

From: [Carrie Tai, AICP](#)
To: [Ted Faturos](#)
Subject: FW: [EXTERNAL] Proposed changes to Manhattan Beach
Date: Monday, January 31, 2022 9:15:24 AM



CARRIE TAI, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5503
ctai@manhattanbeach.gov

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CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
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From: City Clerk Admin <citycounciladmin@manhattanbeach.gov>
Sent: Monday, January 31, 2022 9:14 AM
To: Carrie Tai, AICP <ctai@manhattanbeach.gov>
Subject: Fwd: [EXTERNAL] Proposed changes to Manhattan Beach

Begin forwarded message:

From: Stacy Rusher <rusher429@verizon.net>
Date: January 31, 2022 at 9:11:31 AM PST
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Proposed changes to Manhattan Beach
Reply-To: Stacy Rusher <rusher429@verizon.net>

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council-

I am emailing you to let you know of my opposition to both the Highrose project and the change in a city ordinance, that would allow large groups, alcohol and amplification at Bruce's Beach.

I can list many reason why both of these changes will create serious problems, and a total change of landscape to the city, but no doubt you already know them, or have heard them from other residents.

While I am not opposed to change, these two items are terrible ideas, and will bring more problems, than they will create positive change.

Thank you for your time.

Stacy Rusher
Manhattan Beach

From: [Carrie Tai, AICP](#)
To: [Ted Faturos](#)
Subject: FW: [EXTERNAL] Highrose
Date: Monday, January 31, 2022 10:21:40 AM

Carrie Tai, AICP
Director of Community Development
310-802-5503
ctai@manhattanbeach.gov

City of Manhattan Beach, CA

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-----Original Message-----

From: City Manager <cm@manhattanbeach.gov>
Sent: Monday, January 31, 2022 10:12 AM
To: Carrie Tai, AICP <ctai@manhattanbeach.gov>
Subject: FW: [EXTERNAL] Highrose

City Manager
City Manager

cm@manhattanbeach.gov

City of Manhattan Beach, CA

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-----Original Message-----

From: Hale <hboggs@gmail.com>
Sent: Monday, January 31, 2022 10:07 AM
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Highrose

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Please push back on this. As a daily commuter from my house in downtown MB to Century City, I pass through this intersection twice a day. It's been a mess for years with various projects; I can't imagine having to now deal with MORE years of additional construction and then the added congestion of a large residential building at that site. Also, the project doesn't seem to fit the community, nor does it comply with our height restrictions. Because of MB's strict building requirements, I wasn't even allowed to make my balcony larger!!! Why is this ok?

TH Boggs
804 Manhattan Ave
Manhattan Beach, CA 90266

From: [Carrie Tai, AICP](#)
To: [Ted Faturos](#)
Subject: FW: [EXTERNAL] Proposed Highland and Rosecrans 79 Unit Apartment Building.
Date: Monday, January 31, 2022 10:22:15 AM



CARRIE TAI, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5503
ctai@manhattanbeach.gov

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From: City Clerk Admin <citycounciladmin@manhattanbeach.gov>
Sent: Monday, January 31, 2022 9:45 AM
To: Carrie Tai, AICP <ctai@manhattanbeach.gov>
Subject: Fwd: [EXTERNAL] Proposed Highland and Rosecrans 79 Unit Apartment Building.

Begin forwarded message:

From: Mike Curran <mcurran71@frontier.com>
Date: January 31, 2022 at 9:44:02 AM PST
To: assemblymember.muratsuchi@assembly.ca.gov, senator.allen@senate.ca.gov
Cc: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Proposed Highland and Rosecrans 79 Unit Apartment Building.



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There are a number of reasons why I am not in favor of AB 9, and endorse Redondo Beach's lawsuit against that bill. To keep it simple, under the new bill, the subject project is able to waive the usually required environmental impact report, an EIR that would discuss parking and traffic effects, among others, of the proposed project. Current public parking is problematic, limited to an existing undersized public parking structure, which would presumably be removed by the development of the proposed apartment building, and limited metered parking going up that northern side of Rosecrans Avenue. Once you make the right hand turn (north) off of Rosecrans onto Highland Avenue, traffic funnels down to one lane within a block or two, already creating a bottleneck. As an aside, do prospective tenants really want to live next to the registered Superfund site known as the Chevron refinery?

Thank you for your consideration,

Michael Curran
mcurran71@frontier.com

From: [Carrie Tai, AICP](#)
To: [Ted Faturus](#)
Subject: FW: [EXTERNAL] Highrose project
Date: Monday, January 31, 2022 3:11:19 PM



CARRIE TAI, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5503
ctai@manhattanbeach.gov

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From: Alexandria Latragna <alatragna@manhattanbeach.gov>
Sent: Monday, January 31, 2022 3:11 PM
To: Carrie Tai, AICP <ctai@manhattanbeach.gov>
Subject: FW: [EXTERNAL] Highrose project

From: Toni Stafford <rntonistafford@gmail.com>
Sent: Monday, January 31, 2022 2:48 PM
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Highrose project

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We are strongly opposed to this project and feel deceived that we never learned about it until 2 weeks ago nor did we receive anything in the mail regarding this tho it was stated that mailers were sent out. We own 3 SFR in MB, living here for 53 years and pay our taxes and live as good citizens. Hoping you will support our stand against this development,, Bruce

and Toni Stafford



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: coastaldefendermb@gmail.com
To: [Hildy Stern](#); [Joe Franklin](#); [List - City Council](#); [Richard Montgomery](#); [Steve Napolitano](#); [Suzanne Hadley](#)
Cc: [Bruce Moe](#); [Quinn Barrow](#); [Paige Meyer](#); [Liza Tamura](#); [Martha Alvarez](#); [Ted Faturros](#)
Subject: [EXTERNAL] : Solution to HEU Affordable Housing
Date: Monday, January 31, 2022 9:35:46 PM
Attachments: [220128-AffordableHousing-Solution-Final.pdf](#)

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1 February 2022

Hildy Stern, Mayor

City of Manhattan Beach

Via Email: citycouncil@citymb.info

Subject: Solution to HEU Affordable Housing

Mayor Stern and Councilmembers.

The attachment summarizes a solution for the city to provide the 407-unit shortfall in affordable housing by 2029, in compliance with both CEQA and the zoning code. No bonus-density waivers needed for this version of the Housing Element Update ["HEU"]

Starting with the Highrose project at Rosecrans and Highland, the city can purchase the property and lease it to developers for construction and operation of 100% affordable housing. That way, the public-housing operation remains in the private sector. The city, however, will have landlord authority to ensure compatibility with law, specifically, the General Plan, the Local Coastal Program and the General Plan. Same as they do for Metlox.

The city will have total control, rather than the developers, with their unending demands for financial incentives.

The city will need only five such 100% affordable projects to meet the 407-unit quota. In contrast, to provide that many units, the current HEU will require 68 projects the size and 50-foot height of Highrose, considering its meager six affordable units.

The costs easily managed. Based on a professional appraisal for a coastal property almost identical to Highrose, the city can finance the five acquisitions with a piddly increase in property taxes, amounting to \$376-\$522 per year per each taxpayer, for interest rates 4%-7%.

To ensure the purchases, the city could pay twice the appraised value, upon which the above property-tax increases based.

If an owner refuses to sell for twice the property value, the city can then exert its power of eminent domain to acquire the property at that price. That an incredible negotiating tool.

The attachment also establishes that the environmental impact report for the HEU blatantly violates CEQA. Consequently, the HEU invalid, as it stands. The solution outlined above eliminates the CEQA violations.

I request that the city council directs staff to pursue the above 100% affordability solution in the HEU. Otherwise, as is, it will start dead on arrival, as have all in California cities during past decades.

Thanks for considering this solution to the affordable housing enigma,

Don McPherson, President

Coastal Defender

1014 1st St, Manhattan Beach CA 90266

Cell: 310 487 0383

coastaldefendermb@gmail.com

HOUSING ELEMENT UPDATE VIOLATES CEQA; CITY PROPERTY PURCHASE SOLVES PROBLEM!

1.0 EXECUTIVE SUMMARY.

Per the Housing Element Update [“HEU”], Manhattan Beach has a quota of 407 new-affordable units to acquire by 2029.¹ The HEU Environmental Impact Report, however, violates the California Environmental Quality Act [“CEQA”], by failing to evaluate impacts from CEQA factors, such as: 1) Increased traffic; 2) New services needs; and, 3) Population growth.

The Environmental Impact Report [“EIR”] lacks an affordable-housing model to evaluate environmental impacts, yet it declares all CEQA factors as either ‘Less than Significant Impact’ or ‘No Impact.’ For example, the EIR states, “*potential air quality impacts including potential sensitive receptors are unknown at this time.*”² [Emphasis added] Then in an unsupported statement, the EIR claims air-quality impacts as ‘Less than Significant Impact’. [ibid. PDF p. 58]

Such conflicting EIR statements repeatably made for the 21 CEQA evaluation factors.

Staff currently evaluates the Highrose affordable-housing project at Highland and Rosecrans, which provides a proxy to model and evaluate environmental impacts. The project has six affordable units, which qualify it for: 1) 50-foot height vs 30-ft code; 2) Floor Area Factor [“FAF”] 2.2 vs 1.5 code; and, 3) A 51 parking-space reduction from code. The FAF of 2.2 equates to a 47% increase in floor area permitted by the municipal code requirement of 1.5 FAF.

Do the math: 407 required affordable units/6 Highrose affordable units = **68 Highrose projects, all 50-feet high**, to meet the 407 affordable-unit quota.

Why did the Highrose developer not increase the number of affordable units?

Answer: Developers know that profits maximize at the minimum threshold needed to qualify for affordable housing. For proof, consider the above three waivers of 50-ft height, floor-area increase of 47% and parking reduction of 51 spaces. At the beach, who would need anything more than that to make a financial killing?

The 68 projects will also increase the city population by 31%, from 35,058 to 45,802.³ To maximize profits, developers will build mostly west of Sepulveda Blvd for ocean views from the 50-ft high buildings. This will increase Hill- and Sand-Section populations more than 36%.

PROBLEM SOLVED! Starting with Highrose as 100% affordable housing, the city can purchase the property and lease it to developers for construction and operation, **compliant with municipal code**. That way, the public-housing operation remains in the private sector, but the city will have landlord authority to ensure compatibility with city policies.

Per below, the city will need only five such 100% affordable multi-units to meet the 407 quota. The costs easily managed. Based on a professional appraisal for a coastal property almost identical to Highrose, the city could finance the five acquisitions by a small increase in property taxes, amounting to \$188-\$261 per year per each taxpayer, for interest rates 4%-7%.

To ensure purchases, the city could pay twice the appraised value, raising the annual tax increase to \$376-\$522, a piddly amount for solving such an intractable problem. If an owner refuses to sell for twice the property value, the city can exert its power of eminent domain.

After 30 years, the mortgage paid-off and the city will receive market-rate rents.

¹ 6th Cycle *Housing Element*, PDF p. 13, last ¶; Dudek; January 2022

² *Final Negative Declaration*, 6th Cycle Housing Element Update, PDF p. 58, last ¶; Dudek; January 2022.

³ Footnote 1, PDF p. 78, last ¶; Dudek; January 2022

HOUSING ELEMENT UPDATE VIOLATES CEQA; CITY PROPERTY PURCHASE SOLVES PROBLEM!

2.0 THE FACTS: THE HEU EIR VIOLATES CEQA.

CEQA Guidelines § 15074(b) states:

*“Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), **that there is no substantial evidence that the project will have a significant effect on the environment** and that the negative declaration or mitigated negative declaration reflects the lead agency’s independent judgment and analysis.”* [Emphasis added]

A comprehensive critique of the mortally flawed EIR not possible herein. This report shall serve to provide some, but not all, substantial evidence of significant effects on the environment. Other substantial evidence incorporated by reference to the EIR and HEU.

The EIR lacks a model to evaluate environmental impacts from creating 407affordable units by 2029. For a model to assess environmental impacts, this report uses 68 proxies of the Highrose project located at Highland and Rosecrans, which has the following municipal code waivers: 1) 50-ft height; 2) FAR of 2.2; and, 3) A 51-space parking reduction. [Exhibit 1⁴] It assumed that Highrose complies with the myriad regulations for affordable housing.

EIR^[2] 3.17 Transportation; CEQA Violations.

The EIR did not conduct a level-of-service traffic analysis of the impacts that will result from the 31% increase in population created by the 68 Highrose proxies.

Driven by ocean views from lofty fifty-foot-high buildings, this population increase will locate mostly in the Sand and Hill Sections. The traffic will aggregate on Manhattan Ave, Highland Ave, Manhattan Beach Blvd and Rosecrans Ave in the coastal zone and on Sepulveda Blvd at the east boundary of the Hill Section, all heavily used corridors.

Without conducting any traffic analysis of vehicle-miles traveled or other measures, the EIR concludes less than significant traffic impacts from the 31% increase in city population concentrated around the coastal and Sepulveda corridors. The EIR states no conflict with CEQA Guidelines § 15064.3(b), which simply states that the lead agency must analyze traffic impacts by whatever means applicable. [EIR PDF p. 172] The city has failed to analyze traffic impacts from the 31% population increase, so therefore, has violated CEQA.

The HEU summarizes potential sites for affordable-housing projects at Table 15, EIR PDF pp. 313-316. The survey does not include the property at 600 S. Sepulveda Blvd [“600 PCH”], temporarily used by Skechers for parking and a cafeteria. This property with 81,775 sq-ft area would almost double the Highrose unit count, namely 148 units versus 79, both having only six affordable units to qualify for the municipal code waivers.

The 600 PCH property currently in litigation from a CEQA lawsuit, for which traffic impacts a major argument. Exhibit 2 provides the opening brief, which shall serve as evidence in the record for CEQA violations by the HEU.

⁴ *Plans for Highrose Development* [Annotated], Community Development, City of Manhattan Beach; Undated

HOUSING ELEMENT UPDATE VIOLATES CEQA; CITY PROPERTY PURCHASE SOLVES PROBLEM!

EIR^[2] 3.19 Utilities and Service Systems; CEQA Violations.

Would the project “Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?” [EIR PDF p. 185]

The EIR states less than significant impact for five candidate sites that have multi-acre areas that greatly exceed the Highrose 43,549 sq-ft area, exactly one acre.

These five sites listed in HEU Table 15, PDF pp. 313-316, namely: 1) # 20, 5 AC; 2) # 31, 4.8 AC; 3) # 32, 7.5 AC; 4) #33, 5.4 AC; and, 5) # 34, 3.3 AC.

It absurd that the EIR states development of these sites for hundreds of units each, including the six affordable units, would not require major construction of water, electric power, natural gas and telecommunication facilities.

This CEQA argument for utilities and service systems included in the Exhibit 2 opening brief for 600 PCH at p. 11.

EIR^[2] 3.14 Population and Housing; CEQA Violations.

Would the project “induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?” [EIR PDF p. 153]

The EIR answers this question by citing the city population decreased by 0.22% during 2010-2021. [EIR PDF p. 150] It states, “As an essentially built-out city, there continues to be few opportunities for growth, except through redevelopment/infill on existing parcels.” [ibid.]

In their EIR, looking backwards, the city completely ignores the 31% increase in population that will result from the 68 Highrose proxy projects. At only six affordable units per project, it takes 68 to reach the 407-unit goal.

Furthermore, the city relies on CEQA exemption from infill projects, not only for the Population and Housing factor, but for all CEQA factors listed in the EIR. The city has no 50-foot high buildings in the commercial and residential zones. It never has conducted an EIR for 50-foot high projects in the zones. Consequently, every cite in the EIR to the infill exemption invalid. That counts as 42 violations of CEQA.

3.0 THE CITY PROPERTY PURCHASE SOLUTION.

This section summarizes the solution to the above CEQA violations, by city purchase of property for 100% affordable housing and leasing to developers for construction and operation. The project financed by a 30-year bond paid for by a piddly increase in annual property taxes.

The financing discussed first.

Project Financing.

Exhibits 3 & 4 address a February 2019 appraisal conducted by Epic Land Solutions, Inc. [“Epic”], for a commercial property that closely resembles Highrose. Exhibit 3 illustrates that the Encinitas Portofino Hotel located in the coastal zone, a ten-minute walk to the beach, like Highrose. Encinitas a high-value real-estate market, same as Manhattan Beach.

HOUSING ELEMENT UPDATE VIOLATES CEQA; CITY PROPERTY PURCHASE SOLVES PROBLEM!

Epic estimated the Portofino Hotel had a 2019 value of \$3.9 MM. [Exhibit 4, PDF p. 2] Scaling this appraisal to Highrose by parcel areas results in an appraised value of \$11.5 MM. Consider: [(43,549 sq-ft Highrose/14,728 sq-ft Portofino)*\$3.9 Portofino = \$11.5 MM Highrose]

The total purchase cost of five Highrose proxies amounts to \$57.5 MM. For a 30-year bond, this equates to an average annual payment of \$188-\$261 per taxpayer, 17,510 of them.

This report proposes that the city will negotiate payments to property owners of twice the appraised values, which increases the average property tax increase to \$376-\$522 per year.

If an owner refuses to receive twice the value of their property, the city can take it at that value by exercising their power of eminent domain.

100% Affordable Housing.

The 100% affordable-housing approach greatly reduces the luxurious floor areas in the Highrose design, of 512 sq-ft for studios and 1,724 sq-ft for three bedrooms. [Footnote 4, p. 1] As result, the Highrose project will fit into the top two floors of a code-compliant 30-ft-high building and will comply with CEQA.

The ground level dedicated to reserved business employee parking, thus freeing up invaluable city parking for the public, a big plus for Coastal Commission approval. Per the Highrose design, residents will have code-compliant parking in two subterranean levels.

This approach will provide the first expansion of city public parking in many decades.

Exhibit 5 illustrates a 350 sq-ft studio in Encinitas, as posted on the Zillow real-estate posting service. This rental in the coastal zone at 225 Melrose Ave, per Exhibit 3. Compare that with the 512 sq-ft studio for Highrose.

The 100% affordable approach adds 150 sq-ft bedrooms to the studio design, for floor areas of: 1) 1-bedroom, 500 sq-ft; 2) 2-bedrooms, 650 sq-ft; and, 3) 3-bedrooms, 800 sq-ft. This provides 75 affordable units that fit into the 2nd and 3rd floors of the Highrose design.

During the week ending January 22, the Exhibit 5 posting, listed at \$1,500 per month, received 6,600 hits, with over 70 persons emailing interest. The typical Zillow posting receives a couple 100 hits a month. The \$1,500 rent corresponds to a \$4,500 per month income, consistent with the Housing and Urban Development very low income for Los Angeles County, Exhibit 6.⁵

The facts show that a 100% affordable housing project at Highrose will work.

4.0 THE HEU EIR VIOLATES CEQA; 100% AFFORDABLE HOUSING SOLVES THE PROBLEM.

- The HEU EIR fails to evaluate impacts from factors, such as: 1) Increased traffic; 2) New services needs; and, 3) Population growth, thereby violating CEQA;
- Solution: The city can purchase properties for 100% affordable housing and lease them to developers for construction and operation, **compliant with municipal code and CEQA;**
- At purchase prices twice the appraised value, five 100 % affordable projects will provide the required 407 units, at average cost to a taxpayer of \$376-\$522 per year; and,
- The city must amend the Housing Element Update with the 100% affordable solution.

⁵ FY 2021 Income Limits Documentation System, Los Angeles County; Housing and Urban Development

EXHIBIT 1. SUMMARY OF HIGHROSE PROJECT DEVELOPMENT

Highrose El Porto



Plans for Highrose El Porto Development

Public Comment

If you'd like to make a comment about the project, please email tfaturos@manhattanbeach.gov and your comment will become part of the public record.

Public comment received through January 19, 2022

Public comment received on January 20, 2022

Public comments received between January 20, 2022 and January 24, 2022

Floor Area Factor 1.5 for CNE zoning
HighRose: $96,217/43549=2.21$
Code: $43549 \times 1.5=65,323.5$
100%: $39,546/43549=0.9081=0.9081$ or
 $(39536/2) \times 3=59,319/43549=1.3621$

FREQUENTLY ASKED QUESTIONS

Where is the project located and what is being proposed?

The project is proposed on two contiguous lots, 401 Rosecrans Avenue and 3770 Highland Avenue, which are proposed to be merged into a single 43,549 square-foot parcel to accommodate the project. The project proposes demolition of a banquet facility (Verandas) and multiuse commercial building (Tradewinds Village building) and subsequent construction of a 96,217 square-foot multifamily residential building with 79 rental dwelling units. The developer is utilizing a density bonus pursuant to State law, inclusive of waivers and concessions.

The 79 dwelling units would include 21 studio apartments, 11 one-bedroom apartments, 40 two-bedroom apartments, and seven three-bedroom apartments. The apartments range in size from 512 square feet to 1,727 square feet, comparable to standard rental units throughout the City. Six of the 79 dwelling units will be set aside for “very low

$512 \text{ SF} \times 21 = 10,752 \text{ SF}$ $750 \text{ SF} \times 11 = 8,250 \text{ SF}$ $1200 \times 40 \text{ SF} = 48,000$
 $1727 \text{ SF} \times 7 = 12,089 \text{ SF}$
 $10,752 + 8,250 + 48,000 + 12,089 = 79,091 \text{ SF living area}/2 \quad 39,546 \text{ SF two-story living space}$

EXHIBIT 1. SUMMARY OF HIGHROSE PROJECT DEVELOPMENT

income” households, with the remaining 73 dwelling units being market-rate dwelling units.

MBMC 10.64.030. 79 units x 2= 158 spaces. 79 units x 0.25 guest spaces = 19.8 + 158 spaces = 177.8 or 178 spaces vs 127 = 51 space deficit
The project proposes two floors of subterranean parking, containing a total of 127 automobile parking spaces, seven motorcycle parking spaces, and 27 bicycle parking spaces. The minimum required number of parking spaces for the project under State Density Bonus laws is 103 parking spaces.

The public notice for the project was mailed on January 6, 2022 after the project application was deemed complete.

How is “very low income” defined?

The US Department of Housing and Urban Development (HUD) calculates the median family income for the Los Angeles-Long Beach-Glendale, CA area, and then defines “Very Low Income” in relation to the median family income.

For fiscal year 2021, HUD has calculated that the median family income for the Los Angeles-Long Beach-Glendale, CA area to be \$80,000, with the “very low income” determined to be \$59,100 for a family of four, or \$41,400 for an individual. More information regarding income limits can be found on HUD’s website.

Is the project subject to discretionary review?

Pursuant to State and local regulations, the utilization of density bonus law and the incorporation of affordable housing qualify the project for a streamlined, administrative, non-discretionary Precise Development Plan review, which subjects all components of the application to a ministerial review process.

Staff conducts a ministerial review of the project for compliance with Municipal Code requirements and applicable State law, but the City has no authority to conduct a discretionary review process. Furthermore, administrative non-discretionary projects are not subject to the California Environmental Quality Act (CEQA), therefore environmental review is not required. State law does require expeditious processing of density bonus projects; in compliance with this requirement, the City’s administrative non-discretionary process for density bonus projects has been in place since 2013.

When will a decision be made on whether the City will approve or deny the project?

The affordable housing component of this project subjects the application to a ministerial (non-discretionary) process, which means that the decision is made at the staff level (i.e. Director’s decision) and based solely on compliance with applicable regulations. No public hearing is required for staff level decisions. **The Director of Community Development is expected to issue a decision on the project during the first week of February 2022.** To clarify, no decision has yet been issued on this project.

In accordance with MBMC 10.100.010, decisions of the Community Development Director may be appealed to the Planning Commission, and decisions of the Planning Commission may be further appealed to the City Council. The appeal period ends at the close of the business day for City Hall on the 15th day following the Director’s decision. If the 15th day falls on a day when City Hall is closed, the appeal period ends at the close of business on the next working day.

EXHIBIT 1. SUMMARY OF HIGHROSE PROJECT DEVELOPMENT

The fee to file an appeal is \$500. All persons who submitted a public comment will receive a notice of decision via email, once the decision is issued. Detailed instructions on how to file an appeal will be in that email. Appeals are limited to whether the project complies with established development standards and regulations and must maintain a non-discretionary process. Again, the project would be scheduled on the agenda for a Planning Commission meeting only if the Director's decision is appealed.

What role do State Density Bonus regulations and the City's Affordable Housing Density Bonus and Incentive Program play in the project?

State Density Bonus laws (California Government Code Sections 65915 – 65918) include a range of incentives for developers to incorporate affordable housing into their residential developments. Among other things, State Density Bonus laws allow developers to exceed the maximum density requirements as specified in a City's zoning code if certain criteria are met, like setting aside a certain percentage of the total units in the project aside for very-low income occupants. In addition, State Density Bonus laws allow developers to request waivers from development standards, like setback and height requirements. Furthermore, the utilization of density bonus law and the incorporation of affordable housing qualify the project for a streamlined, administrative, non-discretionary Precise Development Plan review, which subjects all components of the application to a ministerial review process.

The City's Municipal Code (MBMC Chapter 10.94 and MBLCP Chapter A.94) mirror State Density Bonus laws by allowed for similar waivers and concessions from development standards in order to build affordable housing projects in the City.

What waivers and concessions has the developer requested under State Density Bonus laws, MBMC Chapter 10.94, and MBLCP Chapter A.94?

As allowed under State law and local regulations, the developer has requested waivers for the maximum buildable floor area (BFA), the maximum numbers of stories, the maximum height, and a setback waiver for portions of the structure with walls greater than 24 feet in height.

As allowed under State law and local regulations, the developer has requested a concession for the maximum height of a wall/fence within the front setback.

How many units would be allowed on the site if State Density Bonus laws and the City's Affordable Housing Density Bonus and Incentive Program were not utilized?

Per MBMC 10.16.030 (A), MBLCP A.16.030 (A), MBMC 10.12.030, and MBLCP A.12.030, a total of 51 units would be allowed on the site if no State Density Bonus laws were utilized.

How much Buildable Floor Area (BFA) would be allowed on the site if State Density Bonus laws and the City's Affordable Housing Density Bonus and Incentive Program were not utilized?

EXHIBIT 1. SUMMARY OF HIGHROSE PROJECT DEVELOPMENT

Per MBMC 10.16.030 (A), MBLCP A.16.030 (A), MBMC 10.12.030, and MBLCP A.12.030, a total of 74,033 square feet of BFA would be allowed on the site if no State Density Bonus laws were utilized.

Why did I not receive a notice in the mail?

Per MBLCP A.96.110, “property owners and residents within 100 feet of the perimeter of the subject parcel” must receive a notice. All mailings must be prepared in accordance with the Community Development Department’s Radius Map Packet instructions. A notice was mailed on January 6th after the project application was deemed complete.

Why wasn’t I notified earlier?

Per MBLCP A.96.110, the notice “shall be given within 10 days of acceptance of the application or at least seven days prior to the local decision date.” The notice was mailed on January 6, 2022 after the project application was deemed complete, and the Director of Community Development is expected to make a decision (aka “the local decision”) during the first week of February, 2022. **Thus, the notification period exceeds the minimum required window of time for a notice.**

Is this a SB 9 project?

No, this project does not utilize SB 9. More information on the City's actions on SB 9 can be found on our website.

Is the land where the City-owned parking lot (Lot 4) at the northeast corner of Highland Avenue and Rosecrans Avenue being demolished and being incorporated into the project?

Lot 4 is **not** being demolished or affected by the project. All public parking spaces at Lot 4 would remain. A wall/fence located on the project site is being proposed between the development and Lot 4.



EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 CHATTEN-BROWN, CARSTENS & MINTEER LLP
2 Douglas P. Carstens, SBN 193439; dpc@cbcearthlaw.com
3 Michelle N. Black, SBN 261962; mnb@cbcearthlaw.com
4 Sunjana Supekar, SBN 328663; sss@cbcearthlaw.com
5 2200 Pacific Coast Highway, Suite 318
6 Hermosa Beach, CA 90254
7 Telephone: 310.798.2400;
8 Fax 310.798.2402

9 Attorneys for Petitioner
10 MB Poets

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 MB POETS)
14) CASE NO.: 20STCP04201
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22)
23)
24)
25)
26)
27)
28)

MB POETS)
Petitioner,)
v.)
CITY OF MANHATTAN BEACH)
Respondent;)
(California Environmental
Quality Act, Manhattan Beach Municipal Code,
and the Brown Act)

MB HOTEL PARTNERS, LLC; JAN HOLTZE, an)
individual; LIVE OAK PROPERTIES LLC)
and)
DOES 1 – 10)
Real Parties in Interest)
Petition Filed: December 22, 2020
The Honorable Mary H. Strobel
Department 82
Hearing: April 14, 2022

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

TABLE OF CONTENTS

Page No.

1

2

3 I. INTRODUCTION7

4 II. STATEMENT OF FACTS8

5 A. The Project Site.....8

6 B. The Project.....8

7 III. STANDARD OF REVIEW10

8 A. California Environmental Quality Act10

9 B. Municipal Code and Brown Act.11

10 IV. ARGUMENT11

11 A. The City’s Approval of the Project Violates CEQA,.....11

12 1. The Project Does Not Fit Within a Class 32 Exemption Due

13 to Its Impacts.....11

14 2. The Project Falls Within Exceptions to the Claimed Categorical

15 Exemption.....11

16 a. Unusual Circumstances Would Result in Significant

17 Impacts.....12

18 b. A Categorical Exemption is Unavailable Due to

19 Cumulative and Project Specific Traffic Impacts.....12

20 c. A Categorical Exemption is Unavailable Due to

21 Project Noise Impacts14

22 d. Inconsistency with City Code Requirements for

23 Parking Prevent Application of an Exemption16

24 e. Impacts to Sewer Capacity Would be Significant17

25 3. CEQA Does Not Permit Use of Mitigation Measures for

26 an Exemption18

27 B. The Project’s Approval Violates the City’s Municipal Code.....19

28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1
2
3
4
5
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23
24
25
26
27
28

C. The City Violated the Brown Act During the Project’s Approval Process20

V. CONCLUSION.....21

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

TABLE OF AUTHORITIES

STATE CASES	Page No.
<i>Aptos Residents Assn. v. County of Santa Cruz</i> (2018) 20 Cal.App.5th 1039	13
<i>Audio Visual Services Group, Inc. v. Superior Court</i> (2015) 233 Cal.App.4th 481	11
<i>Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster</i> (1997) 52 Cal.App.4th 1165 (“Azusa Land”)	10, 12, 18, 19
<i>Berkeley Hillside Preservation v. City of Berkeley</i> (2015) 60 Cal.4th 1086	10, 12
<i>California Clean Energy Committee v. City of Woodland</i> (2014) 225 Cal.App.4th 173	18
<i>Citizens for Responsible & Open Government v. City of Grand Terrace</i> (2008) 160 Cal.App.4th 1323	14
<i>City of Pasadena v. State of California</i> (1993) 14 Cal.App.4th 810	18
<i>Communities for a Better Environment v. South Coast Air Quality Management Dist.</i> (2010) 48 Cal.4th 310	14
<i>County of Inyo v. Yorty</i> (1973) 32 Cal.App.3d 795	16
<i>Fairbank v. City of Mill Valley</i> (1999) 75 Cal.App.4th 1243	10
<i>Keep Our Mountains Quiet v. County of Santa Clara</i> (2015) 236 Cal.App.4th 714	13, 14
<i>Kings County Farm Bureau v. City of Hanford</i> (1990) 221 Cal.App.3d 692	13
<i>Lewis v. Seventeenth Dist. Agricultural Assn.</i> (1985) 165 Cal.App.3d 823	12, 18
<i>Muzzy Ranch Co. v. Solano County Airport Land Use Com.</i> (2007) 41 Cal.4th 372	10

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 *No Oil, Inc. v. City of Los Angeles*
 (1974) 13 Cal.3d 68 10, 16

2 *Ocean View Estates Homeowners Assn., Inc. v. Montecito Water Dist.*
 3 (2004) 116 Cal.App.4th 396 13

4 *Pocket Protectors v City of Sacramento*
 5 (2004) 124 Cal.App.4th 903 13

6 *Salmon Protection & Watershed Network v. County of Marin*
 7 (2004) 125 Cal.App.4th 1098 18

8 *San Joaquin Raptor Rescue Center v. County of Merced*
 9 (2013) 216 Cal.App.4th 1167 11, 20

10 *Santa Monica Chamber of Commerce v. City of Santa Monica*
 (2002) 101 Cal.App.4th 786 10

11 *Save Our Carmel River v. Monterey Peninsula Water Management Dist.*
 12 (2006) 141 Cal.App.4th 677 11

13 *Sierra Club v. County of Sonoma*
 14 (1992) 6 Cal.App.4th 1307 11

15 *Taxpayers for Accountable School Bond Spending v. San Diego Unified School Dist.*
 16 (2013) 215 Cal.App.4th 1013 17

17 *Voices for Rural Living v. El Dorado Irrigation Dist.*
 18 (2012) 209 Cal.App.4th 1096 12

19 *Wildlife Alive v. Chickering*
 (1976) 18 Cal.3d 190 11

20
21
22
23
24
25
26
27
28

STATUTES

GOVERNMENT CODE

§ 54950 20

§ 54952 20

§ 54954.2 20

§ 54954.3 20

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

PUBLIC RESOURCES CODE

§ 21084.....18

CA CODE OF REGULATIONS TITLE 14 (CEQA GUIDELINES)

§ 15061.....18

§ 1506410, 12, 16

§ 15300.2.....10, 11, 12, 13, 18

§ 15332.....11

§ 15355.....13

MANHATTAN BEACH MUNICIPAL CODE

§ 5.48.140.....19

§ 5.48.16015, 19

§ 10.64.03016

§ 10.64.040.....16, 19

1
2
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6
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EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 I. INTRODUCTION

2 This action challenges the City of Manhattan Beach’s (“City’s”) failure to comply with the
3 California Environmental Quality Act (“CEQA”), the City’s Municipal Code, and the Brown Act in
4 approving a retail commercial project at 600 Sepulveda Avenue in the City proposed by MB Hotel
5 Partners, LLC. This proposed project provides for the development of a new 162-room, 81,775 square-
6 foot hotel and a 16,348 square foot retail and office building at 600 S. Sepulveda (“Project”). The
7 proposal would make this the tallest building along Sepulveda Boulevard in Manhattan Beach. Parking
8 would be severely lacking, as only 152 parking spaces would be provided, despite the Project requiring
9 243 parking spaces under applicable provisions of the Municipal Code. The Project would have
10 relatively significant impacts in an area of Manhattan Beach renowned for its peace and quiet, known as
11 “the Poets Section,” with streets named after celebrated poets Keats, Tennyson, and Shelley.

12 The Project requires a discretionary approval of a Master Use Permit, thus necessitating
13 compliance with CEQA. This discretionary review provided the City the ability to impose conditions of
14 approval to reduce the impacts associated with the Project. For example, restrictions on the height,
15 design, building placement, and hours of operation were imposed but would not eliminate impacts.

16 The City improperly approved this impactful Project based upon a Class 32 categorical
17 exemption to environmental review under CEQA for infill development that has no unusual impacts.
18 This categorical exemption is inapplicable because the Project would result in traffic impacts due to
19 increased commercial traffic using quiet residential streets and busy city thoroughfares, increased traffic
20 on a state highway (Sepulveda Boulevard) with short sightline distances in this critical area, and create a
21 parking demand in severe excess of the parking capacity of the site. The Project would also have
22 adverse noise impacts on the surrounding residential community both during construction and
23 operations. The use of a categorical exemption is also improper because the Project required conditions
24 of approval to mitigate potential impacts. No exemption is permissible where mitigation measures are
25 necessary to reduce impacts below a level of significance. For all of these reasons, the City should have
26 required a full environmental impact report (EIR) to determine the extent of the Project’s impacts, and
27 require Project revisions and mitigation measures to address those impacts.

28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 II. STATEMENT OF FACTS

2 A. The Project Site.

3 The Project site is located at 600 South Sepulveda Boulevard in the City of Manhattan Beach.
4 (Administrative Record (“AR”) 1: 1; 6: 46.) The site is zoned CG-D8, General Commercial- Sepulveda
5 Boulevard Corridor Overlay. (AR 6: 53.) The surrounding properties are zoned CG-D8 to the north,
6 CG General Commercial to the south, RS Single-Family Residential to the east, and a narrow
7 commercial strip and Single Family Residential to the west. (AR 2: 25; 7: 99.)

8 The site was formerly used as an El Torito restaurant. However, that restaurant vacated the site
9 in late 2018. The site is stated to be a 65,419 square foot lot. (AR 124:5396.) The restaurant occupied
10 8,500 square feet of the site. (AR 6:54.) Skechers occupied the site since 2019, using the restaurant
11 building as a cafeteria and meeting space while using the parking lot as parking for Skechers employees
12 impacted by construction at Skechers’ new office buildings along Sepulveda Boulevard. (AR 6:54.)

13 B. The Project.

14 In early 2019, the City approved the Sepulveda Boulevard Corridor Overlay. (AR 1:2.) Among
15 other changes to long-standing zoning and land use restrictions in the area, this Overlay allowed a 40-
16 foot height limit for hotel uses in the D8-Sepulveda Corridor Overlay Zone. (AR 2:27.) No
17 environmental review of the Overlay Zone was conducted. (AR 68:2475.) The Ordinance approving
18 the Overlay stated: “Future discretionary development projects shall be subject to CEQA and shall be
19 subject to environmental review.” (Ordinance No. 19-0004, section 7.)¹ Despite this statement the
20 City approved the Project with no environmental review and claimed it was exempt from CEQA.

21 On August 9, 2019, the Community Development Department received an application
22 requesting a Master Use Permit for a new 162-room, 81,775 square-foot, four-story hotel and a separate
23 new 16,348 square foot two-story retail and office building at 600 S. Sepulveda, at the northeast corner
24 of Sepulveda Boulevard and Tennyson Street. (AR 124:5395; 144:9754.)

25 The Planning Commission conducted a public hearing on October 14, 2020 to consider the
26 request for the Master Use Permit. (AR 7:101.) Numerous public comments were submitted in

27 _____
28 ¹ Judicial Notice of excerpts of relevant City Ordinances, Municipal Code sections, and General Plan provisions is sought in the concurrently filed Request for Judicial Notice.

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 opposition to this proposal. (AR 7:101.) The hearing was continued to November. (AR 7:102.)

2 On November 18, 2020, the Planning Commission held another public hearing. (AR 7:102.)
3 Again, numerous public comments were submitted, most of them in opposition to the Project as
4 proposed. MB Poets submitted detailed comments objecting to various aspects of the Project, and
5 included expert testimony regarding parking, traffic, noise, and land use impacts. (AR 126:6680-85;
6 129:6702-14.) Despite these many and detailed objections, the Planning Commission adopted a
7 resolution approving the Project. (AR 6:56.)

8 Following the approval by the Planning Commission, but prior to the expiration of the 15-day
9 appeal period provided by the Manhattan Beach Municipal Code, the City prepared a Notice of
10 Exemption and it was prematurely filed. (AR 122:5297-98.) MB Poets appealed the Planning
11 Commission approval to the City Council by delivering an appeal to the City on November 25, 2020.
12 (AR 120: 5234-93.) The City initially set a hearing of MB Poets' appeal on January 19, 2021, then
13 February 2, 2021, and eventually rescheduled for May 4, 2021. (AR 58:1715-16.) At the May 4, 2021
14 appeal hearing for the Project, City Attorney Quinn Barrow stated, "Since we're coming back with a
15 resolution with *draft conditions*, the applicant [and] the appellants, *everyone can discuss those*
16 *conditions.*" (AR 17:273, emphasis added.)

17 At the May 4, 2021 appeal hearing, the City Council directed staff to amend only a few
18 conditions, related to alcohol-service closing hours and parking. (AR 19:287; 17:275.) The meeting
19 minutes state "City Attorney Barrow clarified that the applicant will have the opportunity to discuss the
20 aforementioned conditions when the draft resolution presented to the City Council." (AR 19:287.)

21 In contrast with the direction for limited changes, the new resolution contained 188
22 replacements, insertions and deletions, compared to the resolution approved by the Planning
23 Commission on November 18, 2020. (AR 50:1088.) Consequently, the resolution of the City Council
24 had many changes never previously considered in a public hearing. Despite commitments there would
25 further opportunity for discussion at a public hearing, the Project appeared as a consent calendar item
26 on the June 15 agenda. (AR 12:125.) One-half hour before that meeting commenced, Community
27 Development Director Tai emailed a member of MB Poets that the City Council would not consider
28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 any further evidence other than that received prior to closure of the May 4 appeal. (AR 49:1087.) At
2 the June 15, 2021 meeting, the matter was called off the consent calendar for public hearing and over
3 further objections, the City Council voted to approve the Project. (AR 13:134.)

4 **III. STANDARD OF REVIEW**

5 **A. California Environmental Quality Act**

6 An agency's reliance upon a categorical exemption necessitates two inquiries, with a shifting
7 burden for review. First, a court must determine whether an agency has correctly determined that a
8 project is categorically exempt from CEQA review. The interpretation of the language of the guidelines
9 implementing CEQA or the scope of a particular CEQA exemption presents "a question of law, subject
10 to de novo review by this court." (*Fairbank v. City of Mill Valley* (1999) 75 Cal.App.4th 1243, 1251;
11 *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165,
12 1192 ("Azusa Land").) Thus, the first question before the Court is "to determine whether, *as a matter*
13 *of law*, the [project] met the definition of a categorically exempt project." (*Santa Monica Chamber of*
14 *Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 792.) In determining whether the
15 project comes within the categorical class of exemptions, courts "apply a de novo standard of review,
16 not a substantial evidence standard." (*Ibid.*) "[T]he agency invoking the [categorical] exemption has the
17 burden of demonstrating" that substantial evidence supports its factual finding that the project falls
18 within the exemption. (*Muzzy Ranch Co. v. Solano County Airport Land Use Com.* (2007) 41 Cal.4th
19 372, 386.) Further, the agency decides whether a project is categorically exempt as a part of its
20 preliminary review without reference to any mitigation measures. (*Azusa Land, supra*, 52 Cal.App.4th
21 1165, 1199-2000.) If an agency establishes that the project fits an exemption, a party challenging the
22 exemption may produce evidence that the project is not exempt because it falls within one of the
23 exceptions listed in CEQA Guidelines section 15300.2. (*Berkeley Hillside Preservation v. City of*
24 *Berkeley* (2015) 60 Cal.4th 1086, 1105.) The party invoking an exception to an exemption "need only
25 show a reasonable possibility of a significant effect due to [an] unusual circumstance" such as a
26 project's "size or location." (*Ibid.*) Courts determine whether there is a reasonable possibility of a
27 significant effect on the environment due to the unusual circumstances using the fair argument
28 standard. (*Berkeley Hillside, supra*, 60 Cal.4th 1086, 1116.) The fair argument standard is a "low
threshold" that requires preparation of environmental review whenever there is any substantial evidence
a project may have an adverse impact, even if there is evidence to the contrary, without deference to an
agency's determination. (CEQA Guidelines § 15064, subd. (f)(1); *No Oil, Inc. v. City of Los Angeles*

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 (1974) 13 Cal.3d 68, 75; *Sierra Club v. County of Sonoma* (1992) 6 Cal.App.4th 1307, 1317-18.)

2 **B. Municipal Code and Brown Act.**

3 Municipal Code violations are reviewed as a question of law. (*Audio Visual Services Group,*
4 *Inc. v. Superior Court* (2015) 233 Cal.App.4th 481, 489.) Brown Act violations based on undisputed
5 facts are reviewed as a question of law. (*San Joaquin Raptor Rescue Center v. County of Merced*
6 (2013) 216 Cal.App.4th 1167, 1175.)

7 **IV. ARGUMENT**

8 **A. The City's Approval of the Project Violates CEQA,**

9 **1. The Project Does Not Fit Within a Class 32 Exemption Due to Its Impacts.**

10 The City relies upon a Class 32 categorical exemption to exempt the Project from environmental
11 review under CEQA. (AR 1:2; see CEQA Guidelines § 15332.) Categorical exemptions are strictly
12 construed, “in order to afford the fullest possible environmental protection.” (*Save Our Carmel River v.*
13 *Monterey Peninsula Water Management Dist.* (2006) 141 Cal.App.4th 677, 697.) A Class 32 exemption
14 only applies if the project meets specific conditions, for which it is the City's burden to prove, including
15 that approval of the Project “would not result in any significant effects relating to traffic, noise, air
16 quality, or water quality” and the Project site “can be adequately served by all required utilities and
17 public services.” (CEQA Guidelines § 15332.) The City failed to meet its burden. As discussed below,
18 the Project will likely have significant traffic, noise, parking, land use, and public utility impacts that
19 have not been mitigated. Furthermore, the Project's inconsistency with Municipal Code requirements
20 prevents its reliance on an exemption.

21 **2. The Project Falls Within Exceptions to the Claimed Categorical Exemption.**

22 Recognizing that projects that would otherwise qualify for a categorical exemption may cause
23 significant adverse environmental impacts under certain circumstances, CEQA contains exceptions to
24 categorical exemptions. (CEQA Guidelines §15300.2; *Wildlife Alive v. Chickering* (1976) 18 Cal.3d
25 190, 206.) Here, even if the Project did fit within the Class 32 categorical exemption, which it does not,
26 the exemption would be inapplicable because several exceptions to categorical exemptions apply.

27 A categorical exemption is inapplicable when “there is a reasonable possibility that the activity
28 will have a significant effect on the environment due to unusual circumstances.” (CEQA Guidelines §
15300.2, subd. (c).) This Project is unlike the typical project for which the Class 32 categorical
exemption was developed due to its size, the nearby residential neighborhoods, and the Municipal Code
requirements to which the Project does not conform. These unusual circumstances result in a reasonable

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 possibility the Project will have significant adverse impacts, preventing reliance on an exemption.

2 **a. Unusual Circumstances Would Result in Significant Impacts.**

3 CEQA prohibits use of a categorical exemption when “there is a reasonable possibility that the
4 activity will have a significant effect on the environment due to unusual circumstances.” (CEQA
5 Guidelines § 15300.2, subd. (c).) Under this exception, two determinations must be made; first is
6 whether there is substantial evidence of unusual circumstances. (*Berkeley Hillside, supra*, 60 Cal.4th
7 1086, 1114-16.) Without a definition in CEQA, courts have opined that “whether a circumstance is
8 ‘unusual’ is judged relative to the typical circumstances related to an otherwise typically exempt
9 project.” (*Voices for Rural Living v. El Dorado Irrigation Dist.* (2012) 209 Cal.App.4th 1096, 1109.)
10 Additionally, “the significance of an activity may vary with the setting.” (CEQA Guidelines § 15064,
11 subd. (b)(1).) Thus, unusual circumstances negating categorical exemptions include a project’s size and
12 context. (*Azusa Land, supra*, 52 Cal.App.4th 1165, 1207-08; *Lewis v. Seventeenth Dist. Agricultural*
13 *Assn.* (1985) 165 Cal.App.3d 823, 829.)

14 Here, the Project will have four stories, a first for the city, which violates General Plan Goal LU-
15 1, “Maintain the low-profile development and small-town atmosphere of Manhattan Beach.” (City
16 General Plan, p. LU-23; AR 50:1096; 73:2805; 45:1019.) Additionally, on March 6, 2019 without
17 environmental review, the City amended the zoning code to permit four-story hotels in the Sepulveda
18 Corridor. (AR 1:2; 17:230 [public commenting that City “never studied these impacts”]; 17:262.) This
19 occurred just five months before receiving the Project application on August 9, 2019. (AR 144:9754.)
20 Therefore, the city has never conducted an environmental review of four-story buildings. The
21 unprecedented four-story nature of the Project nestled among residential neighborhoods exacerbates
22 noise, traffic, and parking impacts and constitutes an unusual circumstance that requires an EIR. In an
23 email to staff for the Project’s initial public hearing on October 14, 2000, Planning Commissioner
24 Richard Thompson, who qualifies as an expert and served as Community Development Director during
25 1996-2014 (AR 61:1955), wrote: “I was surprised that an initial study wasn’t prepared for this due to
26 the size, nature and potential public controversy associated with the development of this site.” (AR
27 61:1959.) Additionally, Sepulveda Boulevard has unusually short sightline distances in this critical area.
28 (AR 20:304; 129:6703.)

29 **b. A Categorical Exemption is Unavailable Due to Cumulative and Project 30 Specific Traffic Impacts.**

A categorical exemption is also “inapplicable when the cumulative impact of successive projects

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 of the same type in the same place, over time is significant.” (CEQA Guidelines § 15300.2(b).) The
2 cumulative impacts result from the incremental impact of a project when added to other related past,
3 present, and reasonably foreseeable probable future projects. (CEQA Guidelines, § 15355, subd. (b).)
4 The cumulative impact exception ensures that a project’s potential cumulative impacts are not
5 overlooked when a categorical exemption is applied because “environmental damage often occurs
6 incrementally from a variety of small sources.” (*Kings County Farm Bureau v. City of Hanford* (1990)
7 221 Cal.App.3d 692, 720.) This exception to a categorical exemption applies if the lead agency is
8 presented with “evidence that there was a *fair argument* that the cumulative impact exception applied.”
9 (*Aptos Residents Assn. v. County of Santa Cruz* (2018) 20 Cal.App.5th 1039, 1052, emphasis added.)
10 Expert comments and relevant personal observations qualify and substantial evidence of a fair argument
11 that the Project may have noise, traffic, parking and land use impacts. (*Keep Our Mountains Quiet v.*
12 *County of Santa Clara* (2015) 236 Cal.App.4th 714, 735; *Ocean View Estates Homeowners Assn., Inc. v.*
13 *Montecito Water Dist.* (2004) 116 Cal.App.4th 396, 402; *Pocket Protectors v City of Sacramento* (2004)
14 124 Cal.App.4th 903, 931–932.) Due to the Project’s potentially significant cumulative impacts, a
15 categorical exemption is unavailable.

16 The Project would result in adverse traffic impacts that prevent reliance on a Class 32 exemption.
17 Transportation engineer Craig S. Neustaedter opined that the traffic analysis improperly omits Keats
18 Street, Chabela Drive, Shelley Street, Prospect Avenue and 30th Street, which are the residential streets
19 adjoining or near the Project. (AR 114:4799.) Furthermore, the analysis of Kimley-Horn and
20 Associates (“KHA”), the applicant’s traffic consultant relied upon by the City, failed to analyze
21 cumulative impacts to 30th Street, which carries project traffic to and from the beach and is used by
22 traffic from the multiple, large, new Skechers buildings that when occupied would impact the area
23 immediately proximate to this development. (AR 114:4799; 129:6706.) A categorical exemption is
24 “inapplicable when the cumulative impact of successive projects of the same type in the same place,
25 over time is significant.” (CEQA Guidelines § 15300.2, subd. (b).) The City failed to address
26 cumulative impacts of the Skechers project. One of the mitigation measures for the Skechers project is
27 to require a lengthened left turn pocket onto Tennyson for southbound traffic. (AR 129:6706; 6:62.)
28 This additional left turn capacity plus Project traffic will substantially increase vehicle trips on Tennyson
and Chabela, which lead to and from the residential area on the east, unaccounted for by KHA.

KHA relies on a baseline traffic level that includes traffic from the former El Torito restaurant
onsite, which is improper under CEQA. (AR 124:5437; 117:4805.) CEQA review requires using a

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 baseline that represents the “actual environmental conditions existing at the time of CEQA analysis . . .
2 rather than the level of development or activity that could or should have been present according to a
3 plan or regulation.” (*Communities for a Better Environment v. South Coast Air Quality Management*
4 *Dist.* (2010) 48 Cal.4th 310, 321.) During Skechers construction, the site temporarily operates as a
5 private parking lot. (AR 6:54.) Its existing traffic levels should be used as the baseline for CEQA
6 analysis. Instead, the Project’s traffic analysis improperly deducts vehicle trips associated with the
7 Project site’s former use as a restaurant. (AR 124:5437; 117:4805.)

8 c. A Categorical Exemption is Unavailable Due to Project Noise Impacts.

9 Noise from heating and air conditioning equipment on the rooftop can have substantial impacts
10 that require preparation of an EIR. Public comments at hearings that the air conditioners are very noisy
11 can be “sufficient to raise a fair argument of significant noise impacts.” (*Citizens for Responsible &*
12 *Open Government v. City of Grand Terrace* (2008) 160 Cal.App.4th 1323, 1340.) Where evidence
13 supports a fair argument that Project-related crowd noise may have significant noise impacts on
14 surrounding residents, an EIR is required. (*Keep Our Mountains Quiet v. County of Santa Clara* (2015)
15 236 Cal.App.4th 714, 734.)

16 Substantial evidence presented by acoustic expert Steve Rogers illustrates that significant noise
17 impacts will result from the Project. (AR 55:1650 and 62:2017-2023.) Therefore, the City may not rely
18 on a Class 32 exemption from CEQA. Mr. Rogers’s analysis shows noise impacts will be significant.
19 (AR 62:2017-23; 86:3505-08; 113:4794-97; 120:5272-80.) The analysis by the Project applicant’s
20 noise experts Michael Baker International (“MBI”) and relied upon by the City, significantly understated
21 the Project’s operational noise impacts. (AR 55:1658; 124:5774-5809)

22 Condition 16 in Resolution PC 20-10 required that noise be inaudible at the property lines. (AR
23 2:29; 124:5317.) However, this condition was deleted from the June 15, 2020 City Council resolution.
24 (AR 1:12). Roughly 50 feet from the west property line, both the fourth-floor open-air terrace and the
25 ground-level patio will serve alcohol to hundreds of patrons until 1 AM seven days a week. (AR
26 61:1746 and 1750; 1:16 [hours of operation].) Twenty feet from the east property line, a veritable
27 wall of noise sources exists: 45 openable hotel-room windows, an open garage with patrons talking
28 loudly and slamming doors at 1 AM, and a rooftop crammed with chugging air-conditioner compressors
and whining fans. (AR 61:1750-51.) These noise impacts occur because of the unusual circumstance

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 of siting an overly-tall commercial structure nestled within a quiet residential area.

2 Heating, ventilation and air-conditioning (“HVAC”) noise would be significant. MBI assumed
3 that only one of the 25 pieces of HVAC equipment on the roof would be operating at any given time.
4 (AR 117:4844, 4847.) Noise impacts on the nearby residential uses would be the combined effect of
5 multiple fans and condenser units operating simultaneously. (AR 55:1650, 1653.) MBI provided an
6 incomplete response alleging a wall would reduce noise (AR 100:4395), but it did not count all
7 equipment depicted in project plans. (AR 62:2022.)

8 Crowd noise would be significant. (AR 55:1654.) MBI assumed a single talker using an
9 unrealistically low level of speech effort in the rooftop bar, roof terrace and hotel bar patio. (AR
10 55:1654.) However, the rooftop bar/terrace could accommodate 200 people, with room for dozens
11 more on the first-floor patio. (AR 55:1654.) Taking into consideration the noise impacts of multiple
12 speakers, as well as the noise analysis’ inadequate assumptions for speech effort and failure to factor in
13 alcohol consumption, acoustic expert Steve Rogers concluded the true impact of crowd noise in the
14 outdoor gathering area of the hotel would be at least 30 dBA higher than MBI predicted – i.e., a net
15 noise level of 53 dBA, which would exceed the 50 dBA nighttime exterior noise standard in Manhattan
16 Beach Municipal Code section 5.48.160. (AR 55:1654.) MBI claimed occupancy of 150 (AR 65:2095)
17 but this was incorrect (AR 62:2017). MBI also claimed noise receptors would be indoors (AR 65:2096),
18 but this assumption had no valid basis (AR 62:2018).

19 Amplified music noise would be significant. MBI does not address potential noise impacts
20 associated with amplified music playback in the hotel, including live music performances and DJ sets on
21 the rooftop terrace. (AR 55:1655.) MBI does not address noise impacts on the residential uses located
22 on El Oeste Drive, to the west of the project site that would have a direct line-of-sight to the rooftop
23 bar/terrace, approximately 300-feet away. (AR 55:1650.) MBI claimed amplified music is prohibited by
24 Condition 16 (AR 100:4396) but that Condition does not prevent noise (AR 62:2022) and was deleted
25 by the City (compare AR 16 with AR 29). MBI claimed impulsive noise does not include music (AR
26 100:4396) but this is incorrect (AR 62:2019).

27 Noise impacts from the ground level parking lot and the open-to-the-air underground parking lot
28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 adjacent to the residential neighbors would be significant. There is no wall, acoustic sealing of the
2 underground lot or other measure to reduce the impacts of cars and human activity in the parking lot.
3 (See AR 54:01360; 61:01975 [Shade Hotel CUP requiring acoustic sealing].) MBI attempted to respond
4 to public and expert comments in April 2021 (AR 64:2080) and June 2021 (AR 100:4394). However,
5 MBI's responses did not rebut the points made by noise experts regarding rooftop occupancy generating
6 crowd noise (AR 62:2017, 2018), the exceedance of noise limits at homes on El Oeste (AR 62:2017),
7 impulsive noise (AR 62:2018) and HVAC noise (AR 62:2022). MBI's rebuttals were unsubstantiated
8 (AR 62:2020-21). Even had they been substantiated, where there are conflicting assertions between
9 experts, an EIR is necessary. (*County of Inyo v. Yorty* (1973) 32 Cal.App.3d 795, 814.) As stated in the
10 CEQA Guidelines, "if a lead agency is presented with a fair argument that a project may have a
11 significant effect on the environment, the lead agency shall prepare an EIR even though it may also be
12 presented with other substantial evidence that the project will not have a significant effect (*No Oil, Inc.*
13 *v. City of Los Angeles* (1974) 13 Cal.3d 68.)" (CEQA Guidelines § 15064 (f)(1).)

14 **d. Inconsistency with City Code Requirements for Parking Prevent** 15 **Application of an Exemption.**

16 A Class 32 exemption is unavailable because the Project violates the City's Municipal Code
17 requirements for parking. Staff stated that Manhattan Beach Municipal Code ("MBMC") Section
18 10.64.030 requires 243 spaces be provided for the site based on proposed uses. (AR 132:6861;
19 124:5396.). The City claimed this amount could be reduced to 152 total spaces (91 less than 243),
20 pursuant to MBMC Section 10.64.050 (B). (AR 1:8-9)

21 The MBMC, however, limits the allowable reduction to 15% of total spaces required, which in
22 this case would be only 37 spaces. (MBMC Section 10.64.040.) As result, the parking violates MBMC
23 section 10.64.040, Collective Provision for Parking. This statute permits a maximum reduction of 15%
24 in spaces if multiple uses on site share the parking at different times of day. (AR 126:6682.) The
25 Municipal Code permits a 36-space (i.e., 243 x 0.15) reduction in requirements, whereas the applicant
26 erroneously took a 91-space reduction, a larger reduction than permitted by Code. (AR 114:4799;
27 126:6681.) As result, the City violated its parking ordinance to approve the Project.

28 Insufficient parking at a project can lead to environmental impacts from increased vehicle

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 emissions and vehicle miles traveled and overflow parking in the nearby residential neighborhoods.
2 “CEQA considers a project's impact on parking of vehicles to be a physical impact that could constitute
3 a significant effect on the environment.” (*Taxpayers for Accountable School Bond Spending v. San*
4 *Diego Unified School Dist.* (2013) 215 Cal.App.4th 1013, 1051.) The parking analysis performed by
5 KHA makes unjustifiable assumptions that are not based on substantial evidence. For example, the
6 KHA parking analysis uses unjustifiably low levels of parking demand based on unsupportable
7 application of parking ratios. (AR 132:6886-89.) The Institute of Transportation Engineer’s (“ITE”)
8 standard requirement for spaces is 1.55 spaces per hotel room on Saturdays, but the applicant uses a
9 ratio of only 0.64. (AR 114:4800; 124:5426.) This results in a peak-parking demand that is only 41% of
10 the industry standard. (AR 126:6681; 129:6705.)

11 Transportation engineer Neustaedter’s analysis discloses that the KHA parking analysis excludes
12 parking demand from public use of hotel alcohol-serving venues. Condition 15 in the June 15, 2021
13 City Council Resolution restricts alcohol service to hotel patrons only. (AR 1:16.) The application,
14 however, specifies a Type 47 on-sale general license. (AR 124:5413.) Per Ms. Lauren Tyson, former
15 official of the Department of Alcoholic Beverage Control (“ABC”), an on-sale license requires a bona
16 fide public eating place, open to the public and not restricted to guests. (AR 61:1874-81.) For traffic
17 and parking analyses, the general license would correspond to ITE hotel model Class 310 Hotel, with
18 much higher traffic and parking demands, not a Class 312 Business Hotel. (AR 54:1357-58.) The
19 impact of the significant underparking of the Project site would mean that cars would need to leave the
20 site (adding disruption of traffic flow on Sepulveda and surrounding streets) and then circle the nearby
21 area or try to park there.

22 e. Impacts to Sewer Capacity Would be Significant.

23 The Project would require substantial upgrades to local sewer and potable water pipelines, which
24 is a significant impact that renders an exemption from CEQA inapplicable. (AR 68:2124-27; 124:6173.)
25 The public submitted evidence that sewer capacity would not be sufficient for the over-sized Project,
26 objecting specifically to the City’s underestimate of sewage generated by the Project, as well as the
27 City’s contention that the Project’s “consistency with the General Plan” would ensure sufficient
28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 capacity. (AR 68:2124-27). The City responded simply that its efforts to modify the water and sewer
2 infrastructure would be sufficient once such modifications were made, and General Plan compliance
3 with the General Plan was sufficient. (AR 67:2113-14, 2119.) The City's response failed to address the
4 public's specific evidence showing that the Project cannot be adequately served by sewer and water
5 utilities. (See *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173,
6 210–211 [compliance with the Building Code not sufficient to address energy impact concerns].)

3. CEQA Does Not Permit Use of Mitigation Measures for an Exemption.

7 The City has improperly relied upon mitigating conditions to grant a categorical exemption from
8 CEQA for the Project. (*Salmon Prot. & Watershed Network v. Cnty. of Marin* (2004) 125 Cal.App.4th
9 1098, 1102.) Categorical exemptions are prohibited for projects that may have a significant
10 environmental impact. (Pub. Resources Code § 21084; CEQA Guidelines §§ 15300.2; 15061.) "An
11 agency should decide whether a project is eligible for a categorical exemption as part of its preliminary
12 review of the project... not in the second phase when mitigation measures are evaluated." (*Azusa Land*,
13 *supra*, 52 Cal.App.4th 1165 at 1199-1201; *City of Pasadena v. State of California* (1993) 14
14 Cal.App.4th 810, 820.) Reliance on conditions of approval or other measures to mitigate a project's
15 potential impacts "involves an evaluative process ...and that process must be conducted under
16 established CEQA standards and procedures for EIRs or negative declarations." (*Salmon Prot. &*
17 *Watershed Network, supra*, 125 Cal.App.4th 1098, 1108; *Lewis v. Seventeenth Dist. Agricultural Assn.*
18 (1985) 165 Cal.App.3d 823, 830.)

19 Here, the Project was revised in an attempt to address the noise, traffic, parking, and land use
20 incompatibility impacts identified by the public. Operational limitations were placed on the location and
21 hours of operation of rooftop decks to address the Project's inevitable noise impacts. (AR 1:16.) "The
22 very fact the [City] took steps in mitigation makes it manifest there was a possibility of a significant
23 effect. If steps in mitigation lessen the 'adverse change,' such steps may qualify the [City] to file a
24 negative declaration, but not to find itself outside the law." (*Lewis, supra*, 165 Cal.App.3d 823, 830.)

25 "An agency should decide whether a project is eligible for a categorical exemption as part of its
26 preliminary review of the project without reference to or reliance upon any proposed mitigation
27 measures" (*Salmon Protection & Watershed Network v. County of Marin* (2004) 125 Cal.App.4th 1098,
28 1106.) Reliance on such measures "involves an evaluative process ...and that process must be
conducted under established CEQA standards and procedures for EIRs or negative declarations." (*Id.* at

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 1108.) *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th
2 1165, 1191, 1201 holds an agency may not “evade these standards by evaluating proposed mitigation
3 measures in connection with the significant effect exception to a categorical exemption.”

4 In a futile attempt to mitigate noise, traffic, parking, and aesthetic impacts, the Project was
5 conditioned upon a number of modifications. (AR 1:14-22.) The conditions of approval require
6 development in accordance with site plans that were revised to create a stepped design and attempt to
7 camouflage the building façade with foliage. (AR 1:14-15; 70:2541, 2583.) Conditions of approval
8 were devised to set hours of operation for the rooftop deck in an attempt to address the concerns raised
9 regarding noise impacts. (AR 1:16.) The conditions required by the City are extensive but likely to be
10 ineffectual in reducing the Project’s significant impacts. Eating and drinking hours of operation,
11 including alcohol service and amplified music on the outdoor 4th story terrace, are 7 a.m. to 1 a.m.
12 Friday and Saturday and 7 a.m. to 11 p.m. Sunday through Thursday. (AR 1:16 [Condition 13].);

13 The City deleted a Planning Commission condition that noise be inaudible at the property lines
14 (AR 2:29 [Resolution No. PC 20-10, Condition 16].) Parking is to be “discourage[d]” on adjacent
15 residential streets (AR 1:19 [Resolution 21-0044, Condition 38]) but no measure to enforce this is
16 provided. These measures are likely to be ineffective as shown by the experience of residents around
17 the Residence Inn further north on Sepulveda Boulevard. (See, e.g., AR 127:6686; 63:2044.)

18 By definition, a project does not qualify for a categorical exemption unless the agency has
19 determined environmental impacts cannot occur and mitigation measures are *unnecessary*. Here, the
20 City has imposed conditions of approval to mitigate the Project’s likely impacts. For this reason, the
21 City cannot rely on a Class 32 categorical exemption to CEQA review.

22 **B. The Project’s Approval Violates the City’s Municipal Code.**

23 Approval of the Project violates the Manhattan Beach Municipal Code (MBMC) in various
24 ways. As described above, the Project fails to provide the amount of parking required pursuant to
25 MBMC Section 10.64.040 by reducing required parking more than the 36 permitted by code. (AR
26 114:04799; 126:6681.) As described above, the Project fails to comply with the noise ordinance
27 pursuant to MBMC sections 5.48.140 [Noise Disturbances] and 5.48.160 [Exterior Noise Standards]
28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 because it would generate noise measurable at a level of 53 dBA at nearby residential properties. (AR
2 1654.) MBMC section 10.60.120 (A) incorporates the noise ordinance into the zoning code.

3 **C. The City Violated the Brown Act During the Project's Approval Process.**

4 The Brown Act requires that at least 72 hours before a regular meeting, a legislative body must
5 post an agenda containing a "brief description" of each item of business to be acted upon at the meeting.
6 (Gov. Code § 54954.2, subd. (a)(1).) The legislative body may not take any action on an item not
7 appearing on the posted agenda, with limited exceptions not applicable here. (Gov. Code §§ 54952
8 subd. (a)(3), 54954.2 subd. (b).) Public agencies must also provide the public with an opportunity to
9 participate in public hearings. (Gov. Code § 54954.3, subd. (a).) The purpose of the Ralph M. Brown
10 Act is to "aid in the conduct of the people's business" by encouraging public participation in
11 government decision making. (Gov. Code § 54950.) (*San Joaquin Raptor Rescue Center v. County of*
12 *Merced* (2013) 216 Cal.App.4th 1167, 1176.)

13 The City violated the Brown Act at the regular City Council meeting held on June 15, 2021.
14 (AR 12:125 [Consent Calendar Item No. H(9)].) The Project agenda item, as discussed by the City
15 Council on June 15, 2021, was not properly noticed because the City did not provide notice that
16 members of the public would be permitted to speak on this issue because the City agendized the item on
17 the consent calendar. This failure to post accurate notice of the public's ability to speak violated the
18 Brown Act and, therefore, any actions that it took at that meeting are null and void.

19 Agenda Item No. 9(H), the approval of the Project, involved the administrative appeal filed by
20 MB Poets. The City initially set a hearing of MB Poets' appeal on May 4, 2021. (AR 19:285-87.) At
21 the May 4, 2021 appeal hearing for the Project, the City agreed to amend a few of the Project's
22 conditions of approval related to alcohol-service closing hours and parking. (AR 19:287.) The City's
23 minutes for the May 4 meeting state, "City Attorney Barrow clarified that the applicant will have the
24 opportunity to discuss the aforementioned conditions when the draft resolution presented to the City
25 Council." City Attorney Quinn Barrow stated, "Since we're coming back with a resolution with draft
26 conditions, the applicant will have an opportunity to, um, discuss those conditions just like anybody
27 else, the appellants, *everyone can discuss those conditions.*" (AR 17:273, emphasis added.)
28

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 Half an hour before the June 15, 2021 City Council meeting commenced, Community
2 Development Director Tai emailed a member of MB Poets that the City Council would not consider any
3 further evidence except that which was received prior to closure of the May 4 appeal. (AR 49:1087.).
4 Because of this message and the placement of the Project on the consent calendar, members of MB
5 Poets and others refrained from attending the City Council meeting so were unable to speak on the item.

6 A councilmember pulled the consent-calendar item to discuss pay parking. (AR 13:136.) The
7 City permitted public testimony on agenda item No. 9(H), but the public could not anticipate this with
8 sufficient time beforehand. Therefore, public comment was suppressed by the City's inclusion of the
9 item on the consent agenda and by Community Development Director Tai's email stating that public
10 comment would not be considered. The agenda states that the consent items "are enacted by a single
11 motion with the exception of items previously removed by a member of the City Council." (AR
12 12:124.) To the extent the public could comment, remarks were not prepared ahead of time with proper
13 notice. Fair and full public participation was particularly important because the amended resolution for
14 the Project contained 188 changes, as compared to the version approved by the Planning Commission on
15 November 18, 2020- including deleting Condition 16 regarding noise limits. (AR 50:1088 and 1092.)
16 The public was not informed that they would have the opportunity to speak on this agenda item, as
17 anticipated on May 4, 2021 (AR 17:273). The City violated the Brown Act in failing to provide the fair
18 notice to the public and hindered the public's ability to participate in the public hearing of the Project.

19 **V. CONCLUSION.**

20 The Project should not have been exempted from CEQA review. The Project would have
21 significant noise, traffic, parking, and land use impacts on the quiet residential neighborhoods that
22 adjoin it because of its unprecedented size and scale. The City violated the Brown Act as it sought to
23 approve the Project without giving the public adequate notice or a fair opportunity to participate in
24 shaping its approval. The City's approval of the Project must be set aside.

25 DATE: January 28, 2022

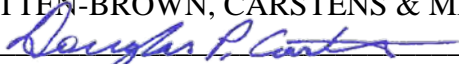
26 Respectfully Submitted,
27 CHATTEN-BROWN, CARSTENS & MINTEER LLP
28 By: 
Douglas P. Carstens
Attorneys for Petitioner

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

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PROOF OF SERVICE

I am employed by Chatten-Brown, Carstens & Minter LLP in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 2200 Pacific Coast Highway, Ste. 318, Hermosa Beach, CA. On January 28, 2022, I served the within documents:

PETITIONER’S OPENING BRIEF

VIA UNITED STATES MAIL. I am readily familiar with this business’ practice for collection and processing of correspondence for mailing with the United States Postal Service. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I enclosed the above-referenced document(s) in a sealed envelope or package addressed to the person(s) at the address(es) as set forth below, and following ordinary business practices I placed the package for collection and mailing on the date and at the place of business set forth above.

VIA OVERNIGHT DELIVERY. I enclosed the above-referenced document(s) in an envelope or package designated by an overnight delivery carrier with delivery fees paid or provided for and addressed to the person(s) at the address(es) listed below. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

VIA ONE LEGAL E-SERVICE. By submitting an electronic version of the document(s) to One Legal, LLC, through the user interface at www.onelegal.com.

VIA ELECTRONIC SERVICE. Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the above-referenced document(s) to be sent to the person(s) at the electronic address(es) listed below.

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 28, 2022, at Hermosa Beach, California.

/s/ Cynthia Kellman

Cynthia Kellman

EXHIBIT 2. OPENING BRIEF ON CEQA VIOLATIONS BY 600PCH PROJECT

1 **SERVICE LIST**

2 *Attorneys for Respondent*

3 Ginetta L. Giovinco

4 Quinn Barrow

5 Richards, Watson & Gershon

6 350 South Grand Avenue

7 37th Floor

8 Los Angeles, CA 90071

9 ggiovinco@rwglaw.com

10 qbarrow@rwglaw.com

11 *Attorneys for Real Parties in Interest*

12 *MB Hotel Partners, LLC and Live Oak Properties, LLC*

13 Alvarado Smith

14 Keith McCullough

15 Thierry Montoya

16 1 MacArthur Place, Suite 200

17 Santa Ana, CA 92707

18 tmontoya@alvaradosmith.com

19 kmccullough@alvaradosmith.com

20 **Via US Mail**

21 Jan Holtze

22 1219 Morningside Avenue, Ste. 204

23 Manhattan Beach, CA 90266

EXHIBIT 3.
ENCINITAS PORTOFINO HOTEL SIMILAR PROPERTY TO MANHATTAN BEACH HIGHROSE PROJECT
ENCINITAS, SAN DIEGO NORTH COUNTY COASTAL ZONE



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO



Epic Land Solutions, Inc. 

APPRAISAL REPORT

Hotel Property

ADDRESS: 186 N. Coast Highway 101, Encinitas, CA, 92024
APN: 256-392-11
DATE OF REPORT: February 7, 2019
DATE OF VALUE: January 30, 2019
EPIC PROJECT CODE: EA-19003

Prepared For:

Donald McPherson
1014 1st Street
Manhattan Beach, CA 90266

Prepared By:

Epic Land Solutions, Inc.
Appraisal Group
16496 Bernardo Center Drive Suite 207
San Diego, CA 92128

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Epic Land Solutions, Inc.

16496 Bernardo Center Drive Suite 207
San Diego, CA 92128

Ph: 619-573-6048

February 7, 2019

Donald McPherson
1014 1st Street
Manhattan Beach, CA 90266
Telephone: (310) 487-0383
Email: dmmcpherson@gmail.com

Re: Hotel Property Appraisal
186 N. Coast Highway
Encinitas, CA 92024
APN 256-392-11
Project Code: EA-19003

Dear Mr. McPherson,

At your request and authorization, I have prepared a summary appraisal report of the market value for the above referenced real property. To fulfill the intended use of this appraisal, I have provided both the market value of the property on an "as is" basis as well as the value of the underlying land as if it were vacant and available for development to its highest and best use. Data, information, and calculations leading to the value conclusions are incorporated in the report following this letter. The report, in its entirety, including all assumptions and limiting conditions, is an integral part of, and inseparable from, this letter. Your attention is directed to the Addenda which contains the assumptions and limiting conditions.

The following appraisal sets forth the most pertinent data gathered, the techniques employed, and the reasoning leading to the opinion of value. The analyses, opinions and conclusions were developed, and this report has been prepared, in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics of the Appraisal Institute.

The appraisal has been completed subject to the Assumptions & Limiting Conditions contained within the report. Extraordinary Assumptions and Hypothetical Conditions, if any, may have an impact on the assignment results.

By virtue of my experience and based upon my investigation, it is my opinion that the value conclusions within this assignment are as follows:

As-Is (Hotel) - \$3,900,000
Land Value - \$2,167,000
Building Value - \$1,733,000

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Please refer to the attached appraisal report, plus exhibits, for a summary of the supporting documentation of these value estimates contained herein.

Respectfully submitted,



Kent J. Carpenter, MAI
Certified General Real Estate Appraiser
Senior Appraiser
Epic Land Solutions, Inc.
California License AG003087

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Table of Contents

Table of Contents 1

Introduction 2

 Executive Summary..... 2

 Overview of Appraisal 3

Hotel Market Summary..... 5

Subject Property and Project Description..... 7

 Aerial View of Subject Property 7

 Subject Property Photographs 8

 Site Description 14

 Plat Map..... 16

 Improvements Description 17

 General Plan Land Use & Zoning..... 20

Valuation Analysis 23

 Highest and Best Use 23

 Appraisal Procedures Followed, Methodologies 25

 Sales Comparison Approach..... 25

 Comparable Sales Summary 26

 Market Data Map..... 27

 Market Data Description..... 28

 Income Capitalization Approach..... 30

 Market Rent Discussion 31

 Vacancy and Collection Loss 32

 Operating Expenses 32

 Overall Capitalization Rate..... 33

 Direct Capitalization Analysis..... 33

 Reconciliation..... 34

 Land Value..... 35

 Value Conclusions Summary..... 39

 Certification..... 40

 Improved Sale Comparables 41

 Land Sale Comparables 45

Addenda 51

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Introduction

Executive Summary

Property Reference:	EA-19003
Property Address:	186 N. Coast Highway, Encinitas, CA 92024
APN(s):	256-392-11
Property Type:	Hotel
Zoning:	North 101 Corridor Specific Plan (N-CM-2)
General Plan:	GC (General Commercial)
Report Format:	Narrative
Date of Appraisal Report:	February 7, 2019
Date of Value:	January 30, 2019
Date of Site Inspection:	January 30, 2019
Real Estate Interest Appraised:	Leased Fee/Fee Simple
Function of the Appraisal:	To establish the contributory value of the building improvements as improved.
Location:	The subject is located along the Coast Hwy in the north county city of Encinitas, CA.
Improvements Description:	The property is improved with a 14,728 square foot, 45-room hotel that is currently being operated as the Portofino Beach Inn. The hotel is three-story in design, with the ground level consisting of covered parking spaces and support operations for the hotel operation. The balance of the site is improved with paved open parking spaces.
Site Description:	The site is an interior lot with good access and exposure and is irregular in shape. The site has frontage on both N. Coast Highway and Melrose Avenue, and contains 21,670 square feet.
Highest and Best Use "As Is":	Continued use of existing improvements
Highest and Best Use "As if Vacant":	Development with retail/commercial
Concluded Property Value:	\$3,900,000
Concluded Land Value:	\$2,167,000
Concluded Building Value:	\$1,733,000 (\$117.67 per square foot)
Extraordinary Assumptions and Hypothetical Conditions:	<ol style="list-style-type: none">1. Notwithstanding its recent closure, it is assumed that the hotel is operational and is constructed and configured to meet current building codes and parking requirements.2. No interior inspection of the property was made. All descriptions and conclusions regarding the building improvements were based on inspection of the property from exterior locations.3. It is assumed in this report that a buyer of the property for continued hotel use would be able to use the existing parking spaces for hotel guests on a conforming basis.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Overview of Appraisal

Purpose of Appraisal

The purpose of this appraisal is to estimate the Market Value of the subject property as defined. The market value estimates will include (1) as-improved (hotel) and (2) land value as if the property were vacant and available for development to its highest and best use.

Intended User

The intended user of this appraisal report is the client, Mr. Donald McPherson and his assigns. Anyone else using or relying on this appraisal is considered an unintended user and no fiduciary obligation is owed by the appraiser to that party

Intended Use

The intended use of this appraisal report is for use in establishing the contributory value of the building improvements as presently used. The appraisal cannot be used for evaluation for collateral for a loan, collateral for bond funding, appealing taxes, submission to Superior Court for condemnation, etc.

Definition of Market Value

The purpose of this report is to render an opinion of current Market Value of the leased fee interest in the subject property. Market Value, as used in this report, is defined as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their own best interests;
3. A reasonable time is allowed for exposure in the open market
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.¹

Date of the Appraisal

The effective date of value is January 30, 2019. The property was inspected on January 30, 2019. The date of this appraisal report is February 7, 2019.

¹ 12 C.F.R. Part 34.42(g); 55 *Federal Register* 34696, August 24, 1990, as amended at 57 *Federal Register* 12202, April 9, 1992; 59 *Federal Register* 29499, June 7, 1994

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Owner of Record & Property History

According to public records, the subject is currently owned by 101 Hotel LLC. Public records indicate that the subject was acquired by its current owner in January of 2015 at a price of \$3,780,000, or \$84,000 per room. As contact with the property owner is not permissible, it is unknown if there have been any listings or written offers on the property in the past three years.

Scope of Work

In order to complete this assignment, I identified all assignment conditions; determined an appropriate scope of work; collected general and specific data on the district, neighborhood, market area, subject property and comparable properties; analyzed the data gathered; applied the appropriate approaches to value; and reconciled all indications of value into a final value estimate. As no interior inspection of the property was possible, no receipt of financial information occurred, and no contact with the property owner was possible, the valuation of the property, as currently utilized, relied on the published sales and operating performance of other similar limited service hotels rather than the actual operating performance of the subject property.

My investigation, value opinion and analyses comply with the Uniform Standards of Professional Appraisal Practice and is unbiased and impartial. No predetermined value or opinion formed the basis of any conclusions stated in this appraisal. The depth of the investigation and analysis is meant to be in keeping with the purpose and intended use of the appraisal. In valuing the property as presently used (hotel), both the sales comparison approach and the income capitalization approaches were used. In valuing the property as though it were vacant and available for redevelopment, the sales comparison approach was used.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Hotel Market Summary

San Diego County

Per Costar Comps, sales of limited service hotels in San Diego County over the past three years is presented below. The criteria used was for hotels under the size of 100 rooms that sold within San Diego County.

2016

Comps Statistics					
	Low	Average	Median	High	Count
Hospitality					
Sale Price	\$1,250,000	\$5,977,500	\$4,850,000	\$15,000,000	14
Building Size	3,800 SF	23,568 SF	16,612 SF	50,421 SF	14
Price per SF	\$29.85	\$253.78	\$273.04	\$757.82	14
Actual Cap Rate	4.50%	6.80%	6.80%	9.10%	2
# of Rooms	8	60	44	195	14
Price per Room	\$25,000	\$98,918	\$110,348	\$322,500	14
Days on Market	100	238	164	441	7
Sale Price to Asking Price Ratio	88.36%	97.72%	97.62%	110.53%	5

2017

Comps Statistics					
	Low	Average	Median	High	Count
Hospitality					
Sale Price	\$1,000,000	\$5,949,722	\$5,985,000	\$15,190,000	18
Building Size	4,211 SF	15,551 SF	10,682 SF	35,716 SF	18
Price per SF	\$157.63	\$382.59	\$397.77	\$1,001.43	18
Actual Cap Rate	5.77%	7.98%	8.00%	9.97%	7
# of Rooms	9	44	30	139	18
Price per Room	\$75,067	\$134,038	\$111,878	\$427,778	18
Days on Market	100	284	260	570	7
Sale Price to Asking Price Ratio	85.34%	89.05%	87.94%	95.00%	4

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

2018

Comps Statistics					
	Low	Average	Median	High	Count
Sale Price	\$780,000	\$4,164,231	\$4,100,000	\$8,000,000	13
Building Size	3,094 SF	19,761 SF	18,288 SF	43,000 SF	13
Price per SF	\$79.29	\$210.73	\$215.44	\$749.97	13
Actual Cap Rate	5.50%	7.31%	6.90%	9.19%	7
# of Rooms	10	47	41	134	13
Price per Room	\$54,851	\$88,168	\$95,833	\$230,833	13
Days on Market	70	352	296	762	5
Sale Price to Asking Price Ratio	70.73%	81.02%	82.24%	88.89%	4
Totals					

Conclusions

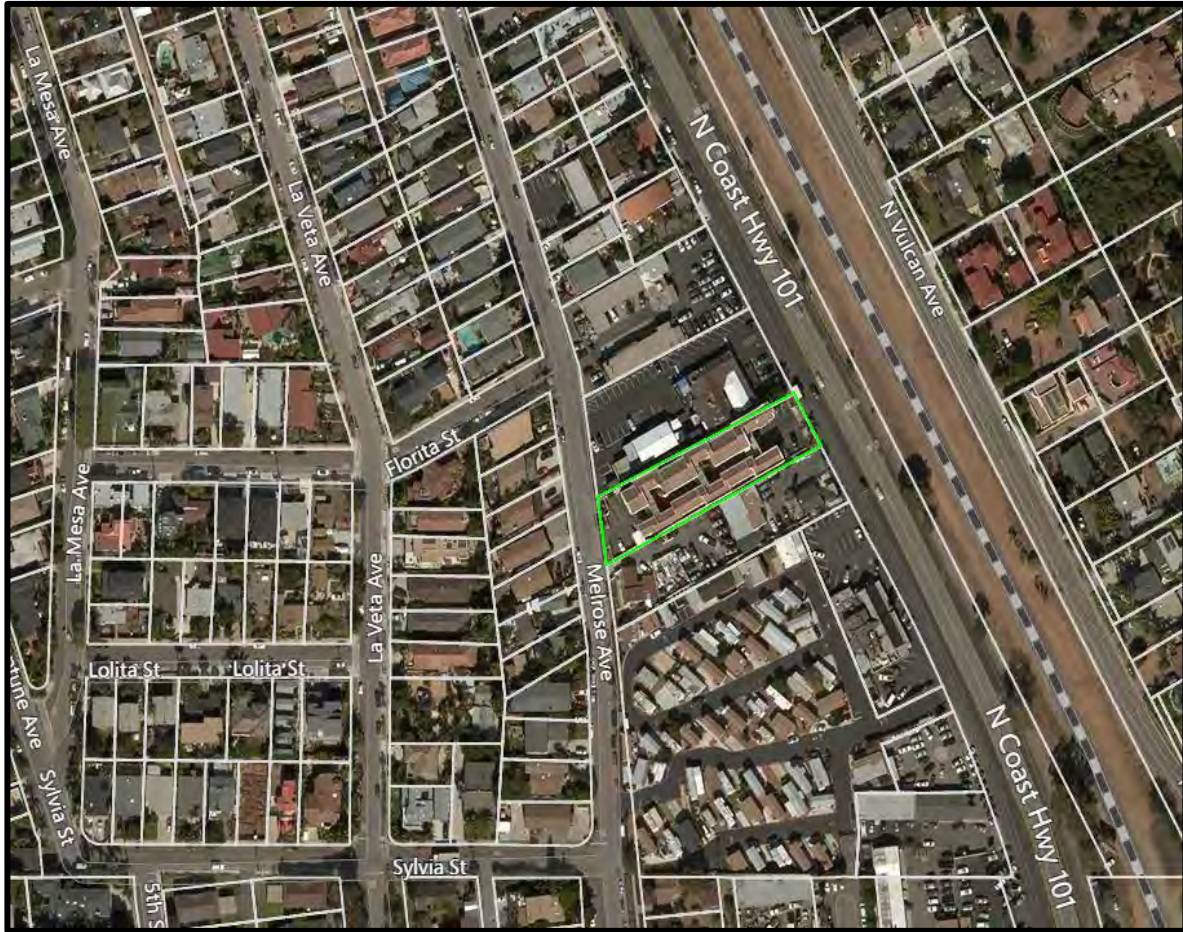
The hospitality market has several sectors which include both full service and limited service properties that cater to group, leisure and business demands. The statistics above are intended to focus on those limited service hotels like the subject property with less than 100 rooms. A look at the median annual performance of limited service hotels over the past three years shows that compared to 2017 which was a record year, the trends are declining except for overall capitalization rates which have improved. However, generally speaking, hotels in coastal locations like the subject property outperform inland hotels and maintain their value due to the relatively constant demand which exists for lodging near the beach. This is illustrated by the renovation that is planned for the subject property which despite its below average quality, functionality and achievable room rates, will continue operating as a hotel rather than razing the improvements in favor of an alternative use.

Category	2016	2017	2018	Trend
Sale Price	\$4,850,000	\$5,965,000	\$4,100,000	Declining
Overall Cap Rate	6.80%	8.0%	6.90%	Improving
# Rooms	44	30	41	Level
\$/Room	\$110,348	\$111,878	\$95,833	Declining
Days on Mkt	164	260	296	Declining
SP/Asking Ratio	97.62	87.94%	82.24%	Declining

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Subject Property and Project Description

Aerial View of Subject Property



Location of subject property is approximate.

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Photograph 3



Connecting walkway from north to south side of building
Photograph 4



Viewing floor/walkway layout and 3-story design of hotel

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Photograph 5



View of hotel (guest rooms and garages) from Melrose Avenue

Photograph 6



Viewing open parking spaces and access to property from Melrose Avenue

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Photograph 7



Below parking grade rooms on Level 0 (per submitted plans) of the hotel

Photograph 8



Uncovered parking space at front of property facing N. Coast Hwy 101

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Photograph 9



Looking west at central drive lane, covered parking and connecting bridges of hotel
Photograph 10



Viewing trains tracks from subject property along east side of No. Coast Hwy 101

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Photograph 11



Looking north along No. Coast Hwy 101 with subject property at left

Photograph 12



Looking north along Melrose Avenue with subject property at right

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Site Description

General Site Information

Address:	186 N. Coast Highway, Encinitas, CA 92024
Location:	Located along No. Coast Highway 101 in the city of Encinitas.
Current Owner(s):	101 Hotel, LLC
5 Year Sales History:	The property sold in January of 2015 at a price of \$3,780,000.
Zoning/GP:	North 101 Specific Plan (SP-4) -N-CM-2 zoning
General Plan:	GC (General Commercial)
Assessor Parcel Number(s):	256-392-11
Assessed Value Land:	\$1,901,278
Assessed Value Improvements:	\$2,029,441
Total Assessed Value:	\$3,930,719
Taxable Value:	\$3,930,719
Assessment Year:	2018-19
Taxes:	\$50,084

Physical Characteristics of the Site

Total Site Area:	21,670 square feet
Frontage:	71 feet on N. Coast Hwy; 82 feet on Melrose Avenue
Shape:	Nearly Rectangular
Topography:	Level
Access:	N. Coast Hwy & Melrose Avenue
Corner Influence:	No
Easements:	No title report submitted, with the appraisal assuming typical utility easements and no adverse easements.
Encroachments:	None noted with appraisal assuming none exist.
Utilities to Site:	All utilities in adjoining roads & connected
Flood Designation:	Zone X (Map 060294 – 06073CO761G) dated 5/16/12) indicating minimal flood hazard in area outside of 100 and 500-year floodplains.
Surface Drainage:	Appears adequate
Environmental/Soils:	No on-site inspection was undertaken. Furthermore, the appraiser is not qualified to detect hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental concerns. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous material may affect the value of the subject property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any environmental conditions, or for any expertise or engineering knowledge required to discover them. This appraisal is based on the assumption that there are no unusual soils problems

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

associated with the property and that load bearing capacity and drainage are adequate. No soils report was provided.

Subsurface Conditions: Unknown
Improvements: Limited-Service Hotel

Economic Factors Affecting the Site

Supply of Vacant Tracts: Undersupply
Demand for Vacant Tracts: Good
Traffic Pattern: Above average count due to scenic coastal road (N. Coast Hwy.) and neighborhood connector road (Melrose Avenue).
Neighboring Uses: Multi-family, SFR's, Retail/Commercial
Zoning: Typical for area
Major Flaws in Site: None.
Overall Site Analysis: Usable site with potential for continued use of hotel or redevelopment

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Plat Map

Following is a plat map showing the size, shape and location of the subject parcel.

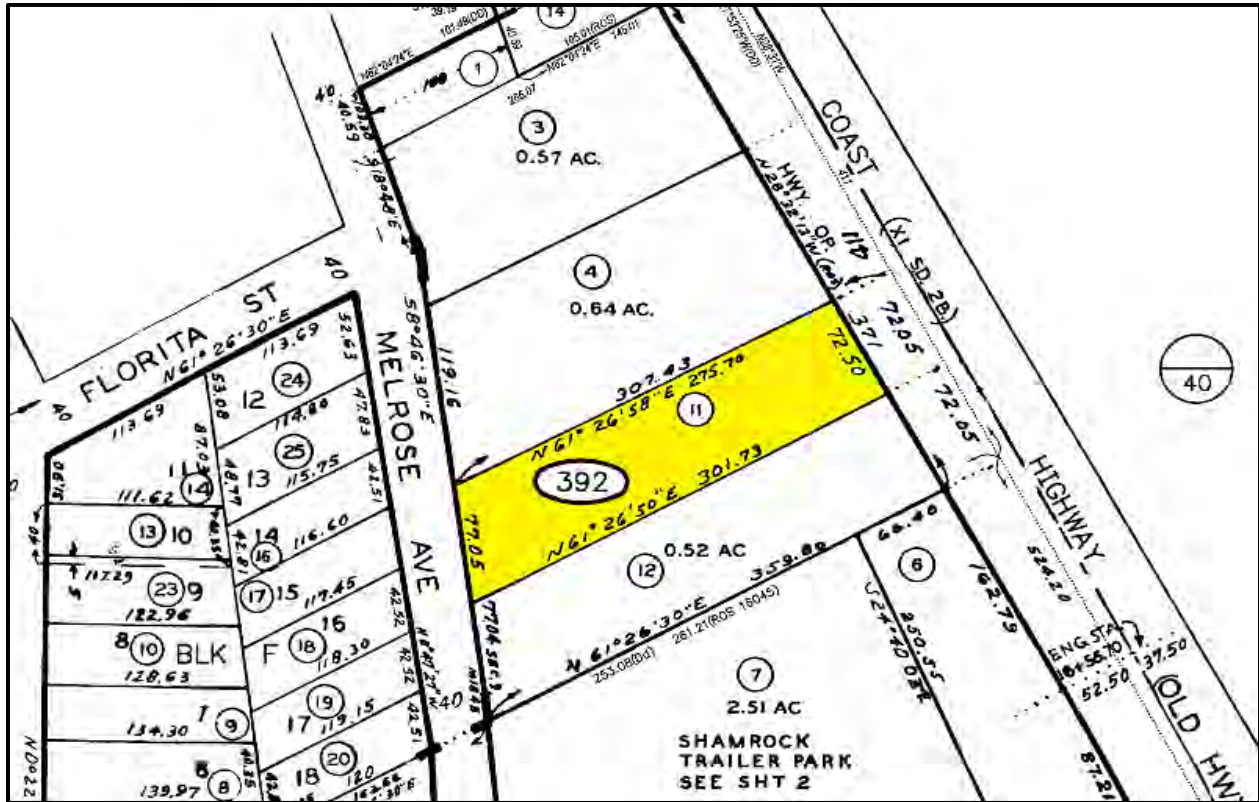


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Improvements Description

The building improvements are located at 186 N. Coast Highway 101 in the city of Encinitas California. The property has dual access from both No. Coast Hwy 101 as well as Melrose Avenue on the west and is an economy hotel that capitalizes on its proximity to the beach.

Currently, this limited -service hotel facility offers 45 hotel rooms and a one-bedroom apartment. The guest rooms are generally located on the 2nd and 3rd floor, with covered parking located underneath the rooms at grade level. The facility also includes a lobby, office, spa, two storage rooms, laundry room and trash enclosure. Based on an exterior inspection of the property, there are 39 on-site parking stalls with 16 being uncovered spaces in the front and back of the property and 23 being covered spaces under guest rooms. A submitted parking study review indicated that 37 of the parking spaces do not conform to current city standards. Additionally, on-site inspection of the property as well as hotel reviews indicate that the parking spaces are substandard in size and difficult to access. Notwithstanding this information and based on the historical use of these parking spaces by hotel guests, it is assumed in this report that a buyer of the property for continued hotel use would be able to use the existing parking spaces for hotel guests on a conforming basis.

The hotel was constructed in 1986, is of wood frame construction, with the gross area of the hotel being 14,728 square feet. As addressed in the income capitalization approach, the interior décor of the hotel is reported to be outdated and maintenance of the building neglected.

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Floor Plans & Elevations

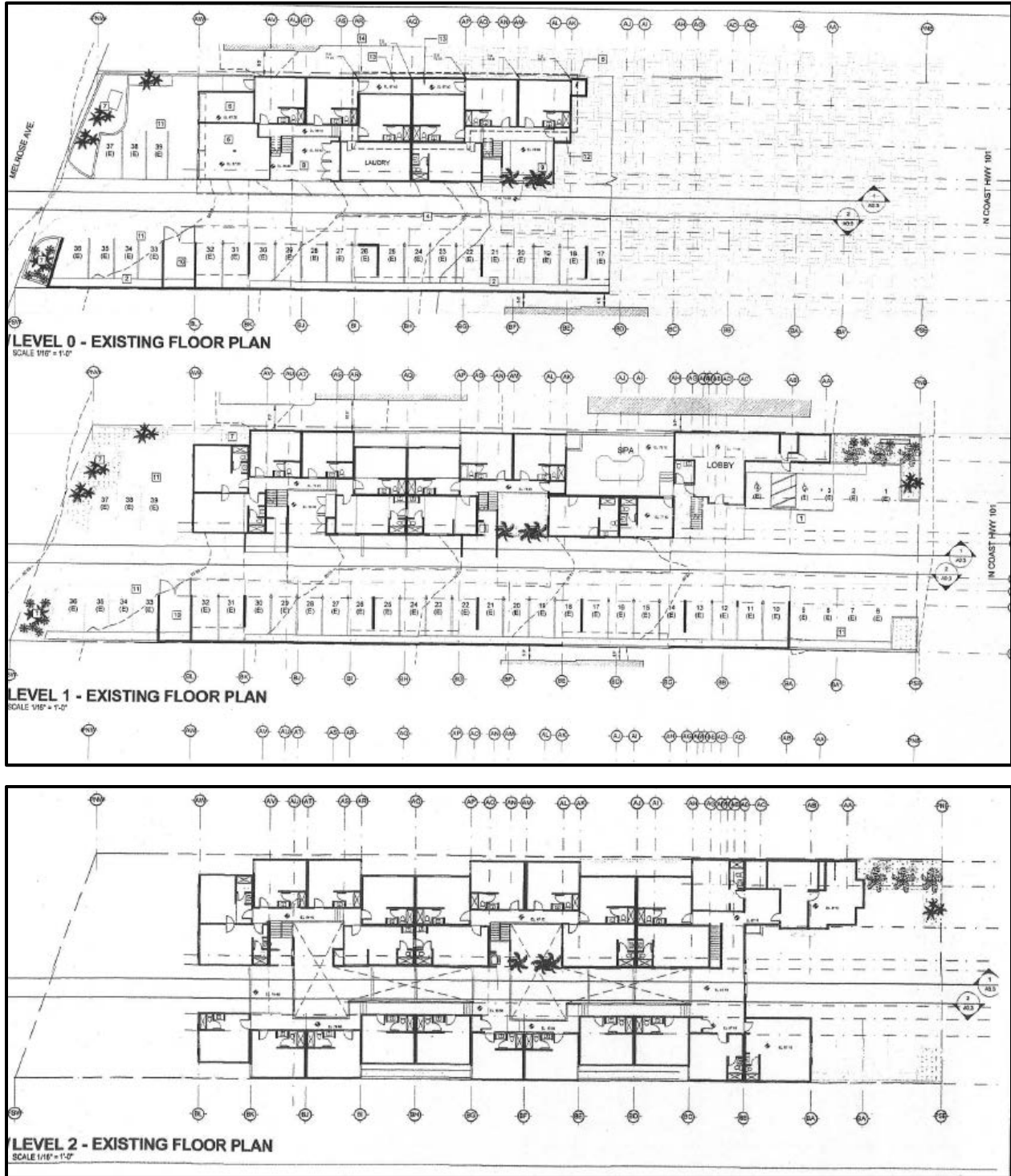


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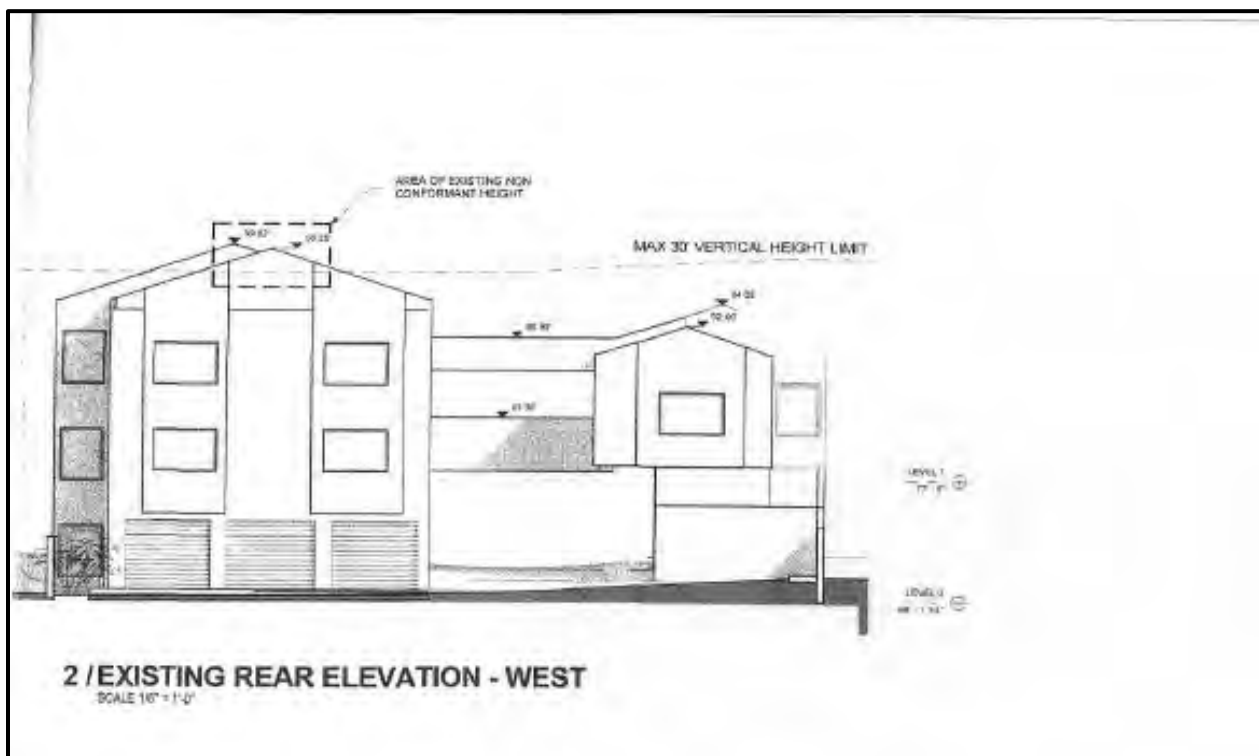


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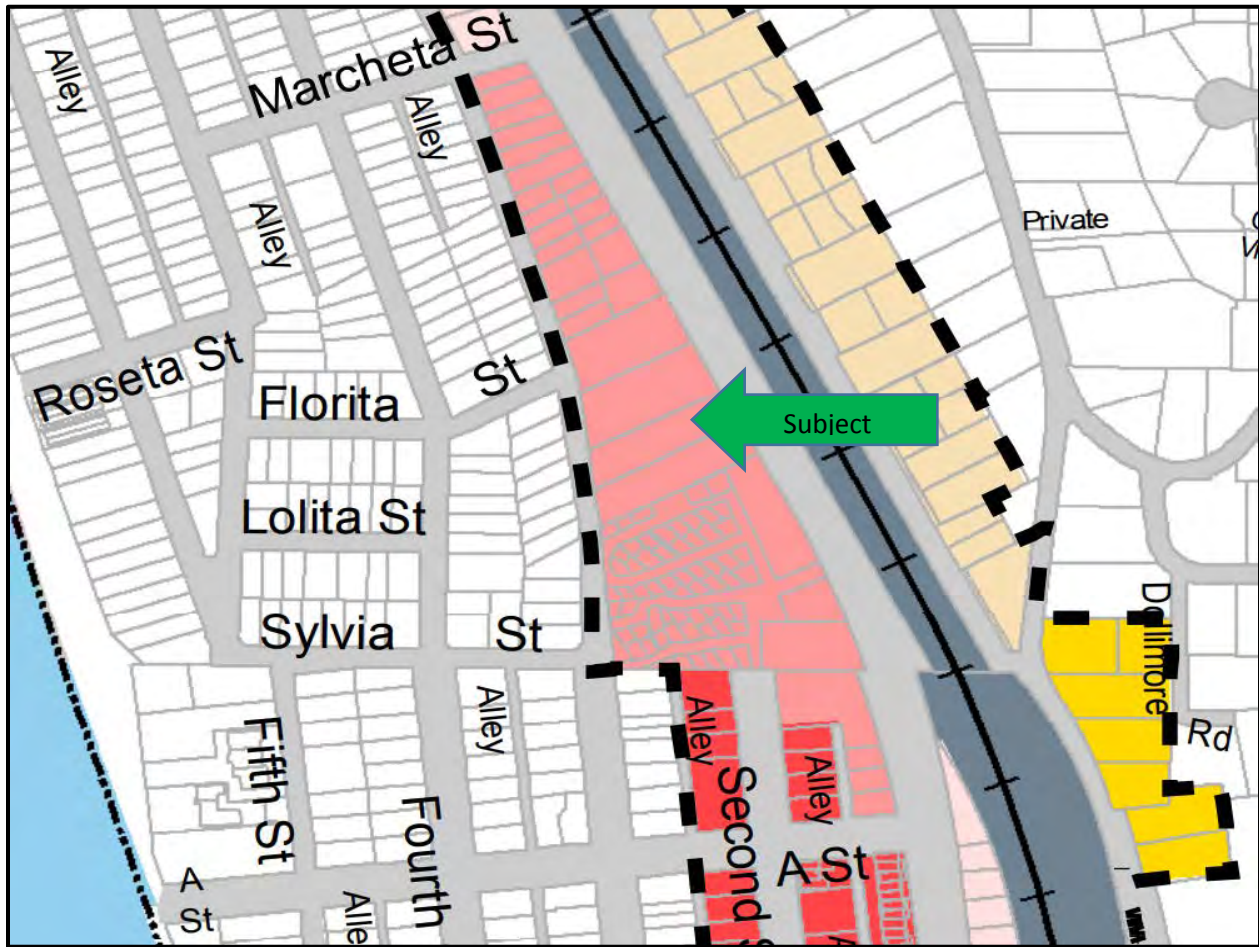
General Plan Land Use & Zoning

The zoning characteristics for the subject property are summarized below:

Zoning Summary	
Current Zoning:	North 101 Specific Plan (SP-4); N-CM-2 (Commercial Mixed – 2 zone.
Permitted Uses:	This zone is intended to provide a zoning district where the development of general commercial uses, including auto-related uses, and mixed use may be allowed. The zone provides for a variety of development opportunities including 1) stand-alone commercial; or 2) mixed use, with general commercial use types. Commercial allows a wide range of general commercial activities, including auto-related uses, retailing, service, and visitor-serving uses, with the intent of accommodating citywide or regional needs and serving the needs of persons visiting the city for business and recreational purposes. Mixed Use allows commercial and residential uses at a maximum density of 25.0 dwelling units per net acre on the same property or in the same structure, with the intent of providing opportunities for housing and live/work or artisan loft arrangements, while also mitigating the impacts between commercial and residential uses.
Development Standards	
Minimum Lot Size:	6,000 square feet
Minimum Width:	75 feet
Minimum Depth:	80 feet
Minimum Setbacks:	
Front:	0 feet
Rear:	0 feet
Side:	0 feet
Maximum Building Height:	33 feet or 3 stories
Lot Coverage (maximum)	90%
Landscaping:	10%
Maximum Coverage	Not specified
Parking Requirement	General Offices; Profess. Services – 1 space per 300 sf bldg. Personal Service / Commercial Uses – 1 space per 300 sf bldg. Retail Uses/Commercial Services – 1 space per 300 sf bldg. Restaurants/Bars/Lounges – 1 space per 75 sf bldg. Take Out Restaurants – 1 space per 300 sf bldg.

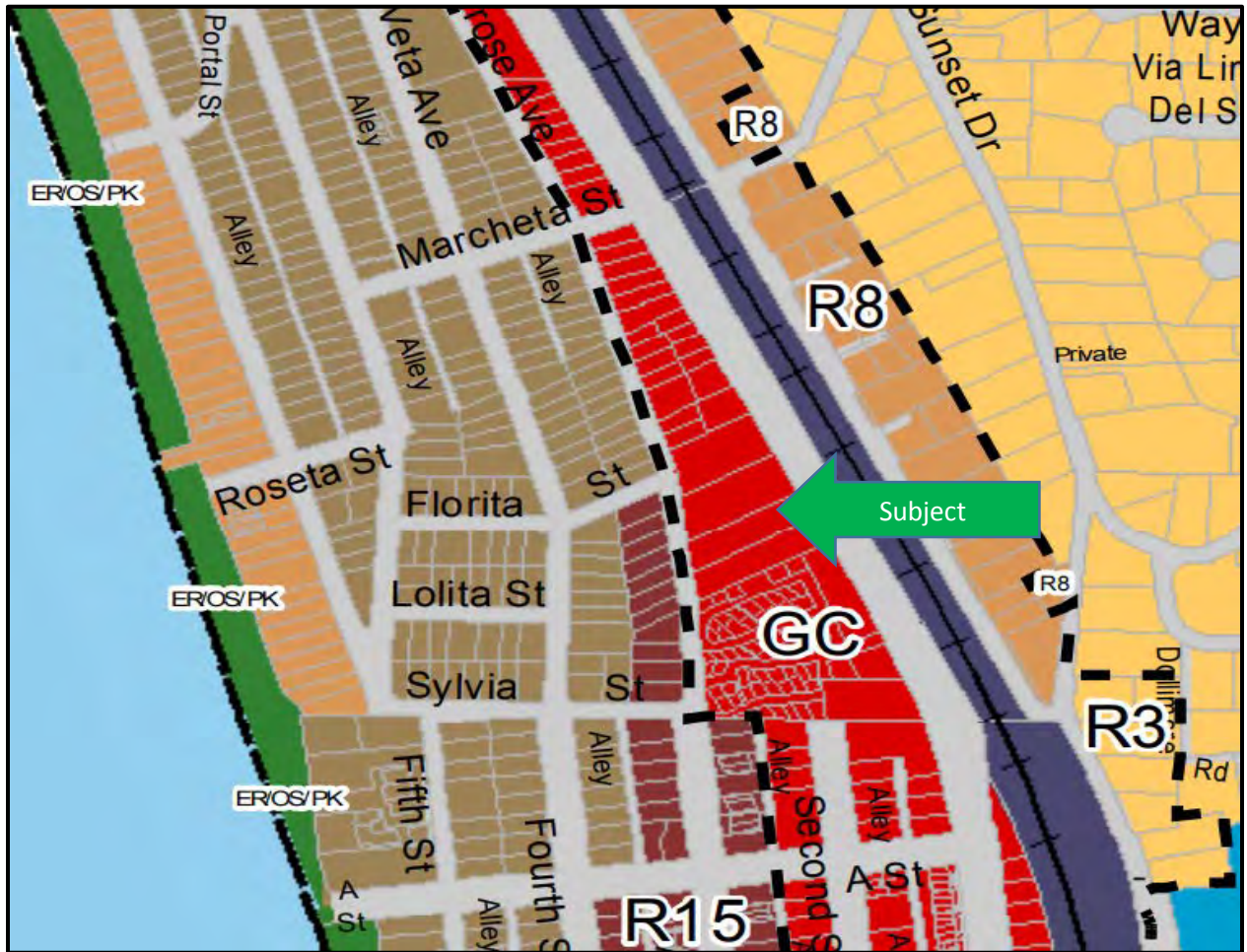
Zoning Map

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO



General Plan Map

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO



Rural Residential 0.00-0.25 du/ac (RRFP)*	Mobile Home Park (MHP)
Rural Residential 0.26-0.50 du/ac (RR)*	Office Professional (OP)
Rural Residential 0.51-1.00 du/ac (RR1)	Local Commercial (LC)
Rural Residential 1.01-2.00 du/ac (RR2)	General Commercial (GC)
Residential 2.01-3.00 du/ac (R3)	Visitor Serving Commercial (VSC)
Residential 3.01-5.00 du/ac (R5)	Light Industrial (LI)
Residential 5.01-8.00 du/ac (R8)	Public/Semi Public (P/SP)
Residential 8.01-11.00 du/ac (R11)	Transportation Corridor (TC)
Residential 11.01-15.00 du/ac (R15)	Ecological Resource/Open Space/Park (ER/OS/PK)
Residential 15.01-25.00 du/ac (R25)	

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Valuation Analysis

Highest and Best Use

The highest and best use of any property depends upon the physical and legal restrictions imposed by the size, shape, location and zoning of the site, and the size, siting, quality and condition of the improvements. An improved site like the subject property would be analyzed for its highest and best use on both an “as though vacant” and “as-improved” basis. Considerations under each of these analyses will include uses that are (1) physically possible, (2) legally permissible, (3) financially feasible, and (4) maximally productive.

As Though Vacant

Physically Possible - The subject property is of sufficient size and shape to be a developable site. It is generally level at street grade, has utility connections immediately available, and has access from and frontage on both a major arterial (N. Coast Highway), and a neighborhood connector street (Melrose Avenue) which generally runs parallel to N. Coast Highway 101 and abuts the subject property on the west. This rectangular shaped parcel is generally similar in size to many other parcels along N. Coast Highway, yet larger than many parcels that have been subdivided and developed with residential uses.

Legally Permissible - The subject is in the No. 101 Corridor Specific Plan with a mixed-use zoning designation (N-CM-2). The zone allows for a variety of development opportunities including 1) stand-alone commercial; or 2) mixed use, with general commercial use types. Commercial allows a wide range of general commercial activities, including auto-related uses, retailing, service, and visitor-serving uses, with the intent of accommodating citywide or regional needs and serving the needs of persons visiting the city for business and recreational purposes. Mixed Use allows commercial and residential uses at a maximum density of 25.0 dwelling units per net acre on the same property or in the same structure, with the intent of providing opportunities for housing and live/work or artisan loft arrangements, while also mitigating the impacts between commercial and residential uses. The surrounding land use patterns support the allowable uses within this zone.

Financially Feasible – The surrounding uses, size and access to and from the property would render development of a variety of uses possible. However, based primarily on the retail and commercial land use patterns along Coast Highway 101, the heavy traffic and pedestrian activity along No. Coast Hwy 101, and the existence of train tracks directly in front of the subject property on the east side of No. Coast Hwy 101, the maximally productive use of the site would be for some form of retail or commercial development that would take advantage of the high traffic and exposure afforded by No. Coast Highway 101.

Maximally Productive – Considering the legally permissible, physically possible and financially feasible uses in the current market, the highest and best use is for some form of retail or commercial development.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

As Improved

The subject property contains a two-story hotel property that contains 45 guest rooms and tuck under parking. Like many other coastal properties with older building improvements that identify with nearby ocean access and local shops and establishments, the strong location of the property has sustained the continued use of the improvements notwithstanding their older age.

At the time of inspection, the hotel has ceased operation, which is confirmed by the inability to make reservations at the site and a statement on the internet reservation site which indicated the property has been closed. It is assumed that this closure is in response to a proposed development on the site to be known as Hotel 101, which will reduce the number of hotel rooms to 35, add an additional 11 parking stalls, restrict access to Melrose Avenue, add an electronic gate at the entrance off No. Coast Hwy 101, and provide on-site valet operations. Additional modifications to the property on the lower level (ground floor area) of the proposed project includes lobby check-in and public-seating, lobby bar, sunken fire pit, manager's office, two unisex bathrooms, a full-service kitchen without dining area, laundry room, two patios with seating and 10 hotel rooms. The second level of the proposed project includes three hotel suites, a meeting area, a unisex restroom, 22 hotel rooms, and three raised sitting areas. The public roof deck of the proposed project includes an open-air deck with alcohol service, with the private roof deck covering 752 square feet.

Notwithstanding the recent closure of the property, the status of the property as a hotel and the entitlement/approval status of the proposed development, it is assumed in this appraisal report that an operational hotel exists at a quality and condition commensurate with that which existed at its last date of operation. This premise is necessary to achieve the intended use of the appraisal which is to establish the contributory value of the building improvements as a viable hotel operation.

As will be shown later in the report, the indicated land value is less than the overall value as a hotel operation, with the building improvements contributing value over and above land value. Both the sales comparison and income approaches to value provided a reconciled value of \$3,900,000 for the property as operated with a hotel. As such, it is concluded that the highest and best use of the property, as improved with a hotel, is for continued use as a hotel.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Appraisal Procedures Followed, Methodologies

For the appraisal of the subject property, both the sales comparison approach and the income capitalization approach are applicable approaches in valuing the property as a hotel. However, only the sales comparison approach is applicable and will be use in valuing the land as if vacant and available for development to its highest and best use.

The sales comparison approach derives a market value opinion by making a comparative analysis of recently sold properties having similar physical and economic characteristics to the property being appraised. Each sale property is compared to the subject property focusing on similarities and differences that influence value.

The income capitalization approach is a method of valuation suited for investment properties because the foundation of the estimate is anticipated income, which is the primary reason investors buy this type of property. The price they are willing to pay is directly related to the income it is capable of producing and its prospect for change in value. The income approach will also be used in this appraisal as the subject property would be viewed by potential buyers of the property as a long term or short term (interim income while obtaining entitlements for redevelopment) investment property. Current market participants are purchasing properties similar to the subject property based on this type of analysis and listing agents would be pricing or selling properties based on this analysis. The cost approach was not employed in the valuation of the subject property because the subject property contains very old improvements, has a significant amount of depreciation that is difficult to measure, and buyers are not purchasing property based on a depreciated replacement cost analysis.

Sales Comparison Approach

Several sales and listings of hotel properties have been selected to process the sales comparison approach to value. On a following page is a summary of the market data, followed by a Market Data Map which shows the relative location of each sale to the subject property. After this is a discussion of each of the sales, comparing each to the subject property for each relevant element of comparison and from this analysis an appropriate value indication is concluded in the reconciliation section of the appraisal report.

As hotel properties are pursued by investors on a more regional basis, the sale properties are all located within the County of San Diego and were selected primarily on reported room rates, number of rooms and building age/condition. These transactions are considered good alternative to a purchase of the subject property. All sales have occurred in either 2017 or 2018 and are considered suitable alternatives for a buyer interested in purchasing the subject property. The properties range in size from 12 to 118 rooms, which brackets the subject's 45 rooms. Overall, this is considered a very reasonable data set from which to estimate the market value of the subject property on an as-is basis.

Attempts were made to verify each sale with a party to the transaction but some of the sales information is based solely on public records; Costar, MLS, RealQuest, LandVision, and personal inspection.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Comparable Sales Summary

IMPROVED COMPARABLES SUMMARY									
	1	2	3	4	5	6	7	8	
Location	186 N. Coast Hwy 101	778 Broadway	641 Camino Del Rio So.	2020 S. Coast Hwy	771 El Cajon Blvd	1355 E. Main Street	650 Mollison Ave	3135 Old Hwy 395	
Community/Sub-Market	Encinitas	Chula Vista	San Diego	Oceanside	El Cajon	El Cajon	El Cajon	Fallbrook	
Zip Code	92024	91910	92108	92054	92020	92021	92021	92028	
Assessor Parcel No.	256-392-11	571-200-19	444-120-23	155-032-20	492-641-04	489-180-77	484-321-09, 11	125-060-57	
Land Area (SF)	21,670	30,492	77,537	13,068	14,327	40,075	76,230	79,715	
Building Area (SF)	14,728	33,393	63,000	4,211	6,383	20,547	43,000	19,031	
No. Rooms	45	50	169	12	24	47	95	41	
Year Built/Condition	1988/Average	1960/Average	1985/Average	1961/Average	1988/Average	1987/Average	1989/Average	1988/Average	
Quality/Design/Appeal	Average	Average	Good	Average	Average	Average	Average	Average	
Seller	Golden Globe Group LLC	Yih-ruey & Chan-yung Chang	Pinnacle Mission Valley LP	Shrikant & Sunita Sawant	Ajay & Jagruti Patel	Michael H. Kim APC Law Firm	TCFC Limited Partnership 25%	Kamia Hotels	
Buyer	101 Hotel LLC	Best Choice LLC	Kabir Bluestar LLC	South O LLC	Nexen LLC	Vista International Inc.	Ramona & Main LLC	KP Hospitality, Inc.	
Document No.	15-0019184	18-04765-49	18-000624	17-0153172	18-0040356	18-0101215	18-0135547	18-0355237	
DOV/Recording Date	1/30/2019/1/15/2015	6/19/2018	1/2/2018	4/5/2017	1/31/2018	3/14/2018	3/23/2018	8/29/2018	
Financing	Assume All Cash to Seller	All Cash to Seller	All Cash to Seller	All Cash to Seller	All Cash to Seller	All Cash to Seller	All Cash to Seller	All Cash to Seller	
Sale Price	\$3,780,000	\$4,000,000	\$19,500,000	\$1,000,000	\$2,300,000	\$5,100,000	\$8,000,000	\$4,100,000	
Price Per SF	\$256.65	119.79	309.52	237.47	360.33	248.21	186.05	215.44	
Price Per Room	\$84,000	\$80,000	\$115,385	\$83,333	\$95,833	\$108,511	\$84,211	\$100,000	

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Market Data Map

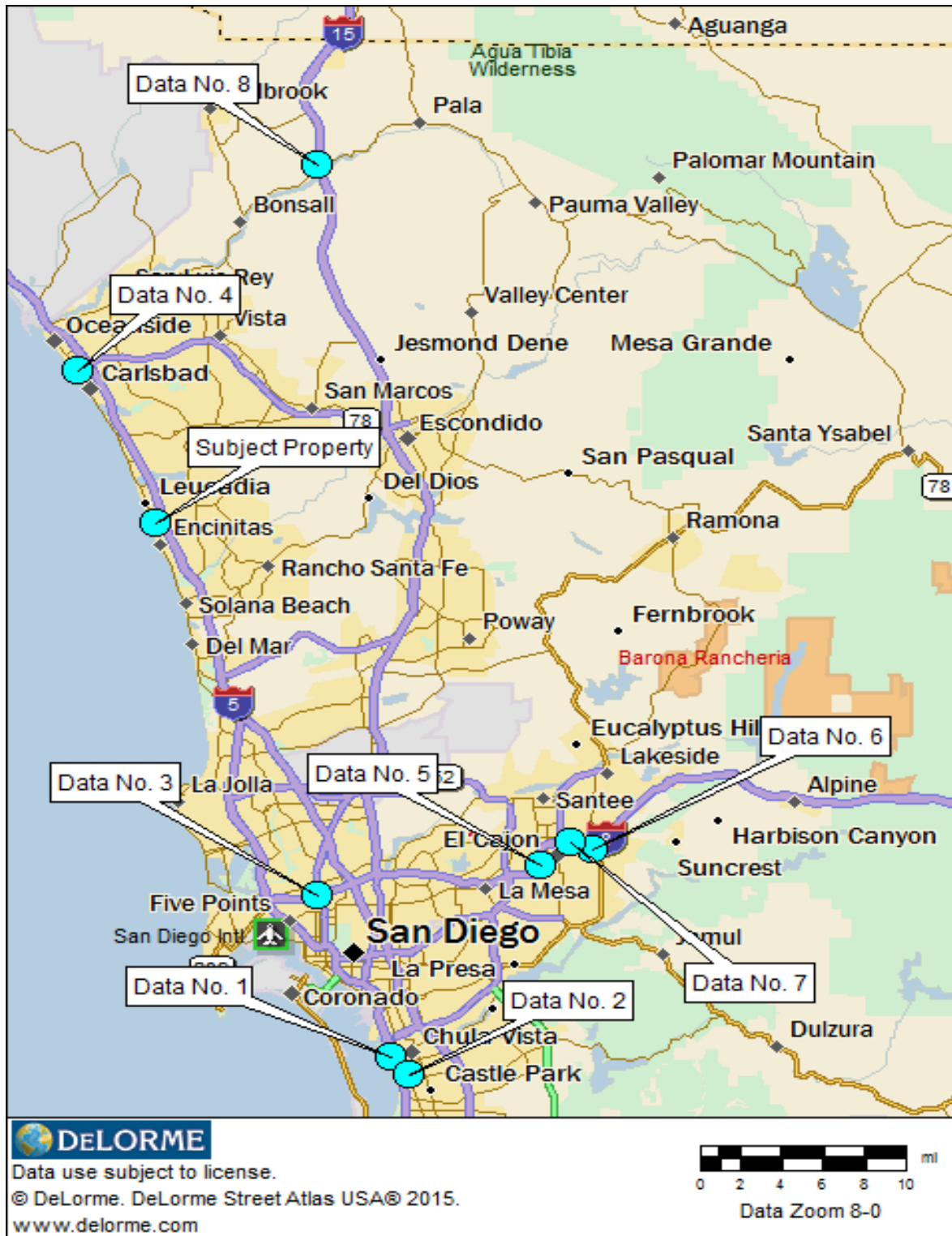


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Market Data Description

Data 1- Days Inn Wyndham Hotel located adjacent to the Interstate 5 freeway in the south bay community of Chula Vista. Located just south of the E Street offramp, the published rates for rooms (1 King or 2 queen beds) is \$75 per night plus tax. The room rate includes a continental breakfast.

Data 2 – 50-room Best Choice Hotel located in the community of Chula Vista. At the time of sale, only 40 of the 50 rooms were operable, with the buyer planning on doing some renovations this year. The property appears to be in fair to average condition, with the published room rates being \$65 per night plus tax.

Data 3 – Larger La Quinta hotel located in the central San Diego community of Mission Valley. The property is in good condition and well maintained. The location caters to SeaWorld visitors, with the published rates being \$119 plus tax.

Data 4- This was an off-market transaction of an older, smaller bed & breakfast property (Ocean Breeze Inn) in the coastal city of Oceanside. The property contains 12 rooms (11 rooms plus 3-bedroom manager apartment), with the buyer planning on doing a large renovation of the property. Like the subject property, this property is now closed for business. However, the latest listing of the property indicated that the average daily rate for the property was \$60, with the REVPAR (accounts for vacancy) being \$55.

Data 5 -Sale of a 24- room hotel that was built in 1988, located in the east County community of El Cajon. The property will continue to be operated under the name Villa Serena Motel. The buyer purchased the property as an investment and plans on running the business himself. There are living quarters on the premises, with the 2-story building being complemented with 14 onsite parking spaces. According to on-site management, the room rate is \$68 including tax resulting in the basic room rate being about \$60.

Data 6 – Sale of a well-maintained hotel (Courtesy Inn) located in the east county city of El Cajon. The property has 47 rooms with the average daily rate reported at \$87.00 at the time of sale. The property has 35 surface parking spaces, is 3-story in design, with the room rate including a continental breakfast. The property sold on a 6.90% overall capitalization rate.

Data 7 is the sale of a 95-room Best Western Continental Inn located in the city of El Cajon. The building was constructed in 1989 and is 2-story in design. There are 60 open surface parking spaces. The property sold on a 9.13% overall capitalization rate. Published rates have the rooms at \$71 per night plus tax.

Data 8 is the sale of a Comfort Inn located in the inland community of Fallbrook. Located along the Interstate 15 freeway, the property has 41 rooms with the building constructed in 1988. The property is 2-story in design and has 55 surface parking spaces. The property has no suites, no lounge or meeting rooms. Included in the sale was a vacant 1,850 square foot restaurant. At the time of sale, the property was 65.61% occupied and had a \$91.29 average daily rate.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Adjustment Considerations

The sale comparables indicate a price range of \$80,000 to \$115,385 per room, with the lower indications attributed to inferior location, older ages, and lower room rates. Conversely, the higher indications are attributed to superior quality/condition, newer ages, and higher room rates. The subject property was purchased by its current owner in January of 2015 at a price of \$84,000 per room which is at the lower end of the comparables range. While the subject also falls within the \$ per square foot range indicated by the comparables, hotel properties are not purchased on a \$/per square foot basis, with a \$/per square foot analysis not being considered.

The subject's average daily rate at the time of purchase was reported at \$76.00 which is within the \$60 to \$119 nightly rate range indicated by the comparables. It is recognized that an average daily rate considers all discounted rates and will be lower than the advertised rates to the public. However, absent both rack rates and average daily rate information for each of the properties, some correlation can still be drawn that shows the subject room rates being comparable to the sales.

A summary of the sales in relation to the subject is shown as follows:

Ranking Analysis		
Data No	Price/Room	ADR/Rack Rate
3	\$115,385	\$119
8	\$100,000	\$91
6	\$108,511	\$87
1	\$97,458	\$75
7	\$84,211	\$71
Subject	\$84,000	\$76
2	\$80,000	\$65
4	\$83,333	\$60
5	\$95,833	\$60

While income does not tell the whole story in the value of investment properties, there is a strong correlation between the two factors. Age and quality of improvements as well as highest and best use issues also have an impact on value. As shown, the subject's last sale price falls within the comparables indications, with the correlation between its higher ADR and a lower sale price (compared to the sales transactions), indicating a higher overall capitalization rate. This is consistent with older properties that are positioned for redevelopment as is the case with the subject property.

The operating performance of the subject property since January 2015 cannot be ascertained as no financials are available. Furthermore, the motivation behind the purchase of the property (redevelopment) would suggest that steps necessary to increase value (new capital improvements, increased marketing and higher room rates, and reduced expenses) have most likely not been undertaken, and thus the net operating income for the property would not be expected to increase substantially from its sale price in January 2015. This is supported by some

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

of the property reviews provided by guests that stayed in the hotel during the years 2016 and 2018. A summary of these reviews is as follows:

- The atmosphere of this hotel is not that great
- The TV was awful – “old fashioned TV” – can you believe that?
- The carpet in the room doesn’t look so clean
- Coffee maker was broken; asked for a replacement and never got one
- There was no housekeeping
- Bad parking, ants in bathtub, and bad water pressure
- The place has gone downhill since new ownership took over; they used to have coffee and donuts in the lobby, but they even took that away.
- They assigned me an already occupied room, so I had to wait for the desk person to sort that out, and staff was not friendly.
- The place could use some maintenance and sprucing up.
- The parking under the rooms was a challenge as the spaces were very narrow.
- Old facility – TV didn’t work.
- Room was musty and new paint left something to be desired; TV remote was on the fritz, and carpet was old and buckling.
- The place is old and tired and needs updating with minor repairs being overlooked; exterior walkways are not as clean as they can be, with the quality of towels changing from day to day.
- The rooms are ancient and definitely overdue for a remodel. Beds come with sand, and the décor is super outdated. Carpet was very dirty, with walls, outlets, furniture very beat up with bad scuff marks. There is also a TV that dates back to the 90’s and is apparently just for décor since it has no working channels.
- The mattress springs broke my back! The parking stalls are narrow; no more continental breakfast as before. Paying in advance? That was new.

These comments suggest that the hotel has not been upgraded since its last purchase. As such, it is concluded that the January 2015 sale is the strongest indication of value and that a value of \$84,000 per room is supported for the subject property via the sales comparison approach. This results in a value of \$3,780,000 for the property (45 rooms x \$84,000).

Income Capitalization Approach

The income capitalization approach analyzes a property’s capacity to generate net income. The subject is analyzed using techniques similar to those a potential purchaser/investor would use. For purposes of this analysis, the direct capitalization method has been relied on, which is the most commonly used method employed by buyers and sellers of hospitality properties. However, due to the nature of this assignment (no contact with property owners), the analysis will not have the benefit of the actual operating performance figures from the subject property.

In the direct capitalization method, an overall capitalization rate derived from market data is applied to the net operating income to indicate market value. The data and analysis used in the direct capitalization analysis are presented on the following pages.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Potential Gross Income

The first step in the income capitalization approach is estimating the potential gross income for the property. This analysis considers both the contract rent (rent currently being achieved) as well as comparable leases being obtained in the market. As the subject property is now closed, the latest room rate information available for the subject property indicated an average daily rate of about \$76, and an estimated rack rate of \$83.60 (10% higher). Both rates are before taxes.

Market Rent

A summary of comparable hotel properties in the immediate area is presented as follows:

ROOM RATE COMPARABLES

Property/Location	City	# of Rooms	Room Rate	Yr Built
Econo Lodge 410 N. Coast Hwy 101	Encinitas	32	\$75	1987
Best Western Encinitas 85 Encinitas Blvd.	Encinitas	90	\$114	1990
Holiday Inn Express 1661 Villa Cardiff Drive	Encinitas	100	\$109	2004
Leucadia Beach Inn 1322 N. Coast Hwy 101	Encinitas	22	\$84	1975
Days Inn Wyndham 133 Encinitas Blvd.	Encinitas	124	\$70	1985
Rodeway Inn 1444 N. Coast Hwy 101	Encinitas	52	\$57	1991
Quality Inn 607 Leucadia Blvd.	Encinitas	101	\$79	1986
Holiday Inn Express 751 Raintree Drive	Carlsbad	125	\$89	2013
La Quinta Inn & Suites 760 Macadamia Drive	Carlsbad	110	\$100	1989
Moonlight Beach Motel 233 2nd Street	Encinitas	24	\$120	1975
Ramada by Wyndham 751 Macadamia Drive	Carlsbad	121	\$63	1989
Motel 6 Carlsbad Beach 750 Raintree Drive	Carlsbad	160	\$67	1989
Royal Motor Inn 1488-96 N. Coast Hwy 101	Encinitas	9	\$50	1965
Averages		82	\$83	1988

Market Rent Discussion

As shown, the room rate comparables consist of 10 economy hotels in Encinitas and four economy hotels in Carlsbad and indicate a room rate range (before taxes) between \$50 - \$120 per night. The lowest rate is for a single story, poor condition motor lodge located on N. Coast Hwy 101, with the other lower rate hotels attributed to average quality/condition hotels with a large number of rooms. The highest rates are attributed to higher quality, better located or superior amenity (kitchenettes) properties which warrant their higher rates. The quality/condition and beach proximity for the subject falls within the middle of the comparables as shown by the average rates of the comparables (\$83.00) and the last rate information available for the subject (\$83.60).

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Based on the comparables information, it is concluded that the room rate being achieved at the subject property is representative of market rent, with the concluded market room rate being \$83.50.

Vacancy and Collection Loss

The historical occupancy of the subject property is unknown. Typically, properties with a smaller number of rooms with proximity to the ocean can keep their occupancies up, with location trumping property deficiencies and lack of maintenance. Due to the lack of occupancy information for the subject, occupancy information pertaining to local and regional hotel will be used in estimating occupancy.

Operating Expenses

The operating expenses for the subject property are unknown. As such, the expenses will be based on operating expenses that are incurred for properties similar to the subject property in three categories – rate (\$75 - \$115), geography (Mountain/Pacific), and number of rooms (<100 rooms). This information is provided by CBRE Hotels. A summary of these operating expense figures as well as the occupancy, ADR and RevPAR for the hotels from the information is derived is shown below.

Hotel Operating Statistics (PKF)				
Classification	\$75- \$115	Mtn/Pacific	< 100 Rms	Average
Revenues				
Rooms	98.3%	97.2%	97.7%	97.7%
Other Oper Depts	1.1%	1.8%	1.3%	1.4%
Misc Income	<u>0.6%</u>	<u>1.0%</u>	<u>1.0%</u>	<u>0.9%</u>
Total	100.0%	100.0%	100.0%	100.0%
Dept Expenses				
Rooms	28.4%	26.7%	27.0%	27.4%
Other Oper Depts	<u>69.5%</u>	<u>46.7%</u>	<u>68.9%</u>	<u>61.7%</u>
Total	28.7%	26.8%	27.3%	27.6%
Undist. Oper Expense				
Admin & General	8.8%	8.3%	9.0%	8.7%
IT Systems	1.0%	1.1%	1.5%	1.2%
Sales & Marketing	11.4%	10.7%	11.8%	11.3%
Prop Oper & Maint	5.2%	4.3%	4.7%	4.7%
Utilities	<u>4.4%</u>	<u>3.4%</u>	<u>3.8%</u>	<u>3.9%</u>
Total	30.8%	27.8%	30.8%	29.8%
Management Fees				
	3.0%	3.2%	3.5%	3.2%
Non Oper Expenses				
Rent	2.6%	5.7%	4.4%	4.2%
Property/Other Taxes	3.9%	3.2%	3.6%	3.6%
Insurance	0.9%	0.9%	1.1%	1.0%
Other	<u>0.5%</u>	<u>0.6%</u>	<u>1.1%</u>	<u>0.7%</u>
Total	7.9%	10.4%	10.2%	9.5%
Total Expenses	70.4%	68.2%	71.8%	70.1%
EBITDA	29.6%	31.8%	28.2%	29.9%
Occupancy Percent				
ADR	\$95.63	\$121.91	\$115.34	\$110.96
RevPAR	\$66.99	\$90.45	\$83.48	\$80.31

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

As shown, the expenses in each of the classifications as a percentage of total revenues for each of the categories (department expense, undistributed operating expense, management fees, and non-operating expenses) are strongly supportive of each other. Furthermore, the total expenses as well as the EBITDA (net operating income) are strongly supportive of each other. As such, the average of each of the classifications will be used in the income analysis of the subject.

Overall Capitalization Rate

The subject is a hotel that has deferred maintenance and a lower room rate structure. However, its strong coastal location and reduced risk associated with achievable rooms rates (whatever that level is) suggests that a relatively strong overall capitalization rate can still be achieved by a seller of the property. As such, the capitalization rate for the subject property will be selected from the following sales data.

Overall Rate Summary							
Data #	Address	City	Sale Date	Price	# Rooms	Age	OAR
1	1060 Adella Avenue	Coronado	7/19/2018	\$8,874,000	17	1906	6.80%
2	33961 Bailey Meadow Rd	Palomar Mtn	10/10/2018	\$1,450,000	14	2000	6.00%
3	419 W. Beech Street	San Diego	10/26/2017	\$2,850,000	30	1909	6.19%
4	1355 E Main Street	El Cajon	3/14/2018	\$5,100,000	47	1987	6.90%
5	1549 E. Main Street	El Cajon	3/1/2017	\$5,630,000	75	1973	5.77%
6	1410 Rosecrans Street	San Diego	10/5/2018	\$5,540,000	24	1961	5.50%
7	655 San Ysidro Blvd.	San Ysidro	3/8/2018	\$6,700,000	100	1960	6.57%
Concluded OAR							6.75%

The subject property is older and has higher risk associated with it compared to the sales due to lower income (economy room rates) and a higher level of expenses (higher maintenance & repairs). As such, an overall capitalization rate toward the upper end of the range indicated by the comparables, or 6.75% is concluded for the subject property.

Direct Capitalization Analysis

Using the analysis and conclusion above, the indicated value for the subject property via direct capitalization is shown as follows:

DIRECT CAPITALIZATION WORKSHEET						
186 No. Coast Hwy 101						
Revenue						
	No. of Rooms	Rates	Days	Totals	% Total Oper Rev	
Rack Rate		\$84.50				
ADR		\$76.05				
Occupancy		72.20%				
RevPAR	45	\$54.91	365	\$901,866	97.70%	
Rooms				\$12,626	1.40%	
Other Operating Departments				<u>\$8,117</u>	<u>0.90%</u>	
Miscellaneous				\$922,608	100.00%	
Total Operating Revenue						
Operating Expenses						
Department Expense				\$254,640	27.6%	
Undistributed Operating Expenses				\$274,937	29.8%	
Management				\$29,523	3.2%	
Non-Operating Expenses				<u>\$87,648</u>	<u>9.5%</u>	
Total Operating Expenses						
				\$646,749	70.1%	
EBITDA (Net Operating Income)				\$275,860		
Overall Capitalization Rate					6.75%	
Indicated Value				\$4,086,814		
Rounded Value				\$4,090,000		
Per Room				\$90,889		

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Reconciliation

The two approaches indicate the following market value for the subject property on a “stabilized” basis:

Sales Comparison Approach	\$3,780,000
Income Capitalization Approach	\$4,090,000

In this appraisal, the sales comparison and income capitalization approaches were used to derive an indication of market value for the subject property. Market participants would give little or no consideration to the cost approach when estimating an opinion of value for properties such as the subject. Therefore, this approach was not used in this appraisal.

The sales comparison approach is important when there are enough recent and reliable transactions to indicate value patterns in the market for a particular type of property. Sales of comparable improved properties often provide the best indication of buyer/seller actions in the marketplace. The inability of the appraiser to make an interior inspection of the subject property and to ascertain the physical and functional condition of the property renders the sales comparison approach less reliable. However, the sales do provide a reasonable valuation point of reference on a price per room basis for other similar hotel properties in San Diego county. Property reviews for guests who have stayed at the property as well as public information was relied on for a profile of the property.

The income capitalization approach reflects the thought process of the potential investor of income-producing properties. Well informed buyers in today's marketplace will consider this approach to be significant in estimating market value. All the rent comparables used in this report would be considered a suitable alternative for a prospective purchaser of the property. However, the lack of an operating history for the subject property (income & expenses) over the past three years render the income approach less reliable than the credibility that is normally achieved. Expenses were based on published information for hotels that fall into similar categories as far as room rate, geographical location and size of properties is concerned. Capitalization rates were derived from actual sales and opinions of market participants.

Based on conversations with market participants, prospective buyers will consider both approaches, but will generally give most weight to the income capitalization approach, particularly for investment properties like the subject. However, due to the lack of specific financial information as well as the lack of an on-site inspection of the property which impacts the credibility of both approaches, similar weight will be given to the value indication for each of the approaches. This results in a market value estimate for the subject property of \$3,900,000.

\$3,900,000

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Land Value

To establish the contributory value of the building improvements, the value of the subject's land "as if vacant" and available for development to its highest and best use must be estimated. The sales comparison approach will be used to estimate the value of the subject's land. The sales collected and analyzed will focus on coastal parcels purchased with a similar level of development potential to that of the subject property. A summary of the transactions is presented as follows:

Land Sales Summary											
Data #	Location	City	APN	Sale Date	Doc #	Seller	Buyer	Price	Size (SF)	SP/SF	Zoning
1	143 S Cedros Ave	Solana Beach	298-074-05, 06	4/7/2017	159487	Going	Hodges	\$1,000,000	10,454	\$95.66	SC (Spec Comm)
2	330 S Cedros Ave	Solana Beach	298-076-13	4/12/2017	165114	Harker	Pacifica Neutral	\$5,500,000	40,946	\$134.32	SC (Spec Comm)
3	Colt Place	Carlsbad	213-262-07	4/4/2017	150251	HCP L.S. Carlsbad	Shea Homes	\$12,500,000	96,268	\$129.85	C-2Q (Gen Neigh Comm)
4	700 Stevens Ave	Solana Beach	298-131-22,27,28	9/12/2018	379506	Stevens St. LLC	City of Solana Bch	\$2,800,000	28,976	\$96.63	GC (Gen. Comm)
5	2001 S. Coast Hwy	Oceanside	155-031-01	11/21/2017	543681	Italia Trust	Cazador LLC	\$4,000,000	32,343	\$123.67	CR(Comm Rec/RH (Res HD)
6	102-116 S. Coast Hwy	Oceanside	147-283-02,03,04,05,08	6/30/2017	KJW	Coast Hwy LLC	PCH Invest Ptners	\$5,000,000	54,886	\$91.10	C2 (Gen Comm)

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Land Comparables Map

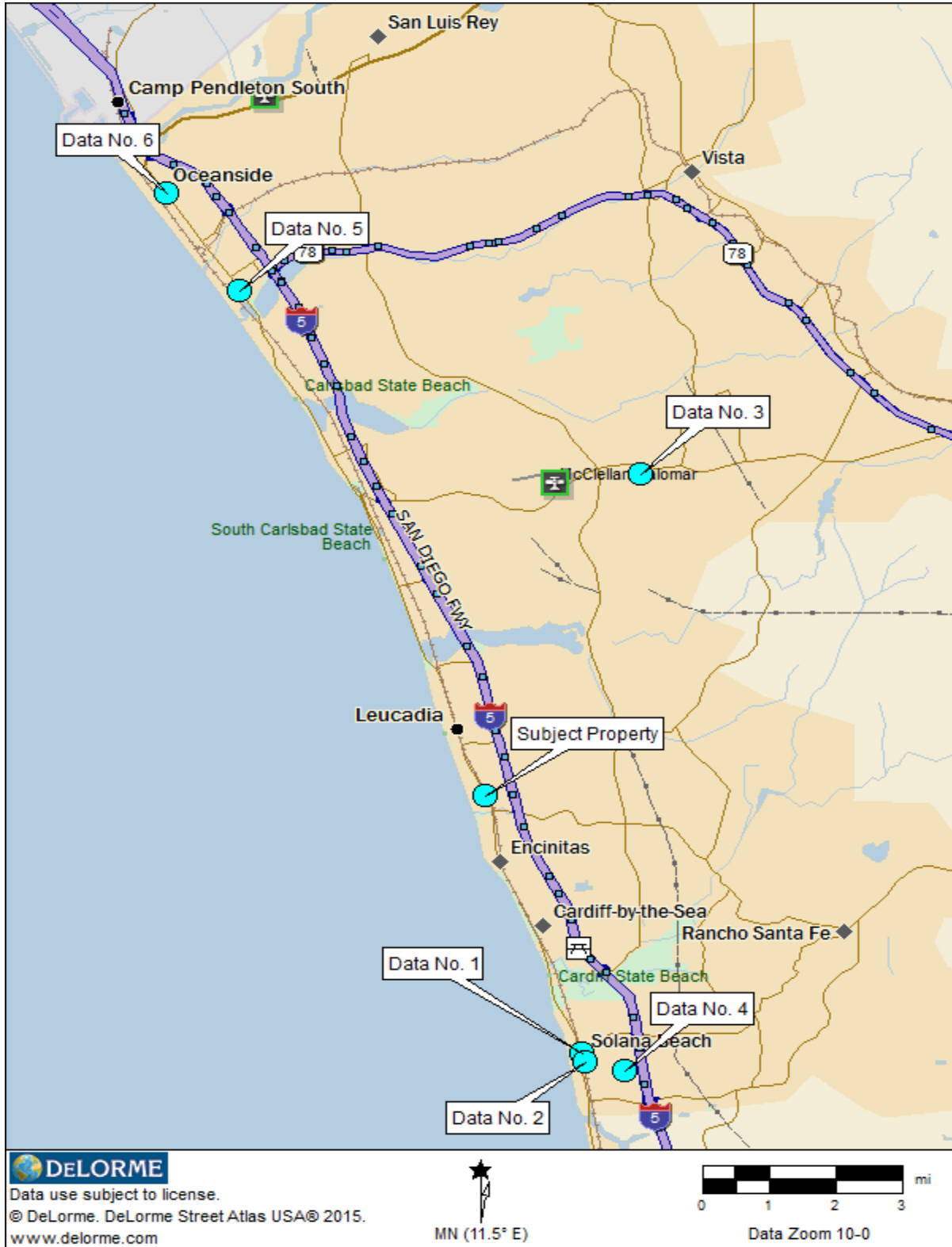


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Discussion of Land Comparables

Data No. 1 – Sale of two adjoining lots located in Solana Beach that are adjacent to parcels already owned by the buyer. The parcels purchased are currently being used for parking purposes under terms of a lease with the buyer being the lessee. While the purchase price is shown as \$1,000,000, another \$500,000 was paid to reflect the value of the lease. This property is slightly smaller than the subject and while more removed from the beach, it is located in the Cedros Design District of Solana Beach, a highly desirable district that is seeing considerable redevelopment both planned and underway.

Data No. 2 – Like Data No. 1, this is the sale of a parcel purchased for land value, located in the Cedros Design District of Solana Beach. The property was purchased by the same entity that owns the subject property, with the intent of redevelopment. The buildings on the property at the time of purchase were given no value. The buyers planned development includes a 26,000 square foot mixed-use project which integrates 3,200 square feet of high-end restaurants, 5,000 square feet of ground-floor retail, 8,000 square feet of office, and eight multifamily units.

Data No. 3 – This is the sale of a 2.21-acre parcel located just south of Palomar Airport Road and west of El Fuerte Street. The property is a portion of a four-parcel purchase of a planned mixed-use development (Lots 29-32 of Bressi Ranch totaling approximately 18 acres) that was purchased for 26.5 million dollars, or \$33.80 per square foot. This sale (Lot 30) sold separately from the other three lots and was purchased for development of 125 luxury condominiums but will be complemented with mixed-use development on the other three parcels that will consist of a food market, a drive through drug store, restaurants, and a specialty market. The entire mixed-use development is across from Bressi Village Retail Center that features a Trader Joe's, a Stater Brothers, some restaurants, offices, a hotel and other businesses. The two transactions covering this development were in escrow for approximately 3.5 years. Due to the large, multiple parcel purchase with above average upside potential, the conditions of sale accompanying this transaction were considered superior.

Data No. 4 is the sale of a 28,976 square foot parcel that was purchased by the city of Solana Beach for expansion of the adjoining neighborhood park known as La Colonia County Park. The property is less than one mile from the Del Mar Race Track, the Cedros Design District, and the Highway 101 corridor. While the intended use is low in intensity, the price paid is reflective of its zoning which allows for development of mixed-use. The parcel was originally listed for sale at \$2,950,000, with the zoning being commercial and allowing for 13 residential units in a mixed-use concept. The site was previously entitled for a 16,740 square foot office building.

Data No. 5 -This is the sale of a split zoned property that is currently improved with two older retail/commercial buildings and 20 older residential units (converted motel). The property was purchased for interim use of the existing improvements, with redevelopment at some future point in time. The property has direct exposure and access to Coast Hwy and has a variety of land use options. While inferior in location, this property is superior in site improvements (interim use of building improvements).

Data No. 6 – This is the sale of multiple adjacent parcels at the corner of Seagaze Drive and S. Coast Hwy in the city of Oceanside. The property is currently improved with a variety of older auto sales and service structures, with the buyer's purchase motivation being future redevelopment. This is a resale of the property which was purchased by the seller in 2016 at a

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

price of \$2,800,000. While inferior to the subject in location, this property is considered similar in access and street frontage due to its location on Coast Highway.

Additional Market Activity

- There is a listing of a 10,175 square foot property (2 adjoining parcels) located at 777,779 & 793 2nd Street in the city of Encinitas. Located not too far south of the subject property within a superior residential neighborhood in the Downtown Encinitas Specific Plan, the property is zoned Commercial Mixed 2 (D-CM -2) which allows for mixed-use development which includes both commercial and residential uses (single & multi-family). However, its location off Hwy 101 suggests a strong likelihood upon redevelopment for multi-family residential development. The property is located one street west of No. Coast Hwy 101, has redevelopment appeal and potential, but is being marketed as an improved property. The asking price is \$3,500,000, or \$343.98 per square foot of land area. The income generating improvements on the property (3 residential units and a garage) amount to a reported monthly income of approximately \$4,300 or \$51,600 on an annual basis. With an adjustment for listing status (15%), a low tax base and tenant covered expenses, and an estimated overall rate of 3.0%, the land value estimated is \$1,430,000 or \$140.54 per square foot. This item of market data is mentioned for information purposes due to its close location to the subject but is not directly comparable to the subject property.
- There was an older sale of a 9,037 square foot parcel located at 754-766 N. Coast Hwy 101 in the city of Encinitas that sold on August 28, 2015 at a price of \$1,000,000. Included in the sale price was \$240,000 for the value of the small businesses, resulting in a value of \$760,000 for the real estate only (\$84.10 per square foot). The older improvements on the property totaling 2,250 square feet consisted of a lawn mower shop, a chiropractic office, and a small workshop. A higher price per square foot is indicated by this sale for the subject property due to improving market conditions for land since this sale occurred.

Value Conclusion

The land sales indicate a range in value between \$95.66 and \$134.32 per square foot for parcels ranging in size between 10,454 and 96,268 square feet. An analysis of land value for properties like the subject, which have mixed use possibilities, has increased sensitivity based on whether residential, retail or commercial uses are constructed. Typically, commercial/retail uses which characterize the Hwy 101 corridor where the subject is located, will not support the higher prices per square foot paid for land purchased for multi-family residential development. This is particularly true for coastal locations where the sale prices and rents are much higher than inland locations.

While the subject property has mixed-use potential, the land use patterns along No. Coast Hwy 101 and the subject's frontage on this heavily traveled corridor suggests that commercial/retail development will take precedent over multi-family development.

An adjustment grid using qualitative analysis for the subject comparable sales is presented below. Noteworthy adjustments include parcel size which, based on market evidence and conversations with brokers, is premised on larger parcels in coastal locations where developable land is scarce as being superior to smaller parcels.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Adjustment Summary						
	Data 1	Data 2	Data 3	Data 4	Data 5	Data 6
Address	143 S. Cedros Ave.	330 S. Cedros Ave.	Colt Place	700 Stevens Ave.	2001 S. Coast Hwy	102-116 S. Coast Hwy
Sale Price (PSF)	\$95.66	\$134.32	\$129.85	\$96.63	\$123.67	\$91.10
<i>Transactional</i>						
Interest Conveyed	Similar	Similar	Similar	Similar	Similar	Similar
Conditions of Sale	Similar	Similar	Superior	Similar	Similar	Similar
Financing	Similar	Similar	Similar	Similar	Similar	Similar
Market Conditions	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>
Comparison	Similar	Similar	Superior	Similar	Similar	Similar
<i>Physical</i>						
Location	Similar	Similar	Inferior	Inferior	Inferior	Inferior
Access	Inferior	Inferior	Inferior	Inferior	Similar	Similar
Street Frontage	Similar	Similar	Similar	Similar	Similar	Similar
Size/Shape	Inferior	Superior	Superior	Similar	Superior	Superior
Zoning/HBU	Similar	Superior	Superior	Similar	Similar	Similar
Site Imp	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>	<u>Similar</u>	<u>Superior</u>	<u>Similar</u>
Overall Comparison	Inferior	Superior	Superior	Inferior	Superior	Inferior
Indicated Value PSF	> \$95.66	< \$134.32	< \$129.85	> \$96.63	< \$123.67	> \$91.10

Based on the above analysis, the subject property should be valued at something greater than 96.63 per square foot, and something less than \$123.67 per square foot. The subject's strengths are access/exposure, and its large parcel size in a coastal community with diverse development potential. Its weaknesses are its traffic and noise which discourage residential development, parking overflow from adjoining businesses along Highway 101 and the older commercial/retail improvements along the highway which somewhat influence and limit development possibilities.

It is concluded that a land value for the subject property of \$100.00 per square foot, or \$2,167,000 is supported by the land comparables (21,670 square feet x \$100.00).

Value Conclusions Summary

As shown in the report, the property as improved for hotel use is concluded to have a value of \$3,900,000, with the land value conclusion being \$2,167,000. This results in a contributory value of the buildings, as presently utilized, of \$1,733,000. The contributory value of the improvements equates to \$117.67 per square foot of building area.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Certification

The undersigned appraiser certifies that, to the best of his knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial and unbiased professional analyses, opinions, and conclusions.
- I have no present, prospective, direct or indirect interest in the property that is the subject of this report, nor personal interest or bias with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved in this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.
- Kent J. Carpenter, MAI has not made an interior inspection of the property that is the subject of this report. Inspection of the property consists of only those areas that could be seen from exterior locations.
- No one provided significant real property appraisal assistance to the appraiser signing this certification.
- The appraiser signing this appraisal report has not provided an appraisal of the subject property in the three years immediately preceding acceptance of this assignment. There have been no other services, as an appraiser, or in any other capacity, in the previous three years.
- As of the date of this report, Kent Carpenter, MAI, has completed the continuing education program of the Appraisal Institute.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Very Truly Yours,
Epic Land Solutions, Inc.



Kent J. Carpenter, MAI
Certified General Real Estate Appraiser
Senior Appraiser-
Epic Land Solutions, Inc.
California License AG003087

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Improved Sale Comparables

Data 1 Photo – 225 Bay Blvd.



Data No. 2 Photo – 778 Broadway



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 3 Photo – 641 Camino Del Rio South



Data No. 4 Photo – 2020 S. Coast Hwy



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 5 Photo – 771 El Cajon Blvd.



Data No. 6 Photo – 1355 E. Main Street



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 7 Photo – 650 No. Mollison Ave.



Data No. 8 Photo – 3135 Old Hwy 395



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Land Sale Comparables

Data No. 1 Photo –



Assessor's Parcel Map

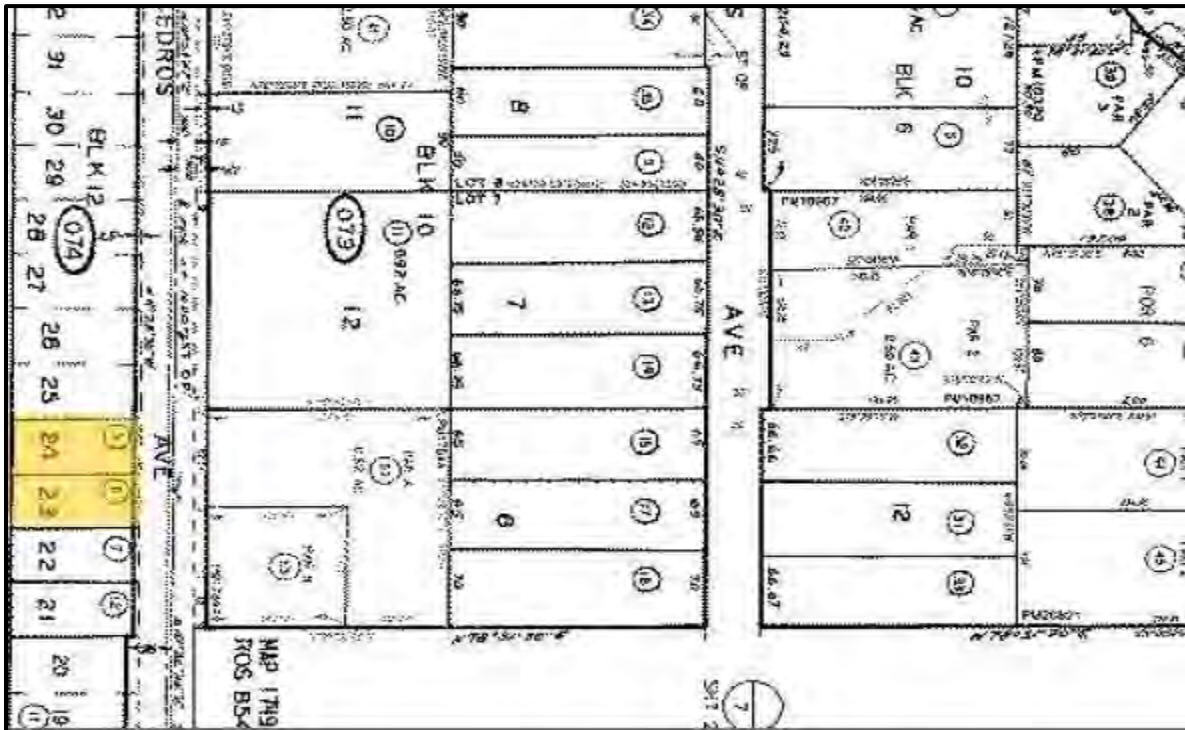
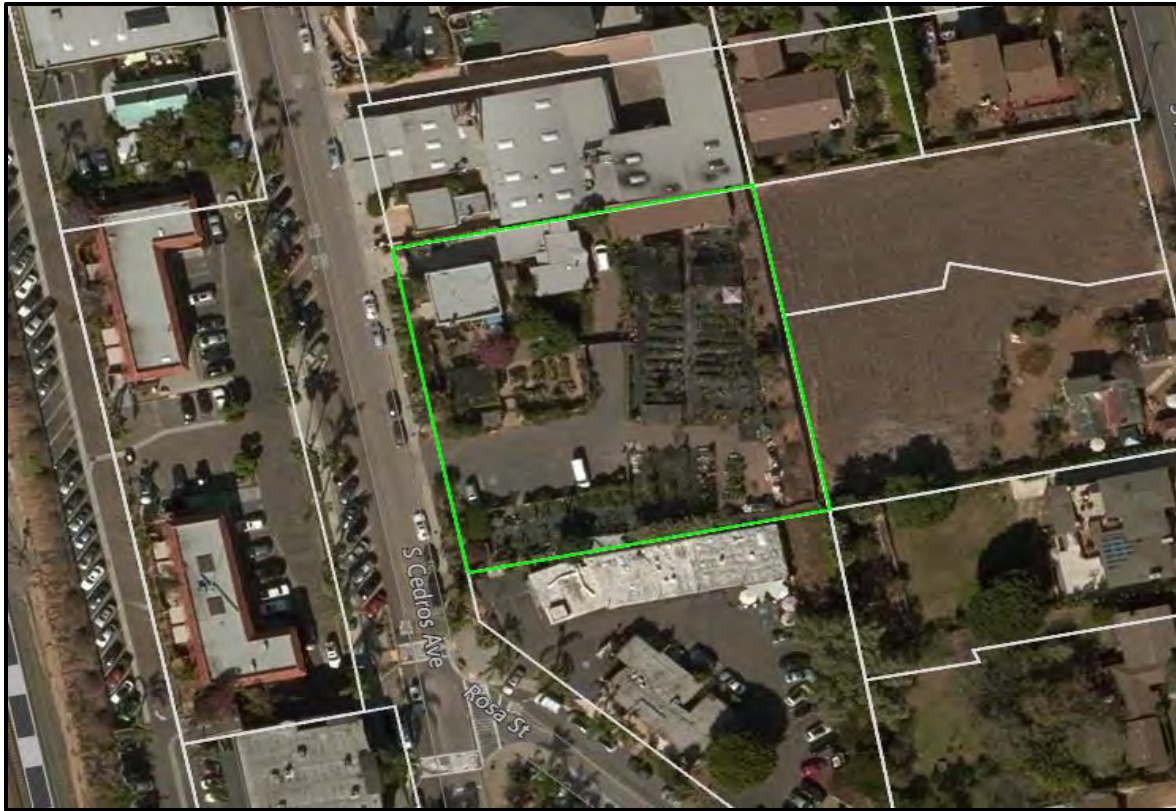


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 2 Photo



Assessor's Parcel Map

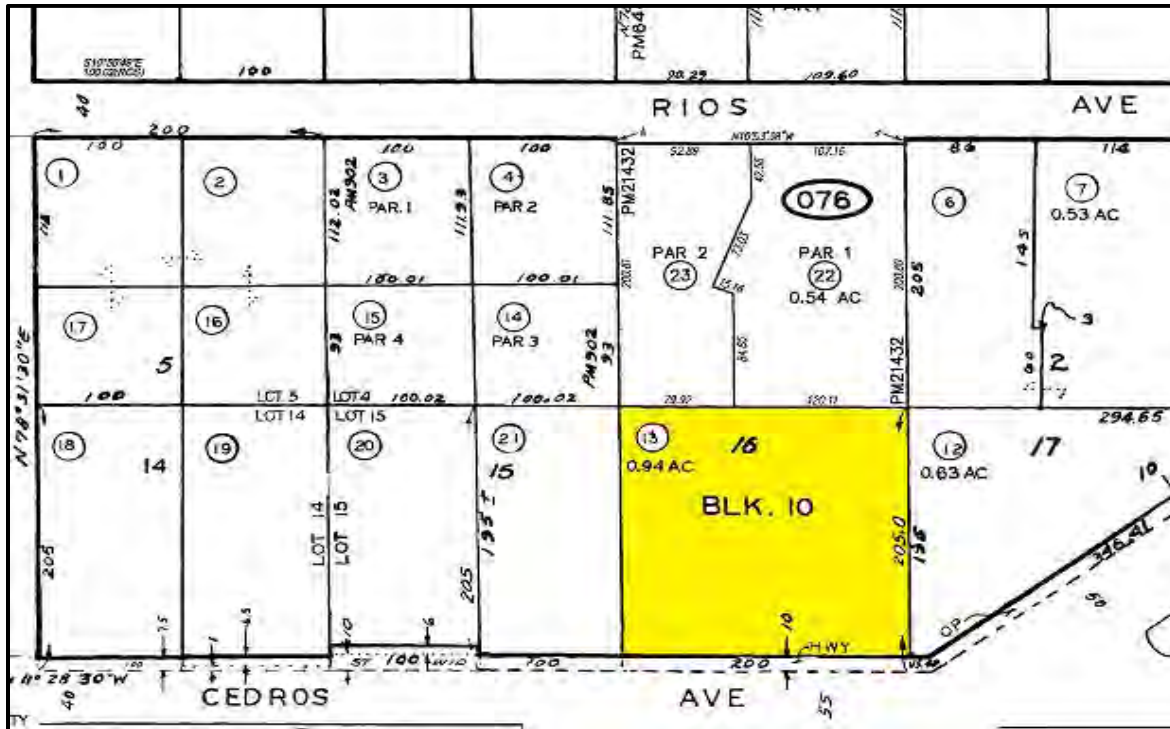
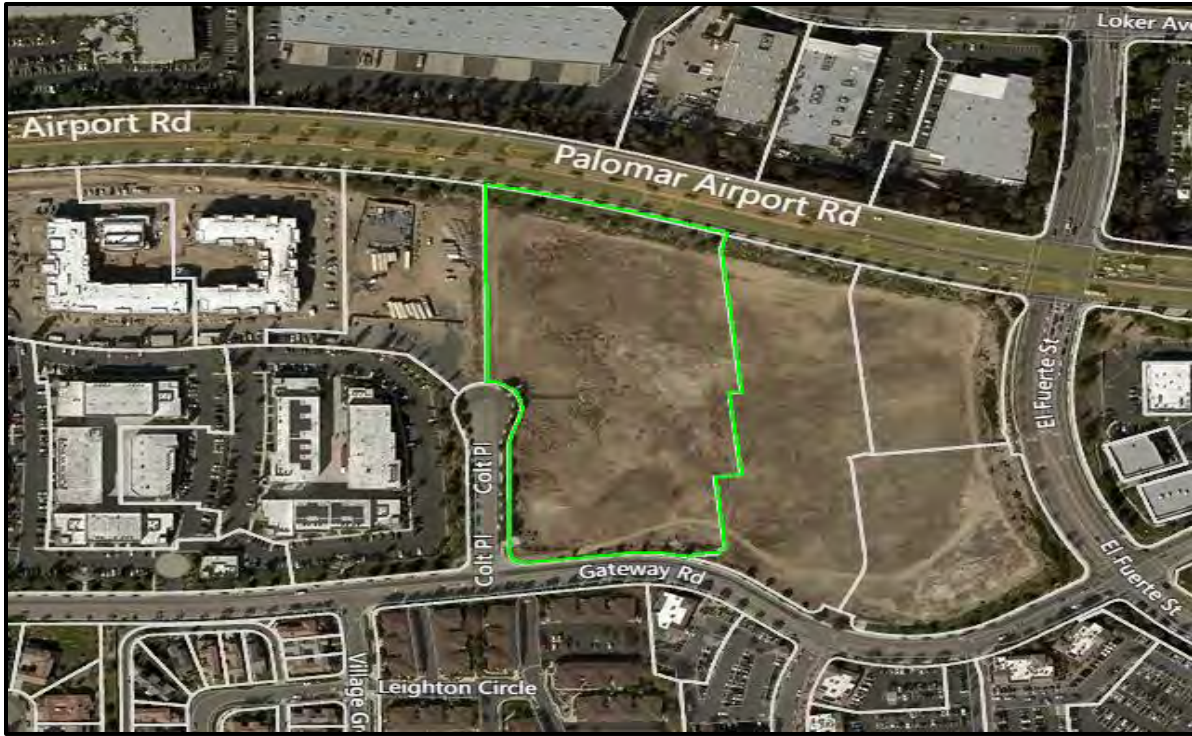


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 3 Photo



Assessor's Parcel Map

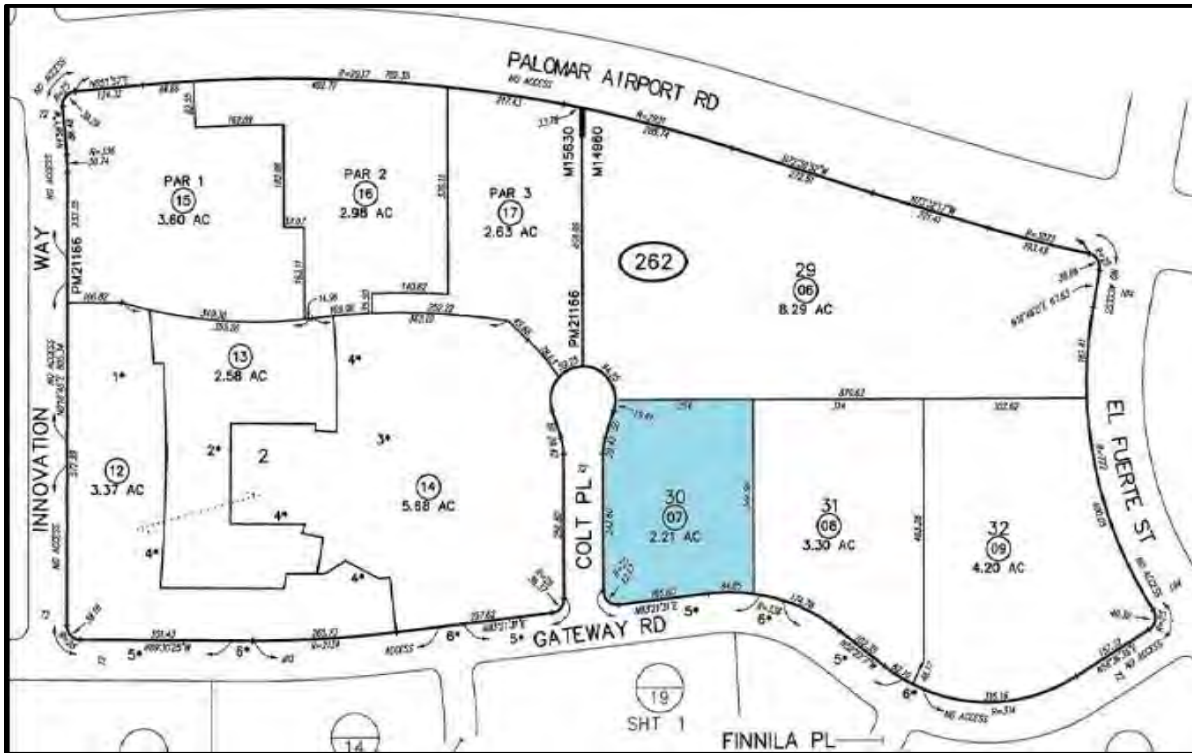


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 4 Photo



Assessor's Parcel Map



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 5 Photo



Assessor's Parcel Map

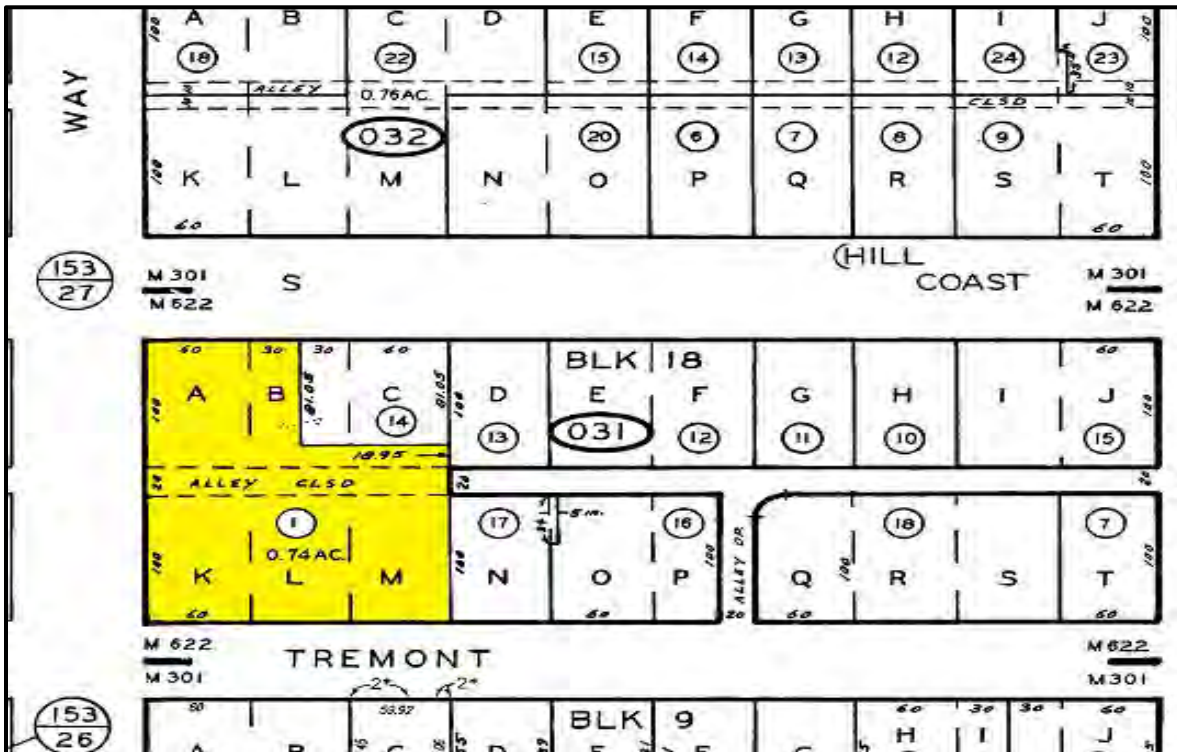


EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Data No. 6 Photo



Assessor's Parcel Map



EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Addenda

Assumptions & Limiting Conditions

This report is made expressly subject to the standard assumptions and conditions which are a normal part of any real estate appraisal.

1. The term "Market Value", as used in this report is defined previously.
2. The date of value to which the conclusions and opinions expressed in this report apply, is as set forth previously in this letter. Further, the dollar amount of any value opinion rendered in this report is based upon the purchasing power of the American dollar existing on that date.
3. The appraiser assumes no responsibility for economic or physical factors which may affect the opinions in this report which occur after the date of this letter transmitting the report.
4. The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
5. The appraiser reserves the right to make such adjustments to the analyses, opinions and conclusions set forth in this report as may be required by consideration of additional data or more reliable data that may become available.
6. No opinion as to title is rendered. Title is assumed to be marketable and free and clear of all liens, encumbrances, easements and restrictions except those specifically discussed in the report. The property is appraised assuming it to be under responsible ownership and competent management, and available for its highest and best use.
7. The appraiser assumes no responsibility for hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for arranging for engineering studies that may be required to discover them.
8. The property is appraised assuming it to be in full compliance with all applicable federal, state, and local environmental regulations and laws, unless otherwise stated.
9. The property is appraised assuming that all applicable zoning and use regulations and restrictions have been complied with, unless otherwise stated.
10. The property is appraised assuming that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based, unless otherwise stated.
11. No engineering survey has been made by the appraisers. Except as specifically stated, data relative to size and area was taken from sources considered reliable and no encroachment of real property improvements is considered to exist.
12. No opinion is expressed as to the value of subsurface oil, gas or mineral rights or whether the property is subject to surface entry for the exploration or removal of such materials except as expressly stated.
13. Maps, plats and exhibits included in this part are for illustration only as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose, nor should they be removed from, reproduced, or used apart from the report.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

14. No opinion is intended to be expressed for matters which require legal expertise or specialized investigation or knowledge beyond that customarily employed by real estate appraisers
15. That possession of this report, or a copy of it, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event only with proper written qualification and only in its entirety.
16. Unless specifically stated, this appraisal does not take into consideration the possibility of the existence of asbestos, PCB transformers or other toxic, hazardous, or contaminated substances and/or underground storage tank (hazardous material), or the cost of encapsulation or removing thereof. Should the client have concern over the existence of such substances on the property, we consider it imperative for you to retain the services of a qualified independent engineer or contractor to determine the existence and extent of any hazardous materials, as well as the cost associated with any required or desirable treatment or removal thereof.
17. Notwithstanding its recent closure, it is assumed that the hotel is operational and is constructed and configured to meet current building codes and parking requirements.
18. No interior inspection of the property was made. All descriptions and conclusions regarding the building improvements were based on inspection of the property from exterior locations.
19. It is assumed in this report that a buyer of the property for continued hotel use would be able to use the existing parking spaces for hotel guests on a conforming basis.

EXHIBIT 4. EPIC APPRAISAL FOR ENCINITAS HOTEL PORTOFINO

Background & Qualifications

▪ Kent Carpenter, MAI, Senior Appraiser ¶



Total Years of Experience: 33 ¶
Years with Firm: <1 ¶

Education: Bachelor of Science, Financial Planning & Counseling, Brigham Young University ¶

Graduate Courses, San Diego State University ¶

Registrations/Certifications: ¶
Certified General Real Estate Appraiser, State of California, License # AG003087 ¶

Associations/Organizations: ¶
MAI Designated Member, Appraisal Institute ¶

Officer, San Diego Chapter of the Appraisal Institute, 2008 ¶

Kent J. Carpenter has over 30 years of experience in the valuation of residential, commercial, industrial, agricultural and special-purpose properties in California. Prior to joining Epic, Carpenter worked as Managing Director for the San Diego offices of Hilco Real Estate Appraisal and Grubb & Ellis Landauer Valuation Services. Additionally, he was a principal at a top San Diego County appraisal firm — Lipman, Stevens & Carpenter, Inc. Carpenter's extensive experience includes expert witness testimony in federal bankruptcy court, San Diego Superior Court and arbitrations/depositions involving real estate values. Clients include government entities, financial institutions, accounting firms, insurance companies, law firms, developers and private property owners. ¶

Please note: The appraisal group works independently within the Epic organization to ensure complete objectivity and impartiality for all appraisal opinions and conclusions. ¶

▪ Relevant Experience ¶

Valuation Specialties: ¶

- Special-purpose properties → Condemnations ¶
- Agricultural Land → Partial Interests ¶
- Industrial/Flex Buildings → Multi-Family ¶
- Shopping Centers → Hotels ¶
- Retail Properties → Offices ¶

Government Clients: ¶

- United States Department of the Interior → General Services Administration (GSA) ¶
- Los Angeles County Community Development Commission → Port of San Diego ¶
- San Diego Metropolitan Transit System (MTS) → County of San Diego → City of San Diego ¶
- City of La Mesa → City of National City → San Diego Unified School District ¶
- Perris Elementary School District ¶

Financial Institution Clients: ¶

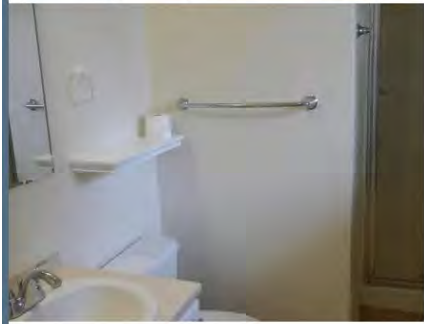
- Teachers Insurance & Annuity Association — College Retirement Equities Fund (TIAA-CREF) ¶
- ING (Retirement & Insurance Products & Services) ¶
- Capital Source Lending → Bank of America → Wells Fargo Bank → Union Bank ¶
- California Bank & Trust → Bank of the West → Metro United Bank → City National Bank → ¶
- Embarcadero Bank → Ironstone Bank → Rabobank → Resmark Equity Partners ¶

Real Estate Clients: ¶

- Quadrant Real Estate Advisors → BAE Systems → Moss Adams → Internal Revenue Service ¶

EXHIBIT 5

6,600 VIEWED THIS POSTING FOR A 350 SQ-FT STUDIO; OVER 70 EMAILED



Zillow Save Share More

\$1,500/mo Studio | 1 ba | 350 sqft

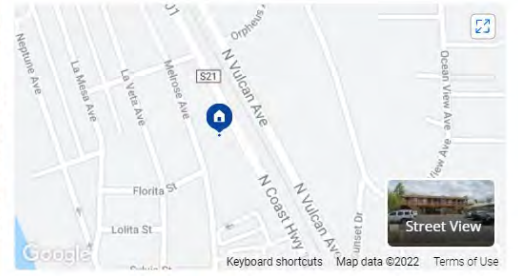
225 Melrose Ave APT 9, Encinitas, CA 92024

Apartment for rent

Request a tour

Request to apply

Overview Facts and features Rent Zestimate Price History



Travel times

Add work destination

Overview

Days Listed 0 | Contacts 0

Covid-19 Note: Applicants must wear a face covering, use provided new nitrile exam gloves and agree to a non-contact forehead temperature measurement. Only applicants allowed in the unit, one at a time. Social distancing required. Studio No. 9, west of Hwy 101, only 1/2-mile to Moonlight Beach and the Encinitas Downtown. Ten-minute walk to Moonlight Beach and Main St. restaurants. Quiet and safe single-family neighborhood. We will show the apartment Saturday January 22, from 10:00 AM to 1:00 PM. We have owned and operated these units for over 30 years. Our careful person-to-person screening process ensures tenant compatibility and quiet enjoyment of their homes by residents. No short-term vacation rentals. Our tenants stay for years. The unit has one reserved off-street parking place. Floor area: 350 sq-ft. Ceiling fan. Front-to-back ventilation from sea breezes. Recent carpeting and bicycle rack in back of building. No smoking or vaping in units or on the property. No pets, service dogs or emotional-support animals. One-year lease. \$1,500 per month and \$1,500 security deposit. Tenant pays for electricity and communications; we provide water and trash. NOTE: YOU MUST INCLUDE YOUR EMAIL ADDRESS FOR US TO SEND AN APPLICATION. Zillow will not forward attachments. We will show this apartment Saturday January 22, from 10:00 AM to 1:00 PM. Please do not go on the property or contact the tenants.

We will show the property January 22. 225 Melrose Ave, No. 9, Encinitas 92024. \$1,500 rent, \$1,500 security deposit. Tenant pays for electricity & communications. We pay for water & trash. One reserved off-street parking place. Ten-minute walk to Moonlight Beach and Encinitas Downtown.

EXHIBIT 6. HUD VERY LOW INCOME CAN PAY \$1,500 FOR RENT



FY 2021 I. COME LIMITS DOCUMENTATION SYSTEM

[HUD.gov](#) [HUD User Home](#) [Data Sets](#) [Fair Market Rents](#) [Section 8 Income Limits](#) [MTSP Income Limits](#) [HUD LIHTC Database](#)

FY 2021 Income Limits Summary

Selecting any of the buttons labeled "Click for More Detail" will display detailed calculation steps for each of the various parameters.

FY 2021 Income Limit Area	Median Family Income Click for More Detail	FY 2021 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	
Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area	\$80,000	Very Low (50%) Income Limits (\$) Click for More Detail	41,400	47,300	53,200	59,100	63,850	68,600	73,300	78,000
		Extremely Low Income Limits (\$)* Click for More Detail	24,850	28,400	31,950	35,450	38,300	41,150	44,000	46,000
		Low (80%) Income Limits (\$) Click for More Detail	66,250	75,700	85,150	94,600	102,200	109,750	117,350	124,000

NOTE: Los Angeles County is part of the **Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area**, so all information presented here applies to all of the **Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area**. HUD generally uses the Office of Management and Budget (OMB) area definitions in the calculation of income limit program parameters. However, to ensure that program parameters do not vary significantly due to area definition changes, HUD has used custom geographic definitions for the **Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area**.

The **Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area** contains the following areas: Los Angeles County, CA;

* The FY 2014 Consolidated Appropriations Act changed the definition of extremely low-income to be the greater of 30/50ths (60 percent) of the Section 8 very low-income limit or the poverty guideline as [established by the Department of Health and Human Services \(HHS\)](#), provided that this amount is not greater than the Section 8 50% very low-income limit. Consequently, the extremely low income limits may equal the very low (50%) income limits.

Income Limit areas are based on FY 2021 Fair Market Rent (FMR) areas. For information on FMRs, please see our associated FY 2021 [Fair Market Rent documentation system](#).

For last year's Median Family Income and Income Limits, please see here:

[FY2020 Median Family Income and Income Limits for Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area](#)

Select a different county or county equivalent in California:

Merced County ▲

Modoc County

Mono County

Monterey County

Napa County

Nevada County ▼

[Select county or county equivalent](#)

Select any FY2021 HUD Metropolitan FMR Area's Income Limits:

Los Angeles-Long Beach-Glendale, CA HUD Metro FMR Area ▼

[Select HMFA Income Limits Area](#)

Or press below to start over and select a different state:

Select a new state

Update URL For bookmarking or E-Mailing

Prepared by the [Program Parameters and Research Division](#), HUD.

From: [Carrie Tai, AICP](#)
To: [Ted Faturos](#)
Subject: Fwd: [EXTERNAL] Highrose Project
Date: Monday, January 31, 2022 5:26:57 PM

Sent from my iPhone

Begin forwarded message:

From: Alexandria Latragna <alatragna@manhattanbeach.gov>
Date: January 31, 2022 at 17:08:13 PST
To: "Carrie Tai, AICP" <ctai@manhattanbeach.gov>
Subject: FW: [EXTERNAL] Highrose Project



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
Office Hours: M-Th 8:00 AM-5:00 PM | Fridays 8:00 AM-4:00 PM | Not Applicable to Public Safety
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CARRIE TAI, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5503
ctai@manhattanbeach.gov

The City of Manhattan Beach continues to care about your health and safety. The [Citizen Self Service \(CSS\) Online Portal](#) is available for City permit and planning applications and inspections. Most Community Development services are available [online](#) and various divisions can be reached at (310) 802-5500 or [Email](#) during normal City business hours.

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From: Catherine Strauss <catherinea Strauss@gmail.com>

Sent: Monday, January 31, 2022 4:49 PM

To: List - City Council <CityCouncil@manhattanbeach.gov>

Subject: [EXTERNAL] Highrose Project

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear City Council,

I own a triplex at 113 35th Street in Manhattan Beach. I have two tenants and I occupy the third unit. I was shocked to learn of the proposed 79 unit High Rose project at the corner of Rosecrans and Highland. I was NEVER notified via mail of this proposed project which troubles me even more as I live just down the street and it greatly impacts not only myself personally, but my tenants. Here are my concerns:

- **TRAFFIC** - Highland/Rosecrans already is a traffic issue, especially during rush hour. I can't think of a feasible way the traffic will be controlled in and out of the building, especially since this property is located on a downward slope. This affects not only Manhattan Beach, but Hermosa, Redondo and South Torrance.
- **HEIGHT** - This is way over the height limit in Manhattan Beach and think it is extremely unfair to those properties on Rosecrans that will be greatly impacted by the potential loss of their view.
- **PARKING** - I assume the city parking at the corner of Rosecrans/Highland will be eliminated? 127 parking spaces is not enough. 27 bicycle spaces is definitely not enough in a city where almost all utilize a bike. We are stretched to the max in North Manhattan Beach for parking and taking away the city lot to build this project is unfair to the residents of MB and the businesses in North Manhattan.
- **DENSITY** - We are on top of each other as it is. This is not being thought out properly.

This being said, I understand that the state is imposing mandates on all cities to

increase housing. I do question whether the state really understands the ramification of their law. This is not the place for a 79 unit building.

Thank you for listening.

Best regards,

Catherine Strauss

From: [Alexandria Latragna](#)
To: [Carrie Tai, AICP](#)
Subject: FW: Highrose Apartment Project
Date: Monday, January 31, 2022 3:13:09 PM



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: Michelle and Neil Erickson
Sent: Monday, January 31, 2022 11:15 AM
To: List - City Council
Subject: [EXTERNAL] Highrose Apartment Project

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Mayor and Council Members,

I am concerned about the potential problems with parking and traffic in the already congested North Manhattan and El Porto neighborhoods if the proposed Highrose Apartment project goes forward. I urge you to follow the usual City of MB planning process and building restrictions in consideration of this project.

In our town, I hope community development decisions will be made at the local level and not be subjected to the State Legislature and the Governor's new density laws which do not consider the environmental impact in our specific neighborhoods.

Thank you for your consideration.

Michelle Erickson

From: [Alexandria Latragna](#)
To: [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Highrose / Bruce's Beach Events
Date: Monday, January 31, 2022 3:12:41 PM



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: Ted Iantuono
Sent: Monday, January 31, 2022 12:16 PM
To: List - City Council
Cc: Teddy Iantuono
Subject: [EXTERNAL] Highrose / Bruce's Beach Events

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Council Members:

I am writing to share my perspectives on 2 topics - the proposed development project on Rosecrans and Highland (Highrose) and the prospect of large scale events being held at Bruce's Beach.

Regarding Highrose, I am opposed to anyone in MB doing an end-around on our local zoning guidelines. Those guidelines are fundamental to protecting property values and the look and feel of our community. They are not perfect but they serve an important function. Every homeowner relies upon them when they purchase property in the area; My concern with the Highrose project is that the density will worsen traffic issues for any resident who passes through that area. The area already suffers from congestion and a lack of parking; this project would compound those problems. In addition to traffic issues, the project's inadequate parking will force the problem into neighboring areas, as these new residents (and their guests) will park and walk to make up for a lack of spaces at the Highrose development). I am also opposed to this project or any other being able to exceed the local height limits. Those limits are in place to protect real estate values of others, and to keep the charm of our community intact. The traffic and parking issues I've noted become even more problematic as the building becomes taller. Also, If this project is allowed to go forward, it will serve as a template for

others on how to circumvent a set of long standing zoning rules. Finally, cement and steel are one of the biggest contributors to CO2 emissions. Taller buildings mean more steel and cement, so this topic can also be considered an environmental concern with consequences that extend beyond the Manhattan Beach community. While we can't stop the rest of the world from moving towards vertical living in order to squeeze more value out of every buildable square foot of land, we don't need to break tradition (and current laws) to allow it to happen in Manhattan Beach.

As it relates to Bruce's Beach, I'm opposed to large gatherings of any sort in the area. This area also lacks parking, and it sits in an area that suffers from excessive traffic. There are other areas within the community that are better suited for people to peacefully gather in mass.

Thank you for your consideration.

Best, Ted

Ted Iantuono

tiantuono@verizon.net

310-487-6665

From: [Alexandria Latragna](#)
To: [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Highrose Development project
Date: Monday, January 31, 2022 3:12:23 PM

From: Judi Alves
Sent: Monday, January 31, 2022 12:41 PM
To: List - City Council
Subject: [EXTERNAL] Highrose Development project

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear council members,
I just heard that a 79 unit, 4 story apartment complex, is slated for development at the intersection of Rosecrans and Highland. Our beach community is already too crowded and adding to the density in the El Porto area would definitely be a travesty. That intersection is already too crowded; it's always backed up when I go north on Highland. Please, for the sake of MB residents, push back on the building of this project.
Thank you.
Judi Alves



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: [Alexandria Latragna](#)
To: [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Highrose Apartment Building (Rosecrans & Highland)
Date: Monday, January 31, 2022 3:11:58 PM

From: Elizabeth Lynch
Sent: Monday, January 31, 2022 2:15 PM
To: List - City Council
Subject: [EXTERNAL] Highrose Apartment Building (Rosecrans & Highland)

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Council Members-

We recently became aware of the proposed building plan for an apartment complex near Rosecrans & Highland. We are frustrated to learn Sacramento's laws are attempting to override what our city has deemed appropriate for our neighborhood. Our property located at 229 25th Place is very near to the location. I can assure you this intersection cannot handle additional traffic nor does it have parking to spare. To the extent you are able, we ask that you please push back against this project as well as any other project which is at variance with MB's building codes. Thank you for listening.

Elizabeth Lynch
Timothy Lynch



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: [Alexandria Latragna](#)
To: [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Highrose project
Date: Monday, January 31, 2022 3:10:59 PM

From: Toni Stafford
Sent: Monday, January 31, 2022 2:48 PM
To: List - City Council
Subject: [EXTERNAL] Highrose project

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

We are strongly opposed to this project and feel deceived that we never learned about it until 2 weeks ago nor did we receive anything in the mail regarding this tho it was stated that mailers were sent out. We own 3 SFR in MB, living here for 53 years and pay our taxes and live as good citizens. Hoping you will support our stand against this development,, Bruce and Toni Stafford



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
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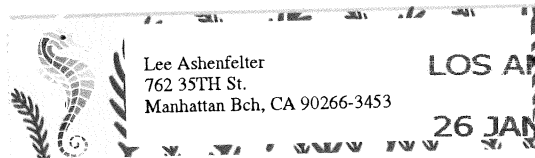
Dear Carrie Tai,

Please do not approve the new building at the site of Rosecrans and Highland Ave. It will increase the density in an area already congested with traffic and homes in close proximity to each other. There are other areas that could be used without being problematic.

Thank you for your consideration.

Sincerely,

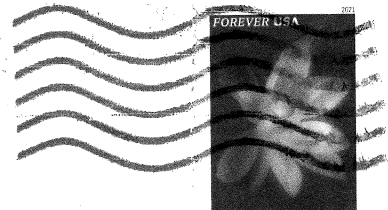
Lee Pat Ashenfelter



Lee Ashenfelter
762 35TH St.
Manhattan Bch, CA 90266-3453

LOS ANGELES CA 900

26 JAN 2022 PM 9 L



Carrie Tai
Community Development Director
1400 Highland Ave
Manhattan Beach, Calif

From: [Carrie Tai, AICP](#)
To: [Ted Faturus](#)
Subject: FW: City of Manhattan Beach: Highrose El Porto
Date: Tuesday, February 1, 2022 12:07:04 AM



CARRIE TAI, AICP
DIRECTOR OF COMMUNITY DEVELOPMENT

310-802-5503
ctai@manhattanbeach.gov

The City of Manhattan Beach continues to care about your health and safety. The [Citizen Self Service \(CSS\) Online Portal](#) is available for City permit and planning applications and inspections. Most Community Development services are available [online](#) and various divisions can be reached at (310) 802-5500 or [Email](#) during normal City business hours.

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
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From: CityOfManhattanBeach@manhattanbeach.gov
<CityOfManhattanBeach@manhattanbeach.gov>
Sent: Tuesday, February 1, 2022 12:05 AM
To: Carrie Tai, AICP <ctai@manhattanbeach.gov>
Subject: City of Manhattan Beach: Highrose El Porto

You have received this link from Burt L Fuller <burtfuller@hotmail.com> for the following page:

<https://www.manhattanbeach.gov/departments/community-development/planning-and-zoning/current-projects-programs/highrose-el-porto>

A Project of this size and scope, being thrust upon the residents of North Manhattan and El Porto, can not and must not be approved! Allowing a 4 story, 79 Unit structure containing 133 Bedrooms, with 2 levels of subterranean parking, will severely impact an already densely populated area of the city and create a precedent that could change this community for ever. This would be equivalent to approximately 45 new homes going up in this area. Our community can not absorb such an influx! Allowing a project like Highrose to enter a quaint

community like El Porto would be like channeling water onto a slippery slope. If this project receives the green light, it would not be long before other older properties along the Highland corridor be gobbled up and developed. Using the same established formula, the Highrose developers are employing, more 3-4 story apartment units could be built on a small footprint by classifying a few units as low income and be able to side step local building restrictions. On Highland Ave. in El Porto, there are a number of properties that are waiting for the right offer to be picked up and developed. Is El Porto going to become the new High Rise, High Density section of Manhattan Beach? In addition, the already stressed traffic and parking issues here in the North End would be severely impacted during a probable 2 year construction period. Where will all the large rigs be traveling? Dirt Haulers on Highland? Cement Mixers backed up on Rosecrans? And then following construction with close to 150 new residents plus their friends, family and guests, what would the traffic plan be? I can only imagine what our small, one way back street of Crest would become. The impact of this project to the residents of our community, by developers and decisions makers who do not live in this area shows a total lack of respect for the hundreds or perhaps thousands who will be transported to an entirely new style of neighborhood. Some major corporation will be getting rich, while our property values will shrivel. This is not a good plan. Our elected officials must be made aware that our concerns need to be heard and our neighborhoods must to be protected from money-hungry moochers who have no stock in the area we call home. The decision to move forward on the terrible project is scheduled to be made in the 1st week of February. If the decision is to move forward, there is a 15 day appeal process to formally contest. For those who are opposed to this plan being shoved into our neighborhood, a strong, committed and Unified effort will be needed to push back on this total error in judgement by our city. Burt Fuller El Porto Resident 801,580-1457

CITY OF MANHATTAN BEACH
CITY ENOTIFICATION

(310) 802-5000
CityofManhattanBeach@manhattanbeach.gov

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From: [Alexandria Latragna](#)
To: [Ted Faturros](#); [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Please no high rise on Rosecrans
Date: Tuesday, February 1, 2022 11:05:44 AM

Alexandria Latragna
Policy and Management Analyst
(310) 802-5063
alatragna@manhattanbeach.gov

City of Manhattan Beach, CA

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-----Original Message-----

From: Wally Miglin <kpmiglin@gmail.com>
Sent: Tuesday, February 1, 2022 10:45 AM
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Please no high rise on Rosecrans

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Kathy and Wally Miglin

From: [Alexandria Latragna](#)
To: [Ted Faturos](#); [Carrie Tai](#), AICP
Subject: FW: [EXTERNAL] Unfair and Illegal 84 unit building proposed at Rosecrans and Highland
Date: Tuesday, February 1, 2022 11:06:05 AM



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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From: gifford cast <giff1@pacbell.net>
Sent: Tuesday, February 1, 2022 9:59 AM
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Unfair and Illegal 84 unit building proposed at Rosecrans and Highland

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I am surprised that our elected representatives, the City of Manhattan Beach and adjacent communities have allowed this project to continue. I would like to speak at one of the public meetings at the City when, or if, this project will be discussed. As already noted, projects of this kind violate all the laws and honest public work done since the incorporation of Manhattan Beach in 1911. The result will continue to be more people moving out of Manhattan Beach and California. I am sure that will please Gavin Newsome and the State Legislators. We have no representation ! Gifford Cast

From: [Alexandria Latragna](#)
To: [Ted Faturus](#); [Carrie Tai](#), AICP
Subject: FW: [EXTERNAL] The residential attack is coming
Date: Tuesday, February 1, 2022 11:06:45 AM
Attachments: [rebwinter_22.pdf](#)

From: Ray Joseph
Sent: Tuesday, February 1, 2022 9:13 AM
To: List - City Council ; citycouncil@hermosabeach.gov; bill.brand@redondo.org
Subject: [EXTERNAL] The residential attack is coming

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The California Department of Real Estate (not realtors) is studying ways to replace commercial properties with residential. We have to have a plan to defend our city. The state's plan is simple, find ways to eliminate local zoning and take complete control. Read page 10 of the attached PDF to see the information on the studies.

What California fails to understand is jobs drive real estate values. We are one of the largest states with lots of open land. We need to drive more businesses and workers inland where there is open land. When I was at Apple we moved our distribution center from silicon valley to Austin. These were low paying non-specialized workers compared to engineers and product design people. If California would recruit less specialized industries and workers inland they would free up real estate near the high-end businesses.

California Laws Make Real Estate More Expensive

However, programs like Rent Control actually make housing more expensive and less available. I sold a property where there is a 2 bedroom unit with panoramic ocean views a couple blocks to the beach where the rent is \$1700/month. The tenant will never leave, reducing housing supply and driving rents up, supply and demand econ 101. Title 24, water conservation, initiatives to go all electric, etc. makes real estate far more expensive. In Hermosa Beach a friend is building a SFR on a 2100 sqft lot and is required to install a \$30,000 water recapture system to water maybe 150 sqft of yard, that's over a 125 year ROI. The water desalination plant in El Segundo was canceled because "there is plenty of water." If we have plenty of water, then why require a \$30,000 water recapture system for a couple plants. Contractors and manufactures love Title 24 because of the profits they make but it makes our housing far more expensive.

Population Changes impacts available housing

Creating incentives for illegal immigrants to enter California reduces housing. Programs like free healthcare for illegal immigrants. "[The Public Policy Institute of California](#), citing state government data, reports that California's population grew by only 6.5% from 2010 to 2020 -- less than the national average of 6.7%. Were it not for the 1.5 million legal international immigrants who moved into the state over the course of that decade, California's population would have declined earlier." We are swapping high value tax payers for people that take resources and reduce available housing. If these 1.5 million illegal immigrants were not here we would have more available housing.

<https://www.msn.com/en-us/money/realestate/where-people-from-california-are-moving-to-the-most/ss-AAN9Xmi>

Government is a contradiction, they want cheaper housing but do many things to make it less available and more expensive. We need to have a plan to combat future changes to protect our cities.

Thanks,
Ray Joseph
Palm Realty Boutique
401 Manhattan Beach Blvd
Manhattan Beach CA 90266
DRE #01397157
310-545-7295
Ray@RayJoseph.com

The highest compliment my clients can give me is a referral of their friends, family and business associates.



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

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Real Estate Bulletin

DEPARTMENT OF REAL ESTATE

Winter 2022

Vol. 80, No. 4

P.4 Summary of New Real Estate Laws | P.9 California Mortgage Relief Program Launched



**Real Estate Commissioner
Douglas R. McCauley**

Commissioner's Update

Discrimination and implicit bias are long-standing problems in real estate, with both historic and contemporary consequences. From redlining to advertising practices, such discrimination has profoundly deleterious effects by denying people's right to both housing and economic opportunity. To truly commit to Governor Gavin Newsom's vision of a California for All, it is critically important that we all engage in a healthy self-examination of how we approach our work and interactions with others.

Recognizing the pervasiveness of inequality in real estate, the California Association of Realtors recently sponsored legislation (SB 263, Rubio) signed by the Governor that, beginning January 1, 2023, requires additional pre-licensing and continuing education course content focused on implicit bias and fair housing. This significant legislation ensures that licensees will have the requisite knowledge to increase their awareness of implicit bias and to abide by fair housing laws. But this alone may not be sufficient to adequately address such a complex problem. It is crucial that we all strive to truly educate ourselves about these dynamics.

(CONTINUED ON PAGE 3)

DRE Settles Hundreds of Cases in one of the Largest Enforcement Actions in 100+ year history

Pre-licensing and continuing education requirements are important backbones of real estate licensing that help protect consumers. So, DRE takes seriously any attempt to fraudulently cheat the system.

For nearly a year, DRE investigators worked with counterparts in more than 40 other states to investigate a scheme involving a San Diego County-based education course provider named Real Estate Education Services (REES) and its owner Danny Yen. That investigation has now resulted in settlements with more than 320 DRE licensees who also hold Mortgage Loan Originator (MLO) endorsements. With that endorsement, DRE licensees can originate mortgage loans.

Investigators determined that the scheme involved MLOs deceptively claiming to have completed either pre-licensing or continuing education courses as required by the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act).

Nationally, investigators looked at more than 600 MLOs, 441 of whom signed settlements. These MLOs, including those here in California, agreed to surrender their licenses for a period of three months, pay a fine of \$1,000 for each state in which they hold a license, and take pre-licensing and continuing education courses beyond SAFE Act requirements.

Three hundred and twenty-four of the settlements involved MLOs licensed by DRE, with penalties totaling \$324,000. DRE will be opening cases and proceeding with disciplinary action against MLOs that did not settle.

DRE also has filed an accusation against Mr. Yen and REES. The accusation alleges that REES completed online pre-licensure courses for numerous students and issued continuing education course completion certificates to DRE licensees even though they failed to take, complete, and successfully pass DRE-authorized final exams. The California Department of Financial Protection and Innovation (DFPI) led the nationwide investigation, and has taken administrative action against Yen as well, issuing a Citation and a Desist and Refrain Order.

Congress enacted the SAFE Act in 2008 to enhance consumer protection and reduce fraud through minimum standards for the licensing and registration of state-licensed mortgage loan originators. California enacted its own version of the SAFE Act in 2009, and requires mortgage loan originators to have at least 20 hours of pre-licensing education and an annual eight hours of continuing education.

As the results of this investigation demonstrate, DRE is steadfast in its commitment to enforcing all laws related to the practice of real estate to help protect California consumers.

(CONTINUED ON PAGE 11)



REAL ESTATE BULLETIN

Official Publication of the California Department of Real Estate
Vol. 80, No. 4 – Winter 2022

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Gavin Newsom, *Governor*

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

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Douglas R. McCauley, *Real Estate Commissioner*

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Bradley Evans
Joanne Van

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SACRAMENTO PRINCIPAL OFFICE

Tricia Parkhurst, *Supervising Special Investigator II*
1651 Exposition Blvd., Sacramento
Mailing Address:
P.O. Box 137011
Sacramento, CA 95813-7001
Consumer Information: (877) 373-4542

OAKLAND DISTRICT OFFICE

Vacant *Supervising Special Investigator II*
1515 Clay St., Suite 702
Oakland, CA 94612-1462
Consumer Information: (877) 373-4542

CENTRAL ENFORCEMENT AREA—DISTRICT OFFICES

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Brenda Smith, *Supervising Special Investigator II*
2550 Mariposa Mall, Suite 3070
Fresno, CA 93721-2273
Consumer Information: (877) 373-4542

SOUTHERN ENFORCEMENT AREA—DISTRICT OFFICES

LOS ANGELES

Maria Suarez, *Supervising Special Investigator II*
320 West 4th St., Suite 350
Los Angeles, CA 90013-1105
Consumer Information: (877) 373-4542

SAN DIEGO DISTRICT OFFICE

Veronica Kilpatrick, *Supervising Special Investigator II*
1350 Front St., Suite 1063
San Diego, CA 92101-3687
Consumer Information: (877) 373-4542

SUBDIVISIONS NORTH—SACRAMENTO DISTRICT OFFICE

Christina Park, *Supervising Special Investigator II*
1651 Exposition Blvd., Sacramento
Mailing Address:
P.O. Box 137005
Sacramento, CA 95813-7005
Consumer Information: (916) 576-3374

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Joseph Aiu, *Subdivisions Statewide Compliance*
320 West 4th St., Suite 350
Los Angeles, CA 90013-1105
Consumer Information: (213) 576-6983

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2022 Real Estate Law




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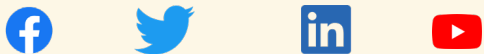
COMMISSIONER'S UPDATE (CONTINUED FROM PAGE 1)

Housing discrimination is especially troubling not only because it limits the opportunity for housing, but also because it often leads to life-long impacts on education, health, and employment.

As Commissioner, I am unwaveringly committed to ensuring that all consumers are provided equitable services from our licensees. In cooperation with our partners at the Office of the Attorney General and the Department of Fair Employment and Housing, the State of California aggressively pursues criminal, civil, and disciplinary actions against persons who engage in housing and employment discrimination. Licensees who commit such abhorrent violations should know that we will vigorously pursue all available enforcement remedies to hold them accountable.

The beauty of California's tapestry of diversity is a tremendous strength. And its benefits can only be fully realized if we all are committed to a State that serves everyone equitably. SB 263 is an important step in sharing the vast and rewarding opportunities available in the Golden State with everyone. Please continue to do your part to ensure that our California is one in which we can all thrive and prosper. ■  @DougMcCauleyDRE

Connect with DRE on Social Media



Looking to stay updated on DRE news? Follow us on social media for helpful and timely information, along with tutorial videos, new DRE resources, and more.

Recent posts include:

- What to Expect on Exam Day
- Materials to Gather Before You Apply for Your California Real Estate License
- Summary of 2022 New Laws

Scan the QR code below to get started! ■



Summary of New Real Estate Laws

Below are summaries of new state laws that affect real estate licensees and applicants. Unless otherwise noted, the laws took effect January 1, 2022.

- Assembly Bill (AB) 107 requires that the Department of Real Estate collect information about military, veteran, and spouse license applications, including the number of expedited license applications, the number of expedited licenses issued and denied per calendar year, and the average length of time between application and expedited license issuance. DRE will submit an annual report to the Legislature.
- AB 502 allows homeowners associations (HOAs), regardless of size, to elect by acclamation candidates for the board of directors, if the number of candidates is no greater than the number of vacancies. To do so, the HOA will have to meet increased noticing provisions, have had a regular election in the past three years, confirmed receipt of a candidate nomination, and provided a disqualified nominee the opportunity to appeal. The HOA board must also consider the vote by acclamation at a meeting where the agenda includes the name of each candidate to be elected in that manner.
- AB 830 allows real estate licensees who change their legal surname from the name under which the license was originally issued to continue to use their former surname for business purposes. The bill also provides that the former last name does not constitute a fictitious name prohibited under real estate law. The licensee must file both the new and previous name with DRE.
- Beginning July 1, 2022, AB 838 requires that a city or county inspect a property if it receives a complaint about lead hazards or substandard living conditions. Upon inspection, it will have to advise the property owner of violations and required remedies, and then re-inspect the property. Among other provisions, AB 838 provides that an inspection not be conditioned on a tenant being current on rent or other factors. Inspection fees cannot be charged, unless substandard conditions or lead hazards are found.
- AB 948 creates the Fair Appraisal Act. Among its provisions, every sales contract for real property made after July 1, 2022, must include a notice stating that the property appraisal must be unbiased, objective, and not influenced by specific factors, including: race, color, religion, gender, sexual orientation, marital status, medical condition, military or veteran status, national origin, source of income, ancestry, disability, genetic information, or age. The notice will also include information on actions a buyer or seller can take if they believe an appraisal has been affected.

Department of Real Estate licensees, among other professions, will be required to deliver this same notice when involved in the refinancing of a residential real estate property of up to four units.
- AB 1101 modifies current financial practices and insurance requirements for homeowners associations (HOAs) in common interest developments. The bill prevents managing agents from investing HOA funds in stocks or high-risk investments, and removes the ability to co-mingle funds, among other provisions. The bill also requires HOAs and their managing agents to maintain crime insurance, employee dishonesty insurance, and fidelity bond coverage, or their equivalents.

(CONTINUED ON PAGE 9)



DRE Works to Curb Unlicensed Activity

In addition to focusing on consumer protection through the licensure, regulation, and education of real estate licensees, DRE also places great emphasis on ensuring that consumers, licensees, and others in the industry are protected from those who practice without a license. The recent outcomes of two cases demonstrate DRE's commitment to this effort.

Unlicensed Property Manager Barred from Real Estate Activity for Three Years

Sze Yu “Danny” Ma had been conducting property management activities, including collecting rents, for over 30 properties within a retirement community in the Sacramento area without a real estate license.

Ma's actions were aggravated by a prior Order to Desist and Refrain filed by DRE (then, CalBRE) in 2017 for conducting property management without a real estate license in the same retirement community.

On March 4, 2021, DRE filed an Order to Desist and Refrain against Ma, and issued him 32 citations with fines amounting to \$80,000, for conducting unlicensed property management activities. Effective November 2, 2021, Ma has been barred for three years by DRE from holding any employment or management position in a real estate business. The order also prohibits him from participating in any real estate-related activity of a finance lender, bank, escrow company, or title company (B&P Code section 10087).

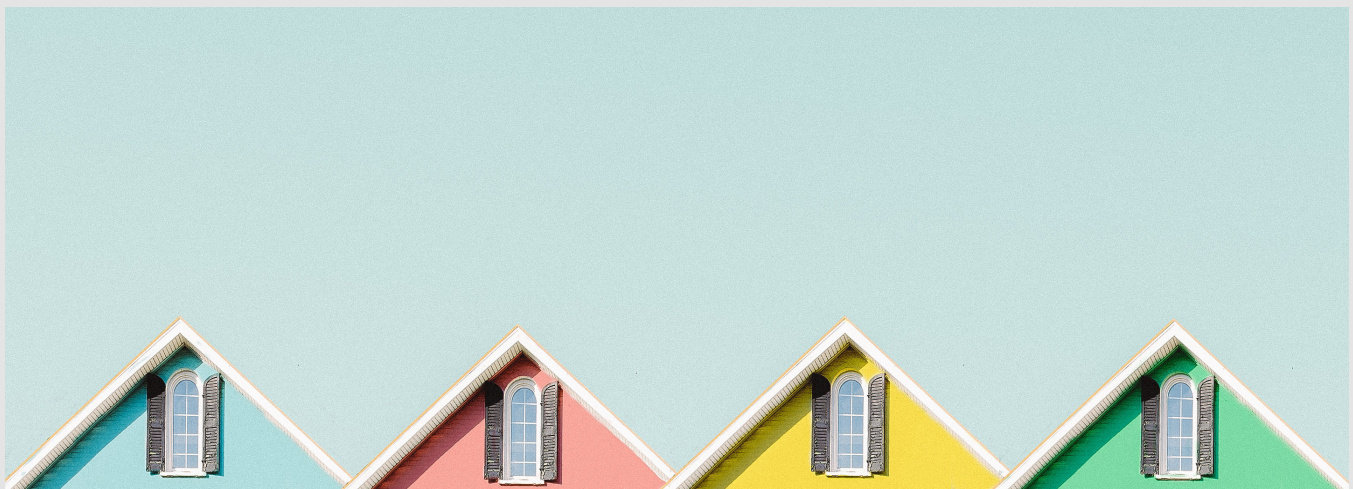
Illegal and Unlicensed Loan Modifications Result in Jail Sentence

Amy A. Agtarap, who operated without a license, had been illegally soliciting loan modification services from consumers, collecting advance fees ranging from \$1,800 to \$4,500 from victims who already faced financial hardship. Many of these victims ended up losing their homes. On September 8, 2017, DRE (then, CalBRE) filed an Order to Desist and Refrain against Agtarap.

DRE continued to investigate Agtarap, along with law enforcement partners and other government agencies, including the Monterey County District Attorney's Office, Social Security Administration, Department of Defense, and Air Force Office of Special Investigations. The results of the investigation led Monterey County to file criminal charges against Agtarap, which, in addition to her illegal loan activities included fraudulently claiming a disability and collecting disability pay.

On November 4, 2021, Agtarap was sentenced to 3 years and 4 months in the Monterey County jail after a jury found her guilty of 12 felonies, including counts of grand theft and forgery. She will also be ordered to pay restitution to her victims.

DRE will continue to use all available tools and resources, including working with law enforcement partners, to help protect consumers from unscrupulous, unlicensed actors. If you encounter any unlicensed activity, please report it to DRE via our online complaint system. ■



New Implicit Bias Training & Fair Housing Course Requirements

Last year, Governor Gavin Newsom signed Senate Bill 263 into law, which alters the courses needed to qualify to take a real estate exam, as well as the continuing education course requirements for licensees as part of an effort to address the history and legacy of housing discrimination in California.

Beginning January 1, 2023, SB 263 modifies the content of two pre-license courses required to qualify to take either the real estate salesperson or broker license exam. The real estate practice course must include a component on implicit bias and the legal aspects of real estate course must include a component on federal and state fair housing.

Also beginning January 1, 2023, the required continuing education course for salespersons and brokers on fair housing must include an interactive participatory component and a new two-hour implicit bias continuing education course will be required.

The bill's author, Senator Susan Rubio, cited statistics from a 2020 Greenlining Institute report that showed while the overall homeownership rate in California in 2017 was close to 55 percent, the Black homeownership rate was only 35 percent and the Latinx homeownership rate was just 42 percent. Other studies show that similar homes with similar amenities in Black-majority neighborhoods are worth 17.1 percent less in the Los Angeles Area and 27.1 percent less in the Bay Area when compared to other neighborhoods.

Implicit bias has been described as “referring to relatively unconscious and relatively automatic features of prejudiced judgment and social behavior.” In voicing their support for this legislation, the California Association of Realtors noted that “studies show that all people suffer from different unconscious biases that affect our decision making process.”

Because these biases are often unrecognized and difficult to overcome they can influence behavior in business settings. And, as C.A.R. commented, “unfortunately, when displayed in the real estate industry, unconscious bias can and does lead to the exacerbation of housing discrimination in our state.” The goal of the new trainings is to help license applicants and licensees better recognize these tendencies and to help ameliorate their consequences.

While the Department of Real Estate does not offer these courses, it does review an applicant's education to ensure they meet the minimum requirements, and approves pre-license and continuing education courses submitted by private course providers. Staff have already begun to work with private course providers to ensure that applicants and licensees will have sufficient time to complete the newly approved courses prior to January 1, 2023. ■



Help Your Sellers and Buyers be Water Smart

While California has seen a good amount of rain and snow so far this year, experts agree that it has not been enough to end our State's long drought. So, all of us must keep doing our part to help save water.

As a licensed real estate agent, one way you can help is to encourage your clients to make water conservation upgrades and ensure they are not wasting water. It's water smart, responsible, and can make a single family home more valuable.

Plus, if the homeowner makes improvements or alternations to the property that require a building permit, they must replace all noncompliant plumbing fixtures with water-conserving fixtures. Fixtures not up to code must be disclosed to the buyer on the Transfer Disclosure Statement (Civil Code Section 1101.4). There are similar requirements for multifamily residential real property and commercial real property (Civil Code Section 1101.5). Under Civil Code section 1101.8, cities, counties, or retail water suppliers may have even stricter requirements.

Here are some simple tips you can recommend to both sellers and buyers:

Saving Water Inside

- Encourage clients shopping for a new washing machine to compare resource savings among Energy Star models – some can save up to 20 gallons of water per load. Also, make sure they check the Consortium for Energy Efficiency website to compare the water use of various models.
- Be sure clients test toilets for leaks. One simple way is to put food coloring in the toilet tank; if it seeps into the bowl without flushing, there's a leak. Also, have them check the toilet flapper; if it doesn't close properly after flushing, it needs to be replaced.
- Encourage clients to upgrade older toilets, especially those installed before 1992, with water-saving WaterSense® labeled models.
- Ask clients to consider installing dual-flush toilets with two flush options: a half-flush for liquid waste and a full-flush for solid waste.
- Clients also should check faucets and showerheads for leaks. One drip every second adds up to five gallons of water per day wasted. Leaking devices should be replaced with new WaterSense® labeled devices.

Saving Water Outside

- When upgrading landscape, encourage your clients to consider xeriscaping, which depends on low-water-use plants. See homeowner landscape upgrade videos at: <https://saveourwater.com/en/Upgrade-Your-Yard>.
- Encourage clients to spread two-to-four inches of organic mulch around plants, which helps them retain moisture and can save hundreds of gallons of water a year.
- Make sure your clients adjust sprinklers so that they water only the yard and not the house, sidewalk, or street.
- Suggest drip irrigation for shrubs and trees that applies water directly to the roots, where it's needed.
- Make sure clients check outdoor faucets, pipes, hoses, and sprinkler system valves for leaks, and that they keep sprinkler heads in good shape.

For more water saving tips for inside and around your client's home see: <https://saveourwater.com>. For California laws regarding the installation of water use efficiency improvements, see Civil Code Sections 1101.1 – 1101.9. ■





Partial List of DRE Publications

DRE offers many publications on topics of interest to applicants, licensees, and consumers. All DRE publications are available online and can be ordered by mail by submitting a Publications Request (RE 350)

Consumer Publications

- **Finding the Right Real Estate Agent: What You Should Do**
Spanish Chinese
- **Preventing Real Estate Fraud: How to Protect Yourself and Your Home**
Spanish Chinese
- **Sources of Home Loans**
Spanish Chinese
- **Surviving the Real Estate Process in California**
Spanish Chinese
- **A Consumer Guide to Filing Real Estate Complaints**
Spanish Chinese
- **California Tenants—Guide to Residential Tenants' and Landlords' Rights and Responsibilities**
Spanish
- **Quick Guide for Tenants Renting a Home**
- **Financial Sense to White Picket Fence**
Spanish Chinese
- **A Consumer Guide to Mortgage-Related Complaints**
Spanish Chinese
- **A Homeowner's Guide to Foreclosure in California**
Spanish Chinese
- **Fraud Warning for California Homeowners in Financial Distress**
Spanish Chinese
- **Loan Modification Self-Help Guide**
Spanish Chinese
- **Reverse Mortgages: Is One Right for You?**
Spanish Chinese

Applicants/Licensees

- **2022 Real Estate Law Book**
- **Obtaining a California Real Estate Salesperson License**
- **Obtaining a California Real Estate Broker License**
- **Obtaining a Mortgage Loan Originator License Endorsement**
- **Real Estate Advertising Guidelines**
- **Broker Compliance Evaluation Manual**
- **Mortgage Loan Broker Compliance Manual**
- **Disclosures in Real Property Transactions**
- **Trust Funds**

Subdivisions

- **A Guide to Understanding Residential Subdivisions**
- **Residential Subdivision Buyer's Guide**
- **Subdivision Public Report Application Guide**
- **Subdivisions Online Public Report Application System Guide**
- **Timeshare Manual**
- **Operating Costs Manual for Homeowner Associations**
- **Reserve Study Guidelines for Homeowner Association Budgets** ■



California Mortgage Relief Program Launched



Do you have a client or know someone who has struggled to keep up with their mortgage payments because of financial difficulties related to COVID-19?

Starting in January 2021, the California Mortgage Relief Program began to accept applications to help California homeowners catch-up who have fallen behind on their housing payments because of the pandemic.

The program will cover past due mortgage payments in full as a one-time grant – up to \$80,000 per household – with a direct payment to the homeowner’s mortgage servicer. There is no cost to participate and the money does not need to be repaid.

To qualify for mortgage relief an applicant must be at or below 100 percent of their county’s area median income (the program website has an AMI calculator), own a single-family home, condo, or permanently affixed manufactured home in California, and have experienced a pandemic-related financial hardship after January 21, 2020. Applicants must also meet at least one of the following criteria:

- Receive public assistance; or

- Be severely housing burdened; or
- Have no alternative mortgage options through their mortgage service provider.

California received \$1 billion from the federal Homeowner Assistance Fund for this program. The money will be disbursed to qualified homeowners until the funds are allocated, with a projected end date of 2025. While there is no strict deadline to apply, homeowners in need should apply as soon as possible.

In addition, the homeowner’s lender must participate in the program. Please encourage any servicers you work with to join this important relief program.

Even if the foreclosure process has started, there may still be time to seek help. In addition to the California Mortgage Relief Program website, you can find additional information about mortgage relief options and frequently asked questions on the HousingIsKey website. California homeowners facing potential foreclosure are also encouraged to contact their mortgage service provider or a HUD-certified counselor at 800-569-4287. ■

SUMMARY OF NEW REAL ESTATE LAWS (CONTINUED FROM PAGE 4)

- AB 1466 changes the Restrictive Covenant Modification process. Among these changes are increasing the types of people and entities that can request a modification, expanding current notices to include information on how to request a modification, and requiring that professionals involved in property sales inform buyers and sellers about an existing restrictive covenant and increasing their duty to assist in filing a modification. In addition, the bill creates a new \$2 fee on real estate instruments subject to the SB 2 (Atkins, Chapter 364, Statutes of 2017) recording fee to fund redaction work.
- Beginning January 1, 2023, Senate Bill (SB) 263 modifies the content of two courses required to take either the real estate salesperson or broker licensing exam. The real estate practice course will include a component on implicit bias and the legal aspects of real estate course will include a component on federal and state fair housing.

Also beginning January 1, 2023, the required continuing education course for salespersons and brokers on fair housing will include an interactive participatory component and a new two-hour implicit bias continuing education course will be required.

- SB 800 extends the sunset date for both the Department of Real Estate and the Bureau of Real Estate Appraisers to January 1, 2026. The measure also allows the Department of Real Estate to use debarment notices issued by sister agencies as grounds for action, codifies the current policy of expediting license applications for veterans and partners of members of the Armed Forces, and clarifies the definition of a real estate license in good standing. ■

DRE-Funded Studies on Commercial to Residential Conversions

Each year the Department of Real Estate dedicates funds for the advancement of real estate education and research.

Most recently, DRE funded a series of studies from the Turner Center for Housing Innovation at the University of California, Berkeley centered on how the conversion of commercial zoned properties to residential use could help alleviate California's housing shortage. A companion study focused specifically on the possibilities of adaptive reuse – the repurposing of existing commercial structures to residences.

Collectively, the studies highlight the conditions under which converting commercially zoned land to residential use is feasible. The authors recommend that local jurisdictions update existing zoning plans to better facilitate multifamily housing on commercial land, and that state and regional governments provide technical assistance to municipalities that lack the capacity to undertake such reforms.

The continued housing crisis in California, combined with the move away from brick-and-mortar retail to e-commerce and the growing popularity of telework as part of the response to Covid-19, has intensified interest in how to increase the supply of housing on commercially zoned land.

The first study, *Residential Redevelopment of Commercially Zoned Land in California* (December 2020), provided an inventory of commercially zoned land in four major metro

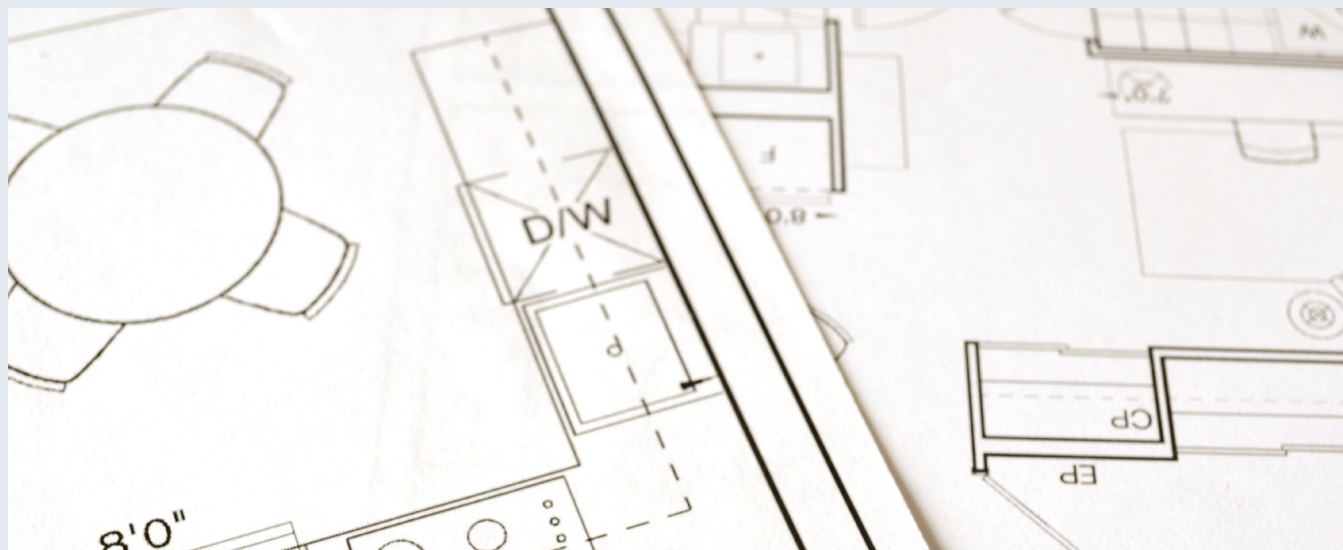
areas (Los Angeles, Sacramento, San Francisco, and San Diego).

The report found that approximately 40 percent of commercial zones in these regions do not allow residential development. And, in the 60 percent that do allow housing, many localities have complex and varied entitlement and approval processes that can impede residential development.

The second study, *Strip Malls to Homes: An Analysis of Commercial to Residential Conversations in California* (November 2021), concluded that if commercial conversions over the next five years follow the same trends as between 2014 and 2019, the state's four major metro areas would gain only about 4 percent of each region's state-determined housing goals.

Lastly, the companion study on adaptive reuse, *Adaptive Reuse Challenges and Opportunities in California* (November 2021), identified the specific architectural, financial, and policy factors that are most likely to determine the viability of adaptive reuse for sites with existing commercial buildings. This study includes case studies of a number of successful conversions throughout the state.

The research in these studies will provide essential data and context about an important option as state and local policymakers continue to identify strategies to address California's housing crisis. ■



Fast, Efficient, and Easy to Use - Online Applications Now Available

Officially launched on October 1, 2021, DRE's new Online Exam License Application (OELA) allows electronic submission of salesperson or broker real estate exam or exam/license applications through eLicensing. Users can also upload any necessary documents and pay the required fees online.

OELA is fast, efficient, and eliminates the need to print and mail a paper application and supporting documents. It also provides step-by-step instructions to guide users through the application process, and requires that an application be fully complete before it can be submitted. If a deficiency is identified during processing, DRE will email applicants with information about how to resolve the issue electronically, significantly reducing mail and processing time.

DRE's helpful video, *Materials to Gather Before You Apply for Your California Real Estate License*, reviews the information and documents needed to apply through OELA to either take the real estate exam or submit an application for both the real estate exam and license.

Users can also check the status of their application online from the time they begin the electronic application through to when DRE has processed and approved it. Once DRE approves an application, the applicant will receive an email message that they can use eLicensing to schedule their real estate exam.

Since OELA's official launch the volume of paper applications received by DRE has sharply decreased, along with the number of applications with deficiencies or missing information. This new streamlined process allows DRE staff to focus on processing applications, thus reducing both processing timeframes and the time an otherwise eligible applicant must wait to schedule and take their real estate exam.

Although OELA has only been available a few short months, it has already become a valuable addition to DRE's many online licensing services, and underscores DRE's commitment to improving its processes through innovative strategies and the continued use of technology. ■

DRE SETTLES HUNDREDS OF CASES (CONTINUED FROM PAGE 1)

Additional Information

- **National Press Release**

<https://www.csbs.org/newsroom/state-regulators-settle-hundreds-mortgage-loan-origiators-over-safe-act-education>

<https://www.csbs.org/print/pdf/node/372281>

- **More Background Info**

<https://www.csbs.org/sites/default/files/2022-01/REES%20Background%20Document%20-%20Public.pdf>

- **California Safe Act**

<https://www.dre.ca.gov/licensees/safeact.html>

- **California Safe Act FAQs**

https://www.dre.ca.gov/files/pdf/faqs/SAFE_FAQ_NMLS_PE1.pdf

- **DRE Accusation**

https://www2.dre.ca.gov/hearingfiles/H05266SD_211217_P.pdf

- **DFPI Citation and Desist and Refrain Order**

<https://dfpi.ca.gov/wp-content/uploads/sites/337/2022/01/Citation-DR-Yen-Danny-dba-Real-Estate-Educational-Services.pdf> ■



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INSIDE THIS ISSUE

For all the latest real estate information for consumers, licensees, examinees, and developers, visit the DRE website and follow us on Facebook and Twitter.

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Page

- 1 – Commissioner’s Update
- 1 – DRE Settles Hundreds of Cases in one of the Largest Enforcement Actions in 100+ Year History
- 4 – Summary of New Real Estate Laws
- 5 – DRE Works to Curb Unlicensed Activity
- 6 – New Implicit Bias Training & Fair Housing Course Requirements
- 9 – California Mortgage Relief Program Launched
- 11 – Fast, Efficient, and Easy to Use - Online Applications Now Available

We’d like to hear from you!



Email us at editor@dre.ca.gov



From: [Neil Leventhal](#)
To: [Hildy Stern](#); [Steve Napolitano](#); [Richard Montgomery](#); [Suzanne Hadley](#); [Joe Franklin](#); [Carrie Tai, AICP](#); [Ted Faturos](#); [Bruce Moe](#); [City Clerk](#)
Subject: [EXTERNAL] Re: City Council Meeting February 1, 2022, Agenda item 16 - OPPOSE El Porto Development Plan
Date: Tuesday, February 1, 2022 4:52:46 PM

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

Dear Mayor Stern and Council,

I am writing to oppose the proposed high-rise project in El Porto.

Simple math indicates that the Affordable Housing benefits of the proposed development are almost non-existent, and not sustainable — six units addresses a tiny percentage of the requirements, which means it would have to be repeated dozens of times — but would eviscerate building height limits, leap frog appropriate CEQA considerations and set precedent in one quick step.

“Affordable housing” and “beach” are inherently in conflict, and the closer to the beach the greater the obstacles — solutions are much more likely, practical and on Aviation than on the Strand. Whatever the solutions may be — I’m not sure what solutions are, and I certainly am not familiar enough to suggest at this point — but this is clearly not one of them.

Thank you.

Neil Leventhal
NL@LMA-web.com

128 13th. St.
Manhattan Beach, CA 90266

From: [Alexandria Latragna](#)
To: [Ted Faturus](#); [Carrie Tai, AICP](#)
Subject: FW: [EXTERNAL] Highrose apartment Complex
Date: Tuesday, February 1, 2022 5:10:39 PM

From: debra consani <debraconsani@gmail.com>
Sent: Tuesday, February 1, 2022 4:29 PM
To: List - City Council <CityCouncil@manhattanbeach.gov>
Subject: [EXTERNAL] Highrose apartment Complex

CAUTION: This Email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

I want to register my vote NOT to build this Complex. It will create more congestions on Rosecrans and Highland which is already a problem. Also, the fac that it can go through approvals without Environmental review is a huge concern as well.

Thank you.

Debra Consani



ALEXANDRIA LATRAGNA
POLICY AND MANAGEMENT ANALYST

(310) 802-5063
alatragna@manhattanbeach.gov

CITY OF MANHATTAN BEACH 1400 Highland Avenue Manhattan Beach, CA 90266
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Reach Manhattan Beach Here for you 24/7, use our click and fix it app
Download the mobile app now

