
2902 Adeline St. Compromise

1 message

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Dear Berkeley City Council and Staff:

I hope this email finds you well in spite of a very frustrating City Council meeting last night.

As I stated in my public comment, we at the East Bay Community Law Center have been working with the Friends of Adeline and the neighbors of 2902 Adeline Street to ensure that Realtex is responsive to South Berkeley community needs especially when it comes to addressing displacement and housing affordability.

Despite refusing to negotiate with us directly for over seven months, and also rejecting an opportunity for mediation from the Office of Economic Development, we were encouraged by Realtex' invitation to its public presentation last Thursday, March 2, 2017. There, the community learned of Realtex' offer of community benefits to build 4 affordable units (2 VLI, 2LI), pay \$884,000 in-lieu fees, and contribute \$100,000 to a community benefit fund. The community was united in its call for building 30% affordable units **on-site**, thereby waiving any in-lieu fees. I had mentioned to Cody Fornari (Realtex) that Realtex could potentially partner with a nonprofit developer to reach this 30% on-site construction goal. Cody did not give any assurances, but expressed willingness to speak to me before the City Council meeting on March 7th.

Cody followed up with me by phone the next evening, and we were able to arrange a phone call on Monday, March 6, 2017 at 4:30pm. My colleague, Hewot Shankute, and I spoke with Cody at length. He informed us that although Realtex could in no way build 30% on-site even with nonprofit developer subsidies, it would be able to build 20% affordable units on-site, pending on him "re-visiting the numbers."

At this point, we reiterated that building 20% on-site meant that **no in-lieu fees** would be paid, which he responded in the affirmative after he had asked us to explain why the community would rather have units built on-site as opposed to having developers pay the fees. We ended the call at 6pm with us promising to take this offer back to the community and call him by noon the next day—the day of the City Council meeting.

At first, many in the community balked at the 20% on-site offer, preferring 30% to be built. However, in good faith and with a genuine desire to compromise for the sake of building housing, many community leaders stepped up to the plate to convince others to take the deal. While this was happening, Hewot and I had called Cody at noon to explain that we did not yet have consensus in the community and needed to know for sure that Realtex would be able to build 20% on-site. At this point, Cody was disappointed and frustrated that the community was asking for more, and stated that Realtex would indeed be able to build 20% affordable units on-site and that was the best he could do.

At 6pm, the community reached consensus to take the 20% on-site offer + \$100,000 contribution and enforcement of construction standards. I called Cody right away to let him know the great news and he was ecstatic—he thanked us for our hard work in organizing the community and we assured him that we would speak in favor of upholding the ZAB decision in exchange for Realtex' voluntary concessions. Given the time constraints, I sent Cody and Chris Schildt (Friends of Adeline representative) a draft memorandum of understanding (MOU) with the intention of hashing out more concrete and specific terms within 30 days of signing the MOU, which I've attached for your reference. I had asked Cody on the phone to let me know if he had any issues with the draft MOU before the meeting and that I'd be available to speak with him to address any of his concerns—I did not hear from him, so I assumed everything was fine.

Although the promise to build 20% on-site was only discussed in terms of percentage, we have many reasons to believe that Cody and the community had reached a meeting of the minds in that 20% on-site meant building 10 affordable units (20% of 50 market-rate units).

- First, when Cody revealed on public record that Realtex would build 8 units (4 VLI, 4LI), he included that it would also pay \$64,000 in in-lieu fees to satisfy the Berkeley Affordable Housing Mitigation Fee Ordinance, thereby contradicting his current claim that building 8 units alone would satisfy the 20% on-site promise. This also contradicts our understanding on the phone that the community does not want Realtex to pay in-lieu fees, but rather reach 20% by building all units on-site.
- Second, we reiterated on the phone many times that building 20% on-site meant building 20% of the 50 units—I even mentioned that in a perfect world the 20% would include all 54 units (referring to the 4 live/work units), but that we understand that local code would only require 20% of 50 units. Reporters have informed us that Cody is claiming the requirement is 20% of 42 units because only 42 units are market-rate, but this logic makes no sense, as 42 units is the number of market-rate units **only after** one makes the 20% calculation, which defeats the purpose of making a 20% calculation in the first place.
- Third, once the deal was made, we contacted Councilmember Bartlett's office and confirmed that their understanding of 20% on-site from their discussions with Realtex meant 20% of 50 units (10), as well.

For these reasons, the community is shocked and appalled by Realtex' actions throughout the last 20 months and especially in the last two days. The community is often painted as unreasonable and NIMBY, but last night showed otherwise. Community members want housing for all income-levels and are able and willing to compromise when given a proper seat at the table and the opportunity to negotiate with a developer who comes in good faith. It is unfortunate that Realtex could not be that developer last night, and although our doors always remain open to Realtex for dialogue, we find it necessary to tell our side of the story and hope for the continued support of Berkeley City Council and staff.

Thank you and please do not hesitate to reach out if you have any questions or concerns.

Respectfully,

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