

December 9th, 2024

The Honorable Cherelle L. Parker
City Hall, Office 215
Philadelphia, PA 19107

- By e-mail -

Dear Mayor Parker,

CC: Council Members Johnson, Squilla, Gauthier, Jones Jr., Young Jr., Driscoll, Lozada, Bass, Phillips, O'Neill, Ahmad, Gilmore Richardson, Harrity, Landau, O'Rourke, and Thomas

We write to you as The Shift,¹ an international human rights organization focused on securing the human right to housing for all, worldwide. The Shift was established and is led by Leilani Farha, the former United Nations Special Rapporteur on the right to adequate housing (2014-2020).² Our team have decades of combined experience working as advocates for the human right to housing, including at the United Nations. Amongst other roles, The Shift operates as an advocacy mechanism for communities who are facing challenges to the enjoyment of their fundamental human rights.

In this regard, we write to you concerning the ongoing plans to construct a new arena, 76Place, for the Philadelphia 76ers in Philadelphia's Fashion District, which is directly adjacent to the City's Chinatown. This is an issue we have previously addressed in a letter to the owners of the 76ers, Harris Blitzer Sports & Entertainment, and 76 DevCorp, in August 2023.³ In that letter we set out our significant concerns regarding the impact that this arena may have on the City's Chinatown community, who have lived, worked, and engaged in cultural expression in the area for generations.

Since our first letter, the Chinatown community has maintained its strong and vocal resistance to the construction of 76 Place. With evidence, they continue to note the serious negative impact that the arena will likely have on their community, including leading to widespread displacement, loss of local businesses, loss of cultural and religious spaces, destruction of community, increased traffic and pollution, and inhibited access for emergency services, risking life. They have organized relentlessly around these issues; holding demonstrations, hosting events, attending public and private meetings, and

¹ www.maketheshift.org

² See, <https://www.ohchr.org/en/special-procedures/sr-housing/ms-leilani-farha-former-special-rapporteur-2014-2020>

³ Letter from The Shift to Harris Blitzer Sports & Entertainment and 76 DevCorp, dated 10th August 2023, online at: <https://make-the-shift.org/wp-content/uploads/2023/09/Philadelphia-Chinatown-10-August-2023.pdf>

engaging with elected officials to convey their significant concerns. They have left little ambiguity regarding their opposition to the arena and the effects its construction will have on them.

Despite this, the community continue to feel that their voices and concerns are being ignored in favor of the construction of the arena. In particular, they have noted that in recent months there has been a drive to push forward the construction of the arena without their being afforded sufficient opportunity to adequately participate in or scrutinize the process.

According to the facts as we understand them:

The City administration and many City Council members had stated that they intended to wait for the release of a set of impact studies, commissioned by the Philadelphia Industrial Development Corporation (PIDC), before determining whether or not to support the arena proposal. These studies were not released until the last week of August 2024,⁴ despite having supposed to have been completed by the end of December 2023.⁵ During this time, community members note that their repeated requests for information regarding the status of the studies went unanswered by PIDC and the Planning Commission. It was the understandable assumption of impacted community members that the consideration of the project was being delayed until the release of the studies and that decision makers and the public would be given ample opportunity to read, digest, discuss, and debate the implications of the impact studies. Instead, the studies finding, amongst other things, that the construction of the arena could result in Chinatown's "core identity" being "significantly diminished or lost",⁶ were released a little over one week prior to the opening session of City Council on September 5th, 2024.

On September 8th, 2024, your office handed out flyers notifying Chinatown residents and community members that a public meeting was being held to discuss the arena plans. It was understood that this was to be a major meeting regarding the arena, however just 72 hours' notice was given to the community,⁷ making it extremely challenging for community members to adequately prepare. Regardless, hundreds of local people attended the meeting, with the majority expressing their opposition to the arena plans.⁸

⁴ See, <https://www.phila.gov/documents/arena-proposal-impact-reports/>; Jeff Gammage and Sean Collins Walsh, 'City releases long-awaited studies on impact of a downtown Sixers arena' (August 26th, 2024) The Philadelphia Inquirer, online at: <https://www.inquirer.com/real-estate/commercial/sixers-arena-studies-economic-community-impact-20240826.html>

⁵ Sophia Neaman and Diany Wang, 'Protesters rally in support of Chinatown following delayed release of 76ers arena impact studies' (September 12th, 2024) The Daily Pennsylvanian, online at:

<https://www.thedp.com/article/2024/09/penn-chinatown-protest-arena-proposal-town-hall>

⁶ City of Philadelphia and PIDC, 'Proposed 76ers Arena: Community Impact Analysis' (June 2024) online at: <https://www.phila.gov/media/20240731112503/DPD-Arena-Community-Impact-ENG-7.2024.pdf>, page 10

⁷ Michael Tanenbaum, 'Mayor Cherrille Parker to discuss 76ers arena proposal at town hall Wednesday' (September 9th, 2024) Philly Voice, online at: <https://www.phillyvoice.com/76ers-arena-town-hall-cherelle-parker-mayor-convention-center/>

⁸ See, Jeff Gammage and Sean Collins Walsh, 'The mayor's Sixers arena town hall drew opinions pro and con. Chinatown feared for its survival, union leaders touted jobs.' (September 11th, 2024) Philadelphia Inquirer, online at: <https://www.inquirer.com/politics/philadelphia/sixers-arena-studies-town-hall-impact-cherelle-parker-chinatown-20240911.html>

One week later you informed a select group of community members that another meeting would be held regarding the arena.⁹ Despite requesting permission, activists from the Save Chinatown Coalition noted they were not permitted to attend.¹⁰ At this meeting, despite the clear and significant opposition expressed to date and a recent city-wide survey indicating 69% of Philadelphians opposed the arena plans,¹¹ you announced your support for 76 Place.¹²

Amid widespread community anger, one week later you notified community members that a press conference was to be held. At this conference you presented a \$50 million Community Benefits Agreement (CBA) which had been agreed with the developers of 76 Place, seemingly without the direct input of community members who the agreement purports to benefit.¹³ Whilst you have publicly stated that the CBA will help protect Chinatown and support it to thrive,¹⁴ the community have clearly stated that nothing within the CBA will help to protect them from the wide scale displacement and destruction of the community which they believe is likely to occur should the arena be constructed. Indeed, the inadequacy of the funding that is set aside for Chinatown in the CBA was noted by Council members during recent Council hearings, wherein some were of the view that the agreement provides inadequate safeguards for the community and that the \$1.6 million allocated to support small businesses in Chinatown is not sufficient to protect the hundreds of local stores in the area.¹⁵

Without wishing to prejudice the accuracy of the information set out above, we remain deeply concerned by the likely impact that the construction of 76 Place will have on the Chinatown community and the extent to which the community has been able to be meaningfully involved in discussions and decisions surrounding the plans. The community are alarmed that your office has sought to push forward the plans for 76 Place, despite their clear, ongoing, and significant concerns. They have reiterated that they have not been

⁹ Michael Tanenbaum, 'Mayor Cherelle Parker endorses 76ers arena in Center City, saying agreement has been reached' (September 18th, 2024) Philly Voice, online at: <https://www.phillyvoice.com/mayor-cherelle-parker-endorses-sixers-arena-center-city/>

¹⁰ Michael Tanenbaum, 'Mayor Cherelle Parker endorses 76ers arena in Center City, saying agreement has been reached' (September 18th, 2024) Philly Voice, online at: <https://www.phillyvoice.com/mayor-cherelle-parker-endorses-sixers-arena-center-city/>

¹¹ Aaron Moselle, 'It isn't just Chinatown': Citywide poll shows little support for Sixers arena proposal' (September 4th, 2024) WHYY, online at: <https://whyy.org/articles/sixers-arena-chinatown-poll-support/>

¹² Michael Tanenbaum, 'Mayor Cherelle Parker endorses 76ers arena in Center City, saying agreement has been reached' (September 18th, 2024) Philly Voice, online at: <https://www.phillyvoice.com/mayor-cherelle-parker-endorses-sixers-arena-center-city/>; Aaron Moselle, 'Mayor Parker says agreement reached over 76ers arena in Center City' (September 18th, 2024) WHYY, online at <https://whyy.org/articles/mayor-parker-supports-76er-arena-center-city-chinatown/>

¹³ See, Aaron Moselle, 'Mayor Parker outlines Sixers community benefits agreement, legislative process for \$1.55B arena proposal' (September 25th, 2024) WHYY, online at: <https://whyy.org/articles/mayor-parker-sixers-arena-community-benefits-agreement/>; See also, Michael Tannenbaum, 'At meeting on 76ers arena, Mayor Cherelle Parker details \$50 million community benefits agreement' (September 25th, 2024) Philly Voice, online at: <https://www.phillyvoice.com/76ers-arena-community-benefits-agreement-cherelle-parker-meeting/>

¹⁴ Office of the Mayor, 'Mayor Parker Shares New Details on Arena on East Market Street After Reaching Historic Agreement with the Philadelphia 76ers' (September 25th, 2024) City of Philadelphia, online at: <https://www.phila.gov/2024-09-25-mayor-parker-shares-new-details-on-arena-on-east-market-street-after-reaching-historic-agreement-with-the-philadelphia-76ers/>

¹⁵ Aaron Moselle, 'SEPTA, community benefits agreement threaten future of the Sixers' arena proposal' (November 13th, 2024) WHYY, online at: <https://whyy.org/articles/sixers-arena-proposal-septa-community-benefits-agreement/>

afforded adequate opportunity to properly participate in your decision-making and have been left feeling wholly disenfranchised.

As a public official, you hold a duty to protect the human rights of all people within your jurisdiction. As noted in our letter to Harris Blitzer Sports & Entertainment and 76 DevCorp, the construction of 76 Place raises several human rights concerns, including potential impacts on the right to housing, the right to participate in cultural life, the right to a healthy environment, and the right to non-discrimination in these contexts. Under international law, it is incumbent on you to take measures to protect people from these potential impacts on their human rights.¹⁶ This includes preventing real estate development which would harm the enjoyment of human rights.

In order to properly discharge your human rights obligations, it is vital that you centralize the voices of impacted communities in your plans, processes, and decisions. This is known as the principle of ‘meaningful participation’.¹⁷ Ensuring meaningful participation goes beyond merely listening to affected community members and allowing them to voice their concerns. Rather, it requires that, whenever a development proposal is likely to impact a local community, that community be able to participate in the decision-making process in an equitable and meaningful way from the very beginning. For participation to be meaningful, those impacted must be able to influence the outcome of decisions that will affect them. Impacted communities should be provided with any information and resources, including time, they require to make an informed decision regarding a particular project, with information provided in a format that is accessible to the community. Vitaly, for engagement and participation to be meaningful, the community must be recognized as the experts on their own lives and their views be afforded due weight. Where the community substantially disagrees with all or part of a development proposal these views should be considered and used to amend the proposal. Without the support of the community, no development plans should proceed in their proposed or existing form.

Based on the information we have received, it is our view that despite their clear interest in the development plans, the Chinatown community have not been meaningfully engaged in the decision-making and planning regarding 76 Place. As a result, your continued support for the arena is inconsistent with your human rights obligations and responsibilities towards the Chinatown community. In order to rectify this, we respectfully ask that you immediately take steps to meet with the community and to properly address their deep concerns regarding the development of 76 Place in the Fashion District. We ask that you take these concerns seriously and use them as the basis for your decision-making regarding your support for the arena development plans, respecting the reality that those who live,

¹⁶ Office of the High Commissioner for Human Rights, ‘United Nations Guiding Principles on Business and Human Rights’ (2011), online at:

https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf, pages 3-4

¹⁷ For a detailed discussion of the principle of meaningful participation, see Office of the High Commissioner for Human Rights, ‘Guidelines for States on the effective implementation of the right to participate in public affairs’, online at:

https://www.ohchr.org/sites/default/files/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf and United Nations Human Rights Council, ‘Draft guidelines for States on the effective implementation of the right to participate in public affairs’ (July 20th, 2018) UN Doc A/HRC/39/28, online at:

<https://documents.un.org/doc/undoc/gen/g18/230/45/pdf/g1823045.pdf>

work, and exercise cultural expression in Philadelphia's Chinatown have the greatest level of expertise regarding the impact that the plans will have on their lives. Until such time as you have properly engaged with the Chinatown community and obtained their support for the arena plans, we ask that you withdraw your political support and do not allow these plans to progress.

In the interests of helping to ensure that the voices of the community are heard, we intend to publish this letter prior to the vote at City Council and provide a copy of it to all Council members.

We remain at your disposal should you wish to discuss any aspect of this letter further and would be happy to assist in the implementation of meaningful engagement processes with affected communities.

Yours faithfully,

A handwritten signature in black ink that reads "The Shift". The letters are cursive and fluid, with a mix of uppercase and lowercase letters.

The Shift