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**FILED**  
ALAMEDA COUNTY

JUL 22 2008

CLERK OF THE SUPERIOR COURT  
By *Debra Ferguson*  
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA

PANORAMIC HILL ASSOCIATION, a  
non-profit corporation

Plaintiff/Petitioner,

vs.

THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA, an  
agency of the State of California, et al.,

Defendants/Respondents.

AND CONSOLIDATED CASES

No. RG06-301644  
RG06-302934  
RG06-302967

JUDGMENT

Having considered the issues framed by the operative pleadings, the administrative record, and briefs filed by the parties in these partially consolidated actions; having heard oral argument by counsel for all parties in these matters; and having issued on June 18, 2008 an Order Granting in Part and Denying in Part Petitions for Writ of Mandate (“Order”),

THE COURT HEREBY ORDERS, ADJUDGES AND DECREES that:

1. Insofar as petitioners' claims under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) ("CEQA") are concerned, the Petitions for Writ of Mandate filed by petitioners Panoramic Hill Association, City of Berkeley and California Oak Foundation, et al. ("Petitioners") are granted solely on the ground that the record lacks support for findings and conclusions in the EIR that doubling the number of capacity events at the California Memorial Stadium ("CMS") as part of Phase 2 of the CMS Seismic Corrections and Program Improvements, which is one component of the Southeast Campus Integrated Projects (the "Project"), will cause significant environmental effects that are unavoidable. (Order, pp. 121-122.) In other respects, insofar as Petitioners' CEQA claims are concerned, the Petitions are denied and judgment is entered in favor of Respondents The Regents of the University of California, et al. ("The University").

2. Insofar as Petitioners' Claims under the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code, § 2621 et seq.) ("Alquist-Priolo") are concerned, the Petitions are granted solely on the grounds that:

- a. The University is not exempt from the requirements of Alquist-Priolo (Order, pp. 10-17);
- b. The Student Athlete High Performance Center ("SAHPC") project includes the following alterations to the CMS within the meaning of Alquist-Priolo:

(i) a grade beam to be installed along the base of the CMS west wall;

(ii) alterations to two CMS staircases; and

(iii) “ground floor slab penetrations” in CMS proposed to facilitate the installation of the SAHPC telecommunications system; and

c. At the time it approved the SAHPC, the University had not determined the value of the foregoing alterations to CMS identified in Paragraph 2.b, above.

In all other respects, insofar as Petitioners’ claims under Alquist-Priolo are concerned, the Petitions are denied and judgment is entered in favor of the University.

3. The Clerk of the Court shall issue the accompanying Peremptory Writ of Mandate, ordering the University to do the following:

a. suspend the approval of the SAHPC until the University demonstrates that the cost to construct the foregoing alterations to the CMS described above in Paragraph 2.b, is less than fifty percent of the value of the CMS, or removes such alterations to CMS from the SAHPC project; and

b. pursuant to Public Resources Code section 21168.9(c), refrain from approving CMS Phases 2 or 3 of the Integrated Projects until the University (i) withdraws the proposal to increase the number of capacity events at the CMS as part of the Project; or (ii) if the University chooses to retain them, until the University provides substantial evidence to support its findings and conclusions in

the EIR that doubling that doubling the number of capacity events at the California Memorial Stadium will cause significant environmental effects that are unavoidable.

4. The court deems the University's Response, filed June 27, 2008, to the court's June 18, 2008 Order as a return to the Peremptory Writ of Mandate. The University's Response to the Order includes: (1) further environmental review of modifications to the Project and the SAHPC set forth in items (2) and (3) below in response to the court's Order, and modification of CEQA findings related thereto, including a subsequent finding superseding and effectively mooted the finding regarding unavoidable significant effects of increased capacity events; (2) removal from the Project of the additional capacity events referred to in Paragraph 1, above; and (3) removal of all alterations to the CMS included in the SAHPC project referred to in Paragraph 2.b. Such actions demonstrate compliance with the Peremptory Writ of Mandate.

5. In accordance with Code of Civil Procedure sections 1032(a)(4), 1084.5 and 1095, and consistent with the discretion that section 1032(a)(4) gives the court (see *Lincoln v. Schurgin* (1995) 39 Cal.App.4th 100, 105), the court apportions costs based on the degree to which the parties have prevailed in these partially consolidated proceedings. Because the University has prevailed on the bulk of Petitioners' claims, the court awards the University eighty-five percent of its costs, which shall be borne by Petitioners as follows: one-third by City of

Berkeley, one-third by Panoramic Hill Association and one-third by California Oak Foundation, et al. Costs are determined in accordance with the procedures set forth in Code of Civil Procedure sections 1032, 1033 and 1033.5, and the corresponding California Rules of Court. Any party wishing to seek attorney fees may do so by noticed motion.

Dated

July 22, 2008

Barbara J. Miller

Barbara J. Miller  
Judge of the Superior Court