



T 510.836.4200
F 510.836.4205

1939 Harrison Street, Ste. 150
Oakland, CA 94612

www.lozeaudrury.com
Amalia@lozeaudrury.com

Via Email

March 22, 2022

Michelle Carter, City Planning Associate
City of Los Angeles
200 N. Spring St., Room 763
Los Angeles, CA 90012
michelle.carter@lacity.org
per.planning@lacity.org

**Re: Categorical Exemption – Bronson Residential Tower Project
ENV-2021-6887-EAF; CPC-2021-6886-DB-SPR-WDI-HCA
Hearing Officer Hearing, March 23, 2022**

Dear Ms. Carter:

I am writing on behalf of **Supporters Alliance for Environmental Responsibility (“SAFER”)** regarding the Project known as Bronson Residential Tower (ENV-2021-6887-EAF; CPC-2021-6886-DB-SPR-WDI-HCA), including all actions related or referring to the proposed construction of a 24-story residential building with 128 units and four levels of parking, located at 1725, 1729, and 1739 North Bronson Avenue, in the City of Los Angeles (“Project”). SAFER objects to staff’s determination that the Project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (“CEQA”) pursuant to Section 15332 of the CEQA Guidelines (“Infill Exemption”).

I. DISCUSSION

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. (PRC § 21001(d).) To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 CCR § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86 (“*Hollywoodland*”).) First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. *Id.* Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. (*Id.*; 14 CCR § 15063(a).) If the study indicates that there is no substantial evidence that the project or

any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. (*Id.*, 14 CCR §§ 15063(b)(2), 15070.) Finally, if the project will have a significant effect on the environment, an environmental impact report (“EIR”) is required. (*Id.*) Here, since the City exempted the Project from CEQA entirely, we are at the first step of the CEQA process.

a. CEQA Exemptions

CEQA identifies certain classes of projects which are exempt from the provisions of CEQA. These are called categorical exemptions. (14 CCR §§ 15300, 15354.) “Exemptions to CEQA are narrowly construed and “[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language.” (*Mountain Lion Foundation v. Fish & Game Com.* (1997) 16 Cal.4th 105, 125.)

The determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or de novo, review. (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.*, (2006) 139 Cal. App. 4th 1356, 1375 (“[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. (Citations.) Thus, for example, interpreting the scope of a CEQA exemption presents ‘a question of law, subject to de novo review by this court.’ (Citations).”)

b. Exceptions to Infill Exemptions

There are several exceptions to the categorical exemptions. (14 CCR § 15300.2.) At least two exceptions are relevant here:

- (1) Cumulative Impacts. A project may not be exempted from CEQA review “when the cumulative impact of successive projects of the same type in the same place, over time is significant.” (14 CCR § 15300.2(b)).

The City identified 20 related projects that would occur in the vicinity of the Project site around the same time as the Project, but concluded that the Project “would not contribute to any significant cumulative impacts resulting from successive projects of the same type in the same place over time.” (Bronson Residential Tower Project Categorical Exemption, hereafter “Exemption,” p. 50). However, this conclusion is based in part on the City’s conclusion that air quality impacts of the individual Project would also be less-than-significant. As discussed below, this conclusion is not supported by substantial evidence, therefore the City’s conclusion regarding cumulative impacts is also unsupported. The Project therefore cannot be exempted under CEQA.

- (2) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. (14 CCR § 15300.2(f)).

The proposed Project will be located directly adjacent to a recognized historical resource, the Lombardi House. Environmental consulting firm Environmental Science Associates (“ESA”) prepared a Historic Resources Memo which concluded that the Project would not cause a substantial adverse change in the significance of the Lombardi House. (Exemption, Appendix E). However, neither the City’s discussion nor the ESA report address the potential indirect physical impacts that the construction of a 24-story building directly adjacent to the Lombardi House may have on that property. The exemption should therefore be withdrawn, and an Environmental Impact Report (“EIR”) prepared to adequately assess this impact.

c. Limitations on Infill Exemptions

A project may only be exempt under the Infill Exemption where the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.” (14 CCR § 15332(d).) As part of its air quality assessment, the City included an analysis from DKA Planning consultants (“DKA”). (Exemption, Appendix D). The analysis identified six residential buildings within 400 feet of the project as sensitive receptors and used CalEEMod to assess impacts on those receptors. However, DKA did not conduct a Health Risk Assessment (“HRA”), and has therefore failed to give sufficient information with which to determine whether there would be significant air quality effects. Without an HRA, the Infill Exemption is unsupported by substantial evidence and, therefore, in violation of CEQA.

As for its discussion of noise impacts, the exemption document claims that “[o]ther mechanical equipment would be housed within the Project building itself . . . [t]he noise generated by this equipment would likely not be audible from outside of the Project building.” (Exemption, p. 37). The City provides no evidence to support this conclusion regarding noise impacts from on-site operational activities, therefore also rendering the conclusion unsupported by substantial evidence. Additionally, the consultants who performed the noise analysis for the Project conducted technical surveys on June 2, 2021. (Exemption, p. 28). It was not until June 15, 2021 that the state of California dropped most of its pandemic restrictions¹, therefore making the June 2 date a skewed baseline off of which to analyze noise impacts.

¹ <https://www.nbclosangeles.com/news/local/whats-changing-on-june-15-in-california-coronavirus-pandemic-reopening/2614733/>.

March 22, 2022

Comment re: Bronson Residential Project, CEQA Infill Exemption

Hearing Officer Hearing

Page 4 of 4

II. CONCLUSION

The CEQA Analysis fails to properly analyze and mitigate impacts to air quality, noise, historical resources, and other impacts. The analysis should be withdrawn, an Environmental Impact Report should be prepared, and the draft EIR should be circulated for public review and comment in accordance with CEQA. Thank you for your consideration of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Amalia Bowley Fuentes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Amalia Bowley Fuentes
Lozeau | Drury LLP