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VIA EMAIL California.Jobs@opr.ca.gov

Scott.Morgan@opr.ca.gov

Governor's Office of Planning and Research
State Clearing House
Scott Morgan, Director
1400 Tenth Street, Room 117
Sacramento, CA 95814

Re: Objections to ELDP Application by MCAF Vine, LLC
State Clearing House Tracking No. 2018051002; Hollywood Center Project

Dear Director Morgan:

Please accept these objections to the Environmental Leadership Development Project ("ELDP") application submitted by developer MCAF Vine, LLC for the "Hollywood Center Project" in Hollywood.

Since 2013, we have represented petitioners who successfully opposed a previous iteration of the project when it was called the Millennium Hollywood project. On April 30, 2015, we obtained a writ of mandate on multiple grounds invalidating the Los Angeles City Council's approvals of the prior project. (**Exhibit 1** [April 30, 2015 ruling by the Hon. James C. Chalfant].)

The prior project also faced grave concerns from two State agencies: the California Geological Survey and Caltrans. Both questioned the project's impacts on public health, safety and welfare, including because the 7.0 magnitude, surface rupture, active Hollywood Earthquake Fault runs directly through the site, as officially mapped in the State's Alquist-Priolo Earthquake Fault Zone Map (**Exhibit 2**, official map and State Fault Evaluation Report 253 and supplement ["FER 253"]), and because of deleterious impacts on the State Highway System, specifically the 101 Freeway's mainline and ramps. (**Exhibit 3**, Caltrans' repeated objection letters.)

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Those concerns are even more well founded today given the current iteration of the project, which is basically the prior project, but more offensive. The current proposal would place even larger skyscrapers astride and adjacent to the earthquake fault. (See **Exhibit 4**, State-mapped Hollywood Earthquake Fault superimposed onto the developer's new site plan showing eastern skyscraper bisected by the earthquake fault, and further showing the ignoring of the required 50-foot setback areas with major portions of building footprints within the 50-foot restricted Alquist-Priolo setback zones.)

The State provided an administrative appeal period for anyone to challenge the new Alquist-Priolo Map's findings. Millennium did not appeal, which means it failed to exhaust its administrative remedies in seeking to argue for the active fault designation through the site to be changed. Accordingly, Millennium forfeited any ability to challenge that identification. Therefore, the official mapping by the California Geological Survey of the active Hollywood Earthquake Fault through the site is final, and it must be treated as final by all offices of the State, including as part of this ELDP process.

The developer, Millennium Partners, aka MCAF Vine, LLC, is also the same developer responsible for the Leaning Tower of San Francisco debacle. That travesty has been exhaustively exposed by the New York Times, The Wall Street Journal, and CBS TV's "60 Minutes." That alone should cause significant pause in your review of the ELDP application.

But it is the physical dangers presented by this latest project – which would imperil the lives of thousands who would live, work in and visit the site daily – that should render the ELDP application *void ab initio*.

By asking the State of California to grant the extraordinary financial benefits and legal privileges that ELDP status would confer – and in flagrant disregard of the State's official Alquist-Priolo Map – the applicant should instead be granted the *chutzpah* award. “[I]f this were the Federal Circuit, [the Millennium developer] would qualify for a ‘chutzpah award.’ [Citation.]” Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, 845, citing Checkpoint Systems v. U.S. Intern. Trade Com'n (Fed.Cir. 1995) 54 F.3d 756, 763, fn. 7 (noting “chutzpah” describes “the behavior of a person who kills his parents and pleads for the court’s mercy on the ground of being an orphan”).

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We respectfully submit that your review of Millennium's application should include soliciting the empirical input from the California Geological Survey and Caltrans. Please seek the opinions of your own expert agencies in reviewing this ELDP application.

Although certain special projects could be appropriate for ELDP status, this project does not merit such status. Rather, to grant ELDP status here would discredit the integrity of the process and sully the otherwise understandable goals of the ELDP program.

If the developer actually moves forward with the project following its prior legal defeat, it should be required to do so with no special privileges, i.e., within the standard legal framework. It should be subjected to the fullest measure of transparency and the public's right to participate. As Justice Brandeis observed, "Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." Buckley v. Valeo (1976) 424 U.S. 1, 67, quoting L. Brandeis, *Other People's Money*, 62, National Home Library Foundation, ed. 1933.) In this situation and with this developer, more light is needed, not less.

Just as Millennium in San Francisco grossly misrepresented its building safety and geological work (see, e.g., **Exhibit 5** [one of a number of lawsuits currently pending against the Millennium developer for fraudulent misrepresentation, fraud in the inducement, and other wrongful acts] & **Exhibit 6** [San Francisco City Attorney Dennis Herrera's September 20, 2016 cover letter to Millennium and its principal, Chris Jeffries, with administrative subpoena]), it has repeatedly made false and misleading statements about the alleged lack of an active earthquake fault through the Hollywood site – all in contravention of the State's Alquist-Priolo Map.

In that regard, we have learned that some Los Angeles City officials and project proponents are claiming that Judge Chalfant found there was no earthquake fault on the site. That is incorrect. To the contrary, in response to our request for judicial notice of the then recently-released Final Alquist-Priolo Map and FER 253 Study, Judge Chalfant found that those documents "corroborate Petitioners' position" regarding the dangers of the active fault running through the site. But he also found them inadmissible in the prior writ of mandamus case because "they did not exist at the time of the [City's] approval." (**Exhibit 1**, p. 11.) However, the Map and FER 253 Study most certainly exist now, and cannot be avoided.

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Similarly, the Millennium developer's paid-for study claiming that no active fault crosses the site does not overcome the State's official conclusions and mapping in the final Alquist-Priolo Map. Indeed, as noted above, the Millennium developer waived any ability to challenge the State's conclusive finding of the 7.0 magnitude active Hollywood Earthquake Fault running through the site by the developer's failure to exhaust the administrative appeal process provided as to that issue.

To conclude, this is neither a corporate citizen nor a project that should receive or is legally entitled to receive the enormous benefits (with attendant harms to the public's health, safety and due process rights) of ELDP status.

Thank you for your consideration of this letter and attached exhibits. Please contact us if we can provide any further information.

Very truly yours,

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM, APC

RPS:vl
Attachments