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September 20, 2016

City Council for City of Alameda
City Hall, Council Chambers
2263 Santa Clara Avenue, 3rd Floor
Alameda, California 94501

Re: Item 6-D on September 20, 2016 City Council Meeting Agenda.
Oakland Inner Harbor Tidal Canal Acquisition proposal.

Dear Members of the City Council:

I have been retained to advise Michael and Dona Fisher, homeowners at 3341 Fernside, Alameda, CA 94501. Their home and property as well as that of many of their neighbors in the community will be severely impacted and irreparably harmed should this Council act hastily and without proper due diligence on the above agenda item. This matter requires careful and proper research which addresses and analyzes the legal, environmental, health/safety and practical considerations before taking any such a vote. My clients and the community would be adversely impacted should this Council allow the purchase and sale of the subject disputed Parcels as identified in the agenda item. Specifically, as to my clients, access to the joint shared driveway which is the only physical access to their home and garage including for any fire or medical emergency, would be negatively impacted should the Council discriminate and segregate my clients from the proposed purchase/sale of the subject parcels.

Moreover, my clients and their predecessor owners have lived and used the property for many decades with the City issuing approved permits and rights for the construction and development on said property. The City has never once raised any issue of any claimed City ownership easement or other rights for any public park on my clients property. To now claim after nearly 100 years that the City was wrong on the ownership rights and use for the subject property would be of great personal and financial loss to the Fishers and many others. My clients and their prior owners have been allowed to build docks, pools, decks and other significant improvements all with City approval and blessing. No objections or qualifications were ever raised by the City. The owners relied on the City's representations and affirmations. This includes the payment of property taxes, permit fees and maintenance expenses. No documents

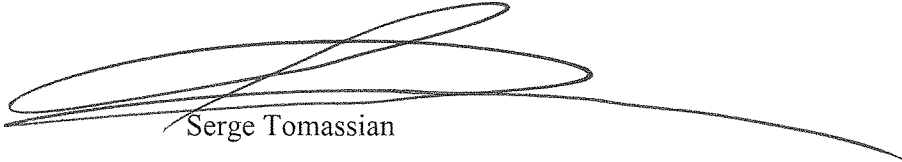
have ever been produced which show any City right of ownership for any portion of my clients' property. The City has no legal basis to exclude the Fishers from the City's plan to selectively sell some of the property rights being transferred by the US Army Corp of Engineers to the City.

Issues of adverse possession, environmental impact, inverse condemnation, eminent domain, recorded or unrecorded documents including alleged easements and owner property rights must be legally considered before any action is undertaken to selectively sell some of the disputed parcels. As well the existence of any Homeowners Association and questions of any "Common Areas" must be fully considered along with any health and safety concerns that would arise should this matter proceed forward without the careful analysis desperately needed.

On behalf of my clients and all impacted neighbors and homeowners, we respectfully request that the City Council not undertake any action in this matter until the aforementioned legal and practical concerns and questions have been thoroughly and satisfactorily addressed. We ask that this Council cease and desist from any further action on this matter.

Very truly yours,

**TOMASSIAN, THROCKMORTON
& INOUE LLP**



Serge Tomassian

ST/bms

LARA WEISIGER

From: Trish Spencer
Sent: Tuesday, September 20, 2016 8:17 AM
To: LARA WEISIGER; Jill Keimach
Subject: Fwd: Letter from Angus MacDonald of 3335 Fernside
Attachments: Scan 206.jpeg

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: Michael Fisher <mlfisher@aol.com>
Date: 09/19/2016 11:59 PM (GMT-07:00)
To: Trish Spencer <TSpencer@alamedaca.gov>, Frank Matarrese <FMatarrese@alamedaca.gov>, Marilyn Ezzy Ashcraft <MEzzyAshcraft@alamedaca.gov>, Tony Daysog <TDaysog@alamedaca.gov>, Jim Oddie <JOddie@alamedaca.gov>
Cc: apenic@alamedacityattorney.org
Subject: Letter from Angus MacDonald of 3335 Fernside

Dear Members of the City Council,

Angus MacDonald's family has owned the property at 3335 Fernside Blvd. (at Fairview) for over 50 years. He now lives in Maryland. He does not have a computer or access to the internet, so he faxed me this letter and requested that I email it to all members of the city council.

(Mr. MacDonald is one of the 6 homeowners who owns property on the estuary, and whose property is being excluded from the city council vote on Tuesday night because the city is claiming an easement on his property.)

14 September 2016

As from 3335 Fernside Bl
Alameda, CA 94501
From: Box 2, Garrett Park,
Maryland, 20896.

To: The City Council:

My family have been the owners of 3335 Fernside Blvd, Alameda for at least fifty, 50, years to my certain knowledge. The house is at Fernside and Fairview and Fairview goes all the way to the tidal Oakland estuary.

I have always held that the public has the right to go all along Fairview to the water. It now appears that there existed at the end of a semi-circle of land taking the end of my land and that of my neighbor Mr Fisher.

In law there is a principle of adverse possession. If I enclose a couple of square yards of your property and you do nothing about it for fifty years, then, the enclosed property becomes mine, which is fair and as it should be.

It is not fair for the City of Alameda to come back after fifty years and say, "Give us back our land."

The sea has already encroached upon the land so that there is only a couple of square yards left that could be claimed.

Let sleeping dogs lie. There is access to the water. Let that be sufficient.

Angus Mac Donald
Angus Mac Donald