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February 7, 2017

Mr. Craig Chalfant, Senior Planner
Development Services Department
City of Long Beach
333 West Ocean Boulevard
Long Beach, CA 90802

Via email craig.chalfant@longbeach.gov

Re: Environmental Impact Report for the Belmont Pool Revitalization
Project, SCH No. 2013041063

Dear Mr. Chalfant:

This letter is submitted on behalf of Long Beach resident, Gordana Kajer, as part of the environmental process for the Belmont Pool Revitalization Project ("Project"), also known as the Belmont Beach and Aquatics Center.

As the City has acknowledged, the Municipal Code requires the installation of story poles to provide City residents and officials with information about the scope, size, and view impacts that the Belmont Pool Revitalization Project will have that the City and the public can determine whether the project, as proposed, is appropriate or desirable. (Long Beach Municipal Code section 21.21.302(5)(b).) Similarly, the California Environmental Quality Act ("CEQA") was enacted to ensure that government officials and the public are informed about a project's potential environmental impacts *before* any final decisions about a project are made. (*No Oil, Inc. v. City of Los Angeles* (1975) 13 Cal.3d 68.) These impacts include impacts on views, aesthetics, and recreation. (see, e.g., *Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396.)

The Belmont Pool Revitalization Project will construct a 125,500 square foot indoor-outdoor pool and café complex in the place of the 45,595 square foot pool complex that was recently demolished. (DEIR p. 3-25.) In addition to tripling the size of the building onsite, the Project will also increase the height of the building that will house the indoor pool to 71 feet. (*Ibid.*) When the 7-foot-tall concrete base is included, the Project building will be 78 feet tall – 18 feet and nearly two stories higher than the highest point of the former pool building. (December 15, 2016 Planning Commission Staff Report, p. 1.) The draft EIR failed to account for the height of the concrete base in

its descriptions of the Project, misleading the public about its impacts, until the final EIR and errata were released in August 2016. The bubble structure will be 300 feet long, when measured north to south and measure 200 feet long, east to west. As a result, the Belmont Pool Revitalization Project will be more prominent and of much greater mass and scale than the previous building, and ocean views from E. Ocean Boulevard, S. Termino Street, and E. Midway Street will be diminished. The building's additional height will also block ocean views from further away than under the former pool building. The Project will dominate eastward views from those strolling the Belmont Pier. (Fig. 4.1.3, 4.1.6) While private views will also be affected, these are *public* views, protected by CEQA, the California Coastal Act (Pub. Resources Code § 30251 ["Permitted development shall be sited and designed to protect views to and along the ocean and scenic coast areas"]), and the City's General Plan (*see, e.g.*, Open Space and Recreation Element–Policy 1.2). Public views inland of sky and trees of boaters and of users of the beach pedestrian and bike paths will be impeded.

On December 15, 2016, the City agreed to install a single story pole at the Project site in an attempt to satisfy Long Beach Municipal Code section 21.21.302(5)(b). Although, as evidenced by the public challenge to the City's failure to require sufficient poles, multiple story poles would provide the public and City officials with a greater understanding of the Project's scope, size, and its impacts on public and private ocean views, even the installation of the contemplated single pole is important to understand the impacts of the Project. As the City noted in the staff report accompanying the adoption of the story pole ordinance, "When story poles are in place, observers can get an accurate sense of the size and scale of proposed construction projects." (August 19, 2008 City Council Staff Report, p. 2.) Unfortunately, we have been informed that the City will not be revising or recirculating the final environmental impact report (EIR) prepared for the Project, which was released in September 2016.

The City's refusal to revise the final EIR to include the information obtained from story pole installation and to recirculate the final EIR is contrary to state law (CEQA) and the City's Municipal Code. First, the entire purpose of the story pole requirement is to demonstrate to the public a project's size, scale, mass, and impact on views so that this information is available during the public hearings and City consideration of a project. Section 21.21.302 (5)(b) provides, "Building height variance applicants shall erect story poles which accurately represent the full extent of the proposed structure...including decks and eaves." In order to provide sufficient time for the public and City decisionmakers to see the poles, they are required to be installed "at least fourteen (14) calendar days prior to the first public hearing." (*Ibid.*) The Code also requires story poles to "remain in place through the end of the appeal period."



The City's EIR aggregates information about a project, including its size, scale, and impact on views and aesthetics for the ease of the public and City officials. The failure to incorporate into the EIR the information derived from story pole installation negates the purpose of the Municipal Code requirement. A law should not be construed so as to render its purpose ineffective. (*People v. Pieters* (1991) 52 Cal.3d 894, 901.)

Second, the failure to incorporate the information obtained from story pole installation is contrary to the requirement that the City "find out and disclose all that it reasonably can." (CEQA Guidelines § 15144.) Since the City is required to install the story pole, it is perfectly reasonable to include the information obtained from that installation in the EIR. This is particularly important, given that the final EIR did not thoroughly disclose the Project's adverse aesthetic impacts.

Moreover, while the CEQA baseline for analysis is normally the existing environmental conditions at the time the Notice of Preparation is released, it must be noted that the previous building was demolished in February of 2015, opening long-obstructed views of the beach and ocean to members of the public, nearby residents, and users of the pedestrian and bicycle paths. Thus, the current baseline for analysis of the Project's aesthetic impacts is this wide open viewshed, all of which will be obstructed by the Project's construction. This is a significant impact on ocean and beach views that have been enjoyed for two years. The loss of these public and private views should be disclosed, analyzed, and mitigated to the extent possible.

Finally, CEQA requires recirculation of an EIR whenever significant new information is added. (CEQA Guidelines § 15088.5.) Significant new information includes "new data" such as that which will be generated by the story pole. (CEQA Guidelines § 15088.5 (a).) Since the story pole will be the best demonstration yet of the Project's scope and scale, its impact on aesthetics, and its impacts on public and private scenic views, it will be significant new information that requires recirculation before the City may approve the Belmont Pool Revitalization Project.

We are further informed that on December 14, 2016, the night before the Planning Commission meeting regarding the story poles, the City's website link to the "Aesthetics" chapter of the EIR was nonfunctional. Ms. Kajer confirmed with Long Beach Development Services staff that the website link was broken, and that it was a "known issue" the City was working to resolve. Consequently, the full EIR was unavailable for review and comment during the public comment period as required by CEQA. Recirculation of the EIR is required to satisfy CEQA's public participation purpose. Environmental review derives its vitality from public participation. (*Ocean View Estates Homeowners Ass'n, Inc. v. Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 400.)

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Thank you for your consideration of these comments. We look forward to the City's recirculation of the EIR once the story pole has been installed and information derived from its placement has been incorporated into the aesthetics chapter.

Sincerely,

Michelle N. Black