

**West Bay Law**  
**Law Office of J. Scott Weaver**

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September 21, 2017

President London Breed and San Francisco Board of Supervisors  
San Francisco City Hall  
1 Dr. Carlton B Goodlett Pl. #244  
San Francisco, CA 94102

***Re: Board of Supervisors File No. 170808, Appeal of Planning Department  
Case No. 2014-002026ENV, 1726 Mission Street***

Dear Supervisor Breed and Members of the Board.

By injecting an irrelevant and terribly flawed study, the Planning Department Reply to Our Mission No Eviction's appeal presents nothing more than a distraction from the issues raised by appellants. Yet the Department has said nothing to dispute Appellants essential arguments, thus conceding their merit. The undisputed facts are as follows:

1. The Department concedes that it has not properly analyzed cumulative impacts of 1924 new units built, entitled, or under review in a small eight block area on each side of Mission Street, from South Van Ness Avenue to Sixteenth Street.
2. The Department admits s that CEQA requires such a cumulative impacts analysis, including that of traffic and circulation, pedestrian safety, noise, recreation and open space, and land use.
3. The Department concedes that the number of units built, entitled, or under environmental review under the Eastern Neighborhoods Plan far exceeds the number anticipated under the PEIR. Attachment A evidences over 3,465 units either built, entitled, or under environmental review. The PEIR anticipated no more than 2,054 units. This calls into question the applicability of PEIR use for a Community Plan Exemption. Moreover, we can no longer ignore the fact that underlying assumptions of the Eastern Neighborhoods Plan have, for the most part, proven to be incorrect. It cannot be denied that he Plan needs to be restructured so as to achieve its stated purposes.
4. The Department acknowledged that Substantial New Information became available since the PEIR, including overbuild of housing, steep increases in the price of housing, overbuild of luxury housing, and changed transportation modes such as tech shuttles and so-called "ride sharing".

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5. Finally, the Department conceded that the Traffic Analysis done for the Proposed Project lacked Critical Information – including its failure to consider cumulative impacts.

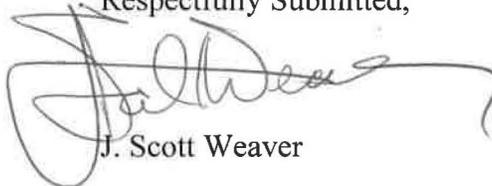
The Department's submission is an attempt to deflect from these issues. Although the submission is irrelevant to the issues raised, we cannot let its presentation to you go unanswered. The report attached to the reply was prepared at the request of this Board after the appeal of the 1515 South Van Ness Project, and later used with respect to the 2675 Folsom Street project. The Department contracted with ALH to prepare a report, which was completed in a matter of only 3-4 months. The South Van Ness and Folsom Projects were settled before the Board could review the report or determine if the ALH Report had any merit at all.

ALH hastily prepared its findings based on cherry-picked data and without regard for many requests from community stakeholders that it look at specific issues present in the Cultural District. It is therefore not surprising that ALH claimed no negative impacts from gentrification – a baffling conclusion given that it defies everything we have observed on the ground over the years.

Perhaps most exemplary of the error in this report was the heavy reliance on a report by Rachel Meltzer, *Gentrification and Small Business, Threat or Opportunity*. After reading this report it appeared to us that ALH, in its haste to reach a “no impact” conclusion, either intentionally or negligently misread the underlying data in the report. We contacted Ms. Meltzer, and she concurred with us: the underlying data demonstrated that gentrifying communities of color suffer greater business loss than non-gentrifying communities of color.

Many other fallacies, shortcomings, and errors in logic are described in attached Exhibit B should the Board choose to consider for any purpose the Planning Department's submission.

Respectfully Submitted,



J. Scott Weaver

JSW:sme

**EXHIBIT A**

**EXHIBIT A**

**EXHIBIT A**

**Mission Projects Completed or Under Environmental Review**  
 2008-2/23/16 (Planning Dept Data.)

3418 26 <sup>th</sup> Street	13 units	
80 Julian Street	8 units	
411 Valencia Street	16 units	
490 South Van Ness	72 (add	+ 15 units*
3240 18 <sup>th</sup> Street	16 units	
1875 Mission Street	38 units	
1501 15 <sup>th</sup> St	40 units	
480 Potrero	84 units	
2550-58 Mission	114 units	
1450 15 <sup>th</sup> Street	23 units	
346 Potrero	72 units	
1785 15 <sup>th</sup> Street	8 units	
1801-63 Mission Street	54 units	
2600 Harrison Street	20 units	
1924 Mission Street	12 units	
600 South Van Ness	27 units	
2000-2070 Bryant	254 subtract	- 60 units*
2000-2070 Bryant (affordable)		add +130 units*
1298 Valencia Street	35 units	
1198 Valencia Street	52 units	
1050 Valencia Street	16 units	
1979 Mission Street	331 units	
2675 Folsom Street	117 units	
1900 Mission Street	11 units	
2750 19 <sup>th</sup> Street	60 units	
1515 South Van Ness	160 subtract	-3 units*
3140 16 <sup>th</sup> Street	28 units	
2799 24 <sup>th</sup> Street	8 units	
2435 16 <sup>th</sup> Street	53 units	
3357-59 26 <sup>th</sup> Street	8 units	
1726-30 Mission Street	36 add	+4 units*
3314 Cesar Chavez	52 units	
1798 Bryant Street	131 units	
2918-24 Mission Street	38 add	+37 units*
793 South Van Ness	54 add	+19 units*
953 Treat	8 units	
3620 Cesar Chavez	28 units	

344 14 <sup>th</sup> /1463 Stevenson	45 units	
1950 Mission Street	157 units	
1296 Shotwell	96 units	
Subtotal	2,451 units	
Adjustment*	+142 units	
<b>TOTAL</b>		<b>2,593 units</b>

Mission Projects completed since 2008 not included in total above.

1880 Mission Street/ 1600 15 <sup>th</sup> Street (Vara)	202 units	
380 14 <sup>th</sup> Street	29 units	
411 Valencia Street	16 units	
Subtotal		<b>247 units</b>

Current Mission Pipeline Projects Not included above.

235 Valencia Street	50 units	
1500 15 <sup>th</sup> Street/398 Valencia	184 units	
3700 20 <sup>th</sup> Street	25 units	
3420 18 <sup>th</sup> Street	16 units	
2632 Mission Street	16 units	
606 Capp Street	20 units	
2100 Mission Street	29 units	
2070 Folsom Street	127 units	
1990 Folsom Street	158 units	
Subtotal		<b>625 units</b>

**GRAND TOTAL** **3,465 units**

Proposed project approved in 2008 1,696 units

Number studied under EIR project options:

Option A – 762

Option B – 1,118

Option C – 2,054

\* Adjustments to project size made after February 23, 2016

**EXHIBIT B**

**EXHIBIT B**

**EXHIBIT B**

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April 17, 2017

President London Breed and San Francisco Board of Supervisors  
San Francisco City Hall  
1 Dr. Carlton B Goodlett Pl #244  
San Francisco, CA 94102

**Re: Re: Case No. 2014-000601 CUA, 2014-000601ENX- 2675 Folsom Street  
Appeal of the September 22, 2016 Planning Commission Decisions.  
Response to Socioeconomic Analysis.**

Dear Supervisor Breed,

This is the second of two submissions made today, April 17, 2017 pertaining to the Appeal of the project at 2675 Folsom Street. This submission pertains to the numerous flaws contained in a Report prepared in conjunction with this project.

The ALH Consultants, at behest of the San Francisco Planning Department, recently completed a report regarding the impact of luxury development on the physical environment of the Calle 24 Latino Cultural District. We have given initial review of the report and see it as a work of advocacy as opposed to an even-handed treatment of the available information.

**The ALH Report is Misleading, Flawed, and Ignores Critical Information Regarding the Calle 24 Latino Cultural District.**

The ALH Report and the Planning Department's Summary are flawed in several respects, and their conclusions must be viewed with skepticism. While thorough critique will be forthcoming, we wanted to provide some initial observations as this report was prepared in conjunction with the upcoming Appeal of the proposed project at 2675 Folsom Street.

The Report lacks any understanding or appreciation for the unique challenges of the Calle 24 Latino Cultural District, challenges facing its businesses, the trajectory of gentrification and displacement, and its culture and history. Instead, it attempts to superimpose macroeconomic concepts and statistical averaging on a small and unique economic and ethnic ecosystem, and draws conclusions without regard to that uniqueness.

4104 24th Street # 957 • San Francisco, CA 94114 • (415) 317-0832

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In fact, the report seems to say that the gentrification will do the opposite of what we have observed in the past, and that accelerated gentrification will no longer have the ravaging impacts that we have witnessed. Market rate development is, by definition, gentrification because it brings large numbers of very high wage earners into poor neighborhoods. In this instance, in a working class, Latino, transit-oriented neighborhood. Right now, over a thousand gentrifiers are slated to move within easy walking distance of the LCD alone, and more than three times that number in the Mission as a whole.

As pointed out in the Report, The Eastern Neighborhoods EIR conceded that displacement would be a “secondary effect” of gentrification<sup>1</sup> yet, without any evidence, the Report suggests that effects such as these are a thing of the past, and that the new wave of even more well-heeled gentrifiers will not cause increased rents in neighboring areas or lead to evictions. The Report appears to predict that discount groceries, panaderias, and other mom and pop businesses will be destinations of choice for these new residents, and that their consumer choices will no longer fuel a demand for high end restaurants or consumer goods.

Unfortunately, our experiences in SOMA, Hayes Valley, the Fillmore and large swaths of Bayview undermine this narrative. As stated earlier, the ALH Report and Planning’s summary of it must be viewed with skepticism. The Report seems to suffer from constant switching from regional to hyperlocal environments and selects data suited to prove its thesis.

In their research brief *Housing Production, Filtering and Displacement: Untangling the Relationships*, (May, 2016) Miriam Zuk and Karen Chapple cautioned that markets behave differently at regional and at local levels, that the “filtering” process took much longer than previously thought, and that “more detailed analysis is needed to clarify the complex relationship between development, affordability at a local scale,” and that “By looking at data from the region and drilling down to local case studies, we also see that housing market dynamics and their impact on displacement operate differently at these different scales.”

More recent studies have confirmed what many of us had already known to be true: that is large scale “market rate” development has a destabilizing impact on gentrifying communities – especially communities of color. This is especially true where there is a significant income differential between the current residents and those coming into the community. In addition, a very recent study out of UC Berkeley has concluded that gentrification of transit rich neighborhoods both causes displacement and leads to greater automobile use.

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<sup>1</sup> The PEIR does not seem to have quantified the extent of such gentrification, and, one would hope, did not anticipate the high rate of gentrification and displacement that we have witnessed since 2008.

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**The ALH Discussion of Commercial Displacement Misreads Available Data and Omits Critical Information with Respect to the Calle 24 Latino Cultural District.**

With respect to commercial displacement, the conclusion of ALH and, by implication, the Department and the City Controller, is based, in part, on a misreading of the Meltzer Report<sup>2</sup> on which ALH strongly relied. That report made a general conclusion that market rate development did not lead to business displacement over all. The conclusion of Meltzer, as with many like studies, was based on aggregated data from a variety of communities without regard to their important individual characteristics such as race/ethnicity, income disparities, neighborhood transit richness, and recent changes in zoning.

When we drill down to Meltzer's individual study areas, the conclusion is opposite the generalized one in the report. Meltzer's data found: 1) There was lower business retention (greater business loss) in gentrifying communities of color than in non-gentrifying communities of color, and 2) Business retention was lower in gentrifying communities of color than in gentrifying white communities. In other words, both race and the trajectory of gentrification impact business loss. Throughout its Report, ALH ignores characteristics of the LCD micro environment and mistakenly defaults to generalized conclusions.

ALH also ignored the importance of the role that consumer preference plays with respect to commercial displacement. Meltzer discussed the significance of changes in consumer preferences in influencing commercial displacement – correlating consumer preferences with “population characteristics such as income, educational attainment, and race/ethnicity.” If the local consumer base changes, then, on net, the local businesses could suffer. (P. 56) ALH chose to overlook basic differentiating characteristics of Calle 24 businesses including, the nature of their goods and services, demographic features of their customer base (such as race, income and employment status), their current profit margins, the term of business leases, their rent structures, and the potential upside rent potential that a more high-end consumer base could support<sup>3</sup>.

Finally, the Report undertakes an analysis of the square footage of available retail space to urge that Latino oriented mom and pop concerns would not be affected by gentrification. By this approach, ALH erroneously treats all commercial space as if it were fungible: (i.e. that a panaderia is the equivalent to a high-end coffee shop with its \$6.00 croissants, that a taqueria should be treated the same as a *Flour and Water* type restaurant, or that discount store goods are equal are the same as the \$240 gym bags we see on Valencia Street. The failure to make these

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<sup>2</sup> Rachel Meltzer, *Gentrification and Small Businesses, threat or Opportunity*, *Cityscape: A Journal of Policy Development and Research*, Volume 18, Number 3, 216, Pages 72-26 found at <https://www.huduser.gov/portal/periodicals/cityscape/vol18num3/ch3.pdf>

<sup>3</sup> Realtors are now boasting “Valencia Street prices” for Calle 24 commercial rents.

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distinctions is illustrative of the Report's failure to examine the unique features of the LCD itself. Such a failure is critical in this instance because the very subject matter of the Report was supposed to be impacts on the Latino Cultural District.

**The ALH Discussion Regarding Residential Displacement Ignored the Growing Data Linking Gentrification to Displacement in Certain Types of Neighborhoods.**

There is a growing body of evidence linking luxury housing to the displacement of residents and businesses in sensitive neighborhoods such as the Mission. Gentrification is the introduction of the "gentry class" of high-earners into a working-class neighborhood, along with the accompanying neighborhood changes to the composition and character of the community. Currently, households in the LCD earn approximately \$40,000 to \$50,000 whereas new residents will earn over \$140,000 per years. There are three factors that have been identified that link gentrification to displacement. They are: 1) As discussed above, communities of color are more vulnerable to displacement than non-communities of color- especially where there are substantial income differentials between the existing residents and newcomers.\*\*\*<sup>4</sup> 2) Transit rich districts are more vulnerable to displacement – especially where there has been a net population loss, and 3) Development friendly zoning changes contribute to displacement in communities of color.

A very recent study lead by Karen Chapple of UC Berkeley<sup>5</sup> (2017) concludes that Transit Oriented Development (exemplified by Mission projects such as 2675 Folsom St) is connected to gentrification and the displacement of low-income households:

Overall, we find that TOD has a significant impact on the stability of the surrounding neighborhood, leading to increases in housing costs that change the composition of the area, including the loss of low-income households. (Abstract, P v)

Another recent report, Leo Goldberg's 2015 MIT study,<sup>6</sup> analyzed the impact of zoning changes in low income NYC neighborhoods and concluded that rezonings facilitated growth at the expense of low and moderate-income renters and were thereby "associated with residential displacement at the city's core while, at the same time, serving to exclude low-income

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<sup>4</sup> Atkinson, Rowland *Gentrification and displacement in Greater London: an empirical and theoretical analysis.* (1997). PhD thesis, University of Greenwich, P 151

<sup>5</sup> Chappel, *Developing a New Methodology for Analyzing Potential Displacement*, (2017) may be found at [http://www.urbandisplacement.org/sites/default/files/images/arb\\_tod\\_report\\_13-310.pdf](http://www.urbandisplacement.org/sites/default/files/images/arb_tod_report_13-310.pdf)

<sup>6</sup> Goldberg, *Game of Zones* may be found at <https://dspace.mit.edu/bitstream/handle/1721.1/98935/921891223-MIT.pdf?sequence=1>

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households in the periphery. Goldberg stated, “development interests spurred rezonings in commercial and industrial areas as well as gentrifying neighborhoods, induc(ed) a sharp increase in housing costs and residential dislocation.” (at P 3)

Goldberg’s was consistent with the Meltzer data showing that race/ethnicity matters. The Goldberg report found a substantial increase in white populations in upzoned areas and a decrease in Black and Latino populations in those same areas – even though Latino population throughout the City increased by 10%. (P. 66-67)

Finally, Goldberg weighed in on the “Densification means displacement” debate. Goldberg found that upzoning-induced real estate speculation contributed to higher rents and displacement in poorer communities. As to the viability of supply side solutions in markets such as New York’s or San Francisco’s, he concluded that overall distortions of those markets foreclosed any meaningful impact of market rate development on rent or displacement relief.

While filtering is generally theorized to support affordability across class groups, evidence from tight housing markets suggests that for supply to keep pace with demand – without which filtering cannot occur – a politically and technically unrealistic amount of housing would have to be built. (P. 77)

In this reality, rents on vacant San Francisco units will continue to be well out of reach for most San Francisco residents. In communities such as the Mission, where gentrification is already a serious problem, market housing such as that proposed at 2675 Folsom Street will reinforce the realtor narrative of the Mission as an “up and coming” location, with fancy restaurants, little crime, near public transit, and is “the place to be”.

#### **The Further Gentrification of the Mission Will Lead to Deteriorating in Air Quality.**

Chapple’s latest study also investigated the relationship between gentrification and auto use (Vehicle Miles Traveled) near rail stations under various conditions, and found an increase in VMT was likely to occur in transit rich neighborhoods such as the Mission:

- Local Vehicle Miles Traveled are likely to increase in the station area when gentrification is occurring.
- Regional Vehicle Miles Traveled are also likely to increase “if gentrification results in a reduction in the population living near rail and if those rail station areas have good transit service, high density, and other well-known features of supportive Transit Oriented Development.”

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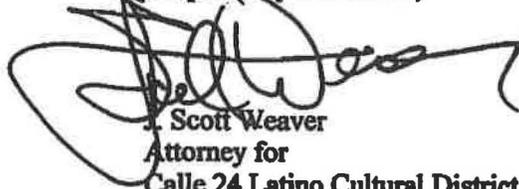
Between 2000 and 2012, the Mission lost 4.8 percent of its population, while median income increased by 48 percent (gentrification), and households with cars increased from 37 percent to 64 percent.<sup>7</sup> The Mission has already lost 8,000 Latinos over the past 15 years, along with nearly a third of its families and countless family-serving businesses. It has become less dense due to the exodus of families no longer able to afford the rents.

**Conclusion.**

It is clear that the ALH Report is one-sided, flawed, and has ignored critical information specific to the LCD. Critical corridors such as the LCD and the Mission St corridor need special consideration through policies that encourage development that is not harmful to the community, consideration that was completely lacking in the Report.

The City has begun to take some helpful steps forward in this direction through programs such as MAP 2020, the creation of the Latino Cultural District, on the ground work through offices such as OEWD, and direct and indirect support for neighborhood nonprofits. These are helpful opening steps, however luxury developers are a strong and persistent economic force. The will to address these challenges will only come after we address head on the issue of gentrification's role in causing displacement. The ALH Report, if accepted would set us 180 degrees in the wrong direction.

Respectfully Submitted,



J. Scott Weaver  
Attorney for  
Calle 24 Latino Cultural District Council

JSW:sme

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<sup>7</sup> Appellant's Exhibits at Pages 347, 348

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West Bay Law  
Law Office of J. Scott Weaver

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September 12, 2017

Commissioners,  
San Francisco Planning Commission  
1650 Mission Street, Room 400  
San Francisco, CA 94103

**Re: Case No 2014.0376CUA, 2918 Mission Street**

The proposed project is right across the street from the Calle 24 Latino Cultural District, and it is undeniable that, as proposed, it will have a significant impact on the District.

A little less than a year ago, the Calle 24 Latino Cultural District Council appealed this Commission's approval of the proposed project at 1515 South Van Ness Avenue. The Board of Supervisors determined that before considering the environmental impacts of the proposed project, it was necessary for the Planning Department to study the impacts of gentrification on social and economic displacement in the Calle 24 Latino Cultural District. The Department contracted with pro-development consultancy ALH consultants,

ALH hastily prepared its findings, based on cherry-picked data and without regard for many requests from community stakeholders that they look at specific issues that were pertinent to the Cultural District. The conclusion was the predictable it will not cause displacement or have no negative impacts on residents and businesses in the district – a conclusion that defies everything that we are seeing on the ground, including members of the Planning Department. Nevertheless, with little time, we were forced to put together a brief critique of the report, which is attached to this letter for your reference.

Perhaps most exemplary of the error in this report (and there are many pointed out in the attached) was the heavy reliance on a report by Rachel Meltzer, *Gentrification and Small Business, Threat or Opportunity* Pages 72-26 found at <https://www.huduser.gov/portal/periodicals/cityscpc/vol18num3/ch3.pdf>. After reading this report, it appeared to us that ALH in its haste to reach a “no impact” conclusion, either intentionally, or negligently misread the underlying data in the report. We contacted Ms. Meltzer, and she concurred with us: the underlying data demonstrated that gentrifying communities of color suffer greater business loss than non-gentrifying communities of color. We have the emails to prove it.

The Board of Supervisors never considered the attached nor the testimony that was intended accompany it, because both the 1515 South Van Ness and 2675 Folsom Street matters were settled prior to the hearing.

We believe that because ALH failed to seriously consider displacement impacts associated with gentrification in the Calle 24 Latino Cultural District<sup>1</sup> the analysis required by the Board of Supervisors remains unmet. For that reason, we are again requesting an independent analysis if these impacts

In addition to whatever evaluation that the Department may deem appropriate, we are requesting that the Department evaluate the proposed project, both individually and cumulatively, with respect to the potential impacts of the extensive market rate development on the existing residents, businesses, and non-profits in the Calle 24 Latino Cultural District. This inquiry should address the concerns stated above and include, but not be limited to, the following:

- The amount of income that households will be required to have in order to afford the market rents of the proposed project.
- The amount of anticipated disposable income of the households moving into the market rate units at the proposed project.
- The consumer preferences for goods and services of households moving into the market rate units at the proposed project, as compared to those Latino residents in the LCD earning 50% AMI.
- The potential venues where those consumer preferences are likely to be met.
- The short and long term impacts on neighborhood serving Latino businesses that new market rent paying households, with higher disposable incomes, will have on commercial rents in the Latino Cultural District – both from the standpoint of the proposed project and from the standpoint of the cumulative impact of the projects listed above.
- The short and long term impact that rents at the proposed project (and cumulative proposed projects) will have on rents of vacant resident units in the immediate areas.
- The short and long term impact that the proposed project (and cumulative proposed projects) will have on displacement of Latinos and families now living in the Calle 24 Latino Cultural District.

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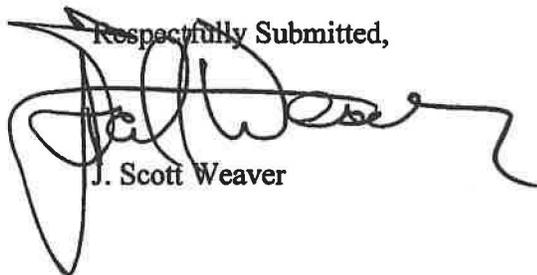
<sup>1</sup> The Calle 24 Latino Cultural District was recently designated a cultural district by the State of California.

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- The housing alternatives of residents now living in the Calle 24 Latino Cultural District should they be displaced.
- The short and long term impact that the proposed project (and cumulative proposed projects) will have on the percentage of Latino residents and businesses living and working in the Calle 24 Latino Cultural District.
- Mitigation alternatives that, if employed, would stabilize commercial rents in the Latino Cultural District.

I apologize for once again being compelled to make this request.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. Scott Weaver", written over the typed name.

J. Scott Weaver

JSW:sme