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June 25, 2019

Ms. Kate Gordon
Director,
Office of Planning and Research
1400 10th Street
Sacramento, CA 95814

*Via Email: California.Jobs@opr.ca.gov*

Opposition to Supplemental Application for Certification of the Inglewood Basketball and Entertainment Center Project under AB 987 (Application No. 2018021056)

Dear Ms. Gordon:

On behalf of Inglewood Residents Against Takings and Evictions ("IRATE"), we objected to certification of the Inglewood Basketball and Entertainment Center Project ("Project") pursuant to AB 987 in our letter to you dated February 1, 2019. We have reviewed the "AB 987 Replies to Correspondence" supplied by AECOM ("AECOM Response") submitted with the June 12, 2019 letter of applicant Murphy's Bowl from Coblentz Patch Duffy & Bass LLP ("Murphy's Letter"). The response and letter (collectively, "Supplemental Application") do not address major objections we raised in our letter.

The Project does not meet AB 987's requirements. As proposed, the Project will lead to increased traffic congestion, pollution, and emission of greenhouse gases in Inglewood, directly and negatively impacting the health and well-being of the community and IRATE's members.

As we stated previously, the methodology used by the applicant, if accepted by the California Air Resources Board ("CARB") and the Governor, would undermine compliance with the State's established Greenhouse Gas ("GHG") goals and established methodologies of air districts. This sets a very dangerous precedent for the entire state.

AB 987 requires a Project certified under its authority to meet rigorous environmental standards. The applicant has failed to adequately describe how the Project

will meet those standards required by AB 987 and therefore, the certification should be denied.

**A. The Project Results in an *Increase* in GHG Emissions.**

Public Resources Code § 21168.6.8 subdivision (b)(3) requires that the project not cause a net increase in GHGs: certification is only allowed if "The project does not result in any net additional emissions of greenhouse gases." To demonstrate net zero GHG emissions, the applicant must show that future Project emissions, minus baseline emissions, minus mitigation measures, equal zero. In this case, the Supplemental Application admits, even with its flawed calculations explained below, that "Net Emissions IBEC Project" are an *increase* of 158,631 MT CO2e over the years 2021 to 2054. (June 12, 2019 Letter, Attachment 3, IBEC Project GHG Supplemental Technical Memorandum, p. 11.) Even with GHG Reduction measures, the *increase* is 76,324 MT CO2e. (June 12, 2019 Letter, Attachment 3, IBEC Project GHG Supplemental Technical Memorandum, p. 12.)

The applicant manipulates the baseline emissions level to decrease the amount of emissions it must mitigate. This "methodology" runs counter to CEQA and every well-respected air emissions methodology on the books.[1] If accepted by the Air Resources Board (ARB) it will create a precedent that will undermine achievement of the State's GHG reduction standards, and established policies of air agencies.

Murphy's Letter claims the Application should not be held to the same standards of sufficiency of a project description and analysis that is required of an Environmental Impact Report (EIR) prepared pursuant to the California Environmental Quality Act. (Murphy letter, p. 3 [referring to "much more detailed requirements for an EIR project description and environmental impact analysis"].) However, Murphy's Bowl provides no legal authority, nor sound policy reason, for such a baseless assertion. Instead, the Application should inform the Governor and the public in the same way a project description and analysis does in an EIR. The Application is intended to be subjected to

[1] Existing conditions on the ground at the Project site consist of a hotel, restaurant, commercial building, and light industrial buildings. (Application Attachment G, p. 7.) These are the source of the GHG emissions that should be included in the baseline. Table 10 records these sources as emitting 1,209 MTCO2e each year in 2021-2023. (Murphy's Letter, Attachment 3, p. 11.) Yet somehow, baseline emissions jump to 13,289 in 2025 and stay at that level through 2054. (*Ibid.*) Baseline emissions should not change for purposes of comparing to project emissions as baseline should reflect existing conditions. (*Communities For A Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 315.)

public review, so its description should not be any more misleading or uninformative to the public than the project description or analysis in an EIR. Furthermore, the Governor's certification of the Project will inevitably be used by the applicant during the environmental review of the Project to defend the GHG emission analysis and mitigation against public and public agency critiques. Therefore, the analysis of the Application must be at least as rigorous, if not more rigorous than, the analysis of an EIR would be and the same standards of sufficiency must be applied.

The applicant's GHG baseline for the life of the Project includes the GHG emissions now attributable to "half of the existing annual operational emissions associated with the LA Clippers Facilities, existing LA Clippers games, and market-shifted non-NBA events." (June 12, 2019 Murphy's Letter, Attachment 3, IBEC Project GHG Supplemental Technical Memorandum, p. 11; cf. Application, Attach. G, pp. 6-7.) Including such events in the baseline is misleading and uninformative. As we stated in our prior letter:

> *The applicant does not show that it has secured any permanent reduction on operating capacities of these facilities, nor is there any evidence that these events will, in fact, relocate from Staples, Honda Center, the Forum or any other venue to the new Clippers arena, or that the GHG emissions they cause will actually be eliminated. The application has not made the required case for these GHG reductions.*
>
> *The application's baseline methodology asserts that over 300,000 tons of CO2 emissions will simply disappear when the Project is built. (Application Attachment G, p. 25.) Because they "disappear," the applicant asserts it does not need to offset those emissions. This, of course, is a fallacy. Those emissions are simply relocated, not eliminated.*

(CBCM Feb. 1, 2019 Letter, p. 3.)

**B. The Application Fails to Demonstrate Sufficient *Local* GHG Mitigation Measures.**

The applicant does not comply with AB 987's mandate that "Not less than 50 percent of the greenhouse gas emissions reductions necessary to achieve [net zero emissions] shall be from *local, direct greenhouse gas emissions reduction measures*." (Pub. Resources Code § 21168.6.8 subd. (j)(3), emphasis added.) This directive was included to ensure that the local community is not burdened with shouldering the full weight of the Project's harmful emissions.

Local community benefits from GHG reduction measures are possible but not even explored, let alone required as part of IBEC Project GHG reduction measures. Instead, the Supplemental Application relies on an unrealistic Transportation Demand Management (TDM) program for 48%, or 74,797 MT CO2e of GHG emissions reductions and 47% on Offset Credits or Co-Benefits. (June 12, 2019 Letter, Attachment 3, p. 20.)

As we stated previously, but has not been addressed in the Response document or Murphy Bowl Letter, the applicant could have proposed significant local measures such as solar installations on neighboring homes, energy efficiency retrofits of area businesses, and other local meaningful measures, especially since the Project would be surrounded by disadvantaged communities where such programs are sorely needed. (CBCM Letter of Feb. 1, 2019, p. 4.)

Affordable housing is a critical need in the Inglewood community and providing affordable housing in Inglewood could effectively aid in GHG emission reduction. The recent passage of a rent control measure in Inglewood has been much needed but does not suffice to fully address the critical shortage that continues to exist. (See https://www.nbclosangeles.com/news/local/Inglewood-Caps-Rents-Ahead-of-New-Stadium-Opening_Los-Angeles-511164212.html; and https://la.curbed.com/2019/6/12/18661454/inglewood-rent-control-approved.)

When the Athletics proposed to construct a stadium in Oakland, their proposal included 6,000 homes, of which 2,400 or more could be affordable. "Oakland's Athletics need a home. They may get one — and provide 6,000 more" by Bill Shaikin, Mar. 11, 2019, Los Angeles Times. See Attached. Posted at https://www.latimes.com/sports/mlb/la-sp-oakland-ballpark-housing-crisis-20190310-story.html.) The Clippers, who potentially would be using extensive amounts of public land, could address housing in the Inglewood area as simply as the Athletics propose in the Oakland[2] area, by directly creating affordable housing units, or by other means.

[2] The extensive public land that the Clippers propose to use includes land owned by the City of Inglewood, by the Successor Agency to the Redevelopment Agency of the City of Inglewood, and by the Parking Authority of the City of Inglewood in the form of dozens of parcels along West Century Boulevard and West 102nd Street. (Enclosure 5.) As discussed elsewhere in this letter, the City's proposed use of public land for a sports entertainment facility rather than for affordable housing, recreational or open space uses, school facilities or other priority uses could violate the state's Surplus Lands Act. (Enclosure 2, p. 5 [citing Government Code section 54222.)

Oakland Mayor Libby Schaaf stated "the A's are not a profit-driven real estate development corporation. They are a civic asset. They are a longstanding member of our community that recognizes their value is not only measured in dollars but in civic pride." The LA Times story further explained:

> In the Giants' Mission Rock project — negotiated with the city of San Francisco and approved by voters there — 40% of the residences are reserved for affordable housing.
>
> If the Athletics were to match that percentage, they would build 2,400 affordable homes. Schaaf has set a citywide goal of 2,900 affordable homes over the next eight years.
>
> "I think time will tell whether having your sports team as a real estate developer is good or bad," she said. "What makes me optimistic is that a team is not judged just by its monetary profits. It is judged by its contributions to its community.

(Enclosure 1, "Oakland's Athletics need a home. They may get one — and provide 6,000 more".)

The Clippers should exhibit at least the same level of civic pride as the Athletics, and make a commitment to create affordable housing in Inglewood that will avoid displacement and the GHG emissions associated with displacement of current residents.

Every displacement that is avoided or current resident housed within the Inglewood community represents a saving in GHG emissions. The whitepaper "Preventing Displacement to Reduce Greenhouse Gas Emissions"[3] explains, among other points:

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[3] The groups involved in this "Preventing Displacement to Reduce Greenhouse Gas Emissions" document include the following: Alliance for Community Transit-LA, Asian Pacific Environmental Network, Asian Pacific Policy & Planning Council, Asian Neighborhood Design California Releaf, Causa Justa::Just Cause, Center for Sustainable Neighborhoods, Chinatown Community Development Center, Coalition for Clean Air, Community Legal Services in East Palo Alto, East Bay Housing Organizations, Housing California, Lao lu Mien Culture Association, Inc., Physicians for Social Responsibility-LA, PolicyLink, Public Advocates, Public Counsel, Strategic Actions for a Just Economy, SF Council of Community Housing Organizations, TransForm, Urban Habitat, Urban Releaf.

> Displacement is both direct (new construction destroying homes) and indirect (skyrocketing rents pricing them out). [Footnote omitted]. When forced out, these families tend to move to more affordable homes in distant places with poor access to transit and jobs. ). [Footnote omitted]. As a result, they switch from being model low-VMT citizens to driving long distances in older cars with high GHG emissions per mile.

(https://www.psr-la.org/wp-content/uploads/Displacement-and-GHGs-6-5-14-COLOR.pdf. Enclosure 3; see also http://www.transformca.org/sites/default/files/AHSC_Brief_June17_FINALv2.pdf [ "Estimating the future GHG reduction benefits of building affordable transit-oriented development"].)

The applicant should only look to reduce GHG emissions outside of Inglewood using credits or other methods if it is infeasible to do so locally. The applicant has not shown this. The applicant is gaming the requirements of AB 987 and shortchanging the local community.

As with AB 987, recent legislation has emphasized the need for *local measures* that address GHG emissions reductions. As stated on the website of Strategic Concepts in Organizing and Policy Education (SCOPE):

> While there is still much work ahead to ensure that the implementation of climate solutions benefits and prioritizes disproportionately impacted low-income communities of color like South LA, 2016 marks a significant moment for building momentum toward our vision for climate justice-a vision that by 2030, South LA and communities like ours will be healthier, thriving, and more resilient.
>
> Below is a breakdown of 2016's key climate policy wins:
>
> SB 32 (Pavley) – Greenhouse Gas Emissions Limits: Extends and increases California's greenhouse gas reduction goals to 40% below 1990 levels by 2030.
>
> AB 197 (E. Garcia) – Climate Equity and Transparency Act: Increases public oversight and reduces executive control over the Air Resources Board, the state agency tasked with monitoring, regulating and reducing greenhouse gas emissions. *Specifically, the bill directs the Air Resources Board to prioritize local emission reductions for greenhouse gas emitters* and enacts new governance reforms at the agency, including setting six year terms for board members.

> AB 1550 (Gomez) – Investments in Disadvantaged Communities: Requires a minimum of 35% of Greenhouse Gas Reduction Fund climate investments to benefit disadvantaged communities and low-income families across the state.
>
> AB 2722 (Burke) – Transformative Climate Communities: Creates the Transformative Climate Communities program which funds planning and implementation of community climate plans within disadvantaged communities. These plans will help vulnerable communities reduce greenhouse gas emissions, improve local air and water quality, and create sustainable economic development opportunities.

(http://scopela.org/passage-of-state-climate-bills-a-win-for-equity-and-justice/, emphasis added.)

**C. The Project Fails to Include Reasonable, Feasible, and Effective GHG Emission Reduction Mitigation Measures Implemented By Other Sports Venues as Direct, Local, GHG Reduction Measures.**

One requirement of AB 987 is local mitigation measures to reduce GHGs to the extent feasible: "[n]ot less than 50 percent of the greenhouse gas emissions reductions necessary to achieve [net zero emissions] shall be from *local, direct greenhouse gas emissions reduction measures*." (Pub. Resources Code § 21168.6.8 subd. (j)(3), emphasis added.)

The Murphy's Bowl/ AECOM Response claims meeting LEED Gold certification is sufficient. (Murphy's Bowl Letter, pp. 6-7; AECOM, p. 27.) Gold is second best to a LEED Platinum certification. (https://new.usgbc.org/leed.) Additionally, a project may attain LEED Gold certification yet still not incorporate every feasible, direct, local GHG reduction mitigation measure that is possible. We have demonstrated, with submission of the NRDC 2012 Game Changer Report, how there are numerous feasible mitigation measures adopted by other sports stadiums that the Clippers Arena does not attain.

Our prior letter stated the following:

> *The Project fails to implement effective GHG mitigation measures that have been implemented around the country by other sports venues. We attached excerpts from a report by the Natural Resources Defense Council ("NRDC Report") entitled "Game Changer," on the energy consumption and GHG reductions that have been made by other sports stadiums, for comparison purposes. (Enclosure 1.) The NRDC Report shows what a sports venue that is genuinely trying to reduce its environmental footprint can do; this applicant falls*

*woefully short.*[4] *NRDC's Report sets forth actual examples of sports venues that are implementing measures far superior to those that have been identified in the AB 987 application for the Project.*

The AECOM Response mentions the NRDC Report in a numbered response (AECOM Letter, pp 25-27) but it concludes "the IBEC Project incorporates numerous GHG-reducing building design strategies.... No revision to the IBEC Project AB 987 Application is required to address these claims." (AECOM Letter, p. 27.) Contrary to this dismissive statement, the response fails to require incorporation of feasible, effective, GHG-reducing mitigation measures. Its mere inclusion of some measures, even if "numerous," fails to mitigate GHG emissions to the maximum extent feasible through local, direct emissions reductions measures, as required by AB 987.

**1. The Clippers' Participation in NBA's Environmental Performance Program Should be Guaranteed.**

Our prior letter stated the following:

*The IBEC application does not mention the Clippers' participation in the NBA's Green Initiative (NRDC Report, p. 26-27) including but not limited to the Green Week program. The NRDC Report states "Each of the league's 30 teams hosts Green Week community service events such as tree plantings, recycling drives, and park clean-up days to get involved in the league's greening initiative." (Report, p. 27.) The applicant must explain if and how it intends to participate in and promote the NBA Green Initiative at the IBEC.*

Neither the AECOM Response nor the Murphy's Letter addresses this comment.

**2. The Heat Island Effect Must be Reduced.**

Our prior letter stated the following:

*The Miami Heat basketball team "added 9,161 square feet of canopies to reduce the heat island effect." (NRDC Report, p. 45.) There is no mention of heat island reduction in the applicant's discussion of construction or energy usage. (See Application, p. 5, Attachment G, p. 17.)*

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[4] The NRDC Report is available at https://www.nrdc.org/sites/default/files/Game-Changer-report.pdf.

Neither the AECOM Response nor the Murphy's Letter address the heat island effect or how it may be mitigated both onsite and throughout Inglewood.

**3. An Environmental Management System Should Be Required.**

Our prior letter stated the following:

*The Staples Center is the first U.S. arena to achieve ISO 14001 certification for an environmental management system (EMS), a written program setting forth environmental goals and practices. (NRDC Report, p. 56 and p. 58.) The applicant in contrast does not mention any EMS. An EMS should be required.*

Neither the AECOM Response nor the Murphy's Letter addresses an environmental management system (EMS) setting forth environmental goals and practices.

**4. Energy usage measures must be improved.**

**a. Solar panels can and must be required on all available rooftop space.**

Our prior letter stated the following:

*The applicant proposes to include solar cells only on "the main arena building roof." (Application, p. 5.) Other building roofs are available and should be used for solar cells as well. The project includes large parking structure facilities, a retail complex, and a hotel. (Attachment A-2.) No explanation is provided for why these roofs cannot be used for solar cell placement in addition to the main arena building roof.*

*The Staples Center includes a 1,727-panel solar array. (NRDC Report, p. 56.) There is no statement of the number of panels planned for installation by the applicant. The Staples Center also uses a number of greening accomplishments, many of which are not mentioned by the applicant. These include "Low-voltage lighting relays"; "electronic ballast instead of magnetic ballast"; "variable speed drives on all air handlers and one chiller"; "time schedules for and photo cell control of exterior lighting"; "Super-efficient three-phase motors". (NRDC Report, p. 56.)*

The AECOM Response states the design will be "further refined including… Using the large roof area for the installation of onsite photovoltaic systems to generate renewable solar energy." (AECOM Response, p. 27.) There appears to be mention of solar roof panels on one of the parking structures. Why are solar roofs not required on all the parking areas and hotel structures?

Additionally, there no mention of a commitment to the other greening measures similar to those implemented at the Staples Center such as "Low-voltage lighting relays"; "electronic ballast instead of magnetic ballast"; "variable speed drives on all air handlers and one chiller"; "time schedules for and photo cell control of exterior lighting"; "Super-efficient three-phase motors."

**b. Renewable energy usage of 100% can and must be attained.**

We noted the Trail Blazers committed to 100% renewable energy usage through contracting with Pacific Power and the Bonneville Environmental Foundation. (CBCM Letter, p. 6; NRDC Game Changer Report, p. 64) The AECOM Response weakly claims the IBEC Project will be "Elevating sustainability to a primary goal in the design process." (AECOM, p. 27.) This is a meaningless platitude. The IBEC Project proponent should commit to 100% renewable energy usage through contractual commitments, as the Trail Blazers did. (CBCM Letter, p. 6.) Senate Bill 100, sponsored by Senator De Leon and approved by the Governor on September 10, 2018 states "it is the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers and 100% of electricity procured to serve all state agencies by December 31, 2045." The Project applicant as it seeks the Governor's certification of Environmental Leadership status should commit to 100% renewable energy usage by 2045 as well.

As we identified previously, but has not been addressed, the NRDC Report states the Home Depot Center, which is home of the LA Galaxy soccer team and is not far away from Inglewood, "participates in Southern California Edison's Demand Response programs, which enable it to manage energy use to avoid statewide demand peaks." (NRDC Report, p. 103.) The LA Galaxy "participated in the Bonneville Environmental Foundation's Solar 4R Schools program, which installs solar panels on a school in the winning team's region." (Ibid.) The applicant should commit to installing solar roofs and similar measures within the local area before relying on purchasing offset credits to mitigate its GHG impacts.

**5. Recycling must be promoted, including during Project operations.**

The AECOM Response does not mention recycling. (See AECOM Response, p. 27.) Instead, it vaguely states "There are a number of ways that the AECOM design team is utilizing the insight of this report and considering recommendations while the IBEC Project design is further refined." (AECOM Response, p. 27.) This dismissive platitude must be rejected, and a meaningful commitment to operational recycling implemented in an enforceable way. Our prior letter proposed heightened recycling requirements but these comments were not addressed:

> *The applicant proposes to recycle 75 percent of its construction demolition material. (Application, p. 5.) The applicant makes no statement or commitment to any level of recycling during operations.*
>
> *The Rose Garden Arena, home of the Portland Trail Blazers, has a more effective recycling program that includes recycling during operations: "More than 80 percent of operations waste is diverted from local landfills." (NRDC Report, p. 64.) Philips Arena, home of the Atlanta Hawks, "sends its plastic, aluminum, glass, cardboard and paper waste to SP Recycling." (NRDC Report, p. 99.) Furthermore, "Paper products, including paper towels, bathroom tissue, and copier paper, are all 100 percent post-consumer recycled content." (NRDC Report, p. 99.)*

**6. Additional local direct GHG reduction measures must be included.**

The Supplemental Application refers in passing to "Other local direct measures" that "could include" "new emissions-reducing technologies, pursuing strategies to work with local municipalities, transit providers, and others in the area to support vehicle trip or vehicle-miles traveled reductions that would in turn reduce GHG emissions, or other measures that would achieve GHG emissions reductions in the local region." (June 12, 2019 Murphy's Letter, Attachment 3, p. 21.) This brief list should be expanded, a more meaningfully discussed. Additional local, direct measures that should be required before offsets are used include the following:

1. Urban tree planting throughout Inglewood.
2. Mass transit extensions.
3. Subsidies for weatherization of homes throughout Inglewood.
4. Incentives for carpooling throughout Inglewood.
5. Incentives for purchase by the public of low emission vehicles.
6. Free or subsidized parking for electric vehicles throughout Inglewood.

7. Solar and wind power additions to Project and public buildings, with subsidies for additions to private buildings throughout Inglewood.
8. Subsidies for home and businesses for conversion from gas to electric throughout Inglewood.
9. Replacement of gas water heaters in homes throughout Inglewood.
10. Creation of affordable housing units throughout Inglewood.
11. Promotion of anti-displacement measures throughout Inglewood.

**D. The Applicant Relies on Purchased GHG Offsets That are not Supported by Evidence.**

The application states that 39,486 MMTCO2e of GHG emissions, or about 38% (more than one-third of the total) of the GHG reductions claimed by the applicant will be produced as co-benefits of conventional air pollutant emissions reductions and/or from purchased GHG offsets (reductions from other GHG sources). (Application, p. 22.) The application does not specify what portion of this 38% of GHG reductions will come as co-benefits (nor the conventional air pollutant control measures that will produce them), and what portion from GHG offsets. The Supplemental Application provides no further information about this.

Additionally, as we stated previously, and the Supplemental Application does not address, the application is extremely vague as to where the offsets will be obtained, stating only that "the project sponsor will, to the extent feasible, place the highest priority on purchase of offset credits that produce emission reduction within the City of Inglewood or the boundaries of the South Coast Air Quality Management District." (Application, p. 23.) No definition of the term "feasible" is given, although IRATE suspects that the per-ton price of the offsets may be the determining factor. Under this brief and vague directive, local offsets, with their substantial potential for local co-benefits such as decreased local emissions of conventional pollutants and increased job opportunities, may be put into economic competition with international offsets that, due to cheaper labor costs in developing countries, will almost always tend to be cheaper. The result may well be that local offsets, with their local co-benefits, will be found unavailable and infeasible when they are, in fact, technologically feasible, but merely have a higher purchase price than international offsets.

The criteria for exactly where the proposed offsets will be sought should be fully defined and disclosed before the application can be deemed complete or can be approved.

The Supplemental Application's reference to a potential program related to "renewable natural gas" (Murphy's Letter, Attachment 3, p. 21) should be disregarded.

There is no such approved program. As the letter states, the program is in the review and approval process at the California Energy Commission. Natural gas is a fossil fuel, the burning of which is the antithesis of renewable energy.

The Murphy's Letter shows the "indirect GHG emissions" from the IBEC project, generated by the new-to-the-market events that will backfill the Staples Center and the former Clippers Team Offices site. (Attachment 3, page 7, Table 7a.) About 40% of these backfill events and uses will be new to the market, and their GHG emissions will start at 463 MTCO2e in 2024, and add up over the 30 year (assumed) life of the IBEC project to 19, 960 MTCO2e, more than the baseline. It is not made clear whether these "indirect" GHG emissions are included in the GHG emissions labeled as "operational" GHG emissions from the IBEC project. This large amount of GHGs will not be reduced by the on-site IBEC TDM program, and must be offset. It is not clear that these emissions will be offset.

**E. The Application May Underestimate Human Health Risks.**

AB 987 mandates that the Project should "*maximize public health*, environmental and employment *benefits*" by reducing GHG emissions "*in the project area and in the neighboring communities*." (Pub. Resources Code § 21168.6.8 subd. (j)(2), emphasis added.)

The Supplemental Application fails to show how public health benefits are maximized. In fact, the Supplement Application fails to sufficiently address the points we raised regarding public health impacts. Instead, the Applicant merely states "The applicant and the lead agency have entered into a binding and enforceable agreement (Attachment F to the IBEC Project AB 987 Application), that requires the applicant to comply with all mitigation measures identified in the EIR." (Murphy Letter, p. 7.) Reference to a future EIR undercuts the informative value of the Application and deferral of such critical discussion to a future point in time requires rejection of the Application or its further augmentation.

Our prior comment letter stated:

> *The applicant's use of a seriously flawed methodology for its GHG emissions analysis has additional consequences beyond an increase in GHG emissions. GHG emissions and local criteria pollutant emissions are closely correlated. By underestimating the GHG emissions of the Project and failing to properly mitigate those emissions locally, the applicant has also underestimated the local criteria pollutant emissions of the Project. Therefore, the health impacts to the community of Inglewood may also be underestimated. Exposure to criteria*

*pollutants such as NOx, PM10, PM2.5, and diesel particulate matter (designated as an airborne toxic contaminant by the Air Resources Board, and as known to the State of California to cause cancer by the state's experts pursuant to Proposition 65 [Cal. Code of Regs., tit, 17, § 93000; tit. 27, § 27001, respectively] lead to health impacts, including respiratory and cardiovascular problems, and potentially cancer. The applicant does not account for these increased health risks."*

(CBCM Feb. 1, 2019 Comment Letter, p. 10.)

We further explained:

*The emission of GHGs contributes to climate change, which in turn creates serious public health impacts. Dr. Marc Futernick, an Emergency Physician, and others explained these concerns on a recent KCET program "Heat" SoCal Connected Season 9, Episode 6. (https://www.kcet.org/shows/socal-connected/episodes/heat ("Heat Video").) ...*

*"Climate change is currently impacting the health of our community. People are dying at an increased rate and suffering all kinds of other illness related to the changes that are a result of global warming." (Dr. Futernick, Heat Video mark 23:46) "The price is incalculable because what it will cost to deal with the asthma of a child who is five when that individual becomes an adult....You tell me." (Attorney General Becerra, Heat Video mark 23:52.) "We need to reverse [the effects of climate change] to protect the health of our patients.... This is not theoretical... This is real." (Dr. Futernick, Heat Video mark 25:20.)*

....

*Climate change's effects are particularly hard on environmental justice communities. (Dr. Futernick, Heat Video Mark 12:49; Dr. Basu, Heat Video Mark 12:33.) One phrase that is used is that "Climate change starts in our hood." (Jan Victor Anderson, organizer, East Yard Communities for Environmental Justice; Video mark Heat Video mark 13:56.) Disadvantaged communities are "where people feel [climate change] first and worst." (Sylvia Betancourt of the Long Beach Alliance for Children With Asthma; Heat Video mark 14:36.) ... An Environmental Leadership project in California should demonstrate true environmental leadership in mitigating GHG impacts.*

(CBCM Feb. 1, 2019 Comment Letter, pp. 10-11.)

Instead of proposing and discussing the merits of actual mitigation, the Supplemental Application defers discussion of mitigation measures to a future point, while requesting the significant step of certification as a Leadership Project now. Such certification should not be so easily given for the mere asking of certification with promises of future demonstration of meaningful mitigation measures to protect public health and "*maximize* public health… benefits" as required by Public Resources Code section 21168.6.8 subdivision (j)(2), with emphasis added.

**F. The Project is Inconsistent with SCAG's RTP/SCS.**

AB 987 requires that the Project be consistent with a Regional Transportation Plan/Sustainable Community Strategy ("RTP/SCS") that meets California Air Resources Board's ("CARB") targets for reducing GHG emissions. (Pub. Resources Code § 21168.6.8 subd. (a)(3)(D).) The Response Letter argues the Project is consistent with the RTP. (Murphy Letter, p. 7.) However, this is incorrect.

While the Coblentz, et al., letter focuses on the *Southern California Association of Governments 2016-2040 RTP/SCS*'s lack of authority to prescribe the exact location and types of land use local governments may adopt, a principal focus of the RTP/SCS *is on reducing vehicle miles traveled ("VMT").* Nothing in the supplemental material shows that the project will, in fact, slow the increase in VMT that would really reduce GHG emissions. As our previous letter pointed out, the Clippers are attempting to move from one of most transit-rich areas in Los Angeles County to a suburban location where the nearest Metro station is 0.8 miles away from the proposed project (Application, Attach. D, p. 10), a significantly greater distance than the preferred one-quarter mile away.

California recognizes that reducing VMT is a key to hitting its climate targets in the coming decades. ("California's 2017 Climate Change Scoping Plan" (ARB, 2017), pp. 25, 77-78.) Not only will certifying this Project run afoul of AB 987 requirements, it will also make it harder for the state to reach its climate goals.

Several aspects of the application's treatment of non-driving mode share are troubling, and do not appear to be adequately supported. First, the supplemental material treats use of transportation network companies (TNCs) as part of the *non*-drive mode, along with rail transit, buses, e.g., stating that the analysis refers to "the nondrive mode share for event attendees" as of "26% for NBA games and concerts (including 10% TNC mode share) and 15% for other events (including 10% TNC mode share)." (AECOM Response, page 12; see also id., at Table 5, placing TNC use in the nondrive mode category.) Uber and Lyft both do utilize motor vehicles, as recognized in the AECOM Response at page 13 ("TNC trips were calculated appropriately, accounting for two *vehicle* trips per ride (drop-off or pick-up." [Emphasis added.]) While the discussion in

the AECOM Response at page 13 implies that the VMT attributable to TNC use was counted in calculating GHG emissions, this appears to conflict with Table 5's treatment of TNC use as a nondrive mode. The application has not made clear how VMT from TNC use is accounted for; for example, it is not clear whether TNC use is assumed to encompass the entire trips to and from the IBEC facility, or only that portion of the trip from the rail or bus stop to the arena and back to the transit stop. The VMT calculations, and therefore the GHG calculations, are not clear, casting doubt on the VMT reductions being achieved.

Another troubling aspect of the treatment of the nondrive mode is the use of some very optimistic and unproven assumptions about transit trips, and how the IBEC's TDM program will purportedly increase the use of transit. The original analysis asserted that "analysis of [current Staples Center] ticketholder data shows that there are a substantial number of ticketholders within a two-transfer ride to/from the IBEC site, suggesting that an appreciable transit mode share is reasonably achievable for the IBEC Project." (AECOM Response at p. 14.) In the original analysis, AECOM drew the conclusion that because ticketholders exist within a two-transfer ride from the IBEC site, that 12% of these Staples Center ticketholders could be induced to regularly take a two-transfer transit trip to the arena, simply because they could book the trip online and the IBEC arena would provide them with a free ride (essentially, a third transfer) from the bus or rail stop to the arena and a free ride back (to take another two-transfer transit trip home), including for weekday games. (AECOM Response, p. 14 ["Given these considerations, the analysis assumed a transit mode share for NBA game attendees of approximately 1% (0% rail, 1% bus) without implementation of the IBEC TDM Program and 12% (10% rail, 2% bus), with implementation of the IBEC TDM Program for both weekday and weekend games."]). In the new, supplemental analysis, the expectation has been scaled back ("transit mode share for fans attending LA Clippers games at IBEC (with implementation of the IBEC TDM Program) has been substantially reduced to 8% (7% rail, 1% bus.)" (*Id.*)) However, this number has also not been substantiated, and is only an unproven estimate. The lack of substantiation of even this reduced transit usage continues to cast serious doubt on the calculations of VMT, and the resultant GHG emissions, in the application.

The supplemental material relies on assumptions of transit usage employed in other permit analyses (e.g., for the Los Angeles Stadium at Hollywood Park and rail transit use for the Rams football games at the Los Angeles Memorial Coliseum). We note as to the Hollywood Park numbers that use of analyses that have not yet been verified by experience is not actual proof; the IBEC's and the Hollywood Park's projections may both be wrong. As to the 11-15% use of rail transit by football fans at the Coliseum, the Los Angeles Times article cited by AECOM for this information also gives the context to these figures, viz., that parking around the Coliseum was highly

limited, and was being offered at rates of up to $100, something that will not occur at the IBEC arena. (AECOM Response, p. 15-16.) In short, these transit use estimates have not been shown to be reasonably accurate.

The application has not shown VMT reductions consistent with the VMT goals of the RTP/SCS. Caution in certifying this Project as consistent with the 2016 RTP/SCS on such a dubious showing would have serious implications for how other jurisdictions and other developers will view what compliance with the 2016-2040 RTP/SCS means, and should be approached with great caution.

**G. The Application's Transportation Demand Management Program ("TDM") Fails to Demonstrate a 15% Reduction in the Number of Vehicle Trips.**

Public Resources Code § 21168.6.8 subdivision (a)(3)(B)(i) requires "a transportation demand management program that, upon full implementation, will achieve and maintain a 15-percent reduction in the number of vehicle trips, collectively, by attendees, employees, visitors, and customers as compared to operations absent the transportation demand management program." The application falls far short in a variety of ways in demonstrating how it will achieve this directive. This comment letter incorporates the previous section's discussion of transit usage by reference here, rather than repeat it.

The original application claimed that 34% of IBEC attendees to games would arrive by some mode of transportation other than a personal car, compared to the Clippers current home, the Staples Center in downtown Los Angeles, which currently sees only 20% of its attendees arrive by some mode of transportation other than a personal car. (Application, Attach. D, p. 11.) The supplemental materials scale that number back drastically, projecting that only 23% of game attendees will arrive by a mode other than driving. (Murphy's Letter, Attachment 2, Table 5, p.8.) Further, even this 23% number includes 10% of attendees arriving by TNC, which generate VMTs by their vehicles and should rightly be included in the drive mode, not the nondrive mode, even if the attendee's personal car is not being used.[5]

The applicant also uses flawed assumptions and incorrect logic in calculating the number of vehicle trips the Project generates. The applicant assumes that the transit

[5] In fact, use of TNCs *increases* the VMT for a game or event attendee, since the Uber or Lyft driver must drive to the pick-up point before driving the attendee to the arena, and must drive home or to the next assignment after dropping off the attendee after the game. (See discussion of "deadhead" trips at AECOM Response at p. 12.)

profile of its attendees will remain constant regardless of the type of event at the proposed arena. The applicant uses data derived from "current attendees of LA Clippers games at Staples Center" to forecast the transportation habits at the new arena for all types of events. This is clearly flawed as attendees of concerts or convention (trade show) attendees and other non-Clippers games are far less likely to use public transit than are repeat attendees of Clippers games. The Staples Center is literally on the same property as the LA Convention Center, in close proximity to thousands of downtown hotel rooms.

Even with the supplemental material, the applicant has failed to demonstrate compliance with AB 987's mandate to reduce the number of vehicle trips *by 15%.* It is troubling that even when transit use percentages drop and average vehicle occupancy (AVO) rates increase only slightly (compare Table 4 and Table 6, Coblenz letter, Attachment 2, showing that AVO for attendees increases from 2.27 to 2.59 per car for weekday games, 2.27 to 2.82 for weekend games, 2.27 to 2.57 for weekday concerts and other events, and 2.27 to 2.8 for such other events on weekends), the applicant claims that the trip reduction percentages are still met. A substantial, credible showing has not been made. Nor is there adequate evidence it can meet 7.5% reduction after the first NBA season. The applicant has not met AB 987's rigorous requirements.

**H. The IBEC Application is Premature as the City Has Not Offered the Publicly Owned Land Underlying the Project Site for Use for Affordable Housing, Recreation, and School Uses, in Violation of the Surplus Lands Act.**

After the Application was submitted, and after our prior response letter to the application, it has become apparent that the IBEC Application is premature and a potential violation of California's Surplus Lands Act. On April 25, 2019, the Los Angeles Superior Court denied a demurrer in a case brought by Uplift Inglewood seeking to enforce California's Surplus Lands Act. (Enclosure 2, ruling in *Uplift Inglewood v. City of Inglewood*, Los Angeles Superior Court case number BS172771.) The significance of this case is that the Superior Court ruled the Surplus Lands Act could very well be interpreted to require the offer of the land underlying the Project site to a use for affordable housing, recreational, and school facilities rather than a stadium project. While a hearing of the merits of this matter will not be held until September 24, 2019, we believe it is critical that California's policies encouraging the construction of Leadership Projects not steamroll over other critical California policy priorities to ensure the provision of affordable housing, recreational, and educational uses. The IBEC application should be suspended until the Superior Court definitively determines if the land underlying the project must be offered for affordable housing, open space, or other uses provided in the Surplus Lands Act.

**I. Parcels Underlying the Project Site Are Privately Owned and Their Use for the Project is Opposed by Their Residents.**

As part of the protection against displacement, and the increased emissions of GHGs associated with displacement, the stock of existing affordable housing must be maintained and protected. Contrary to this policy of the state, two parcels of residentially zoned and used land are included as part of the project description of the IBEC project.

The "Notice of Completion & Environmental Document Transmittal" posted on the OPR website discloses the Project includes two parcels with the following to APN numbers, listed under "B. … Land Comprising the Inglewood Basketball and Entertainment Center Alternate Prairie Access Variant Plan: …. 4032-008-002 [and] 4032-008-006." (Notice of Completion, p. 3.)

The property at APN 4032-008-002 has the address of 10204 S. Prairie Avenue in Inglewood California. The property at APN 4032-008-006 has the address of 10226 S. Prairie Avenue. During the review and consideration of AB 987, the residents of the property at 10204 S. Prairie Avenue objected to the inclusion of their property as part of the Project. They stated they were "alarmed and frightened to learn that we may be evicted and our homes may be demolished to make room for a new arena for the L.A. Clippers basketball team. This would be devastating for our families and goes against all of the public assurances from Mayor Butts and the Clippers team that our homes will not be taken from us for this project." (Enclosure 4, copy of a letter received by the California Legislature's Assembly Committee on Natural Resources, written by residents of the property with the street address of 10204 S. Prairie Avenue assigned by the Assessor the number APN 4032-008-002.)

The Application should be revised to exclude these privately-owned residential parcels from the Project. Inglewood's Mayor has publicly stated that eminent domain would not be used to obtain residentially zoned and used property as part of the IBEC Project. The Application's list of APN numbers should reflect this commitment not to use residentially zoned parcels for the Project against the wishes of the parcels' residents.

**Conclusion.**

We respectfully request that the Governor not certify the Project. It does not meet the requirements of AB 987. The Project increases GHGs emissions and VMT, relies on unproven and unreliable GHG offsets, and puts Inglewood residents' health at risk. The applicant has not submitted information and analysis to support its contention that it meets AB 987's requirements. Furthermore, the City of Inglewood has violated the Surplus Lands Act in proposing to use the parcels for sports entertainment uses rather

than affordable housing or open space and the Project includes private residential land occupied by residents opposed to inclusion of their homes in the Project.

Thank you for your consideration.

Sincerely,

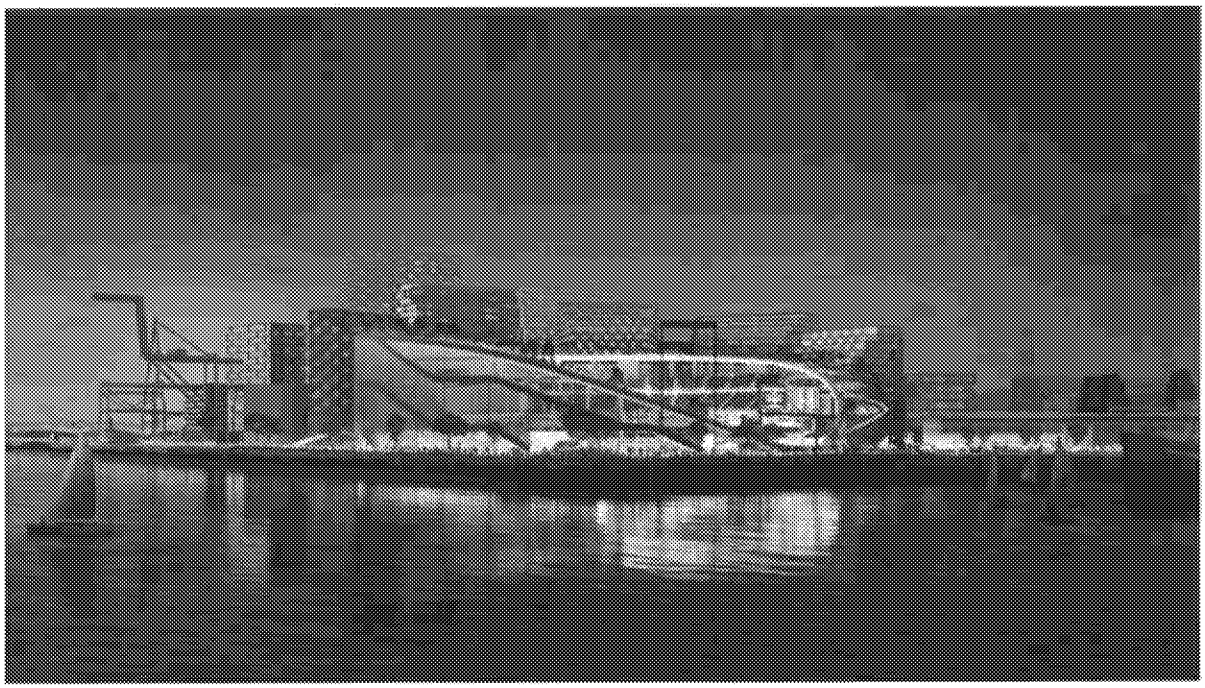
Douglas P. Carstens

1. Los Angeles Times Article "Oakland's Athletics need a home. They may get one — and provide 6,000 more" by Bill Shaikin Mar 11, 2019 posted at https://www.latimes.com/sports/mlb/la-sp-oakland-ballpark-housing-crisis-20190310-story.html.
2. Ruling of Superior Court in Uplift Inglewood v. City of Inglewood, Los Angeles Superior Court case number BS172771.
3. Preventing Displacement to Reduce Greenhouse Gas Emissions" (https://www.psr-la.org/wp-content/uploads/Displacement-and-GHGs-6-5-14-COLOR.pdf.
4. A copy of an August 9, 2018 letter of residents of 10204 S. Prairie Avenue to elected officials, picture of residence, and property detail information
5. Exhibit A to August 15, 2017 Exclusive Negotiating Agreement- Site Map- showing public ownership of parcels underlying IBEC Project.

ENCLOSURE 1

# Oakland's Athletics need a home. They may get one — and provide 6,000 more

*Bill Shaikin*



The Oakland Athletics have offered to build 3,000 homes near a proposed waterfront ballpark, rendering above, and another 3,000 on the Coliseum site. (Bjarke Ingels Group)

The Oakland Athletics badly need a new home. Their current one, plagued by plumbing problems, is an uncomfortable throwback to the days when baseball and football teams shared generic stadiums lacking in charm and good sight lines.

For two decades, the baseball team has looked for that new ballpark throughout the Bay Area. The Athletics' latest offer, and possibly their last, is to build 6,001 homes in Oakland — one for themselves along the waterfront, the rest for a city desperately in need of housing.

In times past, taxpayers typically financed the stadiums and arenas, and the teams kept the profits. As California led the way in cutting those subsidies, owners turned to real estate development, making money by surrounding their venues with restaurants, shops and offices.

Now, with soaring rents in Oakland and elsewhere amplifying the housing shortage in California's coastal cities, they are building homes.

The Athletics, San Francisco Giants and Rams have proposed to build a combined 10,000 housing units over the next 13 years. The balance between homes leased at market rate and those leased at so-called affordable rates — reserved for lower-income residents — could help determine the legacy of those teams beyond wins and losses.

Everyone Home, an organization working to end homelessness in Alameda County, counted 2,761 homeless persons in Oakland in a 2017 study, a number that is expected to rise as the study is repeated this year. Cat Brooks, an Oakland activist and the runner-up in last November's mayoral election, said the Athletics can be part of the solution.

"When we are in times of crisis, it's everybody's job" to help, Brooks said. "If you're going to make millions and millions of dollars from being here, you have an obligation to give back. And right now, that's the community need. ... This is a way for them to show up in the community that can really make a difference."

Across the bay, the Giants already enjoy a picturesque waterfront ballpark — formerly AT&T Park, now Oracle Park. They escaped a decrepit stadium uncomfortably shared with a football team, but not easily.

The San Francisco Giants have played at Oracle Park, formerly AT&T Park, since 2000. (Marcio Jose Sanchez / Associated Press)

The Giants went to the ballot four times within a decade, asking for taxpayer money to build a new ballpark. They went zero for four.

If owners control surrounding development, they can generate revenue to help pay for new venues, and for star players too, while still turning a profit. AEG, owner of the Kings, did it with Staples Center and L.A. Live. Anaheim has pitched Angels owner Arte Moreno the concept of funding a new or renovated Angel Stadium by letting him put up eateries, hotels and offices in the stadium parking lot.

Traffic congestion and housing shortages in California's major cities have led commercial developers to add homes to their projects, so that residents can walk to work and play where they live. "That's where the demand is," Giants president Larry Baer said during an interview last month.

The Giants paid for their own ballpark. They now are building 1,500 homes within their Mission Rock neighborhood, across McCovey Cove from the ballpark, with shops, offices, and parkland included in the project, targeted for completion in 2025.

Baer said the goodwill the Giants have developed in 60 years in San Francisco can help residents trust the team as a developer.

"We have a lot of skin in the game," he added.

Oakland Mayor Libby Schaaf was born and raised in her city. "In our house, we never had blueberry muffins. We had Vida Blue-berry muffins," she said, the reference a nod to the Oakland pitcher voted most valuable player in the American League in 1971.

Yet Schaaf did not endorse a 2017 plan for the construction of a downtown ballpark, even though the NBA's Golden State Warriors and NFL's Raiders were on their way out — the Warriors to San Francisco, the Raiders to Las Vegas. The Athletics were willing to stay, and were offering to pay for a new stadium rather than demand the city foot the bill. But the mayor worried that the downtown ballpark might disrupt a neighborhood and displace residents.

That plan collapsed when the college district that owned the would-be ballpark land opted not to sell it.

Schaaf supports the Athletics' latest proposal for a ballpark near Jack London Square, along the estuary that separates Oakland from the island city of Alameda. The site, located next to a company that recycles scrap metal, currently is used for shipping containers and truck parking.

A proposed waterfront ballpark, shown in a rendering, would be cut off from the rest of Oakland on one side by San Francisco Bay, on another side by a freeway and railroad tracks. (Bjarke Ingels Group)

"This really stands to revitalize a part of the city that has been in this kind of vague transition between the old industrial waterfront and the new public amenity waterfront," Schaaf said.

If the Athletics move, they want to retain control of the Oakland Coliseum site they would be leaving. The Warriors and Raiders would be gone by then. Left behind would be two abandoned sports venues — surrounded by parking lots, bordered by a busy freeway on one side and railroad tracks on the other — in a neglected industrial part of town.

"You have to have something there to build that area," said Athletics shortstop Marcus Semien, who lives in Oakland and attended high school and college in nearby Berkeley. "There's not a lot of business around there. There's not a lot of desire to go there right now."

The Athletics want to be the developer. The team worked with community groups to prepare a plan that would include a park, youth sports facilities, an events center, shops, restaurants, offices and a technology campus.

This rendering shows a view of the proposed Coliseum site. The Athletics have worked with community groups to prepare a plan that would transform the site to include a park, youth sports facilities and more. (Bjarke Ingels Group)

The Athletics propose to build 3,000 residences near the new ballpark and another 3,000 on the Coliseum site. In all, Athletics president Dave Kaval said, the plans could provide housing for 20,000 people.

Delivering the waterfront project would be a particular challenge. In 2013, former Athletics managing partner Lew Wolff told the San Francisco Chronicle that putting a ballpark there would be "as close to impossible as

anything."

The land, long used for industrial purposes, would need to be cleansed of chemicals and pollutants. The ballpark would be cut off from the rest of Oakland on one side by San Francisco Bay, on another side by a freeway and railroad tracks, although Kaval has proposed expanded ferry service on the bay and a gondola over the freeway.

Kaval said the Athletics could build their new ballpark even without securing the rights to redevelop the Coliseum site.

"We felt that, if we didn't advance a plan for that, we wouldn't be fulfilling our responsibility to Oakland," Kaval said. "It's up to the city fathers and mothers to decide whether they want to accept our offer. Maybe, in the end, they want to do something different."

Said Schaaf: "The two projects must stand on their own."

She added that it would be premature to commit to an open bidding process for the Coliseum land, to see whether a development company might offer a higher price than the Athletics, or propose to build more homes. Kaval said the Athletics already are proposing the maximum amount of housing under city rules governing development of the area.

The land is owned jointly by the city and Alameda County. Those entities conducted a confidential appraisal of the Coliseum site in 2016, said Justin Berton, Schaaf's director of communications. The city has not commissioned an appraisal of the Coliseum site since then, he said.

Kaval said the Athletics have raised their offer for the site from $137 million to $160 million, in line with what the team believes is fair market value. Similar properties along the adjacent freeway have sold for $40 to $50 per square foot, said Sam Swan, an Oakland-based managing director of JLL, a real estate and investment management firm.

At that rate, market value for the 120-acre Coliseum site would be $209 million to $261 million, but Swan cautioned that "the density of the final development plan will be the major determining factor in the ultimate value."

Said Schaaf: "Typically, I believe in competition. But the A's are not a profit-driven real estate development corporation. They are a civic asset. They are a longstanding member of our community that recognizes their value is not only measured in dollars but in civic pride.

"To me, that gives them a presumption of being the type of partner — and they're looking for a development partnership — that will have the community's interests at heart."

If the Athletics don't get a stadium on the waterfront, Kaval repeatedly declined to say whether team owner John Fisher would build at the Coliseum site or sell the team — perhaps to buyers that would move it out of the Bay Area.

"We're focused on success at the waterfront," Kaval said.

Schaaf is focused on affordable housing, and the considerable help the Athletics might be able to lend. The Oakland housing crisis is about a city pricing out teachers, public safety workers and longtime renters, not about an absence of construction.

"We are having the biggest building boom that we believe we've had since the 1906 earthquake," she said. "What I am really going to be focusing on is how much of that housing is affordable."

An entry level teacher in Oakland would have to pay 72% of their salary toward a one-bedroom apartment in the city, and a minimum-wage worker could not afford a one-bedroom apartment even if every dollar of her salary went to the rent, according to a PolicyLink study in 2016.

In the Giants' Mission Rock project — negotiated with the city of San Francisco and approved by voters there — 40% of the residences are reserved for affordable housing.

If the Athletics were to match that percentage, they would build 2,400 affordable homes. Schaaf has set a citywide goal of 2,900 affordable homes over the next eight years.

"I think time will tell whether having your sports team as a real estate developer is good or bad," she said. "What makes me optimistic is that a team is not judged just by its monetary profits. It is judged by its contributions to its community.

"Sports teams, arguably, have been in the community-building business for a long time, as far as civic pride. Let's give them a shot at building community assets that go beyond the team and the pride that they give their communities."

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Bill Shaikin, a California Sportswriter of the Year honoree, covers baseball and sports business for the Los Angeles Times. His story on the Dodgers' Russian physicist-turned-healer who claimed to channel positive energy to the team – "If You Think It, They Will Win" – was featured in the Best American Sports Writing anthology. He was the beat writer when the Dodgers filed for bankruptcy in 2011 and the Angels won the World Series in 2002, two events considered beyond improbable before they happened. He incurred the wrath of Kelly Clarkson's fans while wondering why she was singing at the Turin Olympics, in a country with a cultural lineage that included da Vinci, Michelangelo and Fellini. He has reported from the Dominican Republic, Israel, England, Italy, Mexico, Canada and Hickory, N.C. He graduated from UC Berkeley and hopes to see the Golden Bears in the Rose Bowl during his lifetime, just once.

**ENCLOSURE 2**

# SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

**Civil Division**

Central District, Stanley Mosk Courthouse, Department 82

**BS172771** April 25, 2019
**UPLIFT INGLEWOOD COALITION VS CITY OF INGLEWOOD ET AL** 1:30 PM

Judge: Honorable Mary H. Strobel
Judicial Assistant: N DiGiambattista
Courtroom Assistant: K Ghazarian

CSR: J Hollifield/CSR 12654
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Thomas Wright Casparian (x); Antonio Tao Hicks and Katie J.G. McKeon (x)

For Respondent(s): Jonathan Roger Bass and Charmaine Yu (x); Royce Kerwin Jones (x) and Bruce C. Gridley on court call (x); Jason Hiroshi Tokoro and David I. Bosko (x)

Other Appearance Notes: For Petitioner: Valerie Feldman (x)

**NATURE OF PROCEEDINGS:** DEMURRER OF REAL PARTIES IN INTEREST, INGLEWOOD PARKING AUTHORITY AND MURPHY'S BOWL, TO THE FIRST AMENDED PETITION;

MOTION OF ABOVE RESPONDENTS TO STRIKE PORTIONS OF THE FIRST AMENDED PETITION;

MOTION OF RESPONDENTS, CITY OF INGLEWOOD, INGLEWOOD CITY COUNCIL, INGLEWOOD HOUSING AUTHORITY AND INGLEWOOD SUCCESSOR AGENCY, TO STRIKE PORTIONS OF THE FIRST AMENDED PETITION

Matters come on for hearing and are argued.

The court adopts its tentative ruling on the demurrer and motions to strike as the order of the court as is set forth in this minute order.

Real Party in Interest Murphy's Bowl LLC ("Murphy's Bowl") generally demurs to, or in the alternative moves to strike, the first and fourth causes of action in the supplemental verified petition for writ of mandate and complaint for declaratory and injunctive relief filed by Petitioner Uplift Inglewood Coalition ("Petitioner").

Respondent and Defendant City of Inglewood, along with other City entity Respondents and Defendants ("City"), moves to strike various allegations from the petition on the grounds they are inflammatory, irrelevant, or improper.

Judicial Notice

Murphy's Bowl RJN Exhibits A, B – Granted.

Murphy's Bowl RJN Exhibit C – Granted. (Evid. Code § 452(d).) Petitioner's objection is overruled. The court does not take notice of the truth of any fact findings in the trial court decision. CRC Rule 8.1115 does not apply to trial court judgments. While the decision is not binding on this court, it involved the same ENA at issue here and may be judicially noticed.

Petitioner's RJN Exhibit 1 – Granted. (Evid. Code § 452(c), (h).) City's objection is overruled. The court does not take notice of the truth of any factual statements in the staff report. The staff report has relevance to Petitioner's allegations about the La Brea ENA, and whether or not such allegations should be stricken.

Statement of the Case

As relevant to the demurrer, the petition alleges the following. At a special City Council meeting held June 15, 2017, City approved an exclusive negotiating agreement ("ENA") with Murphy's Bowl, a private entity, involving the potential sale of various parcels of land with the goal of building an NBA arena for the Los Angeles Clippers. (Pet. ¶ 51.) Some of the parcels of land are owned by City, and some are privately owned and would need to be obtained through eminent domain. (Id. ¶¶ 52-53.) On August 15, 2017, City approved an amended ENA that curtailed, but did not eliminate, the City's ability to use eminent domain for the proposed project ("Amended ENA"). 1 (Id. ¶ 55.)

Petitioner alleges that the ENA "requires the City, the Successor Agency and the Parking Authority … to negotiate exclusively with Murphy's Bowl LLC over the next three years." (Id. ¶ 51.) Petitioner alleges that "[e]ntering into the Murphy's Bowl ENA constitutes a violation of the [Surplus Land Act]. Respondents are unable to comply with the Act's pre-disposition requirements because they have contractually agreed exclusively to negotiate with Respondent Murphy's Bowl." (Id. ¶ 103.)

"On October 2, 2017, Public Counsel submitted a letter to the City, requesting that it provide information on its compliance with the [Surplus Land Act], and that it take all necessary steps to comply with the SLA. The letter explained that the City had entered into an ENA to dispose of surplus land without regard to the requirements of the SLA." (Id. ¶ 56.)

"Despite repeated follow-up requests, the City has provided no documentation

demonstrating that it complied with the SLA prior to entering into either the Murphy's Bowl ENA or the Amended Murphy's Bowl ENA, or that it has any policies or procedures in place that dictate compliance with the SLA." (Id. ¶ 58.)

"On February 20, 2018, the City of Inglewood issued a Notice of Preparation of a Draft Environmental Impact Report and Public Scoping Meeting ('the NOP'), which included a more detailed description of the Proposed Arena Project. The NOP confirms that the City intends to continue negotiations to sell the vast majority of City-owned and Successor-owned parcels identified in the Amended Murphy's Bowl ENA to Murphy's Bowl." (Id. ¶ 59.)

Allegations relevant to City's motion to strike are discussed infra in the analysis section.

Procedural History

On June 19, 2018, Petitioner filed its original petition for writ of mandate. Murphy's Bowl and City answered. The parties stipulated that Petitioner could file a first supplemental petition. On February 28, 2019, Petitioner filed the operative, first supplemental verified petition for writ of mandate and complaint for declaratory and injunction relief ("petition"). The petition includes the following causes of action: (1) writ of mandate – compel compliance with the Surplus Land Act; (2) writ of mandate – Housing Element Law; (3) writ of mandate – CRL Replacement Obligation; (4) writ of mandate – Land Use Non-Discrimination Law (Gov. Code § 65008(b)(1)(C)); (5) permanent injunction ceasing violation of Fair Employment and Housing Act; and (6) declaratory relief.

At the trial setting conference, held September 27, 2018, the court stayed the fifth and sixth causes of action, which are non-writ causes of action, until the writ causes of action are ruled upon.

On March 8, 2019, Murphy's Bowl filed its demurrer and motion to strike. That same date, City filed its motion to strike. Murphy's Bowl and City have filed meet and confer declarations. The court has received Petitioner's oppositions and the replies.

ANALYSIS

A demurrer tests the sufficiency of a pleading, and the grounds for a demurrer must appear on the face of the pleading or from judicially noticeable matters. (CCP § 430.30(a); Blank v. Kirwan (1985) 39 Cal.3d 311, 318.) "A demurrer tests the pleadings alone and not the evidence or other

extrinsic matters." (Hahn v. Mirda (2007) 147 Cal.App.4th 740, 747.) Upon motion, the court may "strike out any irrelevant, false, or improper matter inserted in any pleading." (CCP § 436.)

Murphy's Bowl's Demurrer

In its demurrer and motion to strike, Murphy's Bowl challenges the first and fourth causes of action for writ of mandate. Murphy's Bowl contends that the petition does not allege a violation of the Surplus Land Act (SLA) because City has not "disposed" or agreed to dispose of any property in the ENA. Murphy's Bowl also contends that there is no ripe controversy under the SLA because Petitioner's SLA claims "presuppose some future action, or non-action, on the part of the City." (Dem. 13-19.)

Writ of Mandate Standard

There are two essential requirements to the issuance of an ordinary writ of mandate under CCP section 1085: (1) a clear, present and ministerial duty on the part of the respondent, and (2) a clear, present and beneficial right on the part of the petitioner to the performance of that duty. (California Ass'n for Health Services at Home v. Department of Health Services (2007) 148 Cal.App.4th 696, 704.) "Normally, mandate will not lie to control a public agency's discretion, that is to say, force the exercise of discretion in a particular manner. However, it will lie to correct abuses of discretion. In determining whether a public agency has abused its discretion, the court may not substitute its judgment for that of the agency, and if reasonable minds may disagree as to the wisdom of the agency's action, its determination must be upheld. A court must ask whether the public agency's action was arbitrary, capricious, or entirely lacking in evidentiary support, or whether the agency failed to follow the procedure and give the notices the law requires." (County of Los Angeles v. City of Los Angeles (2013) 214 Cal.App.4th 643, 654.)

"'On questions of law arising in mandate proceedings, [the court] exercise[s] independent judgment.' .... Interpretation of a statute or regulation is a question of law subject to independent review." (Christensen v. Lightbourne (2017) 15 Cal.App.5th 1239, 1251.)

SLA – Statutory Framework

In the legislative declaration for the SLA, the Legislature "reaffirms ... that housing is of vital statewide importance to the health, safety, and welfare of the residents of this state and that provision of a decent home and a suitable living environment for every Californian is a priority of the highest order. The Legislature further declares that there is a shortage of sites available for

housing for persons and families of low and moderate income and that surplus government land, prior to disposition, should be made available for that purpose." (Gov. Code § 54220.) 2

The SLA defines "surplus land" as "land owned by any local agency, that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange." (§ 54221(b).)

Section 54222 provides the procedures to be followed when a local agency disposes of surplus land. In relevant part, this section provides:

Any local agency disposing of surplus land shall send, prior to disposing of that property, a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall be sent, upon written request, a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing….
(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent: … [park, recreation, and related entities]
(c)–(e) [Written offers to sell or lease land suitable for school facilities or purposes, enterprise zone purposes, or infill development]
(f) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

"After the disposing agency has received notice from the entity desiring to purchase or lease the land, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this article, except that Section 54233 shall apply." (§ 54223.)

Further, with the exception of land already being used for park and recreational purposes, if the agency receives offers for purchase or lease "from more than one of the entities to which notice and an opportunity to purchase or lease shall be given," the agency "shall give first priority" to the entity that agrees to use the surplus land for affordable housing. (§ 54227(a).)

"The failure by a local agency to comply with this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value." (§ 54230.5)

Murphy's Bowl ENA

The recitals to the ENA state in part:

B. The Developer has proposed development of a premier and state of the art [NBA] arena …[¶¶]

E. [City] has selected and agreed to negotiate with the Developer for the potential conveyance and development of the Agency Parcels … as a result of the Developer's affiliation with an NBA franchise that can be moved to the City … and the Developer's experience and expressed commitment to expeditiously develop the Proposed Project …

F. No entitlements … for the development … will be considered for approval … until the requirements of this Agreement have been satisfied, including … the approval of a Disposition and Development Agreement [DDA] …, [and] compliance with CEQA … (RJN Exh. 2, pp. 1-2.)

The ENA includes an "exclusive negotiating period" defined as 36 months from the effective date. The ENA states that during the exclusive negotiating period City "shall not negotiate with or consider any offers or solicitations from, any person or entity, other than the Developer, regarding a proposed DDA for the sale, lease, disposition, and/or development of the City Parcels …." (RJN Exh. 2, p. 4 at § 2(a).) Among other obligations, the ENA required Murphy's Bowl to make a non-refundable deposit with City in the amount of $1,500,000. (RJN Exh. 2 at p. 8.)

The ENA contemplates that, during the exclusive negotiating period, City and Murphy's Bowl will discuss, among other things, the "Study Area Site" and the size, design, and location of the proposed Arena Project. (See RJN Exh. 2 at pp. 1-3, 8-12.)

Section 6 of the ENA sets forth the parties' obligations to use "good faith efforts to negotiate and enter into a DDA" and sets forth some potential terms of a DDA. Section 6 also states that the parties "acknowledge that the following terms set forth a general outline … and that the DDA will contain substantial additional terms which … may differ … and that nothing herein binds the Public Entities …." (RJN Exh. 2, pp. 8-9.) Section 7 states that execution of a DDA shall be

subject to CEQA. (RJN Exh. 2, p. 12.)

Section 8 governs termination of the ENA. Among other provisions, section 8 states that either party may terminate if the other party "should materially fail to comply with and perform in a timely manner." (RJN Exh. 2, p. 12.)

Section 13 is titled "No Commitment to Approve DDA" and states in part: "The Developer acknowledges and agrees that nothing in this Agreement shall obligate the Public Entities to approve a DDA nor any proposed development within the Study Area Site or shall otherwise expressly or impliedly obligate the Public Entities to sell and/or lease any property or interests therein. The Developer further acknowledges and agrees that the approval of this Agreement and a DDA … shall be in the sole and absolute discretion of the Public Entities." (RJN Exh. 2, p. 15.) Similar language is stated in section 25, titled "Effect of Agreement." (Id. at p. 19.)

First Cause of Action – Writ of Mandate to Compel Compliance with SLA

In the first cause of action, Petitioner alleges that the ENA violates the SLA because City agreed to negotiate exclusively with Murphy's Bowl regarding a proposed sale, lease, and/or development of the land. Petitioner alleges that the ENA precludes City from sending the notices or entering the good-faith negotiations with public entities and affordable housing developers as required by the SLA. (Pet. ¶¶ 103-104.)

Murphy's Bowl contends that SLA requirements are triggered by a "disposition" of property or an agreement to dispose of property and that the ENA is not a contract to dispose of property. (Dem. 13-14.) Petitioner contends that the local agency's "wish" or "intent" to sell surplus land triggers the SLA requirements. 3 (Oppo. 12-19.)

Parties' Case Law Not Controlling

Murphy's Bowl cites two cases for the definition of "disposition." (Dem. 14, citing Citizens for Better Streets and Steifel decisions.) Neither case arises under the SLA and neither addresses the pertinent question of when SLA requirements are triggered. The court does not find these cases helpful. 4

Petitioner contends that "it is settled that the SLA is triggered once a city has a 'wish' to sell its property," and cite to Flanders Foundation v. City of Carmel-By-The-Sea (2012) 202 Cal.App.4th 603, 613. Petitioner quotes the following passage in Flanders:

When a local agency wishes to dispose of land it no longer requires (surplus land), the Surplus Land Act requires the local agency to send a written offer to sell or lease the property to certain entities for affordable housing or park purposes. (Flanders, supra at 613.)

In Flanders, the city had decided to divest itself of a historic mansion and public park. The city had prepared an economic feasibility report, and certified an environmental impact report. It had approved the project, and adopted a resolution discontinuing the use of the property as a public park. (Id. at 608-610.) The EIR noted that the city intended to comply with the SLA before selling the property to any private developer. The EIR stated that "[A]ny analysis of the full array of potential uses that might otherwise be sought by agencies listed in the Surplus Land Act would involve a high degree of conjecture and speculation which is inappropriate in an EIR." (Id. at 611.)

The issue on appeal was whether the EIR "was inadequate in failing to explicitly analyze the potential environmental impacts of the possible uses that a potential purchaser under the Surplus Land Act might make of the Mansion property." (Id. at 613.) The Court of Appeal found the EIR adequate with respect to the SLA issue, reasoning that the EIR was required to only consider "reasonably foreseeable consequences" of the sale of the property. (Id. at 615.)

Flanders did not decide the question of when SLA requirements are triggered, and in particular it did not decide that question for an agreement similar to the ENA. "Language used in any opinion is of course to be understood in the light of the facts and the issue then before the court, and an opinion is not authority for a proposition not therein considered." (Stand Up for California! v. State of California (2016) 6 Cal.App.5th 686, 703.) Moreover, in Flanders, the city had prepared environmental reports and adopted a resolution approving the sale of the property. That factual scenario is not similar to the facts alleged in the petition.

Statutory Construction

The court considers the parties' arguments about proper construction of the SLA and when SLA requirements are triggered. For purposes of demurrer, the court need not definitively opine on the proper construction of the SLA. The issue is whether Defendant has shown Petitioner has not alleged a cause of action based on a plausibly valid interpretation of the statute.

"The rules governing statutory construction are well settled. We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative

intent. [Citations.] To determine legislative intent, we turn first to the words of the statute, giving them their usual and ordinary meaning. [Citations.] When the language of a statute is clear, we need go no further. However, when the language is susceptible of more than one reasonable interpretation, we look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, and the statutory scheme of which the statute is a part." (Nolan v. City of Anaheim (2004) 33 Cal.4th 335, 340.)

When interpreting a statute, the court must construe the statute, if possible to achieve harmony among its parts. (People v. Hall (1991) 1 Cal. 4th 266, 272; Legacy Group v. City of Wasco (2003) 106 Cal.App. 4th 1305, 1313). "When interpreting statutory language, we may neither insert language which has been omitted nor ignore language which has been inserted." (See People v. National Auto. and Cas. Ins. Co. (2002) 98 Cal.App.4th 277, 282.)

Plain Language

The pertinent language of the SLA states that "any local agency disposing of surplus land shall send, prior to disposing of that property, a written offer to sell or lease the property" to the statutory entities entitled to notice. (§ 54222.) The legislature's use of the word "disposing" suggests that the agency will have decided to sell surplus land and be somewhere along the process of disposing of the land. However, as stated by Petitioner, "the SLA is silent on the exact timing of when its notice and negotiations must take place." (Oppo. 14.)

The court is not persuaded by Murphy's Bowl argument that, to allege that City has a mandatory duty under the SLA, Petitioner would need to "allege that City has disposed of any property … [or] has agreed to do so." (Dem. 13.) "The failure by a local agency to comply with [the SLA] shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value." (§ 54230.5) Therefore, the transfer of the property cannot be the triggering event for the agency's mandatory duty of notice and negotiations. Otherwise, the SLA would be unenforceable.

Petitioner's interpretation that the notice provisions of the statute are triggered when an agency has an "inchoate wish" or "mere wish" to sell property – meaning not fully formed – is also not persuasive. (Oppo. 9 and 13.) It is unclear from Petitioner's arguments how a court could determine such "inchoate" or abstract wishes of a government agency. As argued in reply, a city acts by way of an official process, with public notice, and formal resolutions and ordinances. (Reply 4.) A city could show intent, or a "wish," to sell property by resolution or CEQA review,

as in Flanders. However, the legislature's use of the word "disposing" suggests that the SLA is triggered by something more than an "inchoate wish."

Later in its opposition brief, Petitioner contends that City's SLA duties are triggered when City "has intent" or when City "manifests its wish or makes a determination to sell surplus land." (Oppo. 14:10-15 and 18:9-10.) The "disposing" language from section 54222 could potentially be read to apply when the agency manifests its intent to sell surplus land. Petitioner does not point to any language in the SLA that defines what types of agency actions manifest or show such intent. Nonetheless, Petitioner has asserted a plausible interpretation whereby "disposing" in section 54222 is triggered when an agency has manifested intent to sell surplus land.

Legislative History

Given the ambiguity as to the SLA triggering event, it is appropriate to consider legislative history. Murphy's Bowl does not analyze legislative history in the demurrer. Murphy's Bowl has the moving burden on this demurrer. Accordingly, for purposes of this demurrer, Murphy's Bowl has not shown that the legislative history resolves the ambiguity or supports its interpretation of the triggering event and timing of the SLA.

In opposition, Petitioner cites to parts of the legislative history from the 1974 amendments of the SLA (SB 2396), which extended the SLA to development of low and middle income housing. (Oppo. 14-16.) In part due to inaccuracies in Petitioner's citations 5, Petitioner also does not show that the legislative history necessarily resolves the ambiguities or supports its interpretation of the triggering event and timing of the SLA.

However, some of the legislative history submitted by Petitioner arguably could support Petitioner's interpretation under which the SLA is triggered when an agency has decided to sell surplus land or manifests intent to sell surplus land, but before a disposition has occurred. For instance, an analysis of SB 2396 states:

Section 54222 … currently requires any state or local agency contemplating disposal of surplus public property to first notify city and county parks and recreation departments …. [¶]

SB 2396 would require that selling agencies also notify applicable housing authorities when the surplus property would be suitable for low or middle income housing…. If no agency were interested, existing law provides for disposal at public auction…. (Pet. RJN Exh. A at 46 [emphasis added].)

This analysis also discusses Orange County's practice (in 1974) under which the agency first sends out a "Notice of Availability" to government jurisdictions where the parcel is located and then, "if they receive no offers, they make a second mailing to interested private persons." (Ibid.) Although this analysis does not clearly resolve when SLA duties are triggered, it arguably supports Petitioner's theory regarding when the SLA requires notice to be given.

Purposes, Requirements, and Public Policy of the SLA

Petitioner makes various arguments about the purposes and public policy of the SLA, as well as the statutory scheme as a whole. (See Oppo. 11-13, 16-19; Reply 8-10.)

Petitioner contends that the legislative purpose would be undermined by the negotiation process set forth in the ENA. Petitioner is concerned about "a practice of surplus land deals with private developers, where at the point of final agreement between the private developer and public agency, cities would then feign compliance by 'offering' the land to SLA entities." (Oppo. 17-18.) Petitioner contends that "it is illogical that the City could engage in a good-faith negotiation with SLA entities" if the City already had "a negotiated DDA in hand." (Ibid.) These concerns relate to the issue of ripeness, which the court analyzes below. For purposes of interpretation of the SLA, Petitioner's public policy concerns could potentially support an interpretation of the SLA whereby the agency's duties are triggered earlier in the "disposing" process.

Petitioner also raises a concern that exclusive negotiating agreements with private developers could drive up the value of surplus land, and place SLA entities at a disadvantage in the statutorily required good faith negotiations. (Oppo. 12-13.) Petitioner cites no language from the SLA that prevents agencies from receiving offers for surplus land from private parties. Also, the SLA expressly disavows control over the price charged by an agency for its land. (Gov. Code § 54226.) While the SLA permits the agency to sell the land for less than fair market value, the SLA "does not require the disposing agency to sell the surplus land at less than its fair market value." (Flanders, supra, 202 Cal.App.4th at 603, 615, fn. 7.)

Based on the foregoing, the court is not persuaded by City's argument in the demurrer that the SLA is triggered when the "City has disposed of any property … [or] has agreed to do so." (Dem. 13.) City reiterates this argument in reply, stating "The City has not sold land to Murphy's Bowl, nor has it agreed to do so." (Reply 5.) The SLA would be unenforceable if the agency's duties did not arise until a disposition had already occurred. (See § 54230.5) City's interpretation of the SLA conflicts with the statutory scheme.

The triggering event in the SLA may be somewhere between the "inchoate wish" to sell property, asserted by Petitioner, and the formal disposition agreement, asserted by Murphy's Bowl. As Petitioner also argues, it is reasonable to interpret the SLA to apply when an agency has manifested intent to sell surplus land. The SLA does not define when an agency manifests such intent. As suggested by Murphy's Bowl, it may be reasonable to interpret the SLA to be triggered when an agency notices a hearing to decide whether or not to sell surplus land, or conducts environmental review under CEQA. However, that is not the only possible interpretation, and Petitioner has asserted a plausible interpretation sufficient to survive demurrer. In its demurrer, Murphy's Bowl, who has the burden at this stage, has not addressed the legislative history or other extrinsic aids to elucidate the proper construction of the SLA.

Ripeness

Murphy's Bowl also contends that there is no ripe controversy under the SLA because Petitioner's SLA claims "presuppose some future action, or non-action, on the part of the City." (Dem. 13-19.)

"'Ripeness' refers to the requirements of a current controversy…. A controversy becomes 'ripe' once it reaches, 'but has not passed, the point that the facts have sufficiently congealed to permit an intelligent and useful decision to be made.'" (City of Santa Monica v. Stewart (2005) 126 Cal.App.4th 43, 59.)

"The ripeness requirement, a branch of the doctrine of justiciability, prevents courts from issuing purely advisory opinions. It is rooted in the fundamental concept that the proper role of the judiciary does not extend to the resolution of abstract differences of legal opinion. It is in part designed to regulate the workload of courts by preventing judicial consideration of lawsuits that seek only to obtain general guidance, rather than to resolve specific legal disputes. However, the ripeness doctrine is primarily bottomed on the recognition that judicial decision-making is best conducted in the context of an actual set of facts so that the issues will be framed with sufficient definiteness to enable the court to make a decree finally disposing of the controversy." (Pacific Legal Foundation v. California Coastal Com. (1982) 33 Cal.3d 158, 170.)

"To determine whether an issue is ripe for review, we evaluate two questions: the fitness of the issue for judicial decision and the hardship that may result from withholding court consideration." (Wilson & Wilson v. City Council of Redwood City (2011) 191 Cal.App.4th 1559, 1582.)

In Wilson, supra, the plaintiff sought a declaration that the city was not entitled to commence eminent domain proceedings against the plaintiff's property. The city and a developer had agreed to "Business Points" that provided for city to "use its best efforts and legally available means to acquire the remaining parcels." However, the parties
"stipulated that 'execution of [the Business Points] will not bind or obligate the signatories until all the signatories execute the final Parking Facilities Agreement.'" (Wilson, supra at 1583.) "Moreover, the City took pains to note that it could not 'commit to making the acquisition before a legally required eminent domain public hearing is held.'" (Ibid.) The Court of Appeal held that the plaintiff's claim was not ripe:

The Business Points thus constitute no more than "a general outline of the basic terms" of an agreement to be negotiated in the future. Resolution of Wilson's claim therefore required the trial court to speculate not only on the content of the future parking facilities agreement, but also on whether the City would take the legislative steps necessary to initiate eminent domain proceedings against Wilson's property. The abstract posture of such a claim makes it too uncertain to constitute a justiciable controversy. (See Stonehouse Homes, supra, 167 Cal.App.4th at p. 541, 84 Cal.Rptr.3d 223 [holding unripe developer's declaratory judgment action challenging city resolution that merely directed committee to prepare recommendations for future legislation to amend zoning ordinance].)

(Wilson, supra at 1583.)

Here, the ENA does not obligate either party to consummate a sale or lease; it does not specify the exact parcels for a transfer; and it leaves many issues to be negotiated between the parties before execution of a DDA. It is speculative from the terms of the ENA whether City or Murphy's Bowl will agree to a DDA, or which terms would be included in a DDA.

However, Wilson did not involve the SLA and was not decided at the pleading stage. The legal question here is whether Petitioner has alleged facts under which there is a ripe controversy as to City's mandatory duties to comply with the SLA. Petitioner's theory that City violated the SLA is based on the ENA, which all parties agree was executed. Therefore, there is a present dispute as to whether the SLA was triggered by the ENA.

As discussed above, the SLA does not define the exact timing when an agency's duties to give notice or negotiate are triggered. The "disposing" language from section 54222 could be read to apply when the agency manifests its intent to sell surplus land. While an argument could be

made that the agency must manifest intent to sell the surplus land to some specific private party, other than SLA entities, that is not stated expressly in section 54222. Thus, it seems possible to interpret the SLA so that the agency has manifested a more general intent to dispose of the surplus land.

Here, in the ENA, the parties agreed that "[City] has selected and agreed to negotiate with the Developer for the potential conveyance and development of the Agency Parcels … as a result of the Developer's affiliation with an NBA franchise that can be moved to the City … and the Developer's experience and expressed commitment to expeditiously develop the Proposed Project …" (RJN Exh. 2, pp. 1-2 [emphasis added].) The petition alleges that the general category of City parcels available for sale or transfer have been determined. (Pet. ¶¶ 52-53.) The petition alleges an actual controversy as to whether or not the ENA triggered City's duties under the SLA. While Petitioner's interpretation of the SLA may or may not be correct on the merits, that does not relate to ripeness.

The demurrer to the first cause of action is OVERRULED.

Fourth Cause of Action – Writ of Mandate to Compel Compliance with Land Use Non-Discrimination Law

In the fourth cause of action, Petitioner alleges that "Murphy's Bowl … ENA[] prevent[s] the City and/or Successor Agency from offering the surplus sites for sale or lease to the entities entitled to preference under the SLA, who could negotiate to purchase the properties for the construction of affordable housing development for lower income households." (Pet. ¶ 123.) Petitioner alleges that City's "policy" discriminates against affordable housing for lower income households in violation of Government Code section 65008(b)(1)(C). (Id. ¶ 124.)

The fourth cause of action against Murphy's Bowl appears to be based entirely on the alleged violation of the SLA. For the reasons stated above, the demurrer to the fourth cause of action is OVERRULED.

Murphy's Bowl Motion to Strike

Murphy's Bowl's motion to strike is based on the same arguments discussed above. The motion to strike is DENIED.

City's Motion to Strike

City moves to strike from the petition (1) "inflammatory allegations that are intended to incite the reader"; (2) allegations about "the LaBrea ENA, which the City never considered and never entered into"; and (3) prayers for relief that seek to void City contracts or cause City to void its contracts. 6 (Mot. 11-13.)

Upon motion, the court may "strike out any irrelevant, false, or improper matter inserted in any pleading." (CCP § 436.) "Courts have inherent authority to strike scandalous and abusive statements in pleadings." (Oiye v. Fox (2012) 211 Cal.App.4th 1036, 1070.)

Inflammatory, Superfluous Allegations

The court agrees with City that the following allegations are irrelevant and inflammatory, and should be stricken:

1) Pet. P. 2:7-10. "Legality aside, the City's pattern and practice also amounts to a violation of its leaders' obligations to their constituents. This cannot reasonably be disputed given that the City Council has admitted in writing that the vast majority of its population is eligible for affordable housing, and almost half of its population spends more than fifty (50) percent of their income on rent." (Pet. p. 2:7-10 [emphasis added].)
2) Pet. 2:11. "Given the City's flagrant disregard of the law and its abusive dereliction of duty,"
3) Pet. ¶8 at 4:13-14. "This vexing and unlawful conduct aimed at appeasing the interests of outside, private developers, at the expense of the City's own constituents must be brought to an end."

In these allegations, Petitioner asserts only its moral or political opinion, not a legal allegation. The court finds no relevance of these allegations to Petitioner's legal claims.

City has not shown that the remaining allegations, which it contends are "inflammatory," are irrelevant, false, or improper. (CCP § 436; see Mot. 2-3.) Generally, speaking these allegations relate to City's alleged practice of prioritizing private development of an NBA arena and luxury apartments over affordable housing. City does not discuss all of Petitioner's claims, and therefore has not shown these allegations are irrelevant to all claims in the pleading. (See Mot. 14-15.) In the motion, City argues that the court "will need to interpret the statutes [Petitioner] accuses the City of violating" and that Petitioner's allegations about prioritizing private development are not relevant. (Ibid.) The petition alleges violations of the SLA, of a non-discrimination law in Government Code section 65008, and FEHA. City's alleged practice of

prioritizing private development of an NBA arena and luxury apartments could potentially be relevant to such claims, including as circumstantial evidence of intent to violate the SLA or to discriminate. 7 The court states no opinion as to whether such evidence would be admissible at trial on the writ. The court only concludes that such allegations should not be stricken.

In reply, City argues that intent is not an element of Petitioner's statutory claims. (Reply 8.) New issues raised in reply are improper and may be disregarded. (Regency Outdoor Advertising v. Carolina Lances, Inc. (1995) 31 Cal.App.4th 1323, 1333.) Moreover, even if intent is not an express statutory element, City's policy or intent to pursue private development over affordable housing could potentially be relevant evidence.

La Brea ENA

The petition alleges that in October 2018, City held a City Council meeting "where they agendized an Exclusive Negotiating Agreement (hereinafter referred to as 'the La Brea ENA'), involving the potential sale of a city-owned parcel of land to 317 La Brea LLC, a private developer." (Pet. ¶ 66.)

"The La Brea ENA states that 317 La Brea LLC intends to build a mixed-use project that includes commercial uses as well as market rate rental housing units ('Proposed La Brea Development'). No affordable housing units are included in the Proposed La Brea Development." (Id. ¶ 67.) "On October 16, 2018, Petitioner submitted a letter to the City identifying the potential violations of the SLA if the City entered into the La Brea ENA." (Id. ¶ 69.) "The Inglewood City Council removed the La Brea ENA from the agenda during the City Council meeting on October 16, 2018." (Id. ¶ 70.)

Even if the La Brea ENA was removed from the agenda, the allegations could plausibly be relevant to the alleged practice of prioritizing private development over affordable housing. As discussed above, such practice could potentially support one or more of Petitioner's claims. The court states no opinion as to whether evidence about the La Brea ENA would be admitted at a trial. The court only concludes that they need not be stricken from the pleading. The motion to strike the La Brea ENA allegations is DENIED.

Prayers for Relief

In its prayer, Petitioner seeks a writ directing City to comply with the SLA by taking the following actions:

(a) Void and withdraw from the Murphy's Bowl ENA and the Prairie ENA;
(b) Make a written offer to sell or lease all of the properties in the Proposed Arena Project and in the Proposed Prairie Development for the purpose of developing low- and moderate-income housing to required local entities and housing sponsors;
(c) Enter into good faith negotiations to determine sales price or lease term with any local entity or housing sponsor that provides notice of interest in developing affordable housing on the surplus land; (Pet. p. 27.)

Petitioner also seeks a declaration that the Murphy's Bowl ENA and the Prairie ENA are void as against public policy.

In the motion to strike, City seeks to strike these prayers because the SLA "expressly precludes a court from voiding a land transfer." (Mot. 16, citing Gov. Code § 54230.5.) While City is correct, the argument is not persuasive because, as City admits, "the ENA is not a land transfer." (Ibid.) Since the ENA is not a land transfer (i.e. a sale or lease), the SLA does not expressly forbid a court from issuing a writ directing an agency to withdraw from an ENA, or from enjoining such contract, if it violated the SLA. The SLA also does not expressly forbid a court from issuing a writ directing the agency to engage in notice and negotiation required by the SLA. Indeed, it is unclear how else the court could enforce the SLA.

It is not necessary for the court to decide at the pleading stage which remedies, if any, Petitioner would obtain if it prevailed on the SLA claim. City has not established that the remedies sought by Petitioner necessarily violate the provisions of the SLA or other law. The motion to strike is DENIED.

Conclusion

Murphy's Bowl's demurrer is OVERRULED IN ITS ENTIRETY. Murphy's Bowl's motion to strike is DENIED.

City's motion to strike is GRANTED IN PART as to the allegation at page 2:7-10, 2:11, and ¶8 at 4:13-14. City's motion to strike is DENIED IN ALL OTHER RESPECTS.

FOOTNOTES:

**BS172771** April 25, 2019
**UPLIFT INGLEWOOD COALITION VS CITY OF INGLEWOOD ET AL** 1:30 PM

Judge: Honorable Mary H. Strobel
Judicial Assistant: N DiGiambattista
Courtroom Assistant: K Ghazarian
CSR: J Hollifield/CSR 12654
ERM: None
Deputy Sheriff: None

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1- The petition also includes allegations about a different ENA between City and Prairie Station, LLC. Those allegations are not at issue in the demurrer.
2- Unless otherwise stated, statutory references are to the Government Code.
3- Neither party disputes that, for purposes of demurrer, the parcels at issue in the ENA include "surplus land" that could be subject to the SLA. Also, City is a "local agency" subject to the SLA.
4- The IRATE trial court decision cited by Murphy's Bowl also did not arise under the SLA or analyze the SLA. Rather, it involved a CEQA claim. That decision also is not binding on this court. (See Dem. 10-11, 16.)
5- Petitioner's citations to its RJN seem incorrect. For instance, Petitioner cites to bill analysis on pages 90 and 42, but those pages do not show bill analysis. (Oppo. 15:1-9, citing Pet. RJN Exh. A at 90 and 42.)
6- City argues various extrinsic matters outside the four corners of the pleading, and not subject to judicial notice. (See e.g. Dem. 7 [land earmarked for the arena is "directly under the LAX flight path" and FAA has instructed City that residential housing units are not permitted]; Dem. 9 [relationship between Madison Square Gardens and Petitioner].) The court does not consider these arguments for a motion to strike.
7- In its motion, City omits the part of the paragraph 5 at page 3, lines 11-14, which states that "City's actions … demonstrate the City's desire to move forward with this Proposed Arena Project at any costs."

Pursuant to request by moving parties, the motion to compel reserved for May 16, 2019, and the motion for protective order reserved for May 21, 2019, are ordered off calendar.

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If all counsel stipulate, they are to contact the court to schedule an informal discovery conference.

Counsel for petitioner is to give notice of the court's ruling on real party in interest's demurrer and motion to strike and counsel for the City of Inglewood is to give notice of the court's ruling on the motion to strike.

**ENCLOSURE 3**

# Preventing Displacement to Reduce Greenhouse Gas Emissions

*Alliance for Community Transit-LA, Asian Pacific Environmental Network, Asian Pacific Policy & Planning Council, Asian Neighborhood Design, California ReLeaf, Causa Justa :: Just Cause, Center for Sustainable Neighborhoods, Chinatown Community Development Center, Coalition for Clean Air, Community Legal Services in East Palo Alto, East Bay Housing Organizations, Housing California, Lao Iu Mien Culture Association, Inc., Physicians for Social Responsibility-LA, PolicyLink, Public Advocates, Public Counsel, Strategic Actions for a Just Economy, SF Council of Community Housing Organizations, TransForm, Urban Habitat, Urban Releaf*

Low-income residents of neighborhoods near transit have the lowest VMT rates in the state,[1] ride transit more than anyone else (even though most own or have access to cars),[2] and tend to work, shop, play, and worship near where they live. These residents embody the vision of SB 375. They are doing more than their share to help California address climate change. Public policy and investments should protect and reward their relatively small carbon footprint. Instead, California's most vulnerable residents are at grave risk of displacement.

Across California, intense private market interest in neighborhoods near existing and planned transit coupled with public investments and policies to encourage transit-oriented development (TOD) are forcing low-income families from their homes. Displacement is both direct (new construction destroying homes) and indirect (skyrocketing rents pricing them out).[3] When forced out, these families tend to move to more affordable homes in distant places with poor access to transit and jobs.[4] As a result, they switch from being model low-VMT citizens to driving long distances in older cars with high GHG emissions per mile.

Investing Cap-and-Trade auction proceeds from the Greenhouse Gas Reduction Fund (GGRF) to protect low-income communities from displacement is critical to realizing GHG reduction goals because without safeguards, these investments are likely to fuel both direct and indirect displacement. This will not only hurt communities, but also rob public transit of core users and increase GHG-intensive car trips.

Protecting against displacement serves multiple statutory mandates. Not only must GGRF funds reduce GHG emissions, they must also benefit disadvantaged communities (SB 535) and maximize co-benefits (AB 32 and AB 1532). Anti-displacement protections are critical to SB 535's mandate to invest in and for the benefit of disadvantaged communities. Displaced residents enjoy no benefit from investment in their former neighborhoods. Furthermore, displacement protections have a clear GHG-reduction nexus. A recent ARB report, for example, found investing in Sustainable Communities (including affordable housing near transit) yields high environmental, health and economic co-benefits compared to other proposed GGRF uses.[5]

## Recommendations

To maximize GHG reductions by ensuring that GGRF investments prevent displacement of low-income households near transit, budgeting and implementation of GGRF funds should incorporate these requirements:

1. **Projects that result in a net loss of homes occupied by lower-income households should not be eligible for funding.** Construction of replacement units to achieve no net loss shall be required as a condition of funding approval. All replacement units must be deed restricted at levels affordable to the occupants of the existing homes, located on-site when feasible or within the same neighborhood, with proper relocation assistance and right of return for displaced residents.

2. **All projects should be located in jurisdictions with policies that protect against economic displacement of lower-income residents and an HCD-certified housing element.** Project investments that could increase the risk of economic displacement of lower-income residents must demonstrate as a condition of funding approval that appropriate project- and jurisdiction-level mitigation measures are in place to mitigate that risk. Preference should be given to projects in jurisdictions with stronger anti-displacement and affordable housing creation and preservation track records.

3. **Targeted hiring for local disadvantaged residents should be required as a condition of project approval.** For example, targeting 30-40% of work hours on GGRF funded projects to local disadvantaged residents.

4. **Dedicate substantial GGRF expenditures to the construction of homes near transit and jobs that are permanently affordable to very-low and extremely-low income households.**

[1] *Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy* (TransForm and the California Housing Partnership Corporation, 2014), available at http://www.chpc.net/dnld/AffordableTODResearch051514.pdf.

[2] Stephanie Pollack, Barry Bluestone, and Chase Billingham, *Maintaining Diversity in America's Transit-Rich Neighborhoods: Tools for Equitable Neighborhood Change* (Dukakis Center for Urban and Regional Policy, 2010), available at http://www.dukakiscenter.org/report-summary.

[3] Karen Chapple, *Mapping Susceptibility to Gentrification: The Early Warning Toolkit* (UC Berkeley Center for Community Innovation, 2009), available at http://communityinnovation.berkeley.edu/reports/Gentrification-Report.pdf ; *Development without Displacement, Development with Diversity* (Association of Bay Area Governments, 2009), available at http://www.bayareavision.org/initiatives/dwd-final.pdf .

[4] See, e.g., Matthew Soursourian, *Suburbanization of Poverty in the Bay Area*, (Federal Reserve Bank of San Francisco, 2012), available at http://www.frbsf.org/community-development/files/Suburbanization-of-Poverty-in-the-Bay-Area2.pdf.

[5] California Air Resources Board, *Cap-and-Trade Auction Proceeds: Benefits of Investments in the Proposed Fiscal Year 2014-15 Budget* (CARB, 2014).

# WHY CREATING AND PRESERVING AFFORDABLE HOMES NEAR TRANSIT IS A HIGHLY EFFECTIVE CLIMATE PROTECTION STRATEGY

TransForm
Our communities. Our transportation. Our future.

California Housing Partnership Corporation
*California's Experts on Affordable Housing Finance, Advocacy & Policy*

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THE STATE CREATED THE CALIFORNIA HOUSING PARTNERSHIP CORPORATION 25 YEARS AGO AS A PRIVATE NONPROFIT ORGANIZATION WITH A PUBLIC MISSION: TO MONITOR, PROTECT, AND AUGMENT THE SUPPLY OF HOMES AFFORDABLE TO LOWER-INCOME CALIFORNIANS AND To PROVIDE LEADERSHIP ON AFFORDABLE HOUSING FINANCE AND POLICY. SINCE 1988, THE CALIFORNIA HOUSING PARTNERSHIP HAS ASSISTED MORE THAN 200 NONPROFIT AND LOCAL GOVERNMENT HOUSING ORGANIZATIONS TO LEVERAGE MORE THAN $5 BILLION IN PRIVATE AND PUBLIC FINANCING TO CREATE AND PRESERVE 20,000 AFFORDABLE HOMES.

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## ABOUT **TRANSFORM**

TRANSFORM PROMOTES WALKABLE COMMUNITIES WITH EXCELLENT TRANSPORTATION CHOICES TO CONNECT PEOPLE OF ALL INCOMES TO OPPORTUNITY, KEEP CALIFORNIA AFFORDABLE AND HELP SOLVE OUR CLIMATE CRISIS. WITH DIVERSE PARTNERS WE ENGAGE COMMUNITIES IN PLANNING, RUN INNOVATIVE PROGRAMS AND WIN POLICY CHANGE AT THE LOCAL, REGIONAL AND STATE LEVELS.

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**Support for this research was provided by the Ford Foundation**

# Executive Summary

California is currently debating how to invest greenhouse gas (GHG) cap-and-trade auction proceeds so that they result in real, quantifiable and verifiable greenhouse gas reductions.

A new analysis of data from Caltrans' California Household Travel Survey (CHTS) completed in February 2013 shows that a well-designed program to put **more affordable homes near transit** would not just meet the requirements set by the California Air Resources Board (ARB), but ***would be a powerful and durable GHG reduction strategy*** – directly reducing driving while creating a host of economic and social benefits.

Conducted by the nationally recognized Center for Neighborhood Technology (CNT), the analysis identified 36,000-plus surveyed households that had provided all relevant demographic and travel data and divided them into five income groups, living in three types of locations based on their proximity to public transportation:

- **Transit-Oriented Development (TOD) as defined by the California Department of Housing & Community Development (HCD)** requires homes be built within a 1/4 mile radius of a qualifying rail or ferry station or bus stop with frequent service.

- **TOD as defined by the Sustainable Communities and Climate Protection Act of 2008** (SB 375) requires housing to be built within a 1/2 mile radius of a rail or ferry station, or a bus stop but with lesser frequencies than HCD's definition.

- **Non-TOD** areas that do not meet either of these definitions.

**Here are two key findings:**

- Lower Income households drive 25-30% fewer miles when living within 1/2 mile of transit than those living in non-TOD areas. When living within HCD's 1/4 mile of frequent transit they drove nearly 50% less.

- Higher Income households drive more than twice as many miles and own more than twice as many vehicles as Extremely Low-Income households living within 1/4 mile of frequent transit. This underscores why it is critical to ensure that low-income families can afford to live in these areas.

In response to soaring demand from Higher Income households for condos and luxury apartment developments near public transit, there has been a surge of new development. The CNT report shows the tremendous greenhouse gas reductions the state can achieve by ensuring that more low-income households can also live in these areas through investment of cap-and-trade auction proceeds.

## DESIGNING A CAP-AND-TRADE INVESTMENT PROGRAM THAT MAXIMIZES GHG REDUCTIONS

The CNT analysis provides robust evidence that an investment by the state in the creation and preservation of affordable housing located within 1/4 mile of frequent transit can dramatically reduce GHGs.

Using conservative assumptions, TransForm and the California Housing Partnership calculated that investing 10% of cap and trade proceeds in HCD's TOD Housing program for the three years of FY 2015/16 through FY 2017/18 would result in 15,000 units that would remove **105,000,000 miles of vehicle travel per year** from our roads.

Over the 55-year estimated life of these buildings, this equates to eliminating **5.7 billion miles of driving off of California roads. That equates to over 1.58 million metric tons of GHG reductions, even with cleaner cars and fuels anticipated.**

**What's more, the State can significantly increase these GHG reductions**. The savings in miles driven described above is based solely on location and income, but HCD has a variety of ways their program could further reduce GHGs such as giving priority to developers who provide free transit passes for residents, adjacent carsharing pods, and bicycle amenities.

Finally, TransForm and CHPC offer a methodology for verifying and reporting the reductions.

# Introduction

California has been a leader on climate change since passing AB 32, the California Global Warming Solutions Act in 2006.

Recognizing that transportation-related GHGs accounted for 37% of California's total GHGs, the legislature also passed SB 375 in 2008. The primary aim of this law is to reduce the amount people drive and associated GHGs by requiring the coordination of transportation, housing, and land use planning at a regional scale.

Ensuring that households of all incomes, and especially lower-income households who use transit most, are able to live near transit and jobs is crucial to the GHG reduction framework set up by SB 375. Yet the law does not provide any new financial resources to make the production and preservation of affordable homes near transit feasible.

AB 32 enabled the California Air Resources Board (ARB) to use market mechanisms to support reductions in GHGs. With the auction of greenhouse gas pollution allowances now taking place every quarter, state leaders are debating how to invest greenhouse gas cap-and-trade auction proceeds so that they result in real, quantifiable and verifiable greenhouse gas reductions.

In May 2013, ARB released its Cap-and-Trade Auction Proceeds Investment Plan, which identified "priority State investments to achieve GHG reduction goals and produce valuable co-benefits." ARB recommended that Sustainable Communities and Clean transportation receive the largest investment amount.

Importantly, ARB also recognized that the creation and preservation of affordable homes near transit should be part of this investment strategy, specifically naming the Department of Housing and Community Development's Transit-Oriented Development Housing program (HCD TOD) as an existing program that would be able to carry out a GHG reduction program relatively quickly and efficiently.

This report begins with CNT's analysis demonstrating for the first time the interrelationship between income and living in close proximity to transit, as defined by the HCD TOD criteria as well as by the SB 375 criteria.

The report then uses this information to calculate the GHG savings that would result from investing a portion of the cap-and-trade auction proceeds in affordable TOD homes over the next three years.

The key to CNT's ability to analyze these critical relationships is excellent, recent, statewide data made available by the California Household Travel Survey (CHTS) in 2013. The CHTS data, the collection of which was coordinated by Caltrans with support from a host of state and regional agencies, consists of one day travel surveys from over 40,000 households from all 58 counties in California and was collected from February 2012 through January 2013. CNT identified 36,197 household surveys from the CHTS that contained all relevant household demographic, location, and travel information needed for this analysis. A final report from CNT with additional data is anticipated in June 2014.

## DEFINING TRANSIT-RICH AREAS AND STUDY METHODOLOGY

To determine accepted definitions of transit-rich areas, CNT worked with CHPC, TransForm and other experts to review California law and programs. Two well-used definitions were identified. The first is used by the California Department of Housing and Community Development (HCD) in its Transit-Oriented Development (TOD) Housing Program and the second is from the language of SB 375 defining High-Quality Transit Areas (HQTAs).

- **HCD TOD Areas** - HCD's TOD Housing Program Guidelines define TOD areas as being within 1/4 mile of a qualifying rail or ferry station or a bus stop with ten minute headways during the peak period defined as 7am to 10pm and 3pm to 7pm on weekdays. For any transit stop to qualify, it must offer hourly service on weekday evenings from 7pm to 10pm and have at least ten trips on both Saturday and Sunday. (TOD Housing Program: Third Round Guidelines, 2013.)

- **High Quality Transit Areas (HQTAs)** – SB 375 defines HQTAs as the area within 1/2 a mile of a rail or ferry station, regardless of service frequency at that station, as well as all bus stops with at least 15-minute headways during the peak period, as defined above.

CNT identified these geographies using its proprietary AllTransitTM database, which is based on the general transit feed specification (GTFS). AllTransitTM is the most comprehensive repository of GTFS data because CNT compiles publicly available feeds, acquires feeds that exist but are not publicly available, and codes its own feeds where none exist or are available. Areas that do not meet either of these definitions are defined as "non-TOD".

## INCOME CATEGORIES

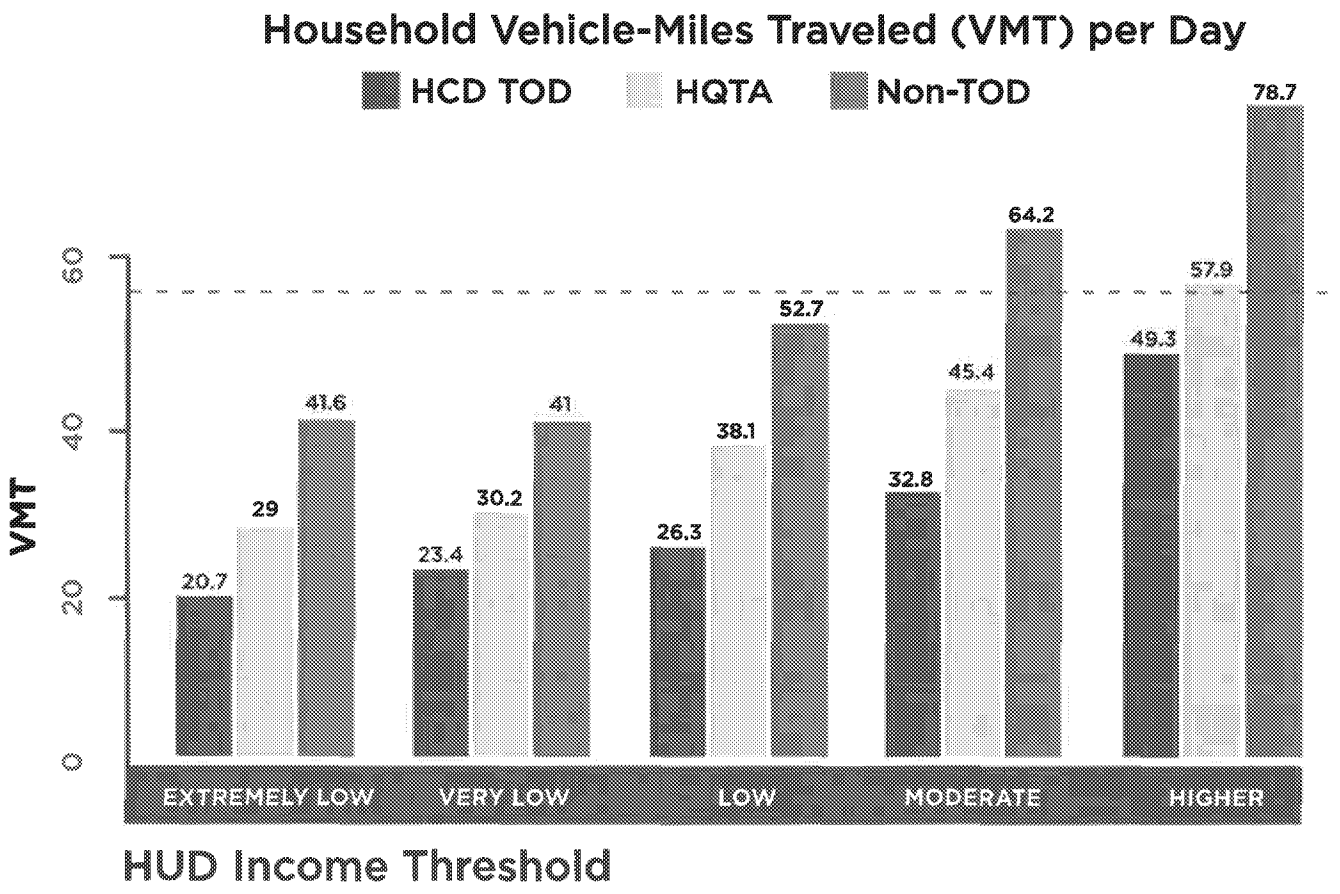
CNT categorized surveyed households using U.S. Department of Housing and Urban Development (HUD) income categories in order to compare households across all of California, which has wide variation in local incomes and housing costs. HUD publishes an annual listing of income thresholds based on the area Median Family Income (MFI) for each county by metropolitan area and includes adjustments for household size. HUD includes three lower income categories in this annual spreadsheet and CNT added two additional categories for moderate and higher income households based on the same assumptions used to calculate the lower income categories:

- **Extremely Low-Income (ELI)** – Households earning 30% or less of MFI
- **Very Low-Income (VLI)** – Households earning 50% or less of MFI
- **Low-Income (LI)** – Households earning 80% or less of MFI
- **Moderate Income** – Households earning between 80% and 120% of MFI
- **Higher Income** – Households earning more than 120% of MFI

## INITIAL RESULTS

Preliminary findings from CNT's analysis of the CHTS reveal that living in proximity to transit-rich areas and household income are two major factors that impact the number of household trips as well as household vehicle miles traveled (VMT).

**FIGURE 1. Household VMT per Day**

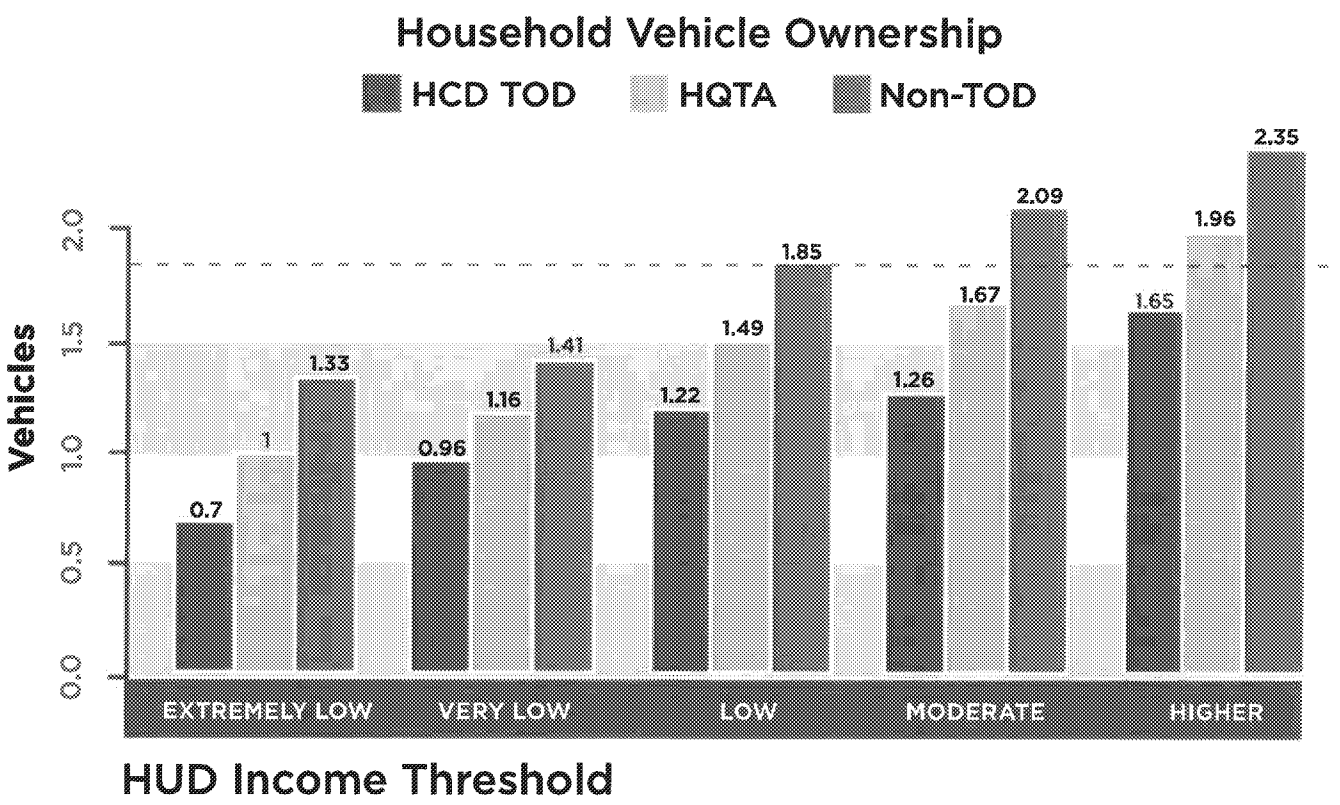



## VEHICLE MILES TRAVELED (VMT)

The report data clearly shows that all income groups experience significant differences in average daily VMT depending on where they live. The difference in VMT for households living in HCD TOD areas compared to those in non-TOD areas range from 50% fewer VMT for Extremely Low-Income (ELI) to 37% fewer for Higher income households. All income groups living in HQTAs have 25-30% lower VMT than similar-income households living in non-TOD.

Extremely Low-Income households living in HCD-TOD areas have by far the lowest VMT of any household group, logging only 20.7 VMT per day on average, almost 60% less than the 49.3 average VMT of Higher income households also residing in HCD TOD areas.

**FIGURE 2. Household Vehicle Ownerhship**



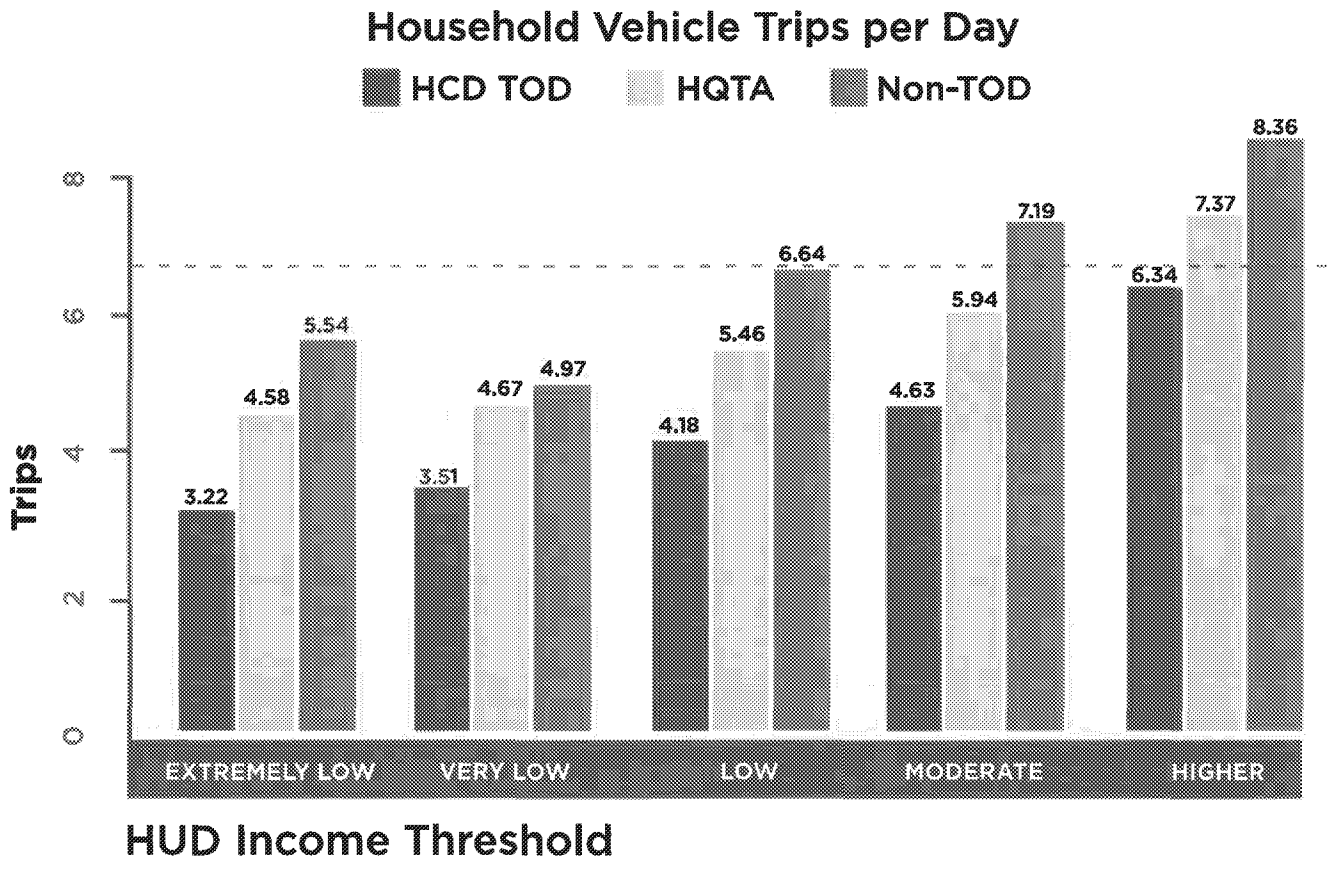

## VEHICLE OWNERSHIP

The biggest single determinant of VMT–and therefore GHG emissions–is ownership of a private vehicle. Within the HCD TOD areas, all income groups own cars at a rate that is at least 30% lower than non-TOD areas. However, Extremely Low-Income households particularly economize on vehicle ownership when living in TOD. On average, these households own only 0.70 vehicles per household – less than half the number of cars owned by Higher Income households (1.65 vehicles per household).

The chart below demonstrates that, contrary to popular perception, lower income households have relatively high car ownership when they lack access to transit. This finding is significant because it indicates the large financial savings that lower income households can accrue by being able to avoid vehicle ownership by living near transit.[1] Transportation costs, primarily those associated with vehicle purchase, maintenance and operations, are the second highest household cost after housing.[2] In other words, providing affordable TOD homes not only lowers GHGs but also reduces both transportation and housing costs while providing strong access to services and employment opportunities.

There are other benefits of low-vehicle ownership rates. For example, vehicles take up significant space in the form of parking and street space. Locating affordable homes near transit allows communities to maximize the beneficial uses of these areas as shown in graphic on page 13.

**FIGURE 3. Household Vehicle Trips per Day**

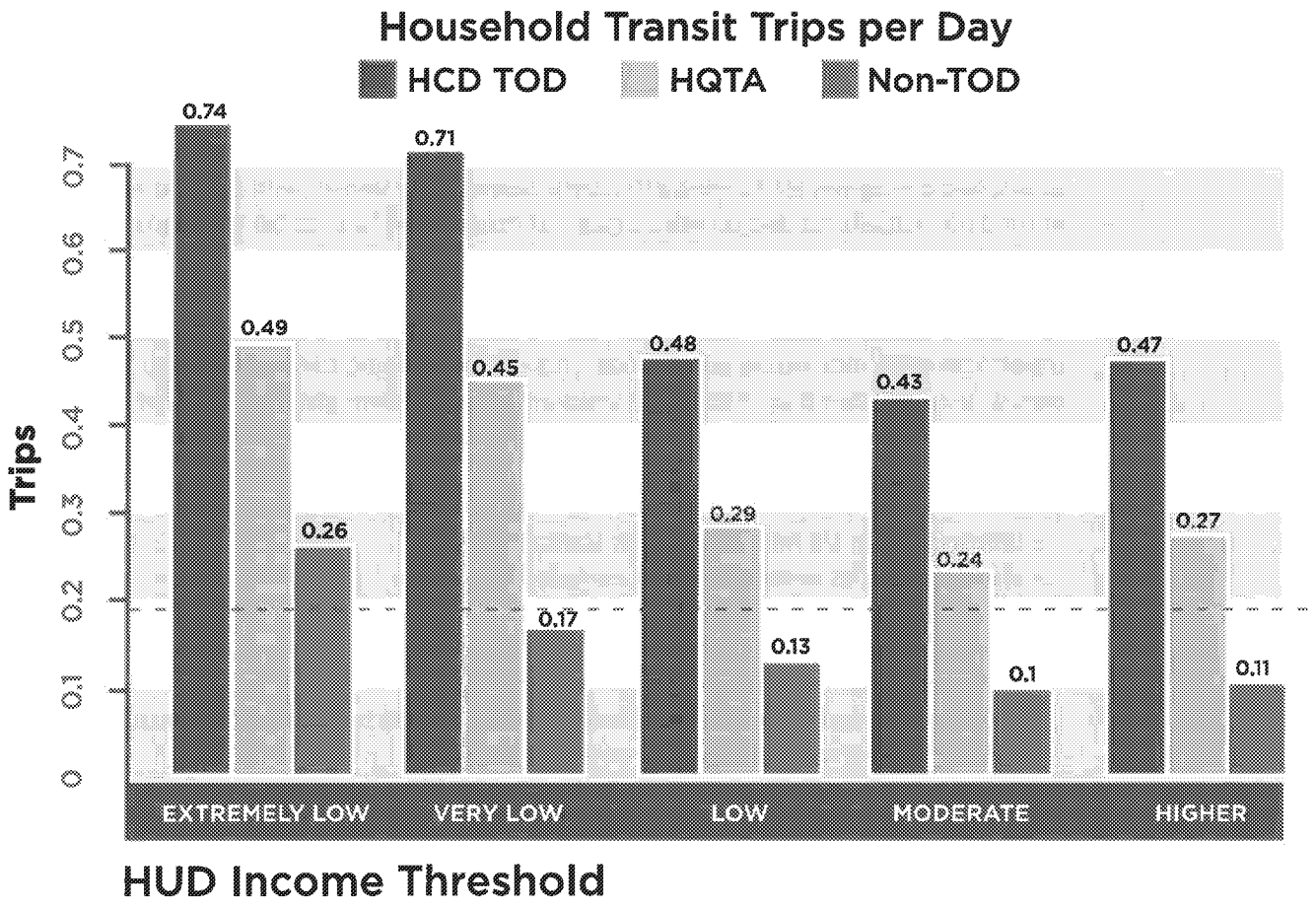



## VEHICLE TRIPS

Income and location also have a significant correlation with the number of vehicle trips that are made. Figure 4, below, shows that households of all incomes make fewer vehicle trips when they live in HCD TOD areas compared to non-TOD locations. On average, Extremely Low Income households make only 3.22 vehicle trips per day – roughly half the number of trips made by Higher Income households (6.34 trips) in HCD TOD areas.

Fewer vehicle trips means not only fewer vehicle miles traveled but also less congestion and fewer vehicles idling in stop-and-go traffic. Congested driving conditions due to more vehicles on the road result in higher GHG emissions and criteria air pollutants. Reducing the number of trips in highly populated areas also has beneficial air quality impacts and can improve bicycle and pedestrian safety.[3]

**FIGURE 4. Household Transit Trips per Day**




## TRANSIT TRIP FINDINGS

From a transportation investment policy and planning perspective, it is important to know that households in transit-rich areas not only drive less, but also use transit more. In this regard the findings on differences based on both location and income are profound:

*Households living in HCD TOD areas use transit at rates that are triple or quadruple the rates of households living in non-TOD areas. The transit trip bonus[4] is much higher, however, for the groups making less than 50% of median income. Extremely Low Income and Very Low Income households living in a HCD TOD take transit 50% more than their neighbors from higher income brackets.*

# Designing a Cap-and-Trade Investment Program that Maximizes GHG Reductions

The California Department of Housing and Community Development (HCD) developed a program for funding affordable homes near transit, with the first rounds of funding. Initially funded by the passage of Proposition 1C in 2006 this Transit-Oriented Development Housing Program (TOD) is now depleted.

The TOD Housing program was designed with the specific goals of increasing public transit ridership, minimizing automobile trips, and promoting GHG reductions. This report demonstrates that HCD's TOD program is an excellent starting point for an affordable housing program that is focused on maximizing GHG reductions.

Some strong key attributes of the existing HCD TOD program include:

- location within 1/4 mile of frequent transit;
- strong access to services and job centers;
- serving households at lower income levels;
- offering additional points for:
  - free or discounted transit passes to residents;
  - innovative parking, including allowing shared parking between different; uses and
  - offering dedicated spaces for carsharing vehicles.

## CREATING AN EVEN MORE TRANSFORMATIVE AFFORDABLE TOD HOME PROGRAM

If funding for HCD's TOD program is to be focused on further increasing GHG benefits, both for residents and for the surrounding community, the program could consider potential changes that include providing additional incentives to developers who are proposing to include more GHG-reducing measures. These measures can include:

**Focus on housing more ELI and VLI households.** The HCD TOD program currently sets a minimum of 15% of all units be made affordable to low income households with maximum points awarded for applicants increasing this level to 25%. However, there are no requirements to serve ELI or VLI households, per se. Now that we have new data showing the GHG associated with housing these income groups, we propose that the HCD TOD program provide incentives to developers to provide at least 10% of the homes affordable to ELI households and provide maximum points for developers willing to go above the current 25% maximum. In recognition of the greater costs involved in producing housing affordable to these lower income households, HCD TOD should consider increasing loan and grant amounts accordingly.

**Free transit passes.** Studies have shown that free transit passes lead to much higher transit ridership and lower GHGs. For example, a survey of 1,500 low income renters found that 64% use a transit pass more than four times per week, and 22% said their passes reduce the number of cars owned in their household.[5]

*A family at First Community Housing's Fourth St. Apartments shows off their free AC Transit passes. These passes would typically cost $70 per year for adult and $495 for children.*

**Car share vehicles on site, with free membership for residents.** Car sharing dramatically reduces vehicle ownership and trips, especially in areas with strong access to transit.[6] Yet there have been few models of long-term agreements to provide on-site carsharing. TransForm's GreenTRIP program has worked with City CarShare, Zipcar and affordable housing developers to arrange for long-term agreements for pods in or adjacent to new developments. To maximize GHG benefits and get additional points, developers could be encouraged to have electric vehicles, or at least high mileage hybrid cars, carshare pods.

**Create space for bike sharing.** By 2015 there will be bike sharing programs in the four major regions of California. The evidence of bike sharing's benefits and what it takes to do it well (especially the need for a larger scale) is growing by the month.[7] Creating the space for bike share pods adjacent to new developments is critical.

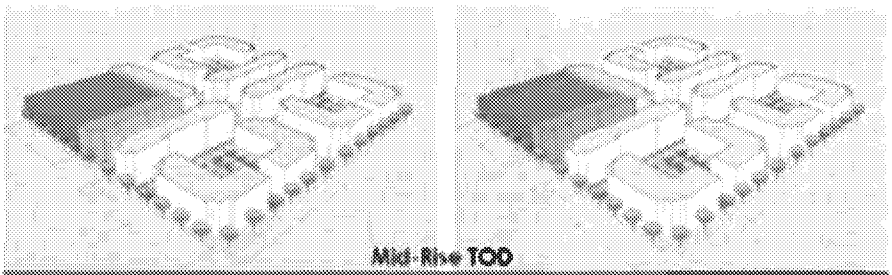
**Other innovative trip reduction strategies.** Providing amenities like bicycle-fixing stations, pedestrian trunks to support walking to shopping, and travel kiosks that have real-time travel information will also help reduce VMT.

## **Less Parking:** An example of the additional benefits of affordable homes near transit.

CNT's analysis shows that Higher Income households living in HCD TOD areas have vehicle ownership rates of 1.65 vehicles/household. In comparison, extremely low income households only own on average 0.7 vehicles/household. While there are several benefits of lower vehicle ownership, the reduced need for parking is a significant one. We have developed a graphic representation showing the reduced parking needed for a hypothetical development near transit and the increase in the number of homes that can be provided.

By designating 100% of the homes as "affordable" for Extremely Low-Income households, in a prototypical eight-acre development site with an initial plan of 875 units in six-story buildings and 1.65 parking spaces per unit (parking in red), the parking can be reduced to 0.7 spaces/unit. Within the exact same building envelope the developer can add 146 units to the same building envelope (seen as green). The number of spaces can be further reduced by adding the trip reduction strategies mentioned above.

**1.65** PARKING SPACES PER UNIT **vs. 0.7**



Mid-Rise TOD

| | 1.65 HIGHER INCOME | 0.7 EXTREMELY LOW-INCOME | CHANGE |
|---|---|---|---|
| **Units** | **875** | **1,021** | **+146** |
| **Parking Spaces** | **1,444** | **715** | **-729** |
| **Parking Cost ($20,000/space)** | **$28.8** | **$14.3m** | **-$14.5m** |

# Estimating the future GHG reduction benefits of building affordable transit-oriented development

For this analysis, we assume that a new affordable unit will be occupied by a household moving from a location less accessible by transit. While it can not be guaranteed that new units will be occupied by a mover of this type, each new unit represents an addition to the total supply of housing near transit and an additional household living near transit that otherwise would not be able to afford to do so.

We focus our calculations on Extremely Low-Income and Very Low-Income households because public investment is most essential to building and preserving homes for these income groups. We assume that homes in affordable TOD would serve 50% ELI households and 50% VLI households.

We also assume that public investment in affordable TOD would be focused in areas meeting HCD's TOD program criteria.

The average difference in daily VMT for ELI and VLI households living in HCD TOD areas vs. non-TOD is **-19.25 VMT per day**. The annual difference is **-19.25 VMT x 365 = -7,026.3 VMT**.

If 10% of cap-and-trade funds are invested in affordable TOD as currently proposed, an average of $250 million per year will be invested in each of the three fiscal years running from 2015/2016 through 2017/2018. (This assumes total cap-and-trade allocation of $2 billion the first year, rising by $500 million per year)

Using HCD's current TOD program guidelines, we assume that each building would get the maximum of $50,000 per unit from these cap-and-trade funds. In the past, each affordable unit receiving funding has been required to remain affordable for 55 years, so we keep that timeframe as the durability of the program.

Using these conservative assumptions, investing 10% of cap-and-trade proceeds in HCD's TOD program would result in 15,000 transit-connected homes that would remove **105,000,000 miles of vehicle travel per year** from our roads.

Over the 55-year estimated life of these buildings, this equates to eliminating **5.7 billion miles of driving off of California roads. That equates to over 1.58 million metric tons of GHG reductions, even with cleaner cars and fuels anticipated[8].**

## WHY THIS GHG CALCULATION IS CONSERVATIVE

The GHG benefits stated above are conservative in several ways. Most importantly, the estimate only includes direct GHG reductions from the difference in location, when in reality it will be possible to estimate additional benefits due to these factors:

- On-site trip reductions strategies that are part of HCD's TOD program.
- Access to new carshare, or through new local services (if applicable).
- Low-income households, on average, own less efficient vehicles that generate more GHGs[9]. As new vehicles quickly increase their efficiency, especially the more expensive hybrids and electric vehicles, that differential is likely to increase.
- Homes for low-income families are more compact, meaning a greater density of homes and a better use of these limited areas[10].

## HOW TO BEST VERIFY ACTUAL GHG REDUCTIONS?

To analyze actual reductions of vehicle miles travelled and GHGs we recommend that HCD and ARB design a monitoring program that could include travel diary surveys, or sample trip generation studies (using black pneumatic tubes). While HCD would need to ensure proper design and implementation of these methods, they all are feasible to get a good estimate of VMT.

Finally, we suggest that firm commitments for on-site trip reduction strategies be developed. TransForm's GreenTRIP program now works to get these commitments written into the conditions of approval for the project, for example.

## CONCLUSIONS

The findings of this report make clear the powerful way in which living close to transit and household income affect household travel behaviors. Increasing the amount of housing in transit-rich areas for households of all income levels can help reduce the state's GHG emissions. While private equity markets are actively investing in transit-oriented residential development for Higher Income households, there is next to no private capital to meet the need to preserve and create homes in transit-rich areas that are affordable to Low Income households.

Investing cap-and-trade funds in affordable TOD will ensure that the state captures the full GHG reduction benefits possible from the integration of land use, housing, and transportation planning. These benefits include:

- Reducing VMT for low income households by nearly 50% from non-TOD locations and achieving levels of VMT 60% below those of higher income households also living in TOD.
- Reducing car ownership by .63 vehicles per household, or more than one car for every two low income households, and freeing up land used for parking to create housing and public space.
- Decreasing vehicle trips and increasing transit trips, helping to ease congestion and increase transit ridership by at least 50% more than the ridership achieved by Higher Income households.
- Lowering household transportation costs and providing improved access to jobs and services.

Furthermore, affordable housing developers have a proven track record of implementing transportation demand management strategies like those structured into the HCD TOD program including: reduced parking, free transit passes for residents, and bike and car share on site. With these policies in place, the production and preservation of affordable TOD homes funded through cap-and-trade will reduce VMT by millions of miles per year, offering an important tool in California's efforts to reduce GHG emissions.

## ENDNOTES

1. California Housing Partnership Corporation, *Building and Preserving Affordable Homes Near Transit: Affordable TOD as a Greenhouse Gas Reduction and Equity Strategy*. 2013. http://chpc.net/dnld/AffordableTODReport030113.pdf

2. TransForm, *Windfall for All*. 2009. http://www.transformca.org/windfall-for-all

3. Community Cycling Center, *Understanding Barriers to Bicycling Project*. Final Report, July 2012. http://www.communitycyclingcenter.org/wp-content/uploads/2012/07/Understanding-Barriers-Final-Report.pdf

4. The transit trip bonus is the absolute difference in the mean number of transit trips.

5. First Community Housing, *Ecopass Program*. 2009. http://www.firsthousing.com/wp-content/uploads/2009/05/ecopass1.pdf

6. "20% of car-sharing households give up one or more vehicles, and on average 34% forgo buying a new car." Transportation Research Board, *Transit Cooperative Research Program (TCRP) Report 108, Car-Sharing: Where and How it Succeeds*. 2005. http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_108.pdf

7. ITDP concludes that Bike-share systems should aim for four daily uses per bike to maximize the public cost-benefit. ITDP, *The Bike Share Planning Guide*. 2013. https://go.itdp.org/display/live/The+Bike-Share+Planning+Guide

8. Estimates used conversion factor of 273.15 CO2 grams per mile based on ARB's EMFAC 2011 CO2 emission rates. These include Low Carbon Fuel Standards and "Pavley" efficiency standards. 2035 rates were used as the average for all years.

9. "In sum, poor households that own vehicles own dirtier vehicles than wealthy vehicle owners." Sara West, "Equity Implications of Vehicle Emissions Taxes", *Journal of Transport Economics and Policy*, Volume 39, Part 1, January 2005, pp. 1–24. S http://www.macalester.edu/~wests/westjetp1910.pdf

10. California Air Pollution Control Officers Association (CAPCOA), *Quantifying Greenhouse Gas Mitigation Measures: A Resources for Local Government to Assess Emission Reductions from GHG Mitigation Measures*, August 2010.

**ENCLOSURE 4**

August 9, 2018

Dear Elected Official,

We write to you as residents of South Prairie Avenue in Inglewood who are alarmed and frightened to learn that we may be evicted and our homes may be demolished to make room for a new arena for the L.A. Clippers basketball team. This would be devastating for our families and goes against all of the public assurances from Mayor Butts and the Clippers team that our homes will not be taken from us for this project.

A bill in front of the state legislature, AB 987, specifically lists our homes as part of the "project area" for the Clippers arena and its new parking structures. That means our homes could be taken and destroyed, pushing our families out of our neighborhood and forcing us to search for new places to live. This is WRONG and we ask you to stop it by voting against this bill. These are our homes, this is our community, and we do not want to leave. Not only that, we were told over and over that we would not have to leave. But the fine print of the bill says something very different. It seems we cannot trust any of the things we have been told by our Mayor and the Clippers.

We are especially worried because it is very difficult to find housing we can afford in Inglewood, which means we may need to move far away from our jobs, our schools, our relatives, and our friends. We believe this is unfair and a violation of our basic rights. No one is forcing the Mayor or the owner of the Clippers to leave their home, so why should we be forced to leave ours?

This bill will hurt our families and destroy our neighborhood—please say NO to AB 987!

Sincerely,

| | |
|---|---|
| Mario Pinto | 10204 S. PRAIRIE AVE |
| NAME | ADDRESS INGLEWOOD, CA. 90303 |
| andres Nicolas | 10204 S PRAIRIE AVE |
| NAME | ADDRESS INGLEWOOD CA 90303 |
| | |
| NAME | ADDRESS |

Google Maps 10204 Prairie Ave

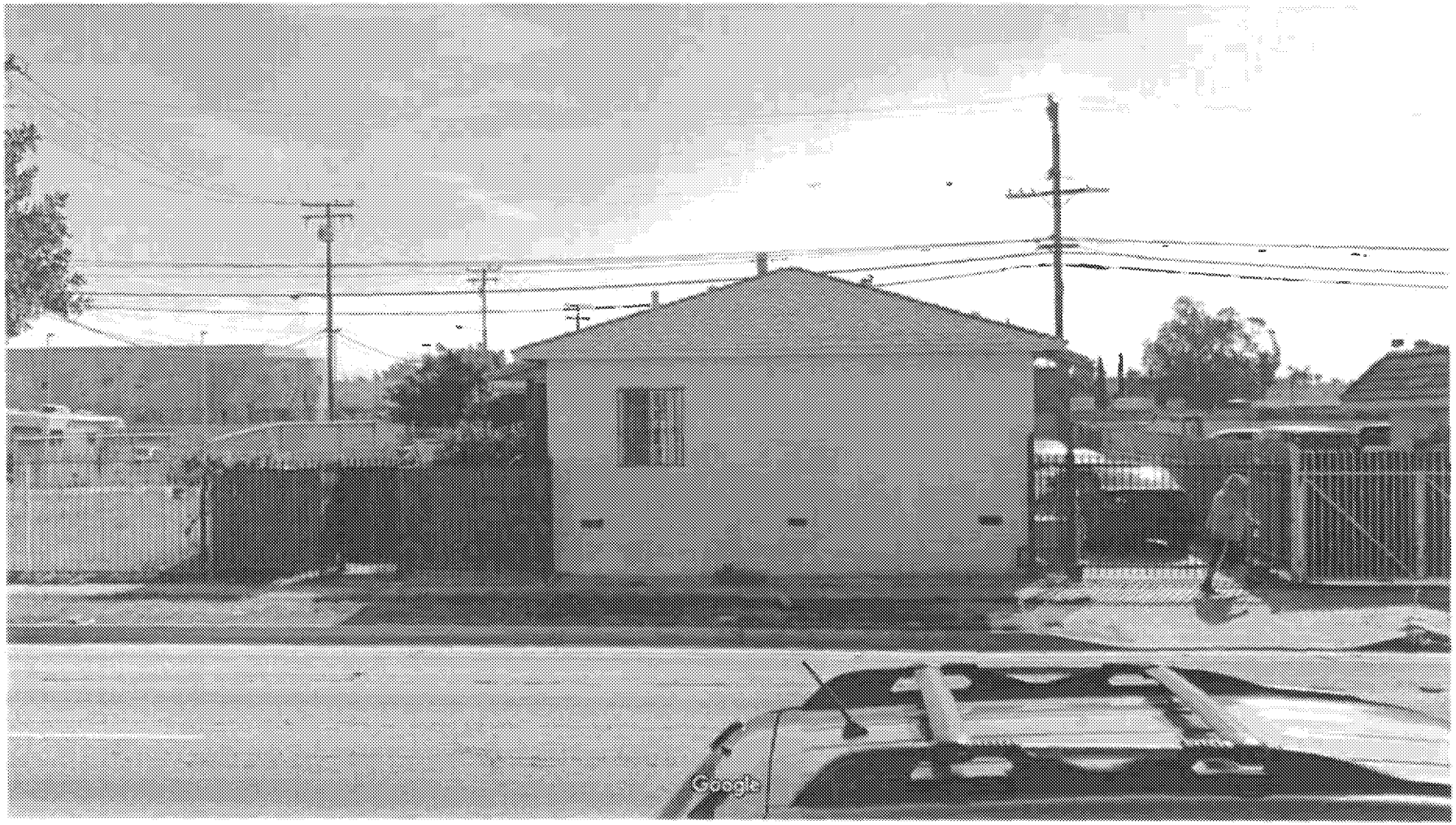



Image capture: Apr 2018 © 2018 Google

Inglewood, California

Google, Inc.

Street View - Apr 2018

## Parcel Details

- Property records are kept at the West District Office
- How frequently is this site updated?
  (and other FAQs)

**Property Information**

| | |
|---|---|
| **Assessor's ID No:** | 4032-008-002 |
| **Address:** | 10204 S PRAIRIE AVE<br>INGLEWOOD CA<br>90303 |
| **Property Type:** | Multi-Family<br>Residential |
| **Region / Cluster:** | 09 / 09412 |
| **Tax Rate Area (TRA):** | 13267 |

- View Assessor Map
- View index map

**Recent Sales Information**

**Latest Sale Date:**
**Indicated Sale Price:**

Search for Recent Sales

**2018 Roll Values**

| | |
|---|---|
| **Recording Date:** | 12/07/2012 |
| **Land:** | $248,918 |
| **Improvements:** | $64,934 |
| **Personal Property:** | $0 |
| **Fixtures:** | $0 |
| **Homeowners' Exemption:** | $0 |
| **Real Estate Exemption:** | $0 |
| **Personal Property Exemption:** | $0 |
| **Fixture Exemptions:** | $0 |

Tax bill payment information for 2018/19, as well as any changes to the 2018 Roll Values will be available after September 30, 2018

- Estimate supplemental taxes

**Property Boundary Description**

LOCKHAVEN TRACT S 50.05 FT OF N 104.09

**ENCLOSURE 5**

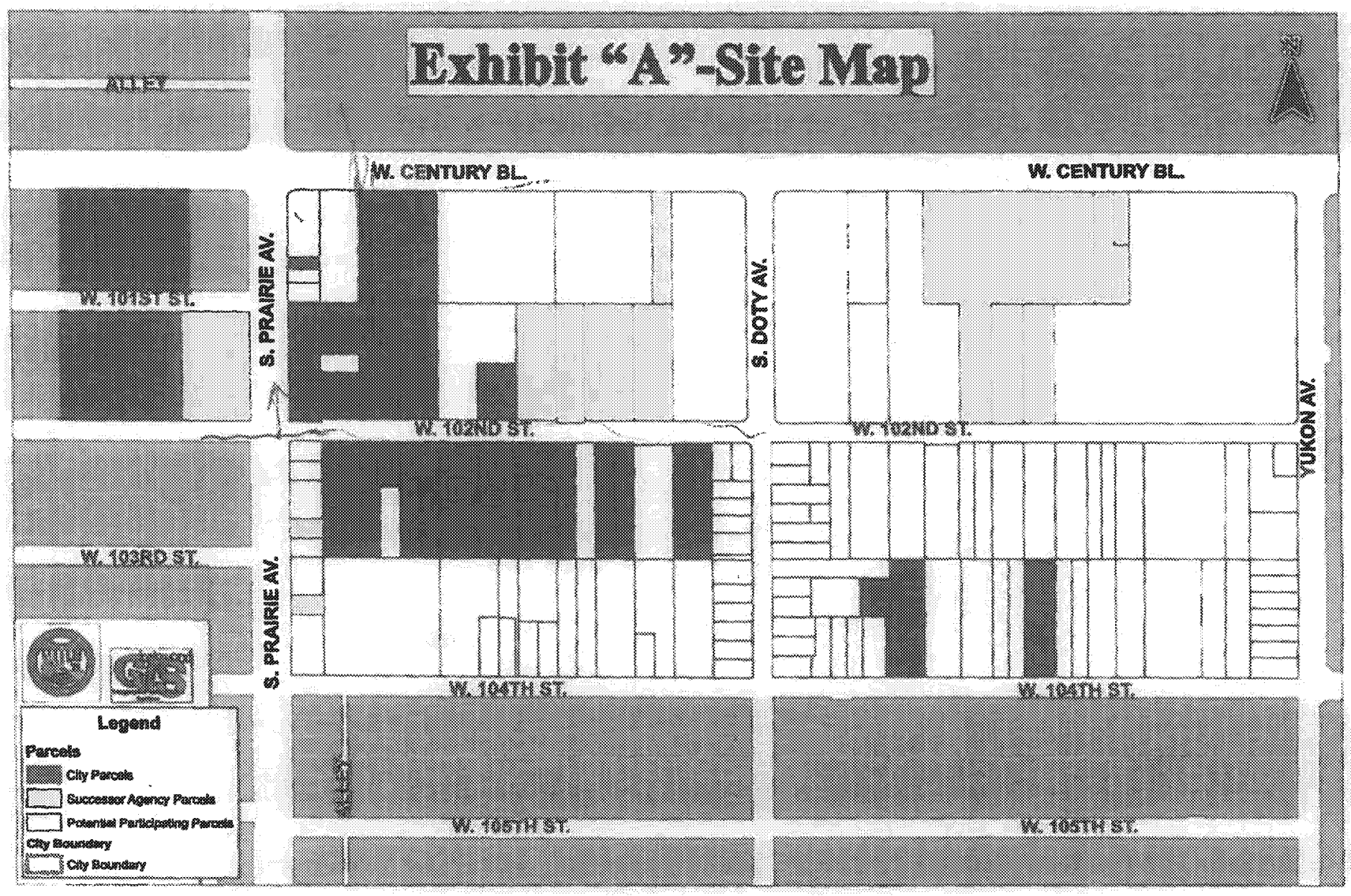


Exhibit "A"-Site Map
ALLEY
W. CENTURY BL.
W. CENTURY BL.
W. 101ST ST.
S. PRAIRIE AV.
S. DOTY AV.
W. 102ND ST.
W. 102ND ST.
YUKON AV.
W. 103RD ST.
S. PRAIRIE AV.
W. 104TH ST.
W. 104TH ST.
W. 105TH ST.
W. 105TH ST.
Legend
Parcels
City Parcels
Successor Agency Parcels
Potential Participating Parcels
City Boundary
City Boundary