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July 20, 2015

Honorable Christopher Cahill
Justice, Supreme Court
County of Ulster
Ulster County Courthouse
285 Main Street
Kingston, New York

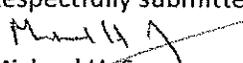
Re: Degan, et al . v. County of Orange, et al. Index No. 2015/5038 [County of Orange]

Dear Justice Cahill:

Oral argument on our request for a TRO in the above styled matter has been scheduled for 2:00 pm tomorrow. Earlier today, we received a copy of the enclosed letter, written nearly one year ago, but never before made public or available to us as counsel for petitioners in either challenge to the demolition of the Government Center. This letter vindicates the arguments we have made in this and our prior lawsuit. As most relevant to tomorrow, the letter, written by the President of designLAB architects, Inc., confirms that the County has intentionally "skirted" 106 requirements, segmented the instant project in violation of SEQRA so as to avoid a SPDES permit and not completed SEQRA in a manner which is consistent with the law. While the letter precedes many recent events, its essential analysis remains on point and presages the County's then evident intention, since implemented, to evade environmental laws in the development of a project different from BB+.

As issuing a TRO requires the balancing of numerous factors and is, in the end, a matter of equity, I believe the Court should have this document before tomorrow's proceeding. We have sought the document for months, but, as noted above, only today did we receive it.

Respectfully submitted,


Michael H. Sussman

Enc/

Cc: Ms. Kim, counsel to the County of Orange and Ms. Reid, counsel to the Orange County Legislature

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August 18, 2014

Phil Clark, PE CEO
Clark Patterson Lee
103 Executive Drive
Suite 202
New Windsor, NY 12553

RE: Renovations and Additions for the Orange County Government Center

Dear Phil,

I appreciate having met with you, Mark Johnson and Tenee Casaccio on Friday, August 15, 2014 to better understand the status of the Orange County Government Center project for which our three firms were hired as a combined Architectural/Engineering team over a year ago. As you know since our advanced work in Schematic Design was put on hold by the County in early June (due to concerns over the potential delays in the approval process), designLAB and JMZ have been outside the decision making process which you have led with the County developing a strategy to move forward again.

Under CPL's leadership, the County has since decided to approach the design quite differently. The Architectural Team of designLAB and JMZ were not engaged by CPL in the development of the current design and were not consulted on the current approach being employed to avoid regulatory approvals by designing a project with site disturbance at under one acre.

Our meeting on Friday helped to clarify the intended process you negotiated with the County and CPL's revised role and responsibilities in our team structure. We understand that CPL and the County wish to accelerate the schedule making up for lost time due to the 3-month hiatus, in order to achieve a June 2015 bid date. CPL will also be solely responsible for the Construction Documents and Construction Administration phases (both Architecture and Engineering) 'to ensure the successful outcome of the project, taking full responsibility and liability for the project' as you have stated in the meeting. Unfortunately, in our meeting you were unable to outline a schedule or deliverables for our designLAB/JMZ team, nor a draft of how you plan to revise our original fee distribution agreement.

We also understand, from your prediction, that despite the intention of the County leaders to accelerate the process, it is likely to 'start and stop' again subject to a change in direction such as the recent developments by the County to consider a sale to a developer who might lease space back to the County. As I am sure you can appreciate, the interruption of the SD phase by the County, the inconsistent scheduling of meetings during that phase, and the inability to deliver timely decisions on options has resulted in significant additional work for the designLAB/JMZ team and subsequent adverse financial impact to our firms due to staffing and scheduling interruptions.

After much thought and consideration of the project's current status and the plan for moving forward, I am writing to advise you of what we believe to be the most reliable and successful process for advancing the planning, design and construction of the Orange County Government Center project. The following recommendations are based on the professional judgment and considerable project approval experience of the Architectural Team for the project, designLAB architects Inc, and JMZ Architects & Planners.

Our primary concern at this stage of the project is that the currently proposed strategy to avoid the typical approvals process for a project of this type with SEQRA, SHPO, and 106 reviews, is at best marginally feasible. Considering the public interest and controversy surrounding the project, we believe that even if the team were successful in avoiding the approval process with the agencies typically required, that the County would still be exposed to potential challenges that would likely further delay schedule, add cost, and encumber progress for the project.

BACKGROUND

In August 2013 the combined Architectural/Engineering Team of Clark Paterson Lee (CPL), designLAB and JMZ were engaged to develop a comprehensive assessment of the feasibility of adapting the abandoned 50 year-old Government Center building to provide for the existing and future needs of the County. Together with the bi-partisan 'working group' of Legislators and the County Executive we considered a wide range of Concept Plan options including both renovation and addition alternatives to adapt the existing complex for the future needs.

The five-month process concluded with a consensus of the working group to proceed with the BB+ scheme. Their recommendation was overwhelmingly approved by a vote of the full legislature in December 2013.

The Architectural Team believes that the design we developed for renovation and additions to the existing Government Center building would have addressed chronic roofing, envelope and building systems issues but would also result in a 'state-of-the-art' contemporary services and office building uncompromised by the existing structure. The 'transformed' Orange County Government Center could be a 'model' for public services in New York State.

The Schematic Design demonstrated the potential of the Government Center to serve as a flexible, modern, welcoming and healthy environment for visitors and staff. The renovated building would have been durable and easy to maintain. The transformed building and landscape promised to be both beautiful and iconic - a center the residents and taxpayers of Orange County could finally be proud of. It also had the potential to interpret and elevate the important cultural legacy of this significant architectural work by the visionary architect, Paul Rudolph in a practical and cost effective way that would serve the needs of Orange County for years to come.

Following that vote, the process regrettably did not continue as planned. In fact, in January 2014 the collaborative process that proved so successful over the previous five months stopped. CPL began meeting with County legislators and administrators separately as the space program and architectural design completed in 2013 was reconsidered by the County. After this extended delay, the team was finally authorized to begin Schematic Design in March 2014.

REGULATORY APPROVALS PROCESSES

Since CPL was responsible for the SEQRA, SHPO and FEMA processes, the Architectural Team (designLAB and JMZ) recommended to CPL in Fall of 2013 to begin the regulatory review process. From our combined experience on large, complex architectural design projects, we understand the necessary sequence of submissions and reviews that are required for these approvals. In January we again recommended that the project proceed immediately with the regulatory review processes. It is our belief, that had we begun that process in January we would have achieved sign-offs on the design approach by now.

designLAB did accompany CPL to a meeting with SHPO in March along with representatives of the Orange County Department of Public Works to review the necessary requirements for submissions. During this meeting, we found Eric Kuchar and subsequently his counterpart John Bonafide, to be reasonable, requesting information typically required. Kuchar and the SHPO office were delayed in providing us a response to our initial submission. This may have been the result of their internal schedule demands. They fairly asked for more detailed design information and a face-to-face discussion of alternatives that had been studied. To our knowledge that design-oriented meeting was never arranged. We understand that CPL and the County have since met with SHPO representatives, but we were not present.

Instead of engaging SHPO in the expected discussions about the design, the focus has now shifted to avoidance of SHPO involvement. We feel that the current strategy proposed by CPL to minimize site disturbance to under one acre to avoid a storm water pollution prevention permit from the State Department of Environmental Conservation and thus skirt the need for the 106 review process is technically infeasible and unadvisable for several reasons.

- One of the most important goals of the Concept and Schematic Design Phases was to transform the existing building to provide universal access, easy orientation and logical movement for all visitors throughout the building complex. This is simply unachievable without modification of the site to create a comfortable entry court and clear access to level two. As we understand it, the current design will not accomplish these goals.

- There are existing site conditions and storm water issues to be resolved, and they cannot be adequately addressed unless more than one acre of land is disturbed. Without changes to the courtyard and surrounding site, the improved building will be surrounded by a sea of broken pavement with unresolved drainage, unsafe parking lot conditions and no better site orientation than before. The taxpayers will likely judge their investment in the renovations as unsuccessful or incomplete at best. Deferring these necessary and worthwhile improvements until a later date may expose the County to claims of segmentation from a SEQRA standpoint since, considered together, the work would surely have exceeded one acre of disturbance and required the associated permits and related approvals.

- We are concerned that the SEQRA record is not being revised to match the current design approach. As you stated at our meeting on Friday, August 15 at CPL's Latham office, if an Article 78 challenge comes, it will likely occur when the County attempts to award the Division 2 demolition contract. If you are right, this will delay the project further and encumber County funds to defend the challenge that would have been better invested in conducting the typical approval process in the first place.

- The design schemes now proposed by CPL discard the previous thoughtful planning and design of the project embraced by the bipartisan County committee. Although we have yet been provided an opportunity in detail, we are concerned that the new design will not result in the flexibility and adaptability desired by the County that would have been achieved in the previous Schematic Design approach.

RECOMMENDED PROCESS

We recommend a well-defined and sequential process, which integrates in detail all components of the approvals process. It is our belief that while this recommendation will initially expand the current draft schedule, it will ultimately save time, protect the County from future challenges to the project, and result in a renovation and addition project that accomplishes their goals.

Please appreciate that our goal in outlining these recommendations is to ensure that the Leadership and residents of Orange County are provided with the highest quality building at or below the approved budget cost. Our greatest concern is that in an effort to accelerate the process, the end product will be deeply compromised.

It is clear that in order to expedite decision making, key representatives from the County Executive's office and representatives of the Legislature must be part of all design meetings. Based on the success of our work in the Concept Phase, we recommended this structure to CPL in January and we continue to believe it is the right strategy. The process you described at our August 15 meeting is that you will be taking direction from "everyone" at the County and advising the design team accordingly. We are concerned that this flow of information will be ineffective, inefficient and overly costly for everyone involved.

We also recommend that the project responsibilities and expected deliverables be clearly outlined in order to make efficient use of the reduced design time. We are concerned that CPL has appointed an in-house architect to lead the project who has not been involved in the myriad of studies and discussions about the building to date. We are also concerned with the lack of clarity in the roles of CPL's assigned staff. At our August 15 meeting, you stated that we should view three individuals at CPL "as one" and that you would be adding staff fluidly as the project workload fluctuates. We are concerned that this staffing model will result in confusion, duplication of efforts, and potential loss of continuity.

At the meeting you indicated that CPL is committed to completing the construction documents on the original schedule (June 2015). You also explained that the project is likely to stop and restart sporadically as the County continues to grapple with fiscal challenges. We are concerned that this on-again/off-again process will undermine the already foreshortened design schedule and will not leave adequate time for thorough design detailing and documentation, potentially resulting in increased professional liability.

We have concerns that there will not be adequate time for cost estimating and reconciliation. You explained that the team would work continuously while cost estimates are prepared and then make any necessary changes to the documents thereafter. This, too, will eat up valuable time and may compromise the integrity of the resulting documents.

SUMMARY

As you know the Architectural Team of designLAB and JMZ has not been party to the formation of the new design approach, has not been consulted on the recommended process, and is now being asked by CPL to assume a greatly diminished role in the project. The role you propose for us has yet to be outlined but was described to us in your August 13, 2014 email as taking considerable design direction from you with our work generally concluding in the Design Development phase. Although the combined expertise and reputations of designLAB and JMZ played a substantial role in the County's A/E selection process and the work our two firms completed on the Concept Phase brought about unprecedented support from County legislators, CPL has since disenfranchised us.

From your statement that "CPL is prepared to complete the project without us," it appears that you do not see the value of leveraging the investment the County has made in our knowledge of the space program, department functions and relationships, technical understanding of the existing site and building, and collective design abilities.

Given the direction the project has taken under CPL's leadership, the skepticism we share about the likely success of the new approach, our belief that this approach will not serve the best needs of the County, and our greatly reduced ability to affect a successful design, we feel ethically and professionally that we must remove ourselves from the project.

Sincerely,



Robert J. Miklos FAIA
President
designLAB architects inc

CC:

Tenee R. Casaccio AIA
Managing Principal
JMZ Architects and Planners P.C.