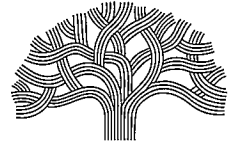


CITY OF OAKLAND



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Community and Economic Development Agency
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October 21, 2009

Planning Director
c/o Ann Marie Gallant
Interim City Manager
Alameda City Hall
2263 Santa Clara Avenue
Alameda, CA 94501

Re: Alameda Point Development Proposals and the 2004 Settlement Agreement Between the
Cities of Oakland and Alameda; Notice of Need for Dispute Resolution Process

Dear Ms. Gallant,

By letter dated August 19, 2009 (attached), the City of Oakland ("Oakland") expressed concern regarding whether the City of Alameda ("Alameda") would comply with contractual and statutory obligations related to the 2004 Agreement between Oakland, Alameda and Oakland Chinatown-related entities. Since then, Alameda has made some efforts begin addressing Oakland's concerns. For example, the Interim City Manager and Assistant City Attorney have agreed to meet with Oakland representatives in the next few days. We anticipate the meeting will include a discussion regarding how Alameda can timely implement the reported statement by the Planning Board that CEQA review should begin promptly. We appreciate Alameda's willingness to meet with Oakland regarding this matter, and we look forward to the discussion.

However, Alameda staff have also made statements which indicate it may not be willing fully to comply with its contractual and statutory duties. Specifically, by letter dated October 7, 2009, Assistant City Attorney Donna Mooney declared that CEQA review is not required before any vote of the electorate on SunCal's initiative (for which we are informed petition signatures were submitted to the Alameda City Clerk in late September). The sole basis cited in the October 7th letter is the unsupported assertion that the initiative is not a public agency sponsored initiative. Further, the October 7th letter states that the Alameda City Council will have a ministerial duty to place the initiative on the ballot, irrespective of whether CEQA review has been completed, if the requisite number of signatures are certified.

Oakland believes there is support for contrary positions—that the initiative is sponsored by Alameda, at least in part, and that the Alameda City Council is obligated not to allow a vote of the electorate until CEQA review has been completed. Reasons include without limitation (1) Alameda entered an Exclusive Negotiating Agreement with SunCal in 2007, and (2) various Alameda officials, staff, and boards and commissions have provided substantive input and offered support for the initiative. Thus, Alameda has taken an active and constructive role in shaping and advancing this initiative, and the approval of any discretionary entitlement (whether by Alameda's officials or electorate) prior to completion of CEQA review would violate the 2004 Settlement Agreement and CEQA.

Moreover, assuming that the Initiative qualifies for the ballot, it appears there is sufficient time to prepare an EIR prior to the next "regular" election, which will be November 2010. (See Alameda City Charter, Art. XIX ("regular" elections are in November of even-numbered years; Elections Code, §§ 9214, 9215, 9255 (where an initiative petition that includes a charter amendment is signed by at least 15% of the electorate, but the petition does not include a request that it be placed before the voters at a special election, the legislative body need only place the measure on the ballot at the next "regular" election at least 88 days after it qualifies).) Thus, Alameda has the authority and the means to satisfy its contractual, CEQA, and election obligations.

Accordingly, we believe that Alameda and Oakland can amicably and constructively resolve any disagreement about Alameda's contractual and statutory obligations.

However, at the present time it appears that Alameda and Oakland are in disagreement about their contractual and statutory obligations. Thus, with the intention of furthering constructive communication, Oakland invokes section 6 of the 2004 Settlement Agreement. Oakland specifically provides notice per section 6.2 that it disagrees with Alameda's interpretation of the 2004 Settlement Agreement regarding CEQA compliance and Alameda's stated intention not to require CEQA review prior to any consideration by Alameda's electorate of whether to approve the initiative.

Please inform Oakland, in a timely manner, that you will comply with the 2004 Settlement Agreement, including without limitation section 6 and how Alameda will timely complete the necessary and critical environmental review.

We look forward to hearing from you.

Very Truly Yours,



Eric Angstadt

cc: Alameda City Clerk; Alameda City Council; Alameda City Attorney
Oakland City Administrator; Oakland City Attorney
Oakland Councilmember Pat Kernighan