

Board of Education City of Los Angeles

P.O. BOX 3307, LOS ANGELES, CA 90051

TELEPHONE (213) 241-7002

Fax (213) 241-8443

BOARD SECRETARIAT

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Superintendent of Schools

June 10, 2020

BY EMAIL AND U.S. MAIL

Honorable Eric Garcetti
Mayor
City of Los Angeles
200 North Spring Street
Los Angeles, California 90012
eric.garcetti@lacity.org

Members of the Los Angeles City
Council

Nury Martinez
President
Los Angeles City Council
200 North Spring Street
Suite 470
Los Angeles, California 90012
councilmembermartinez@lacity.org

Mike Feuer
Los Angeles City Attorney
J. K. Hahn City Hall East,
Suite 800
Los Angeles, California 90012
mike.feuer@lacity.org

Re: Request for City Action to Remedy Environmental Injustice at David Starr Jordan High School and Jordan Downs Affordable Housing Development, South Los Angeles

Dear Mayor Garcetti, Councilmembers, and Mr. Feuer:

The purpose of this letter is to seek a critical solution to serious ongoing health conditions and safety threats which have been impacting the students of David Starr Jordan High School (“JHS”) located at 2265 East 103rd Street in the Watts neighborhood of south Los Angeles and which will also impact the new residents of the Jordan Downs Redevelopment project (“Jordan Downs”).

Between 2007 and 2010, as the City of Los Angeles (“City”) was annexing the land around the Jordan Downs Housing project and securing significant federal funding

for the massive one- billion-dollar Jordan Downs project, threatened legal action by S & W Atlas Iron & Metal Company (“Atlas”), a metal recycling facility located adjacent to the Jordan Down project, had the potential to delay these critical funds.

As a result, the City allowed for the Atlas property to be annexed from the County of Los Angeles (“County”) on Atlas’ own terms. Bypassing the objections of its own planning department, the City not only stood down on any actions to remove the hazardous Atlas site, but it simultaneously allowed Atlas to reduce Conditional Use Permit regulations which had been more severe under the County. The immediate victims in this move were the children and staff at JHS, the future tenants at the new Jordan Downs project and the existing Jordan Downs community. In 2013, the City approved the annexation of the Atlas property from the County as part of its approval of the Jordan Downs Urban Village Specific Plan. However, the terms of the County Conditional Use Permit were drastically altered, allowing for a set of less restrictive regulations than what had been in place to protect the surrounding neighborhood. These less restrictive conditions were approved by the City Council in 2016 over the objections of the City Planning Department, the entity responsible for ensuring that conditions on industrial uses are prescribed to protect neighborhoods.

After years of efforts by Los Angeles Unified to curb the activities at Atlas, City leaders must now confront the potential tragedies as the Atlas facility continues to operate with near impunity while the City is actively moving tenants into the new Jordan Downs housing development and school children prepare to return to the JHS campus in August.

JHS, along with the new Jordan Downs project, adjoin this high risk, ultra-hazardous metal recycling facility. Over the years, this facility has dramatically impacted the school and surrounding community. These impacts include the launching of steel projectiles and sharp metal shards onto school grounds, excessive intolerable screeching metal noise and substantial vibrations throughout the early morning and during school hours. The facility has also been emitting a “metal mist” of dangerous contaminants onto school facilities and adjoining properties. The school principal refers to the metallic mist as a “purple shimmer” of fine metal particles that can be seen on blacktop and hard surfaces and she describes the noise as chronic and most disturbing when children with special needs are seen holding their ears to escape the sounds.

As background, Los Angeles Unified became aware of the potential dangers posed by Atlas as early as 2002, when a series of explosions occurred resulting from the cutting of a metal drum filled with combustible oil, a live military ordinance and a military ordinance shell at the Atlas facility. These separate incidents caused extremely hazardous metal projectiles to fly over the Atlas fence onto the JHS athletic fields. Fortunately, no one was injured on school grounds, but these events made evident that strict restrictions on Atlas were necessary to safeguard our students and staff.

As a result, in 2002 the District requested the California Department of Toxic Substances Control (“DTSC”) to investigate the dangerous conditions and potential contaminant migration from Atlas on to the JHS campus. Based on the investigation,

the DTSC assumed oversight and monitoring of this facility and issued an “Imminent and Substantial Endangerment Determination and Order” in 2004, requiring the removal of arsenic and lead impacted soil at impacted areas on the JHS softball field located adjacent to Atlas.

In 2006, the DTSC removed hazardous stockpiles of soil from the Atlas facility. The final clean-up removal at the Atlas facility was completed in 2008. In addition, a Land Use Covenant (“LUC”) between Atlas and the DTSC was recorded in the Los Angeles County Recorder’s Office, which, out of necessity, strengthened operational restrictions in the Conditional Use Permit (“CUP”) issued by the County in 2004 to Atlas. From 2006 through 2012, there were several instances where Los Angeles Unified clearly notified the owners of Atlas and the DTSC that Atlas was seriously violating the LUC and CUP, but to date their response has been inadequate. On July 5, 2019, in response to a letter sent by Los Angeles Unified’s Director of the Office of Environmental Health and Safety (“OEHS”) to the Los Angeles County Department of Public Health (“LACDPH”), the LACDPH inspected and identified numerous health and safety issues and violations at Atlas, and by that letter copied the Los Angeles Department of Building and Safety (“LADBS”); South Coast Air Quality Management District; Regional Water Quality Control Board; and Cal OSHA. Los Angeles Unified filed additional complaints with LADBS regarding the deficiencies identified by LACDPH and attempted to re-engage the DTSC. Several follow-up requests, and even a top-level meeting with LADBS officials, resulted in no meaningful action whatsoever.

Quite stunningly, given the very visible history of the serious issues posed by Atlas, when the City initiated the annexation of the Atlas property in 2013 as part of the Jordan Downs Specific Plan and commenced construction of the Jordan Downs project, the City knowing and intentionally chose not to maintain, nor has the City enforced, key conditional use restrictions that were originally in place by the County CUP; restrictions that were relied upon by the DTSC in its LUC with Atlas and in their enforcement oversight. Those restrictions were a minimum protection against the environmental abuses facing JHS, and now, the brand-new Jordan Downs project which is currently being populated. This action by the City Council in 2016 was an “urgency action” that, as stated in a letter dated August 13, 2013 to the City Council from Los Angeles City Attorney Michael Feuer (“City Attorney”) required a 3/4 super-majority vote of the City Council, because it was overturning the City’s Planning Director’s recommendation with an urgency motion. The City Attorney’s letter specifically warned the City Council of the reduced restrictions for Atlas:

*“After the CPC’s review, and prior to your PLUM committee’s review, Atlas Iron and Metal Company (“Atlas”) which owns and operates certain manufacturing uses within the Specific Plan area, requested various changes to the Specific Plan. Essentially, Atlas requested **less restrictive regulations** for its existing manufacturing operations Since the current draft **substantially deviates** from the previous draft reviewed and approved by the CPC, the Specific Plan before you has been disapproved by the Director of Planning on July 31, 2013, on behalf of the CPC and would, accordingly, require approval by a vote of not less*

than two-thirds of the members of the City Council pursuant to Section 558(b)(3)(B) of the Los Angeles City Charter. However, as is explained below inclusion of the urgency clause requires adoption by a three-fourths vote of the City Council . . . Inclusion of such urgency clause means that the ordinance must be passed by a three-fourths vote by the City Council.”[emphasis added]

Despite being a highly impacted contiguous property with a very sensitive population, Los Angeles Unified was never informed, noticed or consulted about this action by the City Council in 2016.

Since the City eliminated the existing restrictions, staff from OEHS have observed multiple events where the height of the stockpiles have significantly increased in size and volume, towering over the perimeter walls adjacent to JHS and that metal recycling activities have threatened the school much more frequently. As a result, Los Angeles Unified sent a letter to the City Attorney requesting reinstatement of the previous, health-protective measures. To date we have not received a response on this request or how the City may be able to address our concerns.

Over the past few months, as part of our on-going investigation, Los Angeles Unified reached out to the JHS principal to discuss the current impacts from Atlas. The principal indicated that there are screeching and high-pitched noise impacts throughout the day from Atlas and that oftentimes fugitive dust emissions can be seen migrating onto the JHS campus as a result of the metal processing operations and movement of the extraordinarily tall piles of dangerous scrap metal. The principal expressed concern that these emissions may be toxic. It is important to note that many of these activities complained of by the principal have dramatically increased since the less restrictive measures were authorized by the City as part of the annexation of the Atlas property.

To make matters even worse, over the past two months there were three known incidents where sharp pieces of rusted metal were propelled from Atlas over the JHS fence landing in close proximity to construction workers who were on the school campus. The most recent occurred just a few days ago. This is now at least the fifth reported incident where a dangerous metal shard was propelled onto JHS. Further, and quite alarmingly, earlier this week, on the morning of June 9th, a cloud of toxic fumes and smoke emanating from the Atlas facility, engulfed a portion of the Jordan High campus, impacting an employee of a contractor working at the school. This was also witnessed by several school safety officials and was described, by Atlas, as part of its “normal course of business operations”.

Fortunately, no students were at JHS during these recent incidents due to the current COVID-19 pandemic closures and luckily none of the construction workers at JHS were injured. The principal and physical education teacher have recently informed the District of other flying projectile incidents which, in at least one case, caused the physical education teacher to evacuate all students on the playing fields. This is another compelling example of how the environmental health and safety concerns being created by Atlas have continued to deteriorate, seriously threatening JHS and the new Jordan Downs project.

Los Angeles Unified's Office of the General Counsel and OEHS have addressed these issues in many ways including notification to numerous local and state agencies. However, there has been a lack of any response or enforcement from City agencies like the LADBS, despite numerous requests for assistance. For these reasons, the Los Angeles Unified Board of Education has directed the General Counsel to seek a restraining order from the Federal Court to stop the dangers of flying metal projectiles and metal mist entering the school grounds from the Atlas facility and has also approved the filing of a lawsuit to recover all costs and other relief to ensure that the dangerous projectiles and other ultra-hazardous conditions are not allowed to continue.

However, this is clearly not enough. The prior zoning decision by the City must be corrected and this high-risk facility must be relocated away from the sensitive school population and the new residents who will soon populate the new Jordan Downs project. Thereafter, the property should be dedicated for a beneficial use to JHS and the emerging residential community.

It is absolutely stupefying that a one-billion-dollar residential development project designed to improve the quality of life for an under-served community in South Los Angeles, does not reflect the environmental justice values frequently advanced and advocated by government officials.

We also ask that the City immediately direct LADBS and the City Attorney to investigate, and where appropriate abate, potential violations of the City's health and safety code, nuisance code, and noise ordinance, and other applicable state and local environmental laws in order to protect JHS students, staff, and the new residents of Jordan Downs from the impacts of this facility while it is still operating.

Los Angeles Unified would hope that the City would act decisively to protect students, staff and new residents from potential harm and address this injustice as an urgent matter, without any further delay. We are asking for City leaders to use all available planning and enforcement tools to rethink the uses in this once industrialized corridor, which has now shifted to a majority residential and pedestrian usage.

We kindly request your response at your earliest convenience.

Very truly yours,

A handwritten signature in black ink, reading "Richard A. Vladovic". The signature is written in a cursive style with a large, sweeping initial "R" that loops back over the first part of the name.

Dr. Richard Vladovic
President of the Board of Education
District 7

cc: Members of the Los Angeles City Council (See attached)

Attachment

Member of the Los Angeles City Council

(By E-Mail and U.S. Mail)

Gil Cedillo
Councilmember – District 1
200 North Spring Street, Room 460
Los Angeles, California 90012
councilmember.cedillo@lacity.org

Paul Krekorian
Councilmember – District 2
200 North Spring Street, Room 435
Los Angeles, California 90012
paul.krekorian@lacity.org

Bob Blumenfield
Councilmember – District 3
200 North Spring Street, Room 415
Los Angeles, California 90012
councilmember.blumenfield@lacity.org

David E. Ryu
Councilmember – District 4
200 North Spring Street, Room 425
Los Angeles, California 90012
cd4issues@lacity.org

Paul Koretz
Councilmember – District 5
200 North Spring Street, Room 440
Los Angeles, California 90012
councilmember.koretz@lacity.org

Monica Rodriguez
Councilmember – District 7
200 North Spring Street, Room 455
Los Angeles, California 90012
councilmember.rodriguez@lacity.org

Marqueece Harris-Dawson
Councilmember – District 8
200 North Spring Street, Room 450
Los Angeles, California 90012
councilmember.dawson@lacity.org

Curren D. Price, Jr.
Councilmember – District 9
200 North Spring Street, Room 420
Los Angeles, California 90012
councilmember.price@lacity.org

Herb J. Wesson
Councilmember – District 10
200 North Spring Street, Room 430
Los Angeles, California 90012
councilmember.wesson@lacity.org

Mike Bonin
Councilmember – District 11
200 North Spring Street, Room 475
Los Angeles, California 90012
mike.bonin@lacity.org

John Lee
Councilmember – District 12
200 North Spring Street, Room 405
Los Angeles, California 90012
councilmember.lee@lacity.org

Mitch O'Farrell
Councilmember – District 13
200 North Spring Street, Room 480
Los Angeles, California 90012
councilmember.ofarrell@lacity.org

Jose Huizar
Councilmember – District 14
200 North Spring Street, Room 465
Los Angeles, California 90012
councilmember.huizar@lacity.org

Joe Buscaino
Councilmember – District 15
200 North Spring Street, Room 410
Los Angeles, California 90012
councilmember.buscaino@lacity.org