listing under NRHP Criterion B or CRHR Criterion 2 (associations with historically significant individuals). Of the known owners or occupants of the properties for whom any substantive biographical information was found, two may have made a significant contribution towards the historical development of the state, nation or community. The property was constructed by Joe Endemiller, a prolific Beverly Hills real estate developer. While his contributions to the historical development of the community appear to be significant, this property is one of large number he constructed during his lifetime, and is not known to be related to his career in any significant manner. Also living at this address was Frank E. Mortenson, an individual who appears to have made a significant contribution to the pharmacist profession and in trade legislation. However, the available evidence suggests that he lived at this address for no more than two years at the end of his life. Consequently, his productive career is likely to be more closely associated with his earlier places of residence or business. This property does not appear to be eligible for listing under NRHP Criterion C or CRHR Criterion 3 (an example of a type, period, or method of construction or association with a master designer). It is a typical examples of a common architectural style, of which numerous and more fully-realized examples can be found in Beverly Hills.

9269 Burton Way. This property appears to be eligible for listing under NRHP Criterion A and CRHR Criterion 1. The property's association with a broad pattern of historical events derives from the home front response to the declaration of war against Germany and Japan in December of 1941, an event supporting a large number of military, economic, social, and political historical themes. The particular facet of this larger theme represented by this property is the classification of German, Japanese and Italian foreign nationals as enemy aliens by the government with the nation's entry into World War II. A detailed historical context for this theme has been developed by the National Park Service for Japanese-Americans, but a similar context does not appear to currently exist for the other affected ethnic groups. (National Park Service, 2005)

The home of William Stagen was the location of a meeting held in January 1942 where the response of the Southern California German-Jewish immigrant community to the threat of deportation and other official sanctions at the beginning of the U.S. involvement in World War II was formulated. Twenty or more members of this community representing a variety of professions were in attendance at the committee meeting, which was chaired by prominent members of the German-Jewish business community: Dr. Felix Guggenheim, Heinz Pinner and William Stadthagen. The result of this joining of forces was the coordination of testimony before the Tolan Committee of the U.S. Congress in 1942.

While this context is not presently fully documented, as it has been for Japanese-Americans, it appears that the organized opposition to sanctions started on this property resulted in the Tolan Committee deciding to allow German Jews who were not yet citizens to remain in the United States. Committee cochair Heinz Pinner later recalled, "[c]redit [for stopping the deportation threat] can be claimed by the committee, and by various personalities of high standing, like Thomas Mann." A significant individual in his own right, Pinner became known for his work in seeking restitution for victims of Nazism, for which he was later awarded the Grand Cross of the Order of Merit by the West German government. (Pinner, 1972: 23; *Los Angeles Times*, 9-24-1986)

Similar defense movements occurred at the same time on behalf of Italian nationals, which succeeded in permitting resident aliens to remain in the country and pursue citizenship. This was clearly not the automatic result of the Committee's deliberations; by contrast, Japanese nationals and Japanese-Americans were subjected to forced relocation. Also growing directly out of this committee's meetings were war bond drives organized by and centered on the German-Jewish expatriate community.

The property also appears to be eligible for listing under NRHP Criterion B and CRHR Criterion 2. It was the first property owned (circa 1938 to 1943) by William E. Stadthagen (Stagen), an immigrant businessman from Germany, one of a substantial number of individuals who fled Europe during the rise of Nazism during the 1930s and resettled in Southern California. Stadthagen (Stagen) appears to be one of the most active and distinguished members of this community. During the time he owned and lived on this property he became heavily involved with promoting immigrants rights within the German-Jewish community in Los Angeles. These early efforts evolved into a leadership role in the reinvigoration of the Jewish Club of 1933 as a force in the promotion of Jewish culture and civil rights in Southern California, as well as a life-long commitment to philanthropic efforts in providing social services to this community. While these activities continued throughout his lifetime, the meetings of early 1942 which initiated this realm of significant activities took place at his home, on this property.

This property does not appear to be eligible for listing under NRHP Criterion C or CRHR Criterion 3 (an example of a type, period, or method of construction or association with a master designer). It is a typical example of a common architectural style, of which numerous and more fully-realized examples can be found in Beverly Hills.

NRHP Criterion D and CRHR Criterion 4 pertain to archeological resources and consequently have not been evaluated in this report.

Integrity Discussion

9265-67 Burton Way. This property appears not to be significant under any of the eligibility criteria. Consequently, an evaluation of its integrity is not required.

9269 Burton Way. This property appears to be significant under NRHP Criterion A and CRHR Criterion 1, and NRHP Criterion B and CRHR Criterion 2. Consequently, a determination of the ability of the property to convey its significance is required to establish its potential eligibility. The integrity of **location** for this property is intact; it remains on its original location. The property's integrity of **design** is substantially intact. Alterations, including the closure of window and door openings on the apartment building, are limited to minor elevations.

The property's integrity of **setting** is considerably compromised. Once a part of a neighborhood of low-rise apartment buildings, it is now surrounded by mid- and high-rise buildings constructed during the 1970s and later. The only remaining element of the property's historic setting is Burton Way and the wide median, previously a Pacific Electric streetcar right-of-way. The property is not substantially altered, and to that extent, its integrity of **materials** and **workmanship** are also intact. The property's integrity of **feeling** and **association** are largely intact, as the buildings on the property are used for their historic residential purposes.

Conclusion

The property at 9269 Burton Way appears to retain sufficient integrity to convey its significance and therefore should be regarded as a historic resource for the purposes of CEQA. The historic period for the property based

on the documented associations is circa 1938 to 1943. The appropriate boundary of the eligible property is the legal parcel.

Local Significance and Eligibility

The Beverly Hills Municipal Code (§10-3-3212) establishes criteria for listing properties within the city as landmarks. The City of Beverley Hills listing criteria appear to be functionally similar to the NRHP and CRHR criteria for eligibility, with the significant departure that a landmark must meet at least two of the criteria to be considered eligible. The property at 9269 Burton Way appears to meet Criterion 1 (identified with important events); and Criterion 2 (associated with the lives of significant persons), as described the NRHP and CRHR evaluation, above. The property at 9265-67 Burton Way does not appear to be eligible under any of the criteria in the Beverly Hills Municipal Code.

The City Code also provides for evaluating the integrity of a potential landmark, utilizing the integrity criteria of the NRHP and CRHR, but apparently suggesting an unconventional methodology for determining if the integrity level is sufficient. The Municipal Code states that a nominated property must retain its "integrity of location, design, setting, materials, workmanship, and association" from the period of significance. The implication of the plain language in the Municipal Code is that, unlike the NRHP and CRHR, all aspects of integrity must be present for a property to be eligible. However, the code section also states that integrity "shall be judged with reference to the particular [significance] criteria." The possible meaning of this language is that integrity should be judged based upon the means by which the property derives its significance. This method is more similar to evaluating integrity for the NRHP and CRHR.

The implications of this integrity evaluation language taken as a whole are uncertain. Depending on the interpretation of the Municipal Code, the property at 9269 Burton Way may or may not retain sufficient integrity to be eligible for landmark listing. If it is the intention of the Municipal Code to set a higher standard for integrity than the NRHP and CRHR, then it would not be eligible due to the loss of setting integrity, as described in the NRHP and CRHR evaluation, above. However, if is the intention of the code to set a similar standard of evaluation, then it would retain sufficient integrity for listing.

Adjacent and Nearby Properties

No properties in the immediate vicinity are currently designated, listed, determined to be eligible, or appear to be eligible for listing on the NRHP, CRHR, or as a City of Beverly Hills Landmark.

6. Impact Analysis

The proposed project will result in the demolition of the property located at 9269 Burton Way. This property appears to be eligible for listing on the NRHP and CRHR, and may be eligible for designation as a City of Beverly Landmark. Consequently, it should be regarded as a historic resource for purposes of CEQA. The impact of the demolition is significant and adverse.

7. Mitigation and Residual Impacts

A principle of environmental impact mitigation is that some measure or combination of measures may, if incorporated into a project, serve to avoid or reduce significant and adverse impacts to a historic resource. In reference to mitigating impacts on historic resources, the CEQA Guidelines state:

> Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the *Secretary of the*

> *Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant. (PRC §15126.4 (b)(1))

These standards, developed by the National Park Service, represent design guidelines for carrying out historic preservation, restoration and rehabilitation projects. The Secretary's Standards and the supporting literature describe historic preservation principles and techniques, and offers recommended means for carrying them out. Adhering to the Standards is the only method described within CEQA for reducing project impacts on historic resources to less than significant and adverse levels.

The demolition of an historic property cannot be seen as conforming with the *Secretary of the Interior's Standards*. Therefore, the absolute loss of an historic property should generally be regarded as an adverse environmental impact which cannot be mitigated to a less than significant and adverse level. Further, the usefulness of documentation of an historic resource, through photographs and measured drawings, as mitigation for its demolition, is limited by the CEQA Guidelines, which state:

> In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur. (CEQA Guidelines §15126.4 (b)(2))

Implied by this language is the existence of circumstances whereby documentation may mitigate the impact of demolition to a less than significant level. However, the conditions under which this might be said to have occurred are not described in the Guidelines. It is also noteworthy that the existing CEQA case law does not appear to support the concept that the loss of an historic resource can be mitigated to less than adverse impact levels by means of documentation or commemoration. (*League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* [1997] 52 Cal. App. 4th 896; *Architectural Heritage Association v. County of Monterey* [2004] 19 Cal. Rptr. 3d 469)

Taken in their totality, the CEQA Guidelines require a project that will have potentially adverse impacts on historic resources to conform to the *Secretary of the Interior's Standards*, in order for the impacts to be presumptively mitigated to below significant and adverse levels. However, CEQA also mandates the adoption of feasible mitigation measures which will reduce adverse impacts, even if the residual impacts after mitigation remain significant. Means other than the application of the Standards would necessarily be required to achieve this level of mitigation. In determining what type of additional mitigation measures would reduce impacts to the greatest extent feasible, best professional practice dictates considering the level of eligibility of the property, as well as by what means it derives its significance.

Mitigation programs for impacts on historic resources tend to fall into three broad categories: documentation, design and interpretation. Documentation techniques involve the recordation of the site according to accepted professional standards, such that the data will be available to future researchers, or for future restoration efforts. Design measures could potentially include direct or indirect architectural references to a lost historic property, e.g., the incorporation of historic artifacts, into the new development, or the relocation of the historic property to another suitable site. Interpretative measures could include commemorating a significant historic event or the property's connection to historically significant themes.

Mitigation Measures

1. Documentation Report. A historic preservation professional qualified in accordance with the *Secretary of the Interior's Standards* shall be selected by the City of Beverly Hills to complete a Documentation Report on the property located at 9269 Burton Way. The property shall be photographed according to accepted archival methods, and a written historic report prepared by a qualified historic preservation professional. This documentation, along with historical background of the properties prepared for this property, shall be submitted to an appropriate repository approved by the City of Beverly Hills, and shall be completed and approved by the city prior to the issuance of demolition permits.

2. Interpretative Plan. In consultation with the City of Beverly Hills, a historic preservation professional qualified in accordance with the *Secretary of the Interior's Standards* shall be selected by the city to prepare an on-site interpretive plan, focusing on the significant historic themes associated with the property at 9269 Burton Way. The plan may consist of a public display or other suitable interpretive approach, as approved by the city, and be installed in an appropriate public or semi-public location within the proposed new construction. The interpretive plan shall be completed and approved prior to the issuance of building permits for the proposed project, and shall be installed within one year of occupancy of the proposed building. If the proposed building is not occupied within two years after the issuance of demolition permits, another suitable temporary or permanent location for the interpretive display shall be determined, subject to the approval of the city. The interpretive display shall remain in public view for a minimum of five years, and if removed, appropriately archived.

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Photo 1. 9265-67 Burton Way, western and southern elevations. [8-2-2012]

Photo 2. 9265-67 Burton Way, southern elevation of main building and western elevation of garage apartment building. [8-2-2012]

Photo 3. 9267-67 Burton Way, southern and eastern elevation of main building and stairway of garage apartment building [8-2-2012]

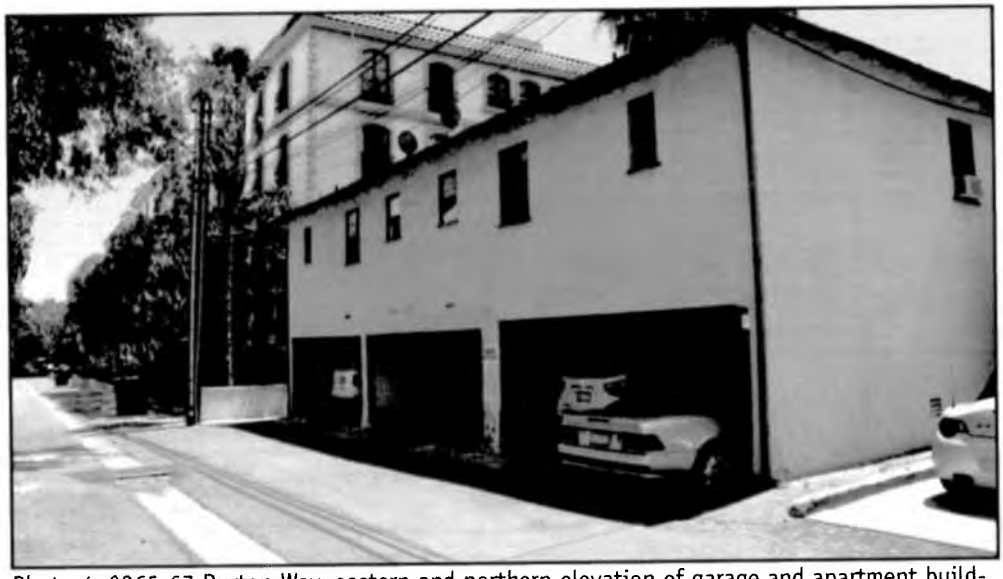

Photo 4. 9265-67 Burton Way, eastern and northern elevation of garage and apartment building, facing alley. [8-2-2012]

Photo 5. 9269 Burton Way, western elevation. [8-2-2012]

Photo 6. 9269 Burton Way, eastern elevation. [8-2-2012]

Photo 7. 9269 Burton Way, western elevation of garage building. [8-2-2012]

Photo 8. 9269 Burton Way, eastern elevation of garage building from alley. [8-2-2012]

Photo 9. Oblique aerial of 9265-67 Burton Way (right) and 9269 Burton Way (left). [Source: Google Maps]

ATTACHMENT D

HRG HISTORIC ANALYSIS

To: Empire at Burton Way LLC

From: Christine Lazzaretto; Peyton Hall, FAIA

Date: March 26, 2013

Per your request, we have evaluated the property located at 9269 Burton Way in the city of Beverly Hills, California, for potential historic significance. The conclusions in this report are based on a review of relevant historic documents and existing reports; an analysis of the property's historic integrity; and a review of eligibility criteria for listing in the National Register of Historic Places, the California Register of Historical Resources, and as a City of Beverly Hills Landmark.

HISTORIC OVERVIEW

The property at 9269 Burton Way was constructed in 1927 as a multi-family residential property. The architect is listed as the Seaboard Engineering Company, and the original owner was August P. Clos. Clos owned the property for approximately three years before selling to Simeon Le Grasse, a local real estate investor. In 1938, Le Grasse sold the property to German Jewish émigré William Stadthagen.

German Jewish Émigrés in the Western United States

The Western United States was home to thriving Jewish communities dating back to the mid-nineteenth century. By 1870, San Francisco was home to the second largest Jewish community outside of New York.[1] Other West Coast cities, including Seattle, Portland, and Berkeley, also had significant Jewish settlements. By the 1920s, Los Angeles (including the surrounding communities of Beverly Hills and Santa Monica) had surpassed San Francisco as the West Coast center for Jewish émigrés.

[1] Eisenberg, Ellen, Ava F. Kahn, and William Toll. *Jews of the Pacific Coast: Reinventing Community on America's Edge.* Seattle, WA: University of Washington Press, 2009. (x)

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In the first half of the twentieth century, the population of German immigrants in Southern California flourished. Los Angeles became a haven for a uniquely talented group of artists, writers, musicians, architects, entrepreneurs, and intellectuals who came to the West Coast as either permanent citizens or long-term visitors living in exile from Hitler's Europe. They were "often regarded as the most educated and intellectually brilliant wave of immigrants ever to come to the United States."[2] The presence of these German-speaking exiles earned Los Angeles the title "Weimar on the Pacific," after the German town that is credited as the birthplace of German classical culture.[3] Hollywood in particular had become a refuge for émigrés from Germany and other Eastern European countries. German-speaking producers, directors, and actors helped shape the motion picture industry during Hollywood's "Golden Age" of the 1920s.[4]

This mass immigration continued during the 1930s, particularly after Adolf Hitler came to power in 1933 and pronounced his goal to rid Germany of its Jews. As a result, an estimated 200,000 German refugees came to the United Stated between 1933 and the outbreak of World War II in Europe in 1939.[5] In 1940, the United States government established a number of agencies to ease immigration restrictions and save European expatriates from deportation to German concentration camps.[6] Although the vast majority settled in New York, by 1941, when the United States entered the war, almost 6,000 German Jews had come to Los Angeles, making the city the second largest center of German-speaking Jews in America.[7] Many were drawn by the climate, low cost of living, and opportunities provided by the entertainment and other industries. Hollywood also had a reputation for being progressive and actively supporting the struggle against European fascism.[8] In 1936, the Hollywood Anti-Nazi League was founded, which held meetings in the Shrine Auditorium in Los Angeles, and organized a number of rallies between 1937 and 1939 in support of the war against Franco in Spain.

As described by historian Kevin Starr, "taken cumulatively, in success and failure, German-speaking Los Angeles/Hollywood constituted its own distinctive time and place: bonded by

[2] Anne Clara Schenderlein, who has written on the history of German Jewish refugees in Los Angeles, as quoted by: Rothholtz, Peter. "L.A.'s German Jews Celebrate Club's 75th Year," *Jewish Journal*, May 1, 2008. Website: http://www.jewishjournal.com/los_angeles/article/las_german_jews_celebrate_clubs_75th_year_20080502. Accessed: October 20, 2012.
[3] Bahr, Ehrhard. *Weimar on the Pacific*. Berkeley and Los Angeles, CA: University of California Press, 2007. (1)
[4] Starr, Kevin. *The Dream Endures: California Enters the 1940s*. New York: Oxford University Press, 1997. (342)
[5] Starr. (367)
[6] Bahr. (17)
[7] Rothholtz. "L.A.'s German Jews Celebrate Club's 75th Year."
[8] Bahr. (18)

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language and an unwavering conviction of moral superiority over those prominent intellectuals and artists...who remained behind and cooperated."[9] The West side of Los Angeles, including Brentwood, Pacific Palisades, and the Hollywood Hills; and neighboring cities of Santa Monica, and Beverly Hills, were centers for the German émigrés. The homes of German Jewish writers, composers, artists, and other intellectuals in these areas became gathering places for the growing émigré community. Writers Franz Werfel, Thomas Mann, and Lion Feuchtwanger held regular literary evenings at their homes in Pacific Palisades and Santa Monica. Less formal gatherings were held throughout the Los Angeles area by lesser-known émigrés such as Reinhardt Braun, whose guests included psychiatrists, museum directors, screenwriters, journalists, and artists. Émigré and actress Salka Viertel held one of the longest-running salons at her home in Santa Monica, hosting representatives of "virtually the entire spectrum of the creative émigré community" every Sunday from the late-1930s to the late-1940s.[10]

Life for the German exile community outside of the cultural elite has not been well documented. The editorial principles of *Die Westküste*, the West Coast edition *Aufbau/Reconstruction*, which was the newspaper of German Jewish immigrants in New York, promoted loyalty as citizens of the United States, attachment to Jewish faith and tradition, and cultivation of the German cultural heritage.[11] Most German Jewish émigrés wanted to quickly assimilate into American life. German businessmen and other prominent citizens forged connections within the community to help achieve these goals. During the late-nineteenth and early-twentieth centuries, Jews created a series of financial, religious, and philanthropic networks throughout the Western United States.

The German Jewish Club was established in Los Angeles by businessmen Theo Lowenstein and Lothar Rosenthal, and dentist Bruno Bernstein to help émigrés find work, a place to live, and generally fit in to American society.[12] In the 1930s, the Hamburger Home, which provided housing for young, working and single Jewish women, became a gathering place for the larger Jewish community, hosting dances and other events.[13] The German Jewish Club initially met at the Hamburger Home. Throughout the 1930s, the club functioned as a social club and cultural institution, hosting lectures, dances, and other cultural events. For 20 cents a

[9] Starr. *The Dream Endures.* (374)
[10] Starr. (377)
[11] Bahr. *Weimar on the Pacific.* (4)
[12] History of the Jewish Club of 1933 largely derived from Rothholtz. "L.A.'s German Jews Celebrate Club's 75th Year."
[13] The Hamburger Home, so named in 1927 for a major benefactor, started in 1915 as the Ida Strauss Day Nursery, which arranged for the adoptions of WWI orphans and provided day care to children of working widows and mothers. In 1918, the organization became the Jewish Alliance, which added a small residential program and community center to the day nursery. Website: http://www.avivacenter.org/_about/history.aspx. Accessed October 19, 2012.

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month, members were able to join exercise groups, play tennis, go on hikes, and attend lectures. With the help of the greater Jewish community, the group established a clubhouse at 1126 South Grandview Avenue that it rented until the 1940s. New arrivals paid $7 a week to live in the large California-style home, which provided limited sleeping accommodations. When Leopold Jessner, a theater producer, became president, he increased the organization's cultural offerings, and worked with the European Film Fund, a Hollywood group established to assist refugees. The club's Cultural Committee scheduled Tuesday night meetings, with programs ranging from lectures by such noted German émigrés as author Thomas Mann and piano recitals by Andre Previn. Lectures included discussions of current events, along with talks to help familiarize housewives with the varieties of fruits and vegetables available to them in their new California surroundings. In 1938, the club's name was changed to The Jewish Club of 1933 as anti-German sentiment grew. By 1939, the club had some 1,600 members.[14]

After the United States entered the war, German Jewish immigrants faced new hurdles, including registration under the Smith Act, which featured curfews and travel restrictions as well as the threat of forcible eviction from homes in the vicinity of defense plants or military establishments. Due in part to a concerted effort of German organizations and prominent individuals throughout the Western United States, including lobbying efforts undertaken by the Jewish Club of 1933, these restrictions were lifted in early 1943.

Wilhelm Stadthagen[15]

Wilhelm Stadthagen was born in Berlin in 1892.[16] The Stadthagen family was well-established in Berlin, and his father was a merchant who owned a small factory. When he was 17, Stadthagen left home and went to Brussels to work for the firm Otto Koppel and Ohrenstein. During his early 20s, Stadthagen pursued business interests in Brussels, Paris, and Munich, until he volunteered to serve in World War I in 1914. After the war Stadthagen returned to Berlin and began working for a commercial firm active in the building trade, real estate, and construction. In 1923, he joined one of the private banking institutions in Berlin and tried to convince them to invest in real estate. In 1924, Stadthagen formed his own real estate investment firm, called Wilhelm Stadthagen, Grundstücke and Hypotheken, where he worked until deciding to leave Berlin in 1934.

[14] Rothholtz. "L.A.'s German Jews Celebrate Club's 75th Year."
[15] At some point in the early 1940s, Wilhelm Stadthagen changed his name to William Stagen. For consistency, this report refers to him throughout as Wilhelm Stadthagen, as most of the events take place prior to his name change.
[16] Biographical information about Wilhelm Stadthagen taken from his oral history. Stagen, William. "Oral History interview with Herbert A. Strauss," Los Angeles: Center for Jewish History, January 1, 1972.

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In 1933, Stadthagen and his second wife, Lilly, witnessed the growing power of the Nazi party in Berlin. Stadthagen recounts in his oral history the sight of Hitler, Göhring, and Goebbels on a balcony overlooking a parade of supported in the Wilhelmsplatz. After this incident, Stadthagen and his wife decided to travel around Germany to see if the Nazi party was as powerful in other parts of the country. During that trip they witnessed legions of young boys marching through the streets in support of Hitler. They decided that if the conditions in Germany did not change within the next year, they would have to leave the country. Stadthagen recounts that they were not particularly politically active, but decided to monitor the situation closely.

In 1934, Stadthagen decided to sell his business and leave the country. After placing a blind advertisement in the newspaper, Stadthagen received only one inquiry, from a Mr. Droste. Stadthagen ultimately agreed to sell the business in May of 1934 to Droste for one-half of his original asking price. Once the business was sold, the Stadthagen family left Berlin, first going to Brussels and then London. In 1936, after unsuccessfully applying for a work permit and watching the situation in Europe grow more tenuous, Stadthagen decided to leave London and come to the United States.

Stadthagen traveled first to New York in June of 1936. Despite the business opportunities available to him in New York, Stadthagen didn't like the city, and decided instead to travel throughout the United States to see if there were other possibilities for his family. He purchased a round-trip ticket to the West Coast, with the intention of traveling through St. Louis, Los Angeles, and San Francisco before returning to his wife in London.

Stadthagen reported being welcomed by the local business community in Los Angeles, where there was already a large German Jewish population by this time. He was treated as a prominent visitor, and was asked to report on the situation of the real estate business in Europe. Stadthagen was invited to join a local real estate firm, and became active in the local Realty Board. Stadthagen intended to spend a maximum of one week in Los Angeles, but instead decided to cancel both the rest of his trip around the United States, as well as his return trip to London. As Stadthagen recounts in his oral history, he wrote to his wife, suggesting that the family settle permanently in Southern California:

> *How would you like to leave London, and...mov[e] to Los Angeles, where the sun shines, where it rains little. Such is the climate. This is the country where I would like to see our children grow up, in the open, not in a congested city. The war in Spain gets worse and worse, and I predict that in less than four years there will be another world war. I wouldn't want to be in London at that time. If you feel like it, send me a telegram or write me what your ideas are. That's what my suggestion is we do. Here I can work, in London I cannot work. Here the people receive us as*

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their equal, hospitable, no difficulty, not discrimination against a foreigner, as they have in England, where you still have to write on your letter[head] at those times, so and so foreign born, or German born.[17]

Stadthagen rented a house for the family in Beverly Hills and started to build his business. In 1938, he purchased the four-unit property at 9269 Burton Way, along with one or two other rental properties. He moved the family to the Burton Way property, and rented the other three units to German émigrés. At that time, he also had office space in downtown Los Angeles. Sometime in mid-1942, Wilhelm Stadthagen changed his name to William Stagen.[18]

German Jewish Émigrés and World War II

In the late 1930s, as turmoil in Europe and Asia escalated, the United States government began to prepare for the possibility of involvement in the war. Preparations included surveillance of Japanese, German, and Italian resident aliens, compiling lists of "potentially dangerous persons" and plans for internment and deportation.[19] Immediately after the bombing of Pearl Harbor, President Roosevelt issued Presidential Proclamations 2525, 2526, and 2527 to authorize the United States to detain allegedly potentially dangerous enemy aliens. The FBI and other law enforcement agencies arrested thousands of suspected enemy aliens, mostly individuals of German, Italian, or Japanese ancestry, living throughout the United States.[20] In January 1942, President Roosevelt authorized the construction of ten relocation camps which would ultimately house more than 110,000 Japanese aliens and American citizens of Japanese descent. All Japanese-American men of draft age, except those already in the armed forces, were classified as 4-C, enemy aliens, forbidden to serve their country.[21]

Lieutenant General John DeWitt was head of the Western Command, stationed in San Francisco, and an ardent supporter of relocation of all perceived enemy aliens. In February 1942, DeWitt recommended the immediate evacuation of people of Japanese descent on the West Coast. On February 19, 1942 President Roosevelt signed Executive Order 9066, which enabled the United States government to begin Japanese relocation. On March 3, 1942,

[17] Stadthagen oral history. (25)
[18] In 1942, William Stadthagen changed his name to William Stagen on his business letterhead, and began signing various correspondence using that name. The name Stadthagen did still appear in the Jewish Club of 1933 meeting minutes of August 1942.
[19] "The Enemy Alien Files: Hidden Stories of World War II." Website: http://www.enemyalienfiles.org/enemyaliens/index.html. Accessed October 19, 2012.
[20] National Archives. "Brief Overview of the World War II Enemy Alien Control Program." Website: http://www.archives.gov/research/immigration/enemy-aliens-overview.html. Accessed: October 19, 2012.
[21] WETA, Washington, DC and American Lives II Film Project. "The War at Home," 2007. Website: http://www.pbs.org/thewar/at_war_democracy_japanese_american.htm. Accessed October 19, 2012.

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DeWitt issued "Military Proclamation Number 1" which designated the western parts of California, Oregon, and Washington as restricted zones.[22] Japanese relocation began March 24, 1942 on Bainbridge Island in Washington.

As early as January 1942, European émigrés living in California had heard that there may be plans to relocate all enemy aliens. United States Attorney General Francis Biddle was charged with defining "enemy aliens." Jewish individuals and organizations throughout the Western United States decided to proactively fight the enemy alien classification. They lobbied government officials, tried to coordinate assistance from Jewish organizations on the East Coast, submitted editorials to local newspapers, and enlisted prominent local citizens to speak on their behalf.

Stadthagen reports in his oral history his personal connection to the fight against the enemy alien classification.[23] Stadthagen was scheduled to be sworn in as a United States citizen in December 1941. After the bombing of Pearl Harbor on December 7, all pending naturalizations, including Stadthagen's, were cancelled. In January 1942, Stadthagen invited about 20-25 Jewish émigrés from a variety of occupations to a meeting at his apartment at 9269 Burton Way. According to Stadthagen in his oral history, attendees of the meeting were presented with the option of being "removed and losing the little business or profession they had already built up, and finding themselves in a camp, or doing something about it. And we decided to do something about it."[24]

Following this meeting there was formation of what is described in the Felix Guggenheim Papers as an ad hoc committee to work with similar organizations in Seattle and San Francisco. This committee was originally referred to as the Committee for Reclassification of Refugees Classified as Enemy Aliens, and later as the Committee for Refugee Immigrants of Southern California.[25] Felix Guggenheim, who had recently come to Los Angeles, was selected to lead the effort, and in fact was likely the only member of the committee.[26] Under Guggenheim's leadership, the Jewish Club of 1933 became the representative organization for the Los Angeles German Jewish community, with the ad

[22] "Evacuation to be Carried out Gradually: 93,000 Nipponese in California are Affected by Order," *The San Francisco News*, March 3, 1942.
[23] Stadthagen oral history. (35)
[24] Stadthagen oral history. (36) Based on contemporary documents and correspondence from this period, it appears that the main discussion topic at this meeting was the potential curfew and travel restrictions.
[25] Various correspondence 1942-1943. University of Southern California Libraries: Felix Guggenheim Papers.
[26] Although Guggenheim had recently come to Los Angeles, he appears to have been chosen to lead this effort in part due to the connections he had already made in the local community, and for his experience witnessing the treatment of German refugees in London in 1939.

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hoc political committee serving underneath the organization's larger umbrella. Stadthagen and others who wanted the Jewish Club to become more politically involved also became active with the organization at this time.

Felix Guggenheim was born June 6, 1904 in Constance, Germany.[27] He studied economics and law in Munich and Hamburg, earned his doctorate in economics and politics in Zurich in 1925, and his doctorate in law in Leipzig in 1926. Guggenheim began his career as a journalist, and then worked briefly in a banking institution. In 1930, Guggenheim took over the directorship of the Seydel A.G. printing house in Berlin and the Deutsche Buch-Gemeinschaft, beginning his long career in the literary and publishing field. Although Jewish, Guggenheim was able to keep a position as member of the board of the printing house and book club until 1938, when he and his wife, actress Evelyn Holt, left Germany, stopping first in Switzerland before spending two years in London. In 1940, the Guggenheims immigrated to the United States.

The Guggenheims settled in Los Angeles, California, where they quickly became a part of the large German émigré community. Guggenheim moved into an apartment owned by Stadthagen at 238 South Tower Drive in Beverly Hills. In 1942, Guggenheim and Ernst Gottlieb, a fellow émigré, co-founded the *Pazifische Presse*. This small press served as a forum for the German immigrant authors in Southern California who were without publishing contracts. Writers published by *Pazifische Presse* between 1942 and 1948 included Lion Feuchtwanger, Thomas Mann, Franz Werfel, and Bruno Frank.

In early 1942, Guggenheim immediately began his work as chair of the Jewish Club of 1933's political committee. The potential relocation of Germans was based on their classification as enemy aliens. Early efforts focused on the reclassification of German Jewish émigrés as "refugees from Nazi oppression," which was the term used in the England since 1939. Sometime after February 11, 1942, Felix Guggenheim drafted a telegram from the Jewish Club of 1933 to the Council for Aliens of Enemy Hospitality in New York:

> *German and Italian removal will begin not later than 60 days from now. Thousands of anti-Nazi and stateless refugees here are in panic and distress as no word about exemptions for victims of Nazi oppression and persecution...Spiritual strength and power of endurance will be broken in most of them if they will have to suffer terribly after they learned to rely on the democratic refuge of the United*

[27] Felix Guggenheim biography available at website: http://www.usc.edu/libraries/finding_aids/records/finding_aid.php?fa=0312#ref10. Accessed October 25, 2012.

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States. Much damage is done and being caused continuously by uncertainty. Please help us to avoid the worst. Our members urge you to intervene in Washington without delay and to get clear unmistakable statement whether it is really contemplated to remove thousands of refugees from their homes exactly like Nazis or whether we can expect exemption. Every day counts as every day brings new harm.[28]

The enactment of emergency measures (such as travel and curfew restrictions), and the threat of potential relocation of German Jews was limited to those living on the West Coast. Despite pleas from their compatriots, Jews on the East Coast were reluctant to become involved in the fight. As a result, the effort to remove the enemy alien classification from German Jews became strictly a West Coast movement. On January 31, 1942, a group of over 30 Jewish émigrés in Berkeley and San Francisco signed a letter to the Francis Biddle, the United States Attorney General, urging him to classify German Jews living in the United States as "refugees from Nazi oppression," instead of "enemy aliens." The letter gave an impassioned plea for the reclassification:

Since the outbreak of the war, however, the refugees from Nazi oppression have been classified as "enemy aliens." We believe that this term when applied to refugees from Nazi oppression results in moral disqualification. Being outlawed by Hitler as enemies whom he wants to exterminate, we are now again designated as "enemies" in the country of our refuge. Thus we face the danger to appear to the public as enemies of everyone. To bring us into such position is Hitler's aim, and certainly contradictory to the intention of the American government.[29]

The Select Committee to Investigate the Interstate Migration of Destitute Citizens was appointed in April of 1940 "to inquire into the interstate migration of destitute citizens, to study, survey, and investigate the social and economic needs, obtaining all facts possible in relation thereto which would not only be of public interest but which would aid the House in enacting remedial legislation."[30] The Committee's term was to expire with a report due in April

[28] Western Union Telegram from the Jewish Club of 1933, 228 West 4th Street, Los Angeles, to the Council for Aliens of Enemy Nationality, c/o Self Help of Immigrees (sic) from Central Europe, 165 West 46th Street, New York. USC: Guggenheim Papers. There is no date listed on the telegram.
[29] Letter to Francis Biddle from the Berkeley and San Francisco Jewish émigré community, January 31, 1942. USC: Guggenheim Papers.
[30] Boston Public Library. "Interstate Migration/National Defense Migration." Website: http://www.bpl.org/online/govdocs/interstate_migration.htm. Accessed October 28, 2012.

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of 1941, but the term was extended until January, 1943, and the name of the committee was changed to the Select Committee Investigating National Defense Migration. It was also known as the Tolan Committee after its chair, Congressman John H. Tolan. In February and March of 1942, the Committee held a series of hearings on the West Coast which dealt with the removal of the Japanese from the Pacific Coast area and the potential evacuation of other enemy aliens. Hearings were held in San Francisco on February 21 and 23, 1942; in Portland and Seattle on February 26 and 28, and March 2, 1942; and in Los Angeles and San Francisco on March 6, 7, and 12, 1942.

On March 1, 1942, Guggenheim wrote a letter to Congressman Tolan. The letter urges Tolan not to group Jewish exiles with people who could be threats to American democracy, and to relieve them of the "ignominious and untrue stigma" of the enemy alien label. Guggenheim suggests a series of meetings be held in several states, and that testimony of various classes of Hitler exiles be heard.[31] On March 2, 1942, the Jewish Club received a letter from Elsa Schwerin, who was coordinating the efforts of the Seattle émigré community. Schwerin wrote to outline the Seattle efforts against relocation, including their testimony before the Tolan Committee, and asked for a report on what was taking place in that regard in Los Angeles.[32]

On March 4, 1942, Guggenheim sent a letter to John Abbott, Chief Field Investigator for the House Committee on Defense Migration, reiterating the terrible consequences of the enemy alien moniker applied to German Jews in the United States, and offering the testimony of Bruno Frank to the Tolan Committee.[33] On March 7, 1942, Frank, Thomas Mann, and Felix Guggenheim, among others, testified before the Committee.[34] On March 26, 1942, the Jewish Club of 1933 received a telegram from John J, McCloy, Assistant Secretary of War, stating:

> *Matters being worked out on the West Coast in my judgment in a very fair and considerate manner. Army officers there are in touch with representatives of the Heimatlos refugees and I am sure their interests will be protected just as far as is consistent with military necessity.*[35]

[31] Letter from Felix Guggenheim on behalf of the Jewish Club of 1933, to John R. Tolan, March 1, 1942. USC: Guggenheim Papers.
[32] Letter from Elsa Schwerin, 5038 20th N.E., Seattle, to Professor Leopold Jessner, Jewish Club of 1933, March 2, 1942. USC: Guggenheim Papers.
[33] Letter from Felix Guggenheim on behalf of the Jewish Club of 1933, to John W. Abbott, March 4, 1942. By this time, Guggenheim had been named to the Board of Directors for the Jewish Club of 1933. USC: Guggenheim Papers.
[34] "Hearings before the Select Committee Investigating National Defense Migration, House of Representatives, Seventy-seventh Congress, Second Session. Part 31: Los Angeles and San Francisco Hearings, March 6, 7, and 12, 1942." Transcript available at: http://ia600508.us.archive.org/1/items/nationaldefensem31unit/nationaldefensem31unit.pdf.
[35] Telegram from John J. McCloy to the Jewish Club of 1933, March 26, 1942. USC: Guggenheim Papers.

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The United States Army Western Command did, however, enact a series of restrictions, including a curfew, and a limit to the distance from home anyone of German descent could travel without a special permit. Following testimony at the Tolan Committee, Guggenheim and his counterparts in other West Coast cities continued to lobby government officials throughout 1942 and early 1943 to lift the restrictions, and to allow German Jewish émigrés to participate in civilian defense throughout. These efforts were coordinated among the various West Coast factions, who shared information and updates frequently via letters and telegrams.[36] By January 1943, the curfew and travel restrictions had been lifted.[37] On March 24, 1943, Guggenheim received official word that German Jewish émigrés in the Los Angeles area could serve in civilian defense.[38]

Stadthagen remained active with the Jewish Club of 1933 during this period, but his involvement appears to have been more concentrated on internal politics and other club activities outside of the reclassification effort.[39] Stadthagen did, however, provide written support for Guggenheim's efforts when a rift developed in 1943 among the Board of Directors between those who wanted to fight reclassification, and those members who felt that they should remain loyal to the German Federation.[40]

Minutes from the Jewish Club meetings, along with Stadthagen's own recollections, indicate that he was particularly involved with the more traditional home front support of the war effort. In early 1943, Stadthagen was part of the War Effort Committee, which organized drives to collect materials for the war effort, including metal, rubber, and other useful materials.[41] At this time he was also in communication with the Treasury Department on behalf of the War Savings Committee, in order to create a war bond funded by Jewish émigrés who wanted to show their support for the United States' war effort. This committee was re-named the Anti-Nazi Immigrants' War Finance Committee, and it was chaired by Stadthagen into 1944. During this time, he helped coordinate an "Anti-Nazi Day" event to help sell the war bonds, which asked "Let's show the Government and the people of Los Angeles what we newcomers are willing and capable of doing to help win the war."[42]

[36] Various correspondence from 1942. USC: Guggenheim Papers.
[37] Letter from Felix Guggenheim to George Hjelte, Director, Los Angeles Civilian Defense Council, January 5, 1943. USC: Guggenheim Papers.
[38] Meeting Minutes from the Political Committee, March 24, 1943. USC: Guggenheim Papers.
[39] Correspondence and meeting minutes available. USC: Guggenheim Papers.
[40] Letter from William Stagen to Leopold Jessner, June 19, 1942. USC: Guggenheim Papers.
[41] "Minutes of the Eighth Meeting of the Board of Directors of the Jewish Club of 1933, Inc. on Tuesday, February 16, 1943." USC: Guggenheim Papers.
[42] "Jewish Club of 1933, Inc.," *Aufbau*, January 7, 1944. USC: Guggenheim Papers.

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Due to restrictions on gasoline during World War II, Stadthagen decided to combine his office and living quarters under one roof, and in 1943 moved his family to a building on Wilshire Boulevard which had offices on the first floor and living quarters above. Stadhagen appears to have maintained ownership of the Burton Way property until 1949, when it was sold to Clara Oreskes-Speigel. She divided one of the units into two in that year and continued to live on the property until at least 1960, along with a variety of tenants.[43] Stadthagen remained active with the Jewish Club of 1933 through the 1970s.

ARCHITECTURAL DESCRIPTION

The property at 9269 Burton Way is a modest, two-story multi-family residential building that originally contained four rental units. The building is Spanish Colonial Revival in style. It is rectangular in plan, with stucco exterior wall cladding. The primary façade is divided into three symmetrical bays. The center bay is projecting and has a front-gable roof. The roof over the main volume is a low-pitched, side-gable roof with red clay tile. The center bay contains the primary entrance, with a small entry porch with metal railings, wood paneled door, and decorative cast stone surround. There is a cast plaster decorative element in the center bay in the gable end. Cast plaster decorative garlands are centered in the flanking bays, above the fenestration on the first floor. Fenestration consists of a combination of wood fixed and casement windows with divided lights. Provision for the automobile is included on the property by garages constructed at the rear of the property. The garages are detached utilitarian buildings accessed from a rear alley.

REVIEW OF HISTORIC DESIGNATIONS

Historic resources may be designated at the federal, state, and local levels. Current landmark designations available for properties located in Beverly Hills include listing in the National Register of Historic Places, the California Register of Historical Resources, and as City of Beverly Hills Landmarks.

National Register of Historic Places

The National Register of Historic Places is "an authoritative guide to be used by federal, state, and local governments, private groups, and citizens to identify the nation's cultural resources and indicate what properties should be considered for protection from destruction or impairment," and is administered by the National Park Service.[44] Listing in the National Register assists in preservation of historic properties through: recognition that a property is of

[43] San Buenaventura Research Associates. "Historic Resources Report, 9265-67 and 9269 Burton Way." (8)
[44] McClelland, Linda F. *National Register Bulletin 16A: How to Complete the National Register Registration Form.* Washington, D.C.: U.S. Department of the Interior, National Park Service, 1997.

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significance to the nation, the state, or the community; consideration in the planning for Federal or Federally-assisted projects; eligibility for Federal tax benefits; and qualification for Federal assistance for historic preservation, when funds are available.

To be eligible for listing in the National Register, a resource must possess significance in American history and culture, architecture, or archaeology. Sites, districts, structures, or landscapes of potential significance are eligible for nomination if they meet one of the following criteria:

A. Associated with events that have made a significant contribution to the broad patterns of our history;

B. Associated with the lives of persons significant in our past;

C. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. Yield, or may be likely to yield, information important in prehistory or history.

Integrity

In addition to meeting any or all of the designation criteria listed above, properties nominated must also possess historic *integrity*. Historic integrity is the ability of a property to convey its significance and is defined as "the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic period."[45] The National Park Service has defined seven aspects of integrity and promulgated guidelines regarding each of the aspects and their relationship to context and criteria.[46] In order to have significance, a property must "always possess several and usually most" of the seven aspects of integrity, which are: location, design, setting, workmanship, materials, feelings, and association.

Location: The place where the historic property was constructed or the place where the historic event occurred.

The actual location is an important component in conveying the history of a district, building or site. Therefore, the National Park Service has determined that except in rare cases, if a

[45] *National Register Bulletin 16A.*
[46] Shrimpton, Rebecca H., ed. *National Register Bulletin #15: How to Apply the National Register Criteria for Evaluation.* Washington, D.C.: U.S. Department of the Interior, National Park Service, 2002.

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building is moved it loses its historic association and therefore its significance. In the case of districts where there are found to be a large number of specialized components, some of those components may be relocated within the original larger location and still retain significance.

Design: The combination of elements that create the form, plan, space, structure, and style of a property.

Setting: The physical environment of a historic property.

Setting is differentiated from location in that it refers to the "character" of the place. However, it is defined by the physical features such as topography, vegetation, manmade features, and relationships between the buildings and the open spaces.

Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

The National Park Service states that not only does a property still need to look as it did historically, but it needs to physically retain the key exterior materials dating from its period of significance.

Workmanship: The physical evidence of the crafts of a particular culture of people during any given period in history or prehistory.

The concept of workmanship applies to physical techniques used during the period of significance and acknowledges labor, technique, and craftsmanship associated with a particular period of time. Workmanship acknowledges the interaction of human manipulation of specific materials, and therefore is closely associated with the concepts of material and design.

Feeling: A property's expression of the aesthetic or historic sense of a particular period of time.

The National Park Service defines feeling as the presence of physical features that convey a property's character.

Association: The direct link between an important historic event or person and a historic property.

A property or district retains integrity of association if it is the place where an event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character.

A property that is significant for its historic association is eligible if it retains the essential physical features that made up its character or appearance during the period of its association

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with the important event, historical pattern, or person(s). A property important for illustrating a particular architectural style or construction technique must retain most of the physical features that constitute that style or technique.[47]

California Register of Historical Resources

The California Register is an authoritative guide in used by State and local agencies, private groups, and citizens to identify California's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change. The California Register also includes all properties formally determined eligible for, or listed in, the National Register of Historic Places.

The criteria for listing in the California Register are based on the National Register criteria:

> Criterion 1: Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California of the United States.
>
> Criterion 2: Associated with the lives of persons important to local, California, or national history.
>
> Criterion 3: Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values.
>
> Criterion 4: Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

Resources eligible for listing in the California Register must retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. It is possible that resources lacking sufficient integrity for listing in the National Register may still be eligible for the California Register.

City of Beverly Hills Historic Preservation Ordinance

The City of Beverly Hills Historic Preservation Ordinance establishes evaluation criteria for the eligibility of individual resources as Landmarks. To be designated as a Landmark, a Property must satisfy the following three criteria:

A. The Property meets at least two of the following criteria:

[47] *National Register Bulletin 15.*

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1. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the Nation, State, City, or community;
2. Is directly associated with the lives of Significant Persons important to national, state, City or local history;
3. Embodies the distinctive characteristics of a style, type, period, or method of construction;
4. Represents a notable work of a person included on the City's List of Master Architects or possesses high artistic or aesthetic value;
5. Has yielded or has the potential to yield, information important in the prehistory or history of the Nation, State, City, or community;
6. Is listed or has been formally determined eligible by the National Park Service for listing on the National Register of Historic Places, or is listed or has been determined eligible by the State Historical Resources Commission for listing on the California Register of Historical Resources.

B. The property retains integrity from its Period of Significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection 10-3-3212 (A) of this section. A proposed Landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of Integrity.

C. The Property Has Historic Value. The proposed Landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a Landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this Article.

PREVIOUS SURVEYS AND EVALUATIONS

9269 Burton Way was surveyed in 1985 as part of a citywide survey of Beverly Hills; that survey did not identify the property as a potential historic resource.[48] 9269 Burton Way is not included in the State Historical Resources Inventory.[49]

[48] Johnson Heumann Research Associates. *Beverly Hills Historic Resources Survey 1985-1986.* City of Beverly Hills, 1986. However, as identified by San Buenaventura Research Associates, this survey would not have examined events occurring in the 1940s because they would not have reached the 50 year threshold for potential historic significance at the time of that survey. San Buenaventura Research Associates. "Historic Resources Report: 9265-67 and 9269 Burton Way, Beverly Hills," September 21, 2012. (5)

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The property at 9269 Burton Way was evaluated using established criteria for listing in the National Register of Historic Places, the California Register of Historical Resources, and as City of Beverly Hills local Landmarks.

Criterion A/1/1

The property at 9269 Burton Way does not appear eligible for listing in the National Register of Historic Places, the California Register of Historical Resources, or as a City of Beverly Hills Landmark under Criterion A/1/1.[50] The property was owned by German Jewish émigré Wilhelm Stadthagen from 1938-1943. During that time, the Stadthagen family lived in one of the four units, and rented the others to members of the émigré community. On January 22, 1942, Stadthagen held a meeting in his Burton Way apartment with 20-25 members of the German Jewish community to discuss the classification of all people of German descent living in the United States as enemy aliens. This meeting was just one incident in a broader movement taking place in the Western United States during this period. There is no direct evidence that this meeting in particular was the catalyst, or galvanizing event, in this movement, and it does not appear to have led directly to testimony before the Tolan Committee. Instead, this meeting seems to have focused on determining the best local mechanism for coordinating and spearheading these efforts. Felix Guggenheim acknowledges in his oral history that Stadthagen brought together an informal group of friends to discuss the reclassification issue, but he does not refer to this particular meeting as a significant event in the movement.[51] Instead, it appears to be one in a series of events that were happening concurrently in early 1942 throughout the Western United States. This meeting was no doubt a seminal moment in the life of Wilhelm Stadthagen, but it does not appear to meet the criteria as a seminal event in history.

Criterion B/2/2

The property at 9269 Burton Way does not appear eligible for listing in the National Register of Historic Places, the California Register of Historical Resources, or as a City of Beverly Hills Landmark under Criterion B/2/2. Although he was a prominent local businessman who was well-connected within the local German Jewish émigré community, Stadthagen does not appear to meet the criteria as a significant person. Following the January 1942 meeting at his

[49] California Office of Historic Preservation. "State Historical Resources Inventory," August 15, 2011.
[50] The City of Beverly Hills Historic Preservation Ordinance requires that eligible properties meet two of the identified criteria for historic designation. In this report, each criterion is discussed separately for clarity.
[51] Guggenheim, Felix. "Oral History interview with Herbert A. Strauss," Los Angeles: Center for Jewish History, January 6, 1972. (33)

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Burton Way apartment, the existing documentation suggests that Stadthagen had little direct involvement with the broader reclassification movement. Stadthagen did not sign any of the letters sent to public officials, he did not testify before the Tolan Committee, and he does not appear to have made a significant contribution that would meet eligibility requirements for designation under Criterion B/2/2. Based on documentation included in the archives at the University of Southern California, Felix Guggenheim appears to have been the leader and single active member of the political committee operating under the aegis of the Jewish Club of 1933, and he was the primary leader of the reclassification movement in Southern California during the early 1940s.

Criterion C/3/3, 4

The property at 9269 Burton Way does not appear eligible for listing in the National Register of Historic Places, the California Register of Historical Resources, or as a City of Beverly Hills Landmark under Criterion C/3/3. A Spanish Colonial Revival style building significant under this criterion will be an excellent adaptation of the style to the building type, the work of a significant architect or builder, or a contributor to a potential district.

9269 Burton Way is an undistinguished example of Spanish Colonial Revival architecture as applied to multi-family residential development in Southern California. It represents a common type of a smaller-scale Spanish Colonial Revival apartment building with a relatively flat front, with central entries and individual units accessed from a central interior corridor. The property was not designed by a significant architect, and it does not contribute to any potential historic district.

Criterion D/4/5

National Register Criterion D was developed for sites with potential archeological significance, and therefore is not addressed in this report.

Integrity

9269 Burton Way remains on its original site and therefore retains integrity of location. However, the property no longer retains integrity of setting; the existing neighborhood of mid- and high-rise buildings, constructed primarily in the 1970s, no longer reflects the property's historic setting of low-rise apartment buildings. The property is substantially intact and therefore retains integrity of design, materials, and workmanship; alterations, such as blocked window and door openings, are limited to secondary elevations and are reversible. The property retains sufficient physical characteristics to convey any potential historic significance from the 1920s through 1940s, and therefore retains integrity of feeling and association. The City of Beverly Hills Historic Preservation Ordinance specifies that properties retain integrity of location, design, setting, materials, workmanship, and association to qualify for designation as

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a local Landmark; the building has lost its integrity of setting and therefore does not meet the established local integrity threshold.

CONCLUSION

The property at 9269 Burton Way is a multi-family residential property constructed in 1927 in the Spanish Colonial Revival style. Based on an evaluation of the property for potential architectural or cultural significance, it does not appear eligible for historic designation at the federal, state, or local levels. Although no specific historic context has been developed for the evaluation of properties associated with the German émigré population during World War II, there is sufficient documentation available from both primary and secondary sources related to the larger German community in Southern California, as well as their specific wartime activities, to adequately evaluate the potential cultural significance of 9269 Burton Way.[52] The German émigré community has a rich history and particular significance in the Los Angeles area. The influx of German refugees to Southern California starting in the 1920s played a significant role in the area's development, and a number of prominent people of German descent settled in the area. The German expatriate community in Los Angeles, and throughout the West Coast, has particular associations with the domestic response to World War II and the treatment of German Jewish émigrés. However, although William Stadthagen and the activities of the Jewish Club of 1933 are part of this broader context, 9269 Burton Way does not rise to the level of an individually significant property.

Christine Lazzaretto
Principal

Peyton Hall
Managing Principal

[52] The National Park Service has developed a historic context to evaluate properties associated with people of Japanese descent during World War II. However, following the bombing of Pearl Harbor, the Japanese experience and treatment differed substantially from that of immigrants of European descent. The story of Japanese relocation is an unparalleled event in American history, and therefore this context is largely not relevant for the evaluation of properties associated with German Jews on the West Coast. National Park Service. *Japanese Americans in World War II National Historic Landmark Theme Study.* Washington, D.C.: U.S. Department of the Interior, National Park Service, 1997.

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ATTACHMENT E

LEVIN-MORRIS CRITIQUE OF SBRA REPORT

LEVIN-MORRIS ARCHITECTS LLP

LEVIN~MORRIS

9265 Burton Way Condominium Project EIR

CRITIQUE OF CULTURAL RESOURCES REPORT
Prepared by San Buenaventura Research Associates

10 April 2013

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Executive Summary

This report was prepared for the purpose of assisting the City of Beverly Hills in their compliance with the California Environmental Quality Act (CEQA) as it relates to historic resources, in connection with the proposed demolition of four, one and two-story buildings, including ten existing residential units, and the construction of a six story condominium building including subterranean parking, lobby, gym, and twenty three condominium units. [Figure 1]

This report assesses the historical and architectural significance of potentially significant historic properties in accordance with the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR) Criteria for Evaluation, and City of Beverly Hills criteria. A determination will be made as to whether adverse environmental impacts on historic resources, as defined by CEQA and the CEQA Guidelines, may occur as a consequence of the proposed project, and recommend the adoption of mitigation measures, as appropriate.

This report was prepared by San Buenaventura Research Associates of Santa Paula, California, Judy Triem, Historian; and Mitch Stone, Preservation Planner, for Rincon Consultants, Inc., and is based on a field investigation and research conducted in July and August, 2012. The conclusions contained herein represent the professional opinions of San Buenaventura Research Associates, and are based on the factual data available at the time of its preparation, the application of the appropriate local, state and federal regulations, and best professional practices.

Summary of Findings

The property at 9269 Burton Way was found to be eligible for listing on the NRHP and CRHR under criteria A/1 and B/2, and potentially eligible for designation as a City of Beverly Hills landmark. Consequently this property should be regarded as a historic resource for purposes of CEQA.

The property at 9265-67 Burton Way was found to be ineligible for listing on the NRHP, CRHR or for designation as a City of Beverly Hills landmark. This property was not found to be historic resources for purposes of CEQA. The proposed project was found to have a significant and adverse impact on historic resources after mitigation.

Summary of Critique

As stated in their Executive Summary, the conclusions expressed by San Buenaventura Research Associates ("SBRA") are based on "the factual data available at the time of its preparation."

But SBRA's claim of significance for the property at 9269 Burton Way is *not* in fact based on the "factual data available" at the time their report was prepared. Rather it is based only on the incomplete "factual data" SBRA uncovered in the course of their very limited research. As it affects the significance claimed by SBRA, that "factual data" consists almost entirely of interviews conducted in 1972, thirty years after the events in question, with no corroboration through contemporary documents or secondary materials.

Further, the SBRA Report contains no critical examination of the specific historical context of the German refugees community. Rather, SBRA wrongly presumes that the historical context of the German immigrants is functionally identical to that of the Japanese, and they therefore anchor their analysis of significance in a 2005 National Park Service Theme Study of Japanese-Americans in World War II.

This critique of the SBRA report is based on a substantial compilation of contemporary documents located in the Felix Guggenheim papers in the Doheny Library at the University of Southern California. These documents clarify or outright refute the "factual data" and speculation on which SBRA's conclusions are based. This critique identifies in detail where those contemporary documents demand very different conclusions regarding significance.

Critique Findings

SBRA's inadequate research has led to an overreliance on the 1972 interviews, the misreading of those interviews, and the misunderstanding of events and event timelines. That research failure has also led SBRA to misunderstand the historical context and to improperly analogize the legal and political situation of German immigrants to that of the Japanese. All of this has led to a gross overstatement of the significance of events and individuals relating to the property at 9269 Burton Way.

Further compounding this exaggeration of significance, SBRA engages in unsupported speculation, misapplies National Register criteria, and critically misunderstands City of Beverly Hills Landmark criteria.

Based on the historical evidence, including a substantial compilation of documents not reviewed by SBRA and therefore not considered in their analysis, the property located at 9269 Burton Way *cannot be deemed eligible* for listing on the NRHP or CRHR or as a City of Beverly Hills Landmark. It is *not* an historical resource under CEQA.

> [Note: The September 2012 SBRA Report is included in its entirety, in black, with comments indented and in red. Following SBRA's list of Selected Sources is a list of the additional publications and manuscript documents that form the basis for these comments. Appended are complete copies of referenced unpublished manuscript documents, and selected excerpts from published Congressional committee reports.]

1. Administrative Setting

The California Environmental Quality Act (CEQA) requires evaluation of project impacts on historic resources, including properties "listed in, or determined eligible for listing in, the California Register of Historical Resources [or] included in a local register of historical resources." A resource is eligible for listing on the California Register of Historical Resources if it meets any of the criteria for listing, which are:

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
4. Has yielded, or may be likely to yield, information important in prehistory or history. (PRC §5024.1(c))

By definition, the California Register of Historical Resources also includes all "properties formally determined eligible for, or listed in, the National Register of Historic Places," and certain specified State Historical Landmarks. The majority of "formal determinations" of NRHP eligibility occur when properties are evaluated by the State Office of Historic Preservation in connection with federal environmental review procedures (§106 of the National Historic Preservation Act of 1966). Formal determinations of eligibility also occur when properties are nominated to the NRHP, but are not listed due to a lack of owner consent.

The criteria for determining eligibility for listing on the National Register of Historic Places (NRHP) have been developed by the National Park Service. Eligible properties include districts, sites, buildings and structures,

A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
B. That are associated with the lives of persons significant in our past; or
C. That embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
D. That have yielded, or may be likely to yield, information important in prehistory or history.

According to the NRHP standards, in order for a property which is found to significant under one or more of the criteria to be considered eligible for listing, the "essential physical features" which define the property's significance must be present. The standard for determining if a property's essential physical features exist is known as *integrity*, which is defined as "the ability of a property to convey its significance." The integrity evaluation is broken down into seven "aspects."

The seven aspects of integrity are: *Location* (the place where the historic property was constructed or the place where the historic event occurred); *Design* (the combination of elements that create the form, plan, space, structure, and style of a property); *Setting* (the physical environment of a historic property); *Materials* (the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property); *Workmanship* (the physical evidence of the crafts of a particular culture or people during any given period of history or prehistory);

Feeling (a property's expression of the aesthetic or historic sense of a particular period of time), and; *Association* (the direct link between an important historic event or person and a historic property).

The relevant aspects of integrity depend upon the NRHP criteria applied to a property. For example, a property nominated under Criterion A (events), would be likely to convey its significance primarily through integrity of location, setting and association. A property nominated solely under Criterion C (design) would usually rely primarily upon integrity of design, materials and workmanship. The California Register regulations include similar language with regard to integrity, but also state that "it is possible that historical resources may not retain sufficient integrity to meet the criteria for listing in the National Register, but they may still be eligible for listing in the California Register." Further, according to the NRHP guidelines, the integrity of a property must be evaluated at the time the evaluation of eligibility is conducted. Integrity assessments cannot be based on speculation with respect to historic fabric and architectural elements which may exist but are not visible to the evaluator, or on restorations which are theoretically possible but which have not occurred. (CCR Title 14, Chapter 11.5 §4852 (c))

The minimum age criterion for the National Register of Historic Places (NRHP) and the California Register of Historical Resources (CRHR) is 50 years. Properties less than 50 years old may be eligible for listing on the NRHP if they can be regarded as "exceptional," as defined by the NRHP procedures, or in terms of the CRHR, "if it can be demonstrated that sufficient time has passed to understand its historical importance" (CCR Title 14, Chapter 11.5, §4842(d)(2))

Historic resources as defined by CEQA also includes properties listed in "local registers" of historic properties. A "local register of historic resources" is broadly defined in §5020.1 (k) of the Public Resources Code, as "a list of properties officially designated or recognized as historically significant by a local government pursuant to a local ordinance or resolution." Local registers of historic properties come essentially in two forms: (1) surveys of historic resources conducted by a local agency in accordance with Office of Historic Preservation procedures and standards, adopted by the local agency and maintained as current, and (2) landmarks designated under local ordinances or resolutions. These properties are "presumed to be historically or culturally significant... unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant." (PRC §§ 5024.1, 21804.1, 15064.5)

City of Beverly Hills Municipal Code §10-3-3212:

1. Landmark Designation Criteria

A nominated property may be designated as a landmark if it is more than forty-five (45) years of age and satisfies the requirements set forth below.

Properties that are less than forty-five (45) years of age can be designated, but in addition to meeting the criteria below, they must also exhibit "exceptional significance" as defined in this article.

For the purposes of this section, any interior space or spaces open to the general public, including, but not limited to, a lobby area, may be included in the landmark designation of a property if the city council finds that the public space(s) satisfies the following criteria:

To be designated as a landmark, a property must satisfy the following criteria:

A. The property meets at least two (2) of the following criteria:
   1. Is identified with important events in the main currents of national, state, or local history, or directly exemplifies or manifests significant contributions to the broad social, political, cultural, economic, recreational, or architectural history of the nation, state, city, or community;
   2. Is directly associated with the lives of significant persons important to national, state, city or local history;
   3. Embodies the distinctive characteristics of a style, type, period, or method of construction;
   4. Represents a notable work of a person included on the city's list of master architects or possesses high artistic or aesthetic value;
   5. Has yielded or has the potential to yield, information important in the prehistory or history of the nation, state, city, or community;
   6. Is listed or has been formally determined eligible by the national park service for listing on the National Register of Historic Places, or is listed or has been determined eligible by the state historical resources commission for listing on the California Register of Historical Resources.

B. The property retains integrity from its period of significance. The proposed landmark retains integrity of location, design, setting, materials, workmanship, and association. Integrity shall be judged with reference to the particular criteria specified in subsection A of this section. A proposed landmark's deferred maintenance, dilapidated condition, or illegal alterations shall not, on their own, be construed to equate to a loss of integrity.

C. The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article. (Ord. 12-O-2617, eff. 2-24-2012)

2. Impact Thresholds and Mitigation

According to the Public Resources Code, "a project that may cause a substantial change in the significance of an historical resource is a project that may have a significant effect on the environment." The Public Resources Code broadly defines a threshold for determining if the impacts of a project on an historic property will be significant and adverse. By definition, a substantial adverse change means, "demolition, destruction, relocation, or alterations," such that the significance of an historical resource would be impaired. For purposes of NRHP eligibility, reductions in a property's integrity (the ability of the property to convey its significance) should be regarded as potentially adverse impacts. (PRC §21084.1, §5020.1(6))

Further, according to the CEQA Guidelines, "an historical resource is materially impaired when a project... [d]emolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources [or] that account for its inclusion in a local register of historical resources pursuant to section

5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant."

The lead agency is responsible for the identification of "potentially feasible measures to mitigate significant adverse changes in the significance of an historical resource." The specified methodology for determining if impacts are mitigated to less than significant levels are the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* (1995), publications of the National Park Service. (PRC §15064.5(b)(3-4))

3. Historical Setting

General Historical Context

The present-day city of Beverly Hills is located on a portion of the 4,500-acre land grant Rancho Rodeo de las Auguas (sometimes known as San Antonio), awarded around 1820 to Vincente Valdez, a retired sergeant in the Spanish army, and his wife Maria Rita Valdez. After his death in 1828, the land became closely associated with Maria Valdez, who is often regarded as the area's first settler, although she maintained homes both on the rancho and in Los Angeles. Long-running disputes over the title to the ranch lands ultimately led to its sale in 1854 to American developers Benjamin Davis "Don Benito" Wilson, and Henry Hancock, who later sold his interests in the rancho to William Workman. The plans of the new owners to exploit the land for agriculture were thwarted by the prolonged regional droughts of the 1860s and 1870s. Subsequent efforts to develop the rancho with the townsites of Santa Maria and Morocco also came to little. (Cowan, 1956: 68-69; Robinson, 1939: 156-64)

The modern community known as Beverly Hills had its beginning in 1906, when a group of oil investors formed the Rodeo Land and Water Company and hired noted land planner Wilbur F. Cook Jr. to design the community plan. The design, which represented one of the earliest planned communities in the region, anticipated an enclave of homes for the wealthy on the hillsides and more modest homes on the flat lands. The area reserved for the affluent was originally called Beverly Hills, while the less upscale portion of the community was known simply as Beverly. Initially, sales were slow, but the opening of the Beverly Hills Hotel by the Rodeo Land and Water Company in 1912 began to attract more visitors and buyers. The city, still little more than a tiny settlement, was incorporated in 1914.

The first major period of growth in Beverly Hills was concurrent with the regional land boom of the 1920s. The city began the decade as a community in its formative stages, mixing rural, urban and miscellaneous land uses, including the Los Angeles Speedway, which dominated the quadrant of the city south of Wilshire Boulevard and west of Beverly Drive. The settling of the city by entertainment industry personalities began in earnest in 1920, with the construction of Pickfair, the lavish estate of Douglas Fairbanks and Mary Pickford. Other industry notables followed their lead, to the extent that by the end of the 1920s, Beverly Hills had firmly established its reputation as a movie star's enclave.

As the wealth of the entertainment industry was attracted to Beverly Hills during the 1920s and 1930s, so were architects of note. A competitive environment between entertainment industry leaders led to the construction of progressively more opulent homes in the period revival styles popular during these decades, often reflecting both the unprecedented affluence, and the theatrical character, of the movie industry. By the 1930s and 1940s Beverly Hills featured a posh retail district which competed with the Miracle Mile, Hollywood, and Westwood Village for fashionability. During the postwar era, the city became steadily more prominent as one of the Southern California region's major urban centers, as the office and retail district grew upwards and outwards, and pushed further west.

Site-Specific Context

The project site is located within a triangular section of Beverly Hills bounded on the north by Santa Monica Boulevard, on the south by Wilshire Boulevard, and on the east by the city limits. This area was annexed to the city in 1915 and subdivided mainly during the 1920s, but remained substantially undeveloped until after World War II. Burton Way, bisecting the area, was named for Rodeo Land and Water Company president Burton Green. The Santa Monica via Sawtelle line of the Pacific Electric Railroad Line ran down a right-of-way at the center of Burton Way, connecting to the south side of Santa Monica Boulevard, providing ready access to support later growth. This line was established in 1897 and provided passenger service between Los Angeles and Santa Monica until 1940. The former railroad right-of-way serves as a wide landscaped median today. (Johnson Huemann, 1986: 57-64; Crump, 1983: 232)

4. Potential Historic Resources

Previous Identification Efforts

In 1985-86, consultants contracted to the City of Beverly Hills conducted a historic resources survey of the city in conjunction with the California Office of Historic Preservation. The project site is located within Survey Area 3, which includes the multifamily residential area bounded generally by Wilshire Boulevard on the south, Rexford Drive on the west, and Santa Monica Boulevard on the north. No historically or architecturally significant properties in this area were identified by the survey. Because this survey was completed more than twenty years ago, however, little effort was made to identify and evaluate properties constructed during the 1940s and later. (Johnson Huemann Research Associates, 1986)

Properties Located Within the Project Boundaries

9265-67 Burton Way. This property consists of two buildings. The larger building, located adjacent to Burton Way, is a two-story stucco-clad duplex residence. It features a mainly rectangular plan and a low-pitched hipped roof with shallow, open eaves. Ground-floor entry doors are located on the southern and eastern elevations above two-step concrete stoops covered with swept French Provincial-style projections featuring drapery-scalloped edges. Windows are primarily six-over-six multi-pane wood sash with narrow casings. The two-story building to the north and rear functions as a carport, with two apartment units above. Second story access is via a projecting staircase enclosed with a stepped stuccoed rail. This building's architectural detailing are similar to the main building. Carports on the ground floor open to the alley. The two buildings form a courtyard to the south. [Photos 1-4]

The buildings were constructed in 1945 by Joe Endemiller of Beverly Hills, who is identified in the 1985-86 survey as one of the more prolific multifamily residence builders in the city during this time period. The architect is also indicated on the building permits as Endemiller, suggesting that it was constructed according to a standard plan generated by his office. Shortly after construction the property was evidently sold to Mary F. Burt, who sold it to Louis and Sonia Schultz in 1951. Apparently neither lived on the property and it was utilized as an income property. City directories suggest that the turnover of renters was frequent. The only renter for whom any substantive information was found was Frank E. Mortenson, who served for sixteen years as the executive secretary of the Southern California Retail Druggists Association. He moved to this address at some point after 1944, where he resided until the time of his death in 1946. In his obituary, among other distinctions related to his profession, he was described as "the father of the Fair Trade Acts now effective in 45 States and drafted the California fair trade law, which has served as the model for other States." (City of Beverly Hills Building Permits; Johnson Huemann, 1986: 62; *Los Angeles Times,* 8-26-1951, 5-28-1946; Los Angeles Index to Register of Voters, multiple years)

The abstracted French Provincial and Neocolonial references in the design are characteristic of the Minimal Traditional architectural style as it was commonly employed in the postwar era. The property is a modest example of the style. The property appears to be unaltered.

9269 Burton Way. This property consists of a two-story four-unit residence building adjacent to Burton Way and a detached, single-story garage located adjacent to the alley on the north. The stucco-clad residence is essentially rectangular in plan and features a symmetrical main (southern) elevation characterized by an entry located above a three-step, tiled stoop, the entry portion of the elevation projecting slightly from the balance of the elevation. The entry door is surrounded with faux quoining and flanked with wrought iron wall sconces. A pair of wood-frame multi-pane casement windows are located on the second floor, above. Flanking the entry are tripartite windows on both the ground and second floors. The lower windows are fixed in the center and flanked with narrow casement lights; the second floor windows are equally divided by three, three-by-two light wood casements. Plaster garland swags are located between the floors. Windows on secondary elevations are mainly single light casements. Window casings are narrow. The roof is flat, with a shallow mansard clad in Spanish tile located above the southern elevation and a single-tile cap on a low parapet on the other elevations. The detached garage building is stucco-clad and rectangular in plan and features a flat roof and a low parapet topped by a single Spanish tile cap. [Photos 5-8]

These buildings were constructed in 1927 by August P. Clos of Los Angeles, apparently as a live-in income property. Clos and his wife Marie lived at this address for about three years, along with the renters of the other units. The architect for the buildings is listed on building permits as the Seaboard Engineering Company of Los Angeles, a firm that evidently provided architectural design in addition to engineering services. No substantial information was found about Clos or Seaboard Engineering. Around 1930 the property was sold to Simeon Le Gasse, a real estate developer or agent, who also utilized it as a live-in income property. No further information was located on

Le Gasse. Around 1938-39 this property was purchased by Wilhelm Ernst Stadthagen. (City of Beverly Hills Building Permits)

Wilhelm Ernst Stadthagen

Wilhelm Stadthagen was born in Berlin in 1892 to an affluent and mainly secular Jewish family. After serving in the Army on both the Eastern and Western fronts during the first World War, Stadthagen returned to Berlin to become a successful real estate developer and broker. By the early 1930s, with the rise of Nazism, he found his business in Berlin increasingly difficult to operate. In 1934 he sold the company for half of what he thought it was worth, and emigrated to London with his second wife, Alice, who had worked as a photographer in Germany. Their first son, Frank, was born in London. Unable to obtain work permits in his profession in Britain, and aware of the increasing likelihood of another war in Europe, he began to explore opportunities in the United States. In April 1936 he traveled to New York City. Although he received employment offers there, the city and the climate were not to his taste, so he undertook a cross-nation trip to examine business conditions elsewhere in the country. The journey was planned to end with stops in Los Angeles and San Francisco, and a return to London. (Stagen, 1972: 16-23)

Stadthagen's reception in Los Angeles was more welcoming than any he'd experienced elsewhere, and he was also impressed by the region's climate and relaxed way of life. An offer was extended to join a small real estate office in downtown Los Angeles, which he accepted. The final leg of his trip to San Francisco was cancelled and he wrote to his wife in London advising that the family should relocate to Los Angeles. Although not mentioned in his personal narrative of his move to the U.S., official immigration records indicate that Wilhelm and Alice Stadthagen reentered the country from Mexico in August 1936, crossing the border on foot from Mexicali. Entering the U.S. from a third country was a common tactic among European refugee immigrants, skirting the nation-based immigration quota system. Mexico and Cuba were frequently used for this purpose during the 1930s.

Stadthagen's wife and son moved into a rented home later that year. A second son, Thomas, was born shortly thereafter. In moving to the area, Stadthagen and his family became part of a growing German-Jewish immigrant community on the west side of Los Angeles and Beverly Hills second only in numbers to New York City, composed largely of German Jews who had fled Europe during the 1930s. Departing amicably from his first employer, Stadthagen struck out on his own, opening a real estate firm and investing in property in the area. The first of these was a four-unit apartment building at 9269 Burton Way in Beverly Hills, which also became the family's home. The precise date of the purchase is uncertain, but this event probably occurred in 1938 or 1939. Stadthagen assisted other recent immigrants with resettlement by renting them the remaining apartments in the building. Alice Stadthagen resumed her career as a photographer. (Stagen, 1972: 29-30)

One of the primary support organizations for the immigrant community in Los Angeles was the Jewish Club of 1933, a group formally organized in 1936 out of a more casual network of clubs and organizations providing relief and social support to European Jewish refugees. As his business circumstances stabilized, Stadthagen became gradually more active in this organization, but not prominently at first. The entry of the U.S. into the war in 1941 caused a

rapid shift in his thinking about the group's mission and purpose, however, and his level of political and social activism in general. Immediately after the Pearl Harbor attack in December, all ongoing naturalization petitions for German, Italian and Japanese immigrants were immediately placed on hold by the government, and nationals from these countries classified as enemy aliens. Stadthagen experienced this policy change first-hand, as the processing of his petition was halted only days before he was due for swearing in as a U.S. citizen. (Stagen, 1972: 33, 35)

> **The attack on Pearl Harbor immediately halted naturalization of German and Italian immigrants. But there were no "ongoing naturalization petitions" for Japanese immigrants; the Japanese were legally ineligible for naturalization. The Naturalization Act of 1790 had restricted naturalization to "white persons," and that racial restriction was reinforced by the Immigration Act of 1924. As a matter of law, in December 1941 there could have been no "ongoing naturalization petitions" for Japanese immigrants. This legal distinction was clearly understood by Federal, State and local authorities at the time.**
>
> **However, the legal difference between the Japanese and the German immigrants is obviously *not* understood by SBRA. This misunderstanding has led SBRA to falsely equate the historical context for German immigrants with that of the Japanese, and to misapply the historical context of the Japanese to the present analysis. This very serious analytical error has led to the gross inflation of the significance of issues affecting German immigrants and the improper inflation of the significance of the property at 9269 Burton Way and of Wilhelm Stadthagen himself (hereafter "William Stagen").**

In January 1942, Stadthagen called a meeting at his home to discuss the situation facing German-Jewish immigrants. By his own later account,

> *"In January, I think it was on my fiftieth birthday if I recall correct, a meeting took place in my apartment, to which I had invited about, between 20 and 25 immigrants, Jewish immigrants of our group, selecting them from their various occupations. I had a doctor, I had a lawyer, I had businessmen in this line, I had businessmen in another line, I had an accountant, from all various lines. And I presented them with the alternative either to be removed and losing the little business or profession they had already built up, and finding themselves in a camp, or doing something about it. And we did something about it. We decided to fight it. We appointed, at that time younger men, who had not started in business yet, to do the detail work and represent the group per se, and that was Felix Guggenheim who had just arrived around 1940 or so, and had not settled in business yet. ... We, or he, got together with similar groups in Seattle and in San Francisco. But I believe, here in Los Angeles we were the most active of all, and the leading group. And we mobilized all the people that we could find to speak in our favor with the government, and the general in San Francisco."* (Stagen, 1972: 35-36)
>
> **This quotation is taken from the interview conducted in 1972, thirty years after the events in question. Oral histories regarding distant events must be validated by contemporary evidence—something SBRA failed to do. Stagen was 80 years old when he was interviewed, and as he told the interviewer, "*When you get to my age I wish your memory will still be***

good. I think mine is lousy right now. I don't remember anything. ... details, I think, you will have to ask other people. They want to say something too and they may know more about certain details than I could in this interview right now." It is inarguable that Stagen remembered a number of details badly; at one point he recalled Tom Clark, Chief of Civilian Staff for U.S. Army General John L. DeWitt, as a Senator from Texas and a member of the Tolan Committee, which was a House committee. [Stagen 1972: 34–35, 38, 52]

Because SBRA did not validate Stagen's interview, they misinterpreted his words, failed to identify factual errors, misstated his involvement, and grossly overstated the significance of a single 22 January 1942 meeting in his apartment. Indeed, SBRA's claim of 'significant events' hinges entirely on that meeting, claiming it to be a seminal event, based almost exclusively on their reading of Stagen's 1972 interview.

SBRA suggests that the 22 January 1942 meeting was the first time that the German-Jewish immigrant community came together to discuss and respond to the threat of forced relocation. This is not historically correct; it is wrong on both counts. Contemporary documents, accessible in local archives but not examined by SBRA, clarify both the event timeline and the nature of the 22 January 1942 meeting. Review of that contemporary documentary evidence leads to an entirely different conclusion about the significance of the events in question and William Stagen's role in them.

A careful reading of Stagen's 1972 interview reveals that the 22 January 1942 meeting was *not* the seminal event that SBRA claims. Stagen makes it clear that it was *not* the first time the German refugees had met to discuss "enemy alien" restrictions. In his interview, Stagen stated he and a younger friend, Felix Guggenheim, responded to "enemy alien" restrictions by trying to enlist Heinz Pinner, an attorney, to represent the community:

> "*This lawyer was willing to represent us, but he wanted a fee of $1000. He didn't want to do it as a kindness to his fellow Jews. ... We couldn't raise the $1000 in those days, or maybe we didn't want to either.*" [Stagen 1972: 36–37].

Even faced with Pinner's refusal to represent the community *pro bono*, Stagen, Guggenheim and their friends still did not want to take the step of addressing the "enemy alien" restrictions themselves, as individuals. So they next attempted to enlist the involvement of the Jewish Club of 1933. But they met resistance from the Club's president, Leopold Jessner. As Stagen described the sequence of events—why he *waited* until 22 January:

> "*Now, coming back to the Jewish Club of 1933, and Jessner was still president. Before we did take this step we wanted that the Jewish Club does it or is behind it. We 20, 25 men didn't want to do it ourselves, as individuals. We felt it's a community problem. Jessner was very reluctant. He didn't want to do anything, hadn't done anything. And that's* [why] *I waited till the 22nd of January.*" [Stagen 1972: 39–40]

And as noted in the interview excerpt that SBRA quotes, of that 22 January meeting, Stagen added:

> *"We appointed, at that time younger men, who had not started in business yet, to do the detail work and represent the group per se, and that was Felix Guggenheim."* [Stagen 1972: 36]

The importance of the above passages cannot be overemphasized. Based on Stagen's own words, an *ad hoc* group of "*20, 25 men*," including Stagen and Guggenheim, had discussed curfew and travel restrictions among themselves and with the Jewish Club of 1933 well before 22 January 1942.

Only *after* they failed to enlist Heinz Pinner, and only *after* they failed to persuade the Jewish Club of 1933 to act, did a group meet to endorse having Guggenheim taking on the issue himself. In other words, the 22 January meeting was neither the first such discussion nor the occasion of a major political awakening. Rather, it was simply one meeting among several.

The substance of the 22 January 1942 meeting was far less significant than SBRA speculates. 22 January predates any announcement of "enemy alien" relocation. Military authorities had excluded "enemy aliens" from coastal areas, defense installations, and defense industries.

But forced relocations were neither announced nor legally authorized by 22 January. General John L. DeWitt of U.S. Army Western Defense Command did not announce his intention to relocate "enemy aliens" on the West Coast until 11 February—three weeks *after* the 22 January meeting. And Franklin Roosevelt did not issue Executive Order 9066, authorizing "enemy alien" relocation, until 19 February—a further week beyond that.

However, there is no need to speculate about the discussion at the 22 January meeting—we have direct evidence in contemporary documents. Felix Guggenheim discussed the meeting in an 11 February 1942 letter to Julia Seider, his immigration attorney. In that letter, Guggenheim wrote:

> *"We – a few friends of mine and I – came together to look for a way to inform the local and State authorities (Washington most probably is informed) that they hurt us together with the Japanese, if they don't discriminate, that nothing would please Hitler more than seeing us persecuted as Nazis, that the Gestapo is clever enough to choose their agents among the naturalized Americans, etc. On the other side, we want the real enemy aliens treated as harshly as possible and don't want any consideration, because there are refugees among them. So the only way is, to take the group of refugees, who can prove that they are expatriated and have no allegiance to Germany, out of the class "enemy aliens". But that's a long way. I was very busy all these days, seeing many people and discussing the problems . I personally am not hurt till now (of course it is still possible, that all enemy aliens have to leave California) but all people who are in real business suffer heavily. For instance a Jewish influenced firm like Warner Bros.*

> *cant employ Jewish refugees as actors, etc. (what they did till now) because the Warner lot is in a part of the city, which is prohibited for enemy aliens. Nobody knows what the outcome will be, as local, State, Federal, military and other authorities are involved in the matter.* " [11 February 1942 Guggenheim letter to Julia Seider]

From this it is clear that the focus of the 22 January meeting had not been forced relocation; even a full three weeks later, Guggenheim regarded it only as a possibility. Rather, the concern was with local, State, and U.S. Army curfew and travel restrictions, such as access to the Warner Brothers studio, located not far from aircraft factories at the Burbank airport. This focus on State and local authorities is also reflected in a set of typewritten notes that Guggenheim likely wrote well before the 22 January meeting:

> "*Washington—knowing that the potential reservoir of 5th columnists is to be found among Bundists, naturalized and even native Americans (the Gestapo being clever enough to choose agents not from the most exposed, but from the most protected group)—is reluctant in its measures.*
>
> *"State and local authorities—less exactly informed and more endangered, besides that more exposed to emotion and trend of public opinion—are pushing ahead, not only to get an emotional outlet but also to avoid reproach (Pearl Harbour!) if really acts of sabotage start to happen.*" [*circa* 15 January 1942 Guggenheim notes]

As his notes reflect, prior to mid-February 1942 Guggenheim did not believe the Federal government presented a genuine problem. Rather, he felt that State and local authorities were more likely the ones to act irrationally, out of fear of being accused of inaction. A subsequent 31 March letter to Julia Seider further refutes the suggestion that the 22 January meeting involved relocation. Guggenheim apologized for not writing sooner, explaining:

> *"In the meantime I had stopped since weeks writing private letters, as during the last 6 weeks I devoted my time from early in the morning till late in the evening to the "refugee" problem.*
>
> *I became a kind of spokesman here and got much more involved than I foresaw at the beginning. The preparation of the hearings before the Congressional Committee (my own testimony was the smallest part of the necessary work), contact with the American-Jewish organizations, with Washington, ...* " [31 March / 1 April 1942 Guggenheim letter to Julia Seider]

In fact, "*the last 6 weeks*" that Guggenheim mentions would have dated only as far back as mid-February—not all the way back to 22 January. Thus it is clear that Guggenheim's concerns had expanded to include the issue of relocation only *after* General DeWitt's 11 February announcement, and that this was "*much more*" than he and the group had foreseen on 22 January.

It is unclear if this ad hoc group ever adopted a formal name, but it was referred to in at least one press report as the Committee for Refugee Immigrants of Southern California.

Felix Guggenheim did indeed adopt a formal name for his committee, although this changed over time. As late as July 1942 it was rather awkwardly called the "Committee for Reclassification of Refugees Classified as Enemy Aliens." However, by October 1942, Guggenheim corresponded with the Los Angeles Civilian Defense Council as the "Committee for Refugee Immigrants of Southern California." [15 July 1942 Jewish Club of 1933 memo; 28 October 1942 Guggenheim letter to LA Defense Council]

The group, chaired by Dr. Felix Guggenheim, Heinz Pinner and Stadthagen, ...

The idea that Heinz Pinner and William Stagen "chaired" the "Committee for Refugee Immigrants of Southern California" is factually incorrect; it is not supported by any contemporary evidence. Minutes of the Jewish Club of 1933 Board of Directors' meetings contain no evidence that Pinner or Stagen were even participants in Felix Guggenheim's "enemy alien reclassification" efforts—let alone "chairs". Guggenheim's extensive wartime papers identify no "reclassification committee" member other than Guggenheim himself.

Neither Pinner nor Stagen made any such claim in their interviews. Read properly, Stagen himself was clear about this:

> ***"We appointed, at that time younger men, who had not started in business yet, to do the detail work and represent the group per se, and that was Felix Guggenheim."*** **[Stagen 1972: 36]**

It is obvious that Stagen meant not "*younger men*," plural, but rather "*a* younger man," singular, as he added "*and that was Felix Guggenheim*," indicating Guggenheim, alone. And when Stagen stated, "*We, or he, got together with similar groups...*," it is apparent that he was using "*we*" in general sense, not himself personally, as he corrected himself, saying in effect, 'I mean *"he"*,' again using the singular to refer to Guggenheim. Thus, the claim that Stagen "co-chaired" the reclassification effort is contradicted even by an accurate reading of Stagen's own 1972 interview. [emphasis added]

SBRA also appears to be misinterpreting a related passage in that interview. After discussing the 22 January meeting, Stagen said:

> ***"So, Mr. Pinner, Mr. Guggenheim, Mr. Stagen, I believe we three, I am not quite sure, went to the board meeting, and just more or less took over. This had to be done, and we took over. So the whole thing was then done as it should have been, and was done under the aegis of the Club."*** **[Stagen 1972: 40]**

But Stagen was not suggesting that he, Pinner and Guggenheim acted as co-chairs for the "enemy alien reclassification" efforts, as SBRA apparently misinterprets the passage. Rather, Stagen was saying that they "*more or less took over*" the February 1942 Board of Directors meeting of the Jewish Club of 1933, to insist that the Club formally endorse Felix Guggenheim's "reclassification" efforts, so that Guggenheim would have the imprimatur of the Club in his dealings with authorities. The tactic evidently worked, as by 4 March 1942 Felix Guggenheim had been named to the Board of Directors of the Jewish Club of 1933, and was

able to so identify himself in his correspondence with authorities. [4 March 1942 Guggenheim letter to John Abbott; 25 April 1942 memorandum from Jewish Club of 1933]

... recruited important individuals to speak on their behalf. Most prominent among them was the German novelist Thomas Mann, a political refugee himself, who lived in the Los Angeles area during the war. He and the others testified before the Tolan Committee in early 1942, a committee of Congress charged with determining the fate of these immigrant groups. Others known to have testified before the Tolan Committee were novelist and screen writer Bruno Frank and Beverly Hills attorney Hans Schwarzer. They brought to the committee the message that German Jews who fled Nazism should be treated as natural allies in the war against Hitler, not as enemy aliens. Through their efforts some German nationals living in the United States were able to avoid deportation, or forced relocation and encampment as befell the Japanese, but they remained under a strict military curfew, among other restrictions, for most of the war. (Hall, 1942; Stagen, 1972: 36; Select Committee, 1942) ...

This passage is nothing less than speculative fiction masquerading as historical analysis.

As noted, SBRA misunderstands the difference in legal status between the German immigrants and the Japanese. Because of their legal status, both Japanese immigrants and first-generation citizens were in genuine jeopardy of forced relocation, while the German-Jewish refugees had received assurances that they were not in similar danger. Inexplicably, SBRA speaks of avoiding "deportation," which was never considered for any group. The use of that term underscores SBRA's misunderstanding of the historical legal context.

SBRA also misunderstands the timeline, which leads them to assert causal connections that are logically impossible. The 22 January meeting at Stagen's apartment cannot have been a response to forced relocation, as that meeting took place three weeks *before* any formal announcement of relocations. Even more so, the 22 Jamuary meeting cannot have involved a discussion of the "Tolan Committee"; the documented event sequence makes that impossible.

The differences in treatment between the Japanese and the German-Jewish immigrants went far beyond the difference in their legal status. The two groups were perceived entirely differently. Japan had attacked the United States, and the presence of non-citizen Japanese immigrants was seen as a potential espionage threat to the West Coast of the U.S. mainland. By contrast, the German refugees had received assurances from Federal authorities that they had little to fear from government action.

Felix Guggenheim understood that everything turned on the question of "enemy alien" classification. Despite his confidence that they would ultimately not be treated like the Japanese, Guggenheim realized that there was an inherent danger in the German refugees being classified as "enemy aliens." Therefore his efforts would be directed toward "reclassification" of the German émigrés as "refugees from Nazi oppression." That was the designation used in Britain since 1939, as

Guggenheim knew from his own experience there; his own British papers bore the designation "Refugee from Nazi oppression". [House Select Committee, Part 31: 11733–11734]

Guggenheim had reason to believe that his "reclassification" efforts would ultimately be successful. Francis Biddle, who became Attorney General of the United States in 1941, had previously served as the Director of the Immigration and Naturalization Service, and therefore understood the legal and political issues that surrounded the German refugees—and separated them from the Japanese. Biddle had made clear that the Department of Justice appreciated the unique situation of German refugees from Nazi persecution, and he had communicated this understanding to the German-Jewish refugee community, as reflected in Guggenheim's papers:

> "*Refugee-Problem: Some weeks ago all the authorities made it clear, that being classified as an "enemy alien" is only a "technicality", as long as the alien belongs to the "loyal aliens".*" [circa 15 January 1942 Felix Guggenheim notes]

It therefore came as a shock when Guggenheim and the German refugee community learned of General DeWitt's 11 February initial proclamation that all "enemy aliens" on the West Coast would be relocated. In response, the Jewish Club of 1933 sent the following telegram—drafted or edited by Guggenheim—to the Council of Aliens of Enemy Nationality in New York:

> "*According proclamation general de witt all enemy aliens will be removed from the westcoast and according statement coordinator clark in charge of removal german and italian removal will begin not later than 60 days from now* <stop> *thousands of antinazi and stateless refugees here are in panic and distress as no word about exemptions for victims of nazi oppression and persecution forthcoming* <stop> *doubly distressed because trusting in francis biddles assurances about protecting loyal innocent refugees they expect at least opportunity to appear before boards or tribunals similar to british example before removed from homes jobs etc again* <stop> *spiritual strenght* [sic] *and power of endurance will be broken in most of them if they will have to suffer terribly afte rthey learned to rely on the democratic refuge of the united states* <stop> *much damage is done and being caused continuously by uncertainty* <stop> *please help us to avoid the worst* <stop> *our members urge you to intervene in washington without delay and to get clear unmistakable statement whether it is really contemplated to remove thousands of refugees from their homes exactly like nazis or whether we can expect exemption* <stop> *every day counts as every day brings new harm* <stop> *thanks.*" [*circa* 15 February 1942 telegram to Council of Aliens of Enemy Nationality]

The extent of the confusion in the first months following the attack on Pearl Harbor should not be understated. The military, particularly on the West Coast, was granted emergency powers, while Federal authorities scrambled to clarify what responsibilities would fall under

military control and what would be retained by civilian authorities. In that context it seems fair to suggest that General DeWitt's 11 February announcement did not reflect Federal policy and had not been cleared with civilian authorities in Washington.

Regardless, DeWitt's announcement created substantial consternation, as reflected in the Jewish Club of 1933's telegram. This must have contributed to the community's heightened response to the subsequent announcement that a Congressional committee chaired by Representative John H. Tolan would soon hold hearings on the issue of "enemy alien" relocation.

However, as noted above, the "Tolan Committee" cannot have been a subject of discussion at the 22 January meeting in Stagen's apartment because the Committee did not announce its intention to hold hearings on "enemy alien" relocation until *after* that 22 January meeting.

And SBRA's melodramatic statement notwithstanding, the "Tolan Committee" was certainly not "*charged with determining the fate of these immigrant groups.*" The Committee had no decision-making role; it was charged only with fact-finding, and any question regarding "enemy alien" relocation was entirely secondary to its main responsibility.

The "Tolan Committee" had been created in 1940 as the *House of Representatives Select Committee to Investigate the Interstate Migration of Destitute Citizens*, in response to State and local efforts to stop Depression migrants from crossing State lines. In January 1941, with defense production underway, it was reauthorized by H. Res. 113 [77th Congress], renaming it the *House of Representatives Select Committee Investigating National Defense Migration*, and expanding its purview to defense industry workforce dislocations. The Committee had worked for nearly two years, publishing 10 volumes of reports relating to Depression migration and a further 18 volumes regarding defense workforce migration, before having its mandate expanded yet again to include gathering information on relocation of "enemy aliens."

But it was only some time *after* the 22 January 1942 meeting in Stagen's apartment—either in late January or early February—that the Tolan Committee's purview was formally expanded to deal with "enemy aliens." And not until some time in early February did the Committee schedule hearings to be held in San Francisco (21 & 23 February, and 12 March), in Portland and Seattle (26 & 28 February, and 2 March), and in Los Angeles (6 & 7 March) to receive testimony regarding relocation of "enemy aliens."

Not until 1 March 1942 did Felix Guggenheim contact Representative John Tolan about testifying at the Los Angeles hearings. Receiving a positive response, Guggenheim coordinated testimony of Thomas Mann, Bruno Frank, Hans Schwarzer, and himself. [1 March 1942 Guggenheim letter to John Tolan; 4 March 1942 Guggenheim letter to John Abbott]

Similarly, California's position on relocation was formed only *after* 22 January. On 21 February 1942, Earl Warren, the State's Attorney General, testified before the Tolan Committee that:

> *"Early in February 1942, I requested the district attorneys of those*

> *counties of the State having a Japanese population to have prepared maps of their counties showing all lands owned, occupied, or controlled by Japanese, including American-born Japanese as well as Japanese aliens.* " [House Select Committee, Part 29: 10973]

Warren asked for maps dealing with both immigrant Japanese and their U.S.-born children, but nothing in connection with Germans or Italians. Warren followed the map request with a 17 February teletype to "All District Attorneys, Sheriffs, and Chiefs of Police" requesting statements to be forwarded to the Tolan Committee. As one of three questions he posed, Warren specifically asked these officials if they believed that:

> "*the danger can be adequately controlled by treating all enemy aliens alike, regardless of nationality, or do you believe that we should differentiate among them as to nationality?*" [House Select Committee, Part 29: 10988–11000]

Not surprisingly, nearly all the respondents felt that Germans and Italians represented a far lesser threat than the Japanese, and therefore should be treated differently.

As events transpired, the uncertainty brought on by General DeWitt's 11 February proclamation was short-lived. On 26 March 1942, six weeks after DeWitt's announcement but less than three weeks after the Tolan Committee's Los Angeles hearings, the Jewish Club of 1933 received a telegram from John J. McCloy, Assistant Secretary of War. In his message McCloy reconfirmed the assurances that the German-Jewish refugee community had already received from Francis Biddle—namely that they were in no danger of relocation. As McCloy put it:

> "*Matters being worked out on the West Coast in my judgment in a very fair and considerate manner. Army officers there are in touch with representatives of the heimatlos refugees. And I am sure their interests will be protected just as far as is consistent with military necessity.*"
>
> [26 March 1942 Western Union telegram to Jewish Club of 1933 from John J. McCloy, Assistant Secretary of War] McCloy used the term "*heimatlos*," the German word for "stateless," to refer specifically to the German refugees. Having been stripped of their German citizenship by the Nazis, and not yet having attained American citizenship through naturalization, most were legally stateless—citizens of no country.

SBRA is also factually incorrect in its assertion that the German-Jewish immigrants "*remained under a strict military curfew, among other restrictions, for most of the war.*" Most curfew and travel restrictions did remain in place in 1942, being gradually eased for specific exceptions, such as permits allowing doctors to make house calls during curfew hours, and expanding the five-mile travel limit to allow salesmen to move more freely within their local sales areas. [13 April 1942 Guggenheim travel permit; 29 May 1942 memorandum from Grau; 31 May 1942 Guggenheim letter from Grau; 9 July 1942 Guggenheim telegram from Grau; 15 July 1942 memorandum from Jewish Club of 1933 re salesmen's travel]

But no restrictions remained in place "*for most of the war*," as SBRA maintains—far from it. Restrictions barely survived beyond the end of

1942. Felix Guggenheim's 5 January 1943 letter to the Los Angeles Defense Council notes that Western Command had lifted all travel and curfew restrictions. By the end of February 1943, Guggenheim received word from defense authorities, confirmed on 24 March, that German immigrants would be able to serve in civilian defense. San Francisco officials had made the same determination a month earlier. [5 January 1943 Guggenheim letter to LA Defense Council; 25 February 1943 Guggenheim letter from LA Defense Council; 26 February 1943 memorandum re SF Civilian Defense; 24 March 1943 Guggenheim memorandum re LA Defense]

Accordingly, SBRA's suggestion that the German immigrants narrowly escaped relocation is historically incorrect and utterly overblown. SBRA's suggestion that any "enemy alien" group was in danger of"deportation" has no basis in historical fact. Their statement that William Stagen was in any way personally responsible for stopping the forced relocation of German immigrants is wildly incorrect. And their claim about the duration of restrictions is greatly exaggerated.

Also during 1942 Stadthagen arrived at the conclusion that the cause of German Jews living in the U.S. would be best served by visibly demonstrating an unstinting loyalty to their new country even in the face of official discrimination. He contacted the Treasury Department and formed a War Savings Committee, which in this case was even more pointedly named the Anti-Nazi Savings Committee, with Stadthagen as its chair. The committee held numerous rallies in Pershing Square to sell war bonds, with a variety of Hollywood celebrities in attendance. These events continued throughout the war. (Stagen, 1972: 38-9)

SBRA misstates the timing of William Stagen's war bond efforts in light of the contemporary documents they did not review. Stagen did create a war bond sales committee directed at the German-speaking immigrants. But SBRA is demonstrably incorrect in stating that Stagen's war bond organizing occurred "*during 1942.*" In fact Stagen did not begin this until early 1943.

During 1942, Stagen's personal involvement appears to have centered on the internal politics of the Jewish Club of 1933. He also chaired the Club's "Youth Committee" (later renamed the "War Effort Committee"), involving young members of the German-Jewish community in collection efforts to gather scrap materials for war production. [30 August 1942 Jewish Club of 1933 Board minutes; 6 January 1943 Jewish Club of 1933 Board minutes]

Stagen was not the first to broach the idea of war bond sales. At the 6 January 1943 Board meeting of the Jewish Club of 1933, another Board member, Erich Löwen unsuccessfully proposed that the Club should organize war bonds sales efforts, as the minutes of that meeting record:

> **"*Lowen's suggestion to make the Club an agency for war bonds was withdrawn by Lowen after discussion.*" [6 January 1943 Jewish Club of 1933 Board minutes]**

There appear to be no detailed notes about the nature of the war bond sales discussion at the January Board meeting. However, it does seem apparent that it was only *after* the January Board meeting, some time

between mid-January and early February 1943, that Stagen made initial contact with the Treasury Department, to propose setting up a war bond sales committee focused on German-speaking immigrants, but not under the direction of the Club. The minutes of the 16 February 1943 meeting of the Jewish Club of 1933 Board of Directors reflect this timeline:

> ***"Stagen reports on the contact he made with the foreign section of the Treasury Department regarding a bond drive among our group. It was the general opinion that no public meeting shall take place."*** **[16 February 1943 Jewish Club of 1933 Board minutes; Stagen 1972: 38–39]**

Thus it was not until the 14 April 1943 meeting of the Jewish Club of 1933 Board of Directors that Stagen could report that:

> ***"the Anti-Nazi Immigrants War Savings Committee has finally been organized and has started its work. There will be a rally on May 16, 1943, for all the foreign-born groups."*** **[14 April 1943 Jewish Club of 1933 Board minutes]**

On 16 May 1943, the "Anti-Nazi Immigrants War Savings Committee" held its first public event, "I Am an American" Day, in Pershing Square. But as Stagen himself noted, his war bond committee was not unique; his was but one of a multitude of such committees at the time. And while the war bond events may well have *"continued throughout the war,"* as SBRA suggests, Stagen's residence at 9269 Burton Way did not—he relocated his residence sometime in 1943. [Stagen 1972: 38]

It was felt by Stadthagen and members of the committee that the work of promoting their cause was larger than the group they had convened in his home in early 1942. The natural method for expanding their base of support in the community was through the Jewish Club of 1933, but they found the leadership of that organization unreceptive to taking on the more activist stance that Stadthagen and others argued that the circumstances demanded. Over the next few years Stadthagen and the others in his committee joined the board of the Club, and by 1945 had changed its direction and depth of social and political involvement. Also spinning off from the original meetings at Stadthagen's home in 1942 was a more informal group of ten who met privately once a month and became a kind of brain trust to address issues of anti-semitism and other social and political issues within the Southern California Jewish community. This group was still meeting monthly, as of the early 1970s.

> **SBRA's use of phrases like *"Stadthagen and members of the committee"* and *"Stadthagen and the others in his committee"* are entirely misleading in this context. SBRA is conflating the "enemy alien reclassification committee," which Felix Guggenheim organized and ran by himself, with a broader "political committee" consisting of Stagen, Guggenheim, Heinz Pinner, Harry Salinger, and others who were determined to reshape the Jewish Club of 1933. [Stagen 1972: 41–42]**
>
> **During 1942, Stagen became active in the politics of the Jewish Club of 1933, and was involved in the leadership changes during 1943. However, in the summer of 1943, when Leopold Jessner stepped down, Felix Guggenheim—not Stagen—was named the Club's new President.**

But the internal politics of the Jewish Club of 1933 are of no consequence in the context of this analysis. Nor do Stagen's subsequent political or social activities maintain any association with the property at 9269 Burton Way, given that he relocated his household in 1943.

In the postwar years, the reinvigorated Jewish Club of 1933 addressed refugee social issues, such as unemployment, and held cultural events, including lectures, readings and educational programs. As the membership aged, the Club's mission evolved to address the issues of the elderly. Stadthagen served as the Club's president and during his tenure in the 1950s was responsible for obtaining a reparations settlement from the government of West Germany. These funds were used to support the Jewish Home for the Aging and the Westside Community Center. The group was reorganized in 1980 as the Benefactors of The Jewish Club of 1933, Inc. and remains in operation today. (Stagen, 1972: 41-2; *Los Angeles Times,* 9-27-1959; Rothholz, 2008)

Stagen's postwar activities have no association with the property at 9269 Burton Way, given that he moved his residence in 1943.

Stadthagen and his family lived on Burton Way until 1943, when he combined the family home and office in a building on Wilshire Boulevard. In 1950 the home and office were again separated. By 1949 the Burton Way property had been sold to Clara Oreskes-Speigel, possibly another refugee. She divided one of the units into two in that year and continued to live on the property until at least 1960, along with a variety of tenants. (*Los Angeles Times,* 5-23-1937; United States Census, 1940)

At some point between 1940 and 1943 Wilhelm Stadthagen changed his name to William Stagen. His company, Stagen Realty and Property Management, remains in operation in Beverly Hills today. At his death in 1980 Stagen Reality was said to own or operate numerous large-scale properties, including the Wilshire Theater, Sierra Towers, and Crocker Bank Building in Beverly Hills, as well as other residential and commercial properties. Over the course of his career it was reported that he had "spent much of the profit from his holdings on the Jewish Club of 1933." (*Los Angeles Times,* 9-15-1980)

It is tangential to this resource analysis, but based on contemporary documents, Wilhelm Stadthagen changed his name to William Stagen some time around early- to mid-1942, although the transition was less than abrupt.

On 1 June 1942 Stagen wrote to Leopold Jessner on "*Wm. E. Stagen, Realtor*" letterhead. signing "*Stagen*". A 15 June letter to Jessner, also on "*Wm. E. Stagen, Realtor*" letterhead, was signed "*Stadthagen*". Jessner's 19 June reply addressed "*My dear Mr. Stagen.*". But, the 30 August 1942 minutes of the Executive Committee of the Jewish Club of 1933 still refer to "*Stadthagen.*" And when Guggenheim wrote him on 16 November 1942 regarding a real estate matter, he wrote his friend as "*Mr. Stadthagen.*" [1 June 1942 Stagen letter to Jessner; 15 June 1942 Stagen letter to Jessner; 19 June 1942 Jessner letter to Stagen; 30 August 1942 Jewish Club of 1933 minutes; 16 November 1942 Guggenheim letter to Stagen]

The property is a modest expression of the Spanish Revival style as it was constructed widely during the Southern California real estate boom of the 1920s.

Alterations include the evident enclosure of windows or doors on the eastern and northern elevations, possibly related to the interior reorganization of 1949.

5. Eligibility of Historic Resources

National and California Registers: Significance, Eligibility and Integrity

9265-67 Burton Way. This property does not appear to be eligible for listing under NRHP Criterion A or CRHR Criterion 1 (associations with historic events). While it is associated with the historical theme of the pre-and postwar residential development of Beverly Hills, it appears to be only generally associated with these themes, and represents no known, notable role in these theme. The property does not appear to be eligible for listing under NRHP Criterion B or CRHR Criterion 2 (associations with historically significant individuals). Of the known owners or occupants of the properties for whom any substantive biographical information was found, two may have made a significant contribution towards the historical development of the state, nation or community. The property was constructed by Joe Endemiller, a prolific Beverly Hills real estate developer. While his contributions to the historical development of the community appear to be significant, this property is one of large number he constructed during his lifetime, and is not known to be related to his career in any significant manner. Also living at this address was Frank E. Mortenson, an individual who appears to have made a significant contribution to the pharmacist profession and in trade legislation. However, the available evidence suggests that he lived at this address for no more than two years at the end of his life. Consequently, his productive career is likely to be more closely associated with his earlier places of residence or business. This property does not appear to be eligible for listing under NRHP Criterion C or CRHR Criterion 3 (an example of a type, period, or method of construction or association with a master designer). It is a typical examples of a common architectural style, of which numerous and more fully-realized examples can be found in Beverly Hills.

9269 Burton Way. This property appears to be eligible for listing under NRHP Criterion A and CRHR Criterion 1. The property's association with a broad pattern of historical events derives from the home front response to the declaration of war against Germany and Japan in December of 1941, an event supporting a large number of military, economic, social, and political historical themes. The particular facet of this larger theme represented by this property is the classification of German, Japanese and Italian foreign nationals as enemy aliens by the government with the nation's entry into World War II. A detailed historical context for this theme has been developed by the National Park Service for Japanese-Americans, but a similar context does not appear to currently exist for the other affected ethnic groups. (National Park Service, 2005)

The home of William Stagen was the location of a meeting held in January 1942 where the response of the Southern California German-Jewish immigrant community to the threat of deportation and other official sanctions at the beginning of the U.S. involvement in World War II was formulated. Twenty or more members of this community representing a variety of professions were in attendance at the committee meeting, which was chaired by prominent members of the German-Jewish business community: Dr. Felix Guggenheim, Heinz Pinner and William Stadthagen. The result of this joining of forces was the coordination of testimony before the Tolan Committee of the U.S. Congress in 1942.

While this context is not presently fully documented, as it has been for Japanese-Americans, it appears that the organized opposition to sanctions started on this property resulted in the Tolan Committee deciding to allow German Jews who were not yet citizens to remain in the United States. Committee cochair Heinz Pinner later recalled, "[c]redit [for stopping the deportation threat] can be claimed by the committee, and by various personalities of high standing, like Thomas Mann." A significant individual in his own right, Pinner became known for his work in seeking restitution for victims of Nazism, for which he was later awarded the Grand Cross of the Order of Merit by the West German government. (Pinner, 1972: 23; *Los Angeles Times,* 9-24-1986)

Similar defense movements occurred at the same time on behalf of Italian nationals, which succeeded in permitting resident aliens to remain in the country and pursue citizenship. This was clearly not the automatic result of the Committee's deliberations; by contrast, Japanese nationals and Japanese-Americans were subjected to forced relocation. Also growing directly out of this committee's meetings were war bond drives organized by and centered on the German-Jewish expatriate community.

Again, this is speculative fiction dressed as historical analysis. SBRA asserts that "*it appears that the organized opposition to sanctions started on this property resulted in the Tolan Committee deciding to allow German Jews who were not yet citizens to remain in the United States*" [emphasis added]. This assertion is demonstrably incorrect in every aspect; it is wholly refuted by the documentary record. As discussed above, organized opposition to curfew and travel restrictions *began before* the 22 January 1942 meeting; that meeting was *not related* to the Tolan Committee; that Committee had *no authority* to decide relocation policy; and there was *never any question* of German-Jewish non-citizens being unable "*to remain in the United States.*"

SBRA is also factually incorrect in identifying William Stagen as a "co-chair" of the enemy alien reclassification effort, and factually incorrect in speaking of a "*joining of forces*" for "*the coordination of testimony before the Tolan Committee of the U.S. Congress in 1942.*" Stagen had no direct role in the reclassification effort, and Tolan Committee testimony was coordinated by Felix Guggenheim, alone.

It is true that the applicable historical context "*is not presently fully documented, as it has been for Japanese-Americans.*" But it is an analytical fallacy for SBRA to borrow the historical context of the Japanese for their present analysis; it is beyond dispute that the legal and cultural contexts were substantially different. An undeveloped context cannot be replaced by an inapplicable one, merely because the latter is better documented.

By improperly treating the German immigrants as though they shared the same legal and political context as the Japanese, SBRA erroneously credits the intervention of the German-Jewish community for the fact that German immigrants were not forcibly relocated while, on the other hand, the Japanese were interned. As discussed at length above, there was never a genuine possibility of the forced relocation of Germans and Italians; there was very little sentiment for it—official or otherwise. As

previously noted, Federal authorities in the Department of Justice had assured German refugees from Nazi persecution that being classified as an "enemy alien" was only a "technicality" and that they ought to be considered "loyal aliens."

Because the 22 January 1942 meeting was not a response to forced relocation, and could not have been a response to the Tolan Committee. the meeting does not rise to the level of significance that SBRA claims.

SBRA also misrepresents the historical record in their claim of Stagen's war bond sales efforts "*growing directly out of this committee's meetings.*" Stagen's efforts *did not begin until 1943*, and there is *no demonstrable connection* between Stagen's war bond committee and Guggenheim's reclassification committee. In fact, there is *no evidence* to indicate whether Stagen ran his war bond efforts from the apartment at 9269 Burton Way or from his professional real estate office, which at the time was located at 6822 Sunset Boulevard. Therefore any association of Stagen's war bond efforts with the property at 9269 Burton Way is entirely speculative.

In addition to misunderstanding and misrepresenting the relevant history, SBRA is misapplying NRHP criteria. In discussing NRHP Criterion A, National Register Bulletin 15 "How to Apply the National Register Criteria for Evaluation," clearly states "*A property is not eligible if its associations are speculative.*"[National Register Bulletin 15: 12] SBRA's assertion, "*it appears that the organized opposition ...*" is just such speculation—and entirely incorrect speculation, as the documentary evidence makes clear. But even under the most generous interpretation, the association is insufficient, given that Stagen moved in 1943.

SBRA's further assertion that Stagen's war bond work grew "*directly*" from a January 1942 meeting is refuted by any reasonable reading of the evidence. Stagen's war bond efforts did not begin until a full year later, in 1943, and there is no evidence that he conducted his war bond work from his residence at any time. Therefore the association with 9269 Burton Way is insufficient even under SBRA's most speculative interpretation.

Accordingly, both on the documented historical facts and the proper application of NHRP guidelines, the property at 9269 Burton Way cannot be deemed eligible under NHRP Criterion A or CRHR Criterion 1.

The property also appears to be eligible for listing under NRHP Criterion B and CRHR Criterion 2. It was the first property owned (*circa* 1938 to 1943) by William E. Stadthagen (Stagen), an immigrant businessman from Germany, one of a substantial number of individuals who fled Europe during the rise of Nazism during the 1930s and resettled in Southern California. Stadthagen (Stagen) appears to be one of the most active and distinguished members of this community. During the time he owned and lived on this property he became heavily involved with promoting immigrants rights within the German-Jewish community in Los Angeles. These early efforts evolved into a leadership role in the reinvigoration of the Jewish Club of 1933 as a force in the promotion of Jewish culture and civil rights in Southern California, as well as a life-long commitment to philanthropic efforts in providing social services to this

community. While these activities continued throughout his lifetime, the meetings of early 1942 which initiated this realm of significant activities took place at his home, on this property.

> **SBRA's assertion that William Stagen "*appears to be one of the most active and distinguished members of this community*" reflects a breathtaking ignorance of the German émigré community in Southern California in the prewar period. In the decade preceding World War II, there was a prominent German refugee immigrant community in Southern California. Many were Jews, but the Nazis had also targeted intellectuals and artists. So while that community included many individuals in various business trades, like Stagen, it famously encompassed world-renowned writers, musicians, film makers, actors, and thinkers.**
>
> **The internationally-known figures included novelists Thomas Mann (1929 Nobel Prize winner for literature) and Heinrich Mann, playwrights Bertolt Brecht and Lion Feuchtwanger, film director Fritz Lang, composer Arnold Shoenberg, philosopher and essayist Theodore Adorno, and architects Richard Neutra and Rudolf Schindler, among many others. There were regular get-togethers and 'salons' for literary and intellectual exchange. Such was the international stature of the Southern California German émigré community that it was referred to as "Weimar on the Pacific."**
>
> **In that context, it is laughable to suggest that William Stagen was "*one of the most active and distinguished members*" of the Southern California German immigrant community, as SBRA claims.**
>
> **Neither is there any factual basis for SBRA's claim of eligibility under NHRP Criterion B and CRHR Criterion 2 that:**
>
> > **"*During the time he owned and lived on this property he became heavily involved with promoting immigrants rights within the German-Jewish community in Los Angeles.*"**
>
> **This assertion is factually incorrect. As discussed above, Stagen was not directly involved" in "enemy alien reclassification" at all. Neither was he "*heavily involved*" in any activity that could be characterized as "*promoting immigrants' rights*" during his period of residence at 9269 Burton Way.**
>
> **Beyond the general lack of individual significance, because he relocated during 1943, 9269 Burton Way does not retain sufficient association with Stagen's period of residence, as required for eligibility. National Register Bulletin 32 "Guidelines for Evaluating and Documenting Properties Associated with Significant Persons," II (B)(7) explains that:**
>
> > **"*Eligible properties generally are those associated with the productive life of the individual in the field in which (s)he achieved significance. Associations with an individual should have occurred during the period of time when the person was engaged in the activities for which (s)he is considered significant.*" [National Register Bulletin 32, p. 16]**
>
> **SBRA attempts to explain away the indirect nature of this association:**

> ***"These early efforts evolved into a leadership role in the reinvigoration of the Jewish Club of 1933 as a force in the promotion of Jewish culture and civil rights in Southern California, as well as a life-long commitment to philanthropic efforts in providing social services to this community. While these activities continued throughout his lifetime, the meetings of early 1942 which initiated this realm of significant activities took place at his home, on this property."*** **[emphasis added]**

But this "*early efforts evolved*" claim is just the type of indirect association that National Register guidelines explicitly discourage. Again, they stress that a property should be evaluated based on activities that occurred *while the individual actually lived there*—not activities that "*evolved*" after that individual moved to a different residence, as is the case here.

To further inflate this dubious claim, SBRA refers to "*the meetings of early 1942*," plural, as though there was a pattern of activities at Stagen's residence rather than only a single meeting held on 22 January 1942. There is no factual evidence for a claim of multiple meetings at 9269 Burton Way.

In short, William Stagen is not an individual of significance for NHRP Criterion B or CRHR Criterion 2 eligibility. But even under a very generous interpretation, his association with 9269 Burton Way does not conform to National Register guidelines, as his period of residence does not sufficiently coincide with the period in which the activities may have occurred.

Accordingly, on both the documented historical facts and the proper application of NHRP guidelines, the property at 9269 Burton Way cannot be deemed eligible under NHRP Criterion B or CRHR Criterion 2.

This property does not appear to be eligible for listing under NRHP Criterion C or CRHR Criterion 3 (an example of a type, period, or method of construction or association with a master designer). It is a typical example of a common architectural style, of which numerous and more fully-realized examples can be found in Beverly Hills.

NRHP Criterion D and CRHR Criterion 4 pertain to archeological resources and consequently have not been evaluated in this report.

Integrity Discussion

9265-67 Burton Way. This property appears not to be significant under any of the eligibility criteria. Consequently, an evaluation of its integrity is not required.

9269 Burton Way. This property appears to be significant under NRHP Criterion A and CRHR Criterion 1, and NRHP Criterion B and CRHR Criterion 2. Consequently, a determination of the ability of the property to convey its significance is required to establish its potential eligibility. The integrity of **location** for this property is intact; it remains on its original location. The property's integrity of **design** is substantially intact. Alterations, including the closure of window and door openings on the apartment building, are limited to minor elevations.

The property's integrity of **setting** is considerably compromised. Once a part of a neighborhood of low-rise apartment buildings, it is now surrounded by mid- and high-rise buildings constructed during the 1970s and later. The only remaining element of the property's historic setting is Burton Way and the wide median, previously a Pacific Electric streetcar right-of-way. The property is not substantially altered, and to that extent, its integrity of **materials** and **workmanship** are also intact. The property's integrity of **feeling** and **association** are largely intact, as the buildings on the property are used for their historic residential purposes.

Conclusion

The property at 9269 Burton Way appears to retain sufficient integrity to convey its significance and therefore should be regarded as a historic resource for the purposes of CEQA. The historic period for the property based on the documented associations is *circa* 1938 to 1943. The appropriate boundary of the eligible property is the legal parcel.

> **Under proper application of National Register guidelines the property at 9269 Burton Way cannot be considered eligible for NRHP Criterion A and CRHR Criterion 1 or NRHP Criterion B and CRHR Criterion 2. Therefore an integrity evaluation under NRHP or CRHR is moot.**

Local Significance and Eligibility

The Beverly Hills Municipal Code (§10-3-3212) establishes criteria for listing properties within the city as landmarks. The City of Beverley Hills listing criteria appear to be functionally similar to the NRHP and CRHR criteria for eligibility, with the significant departure that a landmark must meet at least two of the criteria to be considered eligible. The property at 9269 Burton Way appears to meet Criterion 1 (identified with important events); and Criterion 2 (associated with the lives of significant persons), as described the NRHP and CRHR evaluation, above. The property at 9265-67 Burton Way does not appear to be eligible under any of the criteria in the Beverly Hills Municipal Code.

> **Although SBRA correctly transcribes the City of Beverly Hills Landmark ordinance, they misunderstand and misstate its structure. Contrary to their analysis, Beverly Hills does not require "*at least two of the criteria to be considered eligible*," with a parallel integrity analysis. Rather, the City requires that a property meet <u>all three criteria</u> for listing: Criterion A (significance, which itself requires satisfying at least two of six significance subcriteria), *and* Criterion B (integrity), *and* Criterion C (value to the community; furthers the goals of preservation).**
>
> **Therefore, when SBRA claims that the property meets two criteria: "Criterion 1" and "Criterion 2", they are actually saying that it meets Subcriteria A.1 and A.2, which together comprise only one criterion. As a practical matter, however, 9269 Burton Way meets neither subcriteria.**
>
> **Regarding Subcriterion A.1: the meeting of 22 January 1942 at 9269 Burton Way does not rise to the level of an "important event[s] in the main currents of national, state, or local history." The contemporary documentation refutes SBRA's claim that it was a seminal event. Therefore, the property at 9269 Burton Way does not meet National Register guidelines for NRHP Criterion A or CRHR Criterion 1, and therefore does not meet Beverly Hills Landmark Subcriterion A.1.**

Regarding Subcriterion A.2: in describing the Beverly Hills listing criteria as "functionally similar" to NRHP and CRHR, SBRA misses an essential difference in the language of Beverly Hills Subcriterion A.2. Unlike NRHP Criterion B or CRHR Criterion 2, which require that the subject property "[i]s associated with the lives of persons important in our past," Beverly Hills Subcriterion A.2 requires that the property "[i]s *directly* associated with the lives of significant persons ..." [emphasis added]. Rather than merely repeat NRHP and CRHR criteria, Beverly Hills further emphasizes that the association must be *direct*, undoubtedly reflecting the greater than usual propensity of properties in Beverly Hills to have had some association with the lives of significant persons.

However, as discussed above, William Stagen's association with the property at 9269 Burton Way does not even meet the general "association" standards under National Register guidelines for NRHP Criterion B or CRHR Criterion 2. Further, for reasons discussed, William Stagen cannot be considered an individual of significance under National Register guidelines. Contrary to SBRA's misinterpretation of events, Felix Guggenheim—not William Stagen—was the force behind the Southern California German refugee community's "enemy alien reclassification" efforts. Therefore, for both reasons of significance *and* association, the property at 9269 Burton Way does not meet Beverly Hills Landmark Subcriterion A.2.

Two subcriteria are required to satisfy Criterion A. In this case, evaluating the documentary evidence under National Register guidelines, neither of the proposed subcriteria is met. Accordingly, the property at 9269 Burton Way cannot be considered eligible for local listing, as it does not meet the requirements of Criterion A.

The City Code also provides for evaluating the integrity of a potential landmark, utilizing the integrity criteria of the NRHP and CRHR, but apparently suggesting an unconventional methodology for determining if the integrity level is sufficient. The Municipal Code states that a nominated property must retain its "integrity of location, design, setting, materials, workmanship, and association" from the period of significance. The implication of the plain language in the Municipal Code is that, unlike the NRHP and CRHR, all aspects of integrity must be present for a property to be eligible. However, the code section also states that integrity "shall be judged with reference to the particular [significance] criteria." The possible meaning of this language is that integrity should be judged based upon the means by which the property derives its significance. This method is more similar to evaluating integrity for the NRHP and CRHR.

The implications of this integrity evaluation language taken as a whole are uncertain. Depending on the interpretation of the Municipal Code, the property at 9269 Burton Way may or may not retain sufficient integrity to be eligible for landmark listing. If it is the intention of the Municipal Code to set a higher standard for integrity than the NRHP and CRHR, then it would not be eligible due to the loss of setting integrity, as described in the NRHP and CRHR evaluation, above. However, if is the intention of the code to set a similar standard of evaluation, then it would retain sufficient integrity for listing.

Given that the property clearly does not meet Beverly Hills Criterion A, and therefore cannot possibly satisfy all three criteria, as required, an integrity evaluation is moot. However, the language of the Criterion B (integrity) analysis is not "uncertain" and does not require speculative interpretation. As the City acknowledges, the affirmative legislative intent of BHMC §10-3-3212 was to establish a more stringent integrity threshold than that under NRHP and CRHR.

Just as it intentionally diverges from the NRHP and CRHR by requiring at least two subcriteria for significance rather than just one, the BHMC intentionally requires a more stringent integrity analysis than required by the NRHP and CRHR. Therefore, integrity must be evaluated in accordance with the plain language of the BHMC, rather than by borrowing NRHP and CRHR integrity evaluation standards. And the BHMC requires that "[*t*]*he property retains integrity* *from its period of significance*" [emphasis added].

As SBRA themselves admit, under the plain reading of the BHMC, the property at 9269 Burton Way does not meet the requirements of Criterion B "*due to the loss of setting integrity.*" Given that it is presently flanked by the massive L'Ermitage hotel, it is inarguable that the building no longer retains its setting from SBRA's claimed period of significance in the 1940s.

Therefore, by SBRA's own analysis, the property at 9269 Burton Way does not retain setting integrity from its period of significance, and therefore cannot satisfy Criterion B. Accordingly, 9269 Burton Way cannot meet all three criteria, as required for listing as a City of Beverly Hills Landmark.

Finally, SBRA's analysis simply ignores the third prong required for local eligibility—namely, Criterion C, which reads:

> "*The property has historic value. The proposed landmark is of significant architectural value to the community, beyond its simple market value, and its designation as a landmark is reasonable, appropriate, and necessary to promote, protect, and further the goals and purposes of this article.*"

The property at 9269 Burton Way is not "*of significant architectural value to the community.*" Its designation is *not* necessary to further the goals of historic preservation in the City of Beverly Hills. In fact just the opposite is true; the purposes of preservation are better served by avoiding a plethora of questionable and unsubtantiated designations. That is precisely why BHMC §10-3-3212 requires two significance criteria and a strict integrity analysis. Accordingly, 9269 Burton Way cannot satisfy Criterion C, as required for listing as a City of Beverly Hills Landmark.

As clearly stated in the BHMC, a property must satisfy all three criteria for listing. Failure to meet any one of the three is absolutely disqualifying. The property at 9269 Burton Way meets none.

Adjacent and Nearby Properties

No properties in the immediate vicinity are currently designated, listed,

determined to be eligible, or appear to be eligible for listing on the NRHP, CRHR, or as a City of Beverly Hills Landmark.

6. Impact Analysis

The proposed project will result in the demolition of the property located at 9269 Burton Way. This property appears to be eligible for listing on the NRHP and CRHR, and may be eligible for designation as a City of Beverly Landmark. Consequently, it should be regarded as a historic resource for purposes of CEQA. The impact of the demolition is significant and adverse listing.

> **Based on a clear preponderance of the historical evidence, including a substantial compilation of documents not reviewed by SBRA and therefore not considered in their analysis, the property located at 9269 Burton Way is *not* historically or culturally significant, and *cannot be deemed eligible* for listing on the NRHP or CRHR or as a City of Beverly Hills Landmark.**
>
> **Therefore, the property at 9269 Burton Way *cannot be considered* an historic resource for purposes of CEQA. [PRC 21084.1] Accordingly, demolition will not result in any significant impact as defined by CEQA.**

7. Mitigation and Residual Impacts

> **Because the property at 9269 Burton Way is not an historic resource under CEQA, no mitigation measures are required.**

A principle of environmental impact mitigation is that some measure or combination of measures may, if incorporated into a project, serve to avoid or reduce significant and adverse impacts to a historic resource. In reference to mitigating impacts on historic resources, the CEQA Guidelines state:

> Where maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of the historical resource will be conducted in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (1995), Weeks and Grimmer, the project's impact on the historical resource shall generally be considered mitigated below a level of significance and thus is not significant. (PRC §15126.4 (b)(1))

These standards, developed by the National Park Service, represent design guidelines for carrying out historic preservation, restoration and rehabilitation projects. The Secretary's Standards and the supporting literature describe historic preservation principles and techniques, and offers recommended means for carrying them out. Adhering to the Standards is the only method described within CEQA for reducing project impacts on historic resources to less than significant and adverse levels.

The demolition of an historic property cannot be seen as conforming with the *Secretary of the Interior's Standards*. Therefore, the absolute loss of an historic property should generally be regarded as an adverse environmental impact which cannot be mitigated to a less than significant and adverse level. Further, the usefulness of documentation of an historic resource, through photographs and measured drawings, as mitigation for its demolition, is limited by the CEQA Guidelines, which state:

> In some circumstances, documentation of an historical resource, by way of historic narrative, photographs or architectural drawings, as mitigation for the effects of demolition of the resource will not mitigate the effects to a point where clearly no significant effect on the environment would occur. (CEQA Guidelines §15126.4 (b)(2))

Implied by this language is the existence of circumstances whereby documentation may mitigate the impact of demolition to a less than significant level. However, the conditions under which this might be said to have occurred are not described in the Guidelines. It is also noteworthy that the existing CEQA case law does not appear to support the concept that the loss of an historic resource can be mitigated to less than adverse impact levels by means of documentation or commemoration. (*League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* [1997] 52 Cal. App. 4th 896; *Architectural Heritage Association v. County of Monterey* [2004] 19 Cal. Rptr. 3d 469)

Taken in their totality, the CEQA Guidelines require a project that will have potentially adverse impacts on historic resources to conform to the *Secretary of the Interior's Standards*, in order for the impacts to be presumptively mitigated to below significant and adverse levels. However, CEQA also mandates the adoption of feasible mitigation measures which will reduce adverse impacts, even if the residual impacts after mitigation remain significant. Means other than the application of the Standards would necessarily be required to achieve this level of mitigation. In determining what type of additional mitigation measures would reduce impacts to the greatest extent feasible, best professional practice dictates considering the level of eligibility of the property, as well as by what means it derives its significance.

Mitigation programs for impacts on historic resources tend to fall into three broad categories: documentation, design and interpretation. Documentation techniques involve the recordation of the site according to accepted professional standards, such that the data will be available to future researchers, or for future restoration efforts. Design measures could potentially include direct or indirect architectural references to a lost historic property, e.g., the incorporation of historic artifacts, into the new development, or the relocation of the historic property to another suitable site. Interpretative measures could include commemorating a significant historic event or the property's connection to historically significant themes.

Mitigation Measures

1. Documentation Report. A historic preservation professional qualified in accordance with the *Secretary of the Interior's Standards* shall be selected by the City of Beverly Hills to complete a Documentation Report on the property located at 9269 Burton Way. The property shall be photographed according to accepted archival methods, and a written historic report prepared by a qualified historic preservation professional. This documentation, along with historical background of the properties prepared for this property, shall be submitted to an appropriate repository approved by the City of Beverly Hills, and shall be completed and approved by the city prior to the issuance of demolition permits.
2. Interpretative Plan. In consultation with the City of Beverly Hills, a historic preservation professional qualified in accordance with the *Secretary of the*

Interior's Standards shall be selected by the city to prepare an on-site interpretive plan, focusing on the significant historic themes associated with the property at 9269 Burton Way. The plan may consist of a public display or other suitable interpretive approach, as approved by the city, and be installed in an appropriate public or semi-public location within the proposed new construction. The interpretive plan shall be completed and approved prior to the issuance of building permits for the proposed project, and shall be installed within one year of occupancy of the proposed building. If the proposed building is not occupied within two years after the issuance of demolition permits, another suitable temporary or permanent location for the interpretive display shall be determined, subject to the approval of the city. The interpretive display shall remain in public view for a minimum of five years, and if removed, appropriately archived.

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Manuscript Documents [all from University of Southern California, Doheny Library, Special Collections; Felix Guggenheim papers, boxes 165/166]

15 January 1942:	(*circa*) Felix Guggenheim notes regarding response to "enemy alien" classification.
31 January 1942:	Felix Guggenheim's copy of a letter to Francis Biddle, Attorney General of the United States, authored by Prof. Richard B. Goldschmidt of the San Francisco émigré community.
11 February 1942:	Felix Guggenheim letter to Julia Seider, immigration attorney.
14 February 1942:	(*circa*) Felix Guggenheim draft of telegram from Jewish Club of 1933 to the *Council for Aliens of Enemy Nationality* in New York.
15 February 1942:	(*circa*) Western Union night letter from Jewish Club of 1933 to the *Council for Aliens of Enemy Nationality* in New York.
17 February 1942:	Felix Guggenheim's copy of a transcript of a letter to the Editor of the *Seattle Post Intelligencer*, authored by Ludwig Pick on behalf of the Seattle émigré community.
1 March 1942:	Felix Guggenheim letter to Congressman John Tolan, chair of the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee").

2 March 1942:	Felix Guggenheim's copy of a letter to Leopold Jessner, President of the Jewish Club of 1933, from Elsa Schwerin of the Seattle émigré community.
4 March 1942:	Felix Guggenheim letter to John W. Abbott, Chief Field Investigator for the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee").
26 March 1942:	Western Union telegram to Jewish Club of 1933 from John J. McCloy, Assistant Secretary of War.
31 March / 1 April 1942:	Felix Guggenheim letter to Julia Seider, immigration attorney.
6 April 1942:	letter from Manfred George, Editor of *Aufbau (Reconstruction)*, naming Felix Guggenheim to the national editorial staff.
13 April 1942:	"Alien Enemy Permit to Travel" to allow Felix Guggenheim to travel to San Francisco to discuss German-Jewish refugee issues with US Army Western Defense Command, signed by Wm. Fleet Palmer, United States Attorney for the Southern District of California.
17 April 1942:	letter to Felix Guggenheim from Congressman John Tolan, Chairman of the House Select Committee Investigating National Defense Migration ("Tolan Committee").
18 April 1942:	Felix Guggenheim letter to Julia Seider, immigration attorney.
25 April 1942:	Memorandum from the Jewish Club of 1933 officially naming Felix Guggenheim as their representative for "reclassification" efforts, signed by Leopold Jessner, President of the Club.
28 April 1942:	Felix Guggenheim letter to Congressman John Tolan, Chairman of the House Select Committee Investigating National Defense Migration ("Tolan Committee").
30 April 1942:	memorandum from the Jewish Club of 1933 to their membership.
23 May 1942:	Felix Guggenheim letter to Julia Seider, immigration attorney.
31 May 1942:	letter to Felix Guggenheim from Richard Grau of the San Francisco émigré community.
1 June 1942:	Felix Guggenheim's copy of letter from William Stagen to Leopold Jessner, President of the Jewish Club of 1933.
15 June 1942:	Felix Guggenheim's copy of letter from William Stagen to Leopold Jessner, President of the Jewish Club of 1933.
19 June 1942:	Felix Guggenheim's copy of letter from Leopold Jessner, President of the Jewish Club of 1933 to William Stagen.

26 June 1942:	**letter to Jewish Club of 1933 from George Hjelte, Director of the Los Angeles Defense Council, in response to a 5 June 1942 letter from Felix Guggenheim,**
9 July 1942:	**Western Union telegram to Felix Guggenheim from Richard Grau of the San Francisco émigré community.**
15 July 1942:	**memorandum from the Jewish Club of 1933, authored by Felix Guggenheim.**
30 August 1942:	**minutes of the Jewish Club of 1933 Board of Directors' meeting of 30 August 1942.**
28 October 1942:	**Felix Guggenheim letter to George Hjelte, Director of the Los Angeles Defense Council.**
16 November 1942:	**Felix Guggenheim letter to William Stagen.**
5 January 1943:	**Felix Guggenheim letter to George Hjelte, Director of the Los Angeles Defense Council.**
16 February 1943:	**minutes of the Jewish Club of 1933 Board of Directors' meeting of 16 February 1943.**
25 February 1943:	**letter to Felix Guggenheim from George Hjelte, Director of the Los Angeles Defense Council.**
26 February 1943:	**Felix Guggenheim's copy of memorandum from Council of Jewish Émigrés of San Francisco and the Bay Area, chaired by Richard Grau.**
24 March 1943:	**draft memorandum by Felix Guggenheim regarding Los Angeles Defense Council lifting defense service restrictions.**

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CONTEMPORARY MANUSCRIPT DOCUMENTS

Manuscript Documents from the Felix Guggenheim papers
at the Doheny Library, University of Southern California

Felix Guggenheim's papers relating to immigrant issues and his founding of the Pazifische Presse are accessible to the public. This is a selection of relevant documents, most found in Boxes 155 and 156 of the Guggenheim papers. These consist of memoranda and letters written by or sent to Guggenheim, together with his copies of others documents. relating to his work in the wartime period.

Felix Guggenheim memorandum
circa 15 January 1942?

This memo is unsigned and undated, but it relates to the earliest discussions about the threat of "enemy alien" restrictions, and therefore must have been written some time prior to the 22 January 1942 meeting in William Stagen's apartment. What is not clear is whether it was written specifically in preparation for the 22 January meeting or, as seems more likely, in preparation for an earlier January meeting with the Board of Directors of the Jewish Club of 1933, at which William Stagen and Felix Guggenheim tried to convince the Jewish Club of 1933 to take up the issue of "enemy alien reclassification." It was only after the Club declined to take up the "reclassification" issue that the 22 January meeting was held.

Although it is unsigned, there can be no real doubt that Guggenheim is the author of this document. The memo references the evaluation system used in Britain for classifying German-Jewish refugees as "refugee from Nazi oppression." Felix Guggenheim spent two years in London before coming to the US. He learned English there, and his Tolan Committee testimony discussed the British system for individual evaluation and classification as "refugee from Nazi oppression"; Guggenheim's own British papers bore that designation.

This memo clearly suggests that Felix Guggenheim—not William Stagen—was the intellectual force behind creating a "reclassification committee" to fight the designation of German refugees as "enemy aliens."

USC Felix Guggenheim papers

Situation : Action against enemy aliens increasing- especially as long as war situation not satisfactory and as real danger of sabotage acts (like 1917) imminent. Japanese aliens especially dangerous.

Washington-knowing, that the potential reservoir of 5th columnists is to be found among Bundists, naturalized and even native Americans (the Gestapo being clever enough to choose agents not from the most exposed , but from the most protected group) - is reluctant in its measures.

State and local authorities- less exactly informed and more endangered, besides that more exposed to emotion and trend of public opinion - are pushing ahead, not only to get an emotional outlet but also to avoid any reproach (Pearl Harbour!) if really acts of sabotage will start to happen.

Refugee-Problem: Some weeks ago all the authorities made it clear , that being classified as an " enemy alien " is only a"technicality", as long as the alien belongs to the " loyal aliens ".
But exactly as in England it proved to be impossible , to clear the question of loyalty in an individual manner , and as measures against enemy aliens are necessary in wartime, it is better, to have innocent aliens suffer , than to go not far enough in the protection of the nation.
So it would be the most unwise and most dangerous attitude for the Jewish refugees , to find any measure against enemy aliens too harsh or uncalled for.
But what can he do finding himself in the most unfortunate position imaginable at all? Namely: being classified as a Nazi, after having suffered the most terrible persecution by the Nazis, and being treated as an enemy alien in spite of having -with good reasons- the most friendly and grateful feelings for this country and this people.

By the way : It involves even a general danger to all Jews in this country, if the term " Jewish refugee" becomes mixed up and identified with the term " enemy alien".

Remedy : There seems to be no other way to avoid unnecessary hardship and irreparable material and ideal damage, than to impress with all arguments in our command to everybody concerned, that our group doesnt belong to the " enemy aliens" - not because our individuals , if allowed to, can prove their individual loyalty , but because the essential characteristics of our group prove, that the group is the most antagonistic to the enemy Nazis and by reasons of blood and race even uncapable to join them by act of will , whereas for instance a Frenchman can decide, to be a Free French or a Vichy French in this country according to his wish and without being treated as an enemy in both cases.

Arguments : For the legal mind : By law of the German Government all members of our group (not as individuals , but as Jews) are expatriated not only as citizens , but also as "nationals" and expropriated as well. So they are even less "Germans" than the citizens of Danzig who for formal and legal reasons arent considered as " enemy aliens ".
For the political mind: Not to give the Nazis the comfort to see part of the energy directed against them wasted in an effort to treat their most irreconcilable enemies, the Jewish refugees, as their allies.

For the humanitarian mind: Not to make a group of loyal and useful people miserable unnecessarily and without military reasons, but just out of an easily corrigible mistake in classification.

Technical way of correction : Either to declare, that people who registered in their First Papers as of "Hebrew Race" arent considered as "enemy aliens" .(There is no genuine Jewish refugee, who didnt take out his first papers first thing after his immigration!)

Or to follow the British example and to mark the identification card with " refugee from Nazi oppression " so enabling the authorities to issue restrictions with the special provision, that they dont apply to " refugees from Nazi oppression".

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letter to Francis Biddle, Attorney General of the United States
from the San Francisco German immigrant community
31 January 1942

Felix Guggenheim's copy of a letter dated 31 January 1942, authored by Prof. Richard B. Goldschmidt, on behalf of the San Francisco German-Jewish refugee community. The Los Angeles German refugee community was far from alone in its efforts for "reclassification." And it seems cleat that by the end of January Guggenheim had begun communicating and sharing thoughts on strategy with the German immigrant communities in San Francisco, Portland, and Seattle.

In this letter to Francis Biddle, the Attorney General, the San Francisco group expresses their natural allegiance to the anti-Nazi war effort, and argues that they should not be classified as "enemy aliens," but rather as "refugees from Nazi oppression" (as Britain had granted to similarly-situated refugees as early as 1939, and as Guggenheim had been advocating as a strategy).

USC Felix Guggenheim papers

The following is a copy of a letter sent by Mr. Richard B. Goldschmidt, professor at the University of California, Mr. Oscar Meyer, former leader of the democratic party in the German Reichstag, and a group of over thirty other German refugees who are now living in the S.F. Bay Area.

San Francisco and Berkeley, Calif.
January 31, 1942

To the Attorney General of the United States
Mr. Francis Biddle
Washington, D. C.

Sir:

Deprived of our country by Hitler we came to the United States to become loyal citizens and to educate our children in loyalty to America.

We are grateful that the American nation has generously received us, and that under its powerful protection we enjoy freedom and take part again in the heritage of mankind. Since the outbreak of the war, however, the refugees from Nazi oppression have been classified as "enemy aliens". We believe that this term when applied to refugees from Nazi oppression results in moral disqualification. Being outlawed by Hitler as enemies whom he wants to exterminate, we are now again designated as "enemies" in the country of our refuge. Thus we face the danger to appear to the public as the enemies of everyone. To bring us into such position is Hitler's aim, and certainly contradictory to the intention of the American government.

Although the American government intends that the term "enemy alien" should be understood in a technical sense, the people will be inclined to take the term as expressing a reality instead of a mere legal concept. The words "friend" and "foe", "ally" and "enemy" mean so much to the nation in wartime that it cannot be otherwise. Moreover it may become necessary, and in fact necessity has already arisen to take action against persons on American soil who are considered inimical to the American nation. If the term "enemy alien" is indiscriminately applied to classes of persons who completely differ in their attitude to this country the danger will always be present that such emergency measures will be extended to all those who are called "enemy aliens." In fact the regulations excluding "enemy aliens" from certain areas in California and other defense districts which will soon be followed by more comprehensive orders, all of which will be of vital importance for many persons comprise axis aliens and refugees as well. That may involve a necessary sacrifice regarding such persons who are citizens of axis countries and who can be suspected or even presumed to be loyal towards their old countries. Nothing of that kind applies to us.

Being still aliens we look forward impatiently to the day when we shall be allowed to become American citizens. While waiting we are in the meantime neither German aliens nor enemy aliens. This is true not only in substance because we have nothing in common with Nazi Germany and categorically reject every connection with Nazi Germany; but also in form because the German government by various actions has severed all legal ties between Germany and ourselves. This has been effectuated by decrees denationalizing many of us individually, and by the recent German law of November 25, 1941, terminating the involuntary German citizenship of the rest of us. We are therefore neither citizens nor subjects of a country at war with the United States.

Our classification as "enemy aliens" is now almost exclusively based upon the place of birth. The mere hazard of the place of birth cannot carry weight in this war between two irreconcilable idealogies where the borderlines between the European countries have lost their significance. It would be contradictory to the democratic ideals and therefore to the very basis of the American war effort if discriminations based on outlived standards would tend to induce public opinion in America to regard the refugees as enemies instead of accepting them as living proof of the crimes of Hitlerism and as co-fighters against Hitler.

We refugees are fighting Hitler since 1933. We all bear scars of this fight. Many of us went through tortures. Almost everyone of us has lost members of his family or dear friends in this struggle. The goal of the United States in this war - the defense of the rights of mankind - is necessarily cherished by us. We share the American love of freedom and the American ideals for the future of the world. Our reliance on America's victory is of necessity identical with our confidence in the future of ourselves and our children. Because this is so, we are second to none in the desire and the conviction that America must win this war and take a decisive part in the inevitable reconstruction of the world.

We recognize that in the interest of the safety of this country investigation of the past record and conduct of each refugee may be required. We welcome any opportunity to submit such proof. Even more shall we welcome every opportunity given to us to take part in the active defense of America.

This petition we feel is expressive of our loyalty to this country as well as of our self-respect and our vital interests:

to be named and treated as "refugees from Nazi Oppression" instead of "enemy aliens".

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Felix Guggenheim letter to Julia Seider, immigration attorney
11 February 1942

Felix Guggenheim writes to his immigration attorney in New York, who is working to bring in at least one of his relatives. In this letter Guggenheim makes reference to the 22 January meeting at William Stagen's apartment, and clearly indicates that the meeting was concerned with restrictions imposed by "local and State" authorities—not Federal authorities, and not the Tolan Committee:

> *We – a few friends of mine and I – came together to look for a way to inform the local and State authorities (Washington most probably is informed) that they hurt us together with the Japanese...*

USC Felix Guggenheim papers

Felix Guggenheim
238 Tower Drive
Beverly Hills, Cal.

February 11, 1942

Mrs. Julia L. Seider
91 East Main Street
Bay Shore, N.Y.

Dear Julia :

This time I hesitated longer, than I intended, to answer your nice letter of January 19. For in the meantime it isnt any more only the problem , what will happen with Heinz and the Adelheims, but it is very much the problem what will happen to us. As in England the inevitable reverses of war make people conscious of the danger of sabotage, and in California this danger is more real than anywhere in the States. So you cant blame the people getting afraid, if they see the Japanese gardeners etc. pass the aircraft factories. And it is quite natural that something has to be done against "enemy aliens" . Unfortunately for unknown reasons the Jewish refugees - expatriated and expropriated - are classified as enemy aliens. We - a few friends of mine and I - came together to look for a way to inform the local and State authorities (Washington most probably i s informed) that they hurt us together with the Japanese , if they dont discriminate, that nothing would please Hitler more than seeing us persecuted as Nazis, that the Gestapo is clever enough to choose their agents among the naturalized Americans, etc. On the other side , we want the real enemy aliens treated as harshly as possible and dont want any consideration , because there are refugees among them. So the only way is, to take the group of refugees, who can prove that they are expatriated and have no allegiance to Germany , out of the class " enemy aliens". But that s a long way. I was very busy all these days, seeing many people and discussing the problems. I personally am not hurt till now (of course it is still possible, that all enemy aliens have to leave California) but all people who are in real business suffer heavily . For instance a Jewish influenced firm like Warner Bros. cant employ Jewish refugees as actors, etc. (what they did till now) because the Warner lot is in a part of the city, which is prohibited for enemy aliens. Nobody knows what the outcome will be, as local , State, Federal , military and other authorities are involved in the matter. Another point is, that at a time when American

parents send their sons to the Army to risk their lives, nobody cares, whether a few refugees loose their job or business. And as sacrifices in wartime - especially in a war against Hitler- are a matter of course for all the refugees, the psychological viewpoint (treated in Germany as Jews and in America as Nazis) is more important than the economical.

I take it much easier than most of my friends because I went through the same thing already once in England and because my whole attitude during 1941 was one of expecting things like that.

The Heinz case and the Adelheim case of course are still very much on my mind. Therefore I am glad, that your letter is a little more encouraging. Heinz writes the same thing as the Adelheims do: Namely that the consul advised them, that a special appellation board would reconsider cases of genuine refugees in Washington . I dont know whether that will take place automatically or whether Mr. Beyer for Adelheims and I for Heinz have to make new applications ,(I really dont dare to bother you with more work). Did you hear anything about the new procedure or did you get an answer to your wonderful letter to Mr. Dorsz of January 19?

I am glad, that you have good family-news, especially that your mother is out of hospital again. Please remember me to her. - Your brothers nice remark about the "louisiana purchase" shows , that he knows how to take it and I wish him all the best for his further military career.

I hope this letter will find you somewhere in Florida vacationing . May you have a well-deserved holiday with your husband and the children. Of course we understand, why you had to go to Florida, but we never will be consoled, that you couldnt choose California (it really is beautiful here in spite of the war, if you dont happen to be an enemy alien) I hope all of you will have a good time in Miami . It would be nice, if you could extend your visit to get over to Cuba.

All you write about Lene and Richard is only too true . Nothing can be added to your words.

Of course I am very much flattered about your confidence, as far as I am concerned. Unfortunately I had no opportunity till now to live up to your expectations . But it really makes me feel proud and happy, that you with all your experience and knowing so many people and not being exactly the incautious type write so nice and trusting words about me and my future business ventures. Judging how the war goes and will go for quite a time, I am afraid it will take quite a while till I can try to prove that I deserve your kind words.

Evelyn joins all my good wishes for you and your dear ones .(She is especially grateful for your inquiring about her cinematic prospects, which are pretty dark - for reasons explained above) She would so much like to meet you. So would I . But the only chance I can see just now would be our being evacuated from California. You see : I am still of good mood and even frivolous!

All our love ! Heartily yours

Felix

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draft of telegram [night letter] to *Council for Aliens of Enemy Nationality*
from Jewish Club of 1933
undated but *circa* 14 February 1942

The Jewish Club of 1933 sent a telegram to the *Council for Aliens of Enemy Nationality* in New York in response to the 11 February 1942 announcement from General John L. DeWitt of the US Army Western Command to relocate all "enemy aliens" on the West Coast.

This is Felix Guggenheim's draft copy with his manuscript edits, suggesting that he had drafted the message, but certainly indicating that he had final editorial responsibility for its contents, as his edits are reflected in the final message. Guggenheim's manuscript edits read:

> *and according statement, coordinator Clark in charge of removal Germans and Italians. removal will begin not later than 60 days from now. hope of definite refuge.*
>
> ["coordinator Clark" refers to Tom Clark, assistant to General DeWitt.]

USC Felix Guggenheim papers

COUNCIL for ALIENS of ENEMY NATIONALITY

According proclamation general dewitt all enemy aliens will be removed from the westcoast period thousands of antinazi stateless refugees here in panic and distress as no word about exemptions for victims of nazi oppression forthcoming. period. doubly chocked because trusting in Francis Biddles assurances about protecting loyal innocent refugees they expect at least opportunity to appear before boards or tribunals according to British example before losing homes, jobs etc. for the second and sometimes third and fourth time period spiritual strength and power of endurance will be broken in most of them if they will have to suffer from the one thing they learned to rely on the democratic institutions of the united states period much damage is done already please help us to avoid the worst period our members urge you to intervene in washington without delay and to get a clear and unmistakable statement whether it is really contemplated to remove thousands of stateless refugees from their homes exactly like nazis or whether we can expect exemptions for victims of nazi oppression period every day counts as every day brings new harm thanks

Jewish Club of 1933 Inc. Los Angeles

and receive assurance
coordinator Clark
in charge of removal from
and stockings removal not later
than 60 days from now
hope of definite
refuge

telegram [night letter] to *Council for Aliens of Enemy Nationality*
from Jewish Club of 1933
undated but *circa* 15 February 1942

The Jewish Club of 1933 sent a telegram to the *Council for Aliens of Enemy Nationality* in New York in response to the 11 February 1942 announcement from General John L. DeWitt of the US Army Western Command to relocate all "enemy aliens" on the West Coast. In the message, the Club calls on the New York Council to "intervene in Washington."

This is a copy of the final telegram (night letter) with Felix Guggenheim's edits.

USC Felix Guggenheim papers

Charge to the account of

$

WESTERN UNION

1206-B

CHECK

ACCOUNTING INFORMATION

TIME FILED

R. B. WHITE
PRESIDENT

NEWCOMB CARLTON
CHAIRMAN OF THE BOARD

J. C. WILLEVER
FIRST VICE-PRESIDENT

Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

COUNCIL FOR ALIENS OF ENEMY NATIONALITY
c/o SELFHELP OF IMMIGREES FROM ENTRALEUROPE
165 West 46th Street
New York, N. Y.

According proclamation general dewitt all enemy aliens will be removed from the westcoast and according statement coordinator clark in charge of removal german and italian removal will begin not later than 60 days from now stop thousands of antinazi and stateless refugees here are in panic and distress as no word about exemptions for victims of nazi oppression and persecution forthcoming stop doubly distressed because trusting in francis biddles assurances about protecting loyal innocent refugees they expect at least opportunity to appear before boards or tribunals similar to british example before removed from homes jobs etc again stop spiritual strenght and power of endurance will be broken in most of them if they will have to suffer terribly after they learned

Charge to the account of

$

WESTERN UNION

1206-B

CHECK

ACCOUNTING INFORMATION

TIME FILED

R. B. WHITE
PRESIDENT

NEWCOMB CARLTON
CHAIRMAN OF THE BOARD

J. C. WILLEVER
FIRST VICE-PRESIDENT

Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

to rely on the democratic refuge of the united states stop much damage is done and being caused continuously by uncertainty stop please help us to avoid the worst stop our members urge you to intervene in washington without delay and to get clear unmistakable statement whether it is really contemplated to remove thousands of refugees from their homes exactly like nazis or whether we can expect exemption stop every day counts as every day brings new harm stop thanks

Jewish Club of 1933 Inc.
228 West 4th Street
Los Angeles

letter to the Edltor of the *Seattle Post Intelligencer* from Ludwig Pick
17 February 1942

Felix Guggenheim's copy of a letter to the Editor of the *Seattle Post Intelligencer*, dated 17 February 1942, authored by Ludwig Pick, on behalf of the Seattle German refugee community. Echoing the efforts of the Los Angeles, San Francisco and Portland immigrant communities, Pick argues that German-Jewish refugees should not be classified as "enemy aliens," because of their natural antipathy to the Nazis, and the fact that they had been stripped of their German citizenship.

This copy in Guggenheim's files reflects the extent of coordination among the Los Angeles, San Francisco, Seattle and Portland communities in the days following General DeWitt's "enemy alien relocation" announcement.

USC Felix Guggenheim papers

February 17,1942

Seattle Post Intelligencer
Seattle,Washington

Att.:Mr.Russell

Gentlemen:

Much exitement and alarm has been caused by the latest news concerning evacuation of enemy aliens from the Puget Sound area.

Does it not seem unjust to classify the German Jewish refugees as enemy aliens as evidently the authorities are doing? Who are greater foes of Hitler? Have they not been deprived of homes,business,separated from their children and languished in concentration camps?

You will find that all of them applied for citizenship almost on the day of their arrival here. The fact that war was declared before the five year waiting period passed prevented their naturalization.

Actually the German Jewish refugees are not German nationals having been deprived of their German citizenship by a Nazi law of November 26,1941. Therefore,describing them friendly aliens would not mean an exemption of a general ruling. It would only serve to make clear the law and deal justly with those who are only eager to align themselves with the American people in the common purpose to crash Hitlerism.

Very truly yours,

signed Ludwig Pick

published on February 19,1942 in the Post Intelligencer.

Felix Guggenheim letter to John Tolan, US Congressman
1 March 1942

Felix Guggenheim writes to Congressman John Tolan, chair of the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee"). Guggenheim tries to make the case against classifying the German refugees—"Hitler exiles" as he terms them—as "enemy aliens" whose loyalty might be questioned.

In this letter Guggenheim suggests individual investigations and hearings at various locations around the country for the purpose of establishing the status of individual refugees (similar to the method employed in Britain during Guggenheim's two years there).

Although the letter was written only one week before the Tolan Committee would appear in Los Angeles to receive testimony, there is no mention in this letter about that testimony, which apparently was arranged at very short notice in response to this letter.

USC Felix Guggenheim papers

March 1, 1942

Mr. John H. Tolan, Chairman
Congressional Committee
204 Henry Building
Seattle, Washington

Dear Sir:

As Hitler exiles who are now American citizens we feel qualified to express the sentiment of those on our group who, because of their shorter residence in this country, have not yet been admitted to citizenship.

These people have one pathetic experience in common. They have been victims of the most cruel persecution that recent history knows of. They have been humiliated and dispossessed; they have been deprived of what they built up and loved. Hundreds of them, too old or too weak to emigrate, committed suicide. Others, determined to start a new life, came to the United States, as it seemed to them the safest place to escape from the Nazi regime.

They all have taken out their first papers. Many among the younger men have enlisted in the Army. Every one is willing to cooperate in defense work whenever and wherever called, no matter at what sacrifice for himself. He feels his own future inseparably tied up with the American cause. He is doomed if the Nazis win.

As far as these people are Jewish by "race", they have ceased to be German nationals and lost all property they were forced to leave behind in Germany under a decree of the Hitler government of November 20, 1941. Many of the non-Jews were treated in the same way by individual orders. They all, Jews and non-Jews alike, feel only one allegiance, legally and emotionally, the allegiance to the United States.

Are such people likely to help establish the Nazi regime in this country? Have they done anything to justify so paradoxical a suspicion?

There may be some Fascists among such natural born Americans as do not really know what it means to live under a dictator. There may be some Nazis among those citizens of German extraction, or their parents, who left Germany in earlier times, some of them because they disliked political or economic conditions in democratic Germany after the first World War.

The Hitler exiles, however, cannot, in justice and fairness, be grouped together with such persons whom they believe deadly foes of American democracy as well as themselves. They wish to be considered as what they are, and that means as the most reliable associates in

this war against Hitler. They wish to be relieved from the ignominious and untrue stigma which labels them as "enemy aliens." The Austrian refugees have been exempted. The German refugees are by no means less loyal than they.

It is respectfully submitted that individual investigations be arranged and hearings be held in different States and among different classes of Hitler exiles. Such hearings will, as we are certain, fully confirm the foregoing statements. If, as it is possible in any group of people, some sporadic outsider should be found, the Federal Bureau of Investigation would easily take care of him. We ourselves will be most anxious to help the FBI, with our knowledge of background and personality of such a person.

May we take the opportunity to express our fullest confidence in the work of your committee.

Respectfully yours,

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Jewish Club of 1933 letter from Elsa Schwerin, Seattle, WA
2 March 1942

Leopold Jessner, President of the Jewish Club of 1933, received this letter from Elsa Schwerin, who was coordinating the Seattle German refugee community's efforts against forced relocation. Jessner passed the letter along to Felix Guggenheim.

Schwerin discusses the Seattle community's letter-writing campaign and their testimony before the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee"), and notes that the Joint Committee of Émigré Groups, in New York, had sent a representative to attempt to dissuade the West Coast communities from testifying before the Tolan Committee.

It is a little-discussed aspect of the fight against forced relocation efforts that it was not a national fight. Rather illogically, all "enemy aliens" were to be relocated only on the West Coast, and therefore only German-Jewish refugees living there would potentially be affected. Not only did the leadership Jewish émigré community in New York fail to support the efforts of their West Coast brethren in Los Angeles, San Francisco, Seattle, and Portland, but actually made some attempts to squelch those efforts, presumably out of a desire for Jews not to be seen as troublemakers.

USC Felix Guggenheim papers

Seattle, March 2,1942

Professor Leopold Jessner
Jewish Club of 1933,Inc.
228 West 4th Street
Los Angeles,California.

Dear Professor Jessner:

The Tolan Committee holding hearings on the question of evacuation of enemy aliens from the West Coast has left Seattle to-day for Los Angeles. In the hearings of this morning a refugee of Seattle had been given the opportunity to be heard by that committee.

We feel that the Los Angeles refugee group might be interested to hear about the work that has been done here in this question and therefore we are given you the following report.

The first step taken was a wire writing campaign by American citizens and refugees to Francis Biddle,Attorney general,in Washington D.C. and to different senators and congressmen of this district protesting against classifying refugees as enemy aliens and stating that they are Hitler victims and Hitler foes.

Next letters and articles were written to newspapers describing individual cases but all keyed up to the general tune that the status of enemy alien is wrong,unfair,unjuste.

Finally as preparations for the hearings of the Tolan Committee Christian Churches were contacted, statements prepared by individuals and by the group of refugees who have become American citizens.

In each case the personal hardships resulting from an evacuation were not mentioned at all or only very briefly. Emphasis was always placed on the change of the status of refugees from enemy aliens to friendly aliens. That most of them had been expatriated by Hitler,that all of them had taken out first papers but that they had not had the time for completion of their citizenship was plainly stated. In the hearings this morning a senator of the Stae of Washington took up our case and one of the refugees, a physician who has resided here for 4 years and 3 months gave our view point. A catholic priest as a representative of the Social Workers Association,a minister representing the protestant Council of Churches, two students as representatives of the student body of the University, they all while they were mainly concerned with the Japanese problem took time to repeat again and again our plea for being taken out of the enemy classification.

In general,we had a wonderful public response. We are sorry that we have to mention,though, that we did not get help from the Jewish community ,or organizations,nor from the refugee committee. In fact, a man was sent from the Joint Committee in New York to try to keep us away from being publicly heard. As far as we know he is now on his way to Los Angeles. He had frightened refugee groups in San Fransisco and Portland not to go in front of the Tolan Committee.

8.1

Our Seattle man was thus the first refugee to appear. The Tolan Committee acted extremely sympathetic toward us and was very glad to have one of us to testify.

The action we took was based on the principle that the problem is not one concerning only the 650 refugee families in Seattle or the refugees of the West Coast, but one of all the refugees in the United States, Jewish as well as non Jews. The Los Angeles group is the next one to have the opportunity to continue the fight.

We are enclosing copies and clippings of our statements.

We would be very much interested to hear what you will do and what will take place in Los Angeles. If you want anymore information, please contact us. If you have any additional ideas that did not occur to us let us know so that we can give you our support. All communications please address to Dr. Hanna Kosterlitz, 1155 10th Avenue N. Seattle, Washington who is one of the citizens in our group.

Very sincerely yours,

Elsa Winner Schwein

5038 20th N.E.
Seattle, Wash.

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Felix Guggenheim letter to John W. Abbott,
Chief Field Investigator for the Tolan Committee
4 March 1942

Felix Guggenheim writes to John W. Abbott, Chief Field Investigator for the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee"). Guggenheim is apparently following up on a telephone conversation earlier that day with Abbott, discussing testimony before the Committee only a few days later, on 7 March 1942.

In fact, the letter only names Bruno Frank as the individual who would testify—Thomas Mann, who would also testify, is nowhere mentioned here. This suggests that the Tolan Committee testimony was arranged at very short notice, directly between Guggenheim and Abbott.

USC Felix Guggenheim papers

Jewish Club of 1933, Inc.

228 West 4th Street
Los Angeles, California
Michigan 6847

Felix Guggenheim, Dr.oec.publ. Dr.jur.
Member of the Board of Directors

March 4, 1942

Mr. John W. Abbott
Chief Field Investigator
House Committee on Defense Migration

254 Federal Building
Los Angeles, Cal.

Dear Mr. Abbott:

First of all I want to thank you for the kindness you showed me during our to-day's conversation.

According to your request I should like to repeat the following: The Jewish Club of 1933, Inc. represents the Jewish part of the Antinazi Refugees from Central-Europe, as far as they live in Metropolitan Los Angeles and intends to educate them to fit into American life.

In our estimate half of the number of as German classified aliens in California, and the majority of these aliens in Los Angeles are in fact expelled and expropriated Antinazi Refugees, who were stateless when the war broke out and who don't owe any allegiance to any country at war with the United States.

These refugees whether Gentile or Jewish feel that they are wrongly classified and begin to realize the terrible consequences of that wrong classification. In the world-struggle between Democracy and Nazism they were the first martyrs and the first victims. They bear still the scars on their bodies or on their minds or on their lives or family. It would be the worst tragedy for them to suffer again at the hands of their natural allies with whom they hoped to have found a final refuge after they have suffered so much from the Nazis at a time when the world didn't realize that it only was the first chapter. The day - may it never come - when 10 000 refugees from Nazi oppression will have to leave their homes and jobs and small businesses and in a sad procession will look for relief and assistance with the stigma of enemy aliens as additional burden,- this day would be counted by history as a first-class victory of Hitlerism against Democracy.

The real enemy aliens know why and for whom they are bearing hardship. The refugees don't have the spiritual strength and the power of endurance anymore to suffer without understanding at the hands of their friends and allies.

Jewish Club of 1933, Inc.

228 West 4th Street
Los Angeles, California
Michigan 6647

Therefore we feel obliged to offer our testimony at the hearings of the House Committee on Defense Migratory and would be deeply grateful if we would get an opportunity to present some facts regarding the following matter:

We should like to present the experiences in France, when France made the terrible mistake of having detracted her attention from the fight against fifth- columnists by fighting senselessly the loyal democratic Antinazi-Refugees in their midst. We would like to add how the President's of the United States Advisory Committee intervened and saved some outstanding personalities from being treated as enemy aliens in France, refugees who - oddly enough - now are classified as enemy aliens again in this country and are in danger of being expelled from California.

We should like to present how England acted in setting up tribunals for the refugees, who exempted the genuine refugees from restrictions and stamped in their registration certificates "refugee from Nazi oppression". When the enemy came within 20 miles of England's shore the authorities tightened the restrictions suddenly but the public opinion and the House of Commons didn't give way till the position of the refugees had been restored - and today the refugee scientists, doctors, industrialists and workers contribute gladly and successfully to the English war effort.

We should like to give the facts about the stateless refugees, about the laws expatriating them before the war, about the registration which put the details about every refugee into the files of the local F.B.I. and about the registration questionaire, which indicated the intention of treating separately the group of refugees from political, racial and religious persecution.

We should like to mention in all modesty, how valuable it would be, if democracy gives special consideration, where special consideration is due, and how confidence in democracy as protector of Nazi victims would grow.

We should like to draw attention to the many outstanding personalities among the refugees who in many fields want to attribute to the war effort.

We should like to present the plan, consistent with the proclamation of General De Witt, to license in the military areas (ofcourse not in the "spot" zones) the genuine refugees, till they will be taken out of the enemy alien group by the Administration. A plan in which trustworthy refugees of long standing and beyond suspicion could give valuable assistance.

Jewish Club of 1933, Inc.

228 West 4th Street
Los Angeles, California
Michigan 6847

This all we should like you to hear from a leading personality among the refugees, the outstanding writer Dr. BRUNO FRANK, 513 No. Camden Drive, Beverly Hills, phone: CR 1-9243, who is prepared to appear at the hearings at any time convenient to you.

Respectfully Yours,

(Felix Guggenheim)

John J. McCloy, Assistant Secretary of War
telegram to Jewish Club of 1933
26 March 1942

The Los Angeles hearings of the Tolan Committee had taken place on 7 March 1942. Less than three weeks later the Jewish Club of 1933 received this telegram from John J. McCloy, Assistant Secretary of War, assuring the German refugee community that they had nothing to fear regarding relocation. There would be curfews and travel restrictions for another year, but the decision had already been made that there would be no relocation of German "heimatlos refugees."

Most of the German refugees were considered "heimatlos", or "stateless." Germany had revoked their passports, and not yet having been naturalized as Americans they were technically citizens of no state. However, this was not true of all the German refugees. Thomas Mann enjoyed such international stature that when the Nazis stripped him of his German citizenship, Edvard Beneš, President of Czechoslovakia, had awarded him citizenship there. So although he testified before the Tolan Committee in support of his fellow refugees, with his Czech passport he was not himself considered an "enemy alien."

USC Felix Guggenheim papers

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JEWISH CLUB OF 1933 INC

228 WEST 4TH ST LOSA

MATTERS BEING WORKED OUT ON THE WEST COAST IN MY JUDGMENT IN A VERY FAIR AND CONSIDERATE MANNER ARMY OFFICERS THERE ARE IN TOUCH WITH REPRESENTATIVES OF THE HEIMATLOS REFUGEES AND I AM SURE THEIR INTERESTS WILL BE PROTECTED JUST AS FAR AS IS CONSISTENT WITH MILITARY NECESSITY

JOHN J MCCLOY ASST SECY OF WAR WASHN DC.

658P

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

Felix Guggenheim letter to Julia Seider, immigration attorney
31 March / 1 April 1942

Felix Guggenheim writes to his immigration attorney in New York, outlining his full-time efforts in dealing with the refugee issues, including testifying before the Tolan Committee. He notes that his involvement was far greater than he had originally foreseen:

> *In the meantime I had stopped since weeks writing private letters, as during the last 6 weeks I devoted my time from early in the morning till late in the evening to the "refugee" problem.*
>
> *I became a kind of spokesman here and got much more involved than I foresaw at the beginning. The preparation of the hearings before the Congressional Committee (my own testimony was the smallest part of the necessary work), contact with the American-Jewish organizations, with Washington, ...*

The "6 weeks" that Guggenheim mentions in connection with "*the "refugee" problem*" would have dated back only as far as mid-February—not to 22 January. This again suggests that the original 22 January meeting at William Stagen's apartment had been focused only on State and local issues, and that it was only some weeks after the 22 January meeting that Guggenheim's scope of the work had expanded to include a response at the national level under his direction.

USC Felix Guggenheim papers

Felix Guggenheim
238 Tower Drive
Beverly Hills, Cal.

March 31
April 1 1942

Dear Julia:

You answered my letter of February 11 so promptly and so encouragingly and so full of real friendship and sympathy that I felt so touched and happy as I always do when I get one of your written masterpieces.

In the meantime I had stopped since weeks writing private letters, as during the last 6 weeks I devoted my time from early in the morning till late in the evening to the "refugee" problem.

I became a kind of spokesman here and got much more involved than I foresaw at the beginning. The preparation of the hearings before the Congressional Committee (my own testimony was the smallest part of the necessary work) , contact with the American-Jewish organizations, with Washington , with the different offices here couldnt be done in spartime. Besides that the attempt to keep the refugees from unwise and dangerous reactions had also to be made in countless conversations and in a speech before the refugee organization.

The situation will interest you not only from the Jewish, but also from the American and from the legal point of view:

For reasons nobody can understand Francis Biddle kept the expatriated refugees in the "enemy alien" group since war broke out. In all other questions he decided so liberally and so democratically, that opposition - see the Japanese problem- was inevitable. He declared the Hungarians to be friendly aliens (Hungary declared war against USA), also the Austrians , the Danzigers and other groups with a notorious high percentage of Nazi-sympathizers. Even those Germans , who obtained (with or without the Gestapos help) another passport before entering this country arent enemy aliens according to Biddles proclamations . But the refugees are. Even those who have been saved from being treated as enemy aliens in France by the President are now enemy aliens in this country. I would like you to read in the "Aufbau" (Lene can give it to you) what Thomas Mann and Bruno Frank said about it before the Tolan Committee.

The practical consequenzes werent too hard. You remember the Camera and Radio restrictions . Of course they were useless as long as any

real spy could buy a new camera in every camerashop and even keep it if he happened to be a naturalized citizen. So you can rely on the Gestapo that they choose their agents among citizens.
What we objected against was the moral discrimination, to call Hitlers first enemies and first victims "enemy aliens". First the Jews were called the Warmongers and now a large Jewish group is labelled as enemy aliens. I will never understand, why Biddle did that and I will never understand, why the American Jews didnt sense the danger for them, if a big Jewish group is more and more identified with the enemy of the American people.
As in other countries the action against the innocents detracted the attention from the action against the dangerous. And so it came to a terrible outburst of anger here, that nothing happened against the Japanese. Again legal questions were involved: Many Japs are citizens. So the whole problem without correction the mistake of wrongly classifying the refugees, has been handed to the military authorities here. The general - and I even cant blame him- thinks that it is not of his business to correct the mistakes of the Department of Justice and he treats as enemies whoever is labelled as such by the government. Therefore he wants to evacuate all of them and in the meantime imposed a curfew at 8 oclock in the evening and restricted the "enemies" within 5 miles of their residence, if they are not on the place of their employment.
Consequence: For the first time in American history a Jewish group couldnt go to the Friday evening services and to the Passover evening services. No exceptions!
There are about 6000 families on the Westcoast of German origin, half of them Jewish refugees.
As the Jews are salesmen, doctors, nurses and similar occupations, they loose their jobs quite naturally, if they cant go out after 8 and cant visit customers in daytime.
A pregnant women asked for exemption if the child should come during night hours, so she could go to the hospital. The answer was: No.
A refugee professor working on important research had to stop, because the library is more than 5 miles from his residence.
Our participation in the State Guard, Red Cross, Air Raid Warden, and so on is over, because it takes place after 8 or more than 5 miles from where we live.
The bitterness and loss of faith among the refugees is growing to terribble proportions. The Nazis quite naturally must enjoy themselves that the refugees from Nazi oppression are on the spot again in USA and we will see very shortly the Nazi Propaganda in Southamerica and occupied Europe what to expect from America.
It is not a nice picture and even for my optimistic attitude it is difficult to console my friends and to explain why no answer from Washington is forthcoming. The moral damage is much higher than the economic, and it will be difficult to restore faith in democracy. I see one of my important tasks in opposing bitterness and dispair among the refugees and in encouraging them that Washington will do something, but the power of endurance among them is broken and the same people who could stand persecution by the Nazis courageously cant bear to be treated as Nazis and enemies at the hands of their friends and natural allies.
If there were one reason benefitial to the American war effort, they would sacrifice everything gladly to defeat Hitler. But the military authorities make no secret, that there is no reason of military importance to treat as like that and they would be glad to leave us alone, if only Washington would take the label "enemy aliens" from us, which as everybody admits, doesnt fit us.
I wrote such a long letter, because I feel that on the Eastcoast people have little idea what is going on here and what issues of democratic importance and of Nazi propagande and of comfort to the real enemy are involved.

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Aufbau open letter
(weekly newspaper of the national German-Jewish emigré community)
6 April 1942

Naming Felix Guggenheim to the editorial staff, a month after the Los Angeles community testimony before the Tolan Committee.

AUFBAU

American Jewish Weekly in German and English

Serving the Interests and the Americanization of the Immigrants.

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MANFRED GEORGE, EDITOR

April 6, 1942

To whom it may concern.

This is to certify that

Mr. Felix Guggenheim, 238 South Rowe Drive, Beverly Hills, California

is permanently assigned to the editorial staff of Aufbau, (Reconstruction).

Aufbau has a nationwide circulation of 35,000 copies and is written in English and German. It serves the Americanization and the interests of all immigrants and the combat of racial intolerance.

Aufbau is one of the few foreign language papers that are members of the Audit Bureau of Circulations.

AUFBAU
67 WEST 44th STREET
NEW YORK CITY

Manfred George

Offices: 67-73 West 44th Street, New York City . . Telephone: VAnderbilt 6-3168
Published by the New World Club, Inc.

Felix Guggenheim travel permit
13 April 1942

Travel permit to allow Felix Guggenheim to travel to San Francisco to discuss German refugee issues with US Army Western Command. Military authorities had been given considerable control over "enemy alien" issues, and this permit is further evidence that Guggenheim was representing the Los Angeles refugee community in connection with relocation issues and curfew and travel restrictions.

USC Felix Guggenheim papers

ADDRESS REPLY TO
"UNITED STATES ATTORNEY"
AND REFER TO
INITIALS AND NUMBER

DIG:CA

DEPARTMENT OF JUSTICE

UNITED STATES ATTORNEY

SOUTHERN DISTRICT OF CALIFORNIA

LOS ANGELES

April 13, 1942.

ALIEN ENEMY PERMIT TO TRAVEL

FELIX GUGGENHEIM whose residence is at

238 Tower Drive
Beverly Hills, California

and who is of German nationality, Alien Registration No. 7516041 is hereby granted a permit to travel from Beverly Hills, California to San Francisco, California

Date of departure: April 13, 1942, in the evening.

Date of return: April 16, 1942.

Route to be followed: Inland.

Carrier to be used: Train.

Purpose of travel: Interview at the Western Command, San Francisco, California

This permit is good until: Revoked.

Right thumb print: Waived.

Wm. Fleet Palmer

WM. FLEET PALMER
United States Attorney

Felix Guggenheim letter from John H. Tolan, US Congressman
17 April 1942

Felix Guggenheim received this letter from Congressman John Tolan, Chair of the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee"), acknowledging and thanking him for his testimony before the Committee.

USC Felix Guggenheim papers

SEVENTY-SEVENTH CONGRESS
John H. Tolan, Calif., *Chairman*
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Robert K. Lamb, *Staff Director*

Congress of the United States
HOUSE COMMITTEE INVESTIGATING
NATIONAL DEFENSE MIGRATION
Washington, D. C.

April 17, 1942

Dr. Felix Guggenheim
Member of Board of Directors
Jewish Club of 1933, Inc.
228 West Fourth Street
Los Angeles, California

Dear Dr. Guggenheim:

On behalf of the members of this Committee I wish to express my thanks for your contribution to our recent inquiry into problems connected with the evacuation of enemy aliens on the West Coast.

Please be assured your contribution will receive careful consideration in the forthcoming report based on this inquiry.

With kindest personal regards, I am

Sincerely yours,

John H. Tolan

JOHN H. TOLAN
Chairman

Felix Guggenheim letter to Julia Seider, immigration attorney
18 April 1942

Felix Guggenheim writes to his immigration attorney in New York, discussing his recent trip to US Army Western Command in San Francisco, and expressing his frustration that, between Western Command, the Department of War in DC, and the Department of Justice in DC, no one wants to take responsibility for formally resolving the question of the forced relocation of refugees; each, he notes, blames the others for the impasse:

> "*I have a letter from the Western Command saying, that our reasons are "persuasive", but that they have no authority to help us, because the Department which classified us as "enemies" would have to reclassify us and than the military authorities would be only to glad, to get rid of us and to concentrate on the real enemies. They therefore suggest, that we pursue our remedy with the Department of Justice and that we neednt worry any more about the military, if the Department which labelled us enemies would label us friends. No military reasons to treat us as enemies. I have a letter from the Department of Justice, that unfortunately they agreed, that the whole thing is handled by the Department of War and to their regret they had to transfer our complain there. (They purposely don't mention, that we only have to do with the military, because the Department of Justice included us in the bunch of people which have been delivered to the military for treatment as enemies, and that they can reclassify us whenever it pleases them.)*
>
> *I have a very nice letter from the Department of War, that they are very sympathetic but that the Westcoast Situation is under the authority of the Western Command. Therefore they suggest, we should explain our case to the Western Command. - What the Werstern Command thinks, is contained in the first of the 3 letters, I mentioned before.*
>
> *So our main task is, to find somebody, who doesnt prefer to shift responsibility to somebody else. I repeat: We never found somebody, who said: I have a good reason, to treat you like Nazis and that is the reason. See whether you can refute my reason. If not you remain enemy aliens, if yes we change it. That would be a clear and easy situation. But everybody says: You are absolutely right, but there is a war, which brings injustice to the innocents, and I am not competent, to deal with that question, but try there and there, perhaps they are competent. But it turns out they arent either of they at least pretend not to be.*"

USC Felix Guggenheim papers

Felix Guggenheim
238 Tower Drive
Beverly Hills, Cal.

April 18, 1942

Dear Julia:

Your encouraging letter of April 6 was really a great pleasure and consolation to me. I can assure you , that I am full of fight and that I do my best . The day before yesterday I came back from San Francisco , where I had some talks at the Western Command and I hope , that in the end our case is a too strong one , that anybody wants to take the responsibility for an evacuation procession of 10 000 antinazi refugees, which wouldnt remain as unnoticed as most of the events till now. I enclose some information which is not only for you but which you are entitled to show to everybody in authority you think should know about it. For instance a person like Sol Bloom.

The most deplorable position is that of the Department of Justice, because they are responsible for the whole mess - and already attacked for being too liberal in many instances - just want to prove that they arent-in the only case , where being liberal would help more to win the war , than giving freedom of speech and action to those who use it to destroy America . It is a funny thing, that in all countries the fascists were allowed to take advantage of the rules of the game in spite of their making clear, that they will use that advantage to destroy the game. Please understand me correctly: I nowhere found bad faith, bad intention, antisemitism or things like that, but I found plenty of red tape, unwillingness to take responsibility or to correct a mistake even if its consequences grow to ever bigger proportions - and real fear, that justice for the refugees would lead to antisemitic counteraction, because most of the refugees are Jews. Blindness for the clear fact, that food for antisemites grows somewhere else and that treating a Jewish group as enemies of the American people must lead to more antisemitic feelings among the ordinary people than anything else. I have a letter from the Western Command saying, that our reasons are "persuasive", but that they have no authority to help us, because the Department which classified us "enemies" would have to reclassify us and than the military authorities would be only to glad, to get rid of us and to concentrate on the real enemies. They therefore suggest, that we

pursue our remedy with the Department of Justice and add that we neednt worry any more about the military, if the Departement which labelled us enemies would label us friends. No military reasons to treat us as enemies. I have a letter from the Department of Justice , that unfortunately they agreed , that the whole thing is handled by the Department of War and to their regret they had to transfer our complaint there. (They purposely dont mention , that we only have to do with the military, because the Departement of Justice included us in the bunch of people which have been delivered to the military for treatment as enemies, and that they can reclassify us whenever it pleases them.)

I have a very nice letter from the Department of War, that they are very sympathetic but that the Westcoast Situation is under the authority of the Western Command. Therefore they suggest, we should explain our case to the Western Command. - What the Western Command thinks , is contained in the first of the 3 letters , I mentioned before.

So our main task is, to find somebody , who doesnt prefer to shift responsibility to somebody else. I repeat : We never found somebody , who said: I have a good reason, to treat you like Nazis and that is the reason. See whether you can refute my reason. If not you remain enemy aliens,if yes we change it. That would be a clear and easy situation. But everybody says: You are absolutely right, but there is a war , which brings injustice to the innocents , and I am not competent , to deal with that question , but try there and there , perhaps t h e y are competent . But it turns out they arent either or they at least pretend not to be.

But my good hope is the following: Till now it was easier and less troublesome, to evade our case and to do nothing. Through our efforts it perhaps will soon be less disagreable to do something about it than to let things go on like that and more and more persons know about it and start critizising. So in fact I am in good mood and full of hope , because in the end somebody must be strong enough to say : stop that thing and take your allies without asking them where they are born as long as they like what you like and hate what you hate!

Heinz and Adelheim: I am so glad , you take care of it ; I appreciate especially your last letter, which I could show to Mr. Beyer.

I enclose a few remarks about both cases, which may be helpful. (Also a letter of the Council of Jewish Women , which gives some hints.- Mr. Beyer answered already, that you will represent him and that he therefore doesnt need their help)

I hope , my long letters dont bore you. - I am so glad you assist Lene in her house-trouble. Our heartiest regards to the Seider - family and all the best to all of them. Our special love and our special wishes to you -

ever sincerely yours

Thanks for the Latin proverb! Another latin motto had to guide me during the last weeks - as I met many who dont like frank and plain talk - : suaviter in modo, fortiter in re. And being"suaviter" is very difficult in a newly acquired language.

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Jewish Club of 1933 memorandum
25 April 1942

Memorandum from the Jewish Club of 1933 formally naming Felix Guggenheim as their representative for all discussions regarding the forced relocation of German-Jewish refugees, and the reclassification of those refugees as "refugees from Nazi oppression" rather than "enemy aliens."

USC Felix Guggenheim papers

Jewish Club of 1933, Inc.

228 West 4th Street
Los Angeles, California
Michigan 6847

April 25, 1942

To whom it may concern:

We have charged Dr. Felix Guggenheim, 238 So. Tower Drive, Beverly Hills, member of our Board, to take care as our assistent of all negotiations and of all work connected with the evacuation problem and the reclassification of the refugees. Dr. Guggenheim serves as our honorary representative.

JEWISH CLUB OF 1933, INC.

Leopold Jessner

Leopold Jessner, Chairman

Felix Guggenheim letter to John Tolan, US Congressman
28 April 1942

Felix Guggenheim writes again to Congressman John Tolan, chair of the House Select Committee Investigating National Defense Migration (commonly known as the "Tolan Committee"). Guggenheim again makes the case for reclassifying the German-Jewish refugees as something other "enemy aliens". He notes that the "military authority" (by which he means both the War Department and Army Western Command) has indicated that there is no military reason for classifying—and treating—German-Jewish refugees as"enemy aliens".

Guggenheim also discusses the impact of curfew and travel restrictions, but he does not mention relocation, as this is no longer a question.

USC Felix Guggenheim papers

Jewish Club of 1933, Inc.

228 West 4th Street
Los Angeles, California
Michigan 6647

Dr. Felix Guggenheim
Member of the Board

April 28, 1942

The Honorable John H. Tolan
Chairman, House Committee investigating
National Defense Migration
Washington, D.C.

Dear Mr. Tolan:

I highly appreciate your kind letter of April 17. Not only for me , but for all refugees on the West-Coast the "TOLAN - COMMITTEE" was a sensational and touching experience: We saw democracy living and working even in war-time and we realize, that there is no other country in the world to-day , where the proceedings we witnessed would have been possible. The governor and the mayor, prominent people and simple folks , rich and poor , white and oriental, everybody could testify , plead and speak his mind without being afraid or intimidated - and the congressmen representing the American people listened carefully , patiently and with profound sympathy , eager to get the correct picture and to attribute to a fair and just solution.

This we will never forget and we all are deeply grateful to you and your associates.

Your hearings gave us the first real hope, that the stateless antinazi refugees, unfortunately born in Germany and therefore subjected to restrictions which were devised against real enemies,would be reclassified and no longer mixed up with their own enemies , the Nazis.

In the meantime we learned from military authority, that there is no military reason to keep us among the enemy aliens and that there are no objections to our being taken out.

This was of great importance for us, because we would have been ashamed to pursue our remedy any further , if there had been one single reason - benefitial to the American war effort- which would have required a continuation of our unfortunate classi-

Jewish Club of 1933, Inc.
228 West 4th Street
Los Angeles, California
Michigan 6847

fication.
Of course it was a terrible shock for the refugees, when instead of reclassification an 8 o'clock curfew and 5 miles restrictions were applied against them exactly like against Nazis and Fascists.
The consequences were severe: Night-workers and people working overtime lost their jobs. As especially in Los Angeles the distances between residential districts and business districts are more than 5 miles these persons coulnt even look for new jobs. The travelling salesmen, drivers, nurses and similar occupations are prevented by the 5 miles restriction to continue. No physician can visit his patients or a hospital after 8 o'clock.
Jewish religious services on Friday evenings and Passover could not be attended by Jewish refugees.
All patriotic activities - so important for the Americanization of immigrants (auxiliary state guard, air raid warden, red cross training, citizenship school) and practised after working hours in the sparetime- have been stopped. The splendid relationship between American neighbours and refugees has been interrupted in many instances as our American friends learning that the government keeps us indoors after working hours like dangerous Nazis must cease to regard us as refugees, friends and natural allies.
We still are full of confidence , that in the end a reclassification will be forthcoming , and that a method will be established to distinguish between friend and foe , between victim and oppressor. But in the meantime mental and material hardship , much damage , much loss of faith and hope, despair among our children, who feel repulsed and segregated again, has occured . Therefore every day counts and it is only too natural , that we are praying , help may come in time.
Your and your associates generous, humane and understanding attitude gives me hope that you will forgive my imposing on you with this along and detailed letter.

Respectfully and sincerely yours

Felix Guggenheim

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Jewish Club of 1933 memorandum
30 April 1942

Memorandum from the Jewish Club of 1933 to their membership indicating that they have received formal word from Washington, confirming that relocation will not occur. The memorandum also indicates that curfew and travel restrictions will remain in place, and cautions that violations may jeopardize the community's position.

USC Felix Guggenheim papers

J E W I S H C L U B O F 1933 I N C . ,

228 West 4 Street 4 - 30 - 1942 MI 6847

We have received word from Washington repeating the previous information that we can expect a satisfactory solution of the evacuation and curfew problem on the West Coast eventually. Therefore we are doubly anxious that in the meantime no incident regarding violation of regulations may occur in which any refugee may be involved.

We mention this because we had a conversation with Mr. Attilio di Girolamo, Assistant United States Attorney, during which he informed us that the United States Attorney's office has learned of many violations of curfew and five miles regulations. He added that he has received instructions to absolutely prosecute anyone violating any regulations issued either by the Western Defense Command or by the United States Attorney General.

In case anybody wants to avoid certain hardships by changing residence within the Metropolitan of Los Angeles, we are gladly prepared to give information about the formalities involved.

JEWISH CLUB OF 1933 Inc.,

Leopold Jessner, Chairman

Memorandum from Council of Jewish Emigrés, San Francisco, CA
29 May 1942

Richard Grau, Chairman of Council of Jewish Emigrés of San Francisco and the Bay Area, forwarded this memorandum to Felix Guggenheim. The memorandum informs doctors in the San Francisco of special permits they can obtain for making house calls during curfew hours. Such special permits were part of the process of modification and gradual lifting of curfew and travel restrictions that would result in all restrictions being lifted within a year.

USC Felix Guggenheim papers

Council of Jewish Emigrés

of San Francisco and the Bay Area

Richard Grau, Chairman
1914 Vine Street, Berkeley
Telephone: AShberry 8399

Albert Steiner, Secretary
172 Palm Avenue, San Francisco
Telephone: BAyview 6919

Frederick Lambert, Treasurer
41 Palm Avenue, San Francisco
Telephone: EVergreen 2642

Address all communications to:
172 Palm Avenue, Apt. 2
San Francisco, California

May 29, 1942.

Dear Doctor:

RE: Emergency calls of doctors.

We want to inform you about the following:

Doctors will upon application obtain permission in case of necessity to call on a patient during the curfew hours.

(1) The permit should be secured in time if the necessity of the call can be foreseen.

(2) If an emergency call reaches the doctor at night he shall notify the officer on duty at the Whitcomb Hotel enabling him to make a record. Such notification shall be made before following the call.

These special permits shall be confined to severe cases where immediate medical help is of great importance.

In the event that the obtaining of permits should meet with difficulties please inform Mr. Richard Grau.

Very truly yours,

Albert Steiner.

Albert Steiner.

Felix Guggenheim letter from Richard Grau, Berkeley, CA
31 May 1942

Richard Grau, who was coordinating the San Francisco German refugee community's reclassification efforts writes to Felix Guggenheim to discuss curfew and travel restrictions. Again, the Los Angeles community's efforts were paralleled by similar efforts in San Francisco, Seattle, and Portland.

USC Felix Guggenheim papers

Richard C. Grau.

1914 Vine Str.
Berkeley, Cal.

May 31, 1942.

Dear Mr. Guggenheim:

I refer to our telephone conversation and to the communication of the Council of Jewish Refugees of San Francisco and the Bay Area which you will have received in the meantime. For your further information I enclose a confidential information sheet.

I was informed by a doctor that he was called for a delivery last night, and that he informed the officer on duty at the Western Defense Command, Whitcomb Hotel, who made a record on the case. However, it appeared that the officer was not informed on the new policy. The officer had no objection that the doctor performed his duty in view of the fact that the doctor had received official information from his organization. As a matter of course, I shall communicate with the Command and ask for instructions to be given to the offices and officers in charge.

Very sincerely yours,

Richard Grau

William Stagen letter to Leopold Jessner
1 June 1942

Felix Guggenheim's carbon copy of William Stagen's letter to Leopold Jessner, President of the Jewish Club of 1933, discussing a slate of nominations for the Board of Directors of the Club (the copy bears Stagen's manuscript annotation "for Guggenheim," dated 2 June 1942).

In this period, Stagen appears to be primarily concerned with internal Club politics. Guggenheim's archives contain little correspondence involving Stagen in this period, and none of it contains even incidental references to "reclassification" or "immigrants' rights" issues.

It's also worth noting that Stagen wrote using "Wm. E. Stagen Realtor" letterhead, reflecting the name change from Stadthagen, and using his realty firm's address of 6822 Sunset Boulevard, rather than his home address of 9269 Burton Way.

USC Felix Guggenheim papers

Copy

Wm. E. Stagen
Realtor
6823 Sunset Blvd.
Los Angeles
HE 3175

for information and as file
6/4/42

June 1, 1942

Professor Leopold Jessner,
President, Jewish Club of 1933, Inc.,
338 West Fourth Street,
Los Angeles, California.

My dear Professor:

I received your special delivery letter of May 29th and the list prepared by the Nominating Committee.

Mr. Guggenheim and Mr. Salinger will talk about it at your tomorrow's meeting.

May I reaiterate the hope expressed by you that in case our mutual cooperation should materialize it will be a pleasant one and accrue to the benefit of the organization.

Very truly yours,

Wm. E. Stagen

William Stagen letter to Leopold Jessner
15 June 1942

Felix Guggenheim's copy of William Stagen's letter to Leopold Jessner, President of the Jewish Club of 1933, further discussing internal Club politics in response to Board meetings held on 7 June and 12 June.

In outlining his complaints, Stagen expresses his concern that "*in our opinion there should be no place in the affairs of the Club for the discussion of certain political ideologies.*" and states his decision not to run for a seat on the Board of Directors (Guggenheim was already on the Board by this point). Again, all of the Stagen correspondence from this period in Guggenheim's files concerns the politics of the Jewish Club of 1933, and not the "reclassification" issues which Guggenheim was handling.

And again Stagen wrote using "Wm. E. Stagen Realtor" letterhead, using his realty firm's address of 6822 Sunset Boulevard, rather than his home address of 9269 Burton Way. However, in this instance he signs the document as "Wm. E. Stadthagen."

USC Felix Guggenheim papers

COPY

Wm. E. Stagen
Realtor
6322 Sunset Blvd.
Los Angeles
HE 3175

June 15, 1942

Prof. Leopold Jessner
President, Jewish Club of 1933, Inc.
222 West Fourth Street
Los Angeles, California

My dear Professor:

When we met in the lounge of Mr. Bernstein's hotel on May 16th, I stressed the point that in our opinion there should be no place in the affairs of the Club for the discussion of certain political ideologies, and that any creation of antagonism to that effect must be forestalled. You agreed on this emphatically.

Last week we were sorry to learn about -

1. the content of your statement at a Board meeting on June 7th.

2. Mr. Pinkus' special delivery letter of June 7th to Mr. Guggenheim.

3. the remarks made by Mr. Royce at the Board meeting of June 12th.

These various utterances do not reflect that spirit of good will and cooperation indispensable to the mutual confidence which we had hoped for as the basis of a "Einheitsliste" as suggested by some Board members for us to run on for elections.

For this reason my friends and myself have decided not to be candidates on such "Einheitsliste".

In closing I wish to say that we cannot but approve of the part of Mr. Salinger's statement of June 12th dealing with questions of general interest (the other part being a personal matter of his), and of Mr. Guggenheim's letter answering Mr. Pinkus.

I would appreciate your submitting this letter to the other Directors at the next Board meeting.

Very sincerely yours,

Wm. E. Stadthagen

Leopold Jessner letter to William Stagen
19 June 1942

Felix Guggenheim's copy of Leopold Jessner's response to William Stagen's letter of 15 June 1942 to Leopold Jessner, President of the Jewish Club of 1933. Jessner addresses Stagen as "My dear Mr. Stagen", and writes to him at his business address of 6822 Sunset Boulevard, not his home address on Burton Way.

Felix Guggenheim's membership on the Club's Board of Directors had been the result of pressure exerted by Guggenheim, Stagen and others who wanted to alter the ideological direction of the Jewish Club of 1933. However, this collaboration was limited to issues affecting the Club and its leadership, and should not be mistaken for collaboration on matters relating to Guggenheim's "reclassification" efforts.

USC Felix Guggenheim papers

COPY

June 19, 1942

Mr. Wm. E. Stagen
6323 Sunset Blvd.
Los Angeles, California

My dear Mr. Stagen:

I have received your letter of June 15th, and I am sorry to learn that you have decided not to be candidates on a "Einheitaliste". In my opinion that decision of yours must be based upon a misjudgement of some occurences to which you refer in your letter:

1. My statement cannot be regarded as a cause but as a consequence. The fact of the matter is that my statement was consequential to a speech made by Mr. Selinger, in which he refused to debate a proposed "Einheitaliste" on the ground that it represent a Solid block of Board-members who are ideologically opposed to the "group".

2. Mr. Pinkus addressed a letter to Dr. Guggenheim as a purely private affair. I am not of the opinion that Mr. Pinkus' letter although it dealt with Club-discussions should be regarded as an official statement. It was written on Mr. Pinkus' private stationary and not on the stationary of the Jewish Club of which Mr. Pinkus has some for his official correspondence.- Furthermore Mr. Pinkus' letter dealt virtually exclusively with the relationship between spiritual faith, and the activities based upon that faith. I am at a loss to understand in which way Mr. Pinkus' letter might have prejudiced any antagonism which was not prejudiced previous to his letter.

3. Concerning the remarks of Mr. Regee, I believe that all the participants in the negotiations about the "Einheitaliste" were under the impression that they were a very clear, subjectively justified repudiation of the methods of negotiation which were forced upon the Committee by nobody but Mr. Guggenheim and Mr. Selinger and which were entirely new to the Jewish Club of 1933.

As I fully appreciate the seriousness of the now existing situation I wonder whether you, dear Mr. Stagen, for yourself have ever stopped to answer the question whether your representatives really were best qualified to work out a true understanding which was and is essential in any negotiation.

In closing I wish to say that it cannot lead anywhere to ignore differences which are obviously in existence; it is better to talk them out. If it proved to be impossible to iron out those existing difficulties it is better to say so. I never meant to say that I wish to ban discussions which prove to be necessary in order to attain an understanding. It is the regrettable fact that the "Einheitsliste" did not materialize because - for which reasons ever, I do not know - Dr. Guggenheim fiercely refused to talk out the differences which were at the very base of the understanding I desired not less than anybody.

I have caused your letter and my answer to come to the attention of the members of the Board of Directors of the Jewish Club of 1933.

Very sincerely yours,

Leopold Jessner

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Jewish Club of 1933 letter from City of Los Angeles Defense Council
26 June 1942

The Jewish Club of 1933 received this letter from George Hjelte, Director of the Los Angeles Defense Council, in response to a 5 June 1942 letter from Felix Guggenheim, concerning the possibility of German immigrants serving in the Citizen's Defense Corps. A number of non-citizen German immigrants had served in the California State Guard before the war, but were summarily discharged following the attack on Pearl Harbor.

The German refugees wanted to demonstrate their loyalty and their commitment to their new country by returning to some form of civil defense service. Hjelte expresses his concern regarding the ability of the immigrants to provide proof of expatriation, or forced expulsion, from Germany, and notes that he has referred this question to his superiors.

USC Felix Guggenheim papers

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CARLETON M. TIBBETTS

DEFENSE COUNCIL
CITY OF LOS ANGELES
City Hall

GEORGE HJELTE
SECRETARY-DIRECTOR
TED B. GEISSLER
ASST. SECRETARY-DIRECTOR

June 26, 1942

The Jewish Club of 1933, Inc.
228 West Fourth St.
Los Angeles, Calif.

Gentlemen:

Your communication of June 5 with reference to enrollment of expatriated citizens of Germany in the Citizens' Defense Corps has been brought to the attention of the Defense Council. I was instructed to refer the matter to the Director of the Southern California Sector of the Office of Civilian Defense, Mr. Willard Keith, for his advice concerning the matter. It is desired that Mr. Keith confirm the opinion expressed in the New York Region by Mr. Harold W. Newman, Jr., Acting Chief of the Legal Division of the Office of Civilian Defense, according to a copy of a communication to Mrs. Oswald B. Lord which was enclosed with your letter to me.

One question that we have requested Mr. Keith to answer is whether evidence of "expatriation" is necessary in order to admit one to membership in the U. S. Citizens' Defense Corps, and if so what the nature of such evidence should be. In other words should a local Defense Council enroll a former citizen of Germany upon his mere statement that he fled the country under duress?

We appreciate your interest in this matter and your desire to have a part in the civilian defense activities in the local community, and as soon as we have received a reply from Mr. Keith you will be further advised.

Sincerely yours,

George Hjelte

George Hjelte, Director
Los Angeles Defense Council

GH:ch

Felix Guggenheim telegram from Richard Grau, Berkeley, CA
9 July 1942

Richard Grau, who was coordinating the San Francisco German émigré community's reclassification efforts, writes to Felix Guggenheim to report that US Army Western Command is still deferring the question of "enemy alien" reclassification to the Department of Justice, in Washington.

USC Felix Guggenheim papers

CLASS OF SERVICE
This is a full-rate Telegram or Cablegram unless its deferred character is indicated by a suitable symbol above or preceding the address.

WESTERN UNION

1220

SYMBOLS
DL = Day Letter
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A. N. WILLIAMS, PRESIDENT
NEWCOMB CARLTON, CHAIRMAN OF THE BOARD
J. C. WILLEVER, FIRST VICE-PRESIDENT

The filing time shown in the date line on telegrams and day letters is STANDARD TIME at point of origin. Time of receipt is STANDARD TIME at point of destination

(43)

SR6 114 NT COLLECT=DA BERKELEY CALIF JUL 9

1942 JUL 10 AM 7 48

FELIX GUGGENHEIM= 72 + 7
238 TOWER DR BV=

HAD TODAY FIRST CHANCE TO SEE COLONEL NO LIFTING OF RESTRICTIONS IN VIEW AND EXEMPTION OF THE GROUP IS ONLY POSSIBLE IF JUSTICE DEPARTMENT MAKES THE FIRST MOVE MR ROWE AND MR ENNIS WILL COME TO SANFRANCISCO IN 2 WEEKS FROM NOW I AM PREPARING TO GET IN TOUCH WITH THEM BY WASHINGTON MONDAY I SHALL TELEPHONE THE COLONEL TO GET HIS ANSWER ON THE DOCTOR PROBLEM AND LOSANGELES AS A UNIT

AS THINGS STAND UNFORTUNATELY I SEE NO WAY FOR SECOND ORAL INTERVIEW IN VIEW OF THE SCHEDULE OF THE COLONEL MY APPOINTMENT WAS CANCELLED SEVERAL TIMES AND TODAY THERE WAS ONLY MOST LIMITED TIME FOR THE WHOLE DISCUSSION FURTHER INFORMATION MONDAY=

RICHARD GRAU.

2 GRAU.

mf

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

Jewish Club of 1933 memorandum by Felix Guggenheim
15 July 1942

Memorandum from the Jewish Club of 1933, authored by Felix Guggenheim informing the membership of some relaxation of travel restrictions for salesmen while pursuing their business. Thus, by 15 July 1942, salesmen were no longer required a special permit to travel more than five miles from their place of business.

At this point Guggenheim's work comes under the moniker of "Committee for reclassification of refugees classified as enemy aliens," as there is no longer any question of forced relocation.

USC Felix Guggenheim papers

J E W I S H C L U B O F 1933 I N C .,

228 West 4th Street MI 6847 Los Angeles, Calif.

The Committee for reclassification wants to make known the following information, given by the Western Defense Command Office of Assistant Chief of Staff, Civil Affairs Division, W C C A, Chief of regulatory section:

" In the case of salesmen there is some
" modification of the travel regulations.
" They may travel - while actively pur -
" suing their calling - within their
" immediate Metropolitan area during
" non-curfew hours.
" No special permit is necessary for such
" modification. "

The Committee advises everybody among our members whom it may concern to carry this information with him whenever he has to pursue his calling within the Metropolitan area of Los Angeles but outside of his 5 miles district.

Committee for reclassification of
refugees classified as enemy aliens.

JEWISH CLUB OF 1933 INC.,
by; Felix Guggenheim

L.A.July 15th,1942

Jewish Club of 1933 minutes of the Board of Directors
meeting of 30 August 1942

Minutes of the Board of Directors' meeting of 30 August 1942 reflect William Stagen's (still using his original name, Stadthagen) role within the Jewish Club of 1933.

Felix Guggenheim reported on the issue of reclassification (Item 8), recording a meeting with other Board members (notably *not* including William Stagen), regarding efforts to engage the Los Angeles civil defense and police authorities. Such engagement was opposed by the Federation of émigré groups in New York, who feared the consequences of overt political action. This opposition was supported by some of the Board members, who felt they should defer to the position of the Federation, but Leopold Jessner, the President of the Club, strongly supports Guggenheim.

As reflected in the minutes, Stagen was concerned with Board and Club operations only. His entire recorded involvement at this meeting takes the form of moving that all minutes be kept in English (Item 3), and moving that semi-annual dues be increased to $2.40 (Item 6).

USC Felix Guggenheim papers

HARRY D. SALINGER
809 SOUTH MANSFIELD AVENUE
LOS ANGELES, CALIFORNIA
WHITNEY 9120

Minutes of the meeting of the Executive Committee of the Jewish Club of 1933, Inc., on August 30, 1942, at ten o'clock A.M. at the Fairfax Temple.

Present all member except Mr. Nunberg, who was ill, and Mrs. Mendel, who was excused.

1. The amendment to the By-Laws accepted at the membership meeting of August 2, 1942, shall have the following wording:

"Persons who have rendered outstanding services to the Club or the cause of the Refugees from Nazi and Fascist opperession can be made Honorary Members by a majority vote of the Executive Board." (Article Second, Section 1 a.)

2. Jessner reports that Mr. Nunberg is ill, and that he will probably have to stay away from our meetings for some time. Jessner extends best wishes for speedy recovery in the name of the Executive Committee.

3. On seconded motion of Stadthagen resolved that the minutes shall be kept in the English language.

4. Pinner reports about the financial situation.
   a. As the fiscal year started on June 1, he had to examine the books for the conduct of the financial matters from that date on, and made the following objections:
      (1) In the report of Mr. Holt, a deficit of about $100 could not be clarified. Mr. Holt entered this amount as "Miscellaneous Expenses".
      (2) The Vanguard Players received a contribution of $38.20.
      (3) Mr. Pinkus received $3 twice, once in May and once in June.
      (4) For telegrams sent to Washington by Mr. Nunberg, $32.42 had been expended.
      (5) In the matter of the retracted articles in the "Aufbau", altogether $52.42 had been paid. This amount was not marked in the books as a loan, but is de facto a loan to the persons responsible for this expenditure.

   b. Mr. Lowen gives the following explanations:
      (1) This is an old error which can be clarified only if the books are examined for many years back. In order to save this expense, the deficit had been charged off as "Miscellaneous Expenses."
      (2) and (3) These payments were made in accordance with a resolution of the Executive Committee.

(4) These payments were made in the interest of the reclassification matter. Nunberg promised to contribute $25 which had been received by him as contribution for the reclassification work.

(5) After the discussion of this matter, Royce moved that all members of the Executive Committee should pay $3 to cover this amount. Salinger pointed out that such contribution could only be voluntary. It was resolved accordingly. Mr. Pinner asked that the old Executive Committee should cover any deficit, ~~after payments had been received~~. (remaining)

5. Upon seconded motion it was resolved that Wildberg should try to have a public telephone installed in our office. If this is not possible, there shall be a charge of $.05 for each private telephone call made from our office.

6. As to the financial situation in the future, Pinner pointed out that we have about $300 cash on hand. Up to now, the monthly expenses of the Club were about $150. But the expenditures in the reclassification matter which so far had been paid by the Group, now have to be paid by the Club. Pinner estimates the total monthly expenses at about $300, including the contribution to the Jewish Federation in New York. This, together with a safety margin, amounts to about $4000 annually. As we have 600 members, the total income from membership dues therefore would be $1440. The income from social events and entertainments will sharply diminish due to the curfew. Therefore the membership dues must be increased. Pinner suggests $5 annually retroactively for this year. Pinkus suggests that we should not demand a retroactive payment and asks for semi-annual minimum payments of $2.40. Jessner is opposed to a minimum payment, but wants to make it an ordinary payment for everyone.

Although technically we need an amendment to the By-Laws for such an increase in membership dues, we must take the responsibility to enact this matter without calling a new membership meeting.

Upon motion of Bucky properly seconded, it was resolved to make a drive for new members and voluntary contributions. On motion of Stadthagen it was further resolved that from 1943 on the membership dues shall be $2.40 semi-annually, and an additional membership fee for the current six months shall be asked, unless the drive proposed by Mr. Bucky should bring sufficient contributions until October 1 to cover this year's deficit. Three votes were cast against this resolution. Mr. Pinner delcared that he would present the books of the Group to the President.

7. Election of the Second Vice President. Frank pointed out that in the last election the vote of Lowen for Dr. Leeser should not have been counted according to custom. Jessner contradicted that we are interested not in technicalities but should act according to the real intent of the Committee. Bernstein nominates Dr. Leeser; Lowen and Bucky refuse to be nominated, Frank nominates Breuer who later refuses to be nominated. Dr. Leeser is elected with 8 against 5 votes 3 non voting

8. Guggenheim reports about the situation in the reclassification question, particularly about new regulations issued by the Western Command, the meeting between Mr. Lindenbaum, Jessner, Salinger and himself, the stand of the Federation regarding intended negotiations with the Office of Civilian Defense and Deputy Chief of Police MacDonald who is in charge of the matter. The Federation opposes our intended interview with Mr. MacDonald together with Lindenbaum.

Bernstein criticizes thechange of the name for the Club Committee regarding reclassification, and the attitude of Mr. Guggenheim and the Group in connection with the Federation. He reports a conversation between himself and Mr. Lewis of the Federation. Jessner points out that our attitude in this matter must be firm and that our criticisms of the Federation are justified. However, the opinion was unanimous that in this matter

(a) we can only try to persuade the Federation to cooperate with us and
(b) we must avoid to antagonize them.

Dr. Leeser suggests that a complete memorandum shall be presented at each meeting with American authorities and Jewish and non-Jewish organizations. Guggenheim suggests that in order to save time the secretary at the Club Office should be permitted to open the incoming mail every morning. On seconded motion of Mr. Breuer it is unanimously resolved to establish a committee for Austrian matters; the four Austrian members Breuer, Dr. Leeser, Lurie and Royce are appointed members.

F. J. Salinger

Felix Guggenheim letter to Los Angeles Defense Council
28 October 1942

Felix Guggenheim wrote to George Hjelte, Director of the Los Angeles Defense Council, to follow up an earlier letter of 5 June 1942, regarding the possibility of German-Jewish émigrés serving in the Citizen's Defense Corps. Guggenheim reminds Hjelte that the German émigrés had not yet received an answer to their question of service.

Having resolved the matter of forced relocation, and having made some headway in the matter of "enemy alien" reclassification, the name of Guggenheim's committee has morphed to the neutral-sounding "Committee for Refugee Immigrants of Southern California."

USC Felix Guggenheim papers

COPY

October 28, 1942

Mr. George Hjelte
Director, Civilian Defense Council
City Hall
Los Angeles, California

Dear Sir:

May we respectfully remind you that some time ago you were kind enough to investigate whether expatriated refugees from Germany could be admitted to the Civilian Defense. At that time we submitted a letter showing that the Office of Civilian Defense, Washington, doesn't consider expatriated refugees as enemy aliens for the purposes of the Civilian Defense.

We expatriated refugees as the first victims and the first enemies of Nazism are very eager to join the common war effort against the common enemy and not to be mixed up with the Nazis as enemy aliens.

It would be very unfortunate for us if in this gigantic struggle we wouldn't have an opportunity to do our part as natural allies of the American people to whom we owe so much gratitude and loyalty and to whom, in fact, we owe our life.

Not to be found among the volunteers for Civilian Defense is a terrible stigma for everybody loyal to this country and we would highly appreciate your answer whether we would be permitted to join the Civilian Defense.

Respectfully and sincerely yours,

Committee for Refugee Immigrants
of Southern California

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Felix Guggenheim, Chairman

Felix Guggenheim letter to William Stagen
16 November 1942

Felix Guggenheim writes to William Stagen regarding maintenance of the apartment building he purchased from Stagen, one unit of which served as Guggenheim's own residence.

This apartment building, at 238 S. Tower Drive in Beverly Hills, had been constructed in 1929, and according to tax assessor's records consists of 14 apartments in 11,398 square feet. The units were thus relatively modest, which may explain why the meeting of 22 January 1942 had been held at Stagen's apartment rather than Guggenheim's.

USC Felix Guggenheim papers

November 16, 1942

Mr. W. E. Stadthagen, Realtor,
6822 Sunset Blvd.
Los Angeles, Cal.

Dear Mr. Stadthagen:

When I bought the apartment - house 238 Tower Drive from you, you assumed the obligation to regularly supervise the maintenance of the building etc. You were very helpful till now and I only write you this letter, because I would like to know, whether the coming gas rationing will affect your business. I would appreciate if you would be able to keep up the service which is part of our agreement and if you would inform me accordingly.

Very truly yours

(Felix Guggenheim)

Felix Guggenheim letter to Los Angeles Defense Council
5 January 1943

Felix Guggenheim writes again to George Hjelte, Director of the Los Angeles Defense Council, to follow up his earlier letter of 28 October 1943, regarding German refugee immigrants serving in the Citizen's Defense Corps. Guggenheim notes that, in the interim, the US Army Western Command has removed all curfew and travel restrictions on the German refugees.

USC Felix Guggenheim papers

January 5, 1943

Mr. George Hjelte
Director, Civilian Defense Council
City Hall
Los Angeles, California

Dear Sir:

We respectfully refer to our letter of October 28, 1942, copy of which is enclosed.

In the meantime the Western Defense Command has lifted all curfew- and travel restrictions imposed upon German aliens and stateless refugees. As long as these restrictions were in force it would have been technically difficult for us to serve effectfully as Civilian Defense Volunteer, due to the necessity of being at home at 8 O'clock in the evening and of being restricted within 5 miles of our residents.

After these obstacles have been removed by General DeWitt we would like to renew our application contained in our letter of October 28, 1942.

We would highly appreciate your favorable reply as we are eager to volunteer for and to participate in any activities which may help the war effort.

Respectfully and sincerely yours,

Committee for Refugee Immigrants
of Southern California

_____

Felix Guggenheim, Chairman

Jewish Club of 1933 additional minutes of the Board of Directors meeting of 6 January 1943

This clarification of the minutes of the Board of Directors' meeting of 6 January 1943 note that the "Political Committee" would issue a memorandum (whose contents are not indicated) in both English and German, not only in German as had been previously suggested by another Board member.

William Stagen's "Youth Committee," involving younger members of the immigrant community in scrap materials drives, has been renamed the "War Effort Committee," presumably more accurately reflecting its mission.

The minutes also record that Erich Löwen's "*suggestion to make the Club an agency for war bonds was withdrawn by Lowen after discussion.*" It was apparently after this meeting that William Stagen made his initial contacts with the Treasury Department regarding forming a separate war bonds sales committee focused on the German-speaking immigrant community.

USC Felix Guggenheim papers

To the Board members.

Re.: Minutes of the seventh Board meeting, January 6, 1943, at Goghi's.

The minutes mailed to you still need some amplification, to wit:

The motion Pinner to mail copies in English and German of the circular prepared by Guggenheim on behalf of the Political Committee was made and adopted after a discussion suggested by Pinkus who had proposed to mail a German text.

It was also decided at the meeting, to add a German text from now on in all cases where the English text should prevail, if and when the length or importance of the communication should warrant it.

With respect to Bernstein's motion "public lecture" should read: "verbal information to members interested in the problem."

Lowen's suggestion to make the Club an agency for war bonds was withdrawn by Lowen after discussion.

The Committee of Physicians to be formed by Lesser, and Bernstein with the inclusion of Heinberg, on motion Stagen, is supposed to become a medium for the physicians to take care of their professional interest a especially in matters raised by the attitude of various other groups towards refugee doctors.

The newly appointed War Effort Committee shall replace the former Youth Committee which thereby is dissolved.

The special Board meeting to be held on motion Pinkus shall mainly discuss and if possible determine the general line to be followed by the Club in its policy, since Mr. Pinkus did miss such definition which, as he said, makes it difficult for him to give his paper a clear tendency.

Also, it was decided to appoint Frank, Pinkus and Bernstein to prepare such Board meeting as the various views to be discussed should be lined out and properly prepared.

(signed) Harry D. Salinger

Jewish Club of 1933 minutes of the Board of Directors meeting of 16 February 1943

Minutes of the Board of Directors' meeting of 16 February 1943 reflect William Stagen's involvement in the "War Effort Committee", which had been renamed the previous month from the "Youth Committee" and which was involved in material drives, in which children collected metals, rubber, and other material useful for the war effort. Stagen also reports his early contacts with the Treasury Department regarding setting up an war bond sales committee.

The minutes also reflect Felix Guggenheim's ongoing work on the issue of reclassification.

USC Felix Guggenheim papers

MINUTES OF THE EIGHTH MEETING OF THE BOARD OF DIRECTORS OF THE

JUNIOR CLUB OF 1933, INC., ON TUESDAY, FEBRUARY 16, 1943, AT 7 PM,

AT GOOI'S.

Present all members except Lesser and Bucky, who arrive late; Fritz Simmel as invited guest. Pinkus is also absent. Jessner reports that Pinkus joined the Army this day. On motion of Stagen, the best wishes of the Board will be extended to him.

Upon motion of Stagen resolved that motions shall be submitted in writing, and that the text as amended after discussion shall be read to the members of the meeting before the vote is taken.

Upon motion of Stagen resolved that the minutes of the Board Meetings shall be entered in an appropriate book, signed by the one who keeps the minutes, and counter-signed by the chairman of the respective meeting. The minutes shall contain number of meeting, date, place, and time of beginning and end.

Stagen reports for the War Effort committee. There was a meeting with the representatives of the Victory Volunteers who had decided to merge entirely with the Club. 7 subcommittees have been organized to promote the different drives. The general business shall be handled by a committee with Salinger as chairman, Simmel as secretary and Eckmann as treasurer.

Simmel reports on the plans of the committee and suggests that a badge be created for members who are very active in war work. After a lenghthy discussion and upon motion of Guggenheim properly made and seconded, resolved that the War Effort Committee shall prepare regulations for a V-badge with the following directions: There shall be strict provisions before a member can receive the badge. There shall be a schedule, for instance, how many blood donations, how many hours of work in the sewing circle, how many War Bonds must be purchased, how many other activities must be proved. In addition, there might be different classes of the badge. The regulations shall then be submitted to the officers and the Board.

Upon suggestion of Mrs. Wendel, the treasurer makes a provisional allotment of $ 30.- for Mrs. Wendel's charity work, at her free disposal.

Stagen reports on a letter received from the Immigrants Fight for America, a new organization in New York. Guggenheim suggests that we contact the Federation in New York in order to learn their reaction. Letters shall also written to other prominent individuals. A discussion on our attitude toward the Council For Democracy then arises. Pinner is authorized to pay $ 25.- as a contribution. A letter shall be written to Raymond Gram Swing.

Guggenheim reports on the situation in the reclassification matter. Salinger then submits a resolution which has been drawn up by Frank and himself in accordance with an unanimous resolution of the political committee, as follows:

Der Vorstand des Jewish Club of 1933, Inc., Los Angeles, haelt die Zeit fuer gekommen, die Schaffung einer einheitlichen Front aller Refugees aus Mitteleuropa in den Vereinigten Staaten anzuregen. Es soll damit erreicht werden, dass auch die Stimmen dieser fruehen Opfer Hitlers bei solchen Verhandlungen der Zukunft zu Gehoer kommen, in den ueber Suehne und Wiedergutmachung begangenen Unrechts entschieden wird.

Der Vorstand des Jewish Club of 1933,Inc., haelt es aber fuer irrefuehrend und schaedlich, wenn in der amerikanischen Oeffentlichkeit der Eindruck erweckt wird, dass die Refugees an der kuenftigen politischen Gestaltung Deutschlands mitwirken wollen. Er steht auf dem Standpunkt, dass die Verbrechen der letzten zehn Jahre die Verbindung Deutschland und uns zerschnitten haben, und dass unsere Gegenwart und Zukunft dem Lande gehoeren, das uns in der Stunde der Bedrueangnis Zuflucht geboten hat, und das uns zu seinen Buergern machen will.

After a lengthy discussion upon motion of Salinger resolved that the resolution as above set forth shall be made a resolution of the Board and that Frank and Salinger shall give it the proper form in German as well as in English.

Stagen reports on the contact he made with the foreign section of the Treasury Department regarding a bond drive among our group. It was the general opinion that no public meeting shall take place.

Bernstein is confirmed as Club page editor.

Bucky reports on the forthcoming Austrian affair.

(signed) Harry D. Salinger

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Felix Guggenheim letter from George Hjelte, Los Angeles Defense Council
25 February 1943

George Hjelte, Director of the Los Angeles Defense Council, responds to Felix Guggenheim regarding German non-citizen immigrants serving in the Citizen's Defense Corps. Hjelte expresses the feeling that "a satisfactory conclusion can be arrived at," and asks Guggenheim to telephone him to discuss the matter further.

USC Felix Guggenheim papers

MAYOR FLETCHER BOWRON
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GUS BROWN
D. D. DURR
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DR. W. BALLENTINE HENLEY
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CARLETON R. YIGGERTS

DEFENSE COUNCIL
CITY OF LOS ANGELES
City Hall

GEORGE HJELTE
SECRETARY-DIRECTOR
TED. S. GEISSLER
ASST. SECRETARY-DIRECTOR

February 25, 1943

Mr. Felix Guggenheim, Chairman
Jewish Club of 1933, Inc.
228 West 4th St.
Los Angeles, Calif.

Dear Sir:

Reference is made to previous correspondence with you concerning the subject of eligibility of expatriated German citizens to participate in the civilian defense program in the City of Los Angeles. I regret that so much delay has taken place in clearing this matter. This delay has been due in part to the effect of the curfew regulations, which have recently been relaxed, and due to other matters. I feel that a satisfactory panel has now been arrived at which will be pleasing to the many aliens of enemy nationality who desire to assist in civilian defense programs here. Would it be possible for you to call at this office at some convenient date to discuss the matter with us? If you will call me by telephone at Michigan 5211, Station 2351, I shall be glad to make an appointment.

Sincerely yours,

George Hjelte

George Hjelte, Director
Los Angeles Defense Council

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Friendly

memorandum from *Council of JewishEmigrés of San Francisco and the Bay Area*
26 February 1943

Memorandum from Council of JewishÉmigrés of San Francisco and the Bay Area, chaired by Richard Grau, reporting to his membership the decision of the San Francisco Civilian Defense Council that German non-citizen immigrants could serve in most civil defense roles. Grau's efforts paralleled those of Felix Guggenheim on behalf of the Los Angeles community.

USC Felix Guggenheim papers

Council of Jewish Emigrés

of San Francisco and the Bay Area

Richard Grau, Chairman
1914 Vine Street, Berkeley
Telephone: AShberry 8399

Albert Steiner, Secretary
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Telephone: BAyview 6919

Frederick Lambert, Treasurer
41 Palm Avenue, San Francisco
Telephone: EVergreen 2642

Address all communications to:
172 Palm Avenue, Apt. 2
San Francisco, California

February 26, 1943

Dear Friends:

Re : Civilian Defense

After the lifting of the Curfew, the undersigned member of your Board got in touch with the CIVILIAN DEFENSE WAR COUNCIL and repeated the willingness of our group to participate in Civilian Defense activities.

Thereupon a directive has just been issued by Jack Helms, Director of the San Francisco Civilian Defense Council, that "Enemy Aliens" may be given assignments with the approval of the service. However, assignments as Air Raid Wardens and Auxiliary Policemen can be given to citizens only.

In cooperation with the Civilian Defense Council, we now urge all our members and their families and friends to call at the

Volunteer Office
632 Market Street (corner Sansome)
EXbrook 8515
9 to 9, Saturdays 9 to 1

for an assignment in any of the many activities of Civilian Defense. There is a constant need of men and women in the Ration Boards, Scrap Drive, etc.

As soon as you get an assignment, please, notify your Secretary or the undersigned by Postal Card.

Whether you have registered before or not, act immediately and do your part in helping win this war.

Cordially yours,
Council of Jewish Emigres
of S. F. & the Bay Area

By:
MARTIN E. GOLDSCHMIDT

Felix Guggenheim memorandum regarding Defense Corps service
24 March 1943

A month after receiving an encouraging letter from George Hjelte, Director of the Los Angeles Defense Council, Felix Guggenheim reports that the Defense Council Board had decided on 23 March 1943 to permit German non-citizen immigrants to serve in civilian defense.

By this point, with all travel and curfew restrictions having been lifted some months earlier, and "reclassification" having been achieved, Guggenheim reports the lifting of this last restriction as a member of the "Political Committee."

USC Felix Guggenheim papers

Refugees and Civilian Defense
in Los Angeles.

The political committee reports:

As the result of many months of negotiations we had with the Civilian Defense authorities, the City Defense Council (chairman: Mayor Fletcher Bowron; director: George Hjelte) finally recognized the difference between an expatriated refugee from Germany and an alien enemy of this country: The Council in its meeting of March 23rd decided, to admit German-Jewish expatriated refugees to the U. S. Citizens Service Corps.

We quote from the Los Angeles Examiner, March 24,1943:

"

"

The technical details of the procedure have not yet been decided upon; further information and a circular letter to the members.

CA-4-948

Jewish Club of 1933 minutes of the Board of Directors
meeting of 14 April 1943

Minutes of the Board of Directors' meeting of 14 April 1943 reflect William Stagen's report that "*the Anti-Nazi Immigrants War Savings Committee has finally been organized and has started its work. There will be a rally on May* 16, 1943, *for all the foreign-born groups.*"

Felix Guggenheim reported that the Los Angeles Defense Council had removed virtually all restrictions regarding German non-citizen immigrants serving in civilian defense, and that this news would be circulated to the membership to recruit participants to that end. Guggenheim would continue to deal with these matters under the aegis of the "Political Committee," as there was no longer any need for a "reclassification committee."

USC Felix Guggenheim papers

MINUTES OF THE ELEVENTH MEETING OF THE BOARD OF DIRECTORS OF THE JEWISH CLUB OF 1933, INC., ON WEDNESDAY, APRIL 14, 1943, AT GOGI'S.

Present: Bernstein, Breuer, Guggenheim, Jessner, Lowen, Mendel, Salinger, Stagen.

Jessner reports that Mrs. Lourié resigned as a member of the Board.

Stagen reports for the committee which had been elected at the last Board meeting for the preparations of the next membership meeting. It was generally held that no final decision should be made because some members of the Board were not able to attend the Board meeting. However, a preparatory discussion of names took place in order to prepare a final discussion for the next Board meeting.

Bernstein declares that he cannot accept again an office for the next year on advice of his physician. Mendel suggests that he should take a leave for two months in order to restore his health. The matter was then continued to be taken up at the next Board meeting.

Mendel reports on the Hadassah Drive. More than $ 5,000.- have been collected within our group due to our efforts.

Jessner thanks Mrs. Mendel in the name of the Board.

On motion of Stagen properly made, seconded and resolved that the President of the Club be instructed to acknowledge with Mrs. Lourie's receipt of her resignation from the Board of Directors and to express her the thanks of the Club for her work in this drive. The same thanks should be expressed in writing to Mrs. Vicki Baum and to the other ladies who helped Mrs. Mendel to accomplish the very satisfactory result of the drive. An appropriate letter should be sent to the Hadassah and to the Fairfax Temple.

Guggenheim reports on the Civilian Defense (Citizens Service Corps) situation. A circular-letter will be mailed within a week to all our members in order to start a drive of participation. It was generally held that this matter should remain in the hands of the Political Committee.

The State Guard matter was continued to be taken up at the next Board meeting.

Aufbau. Salinger reads the Aufbau-letter of February 5, 1943. It was held that in our answer we should point out that we need a circular-letter in order to organize the war effort of our members. If we cannot reach all our members by means of the WESTKUESTE, we shall have to send circular-letters for which we probably have to use a larger amount of paper than that used for 250 copies of the WESTKUESTE.

Stagen reports on the Club home situation. Negotiations for a lease on a place close to Western Avenue and Wilshire are in an advanced stage. It was generally held that Stagen shall continue such negotiations.

Stagen reports that the Anti-Nazi Immigrants War Savings Committee had finally been organized and has started with its work. There will be a rally on May 16, 1943, for all the foreign-born groups. It was held that we should make efforts to secure a sufficient and effective participation of our group. A letter shall be written to Mr. Royce asking him to cooperate in the preparations of this rally.

(signed)

Harry D. Salinger

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Anti-Nazi Immigrants War Savings Committee "I Am an American Day"
text of message by Thomas Mann
16 May 1943

The first major public event held by William Stagen's Anti-Nazi Immigrants War Savings Committee was held in Pershing Square on 16 May 1943. Earl Warren, then the Governor of California, appeared, and the event was covered by local radio station KFWB.

This is the text of an address written by Thomas Mann, but delivered by Ernst Deutsch, an Austrian actor who had immigrated some time around 1930, and had resumed his career in Hollywood by the mid-Thirties.

USC Felix Guggenheim papers

ANTI-NAZI IMMIGRANTS WAR SAVINGS COMMITTEE
Wm. E. Stamm, Chairman
Lothar Frank - Leopold Jessner - Henry Hooter - Nathan Meyer - Rabbi M. Nussbaum
Arthur Pathe - Fritz Sabersky - Hugo Weinberg, M.D.

***

TEXT OF THOMAS MANN'S MESSAGE
Delivered by Ernst Deutsch over KFWB, Los Angeles, California
on
"I AM AN AMERICAN" day, May 16, 1943.

Ladies and Gentlemen:

It is an honor and a pleasure for me to add a few words, in the name of the immigrants from Germany, to the expressions of loyalty and homage pronounced on this day. For us European intellectuals, the transplantation to these shores was a great experience, a great relief for which we cannot be grateful enough. From deranged, poisoned narrowness we came into the largeness, into the expansive atmosphere of a country of happy origins, happy premises, happy history, where, contrary to the over-experienced, tired and somber Europe, life is determined by confidence, hope and a hearty faith in humanity and the human progress toward the better. Despite all antagonisms and differences of conviction which naturally divide even this country into competing camps, the clean, benevolent and spiritually sound principles and the moral code of conduct upon which the Union was originally established by the founding fathers, are still alive and decisive here: they form the myth of this two hundred year old community, the national tradition. There is a straight line running from Thomas Jefferson, the author of the immortal document called the Declaration of Independence, to Henry A. Wallace and his famous speech about the Century of the Common Man. If we ask ourselves, however, what is the conserving and all-pervading characteristic element of America's political philosophy, the answer is: it is the principle that "men are endowed by their Creator with certain inalienable rights" and that among these inalienable rights is "the pursuit of happiness."

Happiness as a natural right of man - that is a strangely daring thought which could never have found its way into a state document in the old Europe; it belongs to the optimistic pioneer spirit of America, to a fundamental trait of this country's character which is so comforting to us newcomers, - the American kindness. This kindness which recognizes the natural right of man to the pursuit of happiness is destined, in my opinion, to play an important part in the shaping of a new, more happily organized society of peoples, for which we all hope, and one may regard it as good fortune that the mightiest nation on earth continues endowed with its power.

Pacific Palisades, California, May 12, 1943.

"With a Million Hearts"
Song of Immigrant Children
in Alfred Neumann's Ballad "How we are in America"
Staged in Los Angeles, California on May 16, 1943.

With a million hearts
Ever so grateful
We'll be true to you, America
And we stand here now
With a solemn vow
To protect you and all that you are

With a welcome hand
You have shared this land
With your children from afar
And we'd give our all
Answering when you call
And forever may you be right
And forever may you be right.

Lyric: Sam Lerner

Music: Hans J. Salter.

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"TOLAN COMMITTEE" REPORT EXCERPTS

Hearings Before the Select Committee Investigating National Defense Migration,
House of Representatives, Seventy-seventh Congress, First Session,
Pursuant to H. Res. 113,

Part 31: Los Angeles and San Francisco Hearings, March 6, 7, and 12, 1942,
Problems of Evacuation of Enemy Aliens and Others from Prohibited Military Zones
United States Government Printing Office Washington, 1942.

Excerpts from the "Tolan Committee" hearings in Los Angeles and San Francisco, including testimony and prepared statements from Thomas Mann, Hans Schwarzer and Felix Guggenheim in Los Angeles, and Richard Grau in San Francisco. Also included is testimony from Tom Clark, civilian coordinator for General John L. DeWitt of the US Army Western Command.

NATIONAL DEFENSE MIGRATION

HEARINGS

BEFORE THE

SELECT COMMITTEE INVESTIGATING NATIONAL DEFENSE MIGRATION HOUSE OF REPRESENTATIVES

SEVENTY-SEVENTH CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 113

A RESOLUTION TO INQUIRE FURTHER INTO THE INTERSTATE MIGRATION OF CITIZENS, EMPHASIZING THE PRESENT AND POTENTIAL CONSEQUENCES OF THE MIGRATION CAUSED BY THE NATIONAL DEFENSE PROGRAM

PART 31

LOS ANGELES AND SAN FRANCISCO HEARINGS

MARCH 6, 7, AND 12, 1942

PROBLEMS OF EVACUATION OF ENEMY ALIENS AND OTHERS FROM PROHIBITED MILITARY ZONES

Printed for the use of the Select Committee Investigating National Defense Migration

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1942

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JUL 13 1942

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JOHN J. SPARKMAN, Alabama
LAURENCE F. ARNOLD, Illinois

CARL T. CURTIS, Nebraska
GEORGE H. BENDER, Ohio

ROBERT K. LAMB, *Staff Director*

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NATIONAL DEFENSE MIGRATION

SATURDAY, MARCH 7, 1942

MORNING SESSION

House of Representatives,
Select Committee Investigating
National Defense Migration,
Washington, D. C.

The committee met at 10 a. m., in the State Building, assembly room, Los Angeles, Calif., pursuant to notice, Hon. John H. Tolan (chairman).

Present: Representatives Laurence F. Arnold (acting chairman), of Illinois; George H. Bender, of Ohio; and Carl T. Curtis, of Nebraska.

Also present: Dr. Robert K. Lamb, staff director; John W. Abbott, chief field investigator; Francis X. Riley, field investigator; Jack B. Burke, field investigator; and Ruth B. Abrams, field secretary.

Mr. Arnold. The committee will come to order.

TESTIMONY OF RICHARD B. HOOD, SPECIAL AGENT IN CHARGE, LOS ANGELES DISTRICT, FEDERAL BUREAU OF INVESTIGATION

Mr. Arnold. Will you give to the reporter your name and occupation?

Mr. Hood. Richard B. Hood, special agent in charge of the Federal Bureau of Investigation at Los Angeles.

Mr. Arnold. The committee understands, Mr. Hood, that you have a statement to make to the committee. We will be glad to have it.

Mr. Hood. Thank you.

Mr. Chairman and gentlemen of the committee, I appreciate the opportunity of appearing before the committee as the local representative of the Federal Bureau of Investigation inasmuch as we do not feel that yesterday's statement by Mayor Fletcher Bowron relative to the relationship between this Bureau and the Army and the Navy Intelligence Service is a true statement of the facts. With reference to the statement that there has not been sufficient cooperation in a practical way between the F. B. I. and the Army and Navy Intelligence Services, it should be stated that the present relationship between the organizations is practical, workable, and effective. Since September 1939, and not only since the declaration of war following the attack on December 7, but since September 1939, have the respective agencies been in constant collaboration on national defense matters. This relationship has been developed by the mutual ex-

Information regarding rise in retail prices of vegetables, first figures showing price week preceding Dec. 7, 1941, and second figure representing prices to which commodities rose following declaration of war and the ensuing closing of many wholesale houses in the produce markets—Information received by local 1510, Feb. 21, 1942, from managers named—Continued

McDANIELS MARKET (SAVE-RITE PRODUCE), 398 EAST VALLEY BLVD., ALHAMBRA CALIF., CHARLES TAMBARA, MANAGER

	Price, week preceding Dec. 7	Price rise following Dec. 7
Lettuce	5 and 7 cents per head	10 cents per head.
Carrots	2 bushels, 8 cents	7 cents per bunch.
Celery	15 cents per stalk	18 cents per stalk.
Potatoes	7 pounds for 25 cents	6 pounds for 25 cents.
Spinach	3 bunches for 10 cents	5 cents per bunch.
Beets	do	Do.
Cabbage		No change.
Cauliflower	10 cents per head	18 cents per head.
Brussels sprouts	10 cents per pound	Not obtainable.

RADIO CENTER MARKET, 1234 NORTH VINE ST., HOLLYWOOD, CALIF., WM. FUNATSU MANAGER

Lettuce	7 cents per head	10 cents per head.
Carrots	3 bunches for 10 cents	5 cents per bunch.
Celery	12 cents per stalk	15 cents per stalk.
Potatoes	7 pounds for 25 cents	4 pounds for 19 cents.
Spinach	3 bunches for 10 cents	2 bunches for 9 cents.
Cabbage	3 cents per pound	4 cents per pound.

Several persons in the stores listed stated that some vegetables could not be had for a short time after December 7, 1941. Top prices continued for several days, until wholesale markets were reopened.

We believe that the markets listed and the prices represent the average percentage of rise in prices in vegetable stands throughout the city of Los Angeles and vicinity.

We were informed that the price of fruit did not change to any noticeable degree during same period.

Retail fruit and vegetable stores, Los Angeles County

Total number of retail fruit and vegetable stores operated by Japanese	1,000
Average number of employees in one store	5
Total number of Japanese engaged in retail fruit and vegetable stores	5,000
Approximate yearly gross sales from Japanese operated stores	$25,000,000

Remarks: It is estimated that approximately 75 percent of all retail fruit and vegetable stores in Los Angeles County are operated by Japanese.

Due to the special skills of the Japanese in cleansing and displaying green vegetables and fruits there is a great saving of waste products.

Gardening, Los Angeles County

Approximate number of Japanese gardeners in Los Angeles County	2,000
Average monthly income per gardener	$125
Total average monthly income	$250,000
Total yearly income	$3,000,000
Average number of homes serviced by 1 gardener	12
Total number of home serviced by Japanese gardeners in Los Angeles County	24,000

Remarks: The maintenance and care of yards and gardens of approximately 25,000 homes will be affected with the removal of Japanese gardeners.

A special skill acquired by these gardeners makes them quite irreplaceable.

It is an acknowledged fact that the Japanese are well suited for this type of work and are considered the best available.

Restaurants and cafes.—Approximate number of Japanese-operated restaurants and cafes, 350. Approximately 80 percent of these Japanese-operated restaurants and cafes cater to the American public. The majority of these cafes and res-

taurants are located near concentrated employment centers and cater exclusively to American trade.

Hotels and apartments.—Number of Japanese-operated hotels and apartments, 395 in Los Angeles County. Approximately 75 percent of these Japanese-operated hotels and apartments cater to the American public. The majority of the hotels are of the transient type. Ninety percent of these Japanese-operated hotels and apartments are located in metropolitan Los Angeles.

TESTIMONY OF DR. THOMAS MANN, 1550 SAN REMO DRIVE, PACIFIC PALISADES, CALIF., AND DR. BRUNO FRANK, 513 NORTH CAMDEN DRIVE, BEVERLY HILLS, CALIF.

Mr. ARNOLD. Dr. Mann, you and Dr. Frank need, of course, no introduction, but for the record the committee would like to have you give your name, address, and occupation so that the record might be complete.

Dr. MANN. My name is Thomas Mann. I am living now in Pacific Palisades, No. 1550 San Remo Drive.

Mr. ARNOLD. Doctor, will you give us for the record your occupation and a little background?

Dr. MANN. I am a writer, sir; author, novelist, essayist, and lecturer.

Mr. ARNOLD. Are you a native American?

Dr. MANN. No, sir. I was born in Germany. I lived a long time in Munich where I studied and married. I left Germany in the year 1933 just before Hitler came to power. Then I lived 5 years in Switzerland before I came over to America.

I came over to America first in the year 1934 for a short visit and I visited America each year after that. I came over to settle definitely in this country in the year 1938.

I followed my vocation of lecturing at the University of Princeton. I did that for two winters. It was only for 1 year first, but it was prolonged for the second year.

Then I made the acquaintanceship of California and came out here to settle. We have our home in Pacific Palisades.

Mr. BENDER. Dr. Mann, I would like to ask you about the Munich conference, but I won't.

One of the questions which has come to our attention during our hearings in San Francisco, Portland, and Seattle, has been the effect of the evacuation order on refugees from Axis countries. We are interested in hearing from yourself and Dr. Frank your views and observations.

The committee would like to have you proceed in your own way, Dr. Mann, and then we will hear from Dr. Frank. We understand that you happen to be a Czech.

Dr. MANN. Yes.

Mr. BENDER. And are not yourself affected by the recent alien-control regulation.

Dr. MANN. Correct.

Mr. BENDER. Would you proceed in your own way.

Dr. MANN. Thank you very much.

I really feel highly honored to have the opportunity to take part in this meeting, the subject of which has been close to my heart since the problem arose. It is close to my heart not only because it is of so vital, moral, and material importance for the people it concerns,

but also because only a fair solution would be worthy of this great Nation which is fighting for freedom and human dignity.

I would like to add that, certainly, the behavior of a war-waging nation against her emigrees has something to do with the good fighting spirit of that nation. It is the frightening example of France I had in mind. A nation which seeks and enjoys victory over the most intimate and most natural enemies does not seem to be in the happiest psychological condition to meet these enemies.

I realize, of course, that in times of crisis no natural inclination to generosity and kindness can be allowed to imperil the safety of the country, and certainly it is not easy to find a general solution which does justice to both sides, the refugees and the interests of the country at war. As a matter of fact, we have to face an absolutely paradoxical situation, such as perhaps never existed before. We have to deal with people who by their birth and descent, if their case is treated mechanically, fall under the category of "enemy aliens," but who are in fact the most passionate adversaries of the European governments this country is at war with, and who left their native lands in protest against the political systems ruling there, or were forced to leave it. Most of them lost the citizenship of their original countries, and even formally cannot be regarded as nationals of a country with which they do not have the slightest connection. So in this war, the idea and characteristic of "enemy alien" has lost its logical justification in the case of the German and Italian emigrees.

Perhaps it is not superfluous to add that I, personally, am not affected for the reason that when I was deprived of my German citizenship, President Benes of Czechoslovakia was generous enough to make me a Czech citizen; so I am a friendly alien, even technically, but only by chance. And I have imagination enough to understand the feelings of these victims of national socialism and fascism who were seeking refuge and freedom to breathe in this great democracy, and would be only too happy to do their share in the work of defense, but now find themselves under suspicion and subjected to special regulations which, for many of them, would mean a deadly catastrophe, the collapse of their newly and painfully rebuilt existence. For that reason, just some weeks ago I decided to join a few prominent emigrants from Italy and Germany in sending a telegram to the President of the United States, in which we expressed the same feelings and ideas I am trying to develop today. I give you the names of the signers of this telegram; they were the Italians, Arturo Toscanini, Count Carlo Sforza, and Professor Borgese, and the Germans, Bruno Walter, Albert Einstein, my friend Dr. Frank, and myself. With the exception of Toscanini, all these men are either already American citizens or friendly aliens, but all of them felt obligated to act for their countrymen, and to ask the President to bring about, in some way, a clear and practical distinction between potential fifth columnists and people who are the victims and proven opponents of the powers with which America is at war today.

I really do not feel that the difficulties for establishing such a distinction are insurmountable. Other groups of aliens like the Austrians Czechs, and so on, have already been excepted. It is certainly not my intention to say anything against the loyalty of these groups, but so much may be said that in no other group so many reasons

speak for a passionate desire for Hitler's defeat, as in the case of German and Italian refugees. So I think that where it can be incontestably proven that a person is a refugee, a victim of Nazi oppression, an exception should be made, and the questionnaire of the registration form has already given, by its point 15, the authorities the necessary material for clarification. Moreover, there can be no doubt that the Federal Bureau of Investigation has carefully observed all aliens for quite some time, and has proven to be very well informed about their behavior and intentions. Whoever is individually suspicious will doubtless be taken care of, and it should not be difficult to find out all cases needing clarification. In my opinion it would be worth while to investigate a number of cases, which certainly would not be very considerable, instead of taking radical measures against the entirety of the refugees. All of us know that the burning problem on the west coast is the question of the Japanese. It would be a great misfortune if the regulations, perhaps necessary in their case—it is not my business to talk about the Japanese problem—would be applied to the German and Italian refugees, even with the intention of revising single cases later. For, as I have already mentioned, in many cases irreparable harm would be done to perfectly harmless and loyal persons. I think this should and could be avoided, and I am certain that other members of this meeting will make more concrete and practical propositions. In speaking for the refugees it is not only their interests I am visualizing. Every day it becomes more urgent that all available forces be put into the service of the country, and there are certainly many of the refugees who instead of becoming a burden to themselves and the country could be of valuable help in the struggle until victory.

Mr. BENDER. Doctor, I am appreciating that your position is rather delicate by virtue of your Czech citizenship. I would like to ask you a number of questions and if you desire to answer all right, and if not it will be perfectly all right.

Are you acquainted personally with a Dr. Fritz Baum?

Dr. MANN. No; I don't know him.

Mr. BENDER. Who is the husband of the daughter of Albert J. Berridge?

Dr. MANN. Sorry; I don't know.

Mr. BENDER. Are you acquainted personally at all with Dr. Frank Zigmund, who is a scientist and inventor? He is a Czech citizen.

Dr. MANN. It seems to me that I remember the name but surely I never met him.

Mr. BENDER. Do you know the Czech language, Doctor?

Dr. MANN. No; I don't.

Mr. BENDER. In regard to this question of alien enemies, your impression is that everybody who is labeled that way is not necessarily an enemy?

Dr. MANN. No; surely not.

Mr. BENDER. And you believe, from your observation, that possibly we might have additional facilities for handling that problem?

Dr. MANN. I think so.

Mr. BENDER. In expediting the just treatment of these cases?

Dr. MANN. Yes; I think so. I am sure that some way will be found.

Mr. BENDER. You believe that there are many alleged enemy aliens incarcerated in detention places that might be of service in this war effort in the event that this could be expedited?

Dr. MANN. That is very probable; yes.

Mr. BENDER. What percentage of the Jewish refugees are classified as enemy aliens? For example, from Germany, Czechoslovakia, Rumania, and other places.

Dr. MANN. What percentage?

Mr. BENDER. What percentage of them?

Dr. MANN. Of Jewish descent?

Mr. BENDER. Yes; that are now being held by the United States Government who might be extremely useful in this war effort in the event of such expediting?

Dr. Frank, would you care to answer that question?

Dr. FRANK. Well, perhaps I can.

Mr. BENDER. Doctor, before you speak, I wish you would identify yourself. It is the committee's understanding that you are an officer of a refugee organization and are deeply concerned with alien-control rulings and that you have given the problem some thought.

Dr. FRANK. Yes, I have.

Mr. BENDER. First, for the record, will you identify yourself?

Dr. FRANK. My name is Bruno Frank. I am by profession a writer. I live at 513 North Camden Drive in Beverly Hills.

Mr. BENDER. Under what circumstances did you come to this country?

Dr. FRANK. I left Germany in February 1933 the very first day after the legal government was overthrown, because very probably I wouldn't have survived the second day.

Mr. BENDER. We would like to have you discuss the problem that we are particularly interested in at the moment, as it affects anti-Axis refugees who happen to be citizens of enemy countries.

Dr. FRANK. Yes.

Mr. BENDER. Will you proceed in your own way?

Dr. FRANK. I am appearing before your committee, most thankful for the honor bestowed upon me, and let me add this at once, with a deep feeling of confidence:

Ever since the question of the evacuation of enemy aliens arose, there has been much consternation and fear among the German and Italian refugees out here. Many of them remember how, in a moment of frantic confusion, the Government of France treated the exiles, and they are afraid the same things might happen again. They already see their last and only hope gone.

May I frankly say that I personally could never share these dreads for a single moment. No, the victims of that hateful oppression won't be confounded with the oppressors. The bitterest and most consistent foes of nazi-ism and fascism won't be treated the same way as Nazis and Fascists themselves. Not in this country. Not under the great President of this Republic; not under its Congress, which is the strongest remaining fortress of constitutional freedom in the world; not under its Department of Justice, whose humane and enlightened utterances we have heard; and not, certainly not, under its military men. For these are not Prussian generals shaped after the pattern of some unspeakable "Fuehrer." They are American citizens proudly wearing

their uniforms in defense of the same liberties, the loss of which has driven the refugees out of their homeland.

Thus my confidence was greatly strengthened when I saw the registration questionnaire, which so clearly indicated the intentions of the American Government. For here the fullest opportunity was offered to each German or Italian refugee for stating whether he left his country because of racial, religious, or political persecution and for naming such trustworthy persons who could vouch for his loyalty. This, I feel sure, was not done without good reason and purpose.

And there is still stronger evidence. Before the war, about a year and a half ago, a number of refugees, then trapped in defeated France, were saved by a magnanimous action of your Government. Among them were eminent statesmen, scientists, artists, writers. Under the auspices of the Presidential Advisory Committee, emergency visas were granted to them, and so they were, in the nick of time, snatched from immediate peril. How then could anyone imagine that these same people, who by the American Government were recognized as stanch democratic fighters against the Nazis, should now be branded as enemy aliens by the same Government?

But, sir, I am not so much concerned about those outstanding men, when, for instance, I read that Arturo Toscanini, before going from New York to Philadelphia in order to conduct a concert for the War Relief Fund or the Red Cross, has to ask for a permit because he is technically an enemy alien—then I think this an odd story. But I am not afraid for Signor Toscanini. Not much will happen to him. A great name, or even a well-known name, shields a man from hardship.

I am concerned about the so-called average man or woman, the little fellow who, after long and terrible sufferings, having lost situation, property, and, more often than not, those dearest to him, has finally found here a haven of rest and ultimate hope.

As it is always more instructive to give a concrete and living example than to speak in generalities, let me present to you, sir, an average case among many, nothing particularly striking, but typical for those refugees who now live in deadly fear to be branded as enemies.

In a family I happen to know they have a housemaid, a Jewish girl, kind, honest, hardworking. She alone of her kin has escaped from Germany, and it is her only longing to save and to bring to these shores her old parents she was forced to leave behind.

She comes from a small town in northern Germany, where 80 Jewish families have been living for more than 600 years. It was one of the oldest communities. Now the Nazis have uprooted these people, they have burnt their synagogue to the ground, trampled under foot and swinishly soiled their sacred books, and desecrated their graveyard. Of the 80 families 3 are left. The rest have been exterminated, dispersed, or have been "removed to Poland." What this expression means, sir, you most certainly know. It was perfectly illustrated by those horrid pictures in last week's Life magazine, showing heaps of naked, emaciated corpses, piled upon one another like so much rubbish, ready to be flung into the common pit.

The two old people over there live under the constant threat of being carried away to that hell. Get the money for leaving the country—or else—they are told. Their daughter saves every penny

she makes for their passage and for the bribes—for every single one of those Nazi gangs has to be bribed separately. But each time she offers her savings, she is told it is not enough. Transportation costs have gone up, and so have the bribes.

The girl knows what a life her parents have over there. They live in one windowless room. They are not allowed to go out in the daytime. They are not allowed to burn light at night. They are not allowed to use a phone or a radio, or to ride on the train, or to sit on a bench in the park.

Don't lose patience, writes the girl (or, rather, she wrote, because now of course she cannot write any more). Don't despair. One day my money will be enough. Then you will come here. This is heaven. One lives among friends here. I shall work for you, and you will live peaceful years.

Well, sir, what should she write now, if write she could? I am no longer among friends? I am branded as an enemy now, just as the beasts who are torturing you. Forget all about it. It was but a dream. Go to Poland, and die.

No, sir, she won't have to write thus. Not here.

Your Government, sir, is acutely aware of the gulf that separates the victims from the oppressors. They have already exempted different groups from being classified as enemy aliens, for instance, the Czechs and the Austrians. Nothing could be more justified, more appropriate. And though, when exempting these groups, the Attorney General most certainly realized that among the holders of Czech passports are those so-called Sudetens, who plotted with the Nazi aggressors; and that among the holders of Austrian passports are those Austrian Nazis who opened the gates of Vienna to Hitler. These facts, most fairly, were not considered a reason for impairing the rights of the enormous majority of loyal Austrians and Czechs. If any of the suspect elements were to be found in this country, the F. B. I., I am sure, would make short shrift of them.

But, sir, the only group where even such loathsome exceptions are most unlikely to be found, are the refugees from Germany, the very victims and proven opponents of Hitler.

Nearly all of them have been deprived of their nationality, either by individual decree or by groups. This means they have been outlawed and officially robbed of all they possessed. All of them, or next to all, have, under their oath, declared that they will sever allegiance to the debased land of their origin as soon as the American law will allow them to do so. There is absolutely no relationship left between them and the Nazis, none but bitter, implacable hatred.

Never, as far as my knowledge goes, has there been one single case of a refugee conspiring with or working for the enemy. In France there have been at least 20 times more refugees than in the United States. Not a single case has occurred. And the same goes for England.

In England, as I take it from the excellent information furnished by our expert in this matter, Dr. Felix Guggenheim, examination boards were set up, which exempted all genuine refugees from restrictions. However, when the Nazis came within 20 miles of England's shores, restrictions were suddenly tightened. But, under the very bombs of the aggressors, public opinion and the House of Commons protested

violently and they did not give way until the position of the refugees had been restored. Today all these exiled scientists, physicians, workers, and industrialists enthusiastically contribute to the British war effort against the common foe. And in their registration certificates, in order to identify them as allies, these words are stamped, "Victim of Nazi oppression."

Now, as I pointed out, the number of refugees in this country is very much smaller. In the Los Angeles area, for instance, where accumulation is relatively dense, there are about 4,000—that is one-fifth of 1 percent of the population. The number of 4,000 individuals is equivalent to 1,000 or 1,200 family units. The task of investigating this number, and so to avoid the tragic consequences of wrong classification, would not be a heavy one.

For, since the registration, which in my opinion came as a godsend, the exact data about any single one of these cases are in the hands of the F. B. I. The vast majority of them will be clarified at once. There might be a few border cases, especially among gentile refugees who left Nazi Germany out of sheer horror and disgust, and who, being gentiles, were not honored by the Hitler regime with expatriation.

An examination board, sir, should be set up at once. I cannot presume to suggest how such a board should be composed. The only thing I feel allowed to propose is that, in an advisory capacity, one or several aliens with a sound knowledge of the matter, and enjoying the confidence of both the authorities and their fellow refugees, should be associated to it.

Pending final regulation, a licensing system could be established in the military zone No. 1, not in any contradiction but in fullest accordance with General DeWitt's proclamation. The spot zones, naturally, designated as such, would be excluded.

But now, sir, here comes my plea, and most ardent it is. Please don't delay. Take the anguish off the minds of those harassed people as soon as ever possible.

The idea has been proffered, I am told, that at first the refugees should be evacuated as enemy aliens, and that later on, by and by, individual readmission might be granted. Sir, that would never do. Such a procedure would spell disaster. Once removed, these people would be lost. The frail roots they have taken in this soil would be cut off. They would lose their jobs, their small businesses, and, most important of all, the friendly contact they have established with their American neighbors. Should they ever come back, perhaps after many months, they would be unwelcome strangers again, looked at with suspicion as people who once have been stigmatized and taken away as potential enemies.

Not all of them, sir, would have the strength for starting afresh, not many of them. They have been through too much. I don't want to dramatize, but I know that, if such steps were taken, there would be suicides before long.

May I add one final word, sir? I could imagine some people saying: All this may be true, but this is a world war. Our country faces the gravest crisis in her history. We are sending our husbands and sons to distant shores to fight and, maybe, to die. Why should we care for a handful of foreigners?

I don't know whether anybody in this country speaks like that. I'd rather think not. But, if so, this would be the answer:

These foreigners have fought against the same hideous foe as your boys. They still bear the scars on their bodies and souls. There is hardly anyone among them who has not lost relatives and friends by the same brutish hands. No group, by its hatred of evil and its love of freedom, could be closer united in spirit to the American soldier than these very people.

Mr. BENDER. Doctor, is the United States Government making sufficient use of your services, and Dr. Mann, of yours, and your associates who were in similar positions or are in similar positions to yours? Is there anything that you could assist with further that we might suggest to the United States Government that they might call on you for additional services other than those which you have already been called upon to render?

Dr. MANN. Well, I am only awaiting a call from the Government. I would be absolutely at the service of the Government. At present my defense work is more or less personal because I am going over the country and lecturing in many cities about the problems of the war and of the coming peace. That is my moderate contribution to the public service.

Mr. ARNOLD. Dr. Mann, I might say that in my district in Illinois, about one-third of my constituents are of German descent, mostly American citizens, but several of whom, prior to Pearl Harbor, were sympathetic, apparently, with Mr. Hitler. I might utilize your services this fall in the campaign.

Mr. BENDER. Recognizing the condition that you speak of, Dr. Frank and Dr. Mann, do you not think that for one of these alleged enemy aliens or any of that group to be incarcerated in these immigration detention centers, or in any other place, even in their plight, is like Heaven, compared to the alleged freedom of their existence over in Europe under Axis domination?

Dr. FRANK. Yes; I certainly would prefer the life in an American prison to free life in Germany or even in France today. This, I admit. But I don't wish it for them. They wouldn't survive.

Mr. ARNOLD. Thank you very much, gentlemen. We appreciate having you come here before the committee. We will take a 2-minute recess.

(Short recess.)

Mr. ARNOLD. The committee will come to order. We will hear one more witness, if he is here. Dr. Felix Guggenheim. The committee will recess for approximately 45 minutes after we hear Dr. Guggenheim.

Mr. CURTIS. Mr. Reporter, before we hear Dr. Guggenheim, is Courtney Lacey in the room?

He is not here; if you will insert his statement in the record, then we will proceed.

(The statement referred to above is as follows:)

LOS ANGELES, *March 7, 1942.*

Hon. JOHN H. TOLAN,
Chairman, Congressional Committee on Evacuation of Alien Enemies.

SIR: During the past few days I have had conversations with several Japanese nationals residing in southern California. Today one of them, an influential businessman in Los Angeles, stated to me that he and some of his friends had been discussing the evacuation problem, and, according to them, it would seem:

That the Japanese Government is willing to accept a return to Japan of those Japanese nationals now residing in the United States who wish to return to Japan; that the Japanese Government will provide transportation for them; that in the return of such Japanese nationals to their own country, the Japanese Government will return the interned Americans, held in Japan; the exchange, so to speak, to be effected on some isolated island in the mid-Pacific Ocean, or any other suitable location and under supervision of a neutral nation; both United States and Japan to guarantee safe conduct during the exchange.

Thousands of Japanese nationals now residing in the United States wish to and are willing to return to Japan. The estimated number given to me by the Japanese is approximately 40,000, which includes, of course, the wives and minor children.

I have been asked to submit to your honorable committee the above-proposed plan.

And, in so doing, I would respectfully call your attention to the fact that thereby the financial burden which will rest upon our country, if we are compelled to indefinitely care for these Japanese nationals in concentration camps, or otherwise, will be greatly lessened. It will also serve to eliminate from our country those Japanese about whom there is or may be some question concerning their danger and enmity to our country. It will also serve to effect a return to their country and families of our own courageous soldiers, sailors, and fighting civilians who so valiantly sought to defend Guam, Wake, and Midway.

Respectfully submitted.

COURTNEY LACEY,
Attorney at Law.

TESTIMONY OF DR. FELIX GUGGENHEIM, 238 TOWER DRIVE, BEVERLY HILLS, CALIF.

Mr. CURTIS. Where is your residence at the present time, Mr. Guggenheim?

Dr. GUGGENHEIM. At 238 Tower Drive, Beverly Hills.

Mr. CURTIS. What is your business or occupation?

Dr. GUGGENHEIM. At the present time I am operating an apartment house there.

Mr. CURTIS. What does the "Doctor" indicate?

Dr. GUGGENHEIM. I graduated in Switzerland in economics and social science, and I graduated in Germany in law.

Mr. CURTIS. Ph. D., is it?

Dr. GUGGENHEIM. Similar to that.

Mr. CURTIS. Doctor, where were you born?

Dr. GUGGENHEIM. I was born in Constance. That is on the Swiss-German border.

Mr. CURTIS. And your nationality?

Dr. GUGGENHEIM. I am of German nationality, expatriated.

Mr. CURTIS. And when did you come to this country?

Dr. GUGGENHEIM. I came to this country in 1940 and I happened to be in England when the same question of enemy aliens arose there so I have had the opportunity to go through the whole problem already. That is the reason I should like to say a few words as to what a simple refugee, living in England, experienced when the question of distinguishing between enemy aliens and refugees came up there.

Mr. CURTIS. Now, Doctor, we want you to proceed in your own way, giving us the benefit of your observations in this enemy alien control situation, touching the high points. I don't want to limit you in any of the important points you wish to make, but I do want to say this: If you happen to have something to add to your testimony today, you can submit it and we will see that it is incorporated in the record, together with your oral testimony.

ENGLISH TREATMENT OF ALIENS

Dr. GUGGENHEIM. I was in England when the war broke out in September 1939. The English were badly prepared in many respects, but Scotland Yard was on the alert and in the first days of the war, a great number of German spies were arrested. Many spies had been known to Scotland Yard for a long time but they hadn't been arrested before because Scotland Yard didn't want them replaced by unknown spies.

A second group was arrested also: German aliens, who, before the war, were members of Nazi organizations in England. There and in all other countries as well, many Nazi and semi-Nazi societies were flourishing, organized openly and operating publicly.

The English authorities, in close contact with the refugee organizations immediately realized that the majority of so-called German aliens consisted of refugees persecuted by the very enemy of England. They realized also that it was a group distinguished from other groups. Therefore, they established a procedure to sift these aliens. They had to appear before special tribunals. Eminent judges and outstanding lawyers were appointed, personalities who, by long experience, were especially suited to distinguish between harmless and dangerous, between genuine and fake.

Three groups were formed:

(*a*) People dangerous for political, sabotage, or spy reasons. Immediate internment followed.

(*b*) People who, by one reason or the other, couldn't convince the tribunal that they were genuine refugees. They were subjected to special restrictions and in some parts of the country even to internment.

(*c*) People who proved their status as refugees. They got stamped in their certificate of registration a certain paragraph, and I would like to quote from my own certificate:

> The holder of this certificate is to be exempted until further order from internment and from the special restrictions applicable to enemy aliens under the Aliens Order, 1920, as amended.

The judge of the tribunal, in many cases, Sir Maxwell, added in his own handwriting:

> Refugee from Nazi oppression—

and signed it. I would like to leave a photostatic copy here in evidence.

Mr. CURTIS. I will be glad to receive it.[1]

RESTRICTIONS ON MOVEMENT OF ALIENS

Dr. GUGGENHEIM. The restrictions those in group (*c*) had to comply with consisted chiefly in an obligation to report change of residence and to report any absence from the permanent residence for more than 14 days. Group (*c*) was treated as friendly aliens and practically as natural allies. Only a few hundred belonged to group (*a*). Only a few thousand eventually were classified as (*b*). The rest, about 60,000, including women and children, could establish their genuine

[1] Photostat held in committee files.

refugee status, and I don't know of a single case where reclassification in group (c) became necessary.

Within a few months all refugees had passed their tribunal, the decision, for instance in my certificate being dated November 2, 1939.

The procedure itself was as follows: Field investigators visited each family, asked certain questions, and got an impression of how and where the family lives. Their reports, checked with the files of Scotland Yard, were on the judge's table when he examined the alien. The job seemed to be tremendous at the beginning but the fact was that the percentage of harmless, uprooted people was so high that an experienced judge, checking the field reports and getting a personal impression normally had no difficulties in deciding quickly, especially as the aliens were asked to bring letters along from English relatives or friends or from other refugees of high standing and well known reputation. Even witnesses could appear if either the alien or the judge thought it advisable. The system worked without difficulties, especially as close cooperation existed with the refugee organizations, which always were able to check back, not only a few years back, but also the whole life history of a doubtful case.

REFUGEES WERE NOT FIFTH COLUMNISTS

I have to relate that after the sudden collapse of Holland, Belgium, and France, when England had to fight alone and for her very life, the Nazi armies and airplanes being within 20 miles of England's shores, some English authorities started an indiscriminate internment campaign and a tightening of restrictions. The term "fifth columnist" wasn't so well known as it is today. The stories coming from France and Holland were very confusing and it took the English a few months to get the facts and to understand that the fifth columnists and saboteurs in Holland, Belgium, and France (and a few weeks before in Norway) hadn't been the refugees, but naturalized and native citizens and such aliens who already before the war made no secret of their Nazi sympathies. Public opinion in England, newspapers and members of the House of Commons, therefore, didn't give in until the refugee's position was restored. Today I get letters from refugee friends over there telling how gladly and successfully they contribute to the English war effort according to their abilities in many fields. Some of those refugees live on the south coast of England and face the Nazi threat and the Nazi bombs, together with their English friends. That is all I have to say.

Mr. CURTIS. Doctor, I want to compliment you on the concise and orderly way you have described the English system. We are very glad to have it for our records. Now, can you tell me about how many people were involved in all three classifications in England?

Dr. GUGGENHEIM. Between sixty and seventy thousand.

Mr. CURTIS. And you do not know how that compares with the total number of people, both citizen and alien, that we will have to deal with in this problem on the Pacific coast here, do you?

Dr. GUGGENHEIM. I don't quite get the question because you say "citizens." If you want me to talk about German aliens and the percentage of refugees, then I can give an answer. I can't give an answer about the Japanese or Italians.

Mr. CURTIS. It is well that we have this information for what guidance we can get from it. We do have some problems here involving legal rights of our own native-born citizens, and we also have a problem of a cosmopolitan people made up of many, many races that form the American people, but we are glad to have the English experience.

Dr. GUGGENHEIM. Would you allow me one further remark?

Mr. CURTIS. Yes.

Dr. GUGGENHEIM. I think the refugee is a distinct problem for one reason: It is the only group I know of which can be distinguished easily, whereas, all other groups don't know each other so well and don't have the same life story as this group. That is all I want to say.

Mr. ARNOLD. Thank you very much, Doctor, your prepared statement will be inserted in the record at this point.

(The statement referred to is as follows:)

STATEMENT BY DR. FELIX GUGGENHEIM, MEMBER OF THE BOARD OF DIRECTORS, JEWISH CLUB OF 1933, INC., LOS ANGELES, CALIF.

MARCH 4, 1942.

The Jewish Club of 1933, Inc., represents the majority of the Jewish part of the anti-Nazi refugees from central Europe, as far as they live in metropolitan Los Angeles and intends to educate them to fit into American life.

In our estimate half of the number of as German classified aliens in California, and the majority of these aliens in Los Angeles are in fact expelled and expropriated anti-Nazi refugees, who were stateless when the war broke out and who don't owe any allegiance to any country at war with the United States.

These refugees whether Gentile or Jewish feel that they are wrongly classified and begin to realize the terrible consequences of that wrong classification. In the world struggle between democracy and nazi-ism they were the first martyrs and the first victims. They bear still the scars on their bodies or on their minds or on their lives or family. It would be the worst tragedy for them to suffer again at the hands of their natural allies with whom they hoped to have found a final refuge after they have suffered so much from the Nazi at a time when the world didn't realize that it only was the first chapter. The day—may it never come—when 10,000 refugees from Nazi oppression will have to leave their homes and jobs and small businesses on the west coast of the U. S. A. and in a sad procession will look for relief and assistance with the stigma of enemy aliens as additional burden, this day would be counted by history as a first-class victory of Hitlerism against democracy.

The real enemy aliens know why and for whom they are bearing hardship. The refugees don't have the spiritual strength and the power of endurance any more to suffer without understanding at the hands of their friends and allies.

Therefore we feel obliged to offer our testimony at the hearings of the House committee on defense migration and would be deeply grateful if we would get an opportunity to present some facts regarding the following matter:

We should like to present the experiences in France, when France made the terrible mistake of having detracted her attention from the fight against fifth columnists by fighting senselessly the loyal democratic anti-Nazi refugees in their midst. We would like to add how the President's Advisory Committee intervened and saved some outstanding personalities from being treated as enemy aliens in France, refugees who—oddly enough—now are classified as enemy aliens again in this country and are in danger of being expelled from California.

We should like to present how England acted in setting up tribunals for the refugees, who exempted the genuine refugees from restrictions and stamped in their registration certificates "refugee from Nazi oppression." When the enemy came within 20 miles of England's shore the authorities tightened the restrictions suddenly but the public opinion and the House of Commons didn't give way till the position of the refugees had been restored—and today the refugee scientists, doctors, industrialists, and workers contribute gladly and successfully to the English war effort.

We should like to give the facts about the stateless refugees, about the laws expatriating them before the war, about the registration which put the details

about every refugee into the files of the local Federal Bureau of Investigation and about the registration questionnaire, which indicated the intention of treating separately the group of refugees from political, racial, and religious persecution.

We should like to mention in all modesty, how valuable it would be if democracy gives special consideration where special consideration is due, and how confidence in democracy as protector of Nazi victims would grow.

We should like to draw attention to the many outstanding personalities among the refugees, who in many fields want to contribute to the war effort.

We should like to present the plan, consistent with the proclamation of General DeWitt, to license in the military area I (of course not in the "spot" zones) the genuine refugees, till they will be taken out of the enemy alien group by the administration, a plan in which trustworthy refugees of long standing and beyond suspicion could give valuable assistance.

Mr. ARNOLD. We will now recess until 1:45.

(Whereupon, at 1 p. m. an adjournment was taken until 1:45 p. m. of the same day.)

NATIONAL DEFENSE MIGRATION

SATURDAY, MARCH 7, 1942

House of Representatives,
Select Committee Investigating
National Defense Migration,
Washington, D. C.

The committee met at 1:45 p. m.

Mr. Arnold. The committee will come to order. Capt. W. N. Cunningham will be our first witness this afternoon.

TESTIMONY OF CAPT. W. N. CUNNINGHAM, INDUSTRIAL DEPARTMENT, UNITED STATES EMPLOYMENT SERVICE, LOS ANGELES, CALIF.

Mr. Arnold. Be seated, Captain.

Witnesses before this committee, Captain, have testified that the Japanese play an important part in the production of the vegetables in this area. Could you give us a picture of the labor situation in relation to demand which will arise when this group is evacuated?

Mr. Cunningham. Well, I will try to, gentlemen. In the first place, we want to state that from our observation the Japanese is not, as he is presumed to be, a farmer, especially in this community and in this territory. He is a gardener on a mass scale. They have never patronized the Employment Service for any appreciable number of people.

Our available files contain the applications of 34,000 persons. Of that number there is a total Japanese registration of 446.

That represents 1.3 of our total available file of male Japanese workers of whom only four are listed as agricultural laborers.

In the women's industrial department we have registered 179 Japanese women, all of whom have insurance claims, and most of whom have been engaged until recently in the fish industry. There are a few other types.

In reference to the agricultural situation, I have the acreages for 1940–41, which I can submit to the committee. Here are the crops in which the Japanese largely figure in Los Angeles County: Cabbage, 3,600 acres; carrots, cauliflower, celery, corn and vegetables of all types, 41,750 acres; beans, which I didn't consider as a vegetable, due to the fact that it is a mass crop, about 21,000 acres.

Largely, these small acreages, which vary in size from 2 to 25 acres, are very intensively gardened the year around. The crops are rotated and almost constantly there is a crop coming on—radishes and small vegetables.

That is the crop that will be affected and the crop that will be difficult to replace because it is largely stoop labor. In the mass

picture. We could use our knowledge and our physical make-up for America, for America and not for Japan. Of course, whatever wise thing the Government decides, we will do, but since you want to know some of the situations and facts, we would like to express that.

And so, in your plan of evacuation, we would recommend that you would allow a good portion of the Japanese, and maybe a larger portion of the Japanese-Americans, to remain here and be of greater service and of greater usefulness for America's defense and offense.

Mr. BENDER. Reverend, when you took the stand, we informed you that Mr. Clark had another engagement, and he has now arrived. Will you leave the stand and resume after he is through.

Reverend SUZUKI. I was just about through.

Mr. BENDER. Well, we will call you back. We have some questions to ask you.

TESTIMONY OF TOM CLARK, CHIEF OF THE CIVILIAN STAFF OF GEN. JOHN L. DEWITT, UNITED STATES ARMY, FEDERAL BUILDING, LOS ANGELES, CALIF.

Mr. CLARK. I am chief of the civilian staff of Gen. John L. DeWitt of the United States Army, headquarters, Presidio, San Francisco, Calif.

Mr. ARNOLD. The committee appreciates very much your testifying again, Mr. Clark. As you remember, when in San Francisco, we expressed the hope that you might appear in Los Angeles in about 10 days to testify on later developments arising from the Executive order of the President.

Mr. CLARK. Yes, sir.

Mr. ARNOLD. Since your last appearance we know that you have been appointed by General DeWitt to serve as his coordinator concerned with the evacuation problems. For the purpose of the record will you list at this time the Federal agencies represented in your organization.

FEDERAL AGENCIES REPRESENTED

Mr. CLARK. Well, right now, we have about 12. I couldn't give you the names of all of them but I will give you the chief ones. For the last 2 days, we have been getting our organization together and assigning the work to each individual agency.

The Federal Security Agency, of course, has several agencies under it, like the United States Employment Service, and other services of a like character. Each one of those are separate agencies under the governmental set-up. They are headed up by the Federal Security Agency.

Then we have the United States Department of Agriculture, which, of course, has quite a few agencies itself, as you well know, like the triple A, the Farm Security Administration, the Surplus Commodities Corporation and organizations like that.

Our most important department right now, I think, is the United States Treasury Department. It is going to handle the property set-up. That is one of the main things we have been working on in the last couple of days.

CONSULTATION WITH JAPANESE LEADERS

Mr. CLARK. Oh, yes. They might not have to go through them at all. We are going to establish an office right here in Los Angeles to meet with these Japanese leaders. I have been urging them to get their leaders together and have a committee that could meet with us and I am sure they are doing that. They should be. Next week we will have an office right here where we can work out problems of community transplanting.

Mr. ARNOLD. In some cases the Caucasian ministers will probably speak for their group. They seem to be the leaders.

Mr. CLARK. Yes, sir. We will be happy to—in fact, we urge their cooperation because it is most helpful.

Mr. ARNOLD. In other words, you want all the help you can get.

Mr. CLARK. Well, sir, I will say that no one understands the enormity of the task. It is like the Mexican jumping bean. The minute you think you have got her, why she jumps over here. I have had some pretty tough jobs myself, from top sergeant on up, but I haven't had any like this.

AFTER-WAR USE

Mr. ARNOLD. Here is another quotation in the case of the Japanese. You are quoted as saying:

> At the end of the war, the evacuees will be returned to their homes and farms and the once-forbidden zones and the resettlement communities will be transformed into recreation and rehabilitation centers for war veterans.

Is that a correct statement?

Mr. CLARK. Of course, if they wish, they can go anywhere they want after the war. They are American citizens. I did say that it was Government property that was being used there, that we planned on using it—or, rather, the Army did—I won't be in the picture then, I hope—for vocational centers and recreational centers for our soldiers who have been in the war. As you remember, in the last war we had to build a great number of vocational centers. These buildings are portable and would be very much adaptable to that use.

CATEGORIES EXEMPTED FROM EVACUATION

Mr. CURTIS. In reference to the question of Italians and Germans, you will recall the committee's proposal to the President that the Coordinator's office start immediately planning for the creation of hearing boards. We notice that General DeWitt, in his order, has exempted certain categories. Will you give the committee the description of these categories and tell us whether it is contemplated that additional categories be created? Is it your opinion that appeal boards would make it possible to return a great majority of these people to civil life?

Mr. CLARK. Well, sir, as I said before, General DeWitt is the boss man. He makes these rules. All I do is follow the rules. I couldn't say whether he is going to add any more or not. I could just guess. Your guess would possibly be as good as mine. I am just guessing. When the general makes up his mind, he doesn't change it. I would say that there won't be any more. However,

there may be. The rules now in a broad way are that all people over 70 among the Italians and the Germans are exempted.

Mr. CURTIS. And certain parents of soldiers?

Mr. CLARK. And the parents of soldiers, or sisters, brothers, wives, children of soldiers of German and Italian descent are exempted.

Mr. CURTIS. Has any statement yet been made as to the conditions under which Italian and German aliens will be allowed to reside outside of zone 1-A?

Mr. CLARK. It will be.

Mr. CURTIS. Will they be free to establish individual residences at will away from designated military prohibited zones?

Mr. CLARK. If it is outside of 1-A, yes, sir. Of course, there are exceptions to all these answers. It would depend on the circumstances. If they were of a subversive character, why, of course, it would be better if they were incarcerated or restrained. That would not apply to my answer. My answer is, where a person is loyal and he just happens to be of Italian or German lineage, outside of 1-A under the present regulations, he would be able to live in a community of his own choosing.

Mr. CURTIS. And of course all of these things are subject to the effect of great and unexpected happenings that none of us can foretell?

Mr. CLARK. Oh, yes, all depending on the action of these folks. If they behave themselves and live right and do right and stand up right by the United States, they are not going to be harmed.

Mr. CURTIS. Now, referring to these people you just mentioned. Will they be free of curfew restrictions and other limitations outside of designated restricted areas?

Mr. CLARK. No, sir. There is not a curfew regulation now by the Army. It hasn't been promulgated. The one by the Attorney General only applies to aliens.

Mr. BENDER. Don't you think it would be desirable if you, yourself, and members of this committee, were subject to curfew regulations?

Mr. CLARK. I think it would be swell, Congressman. I would be the one to shout for that first. I got to bed last night about 3 o'clock and 10 minutes after 4 the night before.

WORK PROJECTS

Mr. CURTIS. What types of work, other than agricultural operations, are being planned or considered, and what agencies are being charged with the planning of these projects?

Mr. CLARK. Well, sir, there are several that have been suggested and to which I think the Japanese would be adaptable. It has been suggested that they be engaged in making a number of these articles that we used to buy over in the 5 and 10. That is the store where I trade. You could always go in there and buy something and on the back of it used to be "Made in Japan." So we could make it "Made in America," with Japan on the back. Or we could put them to making American flags—that would be nice, and I think a very laudable undertaking, also. Then Mr. Nicholson has several suggestions which I thought were good, of a reclamation character, particularly those who are adaptable to labor. They could be engaged in various reclamation, irrigation projects.

Mr. CURTIS. I don't know whether you are familiar with it or not, but many of the buildings that were erected for Civilian Conservation Corps camps are located in areas where they need work done.

Mr. CLARK. Yes, sir.

OTHER PROJECTS

Mr. CURTIS. In soil conservation, irrigation, flood control, and that sort of thing. And should it develop that Japanese boys are discharged from the Army, it is entirely possible that they could recruit C. C. C. camp members from these boys and carry on that work that was stopped because of the shortage of boys.

Mr. CLARK. That is a very fine suggestion, sir, and I think the location of the C. C. C. camps would make them adaptable to that very type of work.

Mr. CURTIS. I think you will find a welcome for that in the Great Plains States, the drought areas, where they were carrying on those projects and had to stop, or some of them didn't get started.

Mr. CLARK. Yes, sir.

Mr. CURTIS. Can you tell the committee what sums are available to date to do the necessary work in connection with evacuation and resettlement?

Mr. CLARK. The Army has unlimited funds available at this time from their unallocated funds. Those are the funds we are using. And, the Social Security Board has some funds. I don't know the exact amount.

Mr. CURTIS. I think that is a rather limited amount but the plan is, under the delegation of authority, for all of those to channel through the Army.

Mr. CLARK. Yes, sir. Until they get into the definite, completed resettlement where they have reached their final destination, until the war is over; then, of course, the Army wouldn't want to pay that and I think it is up to Congress to take care of that. Of course, the Army is going to have to ask the Congress for an appropriation to supplement what they have now. This is no game of marbles.

Mr. CURTIS. We are fully aware of that, Mr. Clark, and we are aware that this is just one of the burdens that is placed upon the shoulders of General De Witt. This committee wants to be just as helpful as we can. In that connection I mentioned some of the testimony that has been taken here. On many phases of it we have had some concrete suggestions that seemed very, very frank. After our hearings are over, if some member of our staff could get what is wanted when it is wanted in a hurry, without having somebody wade all through these hearings, I think they should render a service.

Mr. CLARK. I wonder if you could let one of your staff stay here for the next 2 weeks.

Mr. CURTIS. I think that could be arranged. I am not the chairman.

Dr. LAMB. Would you want them here, or in San Francisco?

Mr. CLARK. San Francisco.

Dr. LAMB. That would be easy to arrange.

Mr. CLARK. That would be fine. The problem is going to crystallize in the next few days and if we could have someone who has heard

the testimony or is familiar with the record, I think your committee could be of great help to us. I know that the General feels that you have been of great assistance to him in pointing out some of the pitfalls. You have saved us lots and lots of headaches. We have got enough already so on behalf of General De Witt and for myself I want to thank you very much for the work you have done.

Mr. ARNOLD. We won't keep you much longer, Mr. Clark. We have just about finished here. The committee has been concerned with the problems of the Italians and Germans because we are reluctant to see policies created here which may stand as precedents for subsequent action in other parts of the country where the size and scope of the problem are of such enormous magnitude as to jeopardize the very war effort. I have reference to the fact that where there are 85,000 in this coastal area there are approximately 1,000,000 German and Italian aliens, including 300,000 Germans and 600,000 Italians, according to the 1940 census. This number will, of course, be multiplied by dependents and immediate relatives who are citizens. This group, in turn, will be found to be related by ties of blood and marriage to a far greater number so that it is unthinkable that we should treat this matter lightly.

Bearing these matters in mind, what special suggestions have you for the certification as to the loyalty of these individuals and handling of the situation?

Mr. CLARK. Well, sir, there have been no orders entered as to Italians and Germans, or Japanese insofar as evacuation is concerned. The small area along the coast, known as the 1-A area, has tentatively been the General's plan insofar as the Germans and Italians are concerned. Our statistics show that there are approximately 86,000 involved there. After you subtract those that the General has already excepted, together with those who are sick and in hospitals and have various other exceptions, the number won't be so large.

HEARING BOARD TO BE SET UP

Then, again, the General is going to set up a hearing board. I did not answer your question a moment ago about that hearing board. The General is going to set up on his staff a group that would take up these matters, and where it involves a situation that needs some special attention, this military board, we believe, would be the most effective one. That is his intention now, I believe. It is a military problem and we think that the establishment of civil hearing boards would possibly not be as effective nor be as quick as would be a military board. It has not been decided, though.

Mr. CURTIS. Are you familiar with the English experience on that?

Mr. CLARK. No.

Mr. CURTIS. We had a witness here today who outlined it. I won't take the time to enumerate it but it is in the record and if the arrangement is carried out for our staff to have someone there, why they can provide it.

Mr. CLARK. Perhaps we could use that system. We want to take as much off the military as we can.

Mr. CURTIS. I don't know that you can use it entirely but there may be some phases of it that you want.

Mr. CLARK. The General hasn't decided the problem, of course, because it hasn't arisen yet; what I am telling you are my own thoughts on the matter.

Mr. BENDER. I have just two or three questions.

What is being done, Mr. Clark, to break down antagonism of local groups to the general program?

Mr. CLARK. Well, we have been doing a little campaigning. We haven't passed out any cards but we have been over talking to them and we have made some progress, sir.

Mr. BENDER. Mr. Clark, how much money do you think will be required for this undertaking?

Mr. CLARK. I couldn't say, sir.

Mr. BENDER. Have you had any estimates as yet?

Mr. CLARK. Well, our fiscal office has but I would prefer not to state it, sir.

Mr. BENDER. In my nightly conversations with various agencies at Washington in connection with this committee's activity, that is a question that has been asked and it is a question that should be thought of quite seriously by all of us immediately.

Mr. CLARK. Yes, sir; I think the committee is entitled to that and I would be happy to furnish it to your representative.

Mr. BENDER. As you understand, of course, there isn't a day that passes but what there aren't at least half a dozen speeches made on the floor of Congress regarding this issue and the problems involved.

Mr. CLARK. Yes, sir.

Mr. BENDER. All of us are trying to bend backwards not to act as a headline-hunting committee, but rather as a fact-finding committee, and, in turn, translating that to the various departments in Washington so that they, in turn, as well as Congress, might act intelligently. We found a very fine response on the part of General DeWitt and yourself regarding those things that were necessary to do without any blowing of trumpets, and I am sure we will proceed in that manner from henceforth on.

Mr. CLARK. Well, I think you have done a splendid work, as I have said before, and I think that your records and the use of whoever you assign, will be most helpful to the general. I trust that you will be able to find it possible to have that man where he will be available at the beginning of the week, or as soon as you release him from his duties with you.

Mr. BENDER. The committee expects to be back in San Francisco on Monday and no doubt will meet with you.

Mr. CLARK. Very well, sir. I will be there.

Mr. CURTIS. Thank you, very much, Mr. Clark. I appreciate your coming.

Mr. LACEY. Before Mr. Clark leaves, I would like to have one question directed to him if the committee see fit.

Mr. BENDER. Who are you?

Mr. LACEY. I am an attorney here and I am representing certain Japanese. My name is Lacey.

Mr. CURTIS. What does it have reference to?

Mr. BENDER. You will have to ask us privately as to the question you would like to ask, and then we will, in turn, put the question if we think it is desirable.

APPENDIX B

FEBRUARY 20, 1942.

Dr. ROBERT K. LAMB,
Tolan Committee,
San Francisco, Calif.:

Conferred with group of social workers and lawyers last night who feel that time is all important element in this matter. As I indicated they propose immediate establishment by Executive decree President of Alien Control Authority to be composed representatives War, Navy, Justice, Agriculture, Labor, Social Security, and some transport agency. Function military authorities to delimit two major areas on west coast, viz, primary military areas in which no licensing any kind would be permitted and secondary military areas in which licensing would be permitted subject to control of the authority both areas to be subject to modification by military from time to time. Function of the authority itself to be made up of four bureaus, viz, registration and licensing, resettlement, maintenance and reemployment, and alien property conservation. Under registration and licensing three separate licensing boards to be set up re Japanese, German, and Italian nationals. Our feeling is that this proposal should be submitted to General DeWitt through Tolan for approval in principle. Such authority would be flexible and would relieve all officials of unnecessary responsibility and would coordinate entire program. Feel that this proposal should be transmitted to top officials in Washington immediately, in particular Biddle, Wallace, McNutt, Downey, and others, with request it be laid before President before any summary action is taken. Your committee can develop factual background and specific proposals re policy and practice before board once it is constituted by Presidential decree. If such action could be taken immediately would provide committee with time to undertake thorough hearings and investigation and would also in meantime keep situation in hand.

CAREY MCWILLIAMS,
Chief, Division of Immigration and Housing.

APPENDIX C.—THE PROBLEM OF THE STATELESS REFUGEE

The plight of the stateless refugee from Nazi Germany represents one of the most tragic human dramas of the age. They have been persecuted, expelled, their property expropriated, and they have expatriated from the country of their birth. They owe no allegiance to their former country because they were neither citizens nor subjects of Germany at the time that war was declared. Nevertheless, they are classified as enemy aliens. If any group merits special consideration it is this group.

The real enemy aliens may have the loyalty to their country to sustain them, and they know why and for whom they have to bear the hardships. The refugees are loyal to the United States. They hope to become as good citizens of the United States as the refugees of previous generations. Having suffered so much materially and spiritually under the Nazis, they cannot reconcile themselves to the fact that they are identified with their deadly enemies, the Nazis. It seems like adding insult to injury. It is especially hard for the younger generation who grew up in the American spirit and who are gradually forgetting the terrible experiences of their past.

The desperate situation confronting some of these refugees may be gleaned in part at least from documents 1 and 2 attached to this appendix. The first is from a native American who is about to enter the military service of the United States, whose wife is a refugee from Germany and therefore one of the stateless refugees facing with them the prospect of evacuation while her husband is fighting in the armed forces of the United States. The second document is from one of the most prominent local attorneys to whom they turned in their despair.

The urgent need for reclassification either by separating the refugees from the enemy alien group or by licensing the stateless refugees or by clearing them individually from the stigma of being enemy aliens becomes apparent also when the moral and spiritual strain on the refugees is taken into consideration. Special consideration is essential. Fortunately, there is ample precedent for such consideration.

The Attorney General has already exempted the following groups from being classified as enemy aliens:

1. Registered Austrians are not considered enemy aliens despite the possibility that there are many potentially dangerous persons among them as in any other group.

2. Persons of German, Italian, or Japanese citizenship who have acquired any other citizenship (i. e., from Lichtenstein which could be bought easily and cheaply, or Haiti or some small South American country) are also exempted despite the possibility that there are as many potentially dangerous persons among them as in any other group.

3. Citizens from Danzig are also exempted "pending the final decision whether they are enemy aliens or not."

There are other exemptions of less importance such as enemy aliens serving in the ranks of the United States forces, Koreans, immigrants from certain Mediterranean islands, etc.

It may be hoped, therefore, that sooner or later the Attorney General will see his way clear to making similar exceptions for the stateless anti-Nazi refugees who applied for naturalization upon their arrival here, but have not been here long enough to acquire full citizenship.

Since the situation on the west coast may require more drastic regulations in the very near future, it should be possible to license all aliens of enemy nationalities who are registered with the Alien Registration Division of the Department of Justice as stateless.

The importance of this suggestion for the west coast becomes evident if the figures for enemy aliens are borne in mind. The new registration figures will probably show that half of the so-called Germans in California and the majority in Los Angeles are, in fact, anti-Nazi stateless refugees with first papers who planned to become American citizens and who may be presumed to be as loyal as any other alien group in this country. The 1940 alien registration showed about 19,000 Germans in California, approximately half of them being refugees. The situation has probably not changed much since then. The State of Washington has about 3,000 German aliens and Oregon has about 1,800 German aliens with probably a similar percentage of anti-Nazi refugees. Therefore—as far as the enemy aliens of the white race on the west coast are concerned—the possibility exists that, owing to a wrong classification, Americans will either stop distinguishing between refugees and Nazis or will have their attention diverted from the real enemies.

Quite aside from the humane aspects of the censing proposal, there are some important benefits to be derived from the presence of the stateless refugees in this area because of the service they can render to the United States by pointing to the real enemy aliens in our midst. The services they can render in this respect may be enumerated as follows:

1. *Identification of imposters.*—Imposters, especially if posing as refugees, can be identified by loyal stateless refugees, by checking their past. An imposter can prepare a plausible story for the last few years and can have falsified documents to substantiate his story. But he cannot have such documents to cover his entire life. The refugees, coming from every important city and town in Europe, can immediately check and expose him if he talks about his past, or they can prepare detailed questions to ask him which he will be unable to answer if he is an imposter, or they can suggest what person in the United States would know him intimately if the story he tells is true.

2. The Federal Bureau of Investigation cannot possibly have specialists for every problem concerning Europeans, in every local office in every city of the United States. The local offices cannot obtain help from headquarters for every individual item. But whether a given question is significant or not, only the expert can tell. An informal group organized locally and consisting of selected and trustworthy refugees to assist in selecting significant instances, if letters or documents are found which do not seem important enough to send to Washington, but which should be checked up locally, can be of inestimable value.

3. The same set-up might be used to check on the refugees here. There are many refugees who, by their past, their activities, their American relationships, are beyond suspicion. They could form an advisory board and sift most of the refugees here at least on some such basis as the following: (*a*) Valid reasons for loyalty to the United States; (*b*) no reasons for suspicion; (*c*) requires watching; (*d*) definitely suspicious.

4. Success in intelligence work depends largely on putting together two or more pieces of information. In cases where the refugees cannot furnish missing information, they most likely can indicate where it might be obtained in neutral countries of Europe (Switzerland or Sweden).

5. The following item from the newspapers may serve as an example of such services:

Mr. Gros, Mrs. Gros, and Mr. Reuter, all American citizens, were arrested in Beverly Hills by the Federal Bureau of Investigation. Mrs. Gros made a statement to the press to prove her husband's innocence. Without going into details here, it can be said that Mrs. Gros apparently does not know German foreign exchange regulations intimately (many refugees were forced to know this regulation better than lawyers or Federal Bureau of Investigation agents) because everything she said seemed to be prima facie proof of guilt, for anybody who knows the Nazi regulations. Had refugees been asked to check her statement, they would have known what questions to ask to establish guilt or innocence.

Such examples could be multiplied ad infinitum if there were an opportunity to learn and check the statements made by suspects.

If no general exemption or no license for the stateless refugee can be achieved, then it may be possible as a last resort to do what Great Britain has done. About 2 months after the war broke out, the refugees there were asked to appear before special tribunals, and if found to be genuine refugees, had the following stamped in their certificate of registration:

"The holder of this certificate is to be exempted until further order from internment and from the special restrictions applicable to enemy aliens under the Aliens Order 1920 as amended. Refugee from Nazi oppression."

Perhaps it may be possible to have a similar procedure on the west coast which would clarify in a short time the position of all persons who have registered as stateless during the recent alien registration.

APPENDIX C—DOCUMENT 1

MARCH 1, 1942.

Mr. JOSEPH P. LOEB,
Pacific Mutual Building, Los Angeles, Calif.

DEAR MR. LOEB: The world has reached a stage in its turning where I am in need of the counsel and services of an A 1 attorney.

There were two references on the radio today that the Army is considering evacuating all enemy aliens from the Pacific States including California. You may remember that my wife, ———, came from Manheim, Germany, in 1939. She is now eligible for her second papers but we expect that this will take about a year. We are expecting to have an addition to our family some time in March. I may also be drafted into the armed services, some time in March. Thus, it may happen that ——— will be forced to leave the State in the very near future and face a rather uncertain future.

I would very much like to talk this matter over with you and to secure your professional advice. I will call you on the telephone Monday afternoon or Tuesday to see if I can make an appointment with you.

Thank you kindly for your consideration of this matter.

Yours very truly,

——— ———.

APPENDIX C—DOCUMENT 2

JOSEPH P. LOEB,
610 PACIFIC MUTUAL BUILDING,
Los Angeles, Calif., March 4, 1942.

MY DEAR MAURICE: I am sending to you herewith a letter written to me on March 1 by Mr. ———, whose wife, a Jewish refugee from Germany, fears that she may be classified as an alien enemy and compelled to leave the State of California.

The letter is written to me in my professional capacity, but Mr. ——— has consented that I send it to you, to be used in such manner as you may consider proper.

In order that you may have some further background for the case, and may better understand how it illustrates the hardship and I think injustice that will result from the indiscriminate classification of refugee aliens as enemies, I give you the following.

One of Mr. ———'s grandmothers was born in Los Angeles. His mother was born in Los Angeles, and his father in Akron, Ohio. Mr. ——— himself was

born in Los Angeles on March 24, 1914. He is a graduate of Stanford University and did post graduate work at University of Southern California and the University of North Carolina. His training has been in sociology and at present he is on the staff of the University Religious Conference at University of California of Los Angeles. Mr. — — is a nephew of Mr. S. Tilden Norton, also a native of Los Angeles and active, as you know, in welfare and civic affairs.

I hope that the information which I am sending you will be helpful to you and to the authorities with whom you are in contact in your study of the enemy-alien situation.

Cordially yours,

JOE LOEB.

TESTIMONY OF CAREY McWILLIAMS—Resumed

Mr. McWILLIAMS. I should appreciate it if that could be done.

I might say one word in connection with the plan. The plan contemplates the establishment, by Executive decree, of an alien-control authority in which could be vested jurisdiction with respect to the several aspects of this plan. I think it is self-evident that such matters, as property conservation, are intimately related to other aspects of the problem, including resettlement, maintenance, transportation, and so forth.

The plan also would establish, as part of the authority to be created, a bureau for registration and licensing, all of which would be, as you can see, centralized in one authority.

The provision with respect to registration and licensing is very carefully patterned upon the English experiences, which have been testified to earlier today by other witnesses. I appreciate the opportunity merely of presenting the plan and I thank you for the opportunity.

Mr. ARNOLD. Thank you very much, Mr. McWilliams.

Mr. BENDER. The gentlemen of the American Civil Liberties Union.

TESTIMONY OF A. L. WIRIN, OF THE AMERICAN CIVIL LIBERTIES UNION

Mr. ARNOLD. How many are there in your group?

Mr. WIRIN. Just one. My name is A. L. Wirin. I am counsel for the southern California branch of the American Civil Liberties Union. Both as a matter of necessity and as a matter of choice I shall be very brief at this time.

I have a short statement which will take just a few minutes to present.

Our approach to the problem is in terms of two primary considerations:

Our deep concern for our national as well as local and State security through adequate military defense.

Our abiding belief in the Bill of Rights, and the protection of hard-earned American civil liberties, consistent with military security.

As corollary to our emphasis upon constitutional liberties is our commitment to the guaranties of the fourteenth amendment of the United States Constitution, which assures all races and groups in our midst of the equal protection of the laws.

Hence, our mind is set against discrimination because of race.

Mr. BENDER. You heard Mr. Clark say, which has been repeated on a number of occasions, that your leadership and the leadership in various lines of endeavor would be called in and would be consulted with in order to accomplish this without any difficulty.

Mr. SASAGAWA. Yes; but, continuing, may I add another point to that? That I am sure that Mr. Clark, who has been dealing with these many officials, has found that we among ourselves have many groups, many organizations, and in that way get many conflicting plans and suggestions. So I suggest that the authorities see individual leaders, not so much organizations, and compile the data together and then issue one command, or not a command, but more or less a statement to that effect.

Mr. BENDER. Is there anything further you have to offer?

Mr. SASAGAWA. No. It is just this, that Mr. Clark has more or less mentioned about building camps for these evacuees. I am a member of the committee on inland farm cooperatives, and I believe you have their notes?

Mr. BENDER. Are you a student? Are you going to school now?

Mr. SASAGAWA. Well, no. I am not in school now.

Mr. BENDER. What is your occupation?

Mr. SASAGAWA. Well, my business was a draftsman at one time, an architectural and structural engineering draftsman. I am a member of this organization which has 64 churches, or about 6,000 people who are farmers, and we at the present time are planning to find a site for them.

Mr. BENDER. What church is that?

Mr. SASAGAWA. That is the Christian Church, Federation of California.

Mr. ARNOLD. You heard Mr. Clark say that the governmental office here would be glad to hear from and have the cooperation of leaders of Japanese?

Mr. SASAGAWA. Yes.

Mr. ARNOLD. And I assure you we will be glad you have that cooperation.

TESTIMONY OF HANS F. SCHWARZER, LOS ANGELES, CALIF.

Mr. ARNOLD. What is your name, sir?

Mr. SCHWARZER. Hans F. Schwarzer.

Mr. BENDER. Proceed, Mr. Schwarzer.

Mr. SCHWARZER. I would like to give you a simple example of a simple citizen, if I may call myself a citizen.

I have been here since November 10, 1938. I have a lot of friends here, and all of us tried to start all over again and to build up a new life. I own an apartment house at 727 South Mariposa, and all of us work. I don't like to brag about myself, and to tell the committee too much, but as I told you this is a simple example of the life we try to live here. My son became an Eagle Scout and my daughter is a Girl Scout, and we try in every way to get Americanized.

When I say "we," I don't mean myself alone, but as part of a group. The group is the refugees who came here from middle Europe as refugees to find a place of freedom and liberty. We have many American friends, and all of them have been telling us, "Don't worry; this doesn't concern you at all."

So I don't think there is one person who really could think that we are dangerous or even suspicious. I don't think there has been one case where one of our group, if I may call it a group, has been of any danger. We know what it would mean if Hitler would win this war. I couldn't think of it and I don't believe it is possible.

THE REFUGEE'S POINT OF VIEW

So we try to cooperate and to do everything we can to help America win this war. I don't want any privileges for our group, but, on the other hand, I feel that it would be a discrimination if we would have to leave this State. I think America has been built up by immigrants and I can't see why it should make a little bit of difference because somebody who was lucky enough to arrive here 2 years earlier than somebody else can become naturalized. In 1½ years, for instance, I would have a chance to take out my second papers, and I can't see why we should leave now.

So we are willing to do everything and to sacrifice everything if we could help win the war, but I can't see how it could help this country to win this war if we were to have to leave.

I think it would be very difficult for most of us to start somewhere else again. I was worried when I heard what Mr. Clark told us when he said that the general has made up his mind and that was that, but I hope the committee will make it possible to tell the military authorities about this problem and these questions, to make it possible not to give any privileges, but to make it possible to make these decisions individually and not wholesale.

Mr. BENDER. Do you think that is something to worry about when he makes up his mind? Don't you think we should be happy that we have somebody who can make up his own mind?

Mr. SCHWARZER. I might be very glad, but I understood Mr. Clark that he wanted to tell the committee that the general has spoken and that it has to be like he told it. He means that all of us have to leave the so-called area A.

Mr. BENDER. The general is an American and he is one of these typical Americans and he believes in the American way. I am sure you don't know the general very well.

Mr. SCHWARZER. I am sorry I don't know him at all. But I hope your words will make us a little more secure. The last few weeks all of us have really worried and some of us have wanted to leave to avoid a mass evacuation. I would like to have these courts established which have been mentioned by Dr. Guggenheim.

TESTIMONY OF RONALD LANE LATIMER

Mr. BENDER. Mr. Latimer, will you please identify yourself?

Mr. LATIMER. I am Ronald Lane Latimer; of American ancestry on both sides for about 150 years; before that, English. I am a priest in a Buddhist temple which was originally founded as a mission of one of the Japanese Buddhist sects. I have studied Buddhism in Japan. I am a graduate of Columbia University. I did some work in comparative religion there.

I didn't expect to come before your committee this afternoon, but I heard that there had been certain discussions of religion. There

15-4. Provide that insofar as a sentence imposes the penalty of death or the penalty or detriment of banishment, it shall not be confirmed except by the military governor, but may be set aside or moderated by intermediate reviewing authority.

15-5. Provide that subject to paragraphs "15-2," "15-3," and "15-4," all judgments of commissions sitting as courts within any district and all judgments of superior provost courts therein which impose the penalty or detriment of banishment shall be reviewed and either confirmed or revised by the district officer of that district.

15-6. Provide that subject to paragraphs "15-2," "15-3," "15-4," and "15-5" every judgment of a provost court within any subdivision shall be reviewed by the president of the commission for that subdivision if he is qualified to act in that case on review, and if not, then by the next senior civilian member of that commission who is so qualified. Provided that no member shall be qualified to act on review if he participated in the trial or decision of the case reviewed.

15-7. Provide that the term "revise" shall be understood to include setting a judgment aside in whole or part, dismissing the case, ordering a new trial, or reducing or remitting all or any part of a judgment or sentence under review.

15-8. Provide that applications for clemency will be considered only after conviction of the prisoner on whose behalf they are made; that they must state the prisoner's name, nationality, address, age, and occupation and those of the applicant; that they must state when, where, and by what court the prisoner was convicted and the sentence imposed; that they must state specifically and briefly the facts deemed to require or justify clemency in his case, and the name, nationality, address, and occupation of any person claimed by the applicant to have personal knowledge of those facts of any of them; that they must indicate the action desired; that they must be verified under the oath of the applicant; and that they may be delivered to any member of a military commission in any subdivision. Provide that, if according to such an application, the prisoner is under sentence of death the member receiving it shall, as promptly and directly as possible and as informally as need be, communicate the fact and contents of the application to the executive officer who shall thereupon communicate them promptly with his recommendation to the military governor. Provide that in all cases the application shall be promptly transmitted through the president and district officer to the executive officer, who shall cause to be made such investigation as he deems appropriate, and shall report the facts with his recommendation to the military governor. State that the military governor retains the right to stay the execution of any sentence not fully executed or to direct any remission or mitigation thereof which the facts may, in his opinion, warrant.

Respectfully submitted to the section.

C. HUNTINGTON JACOBS.

EXHIBIT 13.—THE POSITION OF ALIENS IN GREAT BRITAIN DURING THE WAR

REPORT BY BRITISH LIBRARY OF INFORMATION, 30 ROCKEFELLER PLAZA, NEW YORK CITY

MARCH 20, 1942.

Introduction.—At the outbreak of war Great Britain announced a considerate policy toward her enemy aliens, most of whom were known to be "refugees from Nazi oppression." "There will be a general desire," said the Home Secretary, "to avoid treating as enemies those who are friendly to the country which has offered them asylum."[1] The unexpected course of the war in Europe brought about drastic changes in this policy, and when in the tenth month of the war invasion seemed imminent, Britain interned a large number of enemy alien refugees, and even transferred some to internment in Canada and Australia. Later, however, it became possible to revert to the old policy. The interned refugees were almost all released and were allowed, on the same terms as other friendly aliens, to play their full part in the Allied cause. Though some persons saw even temporary internment as an unnecessary hardship to refugees who were Hitler's enemies, the dominant fact is that Britain interned refugees only in a period of unexpected crisis, and reversed this policy for all who proved, after scrutiny, to be completely trustworthy.

[1] Parliamentary Debates, House of Commons, September 4, 1939.

The problem of the refugees was but a portion of the larger alien problem of Great Britain. There were hostile enemy aliens who had to be interned. There were aliens, allied or neutral, whose treatment had to be considered individually. More difficult still, many refugees came to Britain, as the war developed from countries occupied by the enemy, and it was often difficult to decide whether they were reliable or not. Most of the alien problems of Great Britain have now been solved, and the story can be surveyed as one which has achieved a relatively happy ending.

The outbreak of war.—In September 1939 there were in Great Britain 238,074 aliens of the following nationalities:

American	13, 665	Japanese	966
Austrian	11, 989	Norwegian	2, 220
Belgian	4, 207	Polish	8, 776
Bulgarian	79	Portuguese	470
Chinese	2, 652	Rumanian	2, 692
Czechoslovak	7, 930	Russian	47, 664
Danish	3, 162	Serbian	509
Dutch	5, 668	Spanish	3, 039
Finnish	447	Swedish	2, 691
French	11, 613	Swiss	10, 088
German	62, 244	Turkish	866
Greek	1, 607	Others	9, 738
Hungarian	3, 965		
Italian	19, 127	Total	[1] 238, 074

[1] Parliamentary Debates, House of Commons, October 26, 1939.

In an order dated September 4, 1939,[2] all aliens over 16 were obliged to report immediately to the police. Enemy aliens (that is Germans and Austrians) were forbidden, without previous permission, to change their residence or to travel more than 5 miles from their residence (except in the London area), or own vehicles, cameras, or maps. Other aliens were only to notify changes of address or absences of over 2 weeks. British and foreign women who had acquired German or Austrian nationality by marriage had to register. Citizens of Czechoslovakia, even though previously resident in areas occupied by Germany, were not classified as enemy aliens.

Some 2,000 enemy aliens on the "black list" of the British authorities were immediately interned at the outbreak of war;[3] but it was known that of the 74,233 Germans and Austrians resident in Great Britain at least 50,000 were "refugees." The majority of these refugees were Jews, or Christians of Jewish descent, who had been forced to leave Germany or Austria because of "racial" persecution. Others were victims of religious persecution (as Christians), or of political persecution. The Government announced that it would refrain from a policy of general internment, but would, instead, have all Germans and Austrians reviewed before tribunals, to ascertain which of them could properly be left at large, and which should be interned or subjected to other restrictions.[4]

The tribunals for enemy aliens.—Within a few weeks over 100 tribunals were set up throughout the country, most tribunals being given not more than 500 cases to examine. The tribunal, in every case, consisted of a single person with judicial experience, usually a judge or a barrister, assisted by a liaison officer, and if required, by an interpreter. The liaison officer was selected by the voluntary refugee committees, and was able to supply information in the possession of these committees. A police officer was also present to supply the tribunal with confidential information in the possession of the authorities.[5] Friends or witnesses could accompany the alien.[6]

The tribunals were instructed to specify which of the enemy aliens they examined could be considered as refugees, and to put every enemy alien in one of three categories:

Category A. To be interned immediately.

Category B. Subject to some restrictions, mainly restriction of movement without permission.

Category C. Free of all restrictions, except those applicable to nonenemy aliens.

[2] Statutory Rules and Orders, 1939 No. 994.
[3] House of Lords, Parliamentary Debates, May 23, 1940.
[4] Parliamentary Debates, House of Commons, September 4, 1939.
[5] Parliamentary Debates, House of Commons, September 20, 1939.
[6] Parliamentary Debates, House of Commons, September 28, 1939.

By March 1940, 73,353 Germans and Austrians had appeared before the tribunals, and had been classified as follows:

Category A. Interned	569
Category B. Restricted	6,782
Category C. Free from restriction	64,254

Fifty-five thousand four hundred and fifty-seven had been recognized as "refugees from Nazi oppression." [7]

It was generally agreed that the tribunals had acted fairly, though there was some complaint of a lack of uniformity in decision. Appeals were entered against many of the A and B decisions, and revisory committees were set up to hear the appeals. The greatest lack of uniformity had been over the B category, which had apparently been interpreted by some tribunals to mean "possibly dangerous" and by others as "almost certainly innocent." Twelve regional committees were therefore set up to review the B decisions, and also to reconsider any C cases where the police thought it advisable.[8]

During this period all aliens, including uninterned enemy aliens, were allowed to reside in any part of Great Britain and to accept employment subject to the consent of the Ministry of Labor. Enemy aliens were recruited for the Auxiliary Military Pioneer Corps and were allowed to work in defense industries upon the receipt of a permit from the Home Office (8a). Statutory Rules and Orders, 1939. No. 1660.

Stricter attitude to all aliens.—At the end of March 1940 the Government began to take stricter measures with regard to the control of aliens. An order was issued [9] declaring that aliens resident in the "protected areas" (mainly important coastal districts) could continue to live there only with the written permission of the police or the Home Secretary. If, having normally lived or worked in these areas before this time, they desired to continue residence, application was carefully considered, and they were allowed to continue residence pending a decision. From April onwards, the "protected areas" were greatly extended in number.[10]

At the beginning of May, when the Netherlands were over-run by the Nazi invaders, the British public became alarmed at the possibility that there might be some fifth columnists among the aliens who still enjoyed freedom in Great Britain. On May 12 the Government suddenly interned all male enemy aliens between 16 and 60 residing in certain coastal areas, and ordered all other aliens residing in these areas, to report daily in person to the police, to refrain from using any motor vehicle or bicycle, and to observe a curfew between 8 p. m. and 6 a. m.[11] It was stated that all these measures were to be regarded as provisional, and the police were authorized to grant exemptions to these restrictions if they were satisfied that it did not prejudice the national interest.[12] A few days later,[13] the general internment of all male enemy aliens between 16 and 60 of category B was ordered and soon the Government began to intern practically all male enemy aliens mainly of category B.[14] During the same period orders were issued, tightening the control over all, including nonenemy aliens.[15] Control over employment was made stricter. They were subjected to a curfew of 10:30 to 6 a. m. (12 midnight to 6 a. m. in the London area), and were forbidden to own firearms, motor vehicles, bicycles, boats, or radios. They were obliged to report their movements carefully to the police, though it was stated that exceptions would be granted in cases where there was no danger. In July an order was issued under which all former Austrians, Germans, and Italians, who had become naturalized British subjects since December 1, 1932, were also obliged to report to the police (15a). Statutory Rules and Orders, 1940. No. 1148.

Internment of enemy aliens.—By the end of July 1940 a total of 27,261 enemy aliens had been interned in Great Britain, of which 22,878 were German and Austrians and 4,383 Italians.[16] Of the Germans and Austrians some 5,000 were of category B and 13,200 of category C.[17] The Italians had never been classified by tribunals, owing to their late entry into the war.

[7] Parliamentary Debates, House of Commons, March 1, 1940.
[8] Home Office statement (Daily Press, March 28, 1940).
[9] Statutory Rules and Orders, 1940. No. 468.
[10] Statutory Rules and Orders, 1940. Nos. 726, 857, 869, 931, 983, 1464.
[11] Statutory Rules and Orders, 1940. No. 720.
[12] Home office statement (Daily Press, May 13, 1940).
[13] Home office statement (Daily Press, May 17, 1940).
[14] Parliamentary Debates, House of Commons, June 20, 1940.
[15] Statutory Rules and Orders, 1940. Nos. 750, 751, 819, 1091.
[16] Parliamentary Debates, House of Commons, December 5, 1940.
[17] Parliamentary Debates, House of Commons, October 10, 1940

The Government stated a number of times that internment was "a precautionary measure only, and was not intended to make, nor did it in fact make, any reflection on any loyal or friendly alien interned in pursuance of general directions".[18] On May 29, 1940, the under secretary of state for the home department had affirmed that he could not recall any case since the beginning of the war, of anything which could be described as a hostile act having been proved in a court of law to be attributable to German or Austrian refugees. The dominant cause of the internment policy of 1940 was the expectation of invasion, under which it was felt that "enemy aliens were better out of the way," even those who had proved friendly to the Allied cause. For the same reason, when hostile enemy aliens and prisoners of war were sent in July 1940 to Canada and Australia "for safe-keeping," it was considered advisable to send with them as many interned refugees as possible, on the general principle that the fewer people who had to be looked after during an invasion, the better it would be. As it had never been anticipated in Great Britain that it would be expedient to intern refugee aliens, little preparation had been made with the result that during July and August 1940 conditions in refugee internment camps in Britain were, to say the least, imperfect. Public opinion in Britain was greatly aroused on these questions, and before long the Government gave assurances that certain groups of refugee aliens would be released from internment and that conditions would be greatly improved, as soon as possible, for those remaining.[19]

Review and release.—The various committees set up for the treatment of aliens in Great Britain were active after August 1940 in many directions. The Lytton committee was an advisory council on general alien policy,[20] the Asquith committee on internment policy, the Lorraine committee on interned Italians. Separate tribunals reviewed enemy aliens claiming to be released as active anti-Fascists, Germans, and Austrians of category B, and nonenemy aliens detained under article 12 (5A) of the Alien Order, 1922.[21] As early as August 1940, the Government specified (in a White Paper—Cmd. 6233) some categories of interned enemy aliens who could apply for release. In October 1940 and again in 1941, these categories were extended. They may be summarized as follows:

1. Refugees under 18 and over 65, the invalid and infirm, and cases of special hardship.

2. Refugees who held key positions in industries or undertakings of national importance; skilled persons engaged in agriculture, food growing or forestry; managing employers of firms employing at least 12 British workers and engaged in national work.

3. Doctors and dentists practising or studying, scientists, research workers, students.

4. Refugees about to emigrate.

5. Refugees accepted for the Pioneer Corps or honorably discharged from the corps; parents of anyone serving in His Majesty's forces; volunteers for the Army not accepted on the grounds of health or age; refugees who have taken an active part in opposition to the Nazi regime and are friendly to Britain.

The Government was pressed to release all friendly aliens without further delay, but the Home Secretary stated[22] that the policy of the Government would be to extend the process of release in the given categories, in the hope that all who were loyal and useful, or who deserved release on other grounds, might be released under the White Paper. This policy has been carried out thoroughly, and practically all the refugees who were interned in Great Britain are now at liberty.

Refugees transferred to Canada and Australia.—When the policy of releasing interned refugees was announced for Great Britain, it was hoped to extend this policy to refugees transferred in July 1940 to internment in Canada and Australia. At first the governments in both Dominions were not prepared to consider release, taking the view that the internees had only been transferred for safekeeping and not as immigrants.[23] The British Government sent representatives to both countries to arrange for the return to Great Britain of refugees who might justifiably claim release under the White Paper.[24] Over 1,000 refugees were returned to Britain from Canada and over 500 from Australia. The Cana-

[18] Parliamentary Debates, House of Commons, January 22 and May 8, 1941.
[19] Parliamentary Debates, House of Commons, July 23, 1940.
[20] Parliamentary Debates, House of Commons, August 7, 1940.
[21] Parliamentary Debates, House of Commons, November 20 and December 3, 1940.
[22] Parliamentary Debates, House of Commons, November 26, 1940.
[23] Parliamentary Debates, House of Commons, March 4, May 29, June 19, July 31, October 16, October 23, 1941, etc.
[24] Parliamentary Debates, House of Commons, December 3, 1940, January 21, 1941.

dian Government also agreed, after a time, to release in Canada student refugees, and men who might be of special value to the war effort. Nearly 300 have already been released on these grounds. It has been announced recently that refugees in Australia will now be released for the Australian Army, the industrial war effort, as students or on health grounds.[25]

While the questions of release were pending in Canada and Australia, conditions for the interned refugees were greatly improved in both countries, and many special facilities were granted to them. Charges made concerning the conduct of the guards on the ships on which the aliens were sent abroad were thoroughly investigated by committees set up by the British Government. The offending soldiers were punished, and the refugees were compensated for loss of their property.[26]

Statistics.—On the 11th of November 1941, the Home Secretary gave the following figures of enemy aliens still interned:

	Germans and Austrians				Italians	Total
	A	B	C	Total		
Men:						
Great Britain	206	67	321	594	1,893	2,487
Canada	2,119	399	609	[1] 3,127	290	3,417
Australia	297	229	807	1,333	188	1,521
Women: Great Britain	430	654	114	1,198	10	1,208
Total	3,052	1,349	1,851	6,252	2,411	8,663

[1] About 100 have since been released in Canada.

The figures given in this paper are summarized in the following table:

Enemy aliens in Great Britain

	Germans and Austrians			Total	Italians
	Category A and unclassified	B	C		
In Britain in September 1939	569	6,782	64,254	73,353	19,127
Maximum number interned, July 1940	4,678	5,000	13,200	22,878	4,383
Still interned Nov. 11, 1941	3,052	1,349	1,751	6,152	2,411

Present position of aliens in Great Britain.—Nationals of states at war with the Axis have recently been exempted from all wartime restrictions on aliens.[27] Though other aliens are still subject to the restrictions mentioned above with regard to curfew, residence in "protected areas," ownership of vehicles of transport, etc., every effort is made to "administer the regulations sympathetically" when the alien is thoroughly reliable and when the restrictions affect employment or civil defense duties. Aliens are helping the national effort on almost the same footing as citizens.[28] Two striking measures have been taken to secure the maximum service of aliens. In 1940 the Minister of Labor had announced that an international labor force would be formed in which all aliens could be usefully employed in Great Britain. In June and July 1941, all aliens, including enemy aliens, had to register for employment for national service ((29a) S. R. and O. 1941. Nos. 719, 720, 721, 722, 723, 724, 1020) and it was then found that over 85 percent were already usefully employed. Many had high professional qualifications or were skilled workmen when they came to England; others have received or are receiving training for industrial work under the same conditions as British citizens. The other step taken was to allow all alien doctors, including enemy

[25] Parliamentary Debates, House of Commons, January 29, 1942.
[26] Parliamentary Debates, House of Commons, February 23, May 27, August 5, 1941, January 20, 1942.
[27] Parliamentary Debates, House of Commons, February 12, 1942.
[28] Parliamentary Debates, House of Commons, November 27, 1941.

alien refugees, to practice during the present emergency, even without taking the British diploma previously required.[29] Special consideration is shown to aliens whose close relatives are serving in the Allied cause.

Enemy alien refugees are still recruited in considerable number to the armed forces. The men join the Auxiliary Military Pioneer Corps, though they may be transferred to other regiments, and may even be granted commissions. The women volunteer mainly for the Auxiliary Territorial Service. All can serve in civilian defense. It must be emphasized that the employment of aliens is always subject to the receipt of permits from the security organizations, but these are very rarely withheld.

Two modifications must be made in assessing the number of aliens in Great Britain today as compared with the number for September 1939. A considerable number, probably some thousands of enemy aliens and other alien refugees who were only in England as transmigrants at the outbreak of war, were able to emigrate overseas, mainly to the United States, during the first year of the war. On the other hand, a considerable number of refugees arrived in Great Britain from countries overrun by Germany. These include some 3,000 Poles, 1,600 Dutch, 13,900 Belgians, 450 Czechs, and 130 Spaniards.[30] Exiled governments have been given certain rights over their nationals in Great Britain.

EXHIBIT 14.—STATEMENT BY PAUL SHOUP, PRESIDENT, MERCHANTS AND MANUFACTURERS ASSOCIATION, 725 SOUTH SPRING STREET, LOS ANGELES, CALIF.

FEBRUARY 13, 1942.

The question of the removal of aliens who are citizens of enemy countries and in addition of Japanese who by birth are American citizens, has resulted in presentation of many plans. With respect to the Japanese of American birth, questions arise as to constitutional rights of citizens. It is stated by our counsel that under martial law these constitutional rights, including writ of habeas corpus under section 9, article I, and other rights named under article XIV of the Constitution, can be suspended under present conditions, since American territories along many shores in the Pacific have been invaded.

The resolution enclosed adopted February 11, by the Los Angeles County Civilian Defense Council, through its committee, Gordon L. McDonough, chairman, which was given necessary power, deals with the practical problems presented to the committee and is of some length accordingly.

With the counsel of District Attorney Dockweiler and Deputy District Attorney Shoemaker, members of the committee reviewed carefully a plan for complete evacuation, technically, from strategic areas, licensing those who might be permitted to remain or subsequently enter such areas, but in the course of that examination certain problems arose, as follows:

(*a*) Interference with work of residents, traffic through such areas, advice in time to strangers, possible interruptions to defense industry, cost and annoyance to the individuals involved, expense to the Government in continual enforcement of the order necessary.

(*b*) Impracticability of protecting the paper boundaries of such strategic areas, where at all extensive, as against the return of anyone bent on sabotage or espionage.

(*c*) Attempting protection by such arbitrary boundaries and at the same time allowing the banned classes to be at entire freedom immediately outside thereof, without making any provisions either for their control or subsistence.

(*d*) No provision to take care of crops which the Department of Agriculture had declared to be "must" crops, under Japanese operation.

The meeting after 2 hours' discussion adjourned until Tuesday, 10 a. m., when the resolution enclosed was unanimously adopted. It was formulated as solutions were suggested for the specific problems put in the form of questions. They are as follows:

(1) Would it be necessary to declare martial law and technically evacuate all people, as from the critical area to which martial law was applied, licensing those who were permitted to remain in the area or re-enter that area, in order to keep out American citizens of Japanese descent?

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[29] Statutory Rules and Orders, 1941, Nos. 24, 1481.
[30] Parliamentary Debates, House of Commons, July 4, 1940.

Conclusion was that if through martial law we had the constitutional power to keep out these Japanese through evacuation of the entire population and licensing those returning, then the Government likewise would have the power through martial law to remove these Japanese and any others that it might wish to remove, since the end attained would be exactly the same without disturbing others. (Of course, there is no question about the constitutional power of the Government to intern all aliens who are citizens of enemy countries.)

(2) Even if martial law is the final answer, should we not take all steps that could be taken effectively and promptly, to avoid the extension of martial law over the entire State—even under our suggestion that the only people to be removed thereunder would be enemy aliens and American-born Japanese?

The answer is that it would be better, thus avoiding unnecessary interference with local governments and local courts—their powers being superseded by those of the Federal Government and its agencies; and, further, that the expense involved in making effective the program of evacuation through State-wide martial law would be unnecessarily great. Therefore, our committee provided for the various steps which in our judgment would limit the application of martial law, as a last resort, to very small areas. Further we concluded that in connection with crop production now under way the creation of working internment areas where these classes could be put to work making them self-supporting and furnishing food for the country would be of real aid.

Limitation on unnecessary hardships, such as the movement of the aged, the infirm, women and children, except where they went as part of family units, would follow the plan we presented.

We have reason to believe such a plan as this would be more apt to meet with the approval of the National Government than the wholesale evacuation of these classes under discussion, without provision for their future.

(3) What would be the first step in this plan and why would it be taken?

The first step is described in section (1). Our committee feels there will be no difficulty under the law in enforcing this prohibition. It is already installed as far as defense industry, waters, docks, and the like are concerned, where passes are required at the present time. In the very large areas of forest and parks (two-fifths of State's area is under Federal control), record is required of people entering, fees collected, camping sites designated, policing provided, and many other rules and regulations; so it is not believed that there would be any trouble legally in enforcement there.

This step No. 1 does not involve taking anybody away from his home but it does cover very largely the areas most in danger.

(4) What should be done with the citizens of enemy countries taken from homes?

Section (2) of the enclose is our answer. They should be placed under Government control—that is, in a practical way be subject to internment rules and regulations. To designate certain strategic areas from which to exclude them, taking them from their homes, and then letting them roam at will outside, would not solve the problem. With respect to large strategic areas the boundaries would be paper boundaries only; could not be satisfactorily patrolled; and any alien shut out bent on sabotage or espionage could return and engage in his work perhaps even more freely than if he were at home and had to account for his whereabouts. Therefore, if he is to be taken out of an area on the ground that he is under suspicion, he must be looked after in his new location. Hence the provision for working internment areas. To take an alien from home, take his job away from him, and then turn him loose 15, or even 50, miles away, certainly will result in it being impossible for him to get work privately and perhaps make the wolf out of him that he would not otherwise be. Hence our conclusion very definitely that if dispossessed from their homes and their jobs these aliens must immediately be controlled, given subsistence and work. In some instances, meeting the desire of the Department of Agriculture to keep crops growing, these internment areas might be where the men are now employed.

(5) But, how under our constitutional provisions are we going to get the native-born Japanese to leave their homes and work and subject themselves to internment under Government rules?

The answer is that they constitute about 40 percent of the adult Japanese population; are very much bewildered and distressed at this time; their inclination will be to follow their elderly parents (aliens) if still alive; that if they do not accept voluntarily the invitation to put themselves under complete Government control through internment, whatever form it may take, they will then be subject to regulations provided in section (5). If the employers do not accept

one or more of the resulting units not only do not contain more potential traitors than the average of the Nation, but actually less, is it not highly desirable from any point of view that the men and women of this group be cleared of the label of enemy aliens?

You gentlemen have been shown in Los Angeles and the other coast centers that the expatriates and refugees are the most bitter enemies of Hitler and of everything he stands for. Should one really—when one can avoid it so easily—give Adolph Hitler and his fellow gangsters the enormous pleasure to see the people whom he hates most in the world, the men and women who stood up against him and the men and women that he drove from their homes treated as if they were Nazis? It would be a victory for him and one that can be avoided.

If the United States accept in principle to make a division of the enemy aliens of German and Italian lineage and want to exempt any group of them that can actually be proven to be highly reliable, these groups can be defined: There are, according to the 1940 registration, 19,000 Germans in California, 1,800 in Oregon, and 3,000 in Washington. Since 1940 the total number must have declined through naturalization, and any newcomers could only be refugees as no Germans could leave their country in wartime. Of this total of about 23 or 24 thousand Germans, nearly half, 10 or 11 thousand persons are refugees, are families who had to leave Germany for reasons of political, racial or religious persecution, and, besides having taken out the first papers of the United States citizenship, have lost their German citizenship through legal action of the Hitler government. The Federal Bureau of Investigation today, with the second registration concluded, can compile the exact list of these stateless persons without difficulty. And whatever the Federal Bureau of Investigation, which is doing such excellent work, should not know about these refugees, we ourselves can find out. Give us the permission to cooperate, and in 2 weeks—I say 2 weeks—these—about 4,000 families could be investigated by an advisory board composed of trusted refugees under the presidency of an officer of the Department of Justice. It is nearly impossible that an imposter could stand up under the questions about school and occupation and family background in the old country which such a board could fire at him. After the exemption of this first and most numerous group, which could be completed before the evacuation of the enormous mass of Japanese and American Japanese is finished, there might be set up a tribunal which could judge about the relatively small number of German expatriates, who still have the status of German citizens but are genuine victims of their democratic convictions and their love of liberty.

I do not know the figures of the Italian citizens and excitizens involved but I should imagine that very similar facts will be found to exist.

There is only one more point to be mentioned. Whilst the problem of the Japanese and the grave problem of the Japanese-Americans is burdened with the enormous number of persons involved and the deep-rooted feelings of the populations of the Pacific States against them, none of these factors exists for the German expatriates. Their number is relatively small, they are well-defined and no objection will be found among the so friendly populations of California, Oregon, and Washington, which would force to evacuate the German refugees for reasons of public morale or safety of the persons involved. On the contrary, gentlemen, the whole country, including zones not touched directly, would be thankful to the Tolan committee for having shown that the United States can be tough where it is necessary but will not unnecessarily compromise the life and property of thankful, loyal, and proud future citizens.

NATIONAL DEFENSE MIGRATION

THURSDAY, MARCH 12, 1942

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE INVESTIGATING
NATIONAL DEFENSE MIGRATION,
Washington, D. C.

The committee met at 9:45 a. m., in room 965, 1355 Market Street, San Francisco, Calif., pursuant to notice.

Present were: Leonard A. Thomas, counsel, presiding; Dr. Robert K. Lamb, staff director; John W. Abbott, chief field investigator; Herbert Roback, investigator; and F. P. Weber, economist.

Mr. THOMAS. The committee will please come to order.

First of all, I want to offer an apology for the chairman and the committee for not being present this morning, but they were called back to Washington. Mr. Tolan left on Tuesday evening.

The purpose of this conference this morning is to put into the record some pertinent material that the committee felt they had to have before our record would be complete.

This morning we are going to call two witnesses who have filed applications for second papers in connection with their proposed naturalization to show, for the purposes of the record, what length of time has elapsed since they filed those applications and what status their particular case is now in.

We will then call on representatives of those who are engaged in naturalization work, and we will have an informal round-table discussion here as to some of the problems that confront the naturalization workers.

The first witness we would like to call is Mrs. Fioretti.

TESTIMONY OF MRS. ENRICHETTA EMMA FIORETTI, 1473 FRANCISCO STREET, SAN FRANCISCO, CALIF.

Mr. THOMAS. Mrs. Fioretti, would you give your full name and your address to the reporter?

Mrs. FIORETTI. Mrs. Enrichetta Emma Fioretti, 1473 Francisco Street, San Francisco.

Mr. THOMAS. Are you an American citizen, Mrs. Fioretti?

Mrs. FIORETTI. No.

Mr. THOMAS. Are you married to an American citizen?

Mrs. FIORETTI. Yes.

Mr. THOMAS. Where were you born?

Mrs. FIORETTI. In Italy.

Mr. THOMAS. How long have you been in the United States?

Mrs. FIORETTI. Twenty-one years.

The opening paragraph of the proclamation designates it a measure to protect from espionage and sabotage national-defense materials, premises, and utilities as defined in certain long standing acts of Congress. The proclamation would seem to be at once an authorization from the Commander in Chief to invoke a qualified martial law and a restriction on that action to limit it to those areas wherein may be found military activity or activities in aid of the war effort. It ought not to be questioned that the armed forces are the appropriate means of protecting such areas and a measure of martial rule is justified for the protection of such vital areas. Whether or not the action actually taken under the proclamation on the west coast, in declaring a whole half state a military area from which are to be moved a certain group of enemy aliens and their citizen descendants, is action not at all justified by the circumstances or, if so justified, is in excess of the authority given by the President, must be determined on the basis of the principles set out above if it is to be viewed as an instance of martial rule.

It must be recognized that, although as a practical matter the military may exceed the bounds of authority herein set out and that at the time it may be impossible to obtain civil redress or injunctive relief, nevertheless such action according to past standards and experience has not been found to be justified and the considerations above set out should be given serious thought for reason of policy and in the ever present effort to protect and preserve our democratic institutions.

ROBERT J. DELL'ENGO,
Boalt Hall of Law, University of California; Berkeley, Calif.

"Weiner" referred to above in the text is a recent book "A Practical Manual of Martial Law" by Frederick Bernays Weiner published in 1940.

EXHIBIT 4.—LIABILITY OF STATELESS PERSONS FOR MILITARY SERVICE

REPORT BY RICHARD GRAU, 1911 VINE STREET, BERKELEY, CALIF.

Section 3 (a) of the Selective Training and Service Act as amended by act of Congress of December 20, 1941 (ch 602, 1st sess., 77th Cong.) provides as follows:

"Except as otherwise provided in this act, every male citizen of the United States, and every other male person residing in the United States, who is between the ages of 20 and 45 at the time fixed for his registration, or who attains the age of 20 * * * shall be liable for training and service in the land or naval forces of the United States: *Provided*, That any citizen of a neutral country shall be relieved from liability for training and service under this act if, prior to his induction into the land or naval forces, he has made application to be relieved from such liabilities in the manner prescribed by and in accordance with rules and regulations prescribed by the President, but any person who makes such application shall thereafter be debarred from becoming citizen of the United States: *Provided further*, That no citizen or subject of any country who has been or who may hereafter be proclaimed by the President to be an alien enemy of the United States shall be inducted for training and service under this act unless he is acceptable to the land or naval forces."

The above provision makes liable for military service "every male citizen of the United States, and every other male person residing in the United States." Within the latter class are the stateless persons. Both provisos which make certain exemptions are not applicable to stateless persons.

The first proviso mentions in clear term, "citizens of a neutral country." The reason for the special treatment of such persons are international treaties or general principles of international law (discussed already during the last war) which made it advisable not to provide for compulsory service of citizens of other countries which are neutral. Said reason originates only in consideration of the interests of those countries, citizens of which are residing in the United States. In the case of stateless persons there are no such foreign countries involved.

The second proviso in turn is also applicable exclusively to citizens or subjects of a foreign country. This proviso as distinguished from the first proviso applies to citizens or subjects of a country at war with the United States. There are again reasons based on international law which exclude compulsion of citizens or subjects of those countries to serve in the armed forces of the United States. Stateless persons owe no allegiance whatsoever to any foreign country so that the second proviso is also not applicable to them.

The information sheet attached contains a summary of board release No. 112, Bulletin 60, issued by Col. Arthur V. McDermott, New York City, Director of Selective Service.

At the end of the summary the conclusion is drawn that stateless persons are liable for military service. See the following statement at page 2:

"The provision that neutral aliens may file applications for exemption from service was introduced in order to comply with international treaties and does not refer to stateless persons nor to citizens and subjects of countries which are not expressly recognized as neutral * * *."

The above statement takes it obviously as self-evident that stateless persons are not citizens or subjects of countries at war with the United States and that they are subject to military service without any limitation or exemption, their liability being equal in all respects to the absolute liability of United States citizens.

The Psychological Factors Connected with the Refugee Problems

ADDED STATEMENT BY RICHARD GRAU

I. The action taken against Jews and liberals in Germany under the Nazi regime was an essential part of Hitler's foreign policy and his preparations for the present war. Barring minor points, three main effects were aimed at by Hitler's anti-Semitic program: The average German should feel himself superior to certain other people which was a preparatory step for building up the master race idea. Secondly, the beating of the Jews and liberals was the setting of an impressive example for the subjugation of a group to a status of disparagement and outlawry—again a preparatory step for similar subjugation of peaceful nations in Europe. Finally, the treatment of the Jews in Germany was likely to increase anti-Semitism and to spread the germ of discord in many other countries which was a further very effective preparatory step for the present war. It should be remembered that Hitler, whenever he tried to bring a new country into the Axis orbit, requested the issuing of decrees corresponding to the Nuremberg laws by that country in order to differentiate such country from the democratic nations.

The close connection between Hitler's actions against Jews and liberals in Germany and his striving for world domination makes it clear that the refugees from Germany can truly be designated as the first subjected people. They are not merely victims of Hitler's interior politics. In the light of later events it has become clear that the same ambition to dominate the world is behind the struggle of the Nazis against the Jews as behind their conquests of peaceful countries in Europe.

The refugees are also much aware of the complete analogy between their own fate and that of the subjected nations that they felt deeply disappointed when they were classified as enemies: in other words, considered as companions of their own conquerors.

II. One of the direct consequences of the campaign of the Nazis against the Jews and the liberals was the feeling of complete isolation which overcame the victims and brought them into despair. They were not only excluded from all activities in the community life but also their human interrelationships were closely supervised and in connection therewith gradually limited to the utmost extent.

Man is a social animal. He therefore cannot suffer such treatment without considerable increase of his need for contacts and cooperation with other people. Since exclusion from normal human relationships has so long been the lot of the refugees, the possibility of further exclusion has become a nightmare to them. Nothing in the world can terrify the average refugee more than the prospect of becoming an outlaw again. That psychological factor makes the refugees particularly vulnerable against their treatment as enemy aliens. The term "enemy" is apt to deprive them of a good deal of their hardly regained self-confidence and to imperil their feeling that they have become a welcome part of a great entity.

III. On December 7, 1941, a wave of enthusiasm and hope went through the refugee people. To be sure, their gratefulness toward the American Nation and the President and their hatred against the Nazis had a big part in causing that enthusiasm. However, the hope to be admitted to share in America's war effort was a further factor which was largely responsible for that enthusiasm. They envisaged their chance to use whatever strength and skill they have for something better than individual purposes. At last, so they felt, they would be admitted to cooperate in a great common cause. It is hard to describe the appalling dis-

appointment which followed when they saw themselves designated as dangerous to that very cause, in which to cooperate they had been so eager.

Very realistic fears regarding the future accompany their present disappointment. In 20 or 30 years from now, long after the end of the war, the refugees and their children living as citizens in this country will be asked why they did not do their full share in the war. Explanations in the way that as enemy aliens they were not allowed to do their full share will be of little avail in those future times. If the refugee people and their children cannot answer to such questions in pointing to a satisfactory war record, then danger will be ahead for them. Successes of individuals will be explained with lack of patriotic sacrifices and the individuals concerned will find themselves exposed to criticism and disparagement for many years to come. For people who never want to return to their former country and who look to America as the country of future generations of their families, such prospect is terrifying. It therefore is a complete misconception of the true facts if it has sometimes been said that the refugees should bear in patience the hardships imposed upon them and that they should realize what other kind of hardships those have to bear who are now fighting for America. It is not the point in question that the refugees do not want to take hardships upon them at a time when everybody should bear hardships. All they request is that they be spared the wrong kind of hardships which merely exclude them from America's war effort and that the right kind of hardships may be imposed upon them.

IV. The desire of the refugees coincides, they believe, with the public interest.

Public opinion was for years ardently interested in the fate of the first victims of Hitlerism and the average person in this country and in other countries as well considers these opponents and victims of Hitlerism as natural partisans on the side of democracy. The news on present tortures of the Jews in Germany, the subjected countries, and in the invaded part of Russia makes the public aware that such feeling of the average man is perfectly in line with the facts. It certainly has a confusing effect on the minds of the public if people who are so clearly partisans of the cause of democracy are, in spite of that fact, named and treated as enemies.

Nazi propagandists can attempt to increase such confusion by claiming that the treatment of the refugees in the United States has to be considered as an involuntary endorsement of their own allegations against the Jews. The effect of such propaganda would possibly be felt in this country and would be much more intensive in other countries, for instance, in South America.

The future reconstruction of the world will certainly be directed toward elimination of the causes for group hatred. The queer position into which the refugees would be put in the future if they will remain excluded from the war effort would in all probability become responsible for disparagement of their group in the future. Such cause of criticism will be avoided if the refugees are now allowed to show themselves as active partisans of the democratic cause.

V. This war is so definitely a struggle between two ideologies that the nationality of an individual is not any more a satisfactory yardstick in judging his loyalty to the democratic cause. Much less can former nationality furnish such yardstick.

The enemy-alien concept is in substance based not on the hazard of the birthplace but on actual allegiance owed to the king or other sovereign of a foreign country by an individual. Nothing comparable to allegiance exists between the refugees and Germany. They have been ejected from that country and expatriated. Taking this state of affairs as definite, they do not desire to return at any future time to Germany. Their only desire is to become United States citizens as soon as possible. For people in their position, loyalty to the United States is a matter of course. Their former nationality has become a matter of the past which is of no actual interest.

Their position may become clearer if compared with the position of people who are still nationals of various European countries and who desire to return to their former countries after the war. So far as they are concerned it is of little interest whether they are nationals of a country which is, in consequence of a declaration of war drafted in Berlin, actually at war with the United States or which is merely in fact part of Hitler's new order in Europe. Duress has become so much a customary factor in European politics that a declaration of war of a country which is in the hands of Hitler does not mean much. That is evidently the reason why nationals of Hungary and Rumania are not considered as enemy aliens. In form even Masaryk was a national of a country at war with the United States when during the last war he prepared in the United

States the future establishment of a national government in Czecho-Slovakia which at that time was still part of the Austrian empire.

In this war between two irreconcilable ideologies only one clear distinction is of real avail, namely, the distinction between the sympathizers of nazi-ism and fascism—including Quislings of any nationality—on the one hand, and opponents of Hitlerism and facism on the other hand.

The precedent regarding the Austrians, who in the last war were treated in a way different from the Germans, is entirely in line with the above discussion. The Austrians received a better treatment apparently because it was felt that the government of the Austrian empire which was in a status of decay had lost hold on the peoples belonging to that empire. Looking at the precedent from this angle leads to the conclusion that it is not merely a precedent in favor of the Austrians but of all those people who do not adhere to the rulers of the countries of their origin.

That the refugees are within that general class is shown conclusively by the fact that the government of their former country mistreated and ejected them and finally expatriated the vast majority of them.

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ATTACHMENT F

PUBLIC NOTICE

NOTICE of PUBLIC HEARING and
NOTICE OF AVAILABILITY of DRAFT ENVIRONMENTAL IMPACT REPORT

HEARING DATE: May 9, 2013

TIME: 1:30 PM, or as soon thereafter as the matter may be heard

LOCATION: Commission Meeting Room 280 A
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

PUBLIC HEARING

The City of Beverly Hills has prepared a Draft Environmental Impact Report (EIR) for a proposed new 23-unit condominium building located at **9265-9269 Burton Way**, and the Planning Commission will hold a public hearing to review the Draft EIR on **May 9, 2013 at 1:30 PM** or as soon thereafter as the matter may be heard. The purpose of this meeting is to review the content and adequacy of the Draft EIR. The merits of the project will not be discussed at this meeting, and no decisions will be made with regard to project approval or denial. A separate, noticed public hearing will be held at a future date to review the merits of the project before any final decisions are made by the Planning Commission.

PROJECT DESCRIPTION

The project site located at 9265-9269 Burton Way (between Foothill Road and North Maple Drive) occupies two lots totaling approximately 0.33 acres in size. The proposed project would result in the demolition of the existing apartment buildings on the subject properties. The proposed new structure would be a six-story, 23-unit residential building with one level of subterranean parking, and an additional level of parking occupying a portion of the ground floor. The project provides a total of 46 parking spaces. Of the 23 condominium units, two of the units would be designated for occupancy by very low-income households. The subject properties are zoned R-4 for multi-family residential development, which allows for the construction of apartments or condominiums.

Approval of the project requires approval of the following entitlements: a Tentative Tract Map for the purpose of creating individual condominium units, a Development Plan Review for general review of the proposed project, a Density Bonus Permit to allow increased density and two development incentives associated with the construction of two very low-income housing units[1], and an R-4 Permit to allow a reduction in the total building modulation otherwise required by the Municipal Code.

[1] The Density Bonus Permit and associated development incentives are being requested pursuant to Government Code Section 65915. The additional density permitted pursuant to a Density Bonus Permit for the construction of very low-income housing units allows for the construction of a total of 23 residential units, rather than the 13 units that would otherwise be allowed by the Municipal Code. Additionally, two development incentives may be requested by the applicant pursuant to Government Code Section 65915. The two incentives consist of additional building height of 6 stories and 72 feet (whereas the Municipal Code allows 5 stories and 55 feet), and an ability to leave a portion of the ground floor parking area open for natural ventilation (whereas the Municipal Code requires parking spaces to be fully enclosed).

ENVIRONMENTAL REVIEW

In accordance with the California Environmental Quality Act (CEQA), the City of Beverly Hills is preparing an EIR to analyze potential environmental impacts associated with development of the project. Specifically, the Draft EIR analyzes the following potentially significant environmental effects of the project:

- Cultural Resources (with specific focus on consideration of the building located at 9269 Burton Way as a potentially eligible historic resource)

PUBLIC REVIEW AND COMMENT ON DRAFT EIR

The Draft EIR is being circulated for a 45-day public review period, from April 22, 2013 to June 5, 2013. During the public review period, written comments concerning the adequacy of the document may be submitted by any interested person and/or affected agency. Following the public review period, written responses will be prepared for inclusion in the Final EIR.

Comments on the Draft EIR should be directed to:

City of Beverly Hills
Department of Community Development
455 North Rexford Drive
Beverly Hills, California 90210
ATTN: Ryan Gohlich, Senior Planner

Email correspondence will also be accepted at: rgohlich@beverlyhills.org

Public Review: Copies of the Draft EIR are available for public review at the following locations:

City of Beverly Hills City Hall
Planning Division and Office of the City Clerk
455 North Rexford Drive
Beverly Hills, CA 90210

Beverly Hills Public Library
444 North Rexford Drive
Beverly Hills, CA 90210

The City's website: www.BeverlyHills.org/EIR

The case file on this project, which includes the plans and applications, is available for public review at the Community Development Department, 455 North Rexford Drive, Beverly Hills, CA 90210. If there are any questions regarding this notice, please contact Ryan Gohlich, Senior Planner at 310-285-1194.

Sincerely,

Ryan Gohlich, Senior Planner

Notice Date: April 19, 2013

ATTACHMENT G

PUBLIC COMMENTS

Ryan Gohlich

From: Jeff @ MO Financial <jeff@mofinancial.com>
Sent: Saturday, April 20, 2013 3:05 PM
To: Ryan Gohlich
Subject: 9265 - 9269 Burton Way draft EIR
Attachments: EIR condos 9265 burton Way.pdf

Importance: High

Hello Ryan,

I received this letter in the mail and have a lot of comments that I would like to say regarding this proposed development. I read through the letter and what the proposed project is. If this project were to get approved, the parking on Burton Way would be MUCH worse. There is already a severe parking shortage on Burton Way mainly due to the L'Ermitage Hotel.

My thoughts are NO density bonus should be allowed and that there should be a minimum of 2.0 parking spaces per bedroom. This will add considerable cost to the project, however, the developer should be able to add this cost to his sales price.

Please keep me informed of the public hearing.

I have lived at 9249 Burton Way (the neighboring building) for four years and have intimate familiarity with the parking.

Thank you.

Jeff Donovan
310-858-7096 office
310-614-4063 mobile
9249 Burton Way #306
Beverly Hills, CA. 90210

AVAKIAN

Dear Mr Gohlich,

I am the Store Manager of Avakian Jewelry located at the Beverly Wilshire Hotel. I am writing this letter to demonstrate our support for the proposed six story 23 unit luxury condominium building located at 9265-9269 Burton Way in Beverly Hills.
The project Empire at Burton Way will be a fantastic addition to our neighborhood and it would replace those tired apartment buildings that exist today at the site. Due to the adjacent L'Ermitage Hotel to the west and the large massed condominium buildings to the east, we feel that the height and density is certainly appropriate and will add to the character of our neighborhood and coveted Burton Way Street.

We look forward to this project getting built in the near future and fully support the developer's vision.

Sincerely,

Sahar Shayegh

4-29-13

The Beverly Wilshire, A Four Seasons Hotel 9500 Wilshire Boulevard, Beverly Hills, CA 90212, USA.
Tel: +1 310 288 2100 - Fax +1 310 288 2109 - www.avakian.com - info@avakian.com

Ryan Gohlich
Community Development Department
City of Beverly Hills
455 N. Rexford Dr.
Beverly Hills, CA 90210
rgohlich@beverlyhills.org

Hello Ryan,

I have been a resident manager at 9269 Burton Way here for almost fifteen years now and this new twenty three unit project is just what is needed. It is modern and a fantastic compliment to the adjacent buildings.

The proposed height and number of stories is a great synergy with the L'Ermitage Hotel and the east side Town houses.

The site is fairly unique therefore the current design and plan is what would work best and it is clear to me that the owner has put a great deal of thought and planning into the proposed design and development scheme.

The years of wear and tear have taken it's toll on the current building as well. The is just what is needed for this location in Beverly Hills.

I have been a part of four attempted sales of the property before the current developer acquired it. I can testify that the current owners character and motivation are honest and well balanced.

Thank you,

James Sicignano
9269 Burton Way #D
Beverly Hills, CA 90210

Narghizian, Varouj

Mercedes-Benz

Mercedes-Benz
of Beverly Hills

Dear Mr Gohlich,

On behalf of Mercedes Benz of Beverly Hills please let this letter serve as our support for the Empire at Burton Way project located at 9265 Burton Way, Beverly Hills 90210.

We are in full support of the plans to demolish the existing two derelict apartment buildings to construct a luxurious 6-story 23 unit residential condominium building. The height and density of the proposed project seems absolutely reasonable given the uniqueness of the site location and mass and height of the adjacent L'Ermitage Hotel neighbor to its West. The project seems to very much be contextual in nature and provides a nice step down transition from its neighboring buildings.

On a personal level, I live in the area and drive past the proposed project site every day on my way to work and often wonder why a more impressive and larger building is not located there.

Once again, I along with all of us at Mercedes Benz Beverly Hills are very excited to welcome this new development into our neighborhood.

Regards,

Varouj Narghizian, New Car Sales Manager
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ATTACHMENT H

ARCHITECTURAL PLANS

(PROVIDED SEPARATELY)