

Communication from Public

Name: Venice Stakeholders Association
Date Submitted: 11/04/2019 07:17 AM
Council File No: 18-0510
Comments for Public Posting: Bridge Housing Facility 100 E. Sunset Avenue (CF 18-0510)
California Environmental Quality Act Notice of Exemption
(NOE)



November 4, 2019

VIA E-MAIL TO (CityClerk@lacity.org) AND WEB PORTAL
SUBMISSION (<https://cityclerk.lacity.org/publiccomment/>)

Hon. Herb J. Wesson, Jr., President
Los Angeles City Council
c/o Holly L. Wolcott, City Clerk
City of Los Angeles
200 N. Spring St.
Los Angeles, CA 90012

RE: Bridge Housing Facility 100 E. Sunset Avenue (CF 18-0510)
California Environmental Quality Act Notice of Exemption
(NOE)

November 5, 2019 Meeting, Agenda Item No. 52

President Wesson and Members of the City Council,

I am counsel for Venice Stakeholders Association (the “Association”), a non-profit organization committed to civic improvement in the Venice neighborhood of Los Angeles. On November 5, 2019, the Council will consider amending its December 11, 2018 approval for a homeless shelter to be constructed at 100 E. Sunset Avenue (the “Project”). As you may be aware, there is litigation pending by the Association against the City, the MTA and the California Coastal Commission to invalidate the Project approvals. Specifically, the Association has challenged the validity of the City’s finding that the Project was exempt from CEQA.

On Friday, October 25, 2019, a hearing was held in the Los Angeles Superior Court to evaluate whether the City’s December 11, 2018 Project approval complied with CEQA. The Superior Court tentatively announced that the Project approvals **did not comply with CEQA**. The Superior Court queried the City Attorney as to whether AB 1197 applied to the Project. The City Attorney represented to the Superior Court that AB 1197 did not apply and the City stands on the prior law in effect for the approval. Nonetheless, the Superior Court has requested supplemental briefing from the parties on the impact of AB 1197 on the Project and pending litigation and a further (and perhaps final) hearing will be held on December 11, 2019.

The matter before you on November 5, 2019 is an attempt to end-run the Superior Court’s October 25, 2019 announced intended ruling. City staff has recommended that the prior Project approvals from 2018 be amended to incorporate AB 1197 as an additional justification for finding the

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Project exempt from CEQA. The Association urges you to vote no on the proposed amendment for the following reasons:

First, if another Notice of Exemption is filed, another lawsuit may need to be filed by the Association and that will increase the time and expenses of this litigation. From a taxpayers' point of view, it is a waste of public funds. Further, as a matter of mitigation of damages, you should know the Association intends to seek an award of attorney's fees at the conclusion of this litigation; the necessity of another lawsuit will drive up the fees the City ultimately will have to pay the Association.

Second, the Superior Court has announced that the Project was not properly exempted from CEQA. The City would be better served by conceding this point, following the law and going through the CEQA process to serve the residents surrounding the Project location. The faster that the City initiates the CEQA process, the sooner it can begin serving the homeless should the Project be approved following a CEQA process.

Third, I note that the City Council is not scheduled to meet in closed session with the City Attorney to discuss the October 25, 2019 hearing, the Project or the litigation. I would urge it to do so. The City Council should seek and receive legal advice on whether the City may properly apply AB 1197 retroactively to the Project and whether a point has been reached when the City should abandon, modify or relocate this Project. AB 1197 on its face does not apply retroactively and California courts do not apply new laws retroactively absent clear direction from the Legislature to do so. (See e.g., *North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 856.)

In light of the pendency of litigation, I request that this letter be included in the administrative record for CF 18-0510.

The Association thanks you for your service and for considering its views on this important matter.

Respectfully submitted,

Jeffrey Lewis

cc: Jennifer Novak
Steve Martin
Mitchell Rische
Tiffany Wright
Siegmond Shyu