

received 9:15 pm  
9/29/16

**California Renters Legal Advocacy and Education Fund**

September 29, 2016

Clifford R. Lentz, Mayor  
Members of the City Council  
City of Brisbane  
50 Park Place  
Brisbane, CA 94005

Re: Notice of Deficiencies in the Baylands Planning Process

Dear Mr. Lentz,

The California Renters Legal Advocacy and Education Fund (CaRLA) sends this letter to inform the Brisbane City Council that they have an obligation to consider the regional welfare of any land use decisions that significantly affects the interests of nonresidents. The various proposals under consideration for the Baylands site would have a significant impact upon Bay Area residents that do not reside in Brisbane. Given the acute housing shortage in the Bay Area, the dearth of approved new housing in Brisbane, and the significant job-housing imbalance in Brisbane, any approved Baylands development proposal must serve the general welfare by mitigating the housing shortage and the job-housing imbalance. Please see the following excerpt from Associated Home Builders etc., Inc. v. City of Livermore to understand your obligations to further the general welfare:

Associated Home Builders etc., Inc. v. City of Livermore (1976) 18 Cal.3d 582, 607 [135 Cal.Rptr. 41, 55, 557 P.2d 473, 487]

*We therefore reaffirm the established constitutional principle that a local land use ordinance falls within the authority of the police power if it is reasonably related to the public welfare. Most previous decisions applying this test, however, have involved ordinances without substantial effect beyond the municipal boundaries. The present ordinance, in contrast, significantly affects the interests of nonresidents who are not represented in the city legislative body and cannot vote on a city initiative. We therefore believe it desirable for the guidance of the trial court to clarify the application of the traditional police power test to an ordinance which significantly affects nonresidents of the municipality.*

*When we inquire whether an ordinance reasonably relates to the public welfare, inquiry should begin by asking Whose welfare must the ordinance serve. In past cases, when discussing ordinances without significant effect beyond the municipal boundaries, we have been content to assume that the ordinance need only reasonably relate to the welfare of the enacting municipality and its residents. But municipalities are not isolated islands remote from the needs and problems of the area in which they are located; thus an ordinance, superficially reasonable from the limited viewpoint of the municipality, may be disclosed as unreasonable when viewed from a larger perspective.*

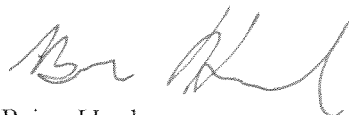
*These considerations impel us to the conclusion that the proper constitutional test is one which inquires whether the ordinance reasonably relates to the welfare of those whom it significantly affects.*

*If its impact is limited to the city boundaries, the inquiry may be limited accordingly; if, as alleged here, the ordinance may strongly influence the supply and distribution of housing for an entire metropolitan region, judicial inquiry must consider the welfare of that region.*

Furthermore, Brisbane has responsibilities to reduce greenhouse gas emissions under SB 375 and the Sustainable Communities Strategy, and to align development decisions with the goals of SB 375. Any development proposal that includes significant commercial or industrial development must consider the greenhouse gas emission impact of increased transportation demand. Locating a significant amount of new housing on the Baylands site would mitigate increased greenhouse gas emissions from new commuters.

We request that Brisbane City Council further the general welfare and advance the Sustainable Communities Strategy when considering any development proposals on the Baylands site. If the City Council does not meet these obligations, CaRLA will consider any appropriate legal actions to compel Brisbane to follow the law.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Hanlon". The signature is fluid and cursive, with the first name "Brian" and last name "Hanlon" clearly distinguishable.

Brian Hanlon  
Co-Executive Director, California Renters Legal Advocacy and Education Fund