NOT NECESSARILY IN THE NEWS

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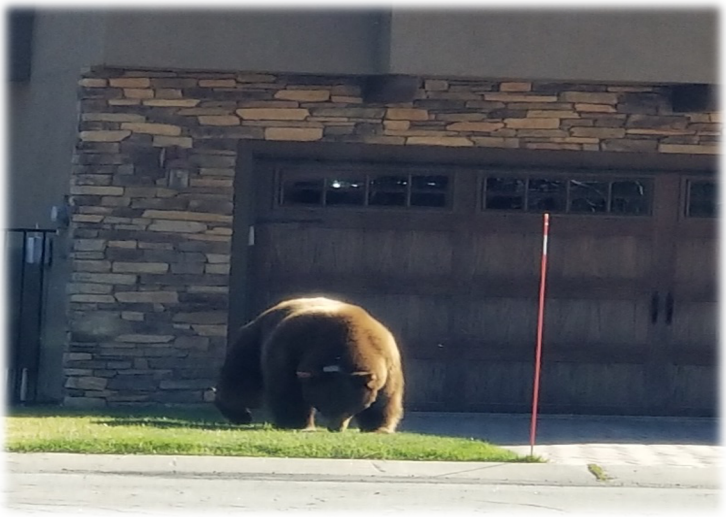
Our Founders declared that a legitimate government derives its "just powers from the consent of the governed" and that the purpose of government is to secure the unalienable rights of its citizens.



Our friends are back!

YOUR LOCAL GOVERNMENT NEEDS TO BE YOUR ADVOCATE

First, I want to thank local property owners, residents, the Tahoe Chamber, South Tahoe Lodging Association, South Tahoe Association of Realtors, and South Tahoe Chamber among others for their efforts to oppose the imposition of an improperly named vacancy tax on second homeowners that is unfair, discriminatory, and likely illegal under State and Federal law. This is the kind of community advocacy that helps to tone down radical change proposals that are based neither on law nor common sense. *Creating affordable housing opportunities for existing working locals and seniors in need is important and there are non-taxing ways to do so that must be examined by local officials on a priority basis*.

I am grateful that "the message" of **no new taxes** is resonating with most of the city council at this time, and they are finally listening that new taxes are not wanted or needed. Growing the local economy, not more taxation, is how we grow local government revenues. Now, not to preach but I offer my insights and 35 years of knowledge in local government to try to relay

some of my experience. Some of the areas where I see our City could improve conditions are: (1) Motel 6 conversion to affordable units (2) a fee paid by State and Federal government in lieu of taxes for vacant lands they own in the city not on the property tax rolls, and (3) use of tax increment tools for needed housing and infrastructure programs. All are within our reach if we try, but first our locally elected and state elected representatives must try too.

REGIONAL AND LOCAL GOVERNMENT CAN NOT ARBITRARILY CHARGE NEW DEVELOPMENT AND PERMITS FEES– *The Sheetz Decision is a good start in leveling the playing field.*

The following comments are derived from a prominent California municipal law firm about the significance of the recently decided Sheetz Case that I recently wrote about to the media. Regional and local government officials need to take notice and take another look at their development impact fees and charges for permits.

"SUPREME COURT HOLDS LEGISLATIVELY ADOPTED DEVELOPMENT IMPACT FEES ARE NOT EXEMPT FROM CONSTITUTIONAL SCRUTINY

April 15, 2024

On April 12, 2024, the United States Supreme Court issued its unanimous opinion in *Sheetz v. County of El Dorado*, holding that the California Court of Appeal had erred in finding that legislatively adopted, uniformly applicable, traffic impact fees adopted by the County's Board of Supervisors were exempt from judicial review for a potential "taking" of private property under the 5th and 14th Amendments. The Court ruled that the Constitution makes no distinction between governmental takings by legislative action and those through administrative action and that fees such as the County's traffic impact fees were indeed subject to judicial review. However, the Court did not decide the constitutional adequacy of the County's fee or rate schedule, instead remanding the case back to the California courts to make these determinations.

In the case below, Mr. Sheetz had sought a permit to build a prefabricated home on his residentially zoned property. The County conditioned granting of the permit on the payment of a $23,420 traffic impact fee, as required by the County's General Plan, which the County assessed through a previously adopted master rate schedule, and not through an individualized inquiry into the cost specifically attributable to the project. Mr. Sheetz paid the fee under protest and then challenged the imposition of the fee in state court, alleging

that the fee was an unlawful "exaction" of money in violation of the "Takings Clause". The Takings Clause is embodied in the 5th Amendment of the Constitution and states that private property shall not be taken for public use without just compensation. Relying on Supreme Court precedent in the cases of *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*, Mr. Sheetz argued that the Constitution required the County to make an individualized determination regarding the amount of the fee necessary to offset the traffic congestion attributable to his specific project (the "*Nollan/Dolan* test"). Put differently, Sheetz believed that the application of a uniform traffic impact fee could not account for individual impacts of a project and implied that smaller projects were necessarily subsidizing larger projects.

Both the trial court and the California Court of Appeal rejected Mr. Sheetz's claim. In its ruling, the Court of Appeal held that the *Nollan/Dolan* test only applies to permit conditions imposed on an individual and *discretionary* basis and does not apply to fees imposed on a broad class of property owners through *legislative* action. The California Supreme Court declined review of the case, but the United States Supreme Court granted review.

The United States Supreme Court held that whether permit conditions such as the payment of fees are imposed through an administrative process or legislative action, such permit conditions must be analyzed under the two-part test articulated in *Nollan* and *Dolan*. Specifically, permit conditions first must have an "essential nexus" to the government's land-use interests. Second, the permit conditions must have a "rough proportionality" between the impacts of the project and the conditions placed on the project to mitigate those impacts. The branch of government imposing the condition, the Court held, is irrelevant.

The Court specifically declined to rule on the question "whether a permit condition imposed on a class of properties must be tailored with the same degree of specificity as a permit condition that targets a particular development." This question, along with any other arguments concerning the adequacy of the County's traffic impact fee, the Court remanded the state courts to decide in the first instance.

Thus, while *Sheetz* leaves unresolved questions regarding what level of particularity local agencies will need to use when establishing the amount of their development impact fees, the case does make clear that even uniformly applicable fees must abide by the "essential nexus" and "rough proportionality" requirements of *Nollan*/*Dolan*. Undoubtedly, further litigation will follow as the courts seek to answer whether governments must identify the specific impacts of each project before imposing a development impact fee, or whether the widely-used rate schedules applicable to broad categories of development can pass constitutional muster…"

SAVE MOTEL 6! *Don't allow existing affordable housing opportunities to be destroyed.*

We can preserve existing affordable housing at Motel 6 **and** improve our environment. The notions are not mutually exclusive. However, to do so, locally elected, and appointed officials and State Housing officials need to act quickly, or Motel 6 housing for locals in need will be lost.

Demolition pf the existing 74 units of housing by the CTC in the name of conservation makes no sense. For months and months concerned locals have been in contact with locally elected and appointed leaders to express their concerns for the potential loss of these units. In addition, officials at the State Department of Housing and Community Development, who are charged with seeing that affordable housing is preserved, have been contacted and urged to intervene. Finally, advocates of the misnamed vacancy tax who say they want funds to create affordable housing are aware of the situation. None of these so-called concerned people for the affordable housing needs of locals have done a thing to stop the demolition. They have failed to act, and if top officials in the Governor's Office do not act, the units will be destroyed. Of course, if this happens, local officials will say there is nothing they could do. This is nonsense as I have pointed out in the past. It is a fake excuse for laziness, lack of leadership, and inaction.

The following letter written on April 8, 2024, is another attempt to get the attention of State officials to put action to their words favoring affordable housing. We shall see (*Vamos a ver*!). I've also asked our State Senator and State Assembly Member to intervene.

The Honorable Tomiquia Moss, Secretary
Business, Consumer Services and Housing Agency
State of California

RE: **PRESERVING EXISTING AFFORDABLE HOUSING IN SOUTH LAKE TAHOE FROM DEMOLITION BY THE CALIFORNIA TAHOE CONSERVANCY**

Dear Secretary Moss:

Congratulations on your recent appointment, and best wishes and regards to you for success and good fortune.

I write to you on an urgent matter that is receiving no attention or response from the State Department of Housing and Community Development (HCD) over many months. The issue is why a State agency, California Tahoe Conservancy CTC), is being allowed by the State

HCD to tear down 74 existing housing units in South Lake Tahoe that can be used for new and badly needed affordable housing. Questions continue to be asked of State HCD staff and leadership without gaining their help to preserve this housing in support of the Governor's initiative to develop more affordable housing in our State.

I am including for you a copy of my most recent letter and communication, one of many, asking for HCD help to see that the housing is preserved. I and housing advocates are waiting for a positive response and engagement on the issue that includes conversation with City of South Lake Tahoe Housing staff who I am told have not been consulted on the merits of this proposed demolition and consistency with the City's existing General Plan.

Timing is of the essence as CTC is proceeding with its anti-affordable housing deeds to demolish these units contrary to the letter and spirit of State and local policies.

Please help those of us who care to preserve this affordable housing stock.

Sincerely, David Jinkens

INVESTIGATE FULLY ALLEGED ANTISEMINITISM AT U.C. BERKELEY

April 2, 2024

The Honorable Virginia Foxx, Chair
House Education and Workforce Committee
House of Representatives

RE: ALLEGED ANTISEMITISM AT U.C. BERKELEY – YOUR INVESTIGATION

Dear Chair Foxx:

Thank you for your service to your District and our Nation.

I understand that your committee launched an antisemitism inquiry into the University of California, Berkeley, broadening the scope of its investigations into antisemitism on college campuses.

It is reported that you sent "*a letter to UC Berkeley leadership announcing her (your) committee's investigation into the school's "response to antisemitism and its failure to protect Jewish students," adding the committee has "grave concerns regarding the inadequacy of UC Berkeley's response to antisemitism on its campus."*

I applaud you for taking this step. You and many of us want answers to these questions.
I am forwarding to you copies of letters I sent on February 18, 2024, to the U.C Regents, my letter of January 30, 2024, and my letter of December 21, 2023, to the Chancellor at the Berkeley campus seeking answers and reassurance that a proper investigation of alleged antisemitism and response would be made. I have also asked what foreign governments,

especially adversaries who may be antisemitic to the United States, have made contributions to the University. *To date, I have received no answers*.

I hope that your investigation and review addresses the concerns of those of us who want to see Jewish students and faculty protected at U.C. Berkeley and all U.C. campuses. We can expect and accept no less.
Respectfully, David Jinkens

THREE MAJOR RISKS NEED THE ATTENTION OF REGIONAL AND LOCAL LEADERS

Catastrophic Fire Evacuation Routes- We need help and advocacy for regional and local government leaders to ensure that we have adequate evacuation routes developed in the event of catastrophic fire. We cannot allow people to be burned in place. The environmental review process under Federal and State of California laws must be used to evaluate the risks and provide the remedies. They cannot be ignored any longer.

Microplastics – We need a strategy and action plan by regional authorities like TRPA and LRWQCB to substantially reduce microplastic pollution in our environment, lake, and water supply. The evidence is clear that it is a danger to our environment and health.

RF Radiation from Cell Towers and facilities – We need regional authorities and local government officials to take the new science seriously that RF radiation from cell towers and facilities is dangerous especially for people with immune deficiencies. We must ensure that when needed telecom technology updates are made that they are done in a safe manner for people and our environment.

We all need to come together to support efforts by regional regulatory agencies and local government officials to better protect our region. We can and will make a positive difference if we all work together.

Espero que todos disfruten de buena salud y buena fortuna.

David Jinkens, MPA
Good Government Advocate

"SI, PODEMOS