

March 14, 2024

*Sent via Email and U.S. Mail to:*

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CITY OF SAN DIEGO

Attn: Mayor Gloria and Councilmember Campbell  
202 C Street, 10<sup>th</sup> and 11<sup>th</sup> Floor  
San Diego, CA 92101

**Re: SUSPEND SPENDING ON NTC-H-BARRACKS HOMELESS PROJECT  
PENDING SUPREME COURT'S GRANT OF CERTIORARI**

**Project:** NTC H-Barracks Homeless Facility  
**CIP #:** S-24010  
**Letter #:** 1 of 9

Dear Mayor Gloria and Councilmember Campbell,

Our law firm represents Point Loma CARES, a neighborhood and community-based nonprofit association located near the Barracks H site where the City of San Diego (“**City**”) intends to create a facility for a significant number of unhoused residents of San Diego.

We write today to express our significant concerns and objections regarding the proposed establishment of a facility for the unhoused adjacent to San Diego International Airport in the asbestos-ridden H-Barracks area (“**Homeless Project**”).

While we acknowledge the urgency of addressing the homelessness crisis in our city, especially as the City nears its maximum capacity of beds, we strongly believe that the Homeless Project raises numerous legal, health, economic, and environmental issues that must be thoroughly evaluated before moving forward.

We believe that a comprehensive legal review is necessary to ensure compliance with all applicable laws and regulations. As such, this letter is part of a series of legal assessments that the City will receive, outlining each issue in more detail.

**1. Improper Exemption of CEQA:**

We question the application of a CEQA exemption the City claimed under CEQA 10561(b)(3). The Homeless Project does not qualify for an exemption under the “common sense exemption” as it poses significant environmental and public health concerns. A complete CEQA analysis is necessary for a project of this significance.

## **2. California Coastal Commission Waivers:**

We are concerned that the California Coastal Commission may have issued waivers without properly evaluating the Homeless Project's compliance with coastal regulations as well as may have advised the City in the preparation and submission of applications to evade proper procedures.

## **3. Zoning and Land Use Regulations:**

We have identified significant potential violations of zoning and land use regulations governing the establishment of such facilities in the proposed asbestos filled location. The sites environmental toxicity further complicates matters and may necessitates additional legal assessments, especially considering the currently pending firefighter lawsuits concerning this site.

## **4. Health, Welfare and Safety:**

The Homeless Project's proximity to the airport presents significant safety challenges, including potential impacts on airport operations, concerns about crime and security, and risks to nearby families and children due to the facility's location near playgrounds and schools.

Moreover, the site is filled with asbestos and the abatement process cannot be rushed for the sole purpose of meeting city deadlines. Sanitary conditions including but not limited to managing waste, providing clean water and preventing the spread of diseases within the area pose significant challenges that must be addressed properly.

Furthermore, the site's proximity to the airport raises concerns about noise pollution, air quality and other environmental factors and exposes the most vulnerable of our population to further health risks.

## **5. Economic Impact:**

We have concerns about the potential economic repercussions, including a downturn in the hospitality and tourism industries as well as property values due to safety concerns leading to financial losses to businesses and the City.

## **6. Construction Costs & Operating Costs:**

Public records indicate that construction costs alone will be a significant sum for what will be a short-term, temporary shelter that will exist no more than a few years before it is closed and turned into a water treatment facility. We strongly believe that these funds would be better used on permanent solutions further away from the airport terminal, such as a permanent shelter solution at the central library in downtown San Diego.

While the City's 2023 Comprehensive Shelter Strategy report does not even account for any operating and maintenance costs, we estimate such costs to be significant.

## **7. Infrastructure Strain:**

The building of this Homeless Project in the proposed location may place significant strain on existing infrastructure, including transportation networks, utilities, and emergency services. Adequate

planning and investment in infrastructure upgrades may be necessary to accommodate the influx of people and ensure the safety and well-being of both shelter occupants and surrounding communities.

#### 8. Pending Legal Precedent:

We draw particular attention to the **pending** Supreme Court decision in the case of City of Grants Pass v. Johnson. This case raises crucial constitutional questions regarding homelessness mitigation efforts and the enforcement of anti-camping ordinances. Given the potential impact of this decision on the legality and necessity of the Homeless Facility Project, we urge the City of San Diego to halt any further action on this Homeless Facility Project until the Supreme Court provides clarity on the matter which will be only four short months away in July 2024.

Moreover, in support of the Petitioner, the San Diego County District Attorney filed an amicus brief raising additional concerns. Attorney Summer Stephan notes that under current law, the City of San Diego might have to allow the use of stoves or open fire in its shelters, posing health and safety concerns.

In conclusion, we believe that a comprehensive evaluation of alternative solutions is necessary. It is imperative that the City carefully considers the broader implications of this Homeless Project and engages in meaningful dialogue with the community before proceeding.

And until the Supreme Court clarifies the Ninth Circuit's decision in City of Grants Pass v. Johnson or reverses it, the City is obliged to take a "**wait and see**" approach. Any spending while the law is in flux is irresponsible and reckless.

We appreciate your attention to these matters and urge you to give careful consideration to our concerns. We trust that you will devote whatever is necessary to properly, fairly, and in good faith analyze all aspects of any proposed solutions, concerns, or issues put forth by your constituency. We are willing to engage in further discussion and collaboration to address the homelessness crisis in a manner that is both effective and equitable for all stakeholders.

Sincerely,

**G10 LAW**  
a Professional Law Corporation



**MELANIA MIRZAKHANIAN, Esq.**

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