

## Amy Ow

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**From:** Camille Leung  
**Sent:** Thursday, July 23, 2020 9:15 AM  
**To:** Noel Chamberlain; Robert Pellegrine  
**Cc:** Amy Ow  
**Subject:** FW: Highland Estates Compliance Issues SMC Health Officer COVID19 and Mitigation Monitoring and Reporting Program  
**Attachments:** Asbestos Report.pdf; Sfitighoff\_Email 071020.pdf; Sfitighoff\_Email 071020\_2.pdf; Site Inspection 06-16-20.pdf; Lot 11 Pre-Site Inspection 061720.pdf

FYI

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**From:** Camille Leung  
**Sent:** Thursday, July 23, 2020 9:11 AM  
**To:** Liesje Nicolas <liesjenicolas@gmail.com>  
**Cc:** Nagle Laurel <laurelnagle@gmail.com>; Ottoboni Linda <ohyuuwho@yahoo.com>; Peter Lawrence <4pclaw@gmail.com>; Ozanne Linda <lindaozanne@me.com>; Mitroff George <gbmlaw@sbcglobal.net>; John Mathon <johnmathon@gmail.com>; Gerard Ozanne <jerryozanne@me.com>; Christopher Karic <ckaric@sellarlaw.com>; Dave Michaels <dm94402@gmail.com>; Chris Misner <chrismisner@yahoo.com>; Christophe Sarmiento <csarmiento22@yahoo.com>; Pamela Merkadeau <pamela@merkadeau.com>; Corrin Brown <d.cbrown@comcast.net>; Tania Leung <smalllittlet@yahoo.com>; Gary Trott <gary\_trott@comcast.net>; Rick Priola <hcpres@gmail.com>; Grace Hassid <gracehassid@yahoo.com>; Steve Hassid <steve\_hassid@yahoo.com>; Janine Pin Yee Wong <wongj@att.net>; Donald Nagle <donald.r.nagle@gmail.com>; Liesje <highlandscapresident@gmail.com>; Sam Naifeh <samnaifeh@sbcglobal.net>; Kim Ricket <kim.ricket@gmail.com>; Meghan Lubker <mslubker@gmail.com>; Dylan Ashbrook <dylanashbrook@gmail.com>; Shlomit Holtzman <holtzmans@pacbell.net>; Raphael Holtzman <holtzone@gmail.com>; Kristen Matsushino <matsushino.kristen@gene.com>; Barbara Lowe <paddlerblowe@yahoo.com>; Randall Lowe <merglowe@sbcglobal.net>; Thomas Frankel <frankelt@pacbell.net>; Steve Monowitz <smonowitz@smcgov.org>; John Nibbelin <jnibbelin@smcgov.org>; Amy Ow <aow@smcgov.org>  
**Subject:** RE: Highland Estates Compliance Issues SMC Health Officer COVID19 and Mitigation Monitoring and Reporting Program

Dear Ms. Nicolas:

Below, I have provided the Department's responses to the matters raised in your letter of July 7, 2020, with the numbers corresponding to the numbered comments in your letter:

1. Compliance with San Mateo County Health Officer Order No. c19-5c and the Small Construction Project Safety Protocol is the responsibility of the Project's COVID-19 supervisor, Bob Pellegrine (the site Superintendent).
2. HCA's request to be notified of any confirmed COVID-19 cases among construction workers goes beyond the requirements of the Health Order.
3. The County Planning and Building Department does not have the authority to suspend construction based on concerns related to Health Order compliance.
4. a. SWCA verifies compliance with the conditions of approval and mitigation measures at each inspection, and has documented inspection results in the associated inspection logs. Inspection logs are regularly uploaded to: <https://planning.smcgov.org/highland-estates-subdivision-records>. All grading equipment (i.e., the Kobelco excavator, the Cat skid Steer, and the John Deere backhoe) meets Tier 3 emission standards. Water is being

applied to the construction site at least twice daily during earth moving activities to keep dust to a minimum. Grading is complete at Lots 9 and 10 and, therefore, windbreaks are not required on these lots at this time. The contractor will be installing a windbreak along the windward side of Lot 11 within the next week. HCA's requests for a video feed of construction activities, wind speed records, and to prohibit on-street parking for construction workers and vehicles are not required by the Conditions of Approval and the Department lacks the authority to require these measures.

b. All trucks bringing construction materials to the site use standard breaking and not decompression "jake" brakes. Furthermore, all compression equipment onsite has been hydraulic. During SWCA's site inspections, the onsite foreman has stated that work has not occurred on Saturdays; however, the owner has recently confirmed that work has occurred on 3 Saturdays. SWCA staff has informed the owner and contractor that if the contractor proposes to work on any future Saturday, they will be required to obtain County approval based on input from nearby residents and businesses, per Mitigation Measure NOI-1.

c. Regarding HCA's request to provide a deed restriction for trees protected by the RM zoning regulations as may be required prior to the start of construction on these lots, Mitigation Measure HAZMAT-2 states "This requirement shall be recorded as a deed restriction on Lots 1 through 4, and 9, 10, and 11 when the lots are sold".

d. Regarding HCA's request to provide the Site Health and Safety Plan and Soil Management Plan with verifiable evidence of compliance with the plan during grading as well as testing results for asbestos from grading and rock crushing on site, please see attached documents.

e. Regarding HCA's request to provide inspection, testing and report(s) for Mitigation Measure GEO-5, please see the attached recent email from Scott Fitinghoff at Cornerstone.

5. Regarding HCA's request to provide MMRP monitoring data and reports of required mitigation procedures with a record of verifiable measures, mitigation reporting data is updated regularly uploaded to: <https://planning.smcgov.org/highland-estates-subdivision-records>
6. According to the site supervisor, Sheraton Place and New Brunswick Dr. are periodically used to access Lot 11. These streets were not used as a part of the construction route for Lots 9 and 10. Construction of Lot 11 necessitates the use of New Brunswick, as it provides the only means of access to Lot 11.
7. Regarding HCA's concerns regarding alleged damage to the sidewalk and pavement at the corner of Cobblehill and Woodcreek Ct., photos have been provided to the Department of Public Works. DPW will determine whether to require that the damaged be repaired prior to final inspection.
8. SWCA staff performed an inspection on Lot 11 on June 17, 2020 (see attached report) to confirm installation of erosion control measures and tree protection and did not observe use of a backhoe. Also, the SWPPP inspector inspected the site on 6/16/20 (see attached report) with a photo of a backhoe being used on Lots 9/10.

Thank you

**From:** Liesje Nicolas <[liesjenicolas@gmail.com](mailto:liesjenicolas@gmail.com)>

**Sent:** Tuesday, July 7, 2020 10:01 PM

**To:** Camille Leung <[cleung@smcgov.org](mailto:cleung@smcgov.org)>

**Cc:** Nagle Laurel <[laureltnagle@gmail.com](mailto:laureltnagle@gmail.com)>; Ottoboni Linda <[ohyuuwho@yahoo.com](mailto:ohyuuwho@yahoo.com)>; Peter Lawrence <[4pclaw@gmail.com](mailto:4pclaw@gmail.com)>; Ozanne Linda <[lindaozanne@me.com](mailto:lindaozanne@me.com)>; Mitroff George <[gbmlaw@sbcglobal.net](mailto:gbmlaw@sbcglobal.net)>; John Mathon <[johnmathon@gmail.com](mailto:johnmathon@gmail.com)>; Gerard Ozanne <[jerryozanne@me.com](mailto:jerryozanne@me.com)>; Christopher Karic <[ckaric@sellerlaw.com](mailto:ckaric@sellerlaw.com)>; Dave Michaels <[dm94402@gmail.com](mailto:dm94402@gmail.com)>; Chris Misner <[chrismisner@yahoo.com](mailto:chrismisner@yahoo.com)>; Christophe Sarmiento

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**Subject:** Highland Estates Compliance Issues SMC Health Officer COVID19 and Mitigation Monitoring and Reporting Program

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THE SAN MATEO HIGHLANDS COMMUNITY ASSOCIATION

July 7, 2020

Camille Leung, Senior Planner  
Planning & Building Department  
455 County Center, 2nd Floor.  
Redwood City, CA 94063

**RE: SMC Health Officer COVID19 and Mitigation Monitoring and Reporting Program (MMRP) Compliance Requirements for Chamberlain Group “Highland Estates” project**

San Mateo County file numbers: BLD2016-00158; BLD2016-00159; BLD2016-00160, BLD2016-00161; BLD2016-00162; BLD2016-00163; BLD2016-001564

Dear Camille:

Neighbors have witnessed ongoing activities which do not appear to comply with requirements of the Health Officer of the County of San Mateo in the [06/04/20- Health Officer Order c19-5c Revised Appendix B-1: Small Project Protocol \(Revised Date\)](#) and MMRP requirements for hazardous conditions. Some of the activities should have already triggered the required work cessation or pause.

We urgently need your specific attention and response to our requests for information and action steps.

**COVID19 Protocol for small project construction in San Mateo County:**

**Request Number One**

Please provide us with the County certification of all details substantiating the applicant’s full compliance with ORDER No. c19-5c Small Construction Project Safety Protocol UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE COUNTY OF SAN MATEO (“HEALTH OFFICER”) ORDER

Include the designated site-specific COVID-19 supervisor or supervisors to enforce this County’s health officer order.

Include the required “daily screening protocol for arriving staff to ensure that potentially infected staff do not enter the construction site” and verification that the supervisor is posting the daily screening protocol at all entrances and exits to the jobsite.

In the event of a confirmed case of COVID-19 at any jobsite, ORDER No. c19-5c requires, “the following must take place:

- i. Immediately remove the infected individual from the jobsite with directions to seek medical care.
- ii. Each location the infected worker was at must be decontaminated and sanitized by an outside vendor certified in hazmat clean ups, and work in these locations must cease until decontamination and sanitization is complete.
- iii. The County Public Health Department must be notified immediately and any additional requirements per the County health officials must be completed, including full compliance with any tracing efforts by the County.”

Request Number Two:

As soon as any individual working at a jobsite is identified as being infected with COVID-19 virus, please notify as soon as possible the nearby residents in person and send a text message within 24 hours after illness identification to Liesje Nicolas at 650-773-7805 and a follow-up email to her at [liesjenicolas@gmail.com](mailto:liesjenicolas@gmail.com). Please confirm compliance to this request.

ORDER OF THE HEALTH OFFICER No. c19-8(b) (REVISED) : May 19, 2020

Neighbors have witnessed workers leaving their vehicles without face coverings when residents have been in their driveways or outside the house.

There appears to be ready contact between neighbors and the workers at the very least as the latter park their cars (see attached) curbside and at the driveways of occupied homes before walking onto the jobsite while residents are in and out of their homes during morning activity such as placing and collecting recycle bins, and so on. (see attached photo)

Neighbors have witnessed workers leaving their vehicles without face coverings when residents have been in their driveways or outside the house.

“By way of example and without limitation, a construction worker... must put on a Face Covering when coworkers are nearby, when being visited by a client/customer, and anywhere members of the public or other coworkers are regularly present.” [Order No. c19-8(b)]

Request Number Three:

please confirm that San Mateo County will have this project work suspended until the Health Officer conducts an investigation and determines violations [California Health and Safety Code §120295, et seq.; Cal. Penal Code §§ 69, 148(a)(1)] and remedies.

**Mitigation Monitoring and Reporting Program (MMRP) requirements**

Your compliance contractor SWCA is decreasing rather than increasing “monitoring” inspections. In spite of requests, we have not been provided the County’s required reports as well as the necessary data serving as the basis to make a determination of project compliance with the MMRP.

Neighbors are already suffering adverse impacts, such as grading persisting in spite of high wind gusting conditions, noise and dust causing a family to move out the home in order to protect an infant from hazardous health effects, trucks endangering very young children preventing from being in their front yards, and

jackhammers and impact rock crusher breaking up boulders setting up severe shaking of home foundations and misaligning side yard fence from the construction conditions that are being allowed to go on rather than being adequately monitored and remedied.

#### Request Number Four

We continue to request the following monitoring data needed for detection of parameters that trigger required mitigation procedures under MMRP (attached) and objective verifiable documentation of regular and timely onsite implementation of procedures:

A. Request Number Four A Measure AQ-1: Provide all required documentation with verifiable measures outlined for Impact AQ-1 mitigation.

Please include objectively verifiable measures of PM<sub>10</sub> reduction; verification for MMRP outlined water application procedures including monitoring method used to prove procedure followed twice daily (monitor contractor's CCTV pole camera with time and date stamp); verifiable wind speed and instantaneous gust measures; wind break locations, verifiable certification that all large vehicles adhere to carb level three verified control devices; requirements for construction trucks and other vehicles to park in staging areas rather than on public streets.

B. Request Number Four B Impact NOI-1: Verifiable certification of noise reduction practices; input from nearby residents for permitting Saturday hours (8:00 AM to 5:00 PM)

C. Request Number Four C Impact HAZMAT-2: Mitigation Measures HAZMAT-2 Provide deed restriction for trees protected by the RM zoning regulations: "This requirement shall be recorded as a deed restriction on lots 1 through 4, and 9, 10, and 11 prior to the start of construction on these lots."

D. Request Number Four D Mitigation Measure HAZMAT -3 "It's not known if the serpentinite observed on site contains asbestos or not; therefore, during excavation, random samples should be tested to ensure there is not asbestos present." ... "This project would create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Please provide for Request Number Four D: \_

- 1) the required Site Health and Safety Plan and Soil Management Plan with verifiable evidence of compliance with plan during grading and
- 2) testing results for asbestos from grading and rock crushing on site.

E. Request Number Four E: Required inspection, testing and report for Mitigation Measure GE0-5:

#### Request Number Five:

Please provide MMRP monitoring data and reports of required mitigation procedures with record of verifiable measures

#### Request Number Six:

Please provide the document that authorizes the project construction trucks to travel along Sheraton and New Brunswick Drive.

#### Request Number Seven: Damage to streets sidewalks

Please inform us what and when and how the County will have the applicant perform repairs on areas that the trucks have broken the sidewalk and cracked the pavement at the corner of Cobblehill and Woodcreek Ct. (see photos attached)

Request Number Eight:

Please provide a copy of the authorization for entry and use of a backhoe in lot 11 on June 17, 2020.

Due to ongoing destructive impacts and risks to lives and damages to health, we request an immediate pause in construction activity until an investigation into verified dates and details of County Health Officer Order c19-5c COVID19 and MMRP compliance is carried out and duly communicated to area residents.

Thank you,  
Liesje Nicolas, President Highlands Community Association