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Via Email/U.S. Mail

October 1, 2019

President Norman Yee and Supervisors
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102
bos.legislation@sfgov.org

**Re: 344 14th Street
Opposition to Appeal of the Community Plan Evaluation (“CPE”)
Planning Department Case No. 2014.0948ENV**

Dear President Yee and Supervisors:

This office, in addition to Reuben, Junius & Rose, LLP, represents MM Stevenson, LLC (“Project Sponsor”) the owner of the property at 344 14th Street (“Property”) and the developer of the proposed 60-unit mixed income residential development project approved by the Planning Commission on July 25 (“Project”). This letter supplements the arguments set forth in attorney John Kevlin's correspondence dated September 24. The purpose of this correspondence is to advise this Board that reversing the Project's CPE, as requested by appellant Our Mission No Eviction (“Appellant” or “OMNE”), would leave the Project Sponsor with no alternative but to seek judicial relief against the City.

As detailed in the Planning Department's initial response to the appeal, as well as Mr. Kevlin's correspondence, the appeal is without merit and must be denied. Appellant has failed to provide any evidence, much less substantial evidence, to support its claims that the CPE approval must be reversed.

Appellant must know that its arguments are either irrelevant or have been refuted by the City on numerous prior occasions. Under the circumstances, it is reasonable to assume that the appeal was not brought in good faith, and is instead intended to impede the Project's entitlements in order to increase the bargaining position of OMNE in its attempts to extract additional concessions from the Project Sponsor. Unfortunately, this tactic is often used by local special interest groups to seek monetary or nonmonetary benefits from an applicant in exchange for supporting a new housing project.

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Appellant, through its relationship with United to Save the Mission ("USM"), has been negotiating with the Project Sponsor before and after the Planning Commission's approval of the Project. In May and June of 2019, USM's membership agreed to Project Sponsor's offer to: (1) provide 1,500 sf of retail space to a community-selected tenant at \$2/sf for a 20-year term; (2) 10% discounted rent for any grocery store tenants; (3) and paying \$10,000 to fund a mural on a Project wall by a community-selected artist. These concessions equated to approximately \$2.3M in value, and were preliminarily agreed to by the parties, in addition to numerous Project modifications made in response to USM's demands.

When USM later determined that the Project's affordable housing fee (\$1.22M) was less than assumed (\$4M), USM demanded that the Project Sponsor pay the higher fee or increase the amount of its "community benefits" package that USM membership had previously ratified. In early July, USM provided several options for this increased payment, including a \$2M donation to the SF Foundation or New Mission Community Loan Fund, the latter of which is administered by the Mission Economic Development Agency ("MEDA").

The actions of appellant, through USM, are similar to those now being challenged in federal court under the federal RICO statute, as developers have begun fighting back against shakedown tactics by organized project opponents. (See, e.g., *Icon at Panorama, LLC v. Southwest Regional Council of Carpenters, et al.*, U.S. Dist. Ct. (C.D. Cal.) Case No. 2:19-cv-00181; *Relevant Group, LLC et al. v. Nourmand et al.*, U.S. Dist. Ct. (C.D. Cal.) Case No. 2:19-cv-05019.)

If the CPE is reversed by this Board, "the prior CEQA decision and any actions approving the project in reliance on the reversed CEQA decision, shall be deemed void." (Admin. Code § 31.16(b)(11).) Because the Project approvals would be deemed void by the City's highest legislative body, Project Sponsor would have no choice but to seek judicial relief. Such relief will challenge not only the Board's reversal of the CPE, it will seek a court order setting aside the imposition of the City's Affordable Housing Fee on the Project's bonus units per Planning Code section 415.5(b)(6), as the imposition of this additional fee is in conflict with, and is preempted by, Government Code section 65915. Moreover, the Project is provided heightened statutory protections under the Housing Accountability Act and Density Bonus Law, as well as constitutional Equal Protection and Due Process safeguards, which would provide the bases for several causes of action.

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Appellant has not provided substantial evidence to meet its burden to overturn the City's decision to issue a CPE for the Project. Project Sponsor respectfully requests that this Board, rather than condoning appellant's misuse of the administrative appeal process, simply deny the appeal.

Very truly yours,



David H. Blackwell

cc: Supervisor Sandra Lee Fewer
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Supervisor Aaron Peskin
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Supervisor Vallie Brown
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