

MILLER BARONDESS, LLP

ATTORNEYS AT LAW
1999 AVENUE OF THE STARS
SUITE 1000
LOS ANGELES, CALIFORNIA 90067
TEL: (310) 552-4400
FAX: (310) 552-8400
www.millerbarondess.com

July 12, 2010

LOUIS R. MILLER
DIRECT DIAL: (310) 552-5251
EMAIL: DMILLER@MILLERBARONDESS.COM

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED & E-MAIL

Mayor Beverly Johnson
Vice Mayor Doug deHaan
Councilmember Marie Gilmore
Councilmember Frank Matarrese
Councilmember Lena Tam
2263 Santa Clara Avenue
Alameda, CA 94501

Re: *Ann Marie Gallant*

Dear Mayor, Vice Mayor and Councilmembers:

A. Introduction

Our firm represents SCC Alameda Point, LLC (“SCC Alameda”). We are writing about Interim City Manager Ann Marie Gallant and the harm she has done to the Alameda Point project and are responding to the letters dated May 26 and July 2, 2010 from attorney Michael Colantuono¹ to the Alameda County District Attorney’s Office (the “Letters”) to the extent they reference SCC Alameda. As you know, SCC Alameda has a contract with the City of Alameda (the “City”) under which it is currently in exclusive negotiations for development of the Alameda Point project.

The allegations contained in the Letters regarding SCC Alameda contain outrageous falsehoods and defamatory innuendo. Our client has been working under the exclusive negotiation agreement to develop this project for three years, has done extensive work and has expended millions of dollars in the process. Despite the worst real estate and credit collapse in history, SCC Alameda has persevered and intends to see this important project through to a successful conclusion.

The City committed to having SCC Alameda develop this project because of SCC Alameda’s expertise as a developer of large-scale master-planned communities. Section 9.2.1 of

¹ We are informed that Ann Marie Gallant has used these same attorneys to do her work before.

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the July 18, 2007 Alameda Point Exclusive Negotiation Agreement, as amended (the "Agreement") states, "It is because of the qualifications and identity of [SCC Alameda] that Alameda is entering into this Agreement with [SCC Alameda]."

B. Ann Marie Gallant And The Harm She Has Caused

Interim City Manager Ann Marie Gallant intentionally has led the City in the opposite direction for over a year. She has engaged in a malicious campaign to vilify SCC Alameda, destroy the project, impair SCC Alameda's contractual rights, and slander and impugn its integrity. By her own admission, the self-serving secret plan of Ms. Gallant is to oust SCC Alameda from the project and take it over as a "public" project in furtherance of her own interests with herself as executive director. As Ms. Gallant has stated:

"If the agreement is permitted to expire, [SCC Alameda] will lose the right to pursue a multi-million-dollar development of a prime site of bay-front land with prime views of the downtown San Francisco skyline, the Golden Gate Bridge and the San Francisco Bay."

Ms. Gallant lacks the depth of experience to develop a large-scale master-planned community such as Alameda Point; her scheme would cause severe harm to the City and its residents, and likely lead to the demise of the project itself. The one thing that Ms. Gallant does appear adept at, however, is manipulating the legal process to serve her objectives and making false and scurrilous allegations against her perceived enemies.²

² Here is some background on the ambitious Ann Marie Gallant. As reported in the *Desert Hot Springs News and Views* on September 21, 2005:

"According to the Desert Sun, Candidate A, now identified as Ann Marie Gallant accepted her first position as a city manager in 2004. That position was in Gustine, California where she signed on under a three year contract.

According to the Desert Sun and other newspapers, Gallant left the position in Gustine after serving there less than a year, this to take a position in April 2005 as the King City, California city manager where she now is employed.

This is September 2005. And that being the case, if the council had given her the job here in Desert Hot Springs, it would have been her third job as a city manager in two years.

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There are other instances where Ms. Gallant has destroyed plans and communities in the past—for example, she led Desert Hot Springs into being the one city in the Coachella Valley not to embrace the Multiple Species Habitat Conservation Plan. She also destroyed the general plan process that Desert Hot Springs had spent over a year and a million dollars on.

Ms. Gallant has shown she will stop at nothing to accomplish her scheme. We are informed that she has been secretly supplying information to opponents of the Alameda Point project and destroying emails to cover her tracks.³ Ms. Gallant was also caught trying to over-bill SCC Alameda on the project. Engaging in wrongdoing is bad enough; destroying evidence and covering-up is even worse.

When SCC Alameda was chosen to develop this project, Councilmembers referred to the development as a “public – private” partnership and assured SCC Alameda that it would be treated accordingly. In the last year, since Ms. Gallant entered the scene, SCC Alameda has been treated as an enemy rather than a partner; Gallant has pursued every opportunity to create roadblocks to SCC Alameda’s development of the project.

We are writing to put you on notice that Ms. Gallant is exposing not only herself, but also the City and possibly other City officials to serious legal claims seeking millions of dollars in damages. SCC Alameda has worked long and hard on this project and is now being dragged through the mud, causing potentially very substantial harm to its reputation and business as a result.

If you are an employer looking at a resume that contains this type of job history, you consider the person a job jumper.”

Ms. Gallant was nonetheless hired by Desert Hot Springs and according to a report in the August 14, 2007 *Press Enterprise*, Ms. Gallant resigned from her position with Desert Hot Springs during a closed session meeting of the City Council that included her job performance review.

Along the way, the same Ann Marie Gallant was fired by the City Manager of Carson, whereupon she turned around and filed suit against the City.

³ SCC Alameda is making a Public Records request for these emails and other documents.

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C. The Libelous Letters

The timing of the release of the aforesaid Letters is no coincidence. By wrapping SCC Alameda into the character assassination of Councilmember Lena Tam, the strategy of Ms. Gallant is to co-opt or preclude Ms. Tam's vote—and thereby “rig” the vote—scheduled for July 20, 2010 regarding extension of SCC Alameda's exclusive negotiation period. Ms. Gallant is using intimidation tactics to impede the progress of this project.

She is sending a clear message to the other City Councilmembers: Support Ms. Gallant or you could be the next Councilmember dragged through the mud. She is supposed to serve the City, not inflame everybody and everything.

The Gallant scheme is being carried out under the guise of an “independent” investigation into alleged wrongdoing by Councilmember Tam. Far from independent, this attack was designed to taint the process and deprive SCC Alameda of a fair vote on July 20th. The allegations as to SCC Alameda are not just fabricated—they are libelous *per se*.

The allegations in the Letters about SCC Alameda are absurd. One claim is that Ms. Tam blind copied a SCC Alameda executive on her own email expressing dissatisfaction and disappointment with respect to the performance of the City Attorney. So what? This is a free country, and Ms. Tam had and has the right to express her view to whomever she chooses.

Based on what even the Letters admit are “inferences” and employing buzzwords like “more likely than not,” the Letters conclude that Ms. Tam provided privileged information to SCC Alameda executive Frank Faye. It is apparent that Ms. Gallant, and the attorney she hired to write the Letters, have over-active imaginations.

These parties—Ms. Tam and the SCC Alameda executives—were in frequent and open communication about the Alameda Point project. The context of the communications alleged in the Letters was that Ms. Tam was making inquiry of Mr. Faye whether SCC Alameda intended to post a particular item on its website, and Mr. Faye told her they were not. The Letters are legalistic back-stabbing.

The damage to our client's reputation and business is potentially great and far in excess of what the City treasury could sustain. By virtue of Ms. Gallant's reckless acts, including the Letters, our client is being maligned and accused of criminal conduct. Ms. Gallant and the City know perfectly well that these allegations are absurd.

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We therefore urge the City to take a long and hard look at the actions of Ms. Gallant and investigate what she has done and her fitness to serve as a City official. Hiring counsel at public expense in furtherance of a self-serving personal agenda, and commissioning that counsel to prepare these Letters, could subject the City to millions in liability.

These actions have harmed and damaged our client with the City and its residents and with the Navy as well. There was and is absolutely no need for and no basis for Ms. Gallant dragging our client into her vendetta against Lena Tam. By doing so, she is harming the City of Alameda.

Our client reserves all rights and remedies herein including, but not limited to, claims against Ms. Gallant, the City of Alameda, the attorneys who authored the Letters, and all other responsible parties (the Letters are defamatory and, as such, are not protected by any claim of privilege).

Sincerely,


Louis R. Miller

LRM:cc

cc (via Certified mail Return Receipt Requested and e-mail):

Interim City Manager Ann Marie Gallant
City Attorney Teresa L. Highsmith
Michael G. Colantuono, Esq.