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BY E-MAIL AND HAND DELIVERY

June 7, 2018

Mayor Sofia Pereira  
Members of the Arcata City Council  
736 F Street  
Arcata, CA 95521

**RE: Comment on The Village Student Housing Project  
File No. 156-179-GPA-ZA-PM-DR-PD-DA-GPC-VAC  
Opposition to Approval of Environmental Impact Report and  
Statement of Overriding Considerations**

Dear Mayor Pereira and Honorable Members of the Arcata City Council:

I am writing on behalf of Laborers' International Union of North America Local Union No. 324 and its members living in and around the City of Arcata ("LIUNA") concerning The Village Student Housing Project ("Project"). The Project involves construction by AMCAL Equities, LLC ("AMCAL") of 240 units of student housing at the former Craftsman's Mall property to be used by 800 Humboldt State University ("HSU") students.

Currently before the City Council with respect to the Project are, among other things, whether to approve the Final Environmental Impact Report and whether to issue a Statement of Overriding Considerations under the California Environmental Quality Act ("CEQA"), Pub. Res. Code §21000, *et seq.*

Other commenters have addressed various environmental issues, and LIUNA agrees with many of those points. LIUNA comments separately to request the Council not to issue the Statement of Overriding Considerations and approve the Project because of questions that have arisen about the treatment of workers on the Project.

By way of background, under CEQA, when an agency approves a project with significant environmental impacts that will not be fully mitigated, it must adopt a "statement of overriding considerations" finding that, because of the project's overriding benefits, it is approving the project despite its environmental harm. 14 Cal. Code Regs. §15043; Pub. Res. Code §21081(b). A statement of overriding considerations expresses the "larger, more general reasons for approving the project, such as the need to create new jobs, provide housing, generate taxes and the like." *Concerned Citizens of South Central LA v. Los Angeles Unif. Sch. Dist.* (1994) 24 Cal.App.4th 826, 847.

A statement of overriding considerations must be supported by substantial evidence in the record. 14 Cal. Code Regs. §15093(b). The agency must make “a fully informed and publicly disclosed” decision that “[s]pecifically identified expected benefits from the project outweigh the policy of reducing or avoiding significant environmental impacts of the project.” 15 Cal. Code Regs. §15043(b).

Key among the findings that the lead agency must make is that: “Specific economic, legal, social, technological, or other considerations, including the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report” and that those “benefits of the project outweigh the significant effects on the environment.” Pub. Res. Code §21081(a)(3), (b)).

Thus, the City Council must make specific findings, supported by substantial evidence, concerning both the environmental impacts of the Project, and the economic benefits including “the provision of employment opportunities for highly trained workers” created. The documents before the City Council fail to provide substantial evidence to support a statement of overriding considerations on that basis.

Indeed, it has come to our attention that HSU may be attempting to avoid paying prevailing wages for construction of the Project. Under California Labor Code §1720, *et seq.*, workers on public works projects must be paid at least the prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed as set by the California Department of Industrial Relations. HSU has suggested, however, that it could enter into an affiliation agreement with AMCAL and not pay the prevailing wage because the Project would not be a public works project. If that is the case, “the provision of employment opportunities for highly trained workers” would be eviscerated, as such workers would not be paid the prevailing wage and would instead be paid a lower wage rate.

Before approving the Statement of Overriding Considerations and Project, the City Council should investigate the relationship between HSU and AMCAL, the use of an affiliation agreement or other means to give HSU control over the Project without making it a public works project subject to the prevailing wage, and otherwise ensure that highly trained workers benefit from the Project.

Sincerely,



Michael Lozeau