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**June 7, 2023**

Los Angeles Department of City Planning  
City Planning Commission  
Email: [cpc@lacity.org](mailto:cpc@lacity.org)

**RE: Summary Responses to Administrative Appeal re: 730 S. Western Project (Project)**

We write the following brief summary of the more detailed comments we submitted on June 7, 2023. These responses provide summaries of the more detailed responses to the last minute supplemental letter (Appellant Letter) submitted by appellant Supporters Alliance for Environmental Responsibility (Appellant) on Tuesday, June 5, 2023 in the Appeal before the City Planning Commission (CPC) in case No. DIR-2022-7636-TOC-SPR-VHCA (Approvals). The Appeal challenges the adoption of a “Class 32” Categorical Exemption (CE) for a new proposed 125-unit, mixed-income seven-story mixed-use development (Project) pursuant to the California Environmental Quality Act (CEQA). We summarize June 7, 2023 responses to the Appellant Letter as follows:

**1. The Appellant Letter Fails to Show The “Unusual Circumstances Exception” To the Class 32 CE Adopted for the Project Applies Here.**

The Appellant Letter incorrectly argues that the “unusual circumstances” exception to the CE under CEQA Guidelines Section 15300.2(c) applies here. However, the Appellant Letter does not attempt to demonstrate the existence of an “unusual circumstance” here, nor could it, as the Project is a standard multi-family residential development on a flat, rectangular, highly urbanized infill site in Wilshire Community Plan Area.<sup>1</sup> The Appellant Letter attempts to rely on the statement in Berkeley Hillside that substantial evidence showing a project “will,” as opposed to “may,” have a significant impact can establish the exception.<sup>2</sup> The Appellant Letter then attempts to rely on invalid claims of significant indoor air quality impacts from purported formaldehyde gas to support its conclusion that the Project “will” cause a significant impact. However, for the reasons set forth below, the alleged “evidence” relied on in the Appellant Letter I is wholly insufficient to the Project may cause a significant impact, falling even shorter of the high burden to show the Project “will” result in such an impact, as is necessary to establish the exemption.

**2. The Appellant Letter’s Claims of Formaldehyde Impacts to Indoor Air Fails to Establish a Valid CEQA Impact.**

The Appellant Letter attaches as Exhibit A a June 5, 2023 report by Francis J. Offerman, (Offerman Report) which includes the same generic analysis it has now submitted innumerable times to the City by an alleged expert asserting that the Project would result in significant impacts from formaldehyde gas from furniture and construction materials that would allegedly cause significant indoor air quality (IAQ) impacts on future Project residents. The Offerman Report is invalid for the following reasons:

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<sup>1</sup> See Berkeley Hillside, 60 Cal.4th, at 1105, 1127.

<sup>2</sup> Berkeley Hillside, 60 Cal.4th, at 1105.

- The Offerman Report ignores the substantial evidence in record supporting the conclusion that the Project would not result in significant toxic air contaminant (TAC) impacts, found at pages 2-76 and 2-78 through 2-81 of the CE. It fails to demonstrate a CEQA violation by the City for this reason alone under the applicable substantial evidence legal test.
- The Appellant Letter and Offerman Report's analysis is based on alleged effects of the Project on future Project residents, which is not an impact under CEQA and need not be analyzed, as CEQA is only concerned with the impacts a project has on the broader human environment and not future users. The air quality technical analysis performed for the Project in the CE is fully compliant with CEQA in its focus on regional and localized impacts from emissions of criteria pollutants and other relevant air quality concerns, including potential emissions of TACs related to outdoor air quality.
- The Offerman Report's analysis of alleged formaldehyde impacts also relies on generalized, generic speculation regarding the furniture to be used future residents – which is not an impact caused by the Project – and construction materials that would be utilized by the Project. Such speculation is not valid substantial evidence under CEQA.
- The Offerman Report is substantively flawed, relying on irrelevant and outdated data that is not consistent with the Project and numerous unreasonable assumptions that falsely inflate purported risk levels. First, it doesn't analyze the Project at all, but compares the Project with a study of detached single-family houses built in 2011-2017 that do not reflect significantly increased ventilation standards that exist under current 2022 code revisions that apply to the Project, a multi-family building that has different air ventilation standards and requirements.
- The Offerman Report includes a variety of improper assumptions that falsely inflate its impact conclusions. Among other things: (1) it assumes residents would be inside their homes for 24 hours per day, 52 weeks per year, for 70 years, ignoring that a proper analysis assumes people leave their homes during the day and year and generally do not live in one place for 70 years; (2) it assumes a daily air intake of 20 cubic meters without support, where a more accurate number is 7.5 cubic meters per day; and (3) it assumes that formaldehyde emissions from construction materials would remain constant for over 70 years when, in fact, they decrease over time.
- The Offerman Report says the Project should install high-capacity air filters to reduce formaldehyde exposure and mechanical ventilation, which it will under current code standards.
- The State of California has elected to address formaldehyde exposures from construction materials via state technical building, energy, and green building codes and the California Air Resources Board's ATCM (Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products) regulations, with which the Project would comply. The state has not deal with this issue under CEQA. The Project will comply with these applicable regulations and requirements. The City was not required to analyze this topic under established CEQA judicial rulings.