

From: [Dietz, Stephanie](#)
To: [Levesque, Jennifer](#)
Subject: FW: United Way Kitchen and Restaurant Project
Date: Wednesday, October 27, 2021 10:42:56 AM

From: Dwight Larks [REDACTED] >
To: echevarriaf@cityofmerced.org <echevarriaf@cityofmerced.org>
Sent: Monday, September 20, 2021, 03:00:30 PM PDT
Subject: Fw: United Way Kitchen and Restaurant Project

Dear Council Member Fernando Echevarria,

I am writing and providing you with documentation to analyze regarding the agenda item for The Vacation of the Easement over my property at 531 W Main Street. The portion of my property that the City just acquired from DLA "The Easment" has been deemed not necessary, a public nuisance and abandonment is in line with the general plan by the engineering and building department. The Planning Commission voted unanimously to abandon. I urge you to vote to abandon the Easment for those reasons as well as the following reasons but not limited to the following;

1. The City, through its actions thus far, has shown it intended to abandon this easement. I have relied on those representations and have spent considerable money, time, energy and changed leases within my property based on those representations. Not abandoning the easement would have major consequences to this project, as well as my business and tenants.
2. The City has no money allotted for maintenance districts for repair and upkeep of "Easements". This is outlined not just in the budget but also by admissions by City Manager in open recorded public comment.
3. Abandonment was the reason given to the DLA for acquiring this easment. Health and Safety Code Section 34180(f) exists to prevent a city from obtaining this type of interest in Real Property from DLA without first going through required oversight board and department of finance approval. The City did not acquire oversight board and department of finance approval. If the city was going to keep this easement and

develop it, it would have had to have gone a different. Route. In essence, the City has no right to keep this easement. Its only choice is to abandon, as mentioned to DLA.

4. Failure to abandon the Easement continues to put my investment, property and tenants lives at risk every single day because no one can block off an easement not even at night. So long as the easement exists, I cannot gate my property, as no easement can be blocked off. That is the law. Abandonment would allow us to put up gates at night and keep the walkway open in the day not just for access to our new restaurant but to pass through as well.

5. The City allowed El Capitan (just 2 buildings over) to purchase a City Walkway and GATE IT for the safety and security of their tenants. Why would my tenants be discriminated against or be considered unworthy of equal right to protection? Which council member will vote for us not to be treated equally and why?

6. The City has no Idea how much it will cost to pay me back for all the money and time I have spent

Up-keeping the walkway or the losses from tenants that have left as a result of this newly acquired easment by the City of Merced. Just The Chamber of Commerce lease alone still owed close to \$50,000 and I was waiving all of this in lieu of Abandonment.

7. It has been over 2 months of waiting while my construction costs skyrocket without any written offer from City of Merced as a compromise. I have had to purchase an extension of my construction loan more than once and I am on my final extension from the bank on the loan for this project. Anymore delays and this project may not happen.

8. United Way reviewed the cameras that face the walkway and they reported to me that no more than 12 people per day on average use the walkway during business hours. Compare this to the 36 people in my building that are affected by the nuisance created by this walkway or the hundreds of paying customers we plan to seat in the walkway every day which will help bring Revitalization to this area of downtown. Does it make more sense to worry about 12 people who spend less than 20 seconds walking through the walkway or the 36 people affected all day and night who work in this building?

9. The City of Merced should not working in concert with my neighbors (The Razarri's)

to continue the destruction of my property or the nuisance The Razarris help create there. They have made an offer to me BELOW MARKET VALUE. City Manager Stephanie Dietz has mentioned to me that their building has structural issues. Mr. Razarrri should focus on fixing his building instead of offering to buy the easement. He has poop stains on his brick wall in the walkway that haven't been cleaned in 5 months. He has boarded up windows and sharp objects protruding from his building onto my property and that The City has been made aware of. Yet he shows up to the council hearing and asks to "Participate" and "Be Fair". Is it fair to the 36 persons in my building to have to deal with the condition of his property and his wall? Is it fair to the general public to be forced to walk through a non ADA compliant walkway with lots of physical dangers present that are protruding from his building? Abandonment clears the path for me to go after him directly with these issues since the City only has turned a blind eye. I have asked Mr. RAZARRI to Cooperate many times in helping us with the walkway but he has declined to do so. He wouldn't help us with lighting or cleaning. It seems he is trying to bring my property value down with his building and the City is going to allow it ? When City Attorney Phaedra asked me to meet with Mr. Razarris lawyer and the City lawyer, I was told flat out by them and by her that I would not be able to proceed with this project. Do the Razarris dictate City decisions alone? How much communication are they having with the City? I have been told by City staff that City Staff is under IMMENSE pressure by the Razzaris to create a brand new report favorable to THEIR desires. The City of Merced should not allow this process to be perverted by people who are causing some of the issues to begin with, as the issues will continue.

10. Is it more important for the City to appease the 12 or so people that may walk through the walkway daily (most of whom work for Rental Zebra) and force 36 people in my building to continue to have these problems or is it more important for this space to become filled with hundreds of paying customers in a nice new restaurant whereby I can finally solve the problems once and for all?

11. Should my project lose seating, revenue and profits so that Tony's Courtyard Cafe can advertise theres a quick dirty dangerous shortcut to their restaurant along my property? Is it fair for my property to become an eye soar and a public nuisance? What would you want if the City did this to your property? It only takes about 20 seconds for the 12 or so pedestrians a day to walk across the walkway but for my 36 tenants it is an all day and night nuisance and danger, 7 days a week.

12. The \$90,000 The Redevelopment Agency paid in 1982 pails in comparison to the amount of money the City saved by not upkeeping and maintaining my property. The walkway is in disrepair and will take lots of money to bring back to life. Not only that but it is not ADA compliant and has all kinds of physical dangers as you will see in the pictures I have provided..

Please vote to abandon this easement to avoid a very public lawsuit, destruction of this project and continued destruction of my property. My property and tenants are just as important to me, as the El Capitan and their tenants are to them. Please do not treat my building with its non profits and courageous community based organizations and persons differently that you have treated the privileged El Capitan just two buildings down. Do not destroy this downtown community improvement project for the convenience of 12 people. I have relied on you, City of Merced, Please do not let me down.

Attached are photos of the walkway damage to Chamber office, Mockups of new project and El Capitan's new gates in their newly acquired walkway neighborhood as well as exhibits for you to examine. I relied, in good faith, on all of these communications. Thank you for your consideration.

Kind Regards,

Dwight Lawrence Larks

President/Broker DRE# 01314496

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Sent: Monday, September 20, 2021, 12:52:41 PM PDT

Subject: Scanned image from MX-M565N

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Device Name: Not Set

Device Model: MX-M565N

Location: Not Set

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Resolution: 200dpi x 200dpi

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