

The \$310 Million Housing Bond Affordable Housing Bond Continuing Oddities

by Patrick Monette-Shaw

Changes to planned spending have plagued the affordable housing bond all along, after voters passed the bond in November 2015. The history of planned bond spending changes has been remarkable.

Affordable Housing Bond Purposes Change Again

Now as of May 2018, there are even more changes to bond spending.

On July 28, 2016 the Mayor’s Office of Housing and Community Development (MOHCD) [informed](#) the Citizens’ General Obligation Bond Oversight Committee (CGOBOC) that between January 2016 and July 2016 MOHCD had eliminated both the “*Middle-Income Rental Program*” and the “*Expiring Regulations Preservation*” subcategories from the “*Middle-Income Housing*” main category of bond uses. Three new subcategories appeared on July 28 that had not been previously listed in previous documents describing planned bond uses. The three new categories were “*Middle-Income Teacher Housing*,” “*Middle-Income Buy-in Program*,” and “*Middle-Income MOHCD Production*,” none of which were previously disclosed by MOHCD.

The *Westside Observer* [reported](#) in March 2017 that by CGOBOC’s October 3, 2016 meeting MOHCD had eliminated the “*Middle-Income Buy-in Program*” first rolled out on July 28, 2016, a sub-component of planned bond spending that appears to have existed for just a two-month period.

Similarly, nobody knew about the proposed 150-unit senior housing project at 250 Laguna Honda until it suddenly appeared in MOHCD’s bond update [presentation](#) to CGOBOC on January 26, 2017. It was a massive “change order,” insofar as it came out of nowhere well into the first year of the affordable housing bond oversight hearings when it first appeared. Just like the “*Middle-Income Buy-in Program*” first introduced in July 2016 and then removed in October 2016, the 250 Laguna Honda senior housing project introduced in January 2017 also disappeared from bond spending 10 months later on November 20.

Planned bond spending is changing again, six months after MOHCD presented bond spending plans to CGOBOC on November 20, 2017.

Here We Go Again ...

Three of the semi-annual reports MOHCD has provided to CGOBOC include reports for CGOBOC’s [hearing](#) on July 28, 2016, CGOBOC’s [hearing](#) on November 20, 2017, and CGOBOC’s [hearing](#) on May 21, 2018. The three reports document substantial changes to planned bond spending across the past two years.

Table 1: Changes to Planned Spending of the November 2015 \$310 Million Affordable Housing Bond

Category	Amount	Affordable Housing Units							
		7/28/2016		11/20/2017		5/21/2018		Change 11/2017 to 5/2018	
		Sub-Amount	# of Units	Sub-Amount	# of Units	Sub-Amount	# of Units	Sub-Amount	# of Units
Public Housing	\$80,000,000		390		562		581		19
Low-Income Housing	\$100,000,000		371		635		389		(246)
Mission District Housing	\$50,000,000		110		143		143		0
Middle-Income Housing	\$80,000,000								
• DALP Loan Expansion		\$ 14,500,000	49	\$ 14,500,000	49	\$ 33,420,000	112	\$ 18,920,000	63
• Teacher Next Door		\$ 5,000,000	250	\$ 5,000,000	250	\$ 5,000,000	60		(190)
• Middle-Income Teacher Housing		\$ 7,000,000	30	\$ 29,000,000	82	\$ 29,000,000	82		0
• Middle-Income Buy-In Program		\$ 24,000,000	96						
• Middle-Income MOHCD Production		\$ 26,920,000	70	\$ 28,920,000	64	\$ 10,000,000	21	\$ (18,920,000)	(43)
	\$310,000,000	\$ 77,420,000	1,366	\$ 77,420,000	1,785	\$ 77,420,000	1,388	\$ -	(397)

Source: MOHCD Reports to CGOBOC.

Table 1 illustrates that between November 2017 and May 2018, the number of affordable housing units in the \$100 million “*Low-Income Housing*” main sub-category dropped by 246 units. That includes a decrease of 264 units at 250



Kate Hartley, Director of MOHCD: Hartley admitted by phone neighbors had nothing to do with the decision to withdraw funding from the 250 Laguna Honda project; she stopped short of saying so explicitly during CGOBOC’s May 21, 2018 meeting, as she promised.

“The 250 Laguna Honda senior housing project introduced in January 2017 also disappeared from bond spending on November 20. Planned bond spending is changing yet again.”

Laguna Honda Boulevard and 4840 Mission Street, and an increase of 18 units in the *Small Sites* program within the “*Low-Income Housing*” category, for a net reduction of 246 fewer units, a negative 38.7 percentage change cut.

As well, between November 2017 and May 2018 the “*Teacher Next Door*” program is cutting support to 190 teachers (potentially miserly “forgivable loans” that may be just \$5,000 each loan). The reduction from 250 to just 60 *Teacher Next Door* loans represents a negative 76 percentage change cut.

As for the cut from 64 to just 21 units in the “*Middle-Income MOHCD Production*” category represents a negative 67.2 percentage change reduction.

The combined cut of 43 units in the “*Middle-Income MOHCD Production*” category, the elimination of 246 “*Low-Income Housing*” units, and the 43-unit reduction in the “*Middle-Income MOHCD Production*” category — offset by modest increase of 82 units in “Public Housing” and the DALP loan expansions — total an overall 397 reduction of affordable housing units to be funded by this bond. The overall loss of 397 planned units from the bond funding — from 1,785 to 1,388 units — represents a negative 22.2 percentage change cut, all within the six-month period between November 2017 and May 2018.

Table 1 also illustrates that fully \$18.92 million is being shifted from the “*Middle-Income MOHCD Production*” category to the “DALP” (*Down Payment Assistance Loans*) category, to fund an additional 63 DALP loans, at an average of \$300,317 per loan. It’s not known how many of the DALP middle-income applicants may include above moderate-income households, a question that CGOBOC has so far failed to examine in detail during the five hearings CGOBOC has held on the bond starting in January 2016.

Where’s the Metrics?

As the *Westside Observer* in [reported](#) June 2016, the inaugural hearing on the affordable housing bond held on January 28, 2016 was pathetic, as neither MOHCD nor CGOBOC had thought ahead about what sort of reporting requirements — evaluative “metrics” to report and evaluate various and diverse categories within the bond — would be used by CGOBOC to assess progress on the bond. The reporting metrics hadn’t been developed by January 28.

In June 2014, the 2013–2014 Civil Grand Jury issued a blistering [report](#) about MOHCD titled “*The Mayor’s Office of Housing: Under Pressure and Challenged to Preserve Diversity*.” The Civil Grand Jury’s sixth “finding” noted MOHCD lacks discipline in posting and reporting affordable housing *metrics* and program results reporting on its website. The Grand Jury recommended MOHCD publish those metrics with greater frequency to help the public assess progress of MOHCD’s new development and housing efforts.

Back in January 2016 when CGOBOC held its first hearing on the affordable housing bond, several CGOBOC members expressed the need to develop “metrics” to assess bond spending. CGOBOC member Brenda Kwee McNulty specifically fretted on January 28, 2016 about the lack of metrics to evaluate bond spending. During the discussion about developing metrics, McNulty astutely noted:

“But I think it’s helpful to be able to at this early stage of the game [to] lay out those areas, or categories of returns ... so that we can go back [later to] evaluate how successful ... what our return was for the whole bond program. So, the relative returns of these categories will also shed some light into whether or not we made the right allocation decisions.”

“ Between November 2017 and May 2018, the number of affordable housing units in the \$100 million ‘Low-Income Housing’ main sub-category dropped by 246 units, a negative 38.7 percentage change cut. ”

“ The ‘Teacher Next Door’ program is cutting support to 190 teachers, from 250 to just 60 Teacher Next Door loans, a negative 76 percentage change cut. ”

“ The overall loss of 397 planned units from the bond funding — from 1,785 to 1,388 units — represents a negative 22.2 percentage change cut. ”

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McNulty has not followed up since January 2016 about the lack of metrics having been developed. Throughout 2016 and 2017, MOHCD has stalled developing in collaboration with CGOBOC any meaningful metrics. Here we are two-and-a-half years after the inaugural CGOBOC hearing in January 2016, and metrics still don't appear to have been developed.

What's taking CGOBOC so long to develop the measures that will be used to assess progress on, and performance of, this bond measure? It's thought following CGOBOC's May 21 hearing, it will not hold another hearing on the affordable housing bond measure until later in 2018. Will CGOBOC insist by November 2018 that the metrics must be defined?

“ Here we are two-and-a-half years after the inaugural CGOBOC hearing in January 2016, and metrics still don't appear to have been developed. ”

Ethics Commission Fines MOHCD's Previous Director

As the *Westside Observer* previously [reported](#) in April 2015, leading up to the November 2015 \$310 million Affordable Housing Bond ballot measure, Kate Hartley — the then-Deputy Director of the Mayor's Office of Housing and Community Development who is now the Director of MOHCD — pushed an [e-mail](#) on January 27, 2015 to City Hall staff, including to MOHCD's then-Director, Olson Lee. Hartley indicated she had reduced planned bond spending for the middle-income housing category, and proposed allocating \$20 million of the then-planned \$250 million bond to be set aside for a “*Catalyst Fund Top Loss*” component to fund low- to middle-income affordable housing programs.

As reported in April 2015, a January 15, 2015 press release from then-Mayor Ed Lee summarizing his January 2015 *State of the City* address claimed he would create a new investment fund to launch more affordable housing projects:

*“The Mayor will create an **accelerator** fund, with private and philanthropic partners, to accompany bond financing, seeding public-private partnerships that will enable nonprofits to act quickly and complete [sic; “compete”] on the open market to purchase land for construction of affordable housing and buildings to be improved as permanently affordable units.”*

A 2014 [report](#) from the Mayor's Housing Work Group noted that a “*Housing Affordability Fund*” — ostensibly separate and distinct from the *Housing Trust Fund* approved by voters in 2012 — would be established via a public-private partnership. The *Housing Work Group* report stated the accelerator fund would leverage limited public dollars for housing by pursuing development of the *Housing Affordability Fund* as an “*off balance-sheet*” fund.

As we reported in April 2015:

“For anyone who was invested in Enron, off-balance sheet (OBS) financing is a scary term. Off-balance sheet financing means a company does not include a liability on its balance sheet. It is an accounting term and impacts a company's level of debt and liability.”

A week after Hartley pushed her January 27, 2015 e-mail, on February 3, 2015 a replacement proposal removed the *Catalyst Fund Top Loss* component from the planned affordable housing bond spending. But the *Catalyst Fund* proposal didn't just go away.

Within a year, the City launched the “accelerator” fund on February 2, 2016, reorganizing the Public Initiatives Development Corporation (a public entity formed by the Redevelopment Agency prior to its dissolution) into the *Housing Accelerator Fund*. MOHCD staff and the Mayor's staff, in consultation with other City departments, managed this reorganization. The *Housing Accelerator Fund* is a registered 501(c)(3) non-profit organization, and it eventually received a \$10 million loan from MOHCD, presumably from MOHCD's larger *Housing Trust Fund*, not from the \$310 million Affordable Housing Bond. The *Housing Accelerator Fund* was the only non-profit entity that responded to MOHCD's request for qualifications/proposal (RFQ/RFP).

“ The City launched the ‘accelerator’ fund on February 2, 2016. The *Housing Accelerator Fund* is a registered 501(c)(3) non-profit organization, and it eventually received a \$10 million loan from MOHCD. ”

San Francisco's Campaign and Governmental Conduct Code prohibits City employees from engaging in activities that their city departments have identified as incompatible in a Statement of Incompatible Activities (SIA). Each city department's SIA is unique outlining activities that are specific to their departmental missions.

The Mayor's Office SIA provides in § III(A)(3)(B) that the following activity is incompatible and, therefore, prohibited with the duties of Mayor's Office employees:

“No employee who works in the following divisions of the Mayor's Office — the Mayor's Office of Housing, the Mayor's Office of Community Development, or the Mayor's Office of Criminal Justice — may serve on the Board of Directors of a non-profit organization that applies for loan or grants administered by the employee's division.”

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The *Housing Accelerator Fund* by-laws required that the Director of MOCHD and the Director of the City's Office of Public Finance serve on the Board as *ex officio* representatives from the City and County of San Francisco. Of interest, the *Housing Accelerator Fund* has not responded by press deadline to a request placed on May 15 whether its Board of Directors meetings are open to the public, whether its meeting minutes are published on-line, and for its IRS Form 990 tax returns.

The Ethics Commission eventually got wind that when the *Housing Accelerator Fund* was created, MOHCD's then-director, Olson Lee, served on the Board of Directors for the HAF from its inception until his retirement on June 2, 2017.

The Ethics Commission notified Olson Lee on October 4, 2016 that he appeared to have violated MOHCD's SIA.

A year-and-a-half later, the Ethics Commission entered a “*Stipulation*” in mid-April 2018 with Mr. Lee. The Ethics Commission's *Stipulation* [noted](#):

“[Mr.] Lee should have obtained an Advance Written Determination prior to serving as a board member for the Housing Accelerator Fund [HAF]. Instead, Respondent Lee obtained an Advance Written Determination from Mayor Lee only after Ethics Commission Staff inquired [in October 2016] whether his service on the HAF Board was an incompatible activity under the Mayor's Office SIA and after having participated in a decision to make a grant to a non-profit organization for which he served as a board member.”

“ The Housing Accelerator Fund has not responded by press deadline to a request placed on May 15 whether its Board of Directors meetings are open to the public, whether its meeting minutes are published on-line, and for its IRS Form 990 tax returns.”

The May 7, 2018 *Stipulation* also noted:

“As director of MOHCD, Respondent Lee oversaw the staff that drafted the RFQ and subsequent selection of the Housing Accelerator Fund as the recipient of this \$10,000,000 loan during the same period he was also serving as an ex officio member of the Board of Directors for the Housing Accelerator Fund.”

The *Stipulation* fined Olson Lee a mere \$800 for having violated the SIA. Ethics could have fined Lee up to \$5,000 for the violation, but just slapped him on the wrist with the reduced fine. As a Department Head who reported directly to then Mayor Ed Lee, Olson Lee should have been keenly aware of the prohibited incompatible activity he was engaging in, and he should have sought an advanced written determination *prior to* serving on the HAF's board of directors. Ethics should have thrown the book at Olson Lee by imposing the maximum fine, since he was a department head who was also *not* above the law.

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The fine against Olson Lee was levied by the Ethics Commission primarily because he didn't obtain an *advance* written determination seeking an exemption to the Mayor's Office SIA from Mayor Ed Lee *prior* to serving on the *Housing Accelerator Fund's* board, although Olson Lee eventually received a written determination from Mayor Ed Lee, but only *after* Ethics had caught him with his pants down and notified him of his failure.

Homeowners Didn't Kill 250 Laguna Honda Project

Forest Hill neighbors were falsely accused of killing the senior housing project proposed for 250 Laguna Honda Boulevard. That's a complete lie that deserves to be corrected in the public record.

Several factors are what killed the project, not the neighbors. First, the Planning Department strongly objected to demolishing the existing Forest Hill Christian Church on the property, given the probable historical status of the church's "Expressionist" architecture.

“Forest Hill neighbors were falsely accused of killing the senior housing project proposed for 250 Laguna Honda Boulevard. That's a complete lie.”

Second, the draft Langan Engineering geotechnical report for the 250 Laguna Honda project commissioned by the developer, Christian Church Homes (CCH), was released on January 2, 2018. The draft report noted significant shoring up of the hillside behind the property would be required to prevent homes along Castaneda Avenue from tumbling down the hill either during construction, or during a major seismic event.

Obviously, the Forest Hill neighbors did *not* write the Langan report.

Third, on March 19, 2018 in response to a follow-up records request MOHCD's Director, Kate Hartley, wrote by e-mail:

“The reduced footprint required to accommodate both the church and the unstable hillside meant that 250 Laguna Honda was likely no longer a large development but instead average in size (maybe 70 to 80 units). For this size development ... MOHCD determined that its money could be better deployed elsewhere.”

Hartley's e-mail response mentioned not one word in her March 19 response saying the project was dropped due to opposition from neighbors. Her response only presented the financials that eventually killed the project.

It's a sad day for journalism when a neighborhood newspaper — the *Westside Observer* — has to correct inaccurate reporting in San Francisco's mainstream news media outlets. But the *Westside Observer* may be happy to do so as a civic duty to correct false mainstream media reports.

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On April 12, 2018 the *San Francisco Examiner* published an [article](#) by Joshua Sabatini that was both inflammatory, and factually incorrect. One person who posted an on-line comment to Sabatini's article noted the *Examiner* was “*demonizing San Francisco homeowners and ignoring the facts.*” She wrote, in part:

“Reporters [like Sabatini] want to make people angry at the neighbors and create discord because fake news sells [newspapers]. They don't want to tell the facts, they want to create a YIMBY vs. NIMBY fantasy world.”

Sabatini wrongly reported:

*“The Forest Hill [senior housing] project was scrapped **due to neighborhood opposition** amid escalating cost concerns and a geotechnical report finding a nearby slope unstable and in need of shoring up — **after a \$2 million investment from bond funds.**”*

Sabatini referred elliptically to a mandated “report” released in March 2018. He sloppily didn't name the title of the report he was referring to.

In response to a records request placed with Kate Hartley at MOHCD the same day Sabatini's article appeared in print, Hartley responded by e-mail "[MOHCD] **did not advance any funds to Christian Church Homes [for the 250 Laguna Honda project], nor did we sign a predevelopment loan agreement. We don't have records responsive to your request.**"

After MOHCD had initially funded the 250 Laguna Honda project using the \$310 million Affordable Housing Bond in January 2017, MOHCD changed its mind and notified CGOBOC on November 20, 2017 that the \$3 million in "Prop. A" funding for 250 Laguna Honda had been re-allocated to another senior housing project at 1296 Shotwell. MOHCD's Eugene Flannery [responded](#) on January 19, 2018 to a records request, indicating that MOHCD had notified CGOBOC at CGOBOC's November 20 meeting that the 250 Laguna Honda funding was being removed from planned bond spending and transferred to another project. Flannery noted that the main reasons for the funding transfer were "*delays encountered at 250 Laguna due to the historical findings on the site, the associated environmental approvals, and the extensive community outreach underway.*" MOHCD did **not** cite on November 20 that neighborhood opposition caused re-allocating of the funding. Sabatini should have known that, before writing his April 12 article.

Although MOHCD's formal [report](#) — bearing a September 2017 date on the cover — for CGOBOC's November meeting continued to list the 250 Laguna Honda project, the formal report noted: "*MOHCD has reallocated the funds designated for [250 Laguna Honda] to another, similar project.* In addition, the separate PowerPoint presentation [created](#) on November 15 and presented to CGOBOC on November 20 stated funds previously allocated to the 250 Laguna Honda project would be re-allocated to the 1296 Shotwell project.

Also of interest, on March 7, 2018 MOHCD [notified](#) Christian Church Homes that MOHCD had decided to withdraw **all** funding support for the 250 Laguna Honda project, not just withdraw funding support from the bond. How could Sabatini **not** have known that by April 12?

Sabatini should also have known before publishing his April 2018 article blaming neighborhood opposition that even **prior** to release of the Langan Engineering report in January 2018, MOHCD had already withdrawn "Prop. A" funding from the project a month-and-a-half earlier in November, and four-and-a-half months before Sabatini's article appeared in print, and that MOHCD had already notified CCH of the withdrawal of funding earlier on March 7, a month **before** Sabatini's article appeared in the *Examiner*.

Hartley Confirmed Neighborhood Opposition Wasn't A Factor in Withdrawing Funding

I spoke with Kate Hartley by phone on April 13, 2018. She confirmed the City had not spent one penny of the Affordable Housing Bond on the 250 Laguna Honda senior housing project, so Sabatini's reporting was factually incorrect. Hartley gave me permission to quote her. She clearly stated:

*"Withdrawing from the 250 Laguna Honda Boulevard senior housing project had **nothing** to do with the neighborhood's objections."*

Hartley went on to indicate in an April 19 e-mail to this author:

- "*The 250 Laguna Honda project was no longer a "large" development, but was instead average in size (maybe 70 to 80 units). For this size development, MOHCD determined that its money could be better deployed elsewhere.*"

"On the same day Sabatini's article appeared in print, Hartley responded by e-mail April 12 '[MOHCD] did not advance any funds to Christian Church Homes [for the 250 Laguna Honda project]' ..."

"Of interest, on March 7, 2018 MOHCD notified Christian Church Homes that MOHCD had decided to withdraw all funding support for the 250 Laguna Honda project."

"Sabatini should also have known before publishing his April 2018 article blaming neighborhood opposition that MOHCD had already notified CCH of the withdrawal of funding a month earlier on March 7."

"Withdrawing from the 250 Laguna Honda Boulevard senior housing project had nothing to do with the neighborhood's objections'."

**— Kate Hartley
April 13, 2018**

- The project was scrapped due to two main reasons: The combination of the current and future seismic risks on the site, and the additional expenses involved in preserving the Forest Hill Church to satisfy the Planning Department.
- That even MOHCD was worried about the stability of the neighbors' homes at the top of the hillside along Castaneda Avenue.

Hartley concluded, saying:

“There would likely be regular deposits of hillside debris onto the housing site, even under static conditions, which would have to be removed regularly. To mitigate against these deposits, the building footprint would have to be reduced, further decreasing the potential unit count at the site.”

Obviously, bond funding cannot be used for on-going maintenance or operating expenses such as on-going debris removal for affordable housing projects.

Hartley — who has worked for MOHCD for four years and four months, worked for eight years and two months for the San Francisco Redevelopment Agency, and worked for another eight years and four months for other housing development corporations, for a total of 20 years and 10 months — indicated on May 18, 2018 that she “*doesn't recall*” any proposed MOHCD affordable housing projects that were stopped due to opposition from neighborhood or homeowner objections.

Hartley said that given the risks of the project, MOHCD actually required Christian Church Homes (CCH) to demonstrate the 250 Laguna Honda senior housing project was a worthwhile investment, placing the risks directly on CCH. CCH never demonstrated it was a worthwhile investment. Hartley also indicated that even MOHCD was worried about the stability of the neighbors' homes at the top of the hillside along Castaneda Avenue.

“The only report issued in March 2018 Sabatini may have been referring to was a ‘bond accountability’ report released on March 16, directly contradicting Sabatini. But the report noted ‘No bond funds will be spent on this project’.”

The only report issued by either MOHCD or CGOBOC in March 2018 Sabatini may have been referring to was the “[Accountability Report March 2018](#)” created and released by MOHCD on March 16, a month before Sabatini’s hit piece. [Note: The “accountability” report should have been issued by CGOBOC, not by MOHCD per the 2015 voter guide, and CGOBOC had no business delegating production of that report to MOHCD.] Numbered page 26 of MOHCD’s report obtained from the City Controller’s Office directly contradicted Sabatini’s claim \$2 million of bond funds had been expended on the 250 Laguna Honda project:

“The project at 250 Laguna Honda is no longer moving forward due to cost considerations. No bond funds [from the \$310 million Affordable Housing Bond] will be spent on this project.”

Sabatini completely overlooked in his April 12 article that almost five months earlier, MOHCD had already re-allocated the planned \$3 million bond allocation for the 250 Laguna Honda project to a completely different project in November 2017. Not one penny of the bond was ever actually spent on the 250 Laguna Honda project, and certainly \$2 million had *not* been spent on it.

I spoke by phone again with Ms. Hartley on Friday, May 18 asking whether MOHCD might consider posting a press release on its web site indicating neighborhood opposition had *not* been what caused MOHCD to withdraw funding from the 250 Laguna Honda Project. Hartley indicated that at this point in time, there was no current “context” in which to belatedly write and post a press release to correct false reporting in the mainstream media.

“On Friday, May 18, Hartley indicated by phone she would work in a statement during CGOBOC’s May 21 Affordable Housing Bond hearing that the decision to withdraw funding from the 250 Laguna Honda project had *nothing* to do with MOHCD’s decision-making. Unfortunately, Hartley didn’t carry through on May 21!”

Instead, Hartley indicated that she would work in a statement during CGOBOC’s May 21 hearing on the Affordable Housing Bond that the decision to withdraw funding had had *nothing* to do with MOHCD’s decision-making.

Unfortunately, Hartley didn't carry through. According to an [extract](#) of the audiotape of CGOBOC's May 21 hearing, Hartley stopped short, indicating only "*The reason that we [MOHCD] pulled away from 250 Laguna Honda was solely due to the need to be very cost effective in our application of bond funds.*"

Shame on Hartley for *not* stating explicitly on the record that neighborhood opposition had nothing to do with the decision to withdraw funding from the 250 Laguna Honda project. Here's the timeline of how the funding was pulled from the project:

“ Shame on Hartley for not explicitly stating on the record that neighborhood opposition had *nothing* to do MOHCD's decision! ”

Table 2: Timeline of MOHCD's Withdrawal of Funding for the 250 Laguna Honda Senior Housing Project

Date	Source	Description
11/14/2017	MOHCD Notified CGOBOC on November 20, 2017 That Bond Funds for 250 Laguna Honda Were Reallocated to Another Project Note: MOHCD's November Report Carried a Cover Date of September 2017.	"MOHCD has reallocated the funds designated for [250 Laguna Honda] to another, similar project." The report also noted that "This will not derail the [250 Laguna Honda] project, but will cause a schedule delay." Apparently, as of November 2017 MOHCD planned to continue funding the 250 Laguna Honda project using other MOHCD sources of funding rather than from the Affordable Housing Bond.
1/16/2018	San Francisco Superior Court Judge Richard Ulmer Issued His Tentative Ruling in Phase I of the <i>CCH vs. El Bethel</i> Lawsuit	Judge Ulmer concluded that one of three concerns he had with the six contracts involved the issue of "Undue Influence/Fraud." Ulmer ruled that all six of the contracts and agreements Lillian Peck had signed as a board member of El Bethel with CCH and other contractors were rescinded (voided) . Ulmer wrote: "[The evidence presented] establishes undue influence [over Peck] at the least, if not outright fraud."
1/19/2018	E-Mail Response to Records Request From Eugene Flannery, MOHCD's Public Records Officer	Flannery wrote, in part: "As MOHCD reported to CGOBOC at its last hearing [November 20, 2017], we have transferred the Prop A budget authority from 250 Laguna to 1296 Shotwell, another 100% affordable senior development. ... We expect to fund 250 Laguna with other MOHCD affordable housing sources, such as Inclusionary Housing fees and Jobs Housing Linkage fees." Note: Three days after Judge Ulmer issued his tentative ruling in the <i>CCH vs. El Bethel Arms</i> lawsuit on January 16, MOHCD appears to have still been intending to fund the 250 Laguna Honda project from non-bond funded sources.
1/26/2018	Anonymous Sources	Ten days after Judge Ulmer released his Phase I ruling in the <i>CCH vs. El Bethel</i> lawsuit, reports surfaced that City Hall insiders were concerned that the <i>CCH vs. El Bethel</i> lawsuit could unravel the 250 Laguna Honda project based on Judge Ulmer's tentative ruling in Phase I of the lawsuit issued on January 16.
2/2/2018	Mayor Mark Farrell holds Meeting With Reverend Amos Brown	A public records request for the official meeting calendars of the Mayor (required to be kept as public records under the Sunshine Ordinance) between September 1, 2017 and March 31, 2018 — across the tenures of Mayor Ed Lee, Acting Mayor London Breed, and successor Mayor Mark Farrell — revealed that Mayor Farrell met with Third Baptist Church Reverend Amos Brown, ostensibly regarding "Community Engagement." It's not known if Reverend Brown was representing El Bethel Missionary Baptist Church in the Fillmore district, which owns <i>El Bethel Arms</i> and <i>El Bethel Terrace</i> senior housing developments under "Community Engagement."
3/5/2018	Anonymous Source	D-7 Supervisor Norman Yee reportedly decided to officially withdraw his support for the 250 Laguna Honda senior housing project. Yee's official letter was dated three days later.
3/7/2018	Kate Hartley, Director of MOHCD Letter to CCH's Don Stump Withdrawing All MOHCD Funding Support	Hartley's letter appears to have pulled any and all MOHCD sources of funding from the 250 Laguna Honda project. Hartley wrote, in part: "Our decision to withdraw financial support from the project is based on several factors ... "We therefore believe that the City's investment of affordable housing funds may be better made elsewhere" ... "We wish you all the best in your future affordable housing developments."
3/8/2018	D-7 Supervisor Norman Yee Letter to CCH Withdrawing Yee's Support	Yee wrote, in part: "In light of the totality of these concerns and a limited amount of funding available ... I am compelled to withdraw my support for this project."
3/19/2018	E-Mail Response to Records Request From Kate Hartley, MOHCD	It appears MOHCD pulled the plug on any MOHCD funds being expended on the 250 Laguna Honda project, not just pulled the plug on using the Affordable Housing bond. Hartley wrote: "MOHCD determined that its money could be better deployed elsewhere."

Hartley failed to tell CGOBOC on May 21 that her March 7 letter to CCH appears to have pulled *all* MOHCD funding — not just the bond funding — from the 250 Laguna Honda senior housing project.

A Pretext to Deceive?

Of all the reasons offered to explain the withdrawal of funding for the 250 Laguna Honda project, CCH's new lawsuit appears to allege that the explanations offered to date about why MOHCD dropped funding of the 250 Laguna Honda project *may* have been pretextual.

More *potential* proof neighborhood opposition had nothing to do with MOHCD's decision to withdraw *all* funding from the 250 Laguna Honda project surfaced in a new lawsuit filed in Alameda County Superior Court on May 17 (Case # RG18905402, *Christian Church Homes vs. Philadelphia Indemnity Insurance Company*). All of the public reasons MOHCD has offered to date as to why the senior housing project was eliminated from bond spending appear to have possibly been pretexts to mask the real reasons, according to CCH's new claims and version of events.

Are CCH's New Explosive Allegations Designed to Claim a Pretext?

As the *Westside Observer* [reported](#) in March 2018, the *El Bethel Arms, Inc. vs. Christian Church Homes* lawsuit filed in San Francisco Superior Court appears to have potentially contributed more than we knew about what killed the 250 Laguna Honda senior housing project. But City officials have studiously avoided any public discussion about the *El Bethel vs. CCH* lawsuit, including discussion by D-7 Supervisor Norman Yee.

All along, there has been keen interest in whether the 250 Laguna Honda Boulevard project was killed due to the ugly lawsuits between Christian Church Homes — the 250 Laguna Honda project developer — and El Bethel Arms, involving potential fraud to deprive El Bethel Arms of its ownership of another senior housing project in San Francisco. Hiding public discussion of whether the *El Bethel* lawsuit may have contributed to the decision to kill the project hasn't helped.

San Francisco Superior Court Judge Richard Ulmer's January 16, 2018 tentative ruling in favor of El Bethel (at the expense of CCH) may have contributed to the new CCH lawsuit filed in Alameda Superior Court on May 17.

A five-page [extract](#) of the new Alameda Superior Court lawsuit alleges MOHCD exerted significant pressure on CCH to resolve the El Bethel Arms lawsuit, or risk losing the 250 Laguna Honda project. The lawsuit also alleges that MOHCD had apparently made it clear that if CCH did not resolve the El Bethel Arms lawsuit, CCH would lose the Laguna Honda project outright. MOHCD hasn't admitted so, publicly.

It should be noted allegations raised by CCH in the Alameda Superior Court lawsuit are just that: *Allegations* that have not yet been fully litigated. There has been no ruling on whether any of the allegations CCH raised will be upheld, or all tossed out.

A summary of the explosive allegations CCH included in the extract of the Alameda Superior Court filing include:

- In paragraph 73, CCH alleges MOHCD “*exerted significant pressure on CCH*” to resolve the El Bethel Arms (EBA) lawsuit against CCH that had been filed in San Francisco Superior Court. In paragraph 74, CCH claims MOHCD had made it “perfectly clear” to CCH to resolve the EBA litigation.

“ More *potential* proof neighborhood opposition had nothing to do with MOHCD's decision to all withdraw funding from the 250 Laguna Honda project surfaced in a new lawsuit filed in Alameda County Superior Court on May 17. ”

“ City officials have studiously avoided any public discussion about the *El Bethel vs. CCH* lawsuit, including discussion by D-7 Supervisor Norman Yee. ”

“ There has been keen interest in whether the 250 Laguna Honda project was killed due to the ugly lawsuits between CCH — the project developer — and El Bethel Arms, involving potential fraud. ”

“ The new Alameda Superior Court lawsuit alleges MOHCD exerted ‘*significant pressure on CCH*’ to resolve the El Bethel Arms lawsuit, or risk losing the 250 Laguna Honda project. ”

“ In paragraph 74, CCH claims MOHCD had made it ‘perfectly clear’ to CCH to resolve the EBA litigation. ”

- Paragraph 75 alleges that in **December 2017** CCH was confronted with a dilemma, and that Reverend Amos Brown had summoned parties in the EBA litigation to participate in settlement discussions *before* Judge Ulmer rendered his Phase I judgment in San Francisco Superior Court. The paragraph goes on to say Reverend Brown was aware MOHCD was unhappy with the ongoing *CCH vs. EBA* litigation, and Brown may have known that MOHCD may have told CCH to walk away from the \$1.4 million in EBA development expenses CCH had incurred *or risk* losing the Laguna Honda project.
- Paragraph 76 claims that during negotiations between CCH and EBA, MOHCD had made it clear that if the EBA lawsuit was not resolved *before* Superior Court Judge Ulmer entered a politically undesirable Phase I judgment, CCH would lose the Laguna Honda project *outright*.
- In paragraph 78, the Alameda Court complaint says Reverend Brown had grown increasingly impatient with CCH's failure to agree to a settlement with EBA, and Brown had reported his displeasure to MOHCD.
- In paragraph 81, CCH alleges that MOHCD "confirmed" — as MOHCD had purportedly "promised" — that because CCH had failed to accept Amos Brown's settlement proposal *before* Ulmer issued his Phase I ruling [on January 16, 2018], that CCH had lost the 250 Laguna Honda project.

Of note, the allegations CCH raised in its Alameda Superior Court filing contain no dates supporting the basis of the allegations and contains no footnotes or cross-references to other "exhibits" that may be included in the full 544-page Alameda court filing, which has not yet been obtained in full. And CCH's Alameda Superior Court filing doesn't explain how CCH was confronted with a dilemma in December 2017, or provide any dates on which Reverend Brown may have summoned parties in the EBA litigation to participate in settlement discussions *prior to* Judge Ulmer's January 16 ruling, or provide any dates of the settlement discussions.

Several questions are in order.

Are CCH's allegations and claims it has now asserted and noted above supported with documented *evidence*? Why did CCH raise these claims on May 17 in Alameda Superior Court after Judge Ulmer issued his tentative ruling in San Francisco Superior Court on January 16? Did CCH raise the same claims and allegations in the *CCH vs. El Bethel* lawsuit in San Francisco Superior Court, and if not, why is CCH raising them now?

It's totally unclear why CCH has raised these allegations in the Alameda Superior Court filing in a case between CCH and CCH's insurance company, *Philadelphia Indemnity Insurance Company*. What significance, if any, do these new explosive *allegations* — that have not been fully adjudicated or resolved by the Alameda Superior Court judge — have to do with CCH's dispute with its insurance carriers?

A larger question is: Will CCH's new allegations — if upheld in the Alameda Court case — uncover whether the rationale MOHCD has offered to date about its decision-making to drop all funding support for the 250 Laguna Honda senior housing project had been pretexts to mask other potential politically-damaging factors?

“ Paragraph 75 alleges that in December 2017 CCH was confronted with a dilemma, and that Reverend Amos Brown had summoned parties in the EBA litigation to participate in settlement discussions before Judge Ulmer rendered his Phase I judgment in San Francisco Superior Court. The paragraph goes on to say Reverend Brown was aware MOHCD was unhappy with the ongoing CCH vs. EBA litigation. ”

“ Paragraph 76 claims during negotiations between CCH and EBA, MOHCD had made it clear that if the EBA lawsuit was not resolved before Superior Court Judge Ulmer entered a politically undesirable Phase I judgment, CCH would lose the Laguna Honda project outright. ”

“ In paragraph 81, CCH alleges that MOHCD 'confirmed' that because CCH had failed to accept Amos Brown's settlement proposal before Ulmer issued his Phase I ruling that CCH had lost the 250 Laguna Honda project. ”

“ Are CCH's new allegations and claims it has now asserted and noted above supported with documented evidence? Will CCH's new allegations uncover whether the rationale MOHCD has offered for dropping all funding to the 250 Laguna Honda project had been pretexts? ”

Preliminary Observations on CCH's New Allegations

First, as Table 2 shows, Judge Ulmer's ruling noted that evidence presented in San Francisco Superior Court "established that CCH had exerted undue influence at the least, if not outright fraud." Why CCH is alleging in Alameda Superior Court that its insurance company had not paid CCH's legal expenses in a case involving potential fraud, is somewhat comical because insurance policies typically *exclude* paying damages to the insured when a case may involve fraud.

Second, when this author forwarded CHH's Alameda Court lawsuit to MOHCD on May 28 seeking MOHCD's comment or response to the explosive allegations, MOHCD responded a day later indicating it had not been aware of CCH's new lawsuit, and because MOHCD had not yet reviewed the full CCH complaint, MOHCD had comment at this time.

MOHCD's May 29 [response](#) *denied* that MOHCD had pressured CCH into settling the *CCH vs. El Bethel* lawsuit in San Francisco Superior Court. Ms. Hartley did indicate that while she had personally discussed with CCH staff that if CCH's lawsuit against El Bethel "*resolved badly for CCH, it could be[come] problematic.*" But she stated MOHCD had not actually "*pressured*" CCH, as CCH now alleges in the Alameda Court case.

In response to a question about whether MOHCD had been concerned a verdict against CCH could scuttle the 250 Laguna Honda senior housing project, Hartley wrote in response that MOHCD was "*concerned that if the resolution of the El Bethel case went badly for CCH, that could present problems for them.*" She also indicated that "*neither [MOHCD] nor CCH were immediately clear on what options were available to CCH following the tentative ruling's publication and what a final decision might look like.*"

Hartley avoided, however, answering why MOHCD had made no mention of whether the *El Bethel* lawsuit may have been a potential contributing factor in MOHCD's decision-making.

CCH's new Alameda Court lawsuit seems to have so many holes you could drive an 18-wheeler through it. There's a lot of unanswered questions. And the lawsuit seems to fail passing the "smell test."

But we'll have to see. As the lawsuit advances — or ends on a whimper and is dismissed as unfounded — watch this space.

An Educated Guess: Did Loss of Tax Credit Equity Funding Kill the Project?

The [extract](#) of CGOBOC's May 21 hearing also revealed that Kate Hartley had failed to *mention* to CGOBOC either in her written report or in her oral presentation that the City has seen a decline of approximately \$50,000 per unit in tax credit equity funding since December 2017, until CGOBOC member Robert Carlson asked a related question about the loss of units in the "*Low Income Housing*" portion of the Affordable Housing Bond. Hartley finally admitted at 43 minutes and 55 seconds into the audiotape:

*"Even a year ago, we projected a certain per-unit subsidy, but because of the costs and also at the federal level — **I didn't mention this** — but with the federal Tax Reform Act that was finalized in December 2017, we lost approximately \$50,000 in equity per unit from our low-income housing tax credit [equity] program. The only source of replacement for those funds is the City. So, we are facing dual challenges: Less assistance at the state and federal level, and higher costs. So that is resulting in ... um ... higher **gap funding** on a per-unit basis from us [MOHCD]."*

" Why CCH is alleging that its insurance company had not paid CCH's legal expenses in a case involving potential fraud, is somewhat comical because insurance policies typically exclude paying damages to the insured when a case may involve fraud. "

" Hartley indicated that while she had personally discussed with CCH staff that if CCH's lawsuit against El Bethel 'resolved badly for CCH, it could be[come] problematic,' but that MOHCD had not actually 'pressured' CCH. "

" Hartley also acknowledged MOHCD had been 'concerned that if the El Bethel lawsuit ended badly for CCH, that could present problems for them'. "

" CCH's new lawsuit seems to have so many holes you could drive a Mack truck through it. And the lawsuit seems to fail passing the 'smell test'. "

Since the 250 Laguna Honda senior housing project had been relying on \$31.5 million in tax credit equity funding towards the \$73.5 million in total project costs [reported](#) in the March 2018 *Westside Observer*, did the probable loss of \$50,000 in tax equity credits for *each* of the 150 planned units for 250 Laguna Honda translate into an *actual* loss of \$7.5 million in funding, a loss of fully 10.2% of the total project budget? If you add in the \$1.5 million MOHCD prematurely claimed (with no proof or full analysis) would be needed to stabilize the hillside behind the project site, that pushes increased costs to at least \$9 million, 12.2% of the projected \$73.5 million in the project budget. Could that loss of funding have contributed significantly to killing the project?

“ The probable loss of \$50,000 in tax equity credits for each of the 150 planned units for 250 Laguna Honda translates to a potential loss of \$7.5 million from funding, a 10.2% loss. ”

Just like City officials have avoided any public discussion of how the *CCH vs. El Bethel* lawsuit may have contributed to pulling the plug on all funding for the 250 Laguna Honda senior housing project, the City has also studiously avoided discussing publicly whether the significant loss in federal tax credit equity funding may have contributed to funding for not only the 250 Laguna Honda project, but perhaps for many other projects the City is hoping to build to deal given our affordable housing crisis. An educated guess is that the loss of available tax credit equity funds played a *significant* role in what really caused MOHCD to pull the funding plug at 250 Laguna Honda.

“ An educated guess is that the loss of available tax credit equity funds played a significant role in what really caused MOHCD to pull the funding plug. ”

Hartley contributed significantly in failing to mention either the loss of tax credit equity funding, or the El Bethel lawsuit against CCH. Both factors appear to have played prominent roles in killing the 250 Laguna Honda project.

Hartley’s failure to explicitly address either issue during a CGOBOC public hearing, or state address both issues in an MOHCD Bond Accountability written report, is simply shocking that she left the impression in the minds of San Franciscans — and in San Francisco’s lazy mainstream media — that it was *solely* the fault of NIMBY Forest Hill neighbors whose opposition had killed the project.

“ Leaving that *misimpression* hanging like an albatross around the necks of Forest Hill homeowners that they had killed the project is totally unfair to them, and is intellectually dishonest on Hartley’s part! ”

Leaving that *misimpression* hanging like an albatross around the necks of Forest Hill homeowners that they had killed the project is totally unfair to them, and is intellectually dishonest on Hartley’s part! She knew for almost six months about the loss of tax credit equity funding, but didn’t say anything about it until May 21, 2018, and then only when questioned.

Her failures bring great discredit on herself, on MOHCD, and on the city of San Francisco. Shame on her!

When Will Changes to the Affordable Housing Bond Spending Stop?

Here we are approaching three years after voters passed the affordable housing bond in November 2015. When will changes to planned spending of the affordable housing bond stop? What types of affordable housing will voters eventually end up getting?

And when will CGOBOC get around to insisting that the metrics to evaluate the bond spending must be developed and fully implemented?

Or will this be yet another bond spent up in smoke?

“ When will changes to planned spending of the affordable housing bond stop? Or will this be yet another bond spent up in smoke? ”

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