



November 21, 2011

California State Lands Commission
Gavin Newsom, Lieutenant Governor, Chair
John Chiang, State Controller, Member
Ana Matosantos, State Director of Finance, Member
100 Howe Avenue, Suite 100-South
Sacramento CA 95825

Re: *Request that the State Lands Commission hold a public hearing in San Francisco before approving the proposed sale of publicly-owned Seawall Lot 351 for the construction of private residential high-rise towers on the waterfront and that Chairman Newsom recuse himself from voting on a project proposed by his Mayoral Administration*

Dear Chairman Newsom and Commissioners,

On behalf of the Telegraph Hill Dwellers, a San Francisco neighborhood organization founded in 1954 with a deep dedication to our unique and historic waterfront, I write to request that you schedule a public hearing in San Francisco on the proposed sale of Seawall Lot 351 to a private developer who plans, as part of the "8 Washington Project," to construct private luxury condo high-rise buildings on this publicly-owned waterfront land. I also respectfully request that, in order to avoid any question about the Commission's impartiality in regards to this project, Chairman Newsom recuse himself from voting on a project that was initiated by his administration while he was Mayor of San Francisco and continues to be strongly supported by his political appointees.

At two public meetings last week, the private developer wishing to purchase this public property made representations to the San Francisco Port Commission and to a Citizen's Advisory Group on which I sit indicating that the State Lands Commission's approval of their purchase of publicly-owned Seawall Lot 351 was effectively a "done deal." I ask that, before you approve any such "deal," you hold a hearing in San Francisco to hear from the people who will be most directly affected by the permanent loss of this prime piece of public land.

Seawall Lot 351 is a unique parcel of waterfront property located across from the historic San Francisco Ferry Building. Seawall Lot 351 is also subject to the public trust. As you know, in California the "public trust doctrine" limits the use of trust lands to water-dependent or related uses such as commerce, fisheries, navigation, environmental preservation and recreation. Uses that facilitate public enjoyment of the Bay, such as public parks and open space, restaurants, shops, and supporting parking areas are also considered "public trust-compliant uses." However, non-water-oriented and exclusively private uses – such as the residential luxury condo buildings proposed for Seawall Lot 351 – are not considered public trust uses. These proposals are generally not allowed on public trust land since they could be built elsewhere and do not facilitate the general public's enjoyment of San Francisco Bay.

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Therefore, without special legislation, unless the members of the State Lands Commission vote to approve the special arrangement being proposed by the developer who wishes to construct high-rise condo buildings on Seawall Lot 351 on San Francisco's waterfront, this land will remain public land subject to uses that facilitate the people's enjoyment of San Francisco Bay. A coalition of neighborhood associations released a comprehensive waterfront planning study earlier this year which recommended that a viable trust-consistent use for Seawall Lot 351 would be for a new "Waterfront Bike and Transit Center." The Waterfront Bike and Transit Center – with bike storage, showers and lockers, bike repair, a café, bike rentals, car share, and recreation related retail – would complement the existing active recreation uses in the area, create recreation synergies with the nearby Ferry Plaza Park, and establish this prime waterfront location as a major new "green" destination that would draw visitors and residents alike and would facilitate their enjoyment of San Francisco Bay.

Instead, the proposal to construct a series of private luxury residential condos on Seawall Lot 351 would entirely remove this land from the public trust and permanently prohibit the public from utilizing it to enjoy San Francisco Bay. As a trade-off, the developer has proposed a "public trust exchange" that would substitute 3 smaller parcels in the area for Seawall Lot 351 and allow public access to those properties. However, that is a questionable deal since none of those substitute parcels is as large as, or occupies such prime waterfront-facing real estate as, Seawall Lot 351. Moreover, the recently released plans for these "exchange" properties indicate they would mostly be used as concrete walkways and thoroughfares, rather than active, programmable recreation areas or a large-scale public park.

While the developer made it clear at last week's public meetings that they believe they have pushed the sale of Seawall Lot 351 onto the political "fast track" at San Francisco City Hall, we know that the State Lands Commission has a much broader public interest in mind – the stewardship of San Francisco's very limited waterfront public lands in a manner that best facilitates the ability of the People of California to use and enjoy San Francisco Bay. To that end, we hope that the Commission's consideration of these plans is not "pre-approved." And we request that the State Lands Commission schedule a public hearing in San Francisco early next year to hear from the people who live, work, and recreate in the area around Seawall Lot 351 and who can testify directly about the impact of the proposed conversion of this public land into private high-rise residential condo buildings that will be forever closed off to the public.

Moreover, it is crucial that the State Lands Commission be perceived as entirely impartial in regards to its decision on this matter. Since this proposal was initiated under the administration of Chairman Newsom while he was Mayor of San Francisco, and since his political appointees at the Port of San Francisco and elsewhere are strongly supporting the developer's proposal, we also respectfully request that, in order to avoid any question about the Commission's impartiality in regards to this project, Chairman Newsom recuse himself from participating in or voting on any State Lands Commission matters involving this project.

Thank you very much for your time and consideration.

Sincerely,



Jon Golinger
President
Telegraph Hill Dwellers

cc: Curtis Fossum, Executive Officer, State Lands Commission
Grace Kato, Public Land Management Specialist, State Lands Commission
Office of the California Attorney General