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VIA EMAIL

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Re: Demand for Immediate Inclusion of Documents within All Comment Letter
Hyperlinks Into the Running Administrative Record; Hollywood Center
Project; Case No. ENV-2018-2116-EIR; SCH 2018051002; and CPRA

Dear Ms. Nguyen and Planning Director Bertoni:

During an August 14, 2020 court hearing related to a different CEQA matter, one of the City's attorneys from the City Attorney's Office, Hector Morgan, argued to Judge Daniel Murphy that hyperlinks provided within CEQA objection and comment letters and other documents submitted to the City as part of the administrative process, should not have to be printed out and provided to the decisionmakers or included in the administrative record unless the commenter makes a specific additional request or provides a cover letter specifically asking the City to actually print and include the hyperlinked materials.

That position is outrageous and illegal. Is that the Planning Department and/or City Attorney's official position regarding administrative record preparation requirements and duties, or is that some ad hoc position?

Please provide any and all documentation that shows any official position or internal policy taken by the Planning Department and City Attorney regarding this question. Please consider this a Public Records Act for same, pursuant to Govt. Code § 6250 et seq., and provide all documents to us by September 14, 2020, as required by the CPRA.

This alleged requirement or expectation by the City as stated by Mr. Morgan would impose on members of the public and even other governmental agencies commenting on a Draft EIR the requirement of some additional letter, or special request, saying words to the effect of: “We really mean it that when we put a link in, we expect you to look at it.” The City’s position is ridiculous and creates improper hurdles to the public being heard, particularly as the public has no idea that such a preposterous position could be devised by the City. Indeed, the judge found fault with the City’s position and rejected it.

We cite the California Supreme Court’s admonition specifically to the Los Angeles City Attorney’s Office from 1977, which rings true today:

“A government lawyer in a civil action . . . has the **responsibility to seek justice and to develop a full and fair record**, and he should not use his position or the economic power of the government to harass parties or to bring about unjust settlements or results.’ [Citation.]” City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 (emphasis added).

Moreover, the City’s position as articulated during that August 14, 2020 hearing totally disregards controlling CEQA case law including Consolidated Irrigation Dist. v. Superior Court (2012) 205 Cal.App4th 697, 724-725, which plainly states:

“We conclude that the information provided made these documents readily available to City personnel. To access the document, the person need only type the URL into a computer connected to the Internet. The document will appear on the computer screen and no further searching is required. Thus, the burden placed on lead agency personnel is minimal when a commenter provides the URL to the specific Web page containing the document.” Id. at 724-725.

Accordingly, on behalf of not only this office and our client, Stophemillenniumhollywood.com, but each and every objector to the Hollywood Center Project and/or its Draft or Final EIR, **this letter shall serve as our demand (although a separate demand should never be required) that the City print, include, and make publicly available as part of its running administrative record all linked documents and/or websites cited in those objection letters or emails.**

We further demand that the City promptly correct the Hollywood Center running administrative record and in a manner that does not create further prejudice or confusion. At a minimum, the City should place the printed documents from the hyperlinks immediately following the respective source letters or emails where those hyperlinks appeared.

Given what Mr. Morgan said on August 14, 2020, we believe that the current running administrative record by the City is grossly deficient because the City apparently has applied an unannounced and illegal policy of not including hyperlinked documents as part of the record. In turn, this means that countless objections and substantial evidence submitted by the public and other agencies have been not only excluded, but ignored in any forthcoming responses to comments. The City and developer proceed at their own peril.

You are on notice as to **all previous and all future objection or comment letters and emails** in this Hollywood Center matter¹ of your duty to print and include all hyperlinked documents cited in those letters and emails, timely upon receipt of them, and to attach them immediately behind the respective letters and emails, rather than to separate them and create confusion and inaccuracy in the administrative record.

Please confirm in writing by no later than **September 14, 2020** that the City will do so as well as respond to all comments included in or incorporated by reference through those hyperlinked documents. Even if you do not so confirm, you are on notice of your obligations to do so.

Very truly yours,

/s/ Robert P. Silverstein
ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl

¹ This should apply to all CEQA and CCP 1094.5 matters of any type, not just for the Hollywood Center project.