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OPEN LETTER TO THE CITY COUNCIL & CITY ATTORNEY

May 27, 2008

City of Seal Beach
211 8th Street
Seal Beach, CA 90740

Dear Mr. Sloan, Mr. Miller, Mr. Levitt:

In the interest of good government – of accountability, rationality, fairness and prudence, I am asking you to please defer in your vote tonight, for now, setting any date for bringing an expensive and divisive Initiative on Residential Height forward. While our Committee welcomes a vote by the people of the City on this and other vital property issues, in good time, with good information available to them, that time is not now. Any election calendar needs to be presently tabled in the interest of fact-finding and truth-telling first.

What is the urgency of this proposed Initiative? The economy has tanked, there is no prospect of any residential third story building on speculation – there are 38 homes right now in Seal Beach under threat of foreclosure, did you know that?

The little flurry of new plans and permits sought by wider lot owners like me under duress from Mr. Antos' and Mr. Shanks' downzoning aggression – those half dozen property owners are already taking their steps to build under the existing code. So who is the City "urgently" protecting itself from with this \$60,000 election? Nobody.

The only urgency on the timeline is "incumbent protection" for Mr. Antos' and Mr. Shanks' political careers, but that is not your responsibility. Your responsibility is good stewardship to the City, and all the families who live here, and own homes here – and good stewardship means if there is to be a vote, it should be a calm, rational and informed vote. We are nowhere near there yet.

To set any election date tonight is to act in a vacuum, to rush forward on no more than a foundation of Mr. Antos' lies and a whole series of the City's procedural violations thanks to the City Attorney – and I am going to give you good reasons why you need to stop City Council advancement of this matter for the time being.

A fall election will tear this town further apart, because pushing on now can only be based on emotion, not on facts – we have no facts to support the necessity for a retroactive height limitation, and we have no facts to account for what it will mean legally, demographically, economically for the City. An immediate vote will waste money, tens of thousands of dollars, when the City is effectually bankrupt with unfunded obligations. It will set a calendar that will ruin everyone's summer and shatter family plans for those of us with kids. Perhaps most importantly, it will complicate deeply serious and troubling legal questions that are already coming under investigation, while actually solving nothing –

while it embitters and enflames passions that have already been fecklessly and irresponsibly stoked by a few men's shabby and low political ambitions.

Here's why: The City's actions surrounding Ordinance 1569 and before it, Ordinance 1553 have been so tainted, so grossly irregular, so thuggish, and so overtly unethical and illegal that there is simply no public confidence left in this process, or in the City Attorney's ability to perform his duties as required in the initiative process. Because of its unethical practices, we have had to become adversaries of our own City, we have Ordinance 1569 under Referendum strictures, and we are drafting legal investigative complaints against actions you, the City Council, have already taken by advice of City Counsel. You do not need to compound these difficulties for the City tonight – and I implore that you not do so.

You need to stop for now, and assess the City's position, and assemble a team of people who can get the factual background on the public policy question of retroactive height limitations properly presented to you, before deciding the propriety and wisdom of initiating a public vote on it. You should not have voted on Ordinance 1569 based on rumor, without knowledge and facts – the people deserve to vote knowing the facts – and the facts have been systematically concealed and distorted from everyone involved by the City to the point of fraud.

Indeed, it is possible that this whole mess may rise to the level of criminal and civil rights violations before the investigators are through with it. If Antos and Shanks succeed with their regulatory takings against the lot-and-one-half owners under any rubric, the City will surely face and likely lose a very costly class action takings lawsuit it can ill-afford. You do not want to further compound and complicate this dismal record by acting precipitously tonight.

Mr. City Attorney Barrow is not impartial; he has an undeniable financial interest in promoting this fight, he has financially benefited tremendously from all this strife and nonsense, and he has acted as an advocate for Mr. Antos' downzoning agenda from the outset. He publicly voiced his contempt for the legal requirements for public notification and the Brown Act during the Referendum on Ordinance 1553, and I do not believe his advice to you new City Council members now has been in the best interests of the City or your own legal propriety. I do think it has immediately served Mr. Antos' and Mr. Shanks' political agenda, and has made for a whole lot of billable hours. We are filing for disclosure of all of Mr. Barrow's invoicing of the City throughout Mr. Antos' tenure, which will include Mr. Shanks' tenure as well.

To all appearances, this City has at the advice of Counsel conspired against the people in repeated violations of the Brown Act, violated normal and legal legislative and administrative procedures, and congratulated itself for it – and the public perception of City Hall corruption and duplicity is now so palpable that no Residential Height Initiative presently called is going to solve our crisis of community. There are far deeper matters which must first be publicly addressed.

I call upon you, the new City Council, to distance yourself from further implication in this deplorable record, and to impose a cooling down period, right now, while some kind of authentically objective, professional and ethical intervention can be brought into this process. Tonight, none of us can yet fully know the very grave consequences that loom over the City's actions which have already transpired.

But I will remind you that my Committee can readily pursue legal relief from the mess Mr. Antos, Mr. Shanks and Mr. Barrows have you and the whole City in, through petition for possible Grand Jury investigation, and investigation by the Public Integrity Division of Orange County District Attorney of the City's actions surrounding Ordinance 1569. Under the Public Records Act of California, we will find out precisely how this agenda has unfolded without the public's adequate and proper legal notice, knowledge and participation.

Further, we are going to discover why City Staff and the Planning Commission have colluded to the point of fraud in consistently and systematically withholding relevant data, including vital municipal economic analysis, and in misinforming the voters and homeowners in Seal Beach about how many and what kinds of private properties would be affected by downzoning, and what those effects would be.

Mr. Antos, Mr. Shanks, and Mr. Barrow:

You clearly continue to think that you are above the law, and that you can continue to ignore the letter and the spirit of the Brown Act with impunity and void your obligations to adhere to the statutory notice requirements ([California Government Code § 65091](#)) and the Brown Act ([Government Code §§ 54950-54962](#)). This is not the case. You are going to be held accountable. You cannot unlawfully mug us one night at midnight with some pre-orchestrated stab in the back, then waltz in and think you can undo it with another pre-orchestrated backroom deal two weeks later – and somehow, all the illegality is going to cancel itself out.

Councilmen, please. Just STOP, get some professional, truthful legal and policy advisors on board who will at least admit their advocacy and bias if they have picked sides – instead of lying about it – and for the good of the City let’s try to compile some actual data on the economic and fiscal impact of what is proposed, and the legal implications of the City retroactively targeting this small and discrete minority of property owners – you are realistically talking about a handful of 37.5 foot wide lots here, little more, nothing remotely like the falsified and inflated numbers of properties put out for two years by the scaremongering City Staff.

I would ask Lee Whittenberg and the Staff just how desperate is the danger posed of radical “change” to the City from this minority of homeowners, presently? Just how many evil developers over the next year are you likely to halt if you rush to this Initiative now, and the City should prevail against property owners? And what about all the unintended consequences, all the things like citizens with their “plans in the pipeline” that no one has even thought about?

Please, you need reliable knowledge to act wisely. You are City stewards. Put this very crucial action on hold until facts are made available and reason can prevail.

Sincerely,



Mary P. Lewis
President, Chairman of the Board
Save Our Seal Beach, Inc.