

January 24, 2019

**VIA ELECTRONIC MAIL**

Gregory P. Priamos  
County Counsel  
County of Riverside  
3960 Orange Street, Suite 500  
Riverside, CA 92501

Re: Notice of Dispute with Factual Finding  
Independent Investigation for County Branch Library Incident in La Quinta -  
September 15, 2018

Dear Greg:

Thank you, Supervisor Perez, and the Riverside County Board of Supervisors for providing to the City of La Quinta (“City”), other interested stakeholders, and the public, access to the Investigative Report, Supplement to Investigative Report, and Attachments (collectively, the “Report”) that were prepared by Barbara Raileanu, Esq., of Woodruff, Spradlin & Smart, PC, as independent investigator for the above-referenced incident. My colleague, Bill Shaeffer, and I, in our law firm’s capacity as the City Attorney’s Office for the City, have reviewed the Report.

As a preliminary matter, Mr. Shaeffer and I agree that Ms. Raileanu conducted her independent investigation in the utmost professional manner. We both agree that the methodology used during the independent investigation was commendable. While we did suggest, in Mr. Shaeffer’s letter to Ms. Raileanu dated December 12, 2018, that a few more interviews of persons we believed to have relevant information would be merited, we both agree that the Report is nonetheless thorough, informative, and extremely useful when attempting to discern the events that occurred on September 15, 2018, at the County Branch Library in La Quinta.

The purpose of this communication, however, is to place in the record that our office, on behalf of the City, disputes the following “Factual Finding” relating to the “Findings re Pre-Celebration Discussions” for the event:

- “[T]he preponderance of the evidence also supports a finding that Mr. Escobedo more likely than not received a complaint or “feedback” about the event on or about September 6, 2018 from a resident.” (Report, p.16 of 36.)

To the extent the “preponderance of evidence” includes the following, our office, on behalf of the City, disputes it as well:

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- After the event, on September 18, 2018, Ms. Baiz and Ms. Calderon spoke about the event on the phone. Ms. Baiz adamantly and very credibly stated that during their discussion, they spoke about what triggered the name change, and that Ms. Calderon told Ms. Baiz that Mr. Escobedo was “cornered” by someone and that Mr. Escobedo was “caught off guard....” (Report, p. 18 of 36.)

Although the Report states that both Mr. Escobedo and Ms. Calderon “adamantly deny” the reason for the suggested name change had anything to do with Mr. Escobedo receiving a complaint or “feedback” from a resident about the September 15, 2018 event (Report, p. 16 of 36), it is our office’s conclusion that the Report does not adequately explain the evidence to support the certainty with which Ms. Raileanu rejects both Mr. Escobedo’s and Ms. Calderon’s adamant statements they never knew of or encountered any complaint or “feedback” from any member of the community specific to this event. Mr. Escobedo certainly would know if he had been “cornered” by any person in the library regarding this matter, or whether he was “caught by surprise” by anyone. Similarly, Ms. Calderon would certainly remember if she said those very specific words, especially “cornered.” Since the Report’s release, Mr. Escobedo reiterated to our office that he was never cornered or pressured to change the name of the event, notwithstanding the Factual Finding. Please note, however, that our office’s conclusion, and reasoning behind this communication, is based on responses that were provided by Ms. Calderon and Mr. Escobedo during their interviews prior to the conclusion of the investigation, including the following information from the transcripts of their respective interviews.

**Evidence from Transcript of Christina Calderon (Part I):<sup>1</sup>**

BR	Okay. So, in that same email you write in there that there are several posters advertising this event, and this is the part I want to ask you about “but the City is receiving some feedback as to why we are not celebrating other heritage holidays.”
CC	And that’s a reflection back to just in general. It wasn’t that we received this specific comment. It was in general that we get asked why are we not celebrating Hanukah, why are we not doing different events based on different religions or different cultural backgrounds. And that’s just from doing events and working with the public over the years.

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<sup>1</sup> “BR” is Barbara Raileanu, the independent investigator. “CC” is Christina Calderon. “CE” is Chris Escobedo. “BS” is Bill Shaeffer, legal counsel for the City.

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BR	Okay. No one called you and said specifically this event I don't like that it's focused on Mexico?
CC	Nothing specific.

(Report Attachment 46, p. 11; lines 16-27.)

BR	... All right, and then, your response to that – you stated, “we totally support the event it is just the title that is causing an issue.” And when you say that it is causing an issue, what were you referring to – the same thing? Or causing an issue meaning –
CC	I think causing an issue was talking about these being able to be more broad. Not so much that we received a complaint specific to that.

(*Id.*, p. 12, lines 16-21.)

BR	It seems like the next communication is then from Sue [Duran] to you September 17, the 7, 2018 at 7:57 p.m. and she's informed you that they discussed it with Lisa [Baiz], or she discussed it with Lisa that the library had received a complaint and that they can, you know, call it Hispanic Heritage Celebration. Is that right?
CC	Mm huh. Yes, that's correct.
BR	But there's – was there any other communication between you and Sue that prompted her to write this email or make this change?
CC	No.
BR	Did you have a verbal conversation about the situation?
CC	No.
BR	Okay. And then when she wrote in there, “and because they had a complaint regarding the program at the library, Lisa understood the need to be inclusive.” Did you ever find out from Sue what that complaint was? Or from Lisa?
CC	I did not – I did not find out from Sue and in that conversation I do not recall the date, but in a conversation with Lisa, Hispanic Heritage Celebration was the name of the title and I can't recall the date, but she explained to me that there was an incident that took place at the library with somebody making a comment looking at the poster that was on the wall stating that, “those people should go back to where they came from.”
BR	The original poster that said, “Mexican Independence Day.”

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CC	Yes. So then, I said okay well then, the – you guys are changing the name so it was just – that was in the conversation. Later, at another later date, Lisa had a conv – must have had a conversation with Sue because Sue brought up that same incident, and mentioned that that it had taken place and three other librarians had heard it or three other staff members have heard it at the front desk, and I think that’s what she’s referring to in this email here. So.
BR	And this email here being the –
CC	This email here being September 7th, 2018.
BR	2018 at 7:57 p.m.
CC	Mm huh, yes.
BR	All right. And then, as far as Sue’s letting you know that they immediately pulled the flyer and the poster, did was that a request that came from the City for them to pull the advertising?
CC	That was not.
BR	Okay. Did you receive any complaints at all up until prior to September 7th, 2018?
CC	Did not receive anything up until that date.

(*Id.*, pp. 13-14, lines 7-28, 1-14.)

BR	And so, when she [Lisa Baiz] mentioned that complaint to you, did she say, [you didn’t say anything like [“]well maybe we shouldn’t mention anything about Mexico at all.” [Punctuation corrected]
CC	No, I did not.
BR	Okay. And, did you say anything that could have possibly been misconstrued that the City also received a complaint?
CC	No, I did not.
BR	Okay. You’re pretty clear when you spoke with Lisa?
CC	Yes.
BR	You didn’t make reference to any complaints, any –

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CC	No.
BR	And you're shaking your head, just for the record –

(*Id.*, p. 17, lines 14-24.)

BR	And then, the uh – did you mention to Lisa just this part of you referenced this general feedback that the City has received with regard to prior incidents. Did you mention that? Yeah, we've gotten kind of complaints when people, you know, well I don't celebrate Christmas so can you make it more –
CC	I did not have that conversation with Lisa Baiz.
BR	Okay. Did you have it with Sue?
CC	I did not have a verbal conversation about that with Sue.
BR	Okay. Any other library staff that you might have mentioned that to?
CC	Did not.
BR	Okay. And you're confident of that?
CC	I'm confident with that.

(*Id.*, pp. 17-18, lines 26-28, 1-9.)

BR	Okay. And, as far as the email that we discussed, your initial email to Sue on September 6, other than Chris [Escobedo] having that conversation with you, did anything else prompt you, well in other just knowing what you know from having worked in the Community Services or Community Resources Departments at the City? Did anything else prompt you to change the name of the or to ever request that the event be changed in title?
CC	You mean other than Chris's request?
BR	Yes, that's what I said. Other than Chris's request?
CC	No.

(*Id.*, pp. 20-21, lines 21-28, 1-2.)

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**Evidence from Transcript of Chris Escobedo (Part I):**

BR	All right. So the email that I have and I'm sure you have it as well in your binder just so your attorney can see it as well. This is an email dated September 6, 2018 from Christina Calderon to Sue Duran; you were copied on it. The topic is Mexican Independence Day, on the Subject I should say. It says "Hi Sue, I wanted to reach out to you about LQ Library's Mexican Independence Day. There are several posters advertising the event, but the City is receiving some feedback as to why we are not celebrating other heritage holidays and/or American holidays." So let me just stop there for a second. Do you know what prompted this email?
CE	My – my outreach.
BR	Okay.
CE	So my feedback – so the feedback is after I came back from the library, I paid a visit to Christina who sits right next to me asking about that.
BR	Okay. And so as far as we have "received feedback," that's not – that's referring to you giving feedback?
CE	That would be my assumption that it would be me unless there's other feedback.
BR	So at that point, you had not received any feedback from residents about the celebration?
CE	Correct.

(Report Attachment 47, pp. 19-20, lines 26-28, 1-16.)

BR	All right. This part that I highlighted, it says ["and because they had a complaint regarding the program at the library,[" Lisa understood the need to be inclusive. Did you – were you aware of what that complaint was? <sup>2</sup>
CE	No.
BR	At the time that you got this email?
CE	So, so that – I became aware of that subsequent to my request and I became aware of it through Christina who it was relayed to directly from Lisa.

(*Id.*, p. 27, lines 16-22.)

<sup>2</sup> BR is referencing the September 7, 2018 email from Sue Duran to Christina Calderon, which copied Chris Escobedo.

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CE	Yeah, so after – after my visits to the library and request change, then the chain of events began and it would be good to have – hear for – I’m sure you’ll ask her but hear firsthand from Christina since she experienced it. But essentially, what Lisa, the librarian relayed to Christina was that they had – someone had voiced a complaint inside the library, something to the effect of they should all go back to Mexico. So Christina relayed that to me as a part of the – our follow up and figuring out what took place at the library during the event. She also mentioned that Lisa then said, well I didn’t say –
BR	Lisa said this to Christina?
CE	Correct.
BR	Okay.
CE	That Lisa said this to Christina where is – no, I didn’t say that there was a complaint. And then after we met with Maria Sunio and Sue Duran, they indicated that multiple staff members heard this said which is they should all go back to Mexico. So that’s my only awareness of a complaint from a member of the public coming in an advance of the event.
BR	You received no complaints?
CE	Correct. Not before the event. <sup>3</sup>

(*Id.*, pp. 27-28, lines 25-28, 1-15.)

BR	... I am just a little surprised just because I think to be off base this much is unusual but they said that you were “cornered by a member of the public” who complained in a similar fashion about the name of the event and that you kind of gave in and said fine, we’ll have the name changed. Any truth to that?
CE	Oh my goodness? No.
BR	Okay, no member of the public came to you before the event to talk about the name change?
CE	Correct.
BR	Or the name of the event or anything like that?

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<sup>3</sup> The event occurred on September 15, 2018.

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CE	No, not at all.
BR	And to your knowledge, Christina didn't receive such a complaint from a resident either?
CE	Correct.
BR	Okay. And you're absolutely certain of that?
CE	Yes.

(*Id.*, pp. 28-29, lines 18-28, 1-5.)

BR	... All right. So after taking a brief break, we're back on. I know that that last question kind of troubled you and bothered you. Do you want to make any comment as to – as to that?
CE	Yeah. It was upsetting and disheartening to hear that only because number one, if I indeed experienced that, I would absolutely remember that and I would speak to it but that did not take place.
BR	Do you have any idea at all as to how that –
CE	No idea.
BR	– information could have gotten out or somebody could have understood that to have happened?
CE	No idea.
BR	No idea. Okay, there's nothing – no discussion that took place that could have been misconstrued even – like there was never any discussion on your end that hey, I got a complaint from a member of the public or any – anything at all? Or I heard about a complaint?
CE	No. <sup>4</sup>

(*Id.*, p. 29, lines 11-28.)

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<sup>4</sup> Although it is reflected in the transcript that Mr. Escobedo asked for a break because he was “troubled” by the allegations that (i) he was “cornered by a member of the public” who complained about the name and (ii) that alleged occurrence led to the requested name-change for the event, the transcript does not reflect (perhaps it cannot) *how* emotionally disturbed Mr. Escobedo was at this

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BS	Prior to Ms. Raileanu’s question about you were confronted by or cornered by a citizen and there was a complaint and as a result of that, you said, okay, we’ll go ahead and change the title. Is that the first time you’ve heard that comment?
CE	Yes.
BR	I’m sorry, when? That what was the first time?
BS	This time is the first time.
BR	Oh, the first time. When I asked you the question?
CE	Yes, yes.
BR	You’ve never heard that attributed to you?
CE	Correct.

(*Id.*, p. 31, lines 4-13.)

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allegation. The City’s legal counsel, Mr. Shaeffer, was present and vividly recalls the extremity of the shock and sickness Mr. Escobedo felt at the time the allegation was raised. None of Mr. Escobedo’s testimony, nor his physical reaction, is described in the Report. For the record, our office’s reading of the evidence, in which only two LS&S employees (Ms. Baiz and Ms. Ochoa) corroborate this alleged “cornering,” does not support a finding of “more likely than not” a complaint or “feedback” prior to the event contributed to the request for a name change. As testimony (below) shows, Ms. Calderon does not corroborate Ms. Baiz’s allegation. That Ms. Baiz would swear to this allegation under penalty of perjury or take a lie detector test, when she is the *only* witness who made this allegation with no other witness or LS&S employee seeing and testifying to the alleged event, is not sufficient, in our office’s view, to conclude a “more likely than not” Factual Finding absent Ms. Baiz actually taking (and passing) a lie detector test or being placed on a witness stand under penalty of perjury (with ability for cross-examination). We also believe it is quite important that, unlike Mr. Baiz, Mr. Escobedo and Ms. Calderon were not asked whether they would confirm their denials under oath, under penalty of perjury, or voluntarily take a lie detector test. These representations by Ms. Baiz seem to be the basis of the credibility assessment in favor of Ms. Baiz. In our office’s reading of the evidence, however, the Report should have concluded that *no* Factual Finding can be made concerning whether Mr. Escobedo received a complaint or “feedback” about the event’s name prior to the event, and *no* Factual Finding can be made whether he was “cornered” and “caught off guard” by a member of the public about the event’s name.

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**Evidence from Transcript of Christina Calderon (Part II):**

BR	She [Lisa Baiz] recalls clearly that during that conversation you mentioned that Chris also received a very similar complaint that she specifically remembers you using the term, “he was cornered,” and she specifically recalls you saying that look, Chris was cornered and he felt like he was caught off guard so he kind of, you know, gave into this complaint.
CC	I do not recall that conversation at all with her, nor those specific words ever being said to me, or me saying those to her. <sup>5</sup>

(Report Attachment 51, p. 2, lines 5-11.)

CC	... [] I don’t know when this particular complaint that took place about the gentleman or a couple that referenced “Mexicans should go back to Mexico.” I don’t know when that took place. Can’t even say because that didn’t come to us with this is what we heard. So, that I can’t tell you, but when she was asked about the complaint, she had made mention, is that the same person? I’m like, I don’t know. We did not receive a complaint on this side.
BR	You specifically told her that?
CC	Yeah, I did not receive a complaint because we didn’t. We hadn’t heard anything.

(*Id.*, pp. 8-9, lines 26-28, 1-6.)

BR	And before the event other than general comments about wanting to make from the public about, you know, like you mentioned last time about the Christmas tree lighting versus holiday tree lighting and the effort to at least make the title of the event a more inclusive title, other than sort of general complaints like that, there’s nothing specific to this particular event that you were aware of –
CC	Nothing specific.
BR	– whether directly or from any City staff

<sup>5</sup> Ms. Calderon’s testimony during this part of her interview confirmed a phone call occurred with Ms. Baiz on September 18, 2018, but after Ms. Calderon’s testifying about the topics they discussed, she specifically recollected, “But those words [*i.e.*, Mr. Escobedo was “cornered” or “gave into this complaint”] that you [Ms. Raileanu] said that she [Ms. Baiz] said I said, I did not say. Never at any time. That did not come from me.” (Report Attachment 51, p. 7, lines 16-17.)

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CC	Nothing specific to this event to me or from anybody to me.
BR	I mean could you have been talking – did you talk about Chris being cornered about something else? ‘Cause it’s a very specific term –
CC	Yeah and that’s why –
BR	And that’s why I’m confused. Because for her to say, “oh yeah, Chris was cornered, and he was caught off guard” – it’s, it’s very – it’s not just well I know that the City received a complaint. It’s not like a generic comment. It’s, you know, she recalled those specific words being used by you so could it, could you have used them in a different context? Were you talking about something else that Chris may have been cornered on?
CC	No.
CC	... And why would even say, “Chris was cornered” seems odd to me.
BR	Okay. Why does it seem odd?
CC	Because why would I even say Chris was cornered. I wouldn’t even know that.
BS	It didn’t happen.
CC	Yeah. I mean that just – ... – that doesn’t make sense to me. I’m sorry.
BR	No, don’t be.
BS	Well did Chris ever, Chris ever told you that he was cornered by any person for any reason?
CC	No.

(*Id.*, pp. 11-12, lines 18-28, 1-22.)

**Evidence from Transcript of Chris Escobedo (Part II):**

BR	So that is – so I’m wondering if you may have said anything to her [to Ms. Calderon about being “cornered”]?
CE	No. No, I did not.

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BR	That using those kind of words that you felt cornered, that you felt caught off guard –
CE	No. No.

(Report Attachment 52, p. 2, lines 20-24.)

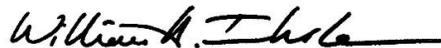
Our office recognizes that two LS&S employees, Ms. Baiz and Ms. Ochoa, have differing accounts in their testimony concerning the Factual Finding that we dispute, and this communication will not reprint their statements in support. Suffice to say, however, that upon our review of the testimony, the certainty to which Ms. Baiz alleges Ms. Calderon told her that Mr. Escobedo was “cornered” or felt pressure from an unknown man to change the name is *equal* to the certainty that Ms. Calderon—the person alleged to have actually said the remark—did not tell Ms. Baiz the alleged statement that he was “cornered” or otherwise pressured to change the name of the event. Indeed, no witness testifies to actually observing Mr. Escobedo “cornered” by a man in connection with the name of the event, and Mr. Escobedo’s testimony shows certainty on his part that such an occurrence did not happen.

It is not our office’s request or intent, with the delivery of this communication, to re-open the investigation or have the independent investigator modify her very thorough Report. It is our office’s request, however, that this communication be included as part of any record maintained by Riverside County, its Board of Supervisors, and Supervisor Perez’s Office. The City intends to and will have this communication maintained as part of its record of the Report.

Finally, we want to conclude this communication as it started. Our office reiterates that Ms. Raileanu conducted her investigation in the utmost professional manner, and both Bill Shaeffer and I very much respect her and her work. It is only to document, in writing, our dispute with the Factual Finding and purported evidence in support, cited above, that we submit this letter for your records. As always, please do not hesitate to contact me if you have any questions.

Sincerely,

RUTAN & TUCKER, LLP



William H. Ihrke  
La Quinta City Attorney

WHI:lr

cc: Bill Shaeffer, Esq., Rutan & Tucker, LLP  
Frank Spevacek, La Quinta City Manager