



**ALESHIRE &  
WYNDER LLP**  
ATTORNEYS AT LAW

ORANGE COUNTY | LOS ANGELES | RIVERSIDE | CENTRAL VALLEY

William W. Wynder  
wwynder@awattorneys.com  
(310) 527-6667

2361 Rosecrans Ave., Suite 475  
El Segundo, CA 90245  
P (310) 527-6660  
F (310) 532-7395

AWATTORNEYS.COM

August 25, 2017

**VIA E-MAIL & FIRST CLASS MAIL**

Framroze Virjee, Esq.  
CSU Executive Vice Chancellor &  
General Counsel  
Secretary to Board of Trustees  
California State University  
401 Golden Shore  
Long Beach, CA 90802

Subject: Determination of Lead Agency for the Environmental Review of the  
California State University Dominguez Hills Master Plan ("CSUDH-MP")

Counsel:

We are the City Attorney for the City of Carson. Your letters of August 21 & 22, 2017, respectively, have been referred to us for a response. Regrettably, you deny Carson's position as the "lead agency" for all California Environmental Quality Act ("CEQA") environmental review of the draft California State University, Dominguez Hills 2018 *Master Plan Revision*. For that reason, in addition to responding to your letters, we are directed to reiterate our client's intention to seek a "lead agency" determination from the State Office of Planning and Research ("OPR").

Your letter asserts that "[a]ll aspects of development contemplated within the CSUDH-MP are on state land, over which the City of Carson has no jurisdiction," and "the CSU Board of Trustees is the Lead Agency for all CEQA approval actions involving projects sited on state property under the control and jurisdiction of CSU."<sup>1</sup> Putting aside, for the moment, whether CSUDH *even* holds the legal authority to provide "new housing units within the University Village that will be made available for faculty, staff, graduate students, and *the general public*" (*Campus Master Plan 2018 Initial Study*, Page 7 *emphasis added*), any such hypothetical revenue-producing endeavors made available to the general public certainly must comply with land use regulations and permitting requirements promulgated and enforced by the City.

///

---

<sup>1</sup> These incorrect claims bring to mind the words of famed trial lawyer and the sixteenth President of United States of America, Abraham Lincoln: "[i]n law it is good policy to never plead what you need not, lest you oblige yourself to prove what you cannot." *The Collected Works of Abraham Lincoln* edited by Roy P. Basler, Volume I, "Letter to Usher F. Linder" (February 20, 1848), p. 453.

When a university is engaged in a revenue-producing activity unrelated to the educational functions of the university, the doctrine exempting state entities from local regulation is wholly inapplicable. (*Board of Trustees v. City of Los Angeles* (1975) 49 Cal.App.3d 45, 50.) CSUDH's plan to offer "market-rate housing," retail uses, and business park uses, absent seeking land use authority and necessary permits from Carson, would be both unlawful and would put Carson housing providers and the developers/operators of retail and business park land uses at a competitive disadvantage condemned by the courts.

"Even less defensible is the university's attempt here to extend its immunity to private entrepreneurs who are involved in the local commercial market where their competitors are subject to local regulation." (*Id.*) As a result, development of a "University Village," as contemplated within the CSUDH-MP, even if on state land, falls squarely and solely within Carson's land use and permitting authority. Your reliance on 14 CCR § 15051(a) is misplaced. The CSUDH-MP is not merely "located within the jurisdiction of" Carson, the "University Village" elements of the CSUDH-MP, at a minimum, will **require** City land use and permitting approvals.

Under CEQA, when a project involves two or more public agencies, ordinarily only one agency can serve as the lead agency. (Guidelines, §§ 15050, 15051.) CEQA thus distinguishes lead agencies from responsible agencies: whereas the lead agency has "principal responsibility" for the project (here, the City of Carson at a minimum with respect to any "University Village"), a responsible agency (here, CSUDH) is "a public agency, other than the lead agency, which has responsibility for carrying out or approving a project." (Pub. Resources Code, §§ 21067, 21069.)

As discussed above, the City **alone** must oversee proposed revenue-generating and on-campus housing offered to the general public. Furthermore, approving the planned retail uses, market-rate housing, and business park will be tasks for the City; these uses are not "solely" for the educational purposes of the University and, as such, will not be exempt from the City's land use and permitting processes. (*Regents of University of California v. City of Santa Monica* (1978) 77 Cal.App.3d 130, 136 [a university is exempt from local land use and permitting authority "in construction of improvements **solely for educational purposes**"].) We reiterate, when CSUDH is engaged in revenue producing activities not "**solely for educational purposes**," the exemption of state entities from local regulation no longer applies. (*Id.*, *Board of Trustees, supra*, 49 Cal.App.3d at 50.)

Moreover, the City has, at a minimum, an equal stake with CSUDH in every aspect of the MP. In addition to the MP's certain impacts on traffic, utilities, community aesthetics, potential for visual blight, community congestion, site massing and density, building articulation, and the assessing the impacts of the MP on the overall character of the City, changes to CSUDH's campus fall under and are specifically addressed in the City's General Plan (with which the CSUDH-MP must be consistent).

August 25, 2017

Page 3

As a result, the City carries principal responsibility over CSUDH's *Master Plan Revision* and, accordingly, shall be the lead agency in any CEQA review of the same. It is regrettable, indeed, that the University chose to wholly ignore consulting with the City in making the determination who should act as the "lead agency" for this CEQA review. We are in accord with the Carson Mayor in observing that such action was "insulting to the City and just plain 'bad manners.'"

Very truly yours,



William W. Wynder  
of ALESHIRE & WYNDER, LLP

Copies:      Honorable Members of the Carson City Council  
                 Mr. Kenneth C. Farfsing, City Manager  
                 Sunny Soltani, Esq., City Attorney  
                 Mr. John R. Raymond, Director of Community Development  
                 Dr. Maria Slaughter, Director of Public Works  
                 Mr. Timothy P. White, CSU Chancellor  
                 Dr. Willie J. Hagan, President, CSUDH  
                 Ms. Naomi Goodwin, Interim Vice President, Administration & Finance, CSUDH  
                 Mr. David Gamboa, Assistant Vice President, Government Relations, CSUDH  
                 Mr. Jay W. Bond, AIA, CSUDH University Planning Consultant