

***Ron Packard***  
115 Doud Dr.  
Los Altos, CA 94022

October 29, 2021

City Council  
City of Los Altos  
One San Antonio Road  
Los Altos, CA 94022

Re: 40 Main Street Settlement proposal  
Special City Council meeting November 2, 2021

Dear Mayor and City Council,

This letter is regarding the Special City Council meeting scheduled for 7:00 PM on November 2, 2021. My concern is that the City may be allowing the Sorensens to negotiate base on threats of litigation. As someone who has suffered this for many years, I thought you may benefit from my experiences.

First, however, is the sound approach to avoid litigation, when possible, but not to let a threat become a controlling negotiating weapon. When their SB 35 application was filed, that procedure was new and the City, unfortunately, failed to meet the required standards, and the Sorensens won on a petition hearing only basis. That is far different than wining a trial with live testimony with the burden of proof on the plaintiffs.

The only trial the Sorensens have undergone was a ten-day arbitration hearing before JAMS, with retired Judge Jack Komar selected by both sides as the arbitrator. There were over 20 witnesses. The judge rejected all their claims and gave little to no credence to their testimonies.

The Sorensens testified extensively regarding their development efforts arguing that they were the victims of unfair delays and treatment by the City. Judge Komar rejected these claims, awarded the outside investors the return of their entire \$1,136,000 investment plus 10% interest for ten years due to the misrepresentations by the Sorensens, and stated that the investment had been mismanaged. If their current threats to the City involve any time period overlapping the arbitration award, then they there likely is collateral estoppel preventing them from renewing those claims against the City.

He also ruled that the failure to obtain permits was due to the Sorensens' failure to propose a building that met city zoning standards, and that no evidence had been presented to establish any impropriety by me as a public official. A few of his findings are as follows:

Respondents [Sorensens] take nothing on their cross complaint. (p. 5)

Claimants [outside investors] are entitled to an award vacating each of their investments based upon negligent misrepresentations of fact upon which they individually relied and which induced their investments in 40 Main Street Offices LLC. (p. 3)

The LLC [Company] has been mismanaged and economically damaged . . . (p. 16)

The failure to obtain approval for the proposed three-story office building was caused by the failure to propose a building that met city zoning standards or acceptable provisions for waivers of some zoning provisions. There were two predominant causes that the evidence established as the cause for the rejection of the application to the city: city height limitations and the inability to satisfy city parking requirements, which could not be satisfied by a three-story building, and the refusal to propose a lesser building which could have been approved within a short period of time after formation of the company. (p. 26)

. . . the evidence established that Mr. Packard as a councilman and an adjacent property owner recused himself from any part of the city's processes in considering the 40 Main Street plan and there was no physical or other evidence of improper conduct by him at any time . . . (p. 27)

. . . there was no evidence presented to establish any impropriety by Mr. Packard as a public official . . . (p. 28)

Dissatisfied with the arbitration Final Award, the Sorensens filed a motion to vacate it arguing that the arbitration had been “corrupted” by Judge Komar due to his failure to disqualify himself as the arbitrator and by my serving as one of the attorneys. Judge James L. Stoelker heard the matter, rejected their claims, and confirmed the award.

Rejecting Judge Stoelker’s decision, the Sorensens filed a flurry of new lawsuits against JAMS, the outside investors and me. The lawsuit against JAMS claimed that Judge Komar had engaged in gross negligence and concealment, thereby corrupting the arbitration, and asked for damages against JAMS in excess of \$2,500,000. They sued me in part because I spoke at a city council meeting. JAMS and I filed separate Anti-SLAPP and related motions to dismiss or strike all their pleadings. These were heard by Judge Peter H. Kirwan who granted the Anti-SLAPP motions and struck the related filings by the Sorensens. In this order, he provided a rather frank description of the Sorensens tactics:

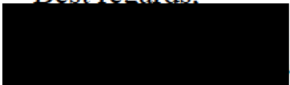
Their supplemental brief contains too many logical, legal, and factual errors to recount herein. Even looking beyond these errors, Managers [Sorensens] do not otherwise identify and substantiate any legal or factual premise from which the Court can independently conclude the postarbitration pleadings are permissible. [¶] Instead, Managers adopt the unsupported conclusion that the post-arbitration pleadings are proper as the premise for a series of disjointed statements about the doctrine of res judicata.

His description of their tactics is consistent with my prior experience when Ted Sorensen filed multiple complaints against me with the Fair Political Practices Commission (FPPC). His first verified complaint was without any evidence or supporting documents, other than one picture of my building. That complaint contained multiple disjointed statements coupled with

numerous factual errors. The FPPC sent me a copy of his complaint and invited my comments. I provided a detailed response with multiple exhibits. The FPPC dropped the matter. Thereafter, Ted Sorensens filed a separate verified complaint alleging over 30 supposed violations by me, without any supporting evidence or documents. This time the FPPC dropped the matter on its own, since I never received a copy of the complaint from it nor a request to respond.

In conclusion, my simple request is for you to base your decisions on what is best for the City, and recognize that if you adopt the proposed agreement, be prepared to be threatened with future litigation if the Sorensens do not get their way on the subsequent application.

Best regards,



Ron Packard