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10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **SAN FERNANDO VALLEY DIVISION**

13 In re) Case No. 1:18-bk-10096-MB

14 GORDON ST. CONDOS LLC,) Chapter 11

15 Debtor.)

16 **DEBTOR'S MOTION FOR ENTRY OF AN**
17 **ORDER (1) AUTHORIZING SALE OF**
18 **PROPERTY FREE AND CLEAR OF ALL**
19 **LIENS, CLAIMS, ENCUMBRANCES AND**
20 **OTHER INTERESTS; (2) APPROVING**
21 **OVERBID PROCEDURE; AND (3)**
22 **GRANTING RELATED RELIEF;**
23 **MEMORANDUM OF POINTS AND**
24 **AUTHORITIES; DECLARATION IN**
25 **SUPPORT THEREOF**

26 Hearing:

27 Date: March 13, 2018

28 Time: 1:30 p.m.

Place: Courtroom 303

21041 Burbank Blvd.

Woodland Hills, California 91367

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1 Gordon St Condos, LLC, the debtor and debtor in possession in the above-captioned
2 chapter 11 bankruptcy case (the “Debtor”), hereby files this motion (the “Motion”) for entry of
3 an order of the Court: (A) pursuant to 11 U.S.C. § 363 authorizing the Debtor sell the real
4 property located at 1200-1202 Gordon Street, Los Angeles, CA 90038 (the “Property”), free and
5 clear of liens, claims, encumbrances and other interests under the terms and conditions set forth
6 in the Motion, to Lex 2018, Inc. or to a successful overbidder as determined at an auction to be
7 conducted, if appropriate, at the same date and time as the hearing on the Motion (the “Buyer”);
8 (B) approving the overbid procedure set forth in this motion; (C) finding that the Buyer is a good
9 faith Buyer; and (D) waiving stay under Rule 6004(h) of the Federal Rules of Bankruptcy
10 Procedure. The complete bases of the Motion are set forth in the Memorandum of Points and
11 Authorities and the Declaration of Paul Morady annexed hereto (the “Morady Declaration”).

12 The Motion is based upon this Motion, the Notice of Motion filed concurrently herewith,
13 the accompanying Memorandum of Points and Authorities and the Morady Declaration, 11
14 U.S.C. §§ 105(a), 363(b) and (f), Bankruptcy Rules 2002, and 6004, and Local Bankruptcy Rules
15 6004-1(c), and 9013-1, the entire record in the Debtor’s case, the statements, arguments and
16 representations of counsel to be made at the hearing on the Motion, and any other evidence
17 properly presented to the Court.

18 **WHEREFORE**, the Debtor respectfully requests that the Court enter an order:

- 19 (1) finding that notice of the Motion was adequate and appropriate;
- 20 (2) granting the Motion in its entirety;
- 21 (3) authorizing the Debtor to enter into the California Residential Purchase
22 Agreement (the “Agreement”), in substantially the form attached as **Exhibit “1”** to the Morady
23 Declaration, and to sell the Property to the Buyer, free and clear of liens, claims, encumbrances
24 and other interests, under the terms and conditions set forth in the Agreement;
- 25 (4) approving the overbid procedure described herein;
- 26 (5) authorizing the Debtor to take all necessary and reasonable steps to consummate
27 the sale of the Property to the Buyer;

28

1 (6) authorizing the payment of the payment of unpaid property taxes and valid liens,
2 directly from escrow;

3 (7) Waiving the 14-day stay prescribed by Rule 6004(h) of the Federal Rules of
4 Bankruptcy Procedure;

5 (8) finding that the Buyer is a good faith buyer entitled to all of the protections
6 afforded by 11 U.S.C. § 363(m); and

7 (9) granting such other and further relief as may be necessary or appropriate under
8 the circumstances.

9 DATED: February 20, 2018

GORDON ST. CONDOS LLC

10 By: /s/ David B. Golubchik

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

A. Case Background

Gordon St Condos, LLC, the debtor and debtor in possession herein (the "Debtor") commenced this case by filing a voluntary petition under Chapter 11 of the Bankruptcy Code on January 11, 2018 (the "Petition Date"). The Debtor continues to operate its business and manage its financial affairs as a debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108. The Debtor's case is a single asset real estate case as that term is defined in 11 U.S.C. § 101(51B).

The Debtor's sole asset is the four-unit real property located at 1200-1202 Gordon Street, Los Angeles, California 90038 (the "Property").

Prior to the Petition Date, on or about June 23, 2014, Helping Hand Investments, Inc. ("HH") and a gentleman by the name of Peter Beskodarny ("Beskodarny"), whose mother used to own the Property, entered into a joint venture agreement (the "JV Agreement") pursuant to which the Property was to be transferred to the Debtor, with HH holding a 50.1% interest and Beskodarny holding a 49.9% interest in the Debtor, for the purpose of entitling and developing the Property into multi-family condos/apartments¹. A true and correct copy of the Joint Venture agreement is attached to the Declaration of Paul Morady annexed hereto (the "Morady Declaration") as Exhibit "2". HH subsequently transferred its interest in the Debtor to Napa Industries LLC ("Napa"), as set forth in the assignment, a true and correct copy of which is attached to the Morady Declaration as Exhibit "3".

After the entry into the JV Agreement, the Property was transferred to the Debtor for the purpose of entitling and developing the Property. Title to the Property was subsequently transferred to Napa to assist in the financing process, although the economic interests remained unchanged with Mr. Beskodarny retaining his 49.9% interest in the ownership entity. Shortly prior to the Petition Date, the Property was transferred back to the Debtor.

¹ Initially, the Debtor scheduled equity interests as 50/50, which was erroneous as evidenced by the Joint Venture agreement.

1 Ultimately, disputes arose between Mr. Beskodarny and Napa as to the development of the
2 Property and on April 10, 2017, Mr. Beskodarny filed a complaint against Napa, and its principles,
3 and the Debtor in the Superior Court of the State of California for the County of Los Angeles
4 thereby commencing case number BC 657283 (the "State Court Action"). A true and correct copy
5 of the complaint filed in the State Court Action is attached hereto as **Exhibit "4"**. The State Court
6 Action is pending and is stayed as a result to of the filing of the Debtor's bankruptcy case. In the
7 State Court Action, Mr. Beskodarny does not assert title to the Property, but instead asserts that he
8 incurred damages as a result of lost equity in the Property and he should therefore be entitled to
9 damages. In connection with the State Court Action, on April 11, 2017, Mr. Beskodarny recorded a
10 notice of pendency of action against the Property.

11 Prior to the Petition Date, Napa, on behalf of, and for the benefit of, the Debtor obtained a
12 loan from Arch CBT SPE, LLC ("Arch"), which loan was secured by a first priority lien against
13 the Property. Prior to the Petition Date, on April 1, 2017 the loan from Arch matured and the
14 Debtor defaulted on the loan. Thus, Arch began proceeding with the foreclosure process on the
15 Property, including the filing of a notice of default on August 31, 2017.

16 This case was commenced primarily to stay the foreclosure commenced by Arch and
17 preserve the value of the Property for the benefit of creditors and equity holders while the Debtor
18 either continued with the entitlement process or found a buyer for the Property.

19 **B. Marketing Efforts and Purchase Agreement**

20 Prior to and after the Petition Date, the Debtor has marketed the Property for sale. The
21 Debtor has interviewed several real estate brokers. Additionally, after the Petition Date, the
22 Debtor obtained an offer for the purchase of the Property for \$1.3 million through from an entity
23 not related to the Debtor. The foregoing offer was contingent on inspections and other items,
24 including, a requirement to deliver the Property vacant, which is highly unlikely due to the fact
25 that the Property is occupied and subject to rent control laws for the City of Los Angeles.
26 Additionally, the foregoing offer was made by an entity that was represented by a real estate
27 broker. Thus, if the Debtor had accepted the offer (it did not), the Debtor would have had to pay
28 3%-6% of the sale proceeds to the buyer's broker, which equates to \$39,000 - \$78,000.

1 Thereafter, the Debtor received an offer from Lex 2018, Inc. (the “Buyer”) for to
2 purchase the Property for \$1,300,000 (the “Purchase Price”) on the terms and conditions set forth
3 in that certain *California Residential Purchase Agreement* (the “Agreement”), a true and correct
4 copy of which is attached to the Morady Declaration as **Exhibit “1”** and is incorporated herein
5 by reference. As reflected in the Agreement, neither the Buyer nor the Debtor are represented by
6 real estate brokers in connection with the sale of the Property, thus, the Debtor will not have to
7 pay any brokers commissions in connection with the sale to Buyer thereby saving up to \$78,000
8 (6% of \$1,300,000). Further, as set forth in the Agreement, the Buyer will be paying all of the
9 closing costs for the sale of the Property. The owners of the Buyer are the same owners of Napa
10 – Mr. Paul Morady and Mr. Brook Fain – and therefore insiders of the Debtor. Most importantly,
11 the offer is not subject to any contingencies and ready to close.

12 The Debtor believes that \$1,300,000 is a reasonable purchase price and represents the
13 market value of the Property, based upon, among other things, an appraisal report of the Property
14 dated March 20, 2016, which values the Property at \$1,350,000 and the fact that the Debtor
15 received another offer from a non-insider for the same price. A true and correct copy of the
16 foregoing appraisal report is attached as **Exhibit “5”** to the Morady Declaration.

17 In addition to the foregoing, and as part of the sale, Napa has agreed to waive its general
18 unsecured claim in the amount of \$72,000. For purposes of the overbid, as discussed below, the
19 waiver of the claim will not be considered and will not affect the overbid price.

20 **C. The Proposed Overbid Procedures**

21 While the Debtor is prepared to consummate the sale with the Buyer, it is also interested
22 in obtaining the maximum price for the Property. Therefore, the Debtor seeks approval of the
23 following overbid procedures: (1) any person interested in submitting an overbid on the Property
24 must attend the hearing on the Motion or be represented by an individual with authority to
25 participate in the overbid process; (2) an overbid will be defined as an initial overbid of
26 \$1,350,000, with each additional bid in \$50,000 increments; (3) overbidders (except for the
27 Buyer) must deliver a deposit to the Debtor’s proposed counsel by way of cashier’s check made
28 payable to “Gordon St Condos, LLC, debtor in possession” in the amount of \$39,000.00 (the

1 “Deposit”) and proof of ability to close escrow unconditionally in a form acceptable to the
2 Debtor at least seven days prior to the hearing on the Motion; (4) overbidders must purchase the
3 Property on the same terms and conditions as the Buyer; (5) the Deposit of the successful
4 overbidder shall be forfeited if such party is thereafter unable to complete the purchase of the
5 Property within 30 calendar days of entry of an order confirming the sale; and (6) in the event
6 the successful overbidder cannot timely complete the purchase of the Property, the Debtor shall
7 be authorized to proceed with the sale to the next highest overbidder.

8 To the extent that a qualified overbidder comes forward, the Debtor requests that the
9 Court hold an auction for the Property at the hearing on the Motion.

10 The Debtor believes that the proposed overbid procedure, notice of which has been given
11 to all creditors and interested parties, including the entity that previously made an offer on the
12 Property, will maximize the price ultimately obtained for the Property as well as protect the
13 estate from parties who may wish to participate in the overbid procedure, but who are ultimately
14 unable to consummate the sale transaction. Accordingly, the Debtor requests that the Court
15 authorize the overbid procedure discussed above.

16 **D. Liens and Interests**

17 A preliminary title report on the Property (the “Title Report”), a true and correct copy of
18 which is attached to the Morady Declaration as **Exhibit “6”** and incorporated herein by
19 reference, has been obtained from Ticor Title. The Title Report indicates that the following liens
20 have been recorded against the Property:

Item No. on Title Report	Lienholder	Nature and Amount of Lien
1 and 2	County Assessor’s Office	Real property taxes. The Debtor is informed that real property taxes totaling approximately \$25,667.84 are owed and the amount owed will be paid from escrow.
3	Arch	Deed of Trust recorded in favor of Arch Loans SPE, LLC on 4/1/16 (borrower of record is

		Napa, but secured by the Property), which was assigned to Arch CBT SPE LLC via an assignment recorded on 6/22/16. The Debtor is informed that an obligation of approximately \$975,000 is secured by this deed and the amount owed will be paid from escrow unless Arch consents to assign the obligation to the Buyer.
4	Peter Beskodarny	Notice of Pendency of Action recorded by Peter Beskodarny in connection with the State court Action on 4/11/17. As set forth below, the Debtor seeks to sell the Property free and clear of this notice of pendency pursuant to Section 363(f) of the Bankruptcy Code.

Moreover, based on a recent payoff demand received from Arch, the total obligation due and owing to Arch is currently as follows:

1200 Gordon St	16-90038A	As of 2/28/18
Loan Principal	\$945,000.00	
Interest	\$66,150.00	From 8/1/17 to 2/28/18
Late Fee	\$7,560.00	
Default Interest	\$102,375.00	4/6/17 to 2/28/18
Trustee Fees	\$7,100.00	
Legal Fees	\$20,631.69	
LA Foreclosure Fees	\$310.00	
Total	\$1,149,126.69	

E. Distribution To The Estate

The Debtor estimates that the proposed sale will generate \$125,205.47 in net proceeds as follows:

Proposed Sales Price	\$1,300,000.00
Real Property Taxes	< \$25,667.84 >
Arch Lien	< \$1,149,126.69 >
Net Proceeds	<u>\$125,205.47</u>

1 II.

2 DISCUSSION

3 A. THE COURT SHOULD AUTHORIZE THE DEBTOR TO SELL THE
4 PROPERTY TO THE BUYER.

5 Section 363(b) of the Bankruptcy Code provides that a debtor “after notice and a hearing,
6 may use, sell or lease, other than in the ordinary course of business, property of the estate.” To
7 approve a use, sale or lease of property other than in the ordinary course of business, the court
8 must find “some articulated business justification.” *See, e.g., In re Martin (Myers v. Martin)*, 91
9 F.3d 389, 395 (3d Cir. 1996) citing *In re Schipper (Fulton State Bank v. Schipper)*, 933 F.2d 513,
10 515 (7th Cir. 1991); *Comm. of Equity SEC Holders v. Lionel Corp. (In re Lionel Corp.)*, 722
11 F.2d 1063, 1070 (2d Cir. 1983); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143 (3d
12 Cir. 1986) (implicitly adopting the “sound business judgment” test of *Lionel Corp.* and requiring
13 good faith); *In re Delaware and Hudson Ry. Co.*, 124 B.R. 169 (D. Del. 1991) (concluding that
14 the Third Circuit adopted the “sound business judgment” test in the *Abbotts Dairies* decision).

15 In the Ninth Circuit, “cause” exists for authorizing a sale of estate assets if it is in the best
16 interest of the estate, and a business justification exists for authorizing the sale. *In re*
17 *Huntington, Ltd.*, 654 F.2d 578 (9th Cir. 1981); *Walter v. Sunwest Bank (In re Walter)*, 83 B.R.
18 14, 19-20 (9th Cir. BAP 1988). The Ninth Circuit has also held that section 363 allows the sale
19 of substantially all assets of a debtor’s bankruptcy estate after notice and a hearing. *In re Qintex*
20 *Entertainment, Inc.*, 950 F.2d 1492 (9th Cir. 1991).

21 In determining whether a sale satisfies the business judgment standard, courts have held
22 that: (1) there be a sound business reason for the sale; (2) accurate and reasonable notice of the
23 sale be given to interested persons; (3) the sale yield an adequate price (i.e., one that is fair and
24 reasonable); and (4) the parties to the sale have acted in good faith. *Titusville Country Club v.*
25 *Pennbank (In re Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991); *see also,*
26 *In re Walter*, 83 B.R. at 19-20.

27 The Debtor submits that the proposed sale of the Property to the Buyer comports with
28 each of these four criteria and demonstrates that the Debtor’s business judgment to proceed with

1 the sale, subject to overbid, is sound.

2 **1. Sound Business Purpose**

3 There must be some articulated business justification, other than appeasement of major
4 creditors, for using, selling or leasing property out of the ordinary course of business before the
5 bankruptcy court may order such disposition under Section 363(b). *In re Lionel Corp.*, 722 F.2d
6 at 1070. The Ninth Circuit Bankruptcy Appellate Panel in *In re Walter, supra*, 83 B.R. at 19, has
7 adopted a flexible case-by-case test to determine whether the business purpose for a proposed
8 sale justifies disposition of property of the estate under Section 363(b). In *Walter*, the
9 Bankruptcy Appellate Panel, adopting the reasoning of the Fifth Circuit in *In re Continental*
10 *Airlines, Inc.*, 780 F.2d 1223 (5th Cir. 1986) and the Second Circuit in *In re Lionel Corp., supra*,
11 articulated the standard to be applied under Section 363(b) as follows:

12 Whether the proffered business justification is sufficient depends
13 on the case. As the Second Circuit held in *Lionel*, the bankruptcy
14 judge should consider all salient factors pertaining to the
15 proceeding and, accordingly, act to further the diverse interests of
16 the Debtor, creditors and equity holders, alike. He might, for
17 example, look to such relevant facts as the proportionate value of
18 the asset to the estate as a whole, the amount of elapsed time since
19 the filing, the likelihood that a plan of reorganization will be
20 proposed and confirmed in the near future, the effect of the
21 proposed disposition on future plans of reorganization, the
22 proceeds to be obtained from the disposition vis-à-vis any
23 appraisals of the property, which of the alternatives of use, sale or
24 lease the proposal envisions and, most importantly perhaps,
25 whether the asset is increasing or decreasing in value. This list is
26 not intended to be exclusive, but merely to provide guidance to the
27 bankruptcy judge.

22 *In re Walter*, 83 B.R. at 19-20, citing *In re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th
23 Cir. 1986).

24 The facts pertaining to the Debtor's proposed sale of the Property to the Buyer clearly
25 substantiate the Debtor's conclusion, based on the Debtor's business judgment, that such
26 contemplated sale serves the best interests of the Debtor's estate and creditors, and merits the
27 approval of the Court. As stated above, the Property is the sole asset of the Debtor's bankruptcy
28

1 estate. The Debtor has two options for the Property – continue to develop the Property as initially
2 planned in the JV Agreement, which involves entitling the Property and building condos or
3 apartments on the Property or sell the Property. The former option will take substantial time and
4 money – including money to obtain all necessary entitlements and permits and then to build the
5 condos. Only after the new condos are built would the Debtor be able to realize a profit by
6 selling the condos and/or Property as a whole and payoff its secured creditors and make a
7 distribution to its unsecured creditors. The Debtor lacks sufficient funds to continue with this
8 strategy. More importantly, it is clear that the equity holders are not in agreement as to the
9 strategy herein and are in litigation with respect to the Property. Such a dispute is not conducive
10 to seeking additional financing or investment and proceeding with the long-term strategy initially
11 contemplated by the parties.

12 The latter option – selling the Property now – allows the Debtor to stop the incurrence of
13 additional fees and payoff its secured creditors right away. Further, it will allow the Debtor to
14 make a substantial distribution (and potentially pay in full) to unsecured creditors without delay.
15 Given the two options faced by the Debtor, the Debtor believes that proceeding with the sale of
16 the Property is a sound business decision.

17 Further, the particular proposed sale is supported by sound business purpose because (and
18 as further discussed below) the purchase price is market value and will net the estate substantial
19 funds for the benefit of creditors after the payment of the secured creditors in full.

20 The Debtor anticipates that Mr. Beskodarny will assert that some (or all) of the claims
21 should not be allowed. Pursuant to this Motion, the Debtor does not seek the allowance of any
22 claims. Under the Bankruptcy Code, any party in interest has the right to object to claims and
23 Mr. Beskodarny is free to do so if he believes it is appropriate. As a result, a sale will not deprive
24 any party from considering and/or objecting to claims.

25 Based on the foregoing, the Debtor believes that the proposed sale of the Property is in
26 the best interests of creditors and the estate.

27 **2. Accurate and Reasonable Notice**

28 In connection with a proposed sale under Section 363 of the Bankruptcy Code, “four

1 pieces of information must be presented to the creditors. The notice should: place all parties on
2 notice that the debtor is selling its business; disclose accurately the full terms of the sale; explain
3 the effect of the sale as terminating the debtor's ability to continue in business; and explain why
4 the proposed price is reasonable and why the sale is in the best interest of the estate." *In re*
5 *Delaware & Hudson Railway Co.*, 124 B.R. 169, 180 (D. Del. 1991). A notice is sufficient if it
6 includes the terms and conditions of the sale and if it states the time for filing objections. *In re*
7 *Karpe*, 84 B.R. 926, 930 (Bankr. M.D. Pa. 1988). The purpose of the notice is to provide an
8 opportunity for objections and hearing before the court if there are objections. *Id.*

9 Section 363(b)(1) provides that the Debtor, "after notice and a hearing, may use, sell or
10 lease, other than in the ordinary course of business, property of the estate." 11 U.S.C.
11 § 363(b)(1). Section 102(1) defines "after notice and a hearing" as after such notice as is
12 appropriate in the particular circumstances, and such opportunity for hearing as is appropriate in
13 the particular circumstances. 11 U.S.C. § 102(1)(A).

14 Rule 6004(a) of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules")
15 provides in pertinent part that notice of a proposed sale not in the ordinary course of business
16 must be given pursuant to Bankruptcy Rule 2002(a)(2), (c)(1), (i) and (k), and, if applicable, in
17 accordance with Section 363(b)(2) of the Bankruptcy Code. Fed. R. Bankr. P. 6004(a).
18 Bankruptcy Rule 2002(a)(2) requires at least 20 days' notice by mail of a proposed sale of
19 property of the estate other than in the ordinary course of business, unless the Court for cause
20 shown shortens the time or directs another method of giving notice. Fed. R. Bankr. P.
21 2002(a)(2). Bankruptcy Rule 2002(c)(1) requires that the notice of a proposed sale include the
22 date, time and place of any public sale, the terms and conditions of any private sale, and the time
23 fixed for filing objections. It also provides that the notice of sale or property is sufficient if it
24 generally describes the property. Fed. R. Bankr. P. 2002(c)(1). Bankruptcy Rule 2002(i)
25 requires that the notice be mailed to committees elected pursuant to 11 U.S.C. § 705 or appointed
26 pursuant to 11 U.S.C. § 1102. Fed. R. Bankr. P. 2002(i). Bankruptcy Rule 2002(k) requires that
27 the notice be given to the United States Trustee. Fed. R. Bankr. P. 2002(k).

28 Bankruptcy Rule 6004(c) provides that a motion for authority to sell property free and

1 clear of liens or other interests must be made in accordance with Bankruptcy Rule 9014 and must
2 be served on the parties who have liens or other interests in the property to be sold. Fed. R.
3 Bankr. P. 6004(c).

4 Local Bankruptcy Rule 9013-1(d)(2) requires that a notice of motion and motion be
5 served at least 21 days before the hearing on the date specified in the notice. L.B.R. 9013-
6 1(d)(2).

7 In addition, Local Bankruptcy Rule 6007-1(f) requires that an additional copy of the
8 Notice be submitted to the Clerk of the Bankruptcy Court together with a document Form 6004-2
9 at the time of filing for purposes of publication. L.B.R. 6007-1(f).

10 The Debtor has complied with all of the above provisions of the Bankruptcy Code, the
11 Bankruptcy Rules and the Local Bankruptcy Rules. The Debtor has complied with Bankruptcy
12 Rules 6004(a) and 2002(a)(2), (c)(1), (i) and (k), because a notice of this Motion (the “Notice”)
13 has been filed contemporaneously herewith, which includes the date, time and place of both the
14 auction, sale hearing and bidding procedures, as well as the deadline for objecting to the Motion,
15 and such Notice has been served on the United States Trustee, all of the Debtor’s known
16 creditors, and all parties requesting special notice. The Debtor has complied with Bankruptcy
17 Rule 6004(c) because the Notice and this Motion have also been served upon the parties who
18 have alleged liens or interests in the Property. The Debtor has complied with the requirements of
19 Local Bankruptcy Rule 6007-1(f) because the Debtor has filed the Notice and Form 6004-2 with
20 the Clerk of the Bankruptcy Court.

21 Based on the foregoing, the Debtor respectfully submits that adequate, accurate and
22 reasonable notice of the proposed sale of the Property has been provided to creditors and other
23 parties in interest in this case.

24 **3. Fair and Reasonable Price**

25 In order for a sale to be approved under Section 363(b), the purchase price must be fair
26 and reasonable. *See generally, In re Canyon Partnership*, 55 B.R. 520 (Bankr. S.D. Cal. 1985).
27 The trustee (or debtor in possession) is given substantial discretion in this regard. *Id.* In
28 addition, Courts have broad discretion with respect to matters under section 363(b). *See Big*

1 *Shanty Land Corp. v. Comer Properties, Inc.*, 61 B.R. 272, 278 (Bankr. N.D. Ga. 1985). In any
2 sale of estate assets, the ultimate purpose is to obtain the highest price for the property sold.
3 *Wilde Horse Enterprises, Inc.*, 136 B.R. at 841 (citing *In re Chung King, Inc.*, 753 F.2d 547 (7th
4 Cir. 1985)), *In re Alpha Industries, Inc.*, 84 B.R. 703, 705 (Bankr. Mont. 1988).

5 The Debtor submits that the Purchase Price is fair and reasonable because it is market
6 value for the Property and due to the specific terms of the proposed sale allows the Debtor's
7 estate to receive more cash for the payment of unsecured claims that if the sale was being made
8 to a non-insider whose offer has contingencies and brokers' commissions.

9 As discussed above, the Agreement contemplates a sale that does not have any
10 contingencies. Further, since the proposed sale under the Agreement does not involve any
11 brokers and the Buyer is paying for all closing costs, the proposed sale saves the estate
12 substantial commissions and closing costs. The Debtor submits that the offer from the Buyer is
13 the best offer for the Property and is market value for the Property since the Debtor received
14 another offer for the same price (yet that offer involved broker commissions, contingencies and
15 required the closing costs to be paid by the Debtor/seller) and because the appraisal from 2016
16 places the value of the Property very close to the amount of the Purchase Price.

17 Furthermore, as a result of the proposed overbid procedures, the proposed sale transaction
18 will ensure that the Property sells for the highest possible price. More specifically, the sale of the
19 Property in accordance with the proposed bidding procedures will foster competitive bidding
20 among any serious potential Buyers and ensure that the highest possible purchase price is
21 obtained for the Property. To the extent that a sale process for the Property is undertaken but
22 there are no bidders other than the Buyer, the Debtor respectfully submits that the amount of
23 Purchase Price will necessarily represent the fair and reasonable value of the Property.

24 **4. Good Faith**

25 When a bankruptcy court authorizes a sale of assets pursuant to Section 363(b)(1), it is
26 required to make a finding with respect to the "good faith" of Buyer. *In re Abbotts Dairies*, 788
27 F.2d at 149. Such a procedure ensures that Section 363(b)(1) will not be employed to
28 circumvent the creditor protections of Chapter 11, and as such, it mirrors the requirement of

1 Section 1129, that the Bankruptcy Court independently scrutinizes the debtor’s reorganization
2 plan and makes a finding that it has been proposed in good faith. *Id.* at 150.

3 “Good faith” encompasses fair value, and further speaks to the integrity of the
4 transaction. *In re Wilde Horse Enterprises*, 136 B.R. at 842. With respect to the debtor’s
5 conduct in conjunction with the sale, the good faith requirement “focuses principally on the
6 element of special treatment of the Debtor’s insiders in the sale transaction.” *See In re Industrial*
7 *Valley Refrig. and Air Cond. Supplies, Inc.*, 77 B.R. 15, 17 (Bankr. E.D. Pa. 1987). With respect
8 to the buyer’s conduct, this Court should consider whether there is any evidence of “fraud,
9 collusion between the Buyer and other bidders or the [debtor], or an attempt to take grossly
10 unfair advantage of other bidders.” *In re Abbotts Dairies*, 788 F.2d at 147, *In re Rock Indus.*
11 *Mach. Corp.*, 572 F.2d 1195, 1198 (7th Cir. 1978); *In re Wilde Horse Enterprises, Inc.*, 136 B.R.
12 at 842; *In re Alpha Industries, Inc.*, 84 B.R. 703, 706 (Bankr. D. Mont. 1988). In short, “[l]ack
13 of good faith is generally determined by fraudulent conduct during the sale proceedings.” *In re*
14 *Apex Oil Co.*, 92 B.R. 847, 869 (Bankr. E.D. Mo. 1988), *citing In re Exennium, Inc.*, 715 F.2d
15 1401, 1404-05 (9th Cir. 1983).

16 In *In re Filtercorp, Inc.*, 163 F.3d 570 (9th Cir. 1998), the Ninth Circuit set forth the
17 following test for determining whether a buyer is a good faith Buyer:

18 A good faith buyer “is one who buys ‘in good faith’ and ‘for
19 value.’” [citations omitted.] [L]ack of good faith is [typically]
20 shown by ‘fraud, collusion between the Buyer and other bidders or
21 the trustee, or an attempt to take grossly unfair advantage of other
22 bidders.’” [citations omitted.]

23 *Filtercorp*, 163 F.3d at 577.

24 The Ninth Circuit made clear in *Filtercorp* that this standard for determining good faith is
25 applicable even when the buyer is an insider.

26 The Debtor negotiated the terms of the Agreement after the consideration of another offer
27 for the same amount from a non-insider with less favorable terms. There has been no fraud or
28 collusion in connection with the negotiation of the terms of the Agreement, which is proven by
the Debtor’s willingness to allow for the sale to be subject to overbids. The Debtor submits that

1 the proposed bidding procedures will inherently provide a fair and equitable process for all
2 qualified bidders. Based on the foregoing, the Debtor submits that the Court should find that the
3 successful bidder is a good faith Buyer entitled to all of the protections afforded by Section
4 363(m) of the Bankruptcy Code.

5 **B. THE SALE OF THE PROPERTY SHOULD BE FREE AND CLEAR OF ALL**
6 **LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS PURSUANT**
7 **TO 11 U.S.C. § 363(F).**

8 Bankruptcy Code §363(f) provides that a debtor may sell property of the estate “free and
9 clear of any interest in such property” if:

- 10 (1) applicable non-bankruptcy law permits the sale of such
11 property free and clear of such interest;
- 12 (2) such entity consents;
- 13 (3) such interest is a lien and the price at which such
14 property is to be sold is greater than the aggregate value
15 of all liens on such property;
- 16 (4) such interest is in bona fide dispute; or
- 17 (5) such entity could be compelled, in a legal or equitable
18 proceeding, to accept a money satisfaction of such
19 interest.

20 11 U.S.C. §363(f). Because Section 363(f) is in the disjunctive, the Debtor must only meet one
21 of the five subsections of Section 363(f) in order to sell the Property free and clear of all liens,
22 claims, interests and encumbrances. *In re Whittemore*, 37 B.R. 93, 94 (Bankr. D. Or. 1984).

23 The Debtor submits that the proposed sale of the Property should be authorized under 11
24 U.S.C. §§ 363(f)(4). Section 363(f)(4) of the Bankruptcy Code authorizes a sale to be free and
25 clear of an interest if the interest asserted by the holder is in bona fide dispute. To satisfy section
26 363(f)(4), there must be an objective basis for a factual or legal dispute as to the validity of the
27 interest. *In re Kellogg-Taxe*, 2014 WL 1016045, at *6 (Bankr. C.D. Cal. Mar.17, 2014) (*citing*
28 *In re Gaylord Grain L.L.C.*, 306 B.R. 624, 627 (B.A.P. 8th Cir. 2004)); *In re Daufuskie Island*

1 *Props., LLC*, 431 B.R. 626, 645 (Bankr. D.S.C. 2010); *see also Higgins v. Vortex Fishing*
2 *Systems, Inc. (In re Vortex Fishing Sys., Inc.)*, 277 F.3d 1057, 1062 (9th Cir. 2002) (adopting
3 objective test for determining whether claim supporting involuntary petition is subject to *bona*
4 *fide* dispute). “[T]he moving party must ‘provide some factual grounds to show some objective
5 basis for the dispute.’” *SEC v. Capital Cove Bancorp LLC*, 2015 WL 9701154, at *7 (C.D. Cal.
6 Oct.13, 2015). The court is not required to resolve the underlying dispute as a condition to
7 authorizing the sale, but must determine that it exists. *Capital Cove Bancorp*, 2015 WL
8 9701154, at *7; *Kellogg-Taxe*, 2014 WL 1016045, at *6.

9 Here, there is ample evidence that Beskodarny’s alleged interest in the Property pursuant
10 to the State Court Action and *Lis Pendens*, is in *bona fide* dispute. Indeed, the filing of the State
11 Court Action and *Lis Pendens* themselves indicate that there is a *bona fide* dispute. The claims
12 asserted by Beskodarny in the State Court Action, which claims underlay Beskodarny’s filing of
13 the *Lis Pendens*, are for breach of contract, breach of fiduciary duty, conversion and fraud. In the
14 complaint, Beskodarny asserts that the Debtor and/or others breached the JV Agreement and
15 misappropriated funds obtained from the loan from Arch. However, the Debtor disputes
16 Beskodarny’s contentions and asserts that it did not breach the JV Agreement since the Debtor
17 has been working towards entitling and developing the Property since the entry into the JV
18 Agreement and as provided for in the JV Agreement, including taking out a loan from Arch, the
19 proceeds from which were used to aid the redevelopment of the Property. In light of the
20 foregoing there is clearly factual grounds for the Court to determine that the claims asserted by
21 Beskodarny in the State Court Action and related *Lis Pendens* are subject to a *bona fide* dispute.

22 Furthermore, the Debtor asserts that the *Lis Pendens* is subject to a *bona fide* dispute
23 because it was improperly recorded against the Property since Beskodarny does not assert a “real
24 property claim” that concerns the Property in the State Court Action. Pursuant to the State Court
25 Action, Beskodarny asserts the following claims for relief: Breach of Contract; Breach of
26 Fiduciary Duty, Conversion, Fraud, Aiding and Abetting Breach of Fiduciary Duty.

27 Under California law, a *lis pendens* may only be recorded in connection with an action
28 that contains a “real property claim”. See Cal. Code Civ. Proc. § 405.2. A “real property claim”

1 is defined by statute as a cause of action in a pleading “which would, if meritorious, affect title
2 to, or the right to possession of, specific real property.” Cal. Code Civ. Proc. § 405.4(a). When
3 determining whether the pleading contains a “real property claim,” the court “must engage in a
4 demurrer-like analysis.” *Kirkeby v. Superior Court*, 33 Cal. 4th 642, 647 (Cal. 2004). The review
5 “involves only a review of the adequacy of the pleading and normally should not involve
6 evidence from either side, other than possibly that which may be judicially noticed as on a
7 demurrer.” *Id.* (citation omitted). At all times, the burden remains on the claimant who filed that
8 the lis pendens to prove that it alleges a real property claim. Cal. Code Civ. Proc. § 405.30.

9 The Debtor submits that the claims asserted in the State Court Action do not constitute a
10 real property claim under California law. Although per the breach of contract claim, Beskodarny
11 seeks damages in the form of a constructive trust of the Property and recession of the JV
12 Agreement, this does not amount to a real property claim because the substance of the dispute of
13 the State Court Action is essentially a fraud action seeking money damages, with constructive
14 trust and recession allegations appended thereto.

15 In *BGJ Assocs., LLC v. Superior Court*, 75 Cal. App. 4th 952, 89 Cal. Rptr. 2d 693
16 (1999), a case with strikingly similar facts to the State Court Action, the Court determined that
17 the lis pendens was improperly recorded and should be expunged. The *BGJ Assocs., LLC v.*
18 *Superior Court* case involved partners in a joint venture formed to buy real properties, where
19 partners sued other partners/joint venturers and a third party, claiming that defendants
20 wrongfully acquired the properties for themselves, and asserting multiple causes of action for
21 breach of oral contract, breach of fiduciary duty, unjust enrichment, intentional and negligent
22 interference with contractual relations, inducing breach of contract, and imposition of a
23 constructive trust. The Court held that where “partners that entered into a joint venture
24 agreement to buy a specific parcel of real property, and one partner or joint venturer, in breach of
25 a fiduciary duty, allegedly wrongfully acquires it in his own name, the other partner or joint
26 venturer may bring an action to impose a constructive trust and require the wrongdoing partner
27 or joint venturer to convey the appropriate share of the legal title.” *Id.* at 970 (internal citations
28 omitted)”. And “Assuming the truth of plaintiffs' allegations, as we must in this demurrer-like

1 context, plaintiffs may be entitled to imposition of a constructive trust requiring the defendants to
2 convey to plaintiffs the share of the legal title plaintiffs would have acquired had not the
3 defendants breached their duties toward plaintiffs.” *Id.* Notwithstanding the foregoing, in
4 deciding that the lis pendens should be expunged, the Court reasoned that:

5 Plaintiffs' complaint has eleven causes of action. Only the tenth
6 and eleventh causes of action focus narrowly on imposition of a
7 constructive trust. The other causes of action seek compensatory
8 and punitive damages on fraud and tort theories, or a combination
9 of compensatory and punitive damages with imposition of a
10 constructive trust.

11 Plaintiffs say that at this pleading stage they are not required to
12 elect between inconsistent remedies, and they are reserving their
13 options. It is apparent that, depending on market conditions, or
14 circumstances affecting the particular parcel of property, or other
15 tactical considerations, plaintiffs may ultimately decide, if they
16 prevail, that they prefer to be compensated by money damages
17 rather than transfer of title to the property.

18 The question presented is whether plaintiffs are entitled to
19 maintain a lis pendens on the property in the meantime. We
20 conclude that in the particular circumstances of this case they may
21 not. Plaintiffs contend that they have pleaded one or more causes
22 of action which state a real property claim within the meaning of
23 section 405.4, and that the lis pendens statute makes no provision
24 requiring them to elect remedies between alternative causes of
25 action. We do not hold that the lis pendens statute requires an early
26 election of remedies between monetary damages or a constructive
27 trust. But what the Legislature has done in section 405.4 is to leave
28 to the courts to determine in particular cases whether a claim
supporting a constructive trust will justify the maintenance of a lis
pendens. (Comment to section 405.4 [“The definition of ‘real
property claim’ neither includes nor excludes claims of
constructive trust or equitable lien. Instead, the law in this area is
left for judicial development.”].) In determining this issue on a
case-by-case basis, the courts have been restrictive because of
well-known dangers that the lis pendens procedure can be abused
to coerce a defendant to settle a claim. The courts have looked to
the substance of the dispute to determine whether it is “essentially”
a fraud action seeking money damages, with constructive trust
allegations “appended.” (See *Urez Corp. v. Superior Court, supra*,
190 Cal.App.3d at p. 1149, 235 Cal.Rptr. 837; *Hunting World, Inc.*
v. Superior Court, supra, 22 Cal.App.4th at pp. 73–74, 26
Cal.Rptr.2d 923.) In a case such as this where the pleading

1 combines theories of liability for monetary damages and for a
2 constructive trust, we hold that plaintiffs should not be able to
3 maintain a lis pendens. The danger is too great that a lis pendens,
which effectively renders the property unmarketable, will have the
coercive effects condemned by the cases.

4 *Id.* at 971–72.

5 Similar to the *BGJ Assocs., LLC v. Superior Court* case, the State Court Action involves
6 several claims for relief and only one of the claims for relief asserts a constructive trust/recession
7 remedy (in addition to monetary damages), which *may* affect title to the Property. All of the
8 other claims for relief seek monetary damages only. Since the State Court Action combines
9 theories of liability for monetary damages and for a constructive trust, a Court, like the Court in
10 *BGJ Assocs., LLC v. Superior Court*, would determine that Beskodarny should not be able to
11 maintain a lis pendens. Thus, the *Lis Pendens* recorded by Beskodarny is in bona fide dispute.

12 Furthermore, Courts routinely approve sales free and clear of recorded lis pendens. For
13 example, in finding that there are “very real and relevant factual disputes” existing between the
14 parties to certain litigation, the Court in *In re Rivermeadows Associates, LTD.*, No. 95-20322,
15 1996 WL 194270, 7 (Bankr.D. Wy March 11, 1996)² authorized a Chapter 11 trustee to enter
16 into a settlement agreement which provided for the authority to sell certain property free and
17 clear of, among other interests, under Section 363(f)(4).

18 Additionally, the bankruptcy court in *In re McPhillips Motors, Inc.*, 2010 Bankr. LEXIS
19 2589 (Bankr. C.D. Cal., Feb. 9, 2010) (Neiter, J. presiding), approved the following provision in
20 the sale order:

21 If any person or entity that has filed financing statements,
22 mortgages, mechanic's claims, lis pendens or other documents or
23 agreements evidencing claims against or in the Purchased Assets
24 shall not have delivered to the Debtor prior to the Closing of the
25 Transactions, in proper form for filing and executed by the
26 appropriate parties, termination statements, instruments of
satisfaction, releases of all claims that the person or entity has with
respect to the Purchased Assets or otherwise, then only with regard
to the Purchased Assets that are purchased by Buyer pursuant to

27 ² A true and correct copy of the *In re Rivermeadows Associates, LTD.* case is attached hereto as
28 **Exhibit “7”**.

1 the Agreement and this Order (a) the Debtor is hereby authorized
2 and directed to execute and file such statements, instruments,
3 releases and other documents on behalf of the person or entity with
4 respect to the Purchased Assets; and (b) Buyer is hereby authorized
5 to file, register or otherwise record a certified copy of this Order,
6 which, once filed, registered or otherwise recorded, shall constitute
7 conclusive evidence of the release of all claims against the Buyer
8 and the applicable Purchased Assets. This Order is deemed to be in
9 recordable form sufficient to be placed in the filing or recording
10 system of each and every federal, state, or local government
11 agency, department or office.

12 *McPhillips Motors, Inc.*, 2010 Bankr. LEXIS 2589, 12-13 (emphasis added); see also *In re R*
13 *Star Restaurant, Inc.*, 2010 Bankr. LEXIS 2831 (Bankr. C.D. Cal., June 29, 2010) (Albert, J.,
14 presiding) (same); *In re Boneyard, LLC*, 2010 Bankr. LEXIS 3912, 15 (Bankr. C.D. Cal. Feb. 5,
15 2010) (Smith, J., presiding) (same); *In re Michael Anthony Mgmt.*, 2010 Bankr. LEXIS 6189, 14
16 (Bankr. N.D. Cal. Sept. 29, 2010) (same); *In re Snowflake White Mt. Power, LLC*, 2010 Bankr.
17 LEXIS 6137, 17 (Bankr. D. Ariz. Oct. 27, 2010) (same); *In re Camp Arrowhead Ltd.*, No. 09-
18 54693-LMC, 2010 WL 4922666 (Bankr. W.D. Texas January 8, 2010) (where the Court
19 approved a sale free and clear of a *Lis Pendens* under Section 363(f) and ruled that the *Lis*
20 *Pendens* shall have no force or effect on the title of the Property).

21 Even outside the traditional context of a sale pursuant to Section 363(f), Courts have
22 authorized the sale of real property free and clear of a *Lis Pendens*. For example, in *In re Richard*
23 *L. Hatfield; Moore v. Elder*, No. 08-03040, 2009 WL 7751435 (9th Cir. B.A.P. March 17, 2009)³,
24 the Court affirmed a Bankruptcy Court order authorizing the sale of property free and clear of a
25 co-owner's interest in the property pursuant to Section 363(h) of the Bankruptcy Code, even
26 though the co-owner had recorded *Lis Pendens* against the property.

27 Based upon the foregoing, and due to the fact that there is a bona fide dispute
28 surrounding the *Lis Pendens*, the Court has the authority to sell the Property free and clear of the
Lis Pendens pursuant to Section 363(f)(4) of the Bankruptcy Code.

³ A true and correct copy of the *In re Richard L. Hatfield; Moore v. Elder*, case is attached hereto as **Exhibit "8"**.

1 C. THE DEBTOR REQUESTS THAT THE COURT WAIVE THE FOURTEEN-
2 DAY WAITING PERIOD SET FORTH IN BANKRUPTCY RULES 6004(h) .

3 Bankruptcy Rule 6004(h) provides, among other things, that an order authorizing the use,
4 sale or lease of property . . . is stayed until the expiration of fourteen days after entry of the Court
5 order, unless the Court orders otherwise. The prompt closing of the sale of the Property will
6 allow for the proceeds from the sale to be received by the estate more quickly, which in turn will
7 allow the Debtor to plan its exit strategy in this case (whether through a structured dismissal or
8 plan) and pay creditors from the proceeds received by the sale. Based on the foregoing, the
9 Debtor respectfully requests that the Court waive the fourteen day stay periods set forth in
10 Bankruptcy Rules 6004(h) and 6006(d) to permit the Debtor to proceed immediately to close any
11 sale of the Property.

12 III. CONCLUSION

13 WHEREFORE, the Debtor respectfully requests that the Court enter an order:

- 14 (1) finding that notice of the Motion was adequate and appropriate;
- 15 (2) granting the Motion in its entirety;
- 16 (3) authorizing the Debtor to enter into the California Residential Purchase
17 Agreement (the "Agreement"), in substantially the form attached as Exhibit "1" to the Morady
18 Declaration, and to sell the Property to the Buyer, free and clear of liens, claims, encumbrances
19 and other interests, under the terms and conditions set forth in the Agreement;
- 20 (4) approving the overbid procedure described herein;
- 21 (5) authorizing the Debtor to take all necessary and reasonable steps to consummate
22 the sale of the Property to the Buyer;
- 23 (6) authorizing the payment of the payment of unpaid property taxes and valid liens,
24 directly from escrow;
- 25 (7) Waiving the 14-day stay prescribed by Rule 6004(h) of the Federal Rules of
26 Bankruptcy Procedure;
- 27 (8) finding that the Buyer is a good faith buyer entitled to all of the protections
28 afforded by 11 U.S.C. § 363(m); and

1 (9) granting such other and further relief as may be necessary or appropriate under
2 the circumstances.

3 DATED: February 20, 2018

GORDON ST. CONDOS LLC

4

By: /s/ David B. Golubchik

5

DAVID B. GOLUBCHIK

6

LINDSEY L. SMITH

7

LEVENE, NEALE, BENDER, YOO & BRILL
L.L.P.

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Proposed Attorneys for Gordon St. Condos LLC

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DECLARATION OF PAUL MORADY

I, Paul Morady, declare:

1. I am over the age of 18 and unless otherwise stated, the following facts are within my personal knowledge. If called to testify as a witness with respect to the statements set forth herein, I could and would competently testify thereto.

2. I am the managing member of Napa Industries LLC ("Napa"), the manager and 50.1% member of Gordon St. Condos LLC, the debtor and debtor in possession herein (the "Debtor").

A. Background

3. The Debtor commenced this case by filing a voluntary petition under Chapter 11 of the Bankruptcy Code on January 11, 2018 (the "Petition Date"). The Debtor continues to operate its business and manage its financial affairs as a debtor in possession pursuant to 11 U.S.C. §§ 1107 and 1108. The Debtor's case is a single asset real estate case as that term is defined in 11 U.S.C. § 101(51B).

4. The Debtor's sole asset is the four-unit real property located at 1200-1202 Gordon Street, Los Angeles, California 90038 (the "Property").

5. Prior to the Petition Date, on or about June 23, 2014, Helping Hand Investments, Inc. ("HH"), an entity controlled by Brook Fain and by me, and a gentleman by the name of Peter Beskodarny ("Beskodarny"), whose mother used to own the Property, entered into a joint venture agreement (the "JV Agreement") pursuant to which the Property was to be transferred to the Debtor, with HH holding a 50.1% interest and Beskodarny holding a 49.9% interest in the Debtor, for the purpose of entitling and developing the Property into multi-family condos/apartments⁴. A true and correct copy of the Joint Venture agreement is attached hereto as **Exhibit "2"**. HH subsequently transferred its interest in the Debtor to Napa Industries LLC ("Napa"), as set forth in the assignment, a true and correct copy of which is attached to the Morady Declaration as **Exhibit "3"**. Napa is also an entity controlled by Mr. Fain and by me.

⁴ Initially, the Debtor scheduled equity interests as 50/50, which was erroneous as evidenced by the Joint Venture agreement.

1 6. After the entry into the JV Agreement, the Property was transferred to the Debtor
2 for the purpose of entitling and developing the Property. Title to the Property was subsequently
3 transferred to Napa to assist in the financing process, although the economic interests remained
4 unchanged with Mr. Beskodarny retaining his 49.9% interest in the ownership entity. Shortly
5 prior to the Petition Date, the Property was transferred back to the Debtor.

6 7. From the initial transfer of the Property to the Debtor, Napa has been in charge of
7 operating the Debtor and progressing in its development efforts. At all stages of the process, we
8 kept Mr. Beskodarny informed as to the developments through regular meetings, both in person
9 and via email.

10 8. Ultimately, disputes arose between Mr. Beskodarny and Napa as to the
11 development of the Property and on April 10, 2017, Mr. Beskodarny filed a complaint against
12 Napa, the Debtor and us in the Superior Court of the State of California for the County of Los
13 Angeles thereby commencing case number BC 657283 (the "State Court Action"). A true and
14 correct copy of the complaint filed in the State Court Action is attached hereto as **Exhibit "4"**.
15 To the best of my knowledge, in the State Court Action, Mr. Beskodarny does not assert title to
16 the Property, but instead asserts that he incurred damages as a result of lost equity in the Property
17 and he should therefore be entitled to damages. In connection with the State Court Action, on
18 April 11, 2017, Mr. Beskodarny recorded a notice of pendency of action against the Property.

19 9. Prior to the Petition Date, Napa, on behalf of, and for the benefit of, the Debtor
20 obtained a loan from Arch CBT SPE, LLC ("Arch"), which loan was secured by a first priority
21 lien against the Property. Prior to the Petition Date, on April 1, 2017 the loan from Arch matured
22 and the Debtor defaulted on the loan. Thus, Arch began proceeding with the foreclosure process
23 on the Property, including the filing of a notice of default on August 31, 2017.

24 10. This case was commenced primarily to stay the foreclosure commenced by Arch
25 and preserve the value of the Property for the benefit of creditors and equity holders while the
26 Debtor either continued with the entitlement process or found a Buyer for the Property.

27 **B. Marketing Efforts and Purchase Agreement**

28 11. Prior to and after the Petition Date, the Debtor has marketed the Property for sale.

1 I was personally involved in the marketing of the Property. Although expressions of interest
2 were obtained, there were always contingencies. In my opinion, this is the type of property that a
3 buyer will want to develop. As a result, expressions of interest involve the requirement to
4 deliver the Property vacant. Because the Property is currently occupied, and based on current
5 rent control laws, I do not believe that the Debtor has the ability to deliver the Property vacant
6 absent substantial expenditures of funds, which the Debtor lacks.

7 12. Mr. Fain and I have also interviewed numerous real estate brokers. The costs
8 related to such brokers would be up to 6% of the selling price.

9 13. As discussed above, after the Petition Date, the Debtor obtained an offer for the
10 purchase of the Property for \$1.3 million through from an entity not related to the Debtor. The
11 foregoing offer was contingent on inspections and other items, including, a requirement to
12 deliver the Property vacant, which is highly unlikely for the reasons discussed above.
13 Additionally, the foregoing offer was made by an entity that was represented by a real estate
14 broker. Thus, if the Debtor had accepted the offer (it did not), the Debtor would have had to pay
15 3%-6% of the sale proceeds to the buyer's broker, which equates to \$39,000 - \$78,000.

16 14. To address the issue in this case and bring closure, I caused an entity known as
17 Lex 2018, Inc. (the "Buyer") to make an offer to purchase the Property for \$1,300,000 (the
18 "Purchase Price") on the terms and conditions set forth in that certain *California Residential*
19 *Purchase Agreement* (the "Agreement"), a true and correct copy of which is attached hereto as
20 **Exhibit "1"** and is incorporated herein by reference. As reflected in the Agreement, neither the
21 Buyer nor the Debtor are represented by real estate brokers in connection with the sale of the
22 Property, thus, the Debtor will not have to pay any brokers commissions in connection with the
23 sale to Buyer thereby saving up to \$78,000 (6% of \$1,300,000). Further, as set forth in the
24 Agreement, the Buyer will be paying all of the closing costs for the sale of the Property. The
25 owners of the Buyer are the same owners of Napa – Mr. Brook Fain and myself. Most
26 importantly, the offer is not subject to any contingencies and ready to close.

27 15. I believe that \$1,300,000 is a reasonable purchase price and represents the market
28 value of the Property, based upon, among other things, an appraisal report of the Property dated

1 March 20, 2016, which values the Property at \$1,350,000 and the fact that the Debtor received
2 another offer from a non-insider for the same price. A true and correct copy of the foregoing
3 appraisal report is attached as **Exhibit “5”** hereto.

4 16. In addition to the foregoing, and as part of the sale, Napa has agreed to waive its
5 general unsecured claim in the amount of \$72,000. For purposes of the overbid, the waiver of
6 the claim will not be considered and will not affect the overbid price.

7 17. I believe that the facts pertaining to the proposed sale of the Property clearly
8 substantiate the Debtor’s conclusion, based on the Debtor’s business judgment, that such
9 contemplated sale serves the best interests of the Debtor’s estate and creditors, and merits the
10 approval of the Court. As stated above, the Property is the sole asset of the Debtor’s bankruptcy
11 estate. The Debtor has two options for the Property – continue to develop the Property as initially
12 planned in the JV Agreement, which involves entitling the Property and building condos or
13 apartments on the Property or sell the Property. The former option will take substantial time and
14 money – including money to obtain all necessary entitlements and permits and then to build the
15 condos. Only after the new condos are built would the Debtor be able to realize a profit by
16 selling the condos and/or Property as a whole and payoff its secured creditors and make a
17 distribution to its unsecured creditors. The Debtor lacks sufficient funds to continue with this
18 strategy. More importantly, it is clear that the equity holders are not in agreement as to the
19 strategy herein and are in litigation with respect to the Property. Such a dispute is not conducive
20 to seeking additional financing or investment and proceeding with the long-term strategy initially
21 contemplated by the parties.

22 18. The latter option – selling the Property now – allows the Debtor to stop the
23 incurrence of additional fees and payoff its secured creditors right away. Further, it will allow the
24 Debtor to make a substantial distribution (and potentially pay in full) to unsecured creditors
25 without delay. Given the two options faced by the Debtor, the Debtor believes that proceeding
26 with the sale of the Property is a sound business decision.

27 19. Further, the purchase price is market value and will net the estate substantial
28 funds for the benefit of creditors after the payment of the secured creditors in full.

1 20. Based on the foregoing, the Debtor believes that the proposed sale of the Property
2 is in the best interests of creditors and the estate.

3 21. While the proposed Buyer may be viewed as an insider, I believe that there are no
4 secret deals or agreements of any kind. This is intended to be a simple and clean sale
5 transaction, In the event that anyone wants to overbid, they are free to do so without any
6 restrictions of any kind. My goal is to obtain the maximum price for the Property for the benefit
7 of the estate, all creditors and equity holders.

8 **C. Liens and Interests**

9 22. A preliminary title report on the Property (the "Title Report"), a true and correct
10 copy of which is attached hereto as **Exhibit "6"** and incorporated herein by reference, has been
11 obtained from Ticor Title. The Title Report indicates that the following liens have been recorded
12 against the Property:

Item No. on Title Report	Lienholder	Nature and Amount of Lien
1 and 2	County Assessor's Office	Real property taxes. The Debtor is informed that real property taxes totaling approximately \$25,667.84 are owed and the amount owed will be paid from escrow.
3	Arch	Deed of Trust recorded in favor of Arch Loans SPE, LLC on 4/1/16 (borrower of record is Napa, but secured by the Property), which was assigned to Arch CBT SPE LLC via an assignment recorded on 6/22/16. The Debtor is informed that an obligation of approximately \$975,000 is secured by this deed and the amount owed will be paid from escrow unless Arch consents to assign the obligation to the Buyer.

4	Peter Beskodarny	Notice of Pendency of Action recorded by Peter Beskodarny in connection with the State court Action on 4/11/17. As set forth below, the Debtor seeks to sell the Property free and clear of this notice of pendency pursuant to Section 363(f) of the Bankruptcy Code.
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23. Moreover, based on a recent payoff demand from Arch, which I requested and obtained, the total obligation due and owing to Arch is currently as follows:

1200 Gordon St	16-90038A	As of 2/28/18
Loan Principal	\$945,000.00	
Interest	\$66,150.00	From 8/1/17 to 2/28/18
Late Fee	\$7,560.00	
Default Interest	\$102,375.00	4/6/17 to 2/28/18
Trustee Fees	\$7,100.00	
Legal Fees	\$20,631.69	
LA Foreclosure Fees	\$310.00	
Total	\$1,149,126.69	

D. **Distribution To The Estate**

24. I estimate that the proposed sale will generate \$125,205.47 in net proceeds as follows:

Proposed Sales Price	\$1,300,000.00
Real Property Taxes	<\$25,667.84>
Arch Lien	<\$1,149,126.69>
Net Proceeds	<u>\$ 125,205.47</u>

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge, information and belief.

3 Executed this 20th day of February 2018 at Los Angeles, California.

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Paul Morady

PAUL MORADY

EXHIBIT “1”



CALIFORNIA ASSOCIATION OF REALTORS®

DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (Selling Firm to Buyer) (As required by the Civil Code) (C.A.R. Form AD, Revised 12/14)

(If checked) This form is being provided in connection with a transaction for a leasehold interest exceeding one year as per Civil Code section 2079.13(k) and (m).

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

SELLER'S AGENT

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller: A Fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

BUYER'S AGENT

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller.

To the Buyer: A fiduciary duty of utmost care, integrity, honesty and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- (a) Diligent exercise of reasonable skill and care in performance of the agent's duties.
(b) A duty of honest and fair dealing and good faith.
(c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

AGENT REPRESENTING BOTH SELLER AND BUYER

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
(b) Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on page 2. Read it carefully. I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CIVIL CODE PRINTED ON THE BACK (OR A SEPARATE PAGE).

Buyer Seller Landlord Tenant Date 2/12/2018

Buyer Seller Landlord Tenant Date

Agent Real Estate Broker (Firm) BRE Lic. #

By (Salesperson or Broker-Associate) BRE Lic. # Date

Agency Disclosure Compliance (Civil Code §2079.14):
• When the listing brokerage company also represents Buyer/Tenant: The Listing Agent shall have one AD form signed by Seller/Landlord and a different AD form signed by Buyer/Tenant.
• When Seller/Landlord and Buyer/Tenant are represented by different brokerage companies: (i) the Listing Agent shall have one AD form signed by Seller/Landlord and (ii) the Buyer's/Tenant's Agent shall have one AD form signed by Buyer/Tenant and either that same or a different AD form presented to Seller/Landlord for signature prior to presentation of the offer.
Seller/Landlord Date Seller/Landlord Date
Gordon Street Condos LLC

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Reviewed by Date



CIVIL CODE SECTION 2079.13-2079.24 (2017) Page 2 OF 25

2079.13 As used in Sections 2079.14 to 2079.24, inclusive, the following terms have the following meanings: (a) "Agent" means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. (b) "Associate licensee" means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions. (c) "Buyer" means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee. (d) "Commercial real property" means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29. (e) "Dual agent" means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction. (f) "Listing agreement" means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer. (g) "Listing agent" means a person who has obtained a listing of real property to act as an agent for compensation. (h) "Listing price" is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent. (i) "Offering price" is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. (j) "Offer to purchase" means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller. (k) "Real property" means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. (l) "Real property transaction" means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase. (m) "Sell," "sale," or "sold" refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. (n) "Seller" means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor. (o) "Selling agent" means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller. (p) "Subagent" means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

2079.14 Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgement of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows: (a) The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. (b) The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a). (c) Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgement of receipt obtained from the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgement of receipt is required. (d) The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

2079.15 In any circumstance in which the seller or buyer refuses to sign an acknowledgement of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

2079.16 Reproduced on Page 1 of this AD form.

2079.17 (a) As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. (b) As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller. (c) The confirmation required by subdivisions (a) and (b) shall be in the following form.

(DO NOT COMPLETE. SAMPLE ONLY) _____ is the agent of (check one): the seller exclusively; or both the buyer and seller.

(Name of Listing Agent)

(DO NOT COMPLETE. SAMPLE ONLY) _____ is the agent of (check one): the buyer exclusively; or the seller exclusively; or

(Name of Selling Agent if not the same as the Listing Agent)

both the buyer and seller.

(d) The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

2079.18 No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

2079.19 The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

2079.20 Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

2079.21 A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

2079.22 Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

2079.23 A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship.

2079.24 Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

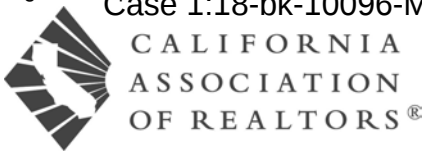
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AD REVISED 12/14 (PAGE 2 OF 2)

Reviewed by _____ Date _____



DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP (AD PAGE 2 OF 2)



POSSIBLE REPRESENTATION OF MORE THAN ONE BUYER OR SELLER - DISCLOSURE AND CONSENT

(C.A.R. Form PRBS, 11/14)

A real estate broker (Broker), whether a corporation, partnership or sole proprietorship, may represent more than one buyer or seller. This multiple representation can occur through an individual licensed as a broker or salesperson or through different individual broker's or salespersons (associate licensees) acting under the Broker's license. The associate licensees may be working out of the same or different office locations.

Multiple Buyers: Broker (individually or through its associate licensees) may be working with many prospective buyers at the same time. These prospective buyers may have an interest in, and make offers on, the same properties. Some of these properties may be listed with Broker and some may not. Broker will not limit or restrict any particular buyer from making an offer on any particular property whether or not Broker represents other buyers interested in the same property.

Multiple Sellers: Broker (individually or through its associate licensees) may have listings on many properties at the same time. As a result, Broker will attempt to find buyers for each of those listed properties. Some listed properties may appeal to the same prospective buyers. Some properties may attract more prospective buyers than others. Some of these prospective buyers may be represented by Broker and some may not. Broker will market all listed properties to all prospective buyers whether or not Broker has another or other listed properties that may appeal to the same prospective buyers.

Dual Agency: If Seller is represented by Broker, Seller acknowledges that broker may represent prospective buyers of Seller's property and consents to Broker acting as a dual agent for both seller and buyer in that transaction. If Buyer is represented by Broker, buyer acknowledges that Broker may represent sellers of property that Buyer is interested in acquiring and consents to Broker acting as a dual agent for both buyer and seller with regard to that property.

In the event of dual agency, seller and buyer agree that: (a) Broker, without the prior written consent of the Buyer, will not disclose to seller that the Buyer is willing to pay a price greater than the offered price; (b) Broker, without the prior written consent of the seller, will not disclose to the buyer that seller is willing to sell property at a price less than the listing price; and (c) other than as set forth in (a) and (b) above, a dual agent is obligated to disclose known facts materially affecting the value or desirability of the property to both parties.

Offers not necessarily confidential: Buyer is advised that seller or listing agent may disclose the existence, terms, or conditions of buyer's offer unless all parties and their agent have signed a written confidentiality agreement. Whether any such information is actually disclosed depends on many factors, such as current market conditions, the prevailing practice in the real estate community, the listing agent's marketing strategy and the instructions of the seller.

Buyer and seller understand that Broker may represent more than one buyer or more than one seller and even both buyer and seller on the same transaction and consents to such relationships.

Seller and/or Buyer acknowledges reading and understanding this Possible Representation of More Than One Buyer or Seller - Disclosure and Consent and agrees to the agency possibilities disclosed.

Seller Gordon Street Condos LLC Date
Seller DocuSigned by: Date
Buyer Lex 2018, Inc 2/12/2018 Lex 2018, Inc Date
Buyer 6DA3C4DE137E4B5... Date

Real Estate Broker (Firm) CalBRE Lic # Date
By CalBRE Lic # Date

Real Estate Broker (Firm) CalBRE Lic # Date
By CalBRE Lic # Date

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Main Document Page 40 of 185
**WIRE FRAUD AND ELECTRONIC FUNDS
TRANSFER ADVISORY**
(C.A.R. Form WFA, Revised 12/17)



Property Address: 1200 Gordon Street, Los Angeles, CA 90038 ("Property").

WIRE FRAUD AND ELECTRONIC FUNDS TRANSFERS ADVISORY:

The ability to communicate and conduct business electronically is a convenience and reality in nearly all parts of our lives. At the same time, it has provided hackers and scammers new opportunities for their criminal activity. Many businesses have been victimized and the real estate business is no exception.

While wiring or electronically transferring funds is a welcome convenience, we all need to exercise extreme caution. Emails attempting to induce fraudulent wire transfers have been received and have appeared to be legitimate. Reports indicate that some hackers have been able to intercept emailed transfer instructions, obtain account information and, by altering some of the data, redirect the funds to a different account. It also appears that some hackers were able to provide false phone numbers for verifying the wiring or funds transfer instructions. In those cases, the victim called the number provided to confirm the instructions, and then unwittingly authorized a transfer to somewhere or someone other than the intended recipient.

ACCORDINGLY, YOU ARE ADVISED:

1. Obtain phone numbers and account numbers only from Escrow Officers, Property Managers, or Landlords at the beginning of the transaction.
2. DO NOT EVER WIRE OR ELECTRONICALLY TRANSFER FUNDS PRIOR TO CALLING TO CONFIRM THE TRANSFER INSTRUCTIONS. ONLY USE A PHONE NUMBER YOU WERE PROVIDED PREVIOUSLY. Do not use any different phone number or account number included in any emailed transfer instructions.
3. Orally confirm the transfer instruction is legitimate and confirm the bank routing number, account numbers and other codes before taking steps to transfer the funds.
4. Avoid sending personal information in emails or texts. Provide such information in person or over the telephone directly to the Escrow Officer, Property Manager, or Landlord.
5. Take steps to secure the system you are using with your email account. These steps include creating strong passwords, using secure WiFi, and not using free services.

If you believe you have received questionable or suspicious wire or funds transfer instructions, immediately notify your bank, and the other party, and the Escrow Office, Landlord, or Property Manager. The sources below, as well as others, can also provide information:

Federal Bureau of Investigation: <https://www.fbi.gov/>; the FBI's IC3 at www.ic3.gov; or 310-477-6565

National White Collar Crime Center: <http://www.nw3c.org/>

On Guard Online: <https://www.onguardonline.gov/>

NOTE: There are existing alternatives to electronic and wired fund transfers such as cashier's checks. By signing below, the undersigned acknowledge that each has read, understands and has received a copy of this Wire Fraud and Electronic Funds Transfer Advisory.

Buyer/Tenant	<u>Lex 2018, Inc</u>	<u>2/12/2018</u>	<u>Lex 2018, Inc</u>	Date
Buyer/Tenant	_____	_____	_____	Date
Seller/Landlord	_____	_____	<u>Gordon Street Condos LLC</u>	Date
Seller/Landlord	_____	_____	_____	Date

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CALIFORNIA ASSOCIATION OF REALTORS®

RESIDENTIAL PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (C.A.R. Form RPA-CA, Revised 12/15)

Date Prepared: 02/09/2018

1. OFFER:

- A. THIS IS AN OFFER FROM Lex 2018, Inc ("Buyer").
B. THE REAL PROPERTY to be acquired is 1200 Gordon Street, Los Angeles, CA 90038, situated in Los Angeles (City), Los Angeles (County), California, 90038 (Zip Code), Assessor's Parcel No. 5534-011-013 ("Property").
C. THE PURCHASE PRICE offered is One Million, Three Hundred Thousand Dollars \$ 1,300,000.00
D. CLOSE OF ESCROW shall occur on (date) or 30 Days After Acceptance.
E. Buyer and Seller are referred to herein as the "Parties." Brokers are not Parties to this Agreement.

2. AGENCY:

- A. DISCLOSURE: The Parties each acknowledge receipt of a "Disclosure Regarding Real Estate Agency Relationships" (C.A.R. Form AD).
B. CONFIRMATION: The following agency relationships are hereby confirmed for this transaction: Listing Agent (Print Firm Name) is the agent of (check one): the Seller exclusively; or both the Buyer and Seller. Selling Agent (Print Firm Name) (if not the same as the Listing Agent) is the agent of (check one): the Buyer exclusively; or the Seller exclusively; or both the Buyer and Seller.
C. POTENTIALLY COMPETING BUYERS AND SELLERS: The Parties each acknowledge receipt of a "Possible Representation of More than One Buyer or Seller - Disclosure and Consent" (C.A.R. Form PRBS).

3. FINANCE TERMS: Buyer represents that funds will be good when deposited with Escrow Holder.

- A. INITIAL DEPOSIT: Deposit shall be in the amount of \$ 39,000.00
(1) Buyer Direct Deposit: Buyer shall deliver deposit directly to Escrow Holder by electronic funds transfer, cashier's check, personal check, other within 3 business days after Acceptance (or);
OR (2) Buyer Deposit with Agent: Buyer has given the deposit by personal check (or) to the agent submitting the offer (or to), made payable to . The deposit shall be held uncashed until Acceptance and then deposited with Escrow Holder within 3 business days after Acceptance (or). Deposit checks given to agent shall be an original signed check and not a copy.
(Note: Initial and increased deposits checks received by agent shall be recorded in Broker's trust fund log.)

- B. INCREASED DEPOSIT: Buyer shall deposit with Escrow Holder an increased deposit in the amount of \$ within Days After Acceptance (or). If the Parties agree to liquidated damages in this Agreement, they also agree to incorporate the increased deposit into the liquidated damages amount in a separate liquidated damages clause (C.A.R. Form RID) at the time the increased deposit is delivered to Escrow Holder.

- C. ALL CASH OFFER: No loan is needed to purchase the Property. This offer is NOT contingent on Buyer obtaining a loan. Written verification of sufficient funds to close this transaction IS ATTACHED to this offer or Buyer shall, within 3 (or) Days After Acceptance, Deliver to Seller such verification.

- D. LOAN(S):
(1) FIRST LOAN: in the amount of \$ This loan will be conventional financing or FHA, VA, Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(2) SECOND LOAN in the amount of \$ This loan will be conventional financing or Seller financing (C.A.R. Form SFA), assumed financing (C.A.R. Form AFA), Other. This loan shall be at a fixed rate not to exceed % or, an adjustable rate loan with initial rate not to exceed %. Regardless of the type of loan, Buyer shall pay points not to exceed % of the loan amount.
(3) FHA/VA: For any FHA or VA loan specified in 3D(1), Buyer has 17 (or) Days After Acceptance to Deliver to Seller written notice (C.A.R. Form FVA) of any lender-required repairs or costs that Buyer requests Seller to pay for or otherwise correct. Seller has no obligation to pay or satisfy lender requirements unless agreed in writing. A FHA/VA amendatory clause (C.A.R. Form FVAC) shall be a part of this Agreement.

E. ADDITIONAL FINANCING TERMS: Offer to purchase as-is with no contingencies

F. BALANCE OF DOWN PAYMENT OR PURCHASE PRICE in the amount of \$ 1,261,000.00 to be deposited with Escrow Holder pursuant to Escrow Holder instructions.

G. PURCHASE PRICE (TOTAL): \$ 1,300,000.00

Buyer's Initials (LZL) Seller's Initials



- H. **VERIFICATION OF DOWN PAYMENT AND CLOSING COSTS:** Buyer (or Buyer's lender or loan broker pursuant to paragraph 3J(1)) shall, within **3 (or _____) Days** After Acceptance, Deliver to Seller written verification of Buyer's down payment and closing costs. (Verification attached.)
- I. **APPRAISAL CONTINGENCY AND REMOVAL:** This Agreement is (or is NOT) contingent upon a written appraisal of the Property by a licensed or certified appraiser at no less than the purchase price. Buyer shall, as specified in paragraph 14B(3), in writing, remove the appraisal contingency or cancel this Agreement within **17 (or _____) Days** After Acceptance.
- J. **LOAN TERMS:**
 - (1) **LOAN APPLICATIONS:** Within **3 (or _____) Days** After Acceptance, Buyer shall Deliver to Seller a letter from Buyer's lender or loan broker stating that, based on a review of Buyer's written application and credit report, Buyer is prequalified or preapproved for any NEW loan specified in paragraph 3D. If any loan specified in paragraph 3D is an adjustable rate loan, the prequalification or preapproval letter shall be based on the qualifying rate, not the initial loan rate. (Letter attached.)
 - (2) **LOAN CONTINGENCY:** Buyer shall act diligently and in good faith to obtain the designated loan(s). Buyer's qualification for the loan(s) specified above **is a contingency** of this Agreement unless otherwise agreed in writing. If there is no appraisal contingency or the appraisal contingency has been waived or removed, then failure of the Property to appraise at the purchase price does not entitle Buyer to exercise the cancellation right pursuant to the loan contingency if Buyer is otherwise qualified for the specified loan. Buyer's contractual obligations regarding deposit, balance of down payment and closing costs **are not contingencies** of this Agreement.
 - (3) **LOAN CONTINGENCY REMOVAL:** Within **21 (or _____) Days** After Acceptance, Buyer shall, as specified in paragraph 14, in writing, remove the loan contingency or cancel this Agreement. If there is an appraisal contingency, removal of the loan contingency shall not be deemed removal of the appraisal contingency.
 - (4) **NO LOAN CONTINGENCY:** Obtaining any loan specified above is NOT a contingency of this Agreement. If Buyer does not obtain the loan and as a result does not purchase the Property, Seller may be entitled to Buyer's deposit or other legal remedies.
 - (5) **LENDER LIMITS ON BUYER CREDITS:** Any credit to Buyer, from any source, for closing or other costs that is agreed to by the Parties ("Contractual Credit") shall be disclosed to Buyer's lender. If the total credit allowed by Buyer's lender ("Lender Allowable Credit") is less than the Contractual Credit, then (i) the Contractual Credit shall be reduced to the Lender Allowable Credit, and (ii) in the absence of a separate written agreement between the Parties, there shall be no automatic adjustment to the purchase price to make up for the difference between the Contractual Credit and the Lender Allowable Credit.
- K. **BUYER STATED FINANCING:** Seller is relying on Buyer's representation of the type of financing specified (including but not limited to, as applicable, all cash, amount of down payment, or contingent or non-contingent loan). Seller has agreed to a specific closing date, purchase price and to sell to Buyer in reliance on Buyer's covenant concerning financing. Buyer shall pursue the financing specified in this Agreement. Seller has no obligation to cooperate with Buyer's efforts to obtain any financing other than that specified in the Agreement and the availability of any such alternate financing does not excuse Buyer from the obligation to purchase the Property and close escrow as specified in this Agreement.

4. **SALE OF BUYER'S PROPERTY:**

- A. This Agreement and Buyer's ability to obtain financing are NOT contingent upon the sale of any property owned by Buyer.
- OR B. This Agreement and Buyer's ability to obtain financing are contingent upon the sale of property owned by Buyer as specified in the attached addendum (C.A.R. Form COP).

5. **ADDENDA AND ADVISORIES:**

- A. **ADDENDA:**

<input type="checkbox"/> Addendum # _____ (C.A.R. Form ADM)	
<input type="checkbox"/> Back Up Offer Addendum (C.A.R. Form BUO)	<input type="checkbox"/> Court Confirmation Addendum (C.A.R. Form CCA)
<input type="checkbox"/> Septic, Well and Property Monument Addendum (C.A.R. Form SWPI)	
<input type="checkbox"/> Short Sale Addendum (C.A.R. Form SSA)	<input type="checkbox"/> Other _____
- B. **BUYER AND SELLER ADVISORIES:**

<input checked="" type="checkbox"/> Buyer's Inspection Advisory (C.A.R. Form BIA)	
<input type="checkbox"/> Probate Advisory (C.A.R. Form PA)	<input type="checkbox"/> Statewide Buyer and Seller Advisory (C.A.R. Form SBSA)
<input type="checkbox"/> Trust Advisory (C.A.R. Form TA)	<input type="checkbox"/> REO Advisory (C.A.R. Form REO)
<input type="checkbox"/> Short Sale Information and Advisory (C.A.R. Form SSIA)	<input type="checkbox"/> Other _____

6. **OTHER TERMS:** Purchasing in As-Is Where-Is condition

7. **ALLOCATION OF COSTS**

- A. **INSPECTIONS, REPORTS AND CERTIFICATES:** Unless otherwise agreed in writing, this paragraph only determines who is to pay for the inspection, test, certificate or service ("Report") mentioned; it **does not determine who is to pay for any work recommended or identified in the Report.**
 - (1) Buyer Seller shall pay for a natural hazard zone disclosure report, including tax environmental Other: _____ prepared by _____.
 - (2) Buyer Seller shall pay for the following Report _____ prepared by _____.
 - (3) Buyer Seller shall pay for the following Report _____ prepared by _____.

Buyer's Initials (ls) (_____)

Seller's Initials (_____) (_____)



B. GOVERNMENT REQUIREMENTS AND RETROFIT:

- (1) Buyer Seller shall pay for smoke alarm and carbon monoxide device installation and water heater bracing, if required by Law. Prior to Close Of Escrow ("COE"), Seller shall provide Buyer written statement(s) of compliance in accordance with state and local Law, unless Seller is exempt.
- (2) (i) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government inspections and reports if required as a condition of closing escrow under any Law.
- (ii) Buyer Seller shall pay the cost of compliance with any other minimum mandatory government retrofit standards required as a condition of closing escrow under any Law, whether the work is required to be completed before or after COE.
- (iii) Buyer shall be provided, within the time specified in paragraph 14A, a copy of any required government conducted or point-of-sale inspection report prepared pursuant to this Agreement or in anticipation of this sale of the Property.

C. ESCROW AND TITLE:

- (1) (a) Buyer Seller shall pay escrow fee _____.
- (b) Escrow Holder shall be _____.
- (c) The Parties shall, within **5 (or _____) Days** After receipt, sign and return Escrow Holder's general provisions.
- (2) (a) Buyer Seller shall pay for **owner's** title insurance policy specified in paragraph 13E _____.
- (b) Owner's title policy to be issued by _____.
- (Buyer shall pay for any title insurance policy insuring Buyer's lender, unless otherwise agreed in writing.)

D. OTHER COSTS:

- (1) Buyer Seller shall pay County transfer tax or fee _____.
 - (2) Buyer Seller shall pay City transfer tax or fee _____.
 - (3) Buyer Seller shall pay Homeowners' Association ("HOA") transfer fee _____.
 - (4) Seller shall pay HOA fees for preparing documents required to be delivered by Civil Code §4525.
 - (5) Buyer Seller shall pay HOA fees for preparing all documents other than those required by Civil Code §4525.
 - (6) Buyer to pay for any HOA certification fee.
 - (7) Buyer Seller shall pay for any private transfer fee _____.
 - (8) Buyer Seller shall pay for _____.
 - (9) Buyer Seller shall pay for _____.
 - (10) Buyer Seller shall pay for the cost, not to exceed \$ _____, of a standard (or upgraded) one-year home warranty plan, issued by _____, with the following optional coverages: Air Conditioner Pool/Spa Other: _____.
- Buyer is informed that home warranty plans have many optional coverages in addition to those listed above. Buyer is advised to investigate these coverages to determine those that may be suitable for Buyer.

OR Buyer waives the purchase of a home warranty plan. Nothing in this paragraph precludes Buyer's purchasing a home warranty plan during the term of this Agreement.

8. ITEMS INCLUDED IN AND EXCLUDED FROM SALE:

A. NOTE TO BUYER AND SELLER: Items listed as included or excluded in the MLS, flyers or marketing materials are **not** included in the purchase price or excluded from the sale unless specified in paragraph 8 B or C.

B. ITEMS INCLUDED IN SALE: Except as otherwise specified or disclosed,

- (1) All EXISTING fixtures and fittings that are attached to the Property;
- (2) EXISTING electrical, mechanical, lighting, plumbing and heating fixtures, ceiling fans, fireplace inserts, gas logs and grates, solar power systems, built-in appliances, window and door screens, awnings, shutters, window coverings, attached floor coverings, television antennas, satellite dishes, air coolers/conditioners, pool/spa equipment, garage door openers/remote controls, mailbox, in-ground landscaping, trees/shrubs, water features and fountains, water softeners, water purifiers, security systems/alarms and the following if checked: all stove(s), except _____; all refrigerator(s) except _____; all washer(s) and dryer(s), except _____;
- (3) The following additional items: _____.
- (4) Existing integrated phone and home automation systems, including necessary components such as intranet and Internet-connected hardware or devices, control units (other than non-dedicated mobile devices, electronics and computers) and applicable software, permissions, passwords, codes and access information, are (are NOT) included in the sale.
- (5) **LEASED OR LIENED ITEMS AND SYSTEMS:** Seller shall, within the time specified in paragraph 14A, (i) disclose to Buyer if any item or system specified in paragraph 8B or otherwise included in the sale is leased, or not owned by Seller, or specifically subject to a lien or other encumbrance, and (ii) Deliver to Buyer all written materials (such as lease, warranty, etc.) concerning any such item. Buyer's ability to assume any such lease, or willingness to accept the Property subject to any such lien or encumbrance, is a contingency in favor of Buyer and Seller as specified in paragraph 14B and C.
- (6) Seller represents that all items included in the purchase price, unless otherwise specified, (i) are owned by Seller and shall be transferred free and clear of liens and encumbrances, except the items and systems identified pursuant to 8B(5) and _____, and (ii) are transferred without Seller warranty regardless of value.

C. ITEMS EXCLUDED FROM SALE: Unless otherwise specified, the following items are excluded from sale: (i) audio and video components (such as flat screen TVs, speakers and other items) if any such item is not itself attached to the Property, even if a bracket or other mechanism attached to the component or item is attached to the Property; (ii) furniture and other items secured to the Property for earthquake purposes; and (iii) _____.

_____ Brackets attached to walls, floors or ceilings for any such component, furniture or item shall remain with the Property (or will be removed and holes or other damage shall be repaired, but not painted).

Buyer's Initials (LZL) (_____)

Seller's Initials (_____) (_____)



9. CLOSING AND POSSESSION:

- A. Buyer intends (or does not intend) to occupy the Property as Buyer's primary residence.
 - B. **Seller-occupied or vacant property:** Possession shall be delivered to Buyer: (i) at 6 PM or (AM/ PM) on the date of Close Of Escrow; (ii) no later than ___ calendar days after Close Of Escrow; or (iii) at AM/ PM on _____.
 - C. **Seller remaining in possession After Close Of Escrow:** If Seller has the right to remain in possession after Close Of Escrow, (i) the Parties are advised to sign a separate occupancy agreement such as C.A.R. Form SIP, for Seller continued occupancy of less than 30 days, C.A.R. Form RLAS for Seller continued occupancy of 30 days or more; and (ii) the Parties are advised to consult with their insurance and legal advisors for information about liability and damage or injury to persons and personal and real property; and (iii) Buyer is advised to consult with Buyer's lender about the impact of Seller's occupancy on Buyer's loan.
 - D. **Tenant-occupied property: Property shall be vacant at least 5 (or ___) Days** Prior to Close Of Escrow, unless otherwise agreed in writing. **Note to Seller: If you are unable to deliver Property vacant in accordance with rent control and other applicable Law, you may be in breach of this Agreement.**
- OR **Tenant to remain in possession** (C.A.R. Form TIP).
- E. At Close Of Escrow: Seller assigns to Buyer any assignable warranty rights for items included in the sale; and Seller shall Deliver to Buyer available Copies of any such warranties. Brokers cannot and will not determine the assignability of any warranties.
 - F. At Close Of Escrow, unless otherwise agreed in writing, Seller shall provide keys, passwords, codes and/or means to operate all locks, mailboxes, security systems, alarms, home automation systems and intranet and Internet-connected devices included in the purchase price, and garage door openers. If the Property is a condominium or located in a common interest subdivision, Buyer may be required to pay a deposit to the Homeowners' Association ("HOA") to obtain keys to accessible HOA facilities.

10. STATUTORY AND OTHER DISCLOSURES (INCLUDING LEAD-BASED PAINT HAZARD DISCLOSURES) AND CANCELLATION RIGHTS:

- A. (1) Seller shall, within the time specified in paragraph 14A, Deliver to Buyer: (i) if required by Law, a fully completed: Federal Lead-Based Paint Disclosures (C.A.R. Form FLD) and pamphlet ("Lead Disclosures"); and (ii) unless exempt, fully completed disclosures or notices required by sections 1102 et. seq. and 1103 et. seq. of the Civil Code ("Statutory Disclosures"). Statutory Disclosures include, but are not limited to, a Real Estate Transfer Disclosure Statement ("TDS"), Natural Hazard Disclosure Statement ("NHD"), notice or actual knowledge of release of illegal controlled substance, notice of special tax and/or assessments (or, if allowed, substantially equivalent notice regarding the Mello-Roos Community Facilities Act of 1982 and Improvement Bond Act of 1915) and, if Seller has actual knowledge, of industrial use and military ordnance location (C.A.R. Form SPQ or ESD).
 - (2) Any Statutory Disclosure required by this paragraph is considered fully completed if Seller has answered all questions and completed and signed the Seller section(s) and the Listing Agent, if any, has completed and signed the Listing Broker section(s), or, if applicable, an Agent Visual Inspection Disclosure (C.A.R. Form AVID). Nothing stated herein relieves a Buyer's Broker, if any, from the obligation to (i) conduct a reasonably competent and diligent visual inspection of the accessible areas of the Property and disclose, on Section IV of the TDS, or an AVID, material facts affecting the value or desirability of the Property that were or should have been revealed by such an inspection or (ii) complete any sections on all disclosures required to be completed by Buyer's Broker.
 - (3) **Note to Buyer and Seller:** Waiver of Statutory and Lead Disclosures is prohibited by Law.
 - (4) Within the time specified in paragraph 14A, (i) Seller, unless exempt from the obligation to provide a TDS, shall, complete and provide Buyer with a Seller Property Questionnaire (C.A.R. Form SPQ); (ii) if Seller is not required to provide a TDS, Seller shall complete and provide Buyer with an Exempt Seller Disclosure (C.A.R. Form ESD).
 - (5) Buyer shall, within the time specified in paragraph 14B(1), return Signed Copies of the Statutory, Lead and other disclosures to Seller.
 - (6) In the event Seller or Listing Broker, prior to Close Of Escrow, becomes aware of adverse conditions materially affecting the Property, or any material inaccuracy in disclosures, information or representations previously provided to Buyer, Seller shall promptly provide a subsequent or amended disclosure or notice, in writing, covering those items. **However, a subsequent or amended disclosure shall not be required for conditions and material inaccuracies of which Buyer is otherwise aware, or which are disclosed in reports provided to or obtained by Buyer or ordered and paid for by Buyer.**
 - (7) If any disclosure or notice specified in paragraph 10A(1), or subsequent or amended disclosure or notice is Delivered to Buyer after the offer is Signed, Buyer shall have the right to cancel this Agreement within **3 Days** After Delivery in person, or **5 Days** After Delivery by deposit in the mail, by giving written notice of cancellation to Seller or Seller's agent.
- B. **NATURAL AND ENVIRONMENTAL HAZARD DISCLOSURES AND OTHER BOOKLETS:** Within the time specified in paragraph 14A, Seller shall, if required by Law: (i) Deliver to Buyer earthquake guide(s) (and questionnaire), environmental hazards booklet, and home energy rating pamphlet; (ii) disclose if the Property is located in a Special Flood Hazard Area; Potential Flooding (Inundation) Area; Very High Fire Hazard Zone; State Fire Responsibility Area; Earthquake Fault Zone; and Seismic Hazard Zone; and (iii) disclose any other zone as required by Law and provide any other information required for those zones.
 - C. **WITHHOLDING TAXES:** Within the time specified in paragraph 14A, to avoid required withholding, Seller shall Deliver to Buyer or qualified substitute, an affidavit sufficient to comply with federal (FIRPTA) and California withholding Law (C.A.R. Form AS or QS).
 - D. **MEGAN'S LAW DATABASE DISCLOSURE:** Notice: Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides. (Neither Seller nor Brokers are required to check this website. If Buyer wants further information, Broker recommends that Buyer obtain information from this website during Buyer's inspection contingency period. Brokers do not have expertise in this area.)
 - E. **NOTICE REGARDING GAS AND HAZARDOUS LIQUID TRANSMISSION PIPELINES:** This notice is being provided simply to inform you that information about the general location of gas and hazardous liquid transmission pipelines is available to the public via the National Pipeline Mapping System (NPMS) Internet Web site maintained by the United States Department of Transportation at <http://www.npms.phmsa.dot.gov>. To seek further information about possible transmission pipelines near the Property, you may contact your local gas utility or other pipeline operators in the area. Contact information for pipeline operators is searchable by ZIP Code and county on the NPMS Internet Web site.
 - F. **CONDOMINIUM/PLANNED DEVELOPMENT DISCLOSURES:**
 - (1) **SELLER HAS: 7 (or ___) Days** After Acceptance to disclose to Buyer if the Property is a condominium, or is located in a planned development or other common interest subdivision (C.A.R. Form SPQ or ESD).

Buyer's Initials (lzl) (_____)
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Seller's Initials (_____) (_____)



(2) If the Property is a condominium or is located in a planned development or other common interest subdivision, Seller has 3 (or ___) Days After Acceptance to request from the HOA (C.A.R. Form HOA1): (i) Copies of any documents required by Law; (ii) disclosure of any pending or anticipated claim or litigation by or against the HOA; (iii) a statement containing the location and number of designated parking and storage spaces; (iv) Copies of the most recent 12 months of HOA minutes for regular and special meetings; and (v) the names and contact information of all HOAs governing the Property (collectively, "CI Disclosures"). (vi) private transfer fees; (vii) Pet fee restrictions; and (viii) smoking restrictions. Seller shall itemize and Deliver to Buyer all CI Disclosures received from the HOA and any CI Disclosures in Seller's possession. Buyer's approval of CI Disclosures is a contingency of this Agreement as specified in paragraph 14B(3). The Party specified in paragraph 7, as directed by escrow, shall deposit funds into escrow or direct to HOA or management company to pay for any of the above.

11. CONDITION OF PROPERTY: Unless otherwise agreed in writing: (i) the Property is sold (a) "AS-IS" in its PRESENT physical condition as of the date of Acceptance and (b) subject to Buyer's Investigation rights; (ii) the Property, including pool, spa, landscaping and grounds, is to be maintained in substantially the same condition as on the date of Acceptance; and (iii) all debris and personal property not included in the sale shall be removed by Close Of Escrow.

- A. Seller shall, within the time specified in paragraph 14A, DISCLOSE KNOWN MATERIAL FACTS AND DEFECTS affecting the Property, including known insurance claims within the past five years, and make any and all other disclosures required by law.
B. Buyer has the right to conduct Buyer Investigations of the Property and, as specified in paragraph 14B, based upon information discovered in those investigations: (i) cancel this Agreement; or (ii) request that Seller make Repairs or take other action.
C. Buyer is strongly advised to conduct investigations of the entire Property in order to determine its present condition. Seller may not be aware of all defects affecting the Property or other factors that Buyer considers important. Property improvements may not be built according to code, in compliance with current Law, or have had permits issued.

12. BUYER'S INVESTIGATION OF PROPERTY AND MATTERS AFFECTING PROPERTY:

- A. Buyer's acceptance of the condition of, and any other matter affecting the Property, is a contingency of this Agreement as specified in this paragraph and paragraph 14B. Within the time specified in paragraph 14B(1), Buyer shall have the right, at Buyer's expense unless otherwise agreed, to conduct inspections, investigations, tests, surveys and other studies ("Buyer Investigations"), including, but not limited to: (i) a general physical inspection; (ii) an inspection specifically for wood destroying pests and organisms. Any inspection for wood destroying pests and organisms shall be prepared by a registered Structural Pest Control company; shall cover the main building and attached structures; may cover detached structures; shall NOT include water tests of shower pans on upper level units unless the owners of property below the shower consent; shall NOT include roof coverings; and, if the Property is a unit in a condominium or other common interest subdivision, the inspection shall include only the separate interest and any exclusive-use areas being transferred, and shall NOT include common areas; and shall include a report ("Pest Control Report") showing the findings of the company which shall be separated into sections for evident infestation or infections (Section 1) and for conditions likely to lead to infestation or infection (Section 2); (iii) inspect for lead-based paint and other lead-based paint hazards; (iv) satisfy Buyer as to any matter specified in the attached Buyer's Inspection Advisory (C.A.R. Form BIA); (v) review the registered sex offender database; (vi) confirm the insurability of Buyer and the Property including the availability and cost of flood and fire insurance; and (vii) review and seek approval of leases that may need to be assumed by Buyer. Without Seller's prior written consent, Buyer shall neither make nor cause to be made: invasive or destructive Buyer Investigations, except for minimally invasive testing required to prepare a Pest Control Report; or inspections by any governmental building or zoning inspector or government employee, unless required by Law.
B. Seller shall make the Property available for all Buyer Investigations. Buyer shall (i) as specified in paragraph 14B, complete Buyer Investigations and either remove the contingency or cancel this Agreement, and (ii) give Seller, at no cost, complete Copies of all such Investigation reports obtained by Buyer, which obligation shall survive the termination of this Agreement.
C. Seller shall have water, gas, electricity and all operable pilot lights on for Buyer's Investigations and through the date possession is made available to Buyer.
D. Buyer indemnity and seller protection for entry upon property: Buyer shall: (i) keep the Property free and clear of liens; (ii) repair all damage arising from Buyer Investigations; and (iii) indemnify and hold Seller harmless from all resulting liability, claims, demands, damages and costs. Buyer shall carry, or Buyer shall require anyone acting on Buyer's behalf to carry, policies of liability, workers' compensation and other applicable insurance, defending and protecting Seller from liability for any injuries to persons or property occurring during any Buyer Investigations or work done on the Property at Buyer's direction prior to Close Of Escrow. Seller is advised that certain protections may be afforded Seller by recording a "Notice of Non-Responsibility" (C.A.R. Form NNR) for Buyer Investigations and work done on the Property at Buyer's direction. Buyer's obligations under this paragraph shall survive the termination of this Agreement.

13. TITLE AND VESTING:

- A. Within the time specified in paragraph 14, Buyer shall be provided a current preliminary title report ("Preliminary Report"). The Preliminary Report is only an offer by the title insurer to issue a policy of title insurance and may not contain every item affecting title. Buyer's review of the Preliminary Report and any other matters which may affect title are a contingency of this Agreement as specified in paragraph 14B. The company providing the Preliminary Report shall, prior to issuing a Preliminary Report, conduct a search of the General Index for all Sellers except banks or other institutional lenders selling properties they acquired through foreclosure (REOs), corporations, and government entities. Seller shall within 7 Days After Acceptance, give Escrow Holder a completed Statement of Information.
B. Title is taken in its present condition subject to all encumbrances, easements, covenants, conditions, restrictions, rights and other matters, whether of record or not, as of the date of Acceptance except for: (i) monetary liens of record (which Seller is obligated to pay off) unless Buyer is assuming those obligations or taking the Property subject to those obligations; and (ii) those matters which Seller has agreed to remove in writing.
C. Within the time specified in paragraph 14A, Seller has a duty to disclose to Buyer all matters known to Seller affecting title, whether of record or not.
D. At Close Of Escrow, Buyer shall receive a grant deed conveying title (or, for stock cooperative or long-term lease, an assignment of stock certificate or of Seller's leasehold interest), including oil, mineral and water rights if currently owned by Seller. Title shall vest as designated in Buyer's supplemental escrow instructions. THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES. CONSULT AN APPROPRIATE PROFESSIONAL.

Buyer's Initials ([Signature]) (_____)
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Seller's Initials (_____) (_____)



- E. Buyer shall receive a CLTA/ALTA "Homeowner's Policy of Title Insurance", if applicable to the type of property and buyer. If not, Escrow Holder shall notify Buyer. A title company can provide information about the availability, coverage, and cost of other title policies and endorsements. If the Homeowner's Policy is not available, Buyer shall choose another policy, instruct Escrow Holder in writing and shall pay any increase in cost.
- 14. TIME PERIODS; REMOVAL OF CONTINGENCIES; CANCELLATION RIGHTS: The following time periods may only be extended, altered, modified or changed by mutual written agreement. Any removal of contingencies or cancellation under this paragraph by either Buyer or Seller must be exercised in good faith and in writing (C.A.R. Form CR or CC).**
 - A. **SELLER HAS: 7 (or ___) Days** After Acceptance to Deliver to Buyer all Reports, disclosures and information for which Seller is responsible under paragraphs 5, 6, 7, 8B(5), 10A, B, C, and F, 11A and 13A. If, by the time specified, Seller has not Delivered any such item, Buyer after first Delivering to Seller a Notice to Seller to Perform (C.A.R. Form NSP) may cancel this Agreement.
 - B. **(1) BUYER HAS: 17 (or ___) Days** After Acceptance, unless otherwise agreed in writing, to: **(i)** complete all Buyer Investigations; review all disclosures, reports, lease documents to be assumed by Buyer pursuant to paragraph 8B(5), and other applicable information, which Buyer receives from Seller; and approve all matters affecting the Property; and **(ii)** Deliver to Seller Signed Copies of Statutory and Lead Disclosures and other disclosures Delivered by Seller in accordance with paragraph 10A.
 - (2)** Within the time specified in paragraph 14B(1), Buyer may request that Seller make repairs or take any other action regarding the Property (C.A.R. Form RR). Seller has no obligation to agree to or respond to (C.A.R. Form RRRR) Buyer's requests.
 - (3)** By the end of the time specified in paragraph 14B(1) (or as otherwise specified in this Agreement), Buyer shall Deliver to Seller a removal of the applicable contingency or cancellation (C.A.R. Form CR or CC) of this Agreement. However, if any report, disclosure or information for which Seller is responsible is not Delivered within the time specified in paragraph 14A, then Buyer has **5 (or ___) Days** After Delivery of any such items, or the time specified in paragraph 14B(1), whichever is later, to Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement.
 - (4) Continuation of Contingency:** Even after the end of the time specified in paragraph 14B(1) and before Seller cancels, if at all, pursuant to paragraph 14D, Buyer retains the right, in writing, to either (i) remove remaining contingencies, or (ii) cancel this Agreement based on a remaining contingency. Once Buyer's written removal of all contingencies is Delivered to Seller, Seller may not cancel this Agreement pursuant to paragraph 14D(1).
 - (5) Access to Property:** Buyer shall have access to the Property to conduct inspections and investigations for **17 (or ___) Days** After Acceptance, whether or not any part of the Buyer's Investigation Contingency has been waived or removed.
 - C. **REMOVAL OF CONTINGENCIES WITH OFFER: Buyer removes the contingencies specified in the attached Contingency Removal form (C.A.R. Form CR). If Buyer removes any contingency without an adequate understanding of the Property's condition or Buyer's ability to purchase, Buyer is acting against the advice of Broker.**
 - D. **SELLER RIGHT TO CANCEL:**
 - (1) Seller right to Cancel; Buyer Contingencies:** If, by the time specified in this Agreement, Buyer does not Deliver to Seller a removal of the applicable contingency or cancellation of this Agreement, then Seller, after first Delivering to Buyer a Notice to Buyer to Perform (C.A.R. Form NBP), may cancel this Agreement. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
 - (2) Seller right to Cancel; Buyer Contract Obligations:** Seller, after first delivering to Buyer a NBP, may cancel this Agreement if, by the time specified in this Agreement, Buyer does not take the following action(s): **(i)** Deposit funds as required by paragraph 3A, or 3B or if the funds deposited pursuant to paragraph 3A or 3B are not good when deposited; **(ii)** Deliver a notice of FHA or VA costs or terms as required by paragraph 3D(3) (C.A.R. Form FVA); **(iii)** Deliver a letter as required by paragraph 3J(1); **(iv)** Deliver verification, or a satisfactory verification if Seller reasonably disapproves of the verification already provided, as required by paragraph 3C or 3H; **(v)** In writing assume or accept leases or liens specified in 8B5; **(vi)** Return Statutory and Lead Disclosures as required by paragraph 10A(5); or **(vii)** Sign or initial a separate liquidated damages form for an increased deposit as required by paragraphs 3B and 21B; or **(viii)** Provide evidence of authority to sign in a representative capacity as specified in paragraph 19. In such event, Seller shall authorize the return of Buyer's deposit, except for fees incurred by Buyer.
 - E. **NOTICE TO BUYER OR SELLER TO PERFORM:** The NBP or NSP shall: **(i)** be in writing; **(ii)** be signed by the applicable Buyer or Seller; and **(iii)** give the other Party at least **2 (or ___) Days** After Delivery (or until the time specified in the applicable paragraph, whichever occurs last) to take the applicable action. A NBP or NSP may not be Delivered any earlier than **2 Days** Prior to the expiration of the applicable time for the other Party to remove a contingency or cancel this Agreement or meet an obligation specified in paragraph 14.
 - F. **EFFECT OF BUYER'S REMOVAL OF CONTINGENCIES:** If Buyer removes, in writing, any contingency or cancellation rights, unless otherwise specified in writing, Buyer shall conclusively be deemed to have: **(i)** completed all Buyer Investigations, and review of reports and other applicable information and disclosures pertaining to that contingency or cancellation right; **(ii)** elected to proceed with the transaction; and **(iii)** assumed all liability, responsibility and expense for Repairs or corrections pertaining to that contingency or cancellation right, or for the inability to obtain financing.
 - G. **CLOSE OF ESCROW:** Before Buyer or Seller may cancel this Agreement for failure of the other Party to close escrow pursuant to this Agreement, Buyer or Seller must first Deliver to the other Party a demand to close escrow (C.A.R. Form DCE). The DCE shall: **(i)** be signed by the applicable Buyer or Seller; and **(ii)** give the other Party at least **3 (or ___) Days** After Delivery to close escrow. A DCE may not be Delivered any earlier than **3 Days** Prior to the scheduled close of escrow.
 - H. **EFFECT OF CANCELLATION ON DEPOSITS:** If Buyer or Seller gives written notice of cancellation pursuant to rights duly exercised under the terms of this Agreement, the Parties agree to Sign mutual instructions to cancel the sale and escrow and release deposits, if any, to the party entitled to the funds, less fees and costs incurred by that party. Fees and costs may be payable to service providers and vendors for services and products provided during escrow. Except as specified below, **release of funds will require mutual Signed release instructions from the Parties, judicial decision or arbitration award.** If either Party fails to execute mutual instructions to cancel escrow, one Party may make a written demand to Escrow Holder for the deposit. (C.A.R. Form BDRD or SDRD). Escrow Holder, upon receipt, shall promptly deliver notice of the demand to the other Party. If, within 10 Days After Escrow Holder's notice, the other Party does not object to the demand, Escrow Holder shall disburse the deposit to the Party making the demand. If Escrow Holder complies with the preceding process, each Party shall be deemed to have released Escrow Holder from any and all claims or liability related to the disbursement of the deposit. Escrow Holder, at its discretion, may nonetheless require mutual cancellation instructions. **A Party may be subject to a civil penalty of up to \$1,000 for refusal to sign cancellation instructions if no good faith dispute exists as to who is entitled to the deposited funds (Civil Code §1057.3).**

Buyer's Initials (lzl) (_____)
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Seller's Initials (_____) (_____)



- 15. **FINAL VERIFICATION OF CONDITION:** Buyer shall have the right to make a final verification of the Property within 5 (or) Days Prior to Close Of Escrow, NOT AS A CONTINGENCY OF THE SALE, but solely to confirm: (i) the Property is maintained pursuant to paragraph 11; (ii) Repairs have been completed as agreed; and (iii) Seller has complied with Seller's other obligations under this Agreement (C.A.R. Form VP).
- 16. **REPAIRS:** Repairs shall be completed prior to final verification of condition unless otherwise agreed in writing. Repairs to be performed at Seller's expense may be performed by Seller or through others, provided that the work complies with applicable Law, including governmental permit, inspection and approval requirements. Repairs shall be performed in a good, skillful manner with materials of quality and appearance comparable to existing materials. It is understood that exact restoration of appearance or cosmetic items following all Repairs may not be possible. Seller shall: (i) obtain invoices and paid receipts for Repairs performed by others; (ii) prepare a written statement indicating the Repairs performed by Seller and the date of such Repairs; and (iii) provide Copies of invoices and paid receipts and statements to Buyer prior to final verification of condition.
- 17. **PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS:** Unless otherwise agreed in writing, the following items shall be PAID CURRENT and prorated between Buyer and Seller as of Close Of Escrow: real property taxes and assessments, interest, rents, HOA regular, special, and emergency dues and assessments imposed prior to Close Of Escrow, premiums on insurance assumed by Buyer, payments on bonds and assessments assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. The following items shall be assumed by Buyer WITHOUT CREDIT toward the purchase price: prorated payments on Mello-Roos and other Special Assessment District bonds and assessments and HOA special assessments that are now a lien but not yet due. Property will be reassessed upon change of ownership. Any supplemental tax bills shall be paid as follows: (i) for periods after Close Of Escrow, by Buyer; and (ii) for periods prior to Close Of Escrow, by Seller (see C.A.R. Form SPT or SBSA for further information). TAX BILLS ISSUED AFTER CLOSE OF ESCROW SHALL BE HANDLED DIRECTLY BETWEEN BUYER AND SELLER. Prorations shall be made based on a 30-day month.
- 18. **BROKERS:**
 - A. **COMPENSATION:** Seller or Buyer, or both, as applicable, agree to pay compensation to Broker as specified in a separate written agreement between Broker and that Seller or Buyer. Compensation is payable upon Close Of Escrow, or if escrow does not close, as otherwise specified in the agreement between Broker and that Seller or Buyer.
 - B. **SCOPE OF DUTY:** Buyer and Seller acknowledge and agree that Broker: (i) Does not decide what price Buyer should pay or Seller should accept; (ii) Does not guarantee the condition of the Property; (iii) Does not guarantee the performance, adequacy or completeness of inspections, services, products or repairs provided or made by Seller or others; (iv) Does not have an obligation to conduct an inspection of common areas or areas off the site of the Property; (v) Shall not be responsible for identifying defects on the Property, in common areas, or offsite unless such defects are visually observable by an inspection of reasonably accessible areas of the Property or are known to Broker; (vi) Shall not be responsible for inspecting public records or permits concerning the title or use of Property; (vii) Shall not be responsible for identifying the location of boundary lines or other items affecting title; (viii) Shall not be responsible for verifying square footage, representations of others or information contained in Investigation reports, Multiple Listing Service, advertisements, flyers or other promotional material; (ix) Shall not be responsible for determining the fair market value of the Property or any personal property included in the sale; (x) Shall not be responsible for providing legal or tax advice regarding any aspect of a transaction entered into by Buyer or Seller; and (xi) Shall not be responsible for providing other advice or information that exceeds the knowledge, education and experience required to perform real estate licensed activity. Buyer and Seller agree to seek legal, tax, insurance, title and other desired assistance from appropriate professionals.
- 19. **REPRESENTATIVE CAPACITY:** If one or more Parties is signing this Agreement in a representative capacity and not for him/herself as an individual then that Party shall so indicate in paragraph 31 or 32 and attach a Representative Capacity Signature Disclosure (C.A.R. Form RCSD). Wherever the signature or initials of the representative identified in the RCSD appear on this Agreement or any related documents, it shall be deemed to be in a representative capacity for the entity described and not in an individual capacity, unless otherwise indicated. The Party acting in a representative capacity (i) represents that the entity for which that party is acting already exists and (ii) shall Deliver to the other Party and Escrow Holder, within 3 Days After Acceptance, evidence of authority to act in that capacity (such as but not limited to: applicable portion of the trust or Certification Of Trust (Probate Code §18100.5), letters testamentary, court order, power of attorney, corporate resolution, or formation documents of the business entity).
- 20. **JOINT ESCROW INSTRUCTIONS TO ESCROW HOLDER:**
 - A. **The following paragraphs, or applicable portions thereof, of this Agreement constitute the joint escrow instructions of Buyer and Seller to Escrow Holder,** which Escrow Holder is to use along with any related counter offers and addenda, and any additional mutual instructions to close the escrow: paragraphs 1, 3, 4B, 5A, 6, 7, 10C, 13, 14H, 17, 18A, 19, 20, 26, 29, 30, 31, 32 and paragraph D of the section titled Real Estate Brokers on page 10. If a Copy of the separate compensation agreement(s) provided for in paragraph 18A, or paragraph D of the section titled Real Estate Brokers on page 10 is deposited with Escrow Holder by Broker, Escrow Holder shall accept such agreement(s) and pay out from Buyer's or Seller's funds, or both, as applicable, the Broker's compensation provided for in such agreement(s). The terms and conditions of this Agreement not set forth in the specified paragraphs are additional matters for the information of Escrow Holder, but about which Escrow Holder need not be concerned. Buyer and Seller will receive Escrow Holder's general provisions, if any, directly from Escrow Holder and will execute such provisions within the time specified in paragraph 7C(1)(c). To the extent the general provisions are inconsistent or conflict with this Agreement, the general provisions will control as to the duties and obligations of Escrow Holder only. Buyer and Seller will execute additional instructions, documents and forms provided by Escrow Holder that are reasonably necessary to close the escrow and, as directed by Escrow Holder, within 3 (or) Days, shall pay to Escrow Holder or HOA or HOA management company or others any fee required by paragraphs 7, 10 or elsewhere in this Agreement.
 - B. A Copy of this Agreement including any counter offer(s) and addenda shall be delivered to Escrow Holder within 3 Days After Acceptance (or _____). Buyer and Seller authorize Escrow Holder to accept and rely on Copies and Signatures as defined in this Agreement as originals, to open escrow and for other purposes of escrow. The validity of this Agreement as between Buyer and Seller is not affected by whether or when Escrow Holder Signs this Agreement. Escrow Holder shall provide Seller's Statement of Information to Title company when received from Seller. If Seller delivers an affidavit to Escrow Holder to satisfy Seller's FIRPTA obligation under paragraph 10C, Escrow Holder shall deliver to Buyer a Qualified Substitute statement that complies with federal Law.

Buyer's Initials (lzl) (_____)
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Seller's Initials (_____) (_____)



- C. Brokers are a party to the escrow for the sole purpose of compensation pursuant to paragraph 18A and paragraph D of the section titled Real Estate Brokers on page 10. Buyer and Seller irrevocably assign to Brokers compensation specified in paragraph 18A, and irrevocably instruct Escrow Holder to disburse those funds to Brokers at Close Of Escrow or pursuant to any other mutually executed cancellation agreement. Compensation instructions can be amended or revoked only with the written consent of Brokers. Buyer and Seller shall release and hold harmless Escrow Holder from any liability resulting from Escrow Holder's payment to Broker(s) of compensation pursuant to this Agreement.
- D. Upon receipt, Escrow Holder shall provide Seller and Seller's Broker verification of Buyer's deposit of funds pursuant to paragraph 3A and 3B. Once Escrow Holder becomes aware of any of the following, Escrow Holder shall immediately notify all Brokers: (i) if Buyer's initial or any additional deposit or down payment is not made pursuant to this Agreement, or is not good at time of deposit with Escrow Holder; or (ii) if Buyer and Seller instruct Escrow Holder to cancel escrow.
- E. A Copy of any amendment that affects any paragraph of this Agreement for which Escrow Holder is responsible shall be delivered to Escrow Holder within 3 Days after mutual execution of the amendment.

21. REMEDIES FOR BUYER'S BREACH OF CONTRACT:

- A. Any clause added by the Parties specifying a remedy (such as release or forfeiture of deposit or making a deposit non-refundable) for failure of Buyer to complete the purchase in violation of this Agreement shall be deemed invalid unless the clause independently satisfies the statutory liquidated damages requirements set forth in the Civil Code.
- B. LIQUIDATED DAMAGES: If Buyer fails to complete this purchase because of Buyer's default, Seller shall retain, as liquidated damages, the deposit actually paid. If the Property is a dwelling with no more than four units, one of which Buyer intends to occupy, then the amount retained shall be no more than 3% of the purchase price. Any excess shall be returned to Buyer. Except as provided in paragraph 14H, release of funds will require mutual, Signed release instructions from both Buyer and Seller, judicial decision or arbitration award. AT THE TIME OF ANY INCREASED DEPOSIT BUYER AND SELLER SHALL SIGN A SEPARATE LIQUIDATED DAMAGES PROVISION INCORPORATING THE INCREASED DEPOSIT AS LIQUIDATED DAMAGES (C.A.R. FORM RID).

Buyer's Initials _____ / _____

Seller's Initials _____ / _____

22. DISPUTE RESOLUTION:

- A. MEDIATION: The Parties agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration or court action through the C.A.R. Real Estate Mediation Center for Consumers (www.consumermediation.org) or through any other mediation provider or service mutually agreed to by the Parties. The Parties also agree to mediate any disputes or claims with Broker(s), who, in writing, agree to such mediation prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. Mediation fees, if any, shall be divided equally among the Parties involved. If, for any dispute or claim to which this paragraph applies, any Party (i) commences an action without first attempting to resolve the matter through mediation, or (ii) before commencement of an action, refuses to mediate after a request has been made, then that Party shall not be entitled to recover attorney fees, even if they would otherwise be available to that Party in any such action. THIS MEDIATION PROVISION APPLIES WHETHER OR NOT THE ARBITRATION PROVISION IS INITIALED. Exclusions from this mediation agreement are specified in paragraph 22C.

B. ARBITRATION OF DISPUTES:

The Parties agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration. The Parties also agree to arbitrate any disputes or claims with Broker(s), who, in writing, agree to such arbitration prior to, or within a reasonable time after, the dispute or claim is presented to the Broker. The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator. The Parties shall have the right to discovery in accordance with Code of Civil Procedure §1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part 3 of the Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Enforcement of this agreement to arbitrate shall be governed by the Federal Arbitration Act. Exclusions from this arbitration agreement are specified in paragraph 22C.

"NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

Buyer's Initials tl / _____

Seller's Initials _____ / _____

C. ADDITIONAL MEDIATION AND ARBITRATION TERMS:

- (1) EXCLUSIONS: The following matters are excluded from mediation and arbitration: (i) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage or installment land sale contract as defined in Civil Code §2985; (ii) an unlawful detainer action; and (iii) any matter that is within the jurisdiction of a probate, small claims or bankruptcy court.

Buyer's Initials (tl) (_____)

Seller's Initials (_____) (_____)

(2) **PRESERVATION OF ACTIONS:** The following shall not constitute a waiver nor violation of the mediation and arbitration provisions: (i) the filing of a court action to preserve a statute of limitations; (ii) the filing of a court action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies; or (iii) the filing of a mechanic's lien.

(3) **BROKERS:** Brokers shall not be obligated nor compelled to mediate or arbitrate unless they agree to do so in writing. Any Broker(s) participating in mediation or arbitration shall not be deemed a party to this Agreement.

23. **SELECTION OF SERVICE PROVIDERS:** Brokers do not guarantee the performance of any vendors, service or product providers ("Providers"), whether referred by Broker or selected by Buyer, Seller or other person. Buyer and Seller may select ANY Providers of their own choosing.

24. **MULTIPLE LISTING SERVICE ("MLS"):** Brokers are authorized to report to the MLS a pending sale and, upon Close Of Escrow, the sales price and other terms of this transaction shall be provided to the MLS to be published and disseminated to persons and entities authorized to use the information on terms approved by the MLS.

25. **ATTORNEY FEES:** In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 22A.

26. **ASSIGNMENT:** Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless otherwise agreed in writing by Seller. (C.A.R. Form A0AA).

27. **EQUAL HOUSING OPPORTUNITY:** The Property is sold in compliance with federal, state and local anti-discrimination Laws.

28. **TERMS AND CONDITIONS OF OFFER:**

This is an offer to purchase the Property on the above terms and conditions. The liquidated damages paragraph or the arbitration of disputes paragraph is incorporated in this Agreement if initialed by all Parties or if incorporated by mutual agreement in a counter offer or addendum. If at least one but not all Parties initial, a counter offer is required until agreement is reached. Seller has the right to continue to offer the Property for sale and to accept any other offer at any time prior to notification of Acceptance. The Parties have read and acknowledge receipt of a Copy of the offer and agree to the confirmation of agency relationships. If this offer is accepted and Buyer subsequently defaults, Buyer may be responsible for payment of Brokers' compensation. This Agreement and any supplement, addendum or modification, including any Copy, may be Signed in two or more counterparts, all of which shall constitute one and the same writing.

29. **TIME OF ESSENCE; ENTIRE CONTRACT; CHANGES:** Time is of the essence. All understandings between the Parties are incorporated in this Agreement. Its terms are intended by the Parties as a final, complete and exclusive expression of their Agreement with respect to its subject matter, and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. If any provision of this Agreement is held to be ineffective or invalid, the remaining provisions will nevertheless be given full force and effect. Except as otherwise specified, this Agreement shall be interpreted and disputes shall be resolved in accordance with the Laws of the State of California. **Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing Signed by Buyer and Seller.**

30. **DEFINITIONS:** As used in this Agreement:

- A. "Acceptance" means the time the offer or final counter offer is accepted in writing by a Party and is delivered to and personally received by the other Party or that Party's authorized agent in accordance with the terms of this offer or a final counter offer.
- B. "Agreement" means this document and any counter offers and any incorporated addenda, collectively forming the binding agreement between the Parties. Addenda are incorporated only when Signed by all Parties.
- C. "C.A.R. Form" means the most current version of the specific form referenced or another comparable form agreed to by the parties.
- D. "Close Of Escrow", including "COE", means the date the grant deed, or other evidence of transfer of title, is recorded.
- E. "Copy" means copy by any means including photocopy, NCR, facsimile and electronic.
- F. "Days" means calendar days. However, after Acceptance, the last Day for performance of any act required by this Agreement (including Close Of Escrow) shall not include any Saturday, Sunday, or legal holiday and shall instead be the next Day.
- G. "Days After" means the specified number of calendar days after the occurrence of the event specified, not counting the calendar date on which the specified event occurs, and ending at 11:59 PM on the final day.
- H. "Days Prior" means the specified number of calendar days before the occurrence of the event specified, not counting the calendar date on which the specified event is scheduled to occur.
- I. "Deliver", "Delivered" or "Delivery", unless otherwise specified in writing, means and shall be effective upon: personal receipt by Buyer or Seller or the individual Real Estate Licensee for that principal as specified in the section titled Real Estate Brokers on page 10, regardless of the method used (i.e., messenger, mail, email, fax, other).
- J. "Electronic Copy" or "Electronic Signature" means, as applicable, an electronic copy or signature complying with California Law. Buyer and Seller agree that electronic means will not be used by either Party to modify or alter the content or integrity of this Agreement without the knowledge and consent of the other Party.
- K. "Law" means any law, code, statute, ordinance, regulation, rule or order, which is adopted by a controlling city, county, state or federal legislative, judicial or executive body or agency.
- L. "Repairs" means any repairs (including pest control), alterations, replacements, modifications or retrofitting of the Property provided for under this Agreement.
- M. "Signed" means either a handwritten or electronic signature on an original document, Copy or any counterpart.

31. **EXPIRATION OF OFFER:** This offer shall be deemed revoked and the deposit, if any, shall be returned to Buyer unless the offer is Signed by Seller and a Copy of the Signed offer is personally received by Buyer, or by _____, who is authorized to receive it, by 5:00 PM on the third Day after this offer is signed by Buyer (or by _____ AM/ PM, on _____ (date)).

One or more Buyers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-B) for additional terms.

Date 02/12/2018 BUYER _____ 2/12/2018

(Print name) Lex 2018, Inc _____

Date _____ BUYER _____

(Print name) _____

Additional Signature Addendum attached (C.A.R. Form ASA).

Seller's Initials (_____) (_____)



Property Address: 1200 Gordon Street, Los Angeles, CA 90028 Page 50 of 185 Date: February 9, 2018

32. ACCEPTANCE OF OFFER: Seller warrants that Seller is the owner of the Property, or has the authority to execute this Agreement. Seller accepts the above offer, and agrees to sell the Property on the above terms and conditions. Seller has read and acknowledges receipt of a Copy of this Agreement, and authorizes Broker to Deliver a Signed Copy to Buyer.

(If checked) SELLER'S ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER (C.A.R. Form SCO or SMCO) DATED:

One or more Sellers is signing this Agreement in a representative capacity and not for him/herself as an individual. See attached Representative Capacity Signature Disclosure (C.A.R. Form RCSD-S) for additional terms.

Date SELLER

(Print name) Gordon Street Condos LLC

Date SELLER

(Print name)

Additional Signature Addendum attached (C.A.R. Form ASA).

(/) (Do not initial if making a counter offer.) CONFIRMATION OF ACCEPTANCE: A Copy of Signed Acceptance was personally received by Buyer or Buyer's authorized agent on (date) at AM/ PM. A binding Agreement is created when a Copy of Signed Acceptance is personally received by Buyer or Buyer's authorized agent whether or not confirmed in this document. Completion of this confirmation is not legally required in order to create a binding Agreement; it is solely intended to evidence the date that Confirmation of Acceptance has occurred.

REAL ESTATE BROKERS:

- A. Real Estate Brokers are not parties to the Agreement between Buyer and Seller.
B. Agency relationships are confirmed as stated in paragraph 2.
C. If specified in paragraph 3A(2), Agent who submitted the offer for Buyer acknowledges receipt of deposit.
D. COOPERATING BROKER COMPENSATION: Listing Broker agrees to pay Cooperating Broker (Selling Firm) and Cooperating Broker agrees to accept, out of Listing Broker's proceeds in escrow, the amount specified in the MLS, provided Cooperating Broker is a Participant of the MLS in which the Property is offered for sale or a reciprocal MLS.

Real Estate Broker (Selling Firm) By Address Telephone Fax E-mail CalBRE Lic. # Date City State Zip
Real Estate Broker (Listing Firm) By Address Telephone Fax E-mail CalBRE Lic. # Date City State Zip

ESCROW HOLDER ACKNOWLEDGMENT:

Escrow Holder acknowledges receipt of a Copy of this Agreement, (if checked, a deposit in the amount of \$), counter offer numbers Seller's Statement of Information and supplemental escrow instructions and the terms of Escrow Holder's general provisions.

Escrow Holder is advised that the date of Confirmation of Acceptance of the Agreement as between Buyer and Seller is

Escrow Holder By Address Phone/Fax/E-mail Escrow # Date

Escrow Holder has the following license number # Department of Business Oversight, Department of Insurance, Bureau of Real Estate.

PRESENTATION OF OFFER: () Listing Broker presented this offer to Seller on (date). Broker or Designee Initials

REJECTION OF OFFER: () () No counter offer is being made. This offer was rejected by Seller on (date). Seller's Initials

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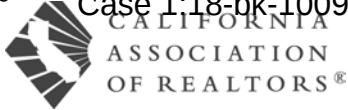


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Buyer Acknowledges that page 10 is part of this Agreement () () Buyer's Initials

Reviewed by Broker or Designee





BUYER'S INSPECTION ADVISORY

(C.A.R. Form BIA, Revised 11/14)

Property Address: 1200 Gordon Street, Los Angeles, CA 90038 ("Property").

1. IMPORTANCE OF PROPERTY INVESTIGATION: The physical condition of the land and improvements being purchased is not guaranteed by either Seller or Brokers. You have an affirmative duty to exercise reasonable care to protect yourself, including discovery of the legal, practical and technical implications of disclosed facts, and the investigation and verification of information and facts that you know or that are within your diligent attention and observation. A general physical inspection typically does not cover all aspects of the Property nor items affecting the Property that are not physically located on the Property. If the professionals recommend further investigations, including a recommendation by a pest control operator to inspect inaccessible areas of the Property, you should contact qualified experts to conduct such additional investigations.

2. BROKER OBLIGATIONS: Brokers do not have expertise in all areas and therefore cannot advise you on many items, such as those listed below. If Broker gives you referrals to professionals, Broker does not guarantee their performance.

3. YOU ARE STRONGLY ADVISED TO INVESTIGATE THE CONDITION AND SUITABILITY OF ALL ASPECTS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING. IF YOU DO NOT DO SO, YOU ARE ACTING AGAINST THE ADVICE OF BROKERS.

- A. GENERAL CONDITION OF THE PROPERTY, ITS SYSTEMS AND COMPONENTS:** Foundation, roof (condition, age, leaks, useful life), plumbing, heating, air conditioning, electrical, mechanical, security, pool/spa (cracks, leaks, operation), other structural and nonstructural systems and components, fixtures, built-in appliances, any personal property included in the sale, and energy efficiency of the Property.
- B. SQUARE FOOTAGE, AGE, BOUNDARIES:** Square footage, room dimensions, lot size, age of improvements and boundaries. Any numerical statements regarding these items are APPROXIMATIONS ONLY and have not been verified by Seller and cannot be verified by Brokers. Fences, hedges, walls, retaining walls and other barriers or markers do not necessarily identify true Property boundaries.
- C. WOOD DESTROYING PESTS:** Presence of, or conditions likely to lead to the presence of wood destroying pests and organisms.
- D. SOIL STABILITY:** Existence of fill or compacted soil, expansive or contracting soil, susceptibility to slippage, settling or movement, and the adequacy of drainage.
- E. WATER AND UTILITIES; WELL SYSTEMS AND COMPONENTS; WASTE DISPOSAL:** Water and utility availability, use restrictions and costs. Water quality, adequacy, condition, and performance of well systems and components. The type, size, adequacy, capacity and condition of sewer and septic systems and components, connection to sewer, and applicable fees.
- F. ENVIRONMENTAL HAZARDS:** Potential environmental hazards, including, but not limited to, asbestos, lead-based paint and other lead contamination, radon, methane, other gases, fuel oil or chemical storage tanks, contaminated soil or water, hazardous waste, waste disposal sites, electromagnetic fields, nuclear sources, and other substances, materials, products, or conditions (including mold (airborne, toxic or otherwise), fungus or similar contaminants).
- G. EARTHQUAKES AND FLOODING:** Susceptibility of the Property to earthquake/seismic hazards and propensity of the Property to flood.
- H. FIRE, HAZARD AND OTHER INSURANCE:** The availability and cost of necessary or desired insurance may vary. The location of the Property in a seismic, flood or fire hazard zone, and other conditions, such as the age of the Property and the claims history of the Property and Buyer, may affect the availability and need for certain types of insurance. Buyer should explore insurance options early as this information may affect other decisions, including the removal of loan and inspection contingencies.
- I. BUILDING PERMITS, ZONING AND GOVERNMENTAL REQUIREMENTS:** Permits, inspections, certificates, zoning, other governmental limitations, restrictions, and requirements affecting the current or future use of the Property, its development or size.
- J. RENTAL PROPERTY RESTRICTIONS:** Some cities and counties impose restrictions that limit the amount of rent that can be charged, the maximum number of occupants, and the right of a landlord to terminate a tenancy. Deadbolt or other locks and security systems for doors and windows, including window bars, should be examined to determine whether they satisfy legal requirements.
- K. SECURITY AND SAFETY:** State and local Law may require the installation of barriers, access alarms, self-latching mechanisms and/or other measures to decrease the risk to children and other persons of existing swimming pools and hot tubs, as well as various fire safety and other measures concerning other features of the Property.
- L. NEIGHBORHOOD, AREA, SUBDIVISION CONDITIONS; PERSONAL FACTORS:** Neighborhood or area conditions, including schools, law enforcement, crime statistics, registered felons or offenders, fire protection, other government services, availability, adequacy and cost of internet connections or other technology services and installations, commercial, industrial or agricultural activities, existing and proposed transportation, construction and development that may affect noise, view, or traffic, airport noise, noise or odor from any source, wild and domestic animals, other nuisances, hazards, or circumstances, protected species, wetland properties, botanical diseases, historic or other governmentally protected sites or improvements, cemeteries, facilities and condition of common areas of common interest subdivisions, and possible lack of compliance with any governing documents or Homeowners' Association requirements, conditions and influences of significance to certain cultures and/or religions, and personal needs, requirements and preferences of Buyer.

By signing below, Buyers acknowledge that they have read, understand, accept and have received a Copy of this Advisory. Buyers are encouraged to read it carefully.

Buyer Lex 2018, Inc 2/12/2018 Buyer _____

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525 South Virgil Avenue, Los Angeles, California 90020

BIA REVISED 11/14 (PAGE 1 OF 1)

Reviewed by _____ Date _____



BUYER'S INSPECTION ADVISORY (BIA PAGE 1 OF 1)

EXHIBIT “2”

LETTER OF INTENT FOR PROPOSED JOINT VENTURE

LETTER OF INTENT FOR PROPOSED JOINT VENTURE AMONG Esfir Beskodarnaya "PETER" AND Helping Hand Investments, Inc. (HH), a California corporation and / or it's Assignee(s)

I. Purpose

This Letter of Intent ("Letter") is intended to facilitate further discussions concerning the creation of a Joint Venture for the purpose of engaging in the development of property located at 1200 Gordon Street, Los Angeles, California 90038 in to multifamily apartment(condo) units and it may include but not limited to its adjacent property. Herein, this Letter is not intended to be binding on any party, but shall serve as the basis of definitive agreements ("Definitive Agreements"), drafts of which have been provided by the HH and PETER, together called, Gordon Gardens, LLC."

II. Proposed Structure

- A. As soon as practicable after this Letter is executed and delivered by the parties, Gordon Garden LLC, GGL will form a new limited liability company ("Multi Member LLC") under California law which will be qualified to transact business generally (but will not be licensed as broker) in the States of California .
- B. On a date and time mutually acceptable to the parties, and presently anticipated to be July, 2014 , GGL will transfer pursuant to a Limited Liability Company Contribution and Subscription Agreement certain assets ("Asset Contribution") from PETER to the LLC. These assets will include a property located at 1200 Gordon Street, LA Ca 90038, "Sale".

-
- C. PETER will sell to (the "Sale") to LLC., and HH will purchase, a 50.1% interest (501 Units) ("Purchased Units") in the LLC. Upon the consummation of the Sale, the LLC shall be defined herein as the "Joint Venture." The parties will cause the Joint Venture to obtain it own tax payer identification number. The Sale and the Asset Contribution shall be contingent upon: (i) Ventures and Peter entering into a mutually satisfactory operating agreement with respect to the Joint Venture (the "Operating Agreement"); (ii) Peter being comfortable that, upon the occurrence of the Sale, the Joint Venture will be an operating subsidiary of the HH, (iii) the Joint Venture making (or being in a position to make) the appropriate applications with the Los Angeles Department of Planning and development to be approval city permits to build multi-family units.

- 1. The Operating Agreement will provide for the timely distribution of financial statements, audits and reports and internal controls
- 2. No legal opinions will be required by counsel for any of the parties in connection with the transactions contemplated by the Letter and the Definitive Agreements.
- 3. Except as provided herein, the economics and business terms in the Definitive Agreements shall reflect the pro-forma information prepared by Ventures and reviewed by parties.
- 4. Contributed Property to the Joint Venture will be treated under the traditional method defined in Treasury Regulation Section 1.704-3(b). The Operating Committee, as defined in the

Operating Agreement, shall be required to approve the filing of any federal or state income tax return, the making of any tax election, compromising or settling any tax controversy, extending any statute of limitations relating to a tax matter, selecting or varying depreciation or accounting methods, changing the fiscal year of the Joint Venture or making any other material decision with respect to the treatment of any transaction of the Joint Venture for tax purposes. Additionally, Ventures agrees that the Purchased Units will be treated for federal income tax purposes in accordance with IRS Revenue Ruling 99-5 as the purchase by Ventures of a 50.1% undivided interest

in each asset of the Joint Venture, followed by the contribution by Ventures and Peter of their 50.1% and 49.9%, respective interests in the assets of the Joint Venture to a new tax partnership in exchange for their respective Units of the Joint Venture.

- D. Helping Hand Investments will own a 50.1% interest (501 Units) in the Joint Venture.
- E. The purchase price to be paid by Ventures to Peter for the Purchased Units shall be \$-----, based on a good faith preliminary estimate of the fair market value of the Units determined by the parties. This purchase price will be paid as follows : Upon sale of finished and development units in its entirety.
- F. The Joint Venture will reimburse Peter its costs related to the formation of the LLC and in connection with Asset Capitalization. The Joint Venture will reimburse Peter in connection with its costs related to the Sale of the Purchased Units. Additionally, no start-up fee will be paid by the Joint Venture to the Ventures.

3

IV. Transition Period

- A. The period from the date of this Letter until the date of the Sale shall be defined herein as the Transition Period.

V. Additional Terms

- A. The parties anticipate that the Operating Agreement will provide no termination fee ("Termination Fee") will be payable by HH to Peter in certain instances set forth therein.

4

VI. Due Diligence

Each of the parties reserves the right to complete additional due diligence to refine its understanding of this opportunity. This due diligence for the HH includes, but is not limited to, the following activities:

- a. Interview existing personnel of HH.
- b. HH to spend 90 days creating a marketing and financing plan for the LLC.

Upon mutual acceptance of these terms, HH will commence its due diligence. Simultaneous with the due diligence, HH shall prepare revised drafts of the Definitive Agreements with respect to the Joint Venture for review and execution as soon as practicable. The due diligence shall be completed on or before September 30, 2014.

5

VII. Non-Binding Statement of Certain Proposed Terms

- A.
- B. This non-binding offer will expire if not accepted by Helping Hand Investments, Inc. by 5:00 PM CST on September 30, 2014.

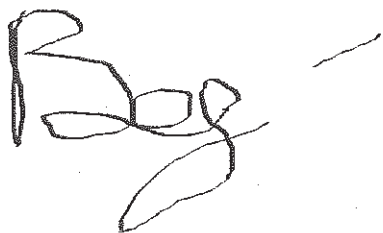
VIII. Applicable Law and Forum

This Letter shall be construed in accordance with California law. Any dispute hereunder shall be litigated exclusively in a court of competent jurisdiction located in Los Angeles, California.

[Remainder of Page Left Blank]

6

IN WITNESS WHEREOF, the duly authorized representative of the undersigned parties have entered into this Agreement to be effective this 23th day of June, 2014.



HELPLING HAND INVESTMENTS, INC.

By /s/ Esfir Beskodarnaya
Owner of 1200 Gordon ST

By /s/
Its

President

EXHIBIT “3”

ASSIGNMENT OF RIGHTS AND TRANSFER OF INTEREST

Agoura Hills, california

(i) this assignment is effective between HELPING HAND INVESTMENTS , INC. as assignor and NAPA INDUSTRIES, LLC as assignee as of the OCTOBER 15 date of 2014;

(ii) buyer as assignor hereby assigns any and all rights, title and/or interest in the underlying proposed Joint Venture Agreement by and between Helping Hand and Peter Beskodarney and the underlying property to the assignee;

(iii) this assignment relates to a specific real estate purchase contract with any and all amendments thereto located at 1200 Gordon Street, Hollywood California;

(iv) assignee hereby accepts all the terms and conditions of the purchase agreement and the duties and obligations under the purchase contract;

(v) this transaction is not handled by any Title Company, and the assignee accepts the assignment and is substituted as buyer in connection with the purchase transaction; and

(vi) assignee will execute any and all documents necessary and required to accomplish the assignment as requested by the title company and/or seller.

Helping Hand Investments. Inc.

BY: Paul Morady

Dated: October 15, 2014

Napa Industries, LLC.

BY: Brook Fain

Dated: October 15, 2014

EXHIBIT “4”

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Paul Morady;Morgan Fair;Helping Hand Investments, LLC;Gordon St. Condos,LLC;NAPA Investments, LLC;ArchLoans SPE,LLC;Does1-100

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Peter Beskodarny; Gordon St. Condos, LLC

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**CONFORMED COPY
ORIGINAL FILED**

Superior Court of California
County of Los Angeles

APR 10 2017

Sherri R. Carter, Executive Officer/Clerk
By: M. Soto, Deputy
Moses Soto

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

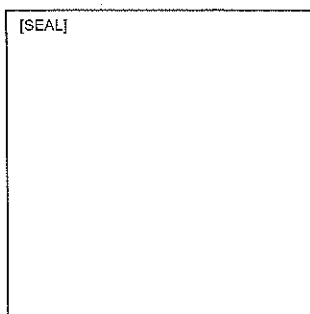
The name and address of the court is:
(El nombre y dirección de la corte es): **Stanley Mosk Courthouse**
111 N. Hill St.
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso): **BC 657283**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Joseph S. Fischbach, 8200 Wilshire Blvd. Suite 424, Beverly Hills, CA 90211, (310)278-4015

DATE: **APR 10 2017** **SHERRI R. CARTER** Clerk, by **M. Soto**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):

under: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
<input type="checkbox"/> CCP 416.20 (defunct corporation)	<input type="checkbox"/> CCP 416.70 (conservatee)
<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (authorized person)
<input type="checkbox"/> other (specify):	
- by personal delivery on (date):

1 ANDREW ZELUS (SBN 301580)
az@fischbachlaw.com
2 JOSEPH S. FISCHBACH (SBN 70830)
jsf2@fischbachlaw.com
3 Fischbach & Fischbach, A Law Corporation
8200 Wilshire Boulevard, Suite 424
4 Beverly Hills, California 90211
Telephone: (310) 278-4015
5 Facsimile: (310) 278-2894
Attorneys for Plaintiffs

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

APR 10 2017

Sherri R. Carter, Executive Officer/Clerk
By: M. Soto, Deputy
Moses Soto

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

11 PETER BESKODARNY,
12 INDIVIDUALLY AND
13 DERIVATIVELY ON BEHALF OF
14 GORDON ST. CONDOS, LLC, A
NEVADA LIMITED LIABILITY
COMPANY

15 PLAINTIFFS,

16 V.

17 PAUL MORADY, MORGAN FAIR,
18 HELPING HAND, INVESTMENTS,
19 INC, GORDON ST. CONDOS, LLC, A
NEVADA LIMITED LIABILITY
20 COMPANY, NAPA INVESTMENTS,
21 LLC, A FOREIGN COMPANY, ARCH
LOANS SPE, LLC, A DELAWARE
22 COMPANY QUALIFIED TO DO
BUSINESS IN CALIFORNIA and
Does 1-100

23 DEFENDANTS.

) Case No.: BC 657283

-) 1. BREACH OF CONTRACT
(Rescission)
-) 2. BREACH OF FIDUCIARY DUTY
(Individual)
-) 3. BREACH OF FIDUCIARY DUTY
(Derivative)
-) 4. CONVERSION
-) 5. FRAUD
-) 6. AIDING AND ABETTING BREACH OF
FIDUCIARY DUTY

24
25 Come Now Plaintiffs Peter Beskodarny Individually and Derivatively on Behalf of
26 Gordon St. Condos, LLC, A Nevada Limited Liability Company (Plaintiffs) and complain
27 and allege as follows.
28 //

FISCHBACH & FISCHBACH, A LAW CORPORATION
8200 WILSHIRE BLVD., SUITE 424
BEVERLY HILLS, CALIFORNIA 90211

1 1. Plaintiff Peter Beskodarny [Peter] is an individual residing in the County of
2 Los Angeles, State of California and was the beneficial owner of the real property commonly
3 known as 1200 Gordon St., Los Angeles, CA 90038, a four-bungalow parcel. [The property]
4 Pursuant to family estate planning, legal title to the home was actually held in Plaintiff
5 Peter's mother's name, immediately prior to the wrongful acts and fraud hereinafter
6 alleged.

7 2. Defendant Paul Morady [Morady] is an individual resident of Malibu,
8 California who spearheaded the wrongful conduct hereinafter alleged.

9 3. Plaintiff is informed and believes and based thereupon alleges that Defendant
10 Brook Fain [Fain] is a licensed California real estate broker conducting business in the
11 County of Los Angeles.

12 4. Plaintiff Gordon Street Condos, LLC, [Gordon Street] derivatively, and as a
13 defendant, is a Nevada limited liability company formed by Mr. Fain, Plaintiffs are
14 informed and believe and based thereupon allege, to assist in the theft and conversion of
15 Plaintiffs property.

16 5. Defendant Napa Industries LLC, [Napa], Plaintiffs are informed and believe
17 and based thereupon allege, is a captive sham entity owned and controlled by the
18 individual defendants Fain and/or Morady for their benefit, and as the vehicle used to
19 defraud Plaintiffs. Defendant Napa initially was the general partner in Gordon Street
20 Condos, LLC, but later unilaterally and in secret transferred the property to itself for no
21 consideration and placed a 100% first mortgage against the property.

22 6. Plaintiffs are informed and believe and based thereupon allege, defendant
23 Helping Hands Investments, LLC, [Helping Hands] is a California Corporation, owned,
24 controlled and dominated by Defendant Morady and is the original signatory to the Letter
25 of Intent hereinafter referenced.

26 7. Defendant Arch Loans SPE, LLC [Arch] is a Delaware company qualified to
27 do business in California under that name or Plaintiffs are informed and believe and based
28 thereupon allege as Arch Bridge Loans, LLC.

1 8. Per the California Secretary of State, defendant Napa is not in fact qualified to
2 do business in California and appears to be a foreign entity. Plaintiffs are informed and
3 believe and based thereupon allege that Helping Hand, Napa and Gordon Street
4 defendants herein were at all times shams and mere instrumentalities which allowed the
5 individual defendants Morady and Fain to accomplish their fraudulent goals as hereinafter
6 alleged and there is and was no separate existence between the Helping Hand, Napa and
7 Gordon Street and Morady and Fain, thereby justifying the piercing of any corporate veils
8 under the Alter Ego doctrine in order to prevent fraud and injustice. At all times material,
9 Plaintiffs dealt with the individual defendants, Morady and Fain, who at all times
10 purported to act on behalf of themselves and at other times purported to be acting for either
11 a corporation or LLC, but in truth and in fact were always acting for their own benefit using
12 the other entities as "fronts". Accordingly, when the term "Defendants" is used herein, it
13 shall refer to Morady and Fain, as well as their captive entities, Helping Hands, Napa, and
14 Gordon Street, unless the context indicates otherwise, but not Arch except in the cause of
15 action directed against Arch.

16 9. Plaintiffs are ignorant of the true names and capacities of defendants sued
17 herein as DOES 1 through 100 and therefore sues these defendants by those fictitious names.
18 Plaintiffs will amend this complaint to include their true names and capacities when the
19 same are ascertained.

20 10. Plaintiff is informed and believes and based thereupon alleges that at all times
21 material, each defendant, actual and/or fictitious, was the agent, servant or employee of
22 each of the remaining defendants and in doing the things hereinafter alleged was acting
23 within the course, scope and/or purpose of said agency and employment and was so
24 authorized to act or whose actions were ratified.

25 11. Venue is proper in the Superior Court of California, County of Los Angeles
26 under Code of Civil Procedure Section 395 because the wrongful acts that are the subject of
27 this action took place in this judicial district, and the obligations and liability that are subject
28 to this action arise within this judicial district.

1 12. Plaintiffs did not make a demand on Gordon St. Condos, LLC to bring an
2 action on the derivative claim alleged herein, because such demand herein would be futile.
3 The Individual Defendants own over 50% of the LLC and are the managers thereof using
4 their entity Napa. The Individual Defendants are neither disinterested nor independent
5 with respect to the derivative claims asserted herein.

6 13. In 2014, Peter met Morady socially and Morady later proposed that he and his
7 "group" take over half of the ownership of the property in return for developing it as
8 condominiums and earning a significant profit. This proposal was memorialized in a
9 written presentation which is too voluminous to summarize or attach. As a consequence,
10 Plaintiffs and the Defendants, except for Arch, entered into a joint venture agreement,
11 substantially memorialized in Exhibit 1 hereto, which is incorporated by this reference and
12 is denominated a Letter of Intent, on or about June 23, 2014.

13 14. The letter of intent is vague on the price that the individual defendants and
14 their captive entities are paying to acquire 50.1% of the property. As Peter understood it,
15 Plaintiff would contribute their equity in the property subject to a first mortgage that was
16 under \$400,000. The approximate amount of his equity at that time was between \$400 and
17 \$600,000. The individual defendants, again with or without their sham entities, were to be
18 responsible for all costs for financing construction etc. from the date of the formation of the
19 joint venture until the date of the sale of the developed property. The individual defendants
20 convinced the Plaintiff that it was necessary to refinance the current first mortgage in order
21 to obtain seed money for the development and marketing. Plaintiff now believes that this
22 representation was false and fraudulent and was nothing more than a way for the
23 defendants to siphon money out of the project and dilute the Plaintiff's equity.

24 15. The purpose of the joint venture was to develop Plaintiff Peter's property [1200
25 Gordon St., Los Angeles, CA, 90038] into multifamily apartments or condominiums.
26 Pursuant thereto, Defendant Morady promised and represented that he had a network of
27 investors and could basically syndicate the project almost immediately. As part of the
28 presentation, Morady promised that a limited liability company would be formed under

1 California law as reflected on Exhibit 1. The purpose of the limited liability company was
2 to take title to the Gordon Street properties and grant 50.1% of the LLC to the individual
3 defendants purporting to act through an entity called Helping Hand Investments, Inc., a
4 California corporation and/or its assignees. The property would then be developed,
5 marketed and sold by the new LLC. That assignation eventually became defendant
6 Napa. Plaintiff is ignorant of the majority of the actions taken from a legal standpoint
7 but apparently, Napa became a managing member on behalf of Fain and Morady.
8 Plaintiff Peter was never given an executed copy of an operating agreement, nor the
9 required tax information or any truthful status reports prior to the wrongful conversion
10 of the property by Napa Industries that is hereinafter alleged.

11 16. Pursuant to the letter of intent, the individual defendants did in fact form
12 an LLC but in contravention of the letter of intent they formed a Nevada LLC called
13 Gordon Street Condos, LLC (Exhibit 2). The use of Nevada instead of California was
14 never explained. There is no logical reason to use Nevada and its use indicates that it is
15 part of some type of scam. Plaintiff is ignorant as to the true reason why Nevada was
16 utilized as the property is in Los Angeles. The use of a Nevada entity under the
17 circumstances constitutes a badge of fraud. The defendants, again not Arch, then
18 electronically transmitted a form of operating agreement which was never completed.
19 This was the beginning of a pattern of stalling and misappropriation that has resulted in
20 no development having been done to date and the placing of a 100% of the value first
21 mortgage on the subject property. In order to lull the Plaintiff into a false sense of
22 security, the individual defendants allowed the Plaintiff to collect the monthly rental on
23 the property as a form of an advance/loan against future profits.

24 17. Within the last few months, the individual defendants have indicated that
25 they will not in fact be able to syndicate the investment and develop the property. As a
26 consequence, Plaintiff began investigating the facts and circumstances of refinancing
27 and capital contributions in this matter which can be summarized as follows. Initially,
28 the property was transferred to Gordon Street LLC, and in 2015, the Gordon Street LLC

1 refinanced the first mortgage and placed a short-term hard money mortgage of
2 approximately \$650,000. Plaintiff Peter is informed and believes and based thereupon
3 alleges that this included approximately \$350,000 to pay off the existing first mortgage
4 and the balance was taken by the defendants, Morady, Fain, Napa and does 1 and 2, and
5 misappropriated for their own personal use and benefit.

6 18. On or about April 1, 2016 the defendants and each of them unbeknownst to
7 Plaintiff Peter, fraudulently and without consideration transferred the subject property
8 from Gordon Street Condos LLC to their captive entity Napa. Concurrently the
9 defendants placed a full value \$945,000 first mortgage on the property. By doing so the
10 defendants have stolen and misappropriated approximately \$600,000 of equity in the
11 property. Defendants have recently indicated to the Plaintiff, which caused this
12 investigation, that they cannot develop the property and want to give it back to him
13 subject to the \$945,000 mortgage.

14 **FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT**

15 **[By Plaintiff Peter against all Defendants except Arch]**

16 19. Plaintiff incorporates each and every allegation contained in paragraphs 1
17 through 18 as though set forth fully herein.

18 20. The individual defendants acting through their controlled entities Helping
19 Hands and Napa Industries, LLC have breached the joint venture agreement of the parties
20 and have fraudulently misappropriated over \$600,000 of equity, and even the property
21 itself, by setting up a sham transaction where for zero monetary consideration they
22 transferred the property from Gordon Street to themselves doing business as Napa.
23 Plaintiffs are informed and believe and based thereupon allege that by using this sham
24 transaction, Defendants were able to pretend that it was a sale and obtain a 100% loan to
25 value from Arch, whereas if it had been a refinance they would have been limited to 65%.

26 21. Plaintiff Peter intends service of this complaint to be notice of rescission of the
27 transaction and a demand for return of the property in the condition that it was obtained,
28 to wit, with a mortgage of \$345,000, approximately. By virtue of the facts and circumstances,

1 defendants are not entitled to the return of anything else. Defendants are constructive
2 trustees of the Property and must re-convey it to Plaintiff Peter.

3 22. Additionally, Plaintiff Peter is entitled to proximately caused general and
4 compensatory damages according to proof as the direct and proximate result of the breach
5 of the agreement to develop the property, and will seek leave of court to insert the exact
6 amount when the same has been ascertained.

7 **SECOND CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY**

8 **[By Plaintiff Peter Against Defendants Napa, Morady and Fain and Does 1 and 2]**

9 23. Plaintiff Peter incorporates each and every allegation contained in paragraphs
10 1 through 18, and 20 as though set forth fully herein.

11 24. As managers of Gordon Street Condos LLC, the individual defendants,
12 Morady and Fain, and their sham wholly operated and controlled entity Napa, owed
13 fiduciary duties to Plaintiff Peter. Plaintiff Peter alleges that Defendants Morady, Fain, and
14 Napa, breached their fiduciary duties to Plaintiff Peter by among other things, conspiring
15 to take the excess refinance proceeds for themselves to the exclusion of Plaintiff Peter, and
16 stealing the subject property by fraudulently transferring it from Gordon Street condos LLC
17 to Napa Industries LLC with no consideration, as well as numerous other breaches of joint
18 venture agreement.

19 25. As a direct and proximate result of the conduct of Morady and Fain,
20 individually and acting through their sham captive Napa, Plaintiff Peter has suffered a
21 direct injury in an amount to be proven at trial. Napa, Morady and Fain planned to
22 take and actually took Plaintiff's share of the equity in the subject property. Plaintiff
23 Peter is therefore not seeking to recover property of the corporation, but rather his own
24 property, and may therefore bring this claim as an individual. (See *Jana v. Suprenza*
25 *Meals, Inc.* (2004) 121 Cal.App.4th 1238, 1252-1260).

26 26. Upon information and belief, the actions of Morady and Fain,
27 individually and through their wholly-owned captive sham entity Napa, described
28 herein, have been, and continue to be, fraudulent, malicious, and oppressive and in

1 conscious disregard of the rights of the Plaintiff Peter thereby justifying an award of
2 punitive damages in favor of Plaintiff Peter and against the defendants named herein.

3 **THIRD CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY**

4 **[Derivatively on Behalf of Gordon Street Condos LLC against all defendants**
5 **except Arch]**

6 27. Gordon Street Condos LLC incorporates each and every allegation contained
7 in paragraphs 1 through 18, 20 and 24, as though set forth fully herein, and allege this cause
8 of action in the alternative in the event that Gordon Street Condos LLC is not found by the
9 court to be a sham and/or is found to be a necessary and indispensable party.

10 28. As a direct and proximate result of the foregoing alleged breaches of fiduciary
11 duty, Plaintiff Gordon Street has been injured and damaged in an amount according to
12 proof and Plaintiffs will seek leave of court to insert the same when it has been ascertained.

13 29. Upon information and belief, the actions of defendants described herein, in
14 effect looting the LLC and stripping it of the equity in its sole asset, have been, and continue
15 to be, fraudulent, malicious, and oppressive and in conscious disregard of the rights of the
16 plaintiffs thereby justifying an award of punitive damages in favor of Plaintiff and against
17 the defendants named herein.

18 **FOURTH CAUSE OF ACTION FOR CONVERSION**

19 **[By Plaintiff Peter Against all Defendants except Arch]**

20 22. Plaintiff Peter incorporates each and every allegation contained in paragraphs
21 1-18, 20 and 23, as though set forth herein.

22 23. Pursuant to the terms of the joint venture and his subsequent membership
23 status in Gordon Street Condos LLC, Plaintiff Peter legally and/or beneficially owned a
24 share of the equity in the property, which said share of equity was stolen, misappropriated
25 and converted by the Defendants when they refinanced the subject property and also placed
26 a full value first mortgage on the property. Plaintiff Peter believed that the initial refinance
27 of the subject property was to provide the funding for obtaining the construction drawings,
28 plans, specs and entitlements etc. to obtain the investors promised by Morady, but Plaintiff

1 Peter is informed and believes and based thereupon alleges that the majority of the money
2 taken out over and above the payoff of the 1st mortgage was misappropriated by Morady
3 Fain and/or others and not used for its intended purpose. The second refinance, couched
4 as a zero-consideration purchase, in April 2016 was fraudulent, malicious and done in
5 secret. That Plaintiff Peter's equity in the subject property, at the time of the fraudulent
6 transfer was approximately \$600,000.

7 24. As a result of the tortious conversion of his equity, Plaintiff Peter has suffered
8 damages in an amount to be proven at trial.

9 25. That the wrongful conduct hereinabove alleged was fraudulent, malicious,
10 and oppressive and therefore justifies the imposition of punitive and exemplary damages
11 in such sum as me be determined by the trier of fact

12 **FIFTH CAUSE OF ACTION FOR FRAUD**

13 **[By Plaintiff Peter against Defendants Morady, Fain, Napa, Helping Hands and**
14 **Does1-3]**

15 26. Plaintiff Peter incorporates each and every allegation contained in paragraphs
16 1-18, 20 and 23, as though set forth herein

17 27. The foregoing alleged wrongful conduct, and the fact that the property is
18 being held in the name of Napa which, along with Morady and Fain are constructive
19 trustees of the fraudulently obtained property, constitutes fraud in the inducement,
20 fraudulent transfer, and fraudulent misappropriation of the subject property, all to
21 Plaintiff's general damage in an amount according to proof,

22 28. The wrongful conduct hereinafter described was fraudulent, malicious,
23 oppressive and done solely and only to obtain and economic gain and therefore justifies the
24 imposition of punitive and exemplary damages in such sum as may be awarded by the trier
25 of fact.

26 //

27 //

28 //

1 SIXTH CAUSE OF ACTION FOR AIDING AND ABETTING

2 BREACH OF FIDUCIARY DUTY

3 [By the Plaintiffs Against ARCH and Does 1-5]

4 29. Plaintiffs incorporate each and every allegation contained in paragraphs 1-20,
5 and 23, as though set forth herein.

6 30. Plaintiffs are informed and believe and based thereupon allege that the
7 following are badges of fraud indicating a conspiracy to defraud the Plaintiffs. Initially, the
8 website for defendant Arch indicates that it will loan 65% loan to value on a refinance, and
9 100% on a quick purchase for a short-term bridge loan of 6 months. The sham purchase at
10 100% was not in accord with the short term advertised on the website. Further, Plaintiffs
11 are informed and believe and based thereupon allege that Arch does due diligence prior to
12 making loans and that therefore when it made the original refinance loan to Gordon Street
13 Condos of \$650,000 on April 17, 2015 it was fully aware of the property, its history, its
14 ownership and the joint venture agreement. Thereafter, in April 2016 defendant Arch made
15 a full value loan on the property as if it were a new purchase, when in fact Arch knew, or
16 reasonably should have known, at all times that it was not and that Gordon Street Condos
17 involved the Plaintiffs in the ownership, and that as a matter of public record, on the
18 Articles of Organization Plaintiff Peter was listed under "manager or managing member."
19 That despite actual knowledge, defendant Arch proceeded with a sham transfer for no
20 consideration of the subject property from Gordon Streets Condos LLC to Napa Industries
21 LLC which enabled Morady and Fain, acting through their captive entity Napa, to loot the
22 property of all of its value. That but for this assistance, the defendants would not have been
23 able to pull out all of Plaintiffs' equity in the subject property.

24 31. As a consequence of the foregoing wrongful conduct, Defendant Arch assisted
25 the other defendants, with full knowledge, in breaching their fiduciary duties of disclosure,
26 good faith and honesty in fact to the Plaintiffs, and further conspired with the defendants
27 to so cheat the Plaintiffs. That but for the cooperation and assistance of defendant Arch, the
28 defendants could not have pulled off their scheme to defraud.

1 32. As a proximate result of the wrongful conduct of defendant Arch, Plaintiff
2 Peter, or in the alternative as above noted Gordon Street, suffered damages, including but
3 not limited to, in the minimum sum of their lost equity in the subject property of over
4 \$600,000. Plaintiff will seek leave of court to insert the exact amount when the same has
5 been ascertained.

6 33. The wrongful conduct of Defendant Arch was done in conscious disregard for
7 the rights of the Plaintiffs, maliciously, fraudulently and oppressively and therefore justifies
8 the imposition of punitive and exemplary damages according to proof.

9 **Wherefore**, Plaintiffs pray judgment against defendants and each of them as follows:

10 1. For the imposition of a Constructive Trust on 1200 Gordon Street pending an order
11 of rescission mandating that the defendants return the subject property to the plaintiffs in
12 the condition that they received it in together with an accounting of all costs and fees
13 incurred and paid;

14 2. For general damages according to proof;

15 3. For punitive and exemplary damages on the intentional tort causes of action

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1 according to proof;

2 4. For costs of suit incurred herein; five for such other and further relief as to this
3 Court may seem proper and just.

4
5 **DATED: April 6, 2017**

**FISCHBACH & FISCHBACH
A LAW CORPORATION**


6
7 By: 
8 **JOSEPH S. FISCHBACH**
9 **Attorneys for Plaintiffs**

10 **Demand for Jury**

11 Plaintiff demands trial by jury in this action.

12 **DATED: April 6, 2017**

**FISCHBACH & FISCHBACH
A LAW CORPORATION**

13
14 By: 
15 **JOSEPH S. FISCHBACH**
16 **Attorneys for Plaintiffs**

FISCHBACH & FISCHBACH, A LAW CORPORATION
8200 WILSHIRE BLVD, SUITE 424
BEVERLY HILLS, CALIFORNIA 90211

LETTER OF INTENT FOR PROPOSED JOINT VENTURE

LETTER OF INTENT FOR PROPOSED JOINT VENTURE AMONG Esfir Beskodarnaya "PETER" AND Helping Hand Investments, Inc. (HH), a California corporation and / or it's Assignee(s)

I. Purpose

This Letter of Intent ("Letter") is intended to facilitate further discussions concerning the creation of a Joint Venture for the purpose of engaging in the development of property located at 1200 Gordon Street, Los Angeles, California 90038 in to multifamily apartment(condo) units and it may include but not limited to its adjacent property. Herein, this Letter is not intended to be binding on any party, but shall serve as the basis of definitive agreements ("Definitive Agreements"), drafts of which have been provided by the HH and PETER, together called, Gordon Gardens, LLC."

II. Proposed Structure

- A. As soon as practicable after this Letter is executed and delivered by the parties, Gordon Garden LLC, GGL will form a new limited liability company ("Multi Member LLC") under California law which will be qualified to transact business generally (but will not be licensed as broker) in the States of California .
- B. On a date and time mutually acceptable to the parties, and presently anticipated to be July, 2014 , GGL will transfer pursuant to a Limited Liability Company Contribution and Subscription Agreement certain assets ("Asset Contribution") from PETER to the LLC. These assets will include a property located at 1200 Gordon Street, LA Ca 90038, "Sale".

-
- C. PETER will sell to (the "Sale") to LLC., and HH will purchase, a 50.1% interest (501 Units) ("Purchased Units") in the LLC. Upon the consummation of the Sale, the LLC shall be defined herein as the "Joint Venture." The parties will cause the Joint Venture to obtain it own tax payer identification number. The Sale and the Asset Contribution shall be contingent upon: (i) Ventures and Peter entering into a mutually satisfactory operating agreement with respect to the Joint Venture (the "Operating Agreement"); (ii) Peter being comfortable that, upon the occurrence of the Sale, the Joint Venture will be an operating subsidiary of the HH, (iii) the Joint Venture making (or being in a position to make) the appropriate applications with the Los Angeles Department of Planning and development to be approval city permits to build multi-family units.

- 1. The Operating Agreement will provide for the timely distribution of financial statements, audits and reports and internal controls
- 2. No legal opinions will be required by counsel for any of the parties in connection with the transactions contemplated by the Letter and the Definitive Agreements.
- 3. Except as provided herein, the economics and business terms in the Definitive Agreements shall reflect the pro-forma information prepared by Ventures and reviewed by parties.
- 4. Contributed Property to the Joint Venture will be treated under the traditional method defined in Treasury Regulation Section 1.704-3(b). The Operating Committee, as defined in the

Operating Agreement, shall be required to approve the filing of any federal or state income tax return, the making of any tax election, compromising or settling any tax controversy, extending any statute of limitations relating to a tax matter, selecting or varying depreciation or accounting methods, changing the fiscal year of the Joint Venture or making any other material decision with respect to the treatment of any transaction of the Joint Venture for tax purposes. Additionally, Ventures agrees that the Purchased Units will be treated for federal income tax purposes in accordance with IRS Revenue Ruling 99-5 as the purchase by Ventures of a 50.1% undivided interest

in each asset of the Joint Venture, followed by the contribution by Ventures and Peter of their 50.1% and 49.9%, respective interests in the assets of the Joint Venture to a new tax partnership in exchange for their respective Units of the Joint Venture.

- D. Helping Hand Investments will own a 50.1% interest (501 Units) in the Joint Venture.
- E. The purchase price to be paid by Ventures to Peter for the Purchased Units shall be \$-----, based on a good faith preliminary estimate of the fair market value of the Units determined by the parties. This purchase price will be paid as follows : Upon sale of finished and development units in its entirety.
- F. The Joint Venture will reimburse Peter its costs related to the formation of the LLC and in connection with Asset Capitalization. The Joint Venture will reimburse Peter in connection with its costs related to the Sale of the Purchased Units. Additionally, no start-up fee will be paid by the Joint Venture to the Ventures.

3

IV. Transition Period

- A. The period from the date of this Letter until the date of the Sale shall be defined herein as the Transition Period.

V. Additional Terms

- A. The parties anticipate that the Operating Agreement will provide no termination fee ("Termination Fee") will be payable by HH to Peter in certain instances set forth therein.

4

VI. Due Diligence

Each of the parties reserves the right to complete additional due diligence to refine its understanding of this opportunity. This due diligence for the HH includes, but is not limited to, the following activities:

- a. Interview existing personnel of HH.
- b. HH to spend 90 days creating a marketing and financing plan for the LLC.

Upon mutual acceptance of these terms, HH will commence its due diligence. Simultaneous with the due diligence, HH shall prepare revised drafts of the Definitive Agreements with respect to the Joint Venture for review and execution as soon as practicable. The due diligence shall be completed on or before September 30, 2014.

5

VII. Non-Binding Statement of Certain Proposed Terms

- A.
- B. This non-binding offer will expire if not accepted by Helping Hand Investments, Inc. by 5:00 PM CST on September 30, 2014.

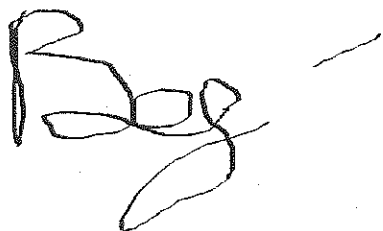
VIII. Applicable Law and Forum

This Letter shall be construed in accordance with California law. Any dispute hereunder shall be litigated exclusively in a court of competent jurisdiction located in Los Angeles, California.

[Remainder of Page Left Blank]

6

IN WITNESS WHEREOF, the duly authorized representative of the undersigned parties have entered into this Agreement to be effective this 23th day of June, 2014.



HELPLING HAND INVESTMENTS, INC.

By /s/ Esfir Beskodarnaya
Owner of 1200 Gordon ST

By /s/
Its

President

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Joseph S. Fischbach - SBN 70830 Fischbach & Fischbach, ALC 8200 Wilshire Blvd., Suite 424 Beverly Hills, CA 90211 TELEPHONE NO.: 310-278-4015 FAX NO.: 310-278-2894 ATTORNEY FOR (Name): Eric Humphreys	FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles APR 10 2017 Sherri R. Carter, Executive Officer/Clerk By: <u>M. Soto</u> , Deputy Moses Soto
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N Hill St MAILING ADDRESS: 111 N Hill St CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse	CASE NUMBER: <div style="font-size: 24px; font-weight: bold; text-align: center;">BC 657288</div>
CASE NAME: Beskodarny et al. v. Morady, et al.	JUDGE: DEPT:
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input checked="" type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input checked="" type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 6
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: April 10, 2017
 Joseph S. Fischbach

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

SHORT TITLE: Beskodarny v. Morady, et al.	CASE NUMBER: BC 657283
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**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| <ul style="list-style-type: none"> 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District. 2. Permissive filing in central district. 3. Location where cause of action arose. 4. Mandatory personal injury filing in North District. 5. Location where performance required or defendant resides. 6. Location of property or permanently garaged vehicle. | <ul style="list-style-type: none"> 7. Location where petitioner resides. 8. Location wherein defendant/respondent functions wholly. 9. Location where one or more of the parties reside. 10. Location of Labor Commissioner Office. 11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: Beskodarny v. Morady, et al.	CASE NUMBER
---	-------------

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3	
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
Insurance Coverage (18)	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11	
	Other Contract (37)	<input checked="" type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
<input checked="" type="checkbox"/> A6009 Contractual Fraud		1, 2, 3, 5	
<input type="checkbox"/> A6031 Tortious Interference		1, 2, 3, 5	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9	
Real Property	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
<input type="checkbox"/> A6032 Quiet Title		2, 6	
<input checked="" type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)		2, 6	
Unlawful Detainer	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: Beskodarny v. Morady, et al.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2 2
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment	2, 5, 11
		<input type="checkbox"/> A6160 Abstract of Judgment	2, 6
		<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)	2, 9
		<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
		<input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)		1, 2, 8	
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment	2, 3, 9
		<input type="checkbox"/> A6123 Workplace Harassment	2, 3, 9
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case	2, 3, 9
		<input type="checkbox"/> A6190 Election Contest	2
		<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2, 3, 8
<input type="checkbox"/> A6100 Other Civil Petition		2, 9	

SHORT TITLE: Beskodarny v. Morady, et al.	CASE NUMBER
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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input checked="" type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.			ADDRESS: 1200 Gordon St.
CITY: Los Angeles	STATE: CA	ZIP CODE: 90038	

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: 4/9*/2017


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

1 ANDREW ZEALUS (SBN 301580)
az@Ffschbachlaw.com
2 JOSEPH S. FISCHBACH (SBN 70830)
jsf2@fischbachlaw.com
3 Fischbach & Fischbach, A Law Corporation
8200 Wilshire Boulevard, Suite 424
4 Beverly Hills, California 90211
Telephone: (310) 278-4015
5 Facsimile: (310) 278-2894
Attorneys for Plaintiffs

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES
9

10 PETER BESKODARNY,
INDIVIDUALLY AND
11 DERIVATIVELY ON BEHALF OF
GORDON ST. CONDOS, LLC, A
12 NEVADA LIMITED LIABILITY
COMPANY

13 Plaintiffs,

14
15 V.

16 PAUL MORADY, MORGAN FAIR,
HELPING HAND, INVESTMENTS,
17 INC, GORDON ST. CONDOS, LLC, A
NEVADA LIMITED LIABILITY
18 COMPANY, NAPA INVESTMENTS,
LLC, A FOREIGN COMPANY, ARCH
19 LOANS SPE, LLC, A DELAWARE
COMPANY QUALIFIED TO DO
20 BUSINESS IN CALIFORNIA and
Does 1-100

21
22 Defendants.

) Case No.: BC 657283

) NOTICE OF PENDENCY OF ACTION

) Action filed: April 6, 2017
) Trial date: TBD

23
24 NOTICE IS HEREBY GIVEN that the above-captioned action in the above-captioned
25 court by PETER BESKODARNY against, defendants PAUL MORADY, MORGAN FAIR,
26 HELPING HAND, INVESTMENTS, INC, GORDON ST. CONDOS, LLC, A NEVADA
27 LIMITED LIABILITY COMPANY, NAPA INVESTMENTS, LLC, A FOREIGN COMPANY,
28 ARCH LOANS SPE, LLC , A DELAWARE COMPANY QUALIFIED TO DO BUSINESS IN

FISCHBACH & FISCHBACH, A LAW CORPORATION
8200 WILSHIRE BLVD., SUITE 424
BEVERLY HILLS, CALIFORNIA 90211

1 CALIFORNIA and Does 1-100, alleges a real property claim affecting title to certain real
2 property that is situated in Los Angeles County, California, commonly known as 1200
3 Gordon St., Los Angeles, CA, 90038 and legally described as:

4 Lot 157 of Grider and Hamilton's Hollywood tract as per map recorded in
5 Book 9, Page 12 of Maps, in the office of the County recorder of Los Angeles
6 County, California, assessors parcel number 5534 - 011 - 013.

7 **DATED: April 8, 2017**

**FISCHBACH & FISCHBACH
A LAW CORPORATION**

8
9 By: 
10 **JOSEPH S. FISCHBACH**
11 **Attorneys for Plaintiffs**

FISCHBACH & FISCHBACH, A LAW CORPORATION
8200 WILSHIRE BLVD, SUITE 424
BEVERLY HILLS, CALIFORNIA 90211

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed 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 8200 Wilshire Boulevard Suite 424, Beverly Hills, California 90211

On April 08, 2017, I served the following document(s) described as **NOTICE OF PENDENCY OF ACTION** on the interested party(ies) in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Paul Morady
Brook Fain
NAPA Industries, LLC
5739 Canaan Rd., Suite 292
Agoura Hills, CA 91301

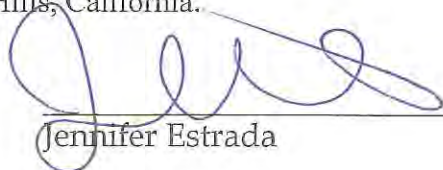
Paul Morady
5606 Sea View Drive
Malibu, CA 90265

BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY REGISTERED MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 08, 2017, at Beverly Hills, California.


Jennifer Estrada

FISCHBACH & FISCHBACH, A LAW CORPORATION
8200 WILSHIRE BLVD, SUITE 424
BEVERLY HILLS, CALIFORNIA 90211

BC 657288

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

Your case is assigned for all purposes to the judge indicated below. There is more information on the reverse side of this form.

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Debre K. Weintraub	1	534	Hon. Elizabeth Allen White	48	506
Hon. Barbara A. Meiers	12	636	Hon. Deirdre Hill	49	509
Hon. Terry A. Green	14	300	Hon. Teresa A. Beaudet	50	508
Hon. Richard Fruin	15	307	Hon. Michael J. Raphael	51	511
Hon. Rita Miller	16	306	Hon. Susan Bryant-Deason	52	510
Hon. Richard E. Rico	17	309	Hon. Howard L. Halm	53	513
Hon. Stephanie Bowick	19	311	Hon. Ernest M. Hiroshige	54	512
Hon. Dalila Corral Lyons	20	310	Hon. Malcolm H. Mackey	55	515
Hon. Robert L. Hess	24	314	Hon. Michael Johnson	56	514
Hon. Yvette M. Palazuelos	28	318	Hon. John P. Doyle	58	516
Hon. Barbara Scheper	30	400	Hon. Gregory Keosian	61	732
Hon. Samantha Jessner	31	407	Hon. Michael L. Stern	62	600
Hon. Daniel S. Murphy	32	406	Hon. Mark Mooney	68	617
Hon. Michael P. Linfield	34	408	Hon. William F. Fahey	69	621
Hon. Gregory Alarcon	36	410	Hon. Monica Bachner	71	729
Hon. Marc Marmaro	37	413	Hon. Ruth Ann Kwan	72	731
Hon. Maureen Duffy-Lewis	38	412	Hon. Rafael Ongkeko	73	733
Hon. Elizabeth Feffer	39	415	Hon. Teresa Sanchez-Gordon	74	735
Hon. David Sotelo	40	414	Hon. Gail Ruderman Feuer	78	730
Hon. Holly E. Kendig	42	416			
Hon. Mel Red Recana	45	529	Hon. Steven J. Kleifield	324	CCW
Hon. Frederick C. Shaller	46	500	*Provisionally Complex Non-class Action Cases Assignment is Pending Complex Determination	308	CCW
Hon. Randolph Hammock	47	507			

***Complex**

All non-class action cases designated as provisionally complex are forwarded to the Supervising Judge of the Complex Litigation Program located in the Central Civil West Courthouse (600 S. Commonwealth Ave., Los Angeles 90005), for complex/non-complex determination pursuant to Local Rule 3.3(k). This procedure is for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court, rule 3.400. Depending on the outcome of that assessment, the case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

Given to the Plaintiff/Cross-Complainant/Attorney of Record on _____ SHERRI R. CARTER, Executive Officer/Clerk
 By _____, Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the Chapter Three Rules, as applicable in the Central District, are summarized for your assistance.

APPLICATION

The Chapter Three Rules were effective January 1, 1994. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Chapter Three Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. These matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS

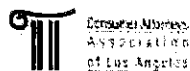


Superior Court of California
County of Los Angeles

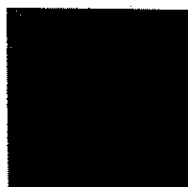


Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions in Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PLAINTIFF:		
DEFENDANT:		
STIPULATION – DISCOVERY RESOLUTION		CASE NUMBER:

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

SHORT TITLE:	CASE NUMBER:
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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
 - d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
 - e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
 5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
 7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
 8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER:
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The following parties stipulate:

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR PLAINTIFF)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR DEFENDANT)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

Date:

(TYPE OR PRINT NAME)



(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – EARLY ORGANIZATIONAL MEETING			CASE NUMBER:

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, *to discuss and consider whether there can be agreement on the following:*
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE:	CASE NUMBER:
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents, not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lacourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ (INSERT DATE) for the complaint, and _____ (INSERT DATE) for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68616(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation. A copy of the General Order can be found at www.lacourt.org under "Civil", click on "General Information", then click on "Voluntary Efficient Litigation Stipulations".
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR PLAINTIFF)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR DEFENDANT)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)
Date:		➤	
	(TYPE OR PRINT NAME)		(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			CASE NUMBER:

- This document relates to:
 - Request for Informal Discovery Conference
 - Answer to Request for Informal Discovery Conference
- Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).
- Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
- For a Request for Informal Discovery Conference, **briefly** describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, **briefly** describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION AND ORDER – MOTIONS IN LIMINE			CASE NUMBER:

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

➤ _____
(ATTORNEY FOR PLAINTIFF)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR DEFENDANT)

➤ _____
(ATTORNEY FOR _____)

➤ _____
(ATTORNEY FOR _____)

➤ _____
(ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER

Superior Court of California County of Los Angeles



ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION PACKET

The person who files a civil lawsuit (plaintiff) must include the ADR information Packet with the complaint when serving the defendant. Cross-complainants must serve the ADR Information Packet on any new parties named to the action together with the cross-complaint.

There are a number of ways to resolve civil disputes without having to sue someone. These alternatives to a lawsuit are known as alternative dispute resolution (ADR).

In ADR, trained, impartial persons decide disputes or help parties decide disputes themselves. These persons are called neutrals. For example, in mediations, the neutral is the mediator. Neutrals normally are chosen by the disputing parties or by the court. Neutrals can help resolve disputes without having to go to court.

Advantages of ADR

- Often faster than going to trial
- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- May permit more participation, allowing parties to have more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing parties to work together with the neutral to resolve the dispute and mutually agree to remedy.
- There are fewer, if any, court appearances. Because ADR can be faster and save money, it can reduce stress.

Disadvantages of ADR - ADR may not be suitable for every dispute.

- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs of trial, such as attorney's fees and expert fees.

The Most Common Types of ADR

- **Mediation**

In mediation, a neutral (the mediator) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or some other types of ADR, the parties, rather than the mediator, decide how the dispute is to be resolved.

- **Mediation is particularly effective** when the parties have a continuing relationship, like neighbors or business people. Mediation is also very effective where personal feelings are getting in the way of a resolution. This is because mediation normally gives the parties a chance to express their feelings and find out how the other sees things.
- **Mediation may not be effective** when one party is unwilling to cooperate or compromise or when one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

- **Arbitration**

In arbitration, a neutral person called an “arbitrator” hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is typically less formal than a trial, and the rules of evidence may be relaxed. Arbitration may be either “binding” or “non-binding.” Binding arbitration means the parties waive their right to a trial and agree to accept the arbitrator’s decision as final. Non-binding arbitration means that the parties are free to request a trial if they reject the arbitrator’s decision.

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

- **Mandatory Settlement Conference (MSC)**

Settlement Conferences are appropriate in any case where settlement is an option.

Mandatory Settlement Conferences are ordered by the Court and are often held near the date a case is set for trial. The parties and their attorneys meet with a judge who devotes his or her time exclusively to preside over the MSC. The judge does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement.

The Los Angeles Superior Court Mandatory Settlement Conference (MSC) program is free of charge and staffed by experienced sitting civil judges who devote their time exclusively to presiding over MSCs. The judges participating in the judicial MSC program and their locations are identified in the List of Settlement Officers found on the Los Angeles Superior Court website at <http://www.lacourt.org/>. This program is available in general jurisdiction cases with represented parties from independent calendar (IC) and Central Civil West (CCW) courtrooms. In addition, on an ad hoc basis, personal injury cases may be referred to the program on the eve of trial by the personal injury master calendar courts in the Stanley Mosk Courthouse or the asbestos calendar court in CCW.

In order to access the Los Angeles Superior Court MSC Program the judge in the IC courtroom, the CCW Courtroom or the personal injury master calendar courtroom must refer the parties to the program. Further, all parties must complete the information requested in the Settlement Conference Intake Form and email the completed form to mscdept18@lacourt.org.

Additional Information

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs (www.dca.ca.gov) Consumer Information Center toll free at 800-952-5210, or;
- Contact the local bar association (<http://www.lacba.org/>) or;
- Look in a telephone directory or search online for “mediators; or “arbitrators.”

There may be a charge for services provided by private arbitrators and mediators.

A list of approved State Bar Approved Mandatory Fee Arbitration programs is available at <http://calbar.ca.gov/Attorneys/MemberServices/FeeArbitration/ApprovedPrograms.aspx#19>

To request information about, or assistance with, dispute resolution, call the number listed below. Or you may call a Contract Provider agency directly. A list of current Contract Provider agencies in Los Angeles County is available at the link below.

<http://css.lacounty.gov/programs/dispute-resolution-program-drp/>

County of Los Angeles Dispute Resolution Program
3175 West 6th Street, Room 406
Los Angeles, CA 90020-1798
TEL: (213) 738-2621
FAX: (213) 386-3995

EXHIBIT “5”

APPRAISAL OF REAL PROPERTY

LOCATED AT

1200 Gordon St
Los Angeles, CA 90038-1910
Tract # 7077 Lot 25

FOR

Napa Industries, LLC
5739 Kanan Road, Suite 292
Agoura Hills, CA 91301

AS OF

3/20/2016

BY

Thomas I. Milwicz
California State Certified General Real Estate Appraiser
11856 Balboa Boulevard, Suite 116
Granada Hills, CA 91344
(818) 416-6600
thomasimg@gmail.com



Thomas I. Milwicz, SCGREA
11856 Balboa Boulevard, Suite 116
Granada Hills, CA 91344
(818) 416-6600

03/23/2016

Paul Morady
Napa Industries, LLC
5739 Kanan Road, Suite 292
Agoura Hills, CA 91301

Re: Property: 1200 Gordon St
Los Angeles, CA 90038-1910
Owner: Gordon Street Condos LLC
File No.: LA553401101316

Opinion of Value: \$
Effective Date: 3/20/2016

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of the appraisal is to develop an opinion of market value for the property described in this appraisal report, as improved, in unencumbered fee simple title of ownership.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.



The opinion of value reported above is as of the stated effective date and is contingent upon the certification and limiting conditions attached.

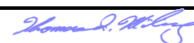
It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

 www.SureDocs.com/validate 

Sincerely,



 **Serial #:3D9904E4** 
Thomas I. Milwicz
California State Certified General Real Estate Appraiser
License or Certification #: AG008920
State: CA Expires: 05/07/2018
thomasimg@gmail.com



Serial# 3D9904E4

Owner	Gordon Street Condos LLC	File No.	LA553401101316
Property Address	1200 Gordon St		
City	Los Angeles	County	Los Angeles
		State	CA
		Zip Code	90038-1910
Client	Napa Industries, LLC		

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SUMMARY OF SALIENT FEATURES

SUBJECT INFORMATION	Subject Address	1200 Gordon St
	Legal Description	Tract # 7077 Lot 25
	City	Los Angeles
	County	Los Angeles
	State	CA
	Zip Code	90038-1910
	Census Tract	06037-1909.02
	Map Reference	31084
PRICE & DATE	Contract Price	\$
	Date of Contract	
PARTIES	Owner	Gordon Street Condos LLC
	Client	Napa Industries, LLC
DESCRIPTION OF IMPROVEMENTS	Size (Square Feet)	2,796
	Price per Square Foot	\$
	Location	Good
	Age	96
	Condition	Average
	Total Rooms	12
	Bedrooms	4
	Baths	4
APPRAISER	Appraiser	Thomas I. Milwicz
	Effective Date of Appraisal	3/20/2016
VALUE	Opinion of Value	\$ 1,350,000



2-4 UNIT RESIDENTIAL APPRAISAL REPORT

Property Address: 1200 Gordon St City: Los Angeles State: CA Zip Code: 90038-1910
 County: Los Angeles Legal Description: Tract # 7077 Lot 25

SUBJECT

Assessor's Parcel #: 5534-011-013 Tax Year: 2015 R.E. Taxes: \$ 8,286 Special Assessments: \$ N/A
 Current Owner of Record: Gordon Street Condos LLC Borrower (if applicable): Gordon Street Condos LLC
 Occupant: Owner Tenant Vacant Project Type: PUD Other (describe) HOA: \$ per yr. per mo.
 Market Area Name: Hollywood Map Reference: 31084 Census Tract: 06037-1909.02

ASSIGNMENT

The purpose of this appraisal is to develop an opinion of: Market Value (as defined), or other type of value (describe)
 This report reflects the following value (if not Current, see comments): Current (the Inspection Date is the Effective Date) Retrospective Prospective
 Approaches developed for this appraisal: Sales Comparison Approach Cost Approach Income Approach (See Reconciliation Comments and Scope of Work)
 Property Rights Appraised: Fee Simple Leasehold Leased Fee Other (describe)
 Intended Use: Private Lender Financing

Intended User(s) (by name or type): Napa Industries, LLC
 Client: Napa Industries, LLC Address: 5739 Kanan Road, Suite 292, Agoura Hills, CA 91301
 Appraiser: Thomas I. Milwicz Address: 11856 Balboa Boulevard, Suite 116, Granada Hills, CA 91344

Location: <input checked="" type="radio"/> Urban <input type="radio"/> Suburban <input type="radio"/> Rural	Predominant Occupancy	2 - 4 Unit Housing	Present Land Use	Change in Land Use
Built up: <input checked="" type="radio"/> Over 75% <input type="radio"/> 25-75% <input type="radio"/> Under 25%	<input type="radio"/> Owner 7.6%	PRICE AGE	One-Unit 20%	<input type="radio"/> Not Likely
Growth rate: <input type="radio"/> Rapid <input checked="" type="radio"/> Stable <input type="radio"/> Slow	<input checked="" type="radio"/> Tenant 92.4%	\$(000) (yrs)	2-4 Unit 30%	<input checked="" type="radio"/> Likely * <input type="radio"/> In Process *
Property values: <input checked="" type="radio"/> Increasing <input type="radio"/> Stable <input type="radio"/> Declining	<input checked="" type="radio"/> Vacant (0-5%)	487 Low 1	Multi-Unit 25%	* To: SFR and small
Demand/supply: <input checked="" type="radio"/> Shortage <input type="radio"/> In Balance <input type="radio"/> Over Supply	<input type="radio"/> Vacant (>5%)	1,665 High 115	Comm'l 25%	income properties being
Marketing time: <input checked="" type="radio"/> Under 3 Mos. <input type="radio"/> 3-6 Mos. <input type="radio"/> Over 6 Mos.		895 Pred 65	%	converted to condos.

Market Area Boundaries, Description, and Market Conditions (including support for the above characteristics and trends): See attached addenda.

MARKET AREA DESCRIPTION

Dimensions: 50 X 130 Site Area: 6,500 sf Sq.Ft.
 Zoning Classification: LAR3 Description: Multi-Family Zoning
 Zoning Compliance: Legal Legal nonconforming (grandfathered) Illegal No zoning
 Are CC&Rs applicable? Yes No Unknown Have the documents been reviewed? Yes No Ground Rent (if applicable) \$ /
 Comments:
 Highest & Best Use as improved: Present use, or Other use (explain) Convert to 8 condominium units, with a temporary use as a rental property as is.
 Actual Use as of Effective Date: Four-plex Use as appraised in this report: Four-plex
 Summary of Highest & Best Use: Highest and best use attempts to express a property's most probable and profitable use. Four criteria are utilized to determine a property's highest and best use; 1) What is physically possible to be built on a site? 2) What is legally possible to build on the lot? 3) What is financially feasible based on market support? 4) What will produce the maximum productivity of the site? A four-plex for now, an 8 unit condominium complex sometime in the future is the highest and best use of the property.

SITE DESCRIPTION

Utilities	Public	Other	Provider/Description	Off-site Improvements	Type	Public	Private	Frontage	50 Feet on Gordon Street
Electricity	<input checked="" type="radio"/>	<input type="radio"/>	DWP	Street	Residential	<input checked="" type="radio"/>	<input type="radio"/>	Topography	Flat
Gas	<input checked="" type="radio"/>	<input type="radio"/>	The Gas Co.	Width	60 on Gordon, 60 on Lexington			Size	Typical to the area
Water	<input checked="" type="radio"/>	<input type="radio"/>	DWP	Surface	Asphalt			Shape	Rectangular
Sanitary Sewer	<input checked="" type="radio"/>	<input type="radio"/>	DWP	Curb/Gutter	Concrete	<input checked="" type="radio"/>	<input type="radio"/>	Drainage	Appears good
Storm Sewer	<input checked="" type="radio"/>	<input type="radio"/>	DWP	Sidewalk	Concrete	<input checked="" type="radio"/>	<input type="radio"/>	View	Street
Telephone	<input checked="" type="radio"/>	<input type="radio"/>	Verizon, AT&T	Street Lights	Yes	<input checked="" type="radio"/>	<input type="radio"/>	Frontage	130 on Lexington Avenue
Multimedia	<input checked="" type="radio"/>	<input type="radio"/>	ATT, Time Warner, Others	Alley		<input type="radio"/>	<input type="radio"/>		

Other site elements: Inside Lot Corner Lot Cul de Sac Underground Utilities Other (describe)
 FEMA Spec'l Flood Hazard Area: Yes No FEMA Flood Zone: X FEMA Map #: 06037C1605F FEMA Map Date: 09/26/2008
 Site Comments: The site is typical for the area in size, configuration, ingress and egress. The site provides for pedestrian access from both Gordon Street and Lexington Avenue. The subject site is a corner site. The property has four addresses 1200 and 1202 on Gordon Street and 5963 and 5965 Lexington Avenue. There are two two-unit buildings on the site, the buildings are at the east and west end of the site providing for parking of at least six cars on site.

DESCRIPTION OF THE IMPROVEMENTS

General Description	Exterior Description	Foundation	Basement	Heating
# of Units 4 <input type="radio"/> Accessory Unit	Foundation Concrete	Slab No	Area Sq. Ft. <input checked="" type="radio"/> None	Wall Furnaces
# Stories 1 # Bldgs. 2	Exterior Walls Stucco	Crawl Space Yes	% Finished	Type Wall
Type <input checked="" type="radio"/> Det. <input checked="" type="radio"/> Att. <input type="radio"/>	Roof Surface Composition	Basement No	Ceiling	Fuel Gas
Design (Style) Two 2-unit Buildings	Gutters & Dwnspnts. Metal	Sump Pump <input type="radio"/> None	Walls	Cooling
<input checked="" type="radio"/> Existing <input type="radio"/> Proposed <input type="radio"/> Und.Cons.	Window Type Wood Frame	Dampness <input type="radio"/> None	Floor	Central None
Actual Age (Yrs.) 96	Storm/Screens Yes	Settlement None Noted	Outside Entry	Other
Effective Age (Yrs.) 50		Infestation None Noted		
Interior Description	Appliances	#	Attic	Amenities
Floors Wood/Vinyl	Refrigerator 2	Stairs <input type="radio"/> None	Fireplace(s) # 0	Woodstove(s) #
Walls Plaster/Drywall	Range/Oven 4	Drop Stair <input type="radio"/>	Patio	Car Storage <input checked="" type="radio"/> None
Trim/Finish Wood	Disposal 4	Scuttle <input checked="" type="radio"/>	Deck	Garage # of cars (6 Tot.)
Bath Floor Vinyl Tile	Dishwasher 0	Doorway <input type="radio"/>	Porch In Rear	Attach. _____
Bath Wainscot Tile	Fan/Hood 0	Floor <input type="radio"/>	Fence Mixed Material	Detach. _____
Doors Wood	Microwave 0	Heated <input type="radio"/>	Pool	Bit.-In _____
	Washer/Dryer 0	Finished <input type="radio"/>		Carport _____
Unit # 1 contains: 3 Rooms; 1 Bedrooms; 1 Bath(s); 720 Sq.Ft. GLA Above Grade				Driveway 6+
Unit # 2 contains: 3 Rooms; 1 Bedrooms; 1 Bath(s); 720 Sq.Ft. GLA Above Grade				Surface Asphalt/Concrete
Unit # 3 contains: 3 Rooms; 1 Bedrooms; 1 Bath(s); 678 Sq.Ft. GLA Above Grade				
Unit # 4 contains: 3 Rooms; 1 Bedrooms; 1 Bath(s); 678 Sq.Ft. GLA Above Grade				

The Total Gross Building Area for the Subject Property is: 2,796 Sq.Ft.

2-4 UNIT RESIDENTIAL APPRAISAL REPORT

IMPROVEMENTS (cont.)
Additional features: The subject property was originally constructed in 1920 to supply the housing needs of the nearby movie studios. The subject is typical to the area. We only performed an exterior inspection of the subject property.

Describe the condition of the property (including physical, functional and external obsolescence): The subject property is a typical two-building four-unit apartment complex of a type found all over Los Angeles. The roofs appear to be newer and in good condition, the windows are the original windows and wood frames. The exterior stairs, walls, doors, windows and siding appear to be in acceptable condition. The property does have an overgrowth of Bougainvillea on the south side of the property facing Lexington Avenue limiting access to the south side of the building and restricting measuring the property. The sketch presented in the report is just a rough representation of the two buildings and their placement on the site.

The following properties are representative current, similar, and proximate rental properties comparable to the subject property. This analysis is intended to support the opinion of the market rent for the subject property.

FEATURE	SUBJECT	COMPARABLE RENTAL # 1				COMPARABLE RENTAL # 2				COMPARABLE RENTAL # 3			
Address	1200 Gordon St Los Angeles, CA 90038-1910	1347 N Citrus Avenue Los Angeles, CA 90028				1002 N. Hudson Avenue Los Angeles, CA 90038				838 N. Ridgewood Place Los Angeles, CA 90038			
Proximity to Subject		1.18 miles W				0.73 miles W				0.53 miles SE			
Current Monthly Rent	\$ 6,500	\$ 6,695				\$ 3,500				\$ 7,185			
Less: Utilities	-\$	-\$				-\$				-\$			
Furnishings	-\$	-\$				-\$				-\$			
Plus: Rent Concess.	+\$ 0	+\$				+\$				+\$			
Adj. Monthly Rent	\$ 6,500	\$ 6,695				\$ 3,500				\$ 7,185			
Adj. Mo. Rent / GLA	\$ 2.32/sq.ft.	\$ 1.84/sq.ft.				\$ 1.48/sq.ft.				\$ 3.01/sq.ft.			
Data Source(s)	Inspection,Public Records	MLS,Public Records,Broker				The MLS/Public Records/Inspec.				The MLS/Public Records/Inspec.			
RENT ADJUSTMENTS	DESCRIPTION	DESCRIPTION +/- \$ Adjust				DESCRIPTION +/- \$ Adjust				DESCRIPTION +/- \$ Adjust			
Rent Control	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No				<input checked="" type="radio"/> Yes <input type="radio"/> No				<input checked="" type="radio"/> Yes <input type="radio"/> No			
Lease Date	Month to Month					Month to Month				Month to Month			
Location	Good	Good				Good				Good			
Design (Style)	Two 2-unit Buildings	4 plex, 2 Bldg's.				House & 2 unit bldg.				Two Buildings			
Age	65	93				95				67			
Condition	Average	Average				Average				Average			
Total GBA	2,796 sq.ft.	3,633 sq.ft.				2,359 sq.ft.				2,386 sq.ft.			
Total # of Units	4	4				3				3			
Total GLA	2,796 sq.ft.	3,633 sq.ft.				2,359 sq.ft.				2,386 sq.ft.			
Unit Breakdown	Tot. Bed. Baths GLA	Tot. Bed. Baths GLA				Tot. Bed. Baths GLA				Tot. Bed. Baths GLA			
Unit # 1	3 1 1 720	3 1 1 900				3 1 1 815				6 3 2 1,332			
Unit # 2	3 1 1 720	3 1 1 900				3 1 1 772				15 2 1 527			
Unit # 3	3 1 1 678	3 1 1 916				3 1 1 772				3 1 1 527			
Unit # 4	3 1 1 678	3 1 1 917											
Furniture HVAC	None	None				None				None			
Tenant Pays	Gas and Electric	None				None				None			
Heating Ventilation Air Cond	Heating	Heating				Heating				Heating			
Garden, Repairs, Water	Owner	Owner				Owner				Owner			
Adjusted Value PSF	\$2.25	\$1.84				\$1.48				\$3.01			
Net Rental Adjustment (Total)		<input type="radio"/> + <input type="radio"/> - \$				<input type="radio"/> + <input type="radio"/> - \$				<input type="radio"/> + <input type="radio"/> - \$			
Indicated Monthly Market Rent		\$ 6,695				\$ 3,500				\$ 7,185			

Analysis of rental data: See attached addenda.

Rent Schedule: The appraiser must reconcile the applicable indicated monthly market rents to provide an opinion of the market rent for each unit in the subject property.

Unit #	Leases		Actual Rents			Opinion of Market Rent		
	Lease Dates		Per Unit		Total Rents	Per Unit		Total Rents
	Begin Date	End Date	Unfurnished	Furnished		Unfurnished	Furnished	
1	N/A		\$ 1,625	\$	\$ 1,625	\$ 1,750	\$	\$ 1,750
2	N/A		\$ 1,625	\$	\$ 1,625	\$ 1,750	\$	\$ 1,750
3	N/A		\$ 1,625	\$	\$ 1,625	\$ 1,750	\$	\$ 1,600
4	N/A		\$ 1,625	\$	\$ 1,625	\$ 1,750	\$	\$ 1,600
Comments on lease data See attached addenda.			Total Actual Monthly Rent		\$ 6,500	Total Gross Monthly Rent		\$ 6,700
			Other Monthly Income (itemize)		\$	Other Monthly Income (itemize)		\$
			Total Actual Monthly Income		\$ 6,500	Total Estimated Monthly Income		\$ 6,700

Utilities included in estimated rents Electric Water Sewer Gas Oil Trash collection Multimedia Telephone Other Gardener

Comments on actual or estimated rents and other monthly income (including personal property) The rents that are being charged to the tenants are controlled by the Los Angeles Rent Stabilization Ordinances, this limits the rental upside until a unit is vacated and released at market to a new tenant. The current total rentals are \$6,500 per month or \$1,625 per unit, while the projected market rent is \$6,700 a very narrow spread of rentals reflecting a \$2,400 per year difference between the current and the projected market rental of the subject units..

INCOME APPROACH TO VALUE The Income Approach was not developed for this appraisal.

Gross Rent Multiplier Analysis:

Address	Date	Sale Price	Gross Rent	GRM	Comments
1347 N Citrus Ave.	7/17/2015	1,265,000	6,695	188.95	4 units, 2 bldg's., 4-1/1
1002 N Hudson Ave.	4/22/2015	1,150,000	3,500	328.57	3 units, 2 bldg's., 3-1/1
838 Ridgewood Pl.	2/5/2016	1,265,000	7,185	176.06	3 units, 2 bldg's., 3/1,2/1,1/1

Opinion of Monthly Market Rent \$ 6,700 X Gross Rent Multiplier 200 = \$ 1,340,000 **Indicated Value by Income Approach**

Summary of Income Approach (including support for market rent and GRM): The three sales utilized to value the subject property via the Income Approach to Value, are also used in the Comparable Sales Approach to Value. These were the best comparables to value the subject property based on the use of a GRM. We are of the opinion that based on the monthly GRM of 200 the value of the subject 4-plex as of March 20, 2016, is \$1,340,000 rounded to \$1,350,000.



2-4 UNIT RESIDENTIAL APPRAISAL REPORT

TRANSFER HISTORY	My research <input type="radio"/> did <input checked="" type="radio"/> did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.	
	Data Source(s): Owner and MLS.	
	1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: The subject property has not been listed in the past 36 months and has not transferred in the past 36 months.
	Date: N/A	
	Price: N/A	
	Source(s): The MLS	
2nd Prior Subject Sale/Transfer		
Date: N/A		
Price: N/A		
Source(s): The MLS		

SALES COMPARISON APPROACH TO VALUE (if developed) The Sales Comparison Approach was not developed for this appraisal.

FEATURE	SUBJECT	COMPARABLE SALE # 1		COMPARABLE SALE # 2		COMPARABLE SALE # 3			
Address	1200 Gordon St Los Angeles, CA 90038-1910	1347 N Citrus Avenue Los Angeles, CA 90028		1002 N. Hudson Avenue Los Angeles, CA 90038		838 N. Ridgewood Place Los Angeles, CA 90038			
Proximity to Subject		1.18 miles W		0.73 miles W		0.53 miles SE			
Sale Price	\$	\$ 1,265,000		\$ 1,150,000		\$ 1,265,000			
Sale Price/GBA	\$ /sq.ft.	\$ 348.20/sq.ft.		\$ 487.49/sq.ft.		\$ 530.18/sq.ft.			
Gross Monthly Rent	\$ 6,700	\$ 6,695		\$ 3,500		\$ 7,185			
Gross Rent Multiplier		188.95		328.57		176.06			
Price per Unit	\$	\$ 316,250		\$ 383,333		\$ 421,667			
Price per Room	\$	\$ 105,417		\$ 127,778		\$ 90,357			
Price per Bedroom	\$	\$ 316,250		\$ 383,333		\$ 210,833			
Data Source(s)	Owner	The MLS/Public Records/Inspec.		The MLS/Public Records/Inspec.		The MLS/Public Records/Inspec.			
Verification Source(s)	Assessor, Pub Rec	5542-026-017 283265		5533-013-016 451208		5535-004-018 134615			
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust		
Rent Control	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No		<input checked="" type="radio"/> Yes <input type="radio"/> No		<input checked="" type="radio"/> Yes <input type="radio"/> No			
Sales or Financing Concessions	None	\$822,250		All Cash		None			
Date of Sale/Time	3/20/2016	6/9/2015	+114,000	4/22/2015	+126,500	2/5/2016	+12,500		
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple			
Location	Good	Good		Good		Good			
Site	6,500 sf	7,069 sf	-56,500	6,813 sf	-31,000	5,790 sf	+71,000		
View	Street	Street		Street		Street			
Design (Style)	Two 2-unit Buildings	4 plex, 2 Bldg's.		House & 2 unit bldg.		Two Buildings			
Quality of Construction	Average for age	Average for age		Average for age		Average for age			
Age	96	93		95		67			
Condition	Average	Average		Average		Average			
Total GBA	2,796 sq.ft.	3,633 sq.ft.	-83,500	2,359 sq.ft.	+43,500	2,386 sq.ft.	+41,000		
Total # of Units	4	4		3	+96,000	3	+105,500		
Total GLA	2,796 sq.ft.	3,633 sq.ft.		2,359 sq.ft.		2,386 sq.ft.			
Unit Breakdown	Total	Bdrms	Baths	Total	Bdrms	Baths	Total	Bdrms	Baths
Unit # 1	3	1	1	3	1	1	6	3	2
Unit # 2	3	1	1	3	1	1	5	2	1
Unit # 3	3	1	1	3	1	1	3	1	1
Unit # 4	3	1	1	3	1	1			
Basement & Finished Rooms Below Grade	None	None		None	None		None	None	
Functional Utility	Average	Average		Average		Good			
Heating/Cooling	Heating	Heating		Heating		Heating			
Energy Efficient Items	Typical for age	Typical for age		Typical for age		Typical for age			
Parking	6 Parking Spaces	2 Covered, 2 open	+10,000	6 Parking Spaces	0	6 Garage Spaces	-60,000		
Porch/Patio/Deck	Rear Patio	Rear Patio		Rear Patio		Rear Patio			
Fireplace	None	None		None		None			
Pool/Spa	None	None		None		None			
Street Frontage	180 Feet	50 Feet		186 Feet		43 Feet			
Date of Prior Sale:	5/1/2008	5/27/2004		4/9/2014		7/31/2015			
Prior Sales Price TheMLS:	\$640,000	\$752,500		\$720,500		\$899,000			
Net Adjustment (Total)		<input type="radio"/> + <input checked="" type="radio"/> -	\$ -16,000	<input checked="" type="radio"/> + <input type="radio"/> -	\$ 235,000	<input checked="" type="radio"/> + <input type="radio"/> -	\$ 170,000		
Adjusted Sale Price of Comparables			\$ 1,249,000		\$ 1,385,000		\$ 1,435,000		
Adjusted Price of Comparables per GBA		\$ 343.79		\$ 587.11		\$ 601.42			
Adjusted Price of Comparables per Unit		\$ 312,250		\$ 461,667		\$ 478,333			
Adjusted Price of Comparables per Room		\$ 104,083		\$ 153,889		\$ 102,500			
Adjusted Price of Comparables per Bedroom		\$ 312,250		\$ 461,667		\$ 239,167			
Ind. Val. per GBA	\$ 475 X 2,796	SF GBA = \$ 1,328,100		Ind. Val. per Unit	\$ 350,000 X 4	Units = \$ 1,400,000			
Ind. Val. per Room	\$ 115,000 X 12	Rooms = \$ 1,380,000		Ind. Val. per Bedroom	\$ 350,000 X 4	Bedrooms = \$ 1,400,000			
Summary of Sales Comparison Approach	See attached addenda.								

SALES COMPARISON APPROACH	Indicated Value by Sales Comparison Approach \$		1,350,000	

ADDITIONAL COMPARABLE SALES

FEATURE	SUBJECT	COMPARABLE SALE # 4			COMPARABLE SALE # 5			COMPARABLE SALE # 6		
Address	1200 Gordon St Los Angeles, CA 90038-1910	836 Mc Cadden Place Los Angeles, CA 90028								
Proximity to Subject		1.08 miles SW								
Sale Price	\$	\$ 1,370,000			\$			\$		
Sale Price/GBA	\$ /sq.ft.	\$ 565.18/sq.ft.			\$ /sq.ft.			\$ /sq.ft.		
Gross Monthly Rent	\$ 6,700	\$			\$			\$		
Gross Rent Multiplier										
Price per Unit	\$	\$ 456,667			\$			\$		
Price per Room	\$	\$ 114,167			\$			\$		
Price per Bedroom	\$	\$ 274,000			\$			\$		
Data Source(s)	Owner	The MLS/Public Records/Inspec.								
Verification Source(s)	Assessor, Pub Rec	5524-005-021 1246715								
VALUE ADJUSTMENTS	DESCRIPTION	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust	DESCRIPTION	+/- \$ Adjust			
Rent Control	<input checked="" type="radio"/> Yes <input type="radio"/> No	<input checked="" type="radio"/> Yes <input type="radio"/> No		<input type="radio"/> Yes <input type="radio"/> No		<input type="radio"/> Yes <input type="radio"/> No				
Sales or Financing Concessions	None	All Cash								
Date of Sale/Time	3/20/2016	10/8/2015	+68,500							
Rights Appraised	Fee Simple	Fee Simple								
Location	Good	Good								
Site	6,500 sf	7,250 sf	-75,000							
View	Street	Street								
Design (Style)	Two 2-unit Buildings	3 plex, 2 Bldg's.								
Quality of Construction	Average for age	Average for Age								
Age	96	93								
Condition	Average	Average								
Total GBA	2,796 sq.ft.	2,424 sq.ft.	+37,000	sq.ft.		sq.ft.				
Total # of Units	4	3	+114,000							
Total GLA	2,796 sq.ft.	2,424 sq.ft.		sq.ft.		sq.ft.				
Unit Breakdown	Total Bdrms Baths	Total Bdrms Baths		Total Bdrms Baths		Total Bdrms Baths				
Unit # 1	3 1 1	5 2 1								
Unit # 2	3 1 1	5 2 1								
Unit # 3	3 1 1	2 1 1								
Unit # 4	3 1 1									
Basement & Finished Rooms Below Grade	None	None								
Functional Utility	Average	Average								
Heating/Cooling	Heating	Heating								
Energy Efficient Items	Typical for age	Typical for age								
Parking	6 Parking Spaces	2 Garage, 2 open	0							
Porch/Patio/Deck	Rear Patio	Rear Patio								
Fireplace	None	None								
Pool/Spa	None	None								
Street Frontage	180 Feet	50 Feet								
Date of Prior Sale:	5/1/2008	N/A								
Prior Sales Price TheMLS:	\$640,000	N/A								
Net Adjustment (Total)		<input checked="" type="radio"/> + <input type="radio"/> -	\$ 144,500	<input type="radio"/> + <input type="radio"/> -	\$	<input type="radio"/> + <input type="radio"/> -	\$			
Adjusted Sale Price of Comparables			\$ 1,514,500		\$		\$			
Adjusted Price of Comparables per GBA		\$ 624.79		\$		\$				
Adjusted Price of Comparables per Unit		\$ 504,833		\$		\$				
Adjusted Price of Comparables per Room		\$ 126,208		\$		\$				
Adjusted Price of Comparables per Bedroom		\$ 302,900		\$		\$				
Summary of Sales Comparison Approach										

SALES COMPARISON APPROACH

2-4 UNIT RESIDENTIAL APPRAISAL REPORT

COST APPROACH TO VALUE (if developed) The Cost Approach was not developed for this appraisal.
 Provide adequate information for replication of the following cost figures and calculations.
 Support for the opinion of site value (summary of comparable land sales or other methods for estimating site value):

ESTIMATED <input type="radio"/> REPRODUCTION OR <input checked="" type="radio"/> REPLACEMENT COST NEW		OPINION OF SITE VALUE = \$	
Source of cost data:		DWELLING	Sq.Ft. @ \$ = \$
Quality rating from cost service:	Effective date of cost data:		Sq.Ft. @ \$ = \$
Comments on Cost Approach (gross living area calculations, depreciation, etc.):			Sq.Ft. @ \$ = \$
			Sq.Ft. @ \$ = \$
			Sq.Ft. @ \$ = \$
			Sq.Ft. @ \$ = \$
			Sq.Ft. @ \$ = \$
		Garage/Carport	Sq.Ft. @ \$ = \$
		Total Estimate of Cost-New = \$
		Less Physical	
		Functional	
		External	
		Depreciation = \$()
		Depreciated Cost of Improvements = \$
		"As-is" Value of Site Improvements = \$
		 = \$
		 = \$
Estimated Remaining Economic Life (if required):	Years	INDICATED VALUE BY COST APPROACH = \$	

PROJECT INFORMATION FOR PUDs (if applicable) The Subject is part of a Planned Unit Development.
 Legal Name of Project:
 Describe common elements and recreational facilities:

Indicated Value by: Sales Comparison Approach \$ 1,350,000 Income Approach \$ 1,340,000 Cost Approach (if developed) \$
 Final Reconciliation The income approach to value was utilized in the valuation of the subject and a value of \$1,340,000 "as is" was derived for the subject property. The comparable sales approach to value derived a value of \$1,350,000 for the subject property. Purchasers of comparable properties buy them primarily as investments. The cost approach to value was not as it is not relied upon by investors or buyers of similar type properties. The comparable sales approach to value is the most commonly utilized method of valuing a 4-plex in the Los Angeles Metropolitan Area, this method is the best indicator of value for the subject property. The value of the subject property based on the Income and the Comparable Sales Approaches is \$1,350,000 as of 3/20/2016, the effective date of appraisal in its "as is" condition.

This appraisal is made "as is", subject to completion per plans and specifications on the basis of a Hypothetical Condition that the improvements have been completed, subject to the following repairs or alterations on the basis of a Hypothetical Condition that the repairs or alterations have been completed, subject to the following required inspection based on the Extraordinary Assumption that the condition or deficiency does not require alteration or repair:

This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.

Based on the degree of inspection of the subject property, as indicated below, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 1,350,000, as of: 3/20/2016, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.

A true and complete copy of this report contains 45 pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report.

Attached Exhibits:

<input checked="" type="radio"/> Scope of Work	<input checked="" type="radio"/> Limiting Cond./Certification	<input checked="" type="radio"/> Narrative Addendum	<input checked="" type="radio"/> Photograph Addenda
<input checked="" type="radio"/> Sketch Addendum	<input type="radio"/> Cost Addendum	<input type="radio"/> Flood Addendum	<input checked="" type="radio"/> Additional Sales
<input type="radio"/> Additional Rentals	<input type="radio"/> Hypothetical Conditions	<input type="radio"/> Extraordinary Assumptions	<input checked="" type="radio"/> Appraisers CV
<input type="radio"/> Appraisers License	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/> Appraisers License

Client Contact: Paul Morady Client Name: Napa Industries, LLC
 E-Mail: pmorady@sbcglobal.net Address: 5739 Kanan Road, Suite 292, Agoura Hills, CA 91301

APPRaiser www.SureDocs.com/validate

Thomas I. Milwicz

Appraiser Name: Thomas I. Milwicz
 Company: California State Certified General Real Estate Appraiser
 Phone: (818) 416-6609 Serial #: 3D9904E4
 E-Mail: thomasimg@gmail.com

Date of Report (Signature): 03/23/2016
 License or Certification #: AG008920 State: CA
 Designation: California State Certified General Real Estate Appraiser
 Expiration Date of License or Certification: 05/07/2018
 Inspection of Subject: Interior & Exterior Exterior Only None
 Date of Inspection: 3/20/2016

SUPERVISORY APPRAISER (if required)
 or CO-APPRAISER (if applicable)

Supervisory or Co-Appraiser Name:
 Company:
 Phone: Fax:
 E-Mail:
 Date of Report (Signature):
 License or Certification #:
 Designation:
 Expiration Date of License or Certification:
 Inspection of Subject: Interior & Exterior Exterior Only None
 Date of Inspection:

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				

• **GP 2-4 Unit : Market Area Description - Boundaries, Description, Conditions**

City of Los Angeles

Los Angeles officially the City of Los Angeles and often known by its initials L.A., is the second-largest city in the United States, the most populous city in the U.S. state of California, and the county seat of Los Angeles County. Situated in Southern California, Los Angeles is known for its Mediterranean climate, ethnic diversity, sprawling metropolis, and as a major center of the American entertainment industry. Los Angeles lies in a large coastal basin surrounded on three sides by mountains reaching up to and over 10,000 feet (3,000 m).

Historically home to the Chumash and Tongva, Los Angeles was claimed by Juan Rodríguez Cabrillo for Spain in 1542 along with the rest of what would become Alta California. The city was officially founded on September 4, 1781, by Spanish governor Felipe de Neve. It became a part of Mexico in 1821 following the Mexican War of Independence. In 1848, at the end of the Mexican–American War, Los Angeles and the rest of California were purchased as part of the Treaty of Guadalupe Hidalgo, thereby becoming part of the United States. Los Angeles was incorporated as a municipality on April 4, 1850, five months before California achieved statehood.

The city is the focal point of the larger Los Angeles metropolitan area and the Greater Los Angeles Area region, which contain 13 million and over 18 million people, respectively, as of 2010, making it one of the most populous metropolitan areas in the world as well as the second-largest in the United States. Los Angeles is the seat of Los Angeles County, the most populated county in the United States. The city's inhabitants are referred to as Angelenos.

Nicknamed the City of Angels, Los Angeles is a global city with a diverse economy in entertainment, culture, media, fashion, science, sports, technology, education, medicine and research. It has been ranked sixth in the Global Cities Index and 9th Global Economic Power Index. The city is home to renowned institutions covering a broad range of professional and cultural fields and is one of the most substantial economic engines within the United States. The Los Angeles combined statistical area (CSA) has a gross metropolitan product (GMP) of \$831 billion (as of 2008), making it the third-largest in the world, after the Greater Tokyo and New York metropolitan areas. Los Angeles includes Hollywood and leads the world in the creation of television productions, video games, and recorded music; it is also one of the leaders in motion picture production. Additionally, Los Angeles hosted the Summer Olympic Games in 1932, 1984, and is currently bidding for the 2024 Summer Olympics.

Chumash people lived in Los Angeles before Europeans settled there. The Los Angeles coastal area was first settled by the Tongva (Gabrieleños) and Chumash Native American tribes thousands of years ago. A Gabrielino settlement in the area was called iyáang? (written Yang-na by the Spanish), meaning "poison oak place". Juan Rodríguez Cabrillo, a Portuguese-born explorer, claimed the area of southern California for the Spanish Empire in 1542. Gaspar dePortolà and Franciscan, reached the present site of Los Angeles on August 2, 1769.

Spanish Period

In 1771, Franciscan friar Junípero Serra directed the building of the Mission San Gabriel Arcángel, the first mission in the area. On September 4, 1781, a group of forty-four settlers known as "Los Pobladores" founded the pueblo called "El Pueblo de Nuestra Señora la Reina de los Ángeles del Río de Porciúncula"; in English it is "The Town of Our Lady the Queen of the Angels of the Porciúncula River". The Queen of the Angels is an honorific of the Virgin Mary. Two-thirds of the settlers were mestizo or mulatto with a mixture of African, indigenous and European ancestry. The settlement remained a small ranch town for decades, but by 1820, the population had increased to about 650 residents. Today, the pueblo is commemorated in the historic district of Los Angeles Pueblo Plaza and Olvera Street, the oldest part of Los Angeles.

Mexican Period

New Spain achieved its independence from the Spanish Empire in 1821, and the pueblo



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continued as a part of Mexico. During Mexican rule, Governor Pío Pico made Los Angeles Alta California's regional capital.

American Period

Mexican rule ended during the Mexican–American War: Americans took control from the Californios after a series of battles, culminating with the signing of the Treaty of Cahuenga on January 13, 1847.

Railroads arrived with the completion of the Southern Pacific line to Los Angeles in 1876. Oil was discovered in the city and surrounding area in 1892, and by 1923, the discoveries had helped California become the country's largest oil producer, accounting for about one-quarter of the world's petroleum output.

By 1900, the population had grown to more than 102,000, putting pressure on the city's water supply. The completion of the Los Angeles Aqueduct in 1913, under the supervision of William Mulholland, assured the continued growth of the city.

In 1910, Hollywood merged into Los Angeles, with 10 movie companies already operating in the city at the time. By 1921, more than 80 percent of the world's film industry was concentrated in L.A. The money generated by the industry kept the city insulated from much of the economic loss suffered by the rest of the country during the Great Depression. By 1930, the population surpassed one million. In 1932, the city hosted the Summer Olympics.

During World War II, Los Angeles was a major center of wartime manufacturing, such as ship building and aircraft. Calship built hundreds of Liberty Ships and Victory Ships on Terminal Island, and the Los Angeles area was the headquarters of six of the country's major aircraft manufacturers (Douglas Aircraft Company, Hughes Aircraft, Lockheed, North American Aviation, Northrop Corporation, and Vultee). During the war, more aircraft were produced in one year than in all the pre-war years since the Wright brothers invented the airplane in 1903, combined. Manufacturing in Los Angeles skyrocketed, and as William S. Knudsen, of the National Defense Advisory Commission put it, "We won because we smothered the enemy in an avalanche of production, the like of which he had never seen, nor dreamed possible.

Following the end of World War II, Los Angeles grew more rapidly than ever, sprawling into the San Fernando Valley. The expansion of the Interstate Highway System during the 1950s and 1960s helped propel suburban growth and signaled the demise of the city's electrified rail system, once the world's largest.

The 1960s saw race relations boil-over into the Watts Riots of 1965 which resulted in 34 deaths and over 1,000 injuries. It was the most severe riot in the city's history until the Los Angeles riots of 1992. In 1969, Los Angeles became one of the birthplaces of the Internet, as the first ARPANET transmission was sent from the University of California, Los Angeles (UCLA) to SRI in Menlo Park.

In 1984, the city hosted the Summer Olympic Games for the second time. Despite being boycotted by 14 Communist countries, the 1984 Olympics became more financially successful than any previous, and the second Olympics to turn a profit until then – the other, according to an analysis of contemporary newspaper reports, being the 1932 Summer Olympics, also held in Los Angeles.

Racial tensions erupted on April 29, 1992, with the acquittal by a Simi Valley jury of the police officers captured on videotape beating Rodney King, culminating in large-scale riots. They were the largest riots in US history causing approximately \$1.3 billion in damage as well as 53 deaths and over 2,000 injuries.

In 1994, the 6.7 Northridge earthquake shook the city, causing \$12.5 billion in damage and 72 deaths. The century ended with the Rampart scandal, one of the most extensive documented cases of police misconduct in American history.

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In 2002, voters defeated efforts by the San Fernando Valley and Hollywood to secede from the city.

Geography

The city is divided into over 80 districts and neighborhoods, many of which were incorporated places or communities that merged into the city. These neighborhoods were developed piecemeal, and are well-defined enough that the city has signage marking nearly all of them.

More broadly, the city is divided into the following areas: Downtown Los Angeles, East Los Angeles and Northeast Los Angeles, South Los Angeles, the Harbor Area, Greater Hollywood, Wilshire, the Westside, and the San Fernando and Crescenta Valleys.

Overview

The city's street pattern generally follows a grid plan, with uniform block lengths and occasional roads that cut across blocks. However, this is complicated by rugged terrain, which has necessitated having different grids for each of the valleys that Los Angeles covers. Major streets are designed to move large volumes of traffic through many parts of city; many of them are extremely long: Sepulveda Boulevard is 43 miles (69 km) long, while Foothill Boulevard is over 60 miles (97 km) long, reaching as far east as San Bernardino.

Los Angeles is strongly characterized by the presence of low-rise buildings. Outside of a few areas such as Warner Center, Koreatown, and Downtown, skyscrapers and high-rise buildings are not common. The few skyscrapers that are built outside of those areas often stand out above the rest of the surrounding landscape.

Landmarks

Important landmarks in Los Angeles include Walt Disney Concert Hall, the Cathedral of Our Lady of the Angels, Angels Flight, the Dolby Theatre, the Griffith Observatory, the Getty Center, the Getty Villa, the Los Angeles Memorial Coliseum, the Los Angeles County Museum of Art, Grauman's Chinese Theatre, the Hollywood Sign, the Bradbury Building, Hollywood Boulevard, the Capitol Records Building, Los Angeles City Hall, the Hollywood Bowl, Battleship USS Iowa, the Watts Towers, the Staples Center, Dodger Stadium, La Placita Olvera.

The Los Angeles Basin

The city of Los Angeles is irregularly shaped and covers a total area of 502.7 square miles (1,302 km²), comprising 468.7 square miles (1,214 km²) of land and 34.0 square miles (88 km²) of water. The city extends for 44 miles (71 km) longitudinally and for 29 miles (47 km) latitudinally. The perimeter of the city is 342 miles (550 km). Los Angeles is both flat and hilly. The highest point in the city proper is 5,074 ft. (1,547 m) Mount Lukens, located at the northeastern end of the San Fernando Valley. The eastern end of the Santa Monica Mountains stretches from Downtown to the Pacific Ocean and separates the Los Angeles Basin from the San Fernando Valley. Other hilly parts of Los Angeles include the Mt. Washington area north of Downtown, eastern parts such as Boyle Heights, the Crenshaw district around the Baldwin Hills, and the San Pedro district.

Surrounding the city are much higher mountains. Immediately to the north lie the San Gabriel Mountains, which is a popular recreation area for Angelenos. Its high point is Mount San Antonio, locally known as Mount Baldy, which reaches 10,064 feet (3,068 m). Further afield, the highest point in the greater Los Angeles area is San Gorgonio Mountain, with a height of 11,503 feet (3,506 m).

The Los Angeles River, which is largely seasonal, is the primary drainage channel. It was straightened and lined in 51 miles (82 km) of concrete by the Army Corps of Engineers to act as a flood control channel. The river begins in the Canoga Park district of the city, flows east from the San Fernando Valley along the north edge of the Santa Monica Mountains, and turns south through the city center, flowing to its mouth in the Port of Long Beach at the Pacific Ocean. The smaller Ballona Creek flows into the Santa Monica Bay at Playa del Rey.



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Flora and Fauna

Los Angeles is rich in native plant species due in part to a diversity in habitats, including beaches, wetlands, and mountains. The most prevalent botanical environment is coastal sage scrub, which covers the hillsides in combustible chaparral. Native plants include: California poppy, matilija poppy, toyon, Coast Live Oak, and Giant Wildrye. Many of these native species, such as the Los Angeles sunflower, have become so rare as to be considered endangered. Though it is not native to the area, the official tree of Los Angeles is the Coral Tree (*Erythrina caffra*) and the official flower of Los Angeles is the Bird of Paradise (*Strelitzia reginae*). Mexican Fan Palms, Canary Island Palms, Queen Palms, Date Palms, and California Fan Palms are common in the Los Angeles area, although only the last is native.

Geology

Los Angeles is subject to earthquakes due to its location on the Pacific Ring of Fire. The geologic instability has produced numerous faults, which cause approximately 10,000 earthquakes annually in Southern California, though most of them are too small to be felt. One of the major faults is the San Andreas Fault. Located at the boundary between the Pacific Plate and the North American Plate, it is vulnerable to the "big one," a potentially large earthquake striking California through the San Andreas Fault. Major earthquakes that have hit the Los Angeles area include the 1994 Northridge earthquake, the 1987 Whittier Narrows earthquake, the 1971 San Fernando earthquake near Sylmar, and the 1933 Long Beach earthquake. Nevertheless, all but a few quakes are of low intensity and are not felt; the two most recent ones to hit the area, on the Newport-Inglewood Fault, on Sunday morning, May 3, 2015, of 3.9-magnitude with no recorded injuries or damage, and on Sunday, April 12, 2015, of 3.5-magnitude, again with no recorded injuries or damage, were of this type. The Los Angeles basin and metropolitan area are also at risk from blind thrust earthquakes. USGS has released UCERF California earthquake forecast which models Earthquake occurrence in California. Parts of the city are also vulnerable to tsunamis; harbor areas were damaged by waves from the Valdivia earthquake in 1960.

Climate

Los Angeles has a Subtropical-Mediterranean climate (Köppen climate classification Csb on the coast, Csa inland), and receives just enough annual precipitation to avoid either Köppen's BSh or BSk (semi-arid climate) classification. Los Angeles has plenty of sunshine throughout the year, with an average of only 35 days with measurable precipitation annually.

Temperatures in the coastal basin exceed 90 °F (32 °C) on a dozen or so days in the year, from one day a month in April, May, June and November to three days a month in July, August, October and to five days in September. Temperatures in the San Fernando and San Gabriel Valleys are considerably warmer. Temperatures are subject to substantial daily swings; in inland areas the difference between the average daily low and the average daily high is over 30 degrees Fahrenheit or 16 degrees Celsius. The average annual temperature of the sea is 63° F (17° C), from 58° F (14° C) in January to 68° F (20° C) in August. Hours of sunshine total more than 3,000 per year, from an average of 7 hours of sunshine per day in December to an average of 12 in July.

The Los Angeles area is also subject to phenomena typical of a microclimate, causing extreme variations in temperature in close physical proximity to each other. For instance, the average July maximum temperature at the Santa Monica Pier is 75° F (24° C) whereas it is 95° F (35° C) in Canoga Park. The city, like much of the southern California coast, is subject to a late spring/early summer weather phenomenon called "June Gloom." This involves overcast or foggy skies in the morning which yield to sun by early afternoon.

Downtown Los Angeles averages 14.93 in (379 mm) of precipitation annually, which mainly occurs during late autumn and winter (November through March), generally in the form of moderate rain showers, but sometimes as heavy rainfall during winter storms. Summer days are usually rainless. Rarely, an incursion of moist air from the south or east can bring brief thunderstorms in late summer, especially to the mountains. The coast gets slightly less rainfall,



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while the inland and mountain areas get considerably more. Years of average rainfall are rare. The usual pattern is year to year variability, with a short string of dry years of 5–10 in (130–250 mm) rainfall, followed by one or two wet years with more than 20 in (510 mm). Wet years are usually associated with warm water El Nino conditions in the Pacific, dry years with cooler water La Nina episodes. A series of rainy days can bring floods to the lowlands and mudslides to the hills, especially after wild fires have denuded the slopes. Both freezing temperatures and snowfall are extremely rare in the city basin and along the coast, with the last occurrence of a 32° F (0° C) reading at the downtown station being January 29, 1979; freezing temperatures occur nearly every year in valley locations while the mountains within city limits typically receive snowfall every winter. The greatest snowfall recorded in downtown Los Angeles was 2.0 inches (5 cm) on January 15, 1932. At the official downtown station, the highest recorded temperature is 113° F (45° C) on September 27, 2010, while the lowest is 28° F (-2° C), as recently as January 4, 1949. During autumn and winter, Santa Ana winds sometimes bring very hot and dry conditions to Los Angeles, and raise the wild fire risk.

Environmental Issues

A Gabrielino settlement in the area was called iyáang? (written Yang-na by the Spanish), which has been translated as "poison oak place". Yang-na has also been translated as "the valley of smoke." Owing to geography, heavy reliance on automobiles, and the Los Angeles/Long Beach port complex, Los Angeles suffers from air pollution in the form of smog. The Los Angeles Basin and the San Fernando Valley are susceptible to atmospheric inversion, which holds in the exhausts from road vehicles, airplanes, locomotives, shipping, manufacturing, and other sources. The smog season lasts from May to October. While other large cities rely on rain to clear smog, Los Angeles gets only 15 inches (380 mm) of rain each year: pollution accumulates over many consecutive days. Issues of air quality in Los Angeles and other major cities led to the passage of early national environmental legislation, including the Clean Air Act. More recently, the state of California has led the nation in working to limit pollution by mandating low-emission vehicles. Smog is expected to continue to drop in the coming years due to aggressive steps to reduce it, which include electric and hybrid cars, improvements in mass transit, and other measures.

The number of Stage 1 smog alerts in Los Angeles has declined from over 100 per year in the 1970s to almost zero in the new millennium. Despite improvement, the 2006 and 2007 annual reports of the American Lung Association ranked the city as the most polluted in the country with short-term particle pollution and year-round particle pollution. In 2008, the city was ranked the second most polluted and again had the highest year-round particulate pollution. The city met its goal of providing 20 percent of the city's power from renewable sources in 2010. The American Lung Association's 2013 survey ranks the metro area as having the nation's worst smog, and fourth in both short term and year round pollution amounts.

Climate change has already affected Los Angeles with a 4 degree average temperature rise from 1878 to 2005 with a UCLA study predicting that coastal areas will rise 3 to 4 degrees in temperature and urban areas 4 to 4.5 degrees. In 2014, the fire season never finished in Southern California and studies have predicted that climate change will cause more frequent and larger fires by the end of the century. Climate change is also expected to affect sea levels which are expected to rise 5 to 24 inches from 2000 to 2050 leading to higher storm surge and waves, which could result in more extensive flooding that could threaten critical coastal infrastructure.

Continued on Next Page



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Demographics

Historical population

Census	Population	%±
1850	1,610	-
1860	4,385	172.4%
1870	5,728	30.6%
1880	11,183	95.2%
1890	50,395	350.6%
1900	102,479	103.4%
1910	319,198	211.5%
1920	576,673	80.7%
1930	1,238,048	114.7%
1940	1,504,277	21.5%
1950	1,970,358	31.0%
1960	2,479,015	25.8%
1970	2,811,801	13.4%
1980	2,968,528	5.6%
1990	3,485,398	17.4%
2000	3,694,820	6.0%
2010	3,792,621	2.6%
Est. 2014	3,928,864	3.6%

U.S. Decennial Census

- The 2010 United States Census reported that Los Angeles had a population of 3,792,621.
- The population density was 8,092.3 people per square mile (2,913.0/km²).
- The age distribution was 874,525 people (23.1%) under 18, 434,478 people (11.5%) from 18 to 24, 1,209,367 people (31.9%) from 25 to 44, 877,555 people (23.1%) from 45 to 64, and 396,696 people (10.5%) who were 65 or older.
- The median age was 34.1 years. For every 100 females there were 99.2 males. For every 100 females age 18 and over, there were 97.6 males.
- There were 1,413,995 housing units-up from 1,298,350 during 2005–2009-at an average density of 2,812.8 households per square mile (1,086.0/km²), of which 503,863 (38.2%) were owner-occupied, and 814,305 (61.8%) were occupied by renters.
- The homeowner vacancy rate was 2.1%; the rental vacancy rate was 6.1%. 1,535,444 people (40.5% of the population) lived in owner-occupied housing units and 2,172,576 people (57.3%) lived in rental housing units.

According to the 2010 United States Census, Los Angeles had a median household income of \$49,497, with 22.0% of the population living below the federal poverty line.

Race and ethnicity

Racial composition	2010	1990	1970	1940
White	49.8%	52.8%	77.2%	93.5%
White--Non-Hispanic	28.7%	37.3%	61.1%	86.3%
Black or African American	9.6%	14.0%	17.9%	4.2%
Hispanic or Latino (of any race)	48.5%	39.9%	17.1%	7.1%
Asian	11.3%	9.8%	3.6%	2.2%

Los Angeles is home to people from more than 140 countries speaking 224 different identified languages. Ethnic enclaves like Chinatown, Historic Filipinotown, Koreatown, Little Armenia, Little Ethiopia, Tehrangeles, Little Tokyo, Little Bangladesh and Thai Town provide examples of the polyglot character of Los Angeles.



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According to the 2010 Census, the racial makeup of Los Angeles included:

Whites	1,888,158	(49.8%)
African Americans	365,118	(9.6%)
Native Americans	28,215	(0.7%)
Asians	426,959	(11.3%)
Pacific Islanders	5,577	(0.1%)
From Other Races	902,959	(23.8%)
From two or more races	175,635	(4.6%)
Hispanics or Latinos of any race were	1,838,822 persons or	(48.5%)

Non-Hispanic whites were 28.7% of the population in 2010, compared to 86.3% in 1940. People of Mexican ancestry make up the largest ethnic group of Latinos at 31.9% of Los Angeles' population, followed by those of Salvadoran (6.0%) and Guatemalan (3.6%) heritage. The Latino population is spread throughout the city of Los Angeles and its metropolitan area but it is most heavily concentrated in the East Los Angeles region, which has a long established Mexican-American and Central American community.

The largest Asian ethnic groups are Filipinos (3.2%) and Koreans (2.9%), which have their own established ethnic enclaves-Koreatown in the Wilshire Center and Historic Filipinotown. Chinese people, which make up 1.8% of Los Angeles' population, reside mostly outside of Los Angeles City limits and are in the San Gabriel Valley, in the eastern portion of Los Angeles County, but make a sizable presence in the city, notably in Chinatown. Chinatown and Thaitown are also home to many Thais and Cambodians, which make up 0.3% and 0.1% of Los Angeles' population, respectively. Japanese comprise 0.9% of L.A.'s population, and have an established Little Tokyo in the city's downtown, and another significant community of Japanese Americans is located in the Sawtelle district of West Los Angeles. Vietnamese make up 0.5% of Los Angeles' population. Indians make up 0.9% of the city's population.

The city of Los Angeles and its metropolitan area are home to a large Middle Eastern population, including Armenians and Iranians, partially residing in enclaves like Little Armenia and Tehrangeles.

African Americans have the largest establishment in South Los Angeles, including the industrial neighborhoods of Crenshaw and Watts. In 1970, the Census Bureau reported the city's population as 17.9% black, 61.1% non-Hispanic white and 17.1% Hispanic. However, since the 1980s, there has been a large influx of immigration from Mexico and Central America which have outnumbered the blacks in South Los Angeles. South Los Angeles, as well as neighboring communities such as the city of Compton that were home to predominant African American populations are now transforming into Hispanic communities.

Religion

According to a 2014 study by the Pew Research Center Christianity is the most prevalently practiced religion in Los Angeles (65%). The Roman Catholic Archbishop of Los Angeles leads the largest archdiocese in the country. Cardinal Roger Mahony oversaw construction of the Cathedral of Our Lady of the Angels, which opened in September 2002 in downtown Los Angeles. Construction of the cathedral marked a coming of age of the city's Catholic, heavily Latino community. There are numerous Catholic churches and parishes throughout Los Angeles.

Hollywood Redevelopment Project Area Overview

The 1,107-acre Hollywood Redevelopment Project is located approximately six miles northwest of the Los Angeles Civic Center at the foot of the Hollywood Hills. The project is generally bounded by Franklin Avenue on the north, Serrano Avenue on the east, Santa Monica Boulevard and Fountain Avenue on the south and La Brea Avenue on the west. The Redevelopment Plan for the area sets forth an array of goals that include encouraging economic development; promoting and retaining the entertainment industry; revitalizing the historic core; preserving and expanding housing for all income groups; meeting social needs of area residents; providing urban design guidelines; and preserving historically significant structures.



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The project is included in the CRA/LA Hollywood & Central Regional Area.

The Hollywood Redevelopment Plan was adopted by the Los Angeles City Council on May 7, 1986. This plan sets forth an array of goals that include encouraging economic development; promoting and retaining the entertainment industry; revitalizing the historic core; preserving and expanding housing for all income groups; meeting social needs of area residents; providing urban design guidelines; and preserving historically significant structures.

The Hollywood & Central Region is comprised of seven project areas, including East Hollywood/Beverly Normandie, Hollywood, Mid-City Corridors, Pico Union 1, Pico Union 2, Westlake and Wilshire/Korea Town. There are 17 priority projects in this region, including affordable housing, economic development and living wage job creating commercial development public improvements and cultural enhancements.

To stimulate economic development that creates well paying jobs and provides needed commercial and social services. Improve the quality and affordability of the housing stock, and improve public infrastructure. Create transit oriented neighborhoods with a balance of jobs and housing.

Most of the regions redevelopment projects area are located west of the 110 (Hollywood) Freeways and south of the Hollywood hills. The region centers on the Wilshire Center /Koreatown communities, and its Mid-City Corridors project extend south of Interstate 10 along Washington and Adams Boulevards. The MTA "Red Line" subway system is the transportation spine of the region, with 8 station areas in the project areas between Mac Arthur Park/Alvarado Street and Hollywood and Highland.

Currently, the new area projects have created new places of employment within the areas, and provide a very stable employment base with people able to walk to work, bicycle, use surface or underground transportation or take a short drive to work. Shopping has always been available in the Hollywood area with small neighborhood convenience stores, major grocery and retail shopping is available in the adjacent communities with a short drive east on Hollywood Boulevard or south along Sunset Boulevard and Santa Monica Boulevard. There is an under construction Target store on Sunset and Highland that is currently stalled due to neighborhood opposition, due to its height of 74 feet, when the zoning has a maximum height of 35 feet. Target plans on finishing the project or tearing it down an rebuilding to the 35 foot height restriction. The Target will bring a retail and grocery sale alternative to the Hollywood area. This will provide more employment stability, employment and shopping choices.

The area has elementary, middle and high schools to provide an educational base to the area, the schools are sprinkled through the area.

Public transportation is provided by above and underground transit.

Recreational facilities such as night clubs, restaurants, movie theatres and all forms of recreation are provided in Hollywood.

Utilities are readily available in the subject market as the area is within the City of Los Angeles.

Property compatibility is average for an older community in a urban location, this is due to the staggered development of Hollywood between roughly 1890 and the 1960's and redevelopment over the last 15 or so years. Protection from detrimental condition is average for Los Angeles even though Hollywood is a daytime and night time tourist and recreational area.

Police and fire protection are good as the community is located in an urban environment. The general appearance of properties change on a block by block basis, due to the ongoing redevelopment in Hollywood some blocks are old and worn, while others have been redeveloped or have updated housing mixed with older properties of varying conditions.

The Hollywood Entertainment District is a ten-year Business Improvement District (BID) that stretches along the world-famous Walk of Fame and spans historic Hollywood Boulevard, from the LaBrea Avenue Gateway on the west to the Hollywood 101 Freeway on the east. Many of



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Hollywood’s famous landmarks are located in the HED – the epicenter of the entertainment capital of the world and birthplace of the movie industry. The HED was formed in 1996 by a small group of visionary property owners as one of the first BIDs in the state. It has been renewed three times since then, and has been authorized by a Los Angeles City ordinance to operate through December 31, 2018. This District has served as a fundamental underpinning to the overall Hollywood revitalization success story. The BID is funded by more than 500 property owners. The annual budget of \$3.5 million is used primarily for private security and maintenance services.

The most heavily redeveloped area of Hollywood is the Hollywood Entertainment District which provides tourist venues, various museums, theatres both live and cinematic, the Hollywood Bowl for concerts in the out of doors, restaurants, cafes, live/work space, new rental units, condominiums, hotels, motels, office space, retail space and various other improvements and venues.

The Hollywood Community Plan

The Hollywood Community Plan is a 227 page document that is available at the following web site. This document was a major influence in the final valuation of the subject property.

http://cityplanning.lacity.org/cpu/hollywood/February172012Exhibits/Exhibit%20B_Hollywood%20Community%20Plan%20Proposed%20Plan%20Text%20-%20Approved%20by%20CPC.pdf

The Hollywood Real Estate Market

At the current time Hollywood has a very active real estate market. Overall, in the past year there were at least 296 properties that changed hands in Hollywood, this includes single family homes, condominiums and income generating properties. These properties had an average marketing time of just 70 days. Retail, office and commercial leases and sales were also active in the market, but these properties take longer to sell due to the due diligence period. Hollywood, definitely has a major market appeal caused by it's world-wide notoriety, ongoing redevelopment and its planned long-term growth, increasing prices and better security as provided by the Los Angeles Police Department and private security forces.

Hollywood has long been known as the center of the world’s entertainment industry. The movie industry discovered Hollywood in the early 20th century due to its weather, year round sunshine, rare rainy days, temperate climate and available cheap land and plenty of it. Over the years Hollywood grew and expanded with more and more film companies coming to Hollywood and the surrounding communities. At the current time there are major studio facilities in nearby Universal City, Burbank, Studio City and Culver City with many post production companies, sound studios and stages and numerous businesses that depend on the Hollywood entertainment industry.

The Paramount Studios is the only one of the “Big Six” studios that still calls Hollywood home. Paramount was founded in 1911 followed the next year by Universal Studios. The “Big Six” consist of Paramount Studios, Columbia Pictures in Culver City, 20th Century Fox in West Los Angeles, Universal Studios in Universal City, Warner Brothers and Disney who are both located in Burbank. The Sunset Gower Studios is the largest independent studio with 12 sound stages on a 14 acre site in Hollywood. The centralized location of Hollywood has always made it very desirable to the studios, who utilize the talent in post-production, editing, music, foley and other specialties within the community.

In the 1960’s Hollywood lost a lot of its luster due to a change in the economic base within the neighborhood. People started to move away from the city to the suburbs as the freeway system expanded into the San Fernando Valley, San Gabriel Valley and other similar locations. As the people left Hollywood, buildings were left partially or totally vacant. This created a magnet for the homeless, illegal immigrants, psychologically injured veterans coming back from Viet Nam, immigrant’s from war torn countries like Viet Nam and Cambodia, runaways, the criminal element, drug sellers and users, prostitutes and their pimps and other displaced families and individuals.



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In 1986 an effort to revitalize the area, a coalition of residents and individuals interested in restoring Hollywood to its former glory and the reestablishment of Hollywood as the center of the entertainment industry came together to plan for the areas future. After many starts and stops, and a new coalition suing the City of Los Angeles to cut back on redevelopment of the area, the Hollywood area is now quickly becoming a center of entertainment, dining, tourist activity, new housing, new offices, new hotels and numerous area upgrades and renovations. Hollywood is now a model of urban revitalization bringing together educational, retail, hospitality and residential properties to form an eclectic neighborhood.

Hollywood is a thriving creative community with Capital Records, Neuehouse, We Work, Live Nation, Trailer Park and Caviar L.A. as new and expanding major employers. Sixteen institutions of higher learning, the Metro with two subway stops, each having more than 1,000,000 annual riders and Hollywood's 6,100,000 unique visitors annually, show evidence that the area is surely improving.

Since 2000 the Hollywood area has seen \$2.2 billion in development of major retail, commercial, hospitality and business projects, another \$1.0 billion in projects are under way with another \$1.6 billion in projects in the pipeline. Since 2000 we have seen an increase of 29% in hotel rooms, with an 81% occupancy rate, this exceeds the country average by 5%. This is attributable to an uptick in corporate and group travel and strong convention and meeting business.

Between 2010 and 2014 we have seen three new hotels the W Hotel, Lowes, and Redbury Hotel, with a major renovation of the Hollywood Roosevelt Hotel which was the original home of the Academy awards in 1929.

Office Space: There are 2.0 million square feet of office in Hollywood, with another 700,000 under construction and another 1.2 million square feet in development.

Residential: In 2010 there were 3,700 residential units in Hollywood, currently there are 5,100 units, by 2020 there are projected to be 8,600 residential units in Hollywood.

Residents: In 2010 there were 5,550 residential units in Hollywood, currently there are 7,650 residential units, and by 2020 there are projected to be 12,900 residential units in Hollywood.

Trade area demographics: Within a three mile radius of Sunset and Vine there are nine zip codes, with projected population trade area of 340,000, these residents are under served in the retail sector. The upper half of the population has household income of between \$50,000 and \$150,000 per year, with 6,700 households having annual income of more than \$150,000 per year. Due to the number of schools in the area 37% of the population is between 18 to 29 years old. 65% of the residents are single. This three mile trade area includes the high end neighborhoods of Hollywood Hills, Hancock Park, Windsor Square, Whitley Heights, and Larchmont Village, Outpost Estates, part of West Hollywood and others.

The Hub: This area of Hollywood is located along Hollywood Boulevard from La Brea Avenue to Orange Drive. This area is Hollywood's live/work neighborhood with neighborhood amenities.

The Tourist Center: This area is anchored by Hollywood Boulevard and Highland Avenue, between Orange Avenue and Las Palmas Avenue. The area is the center of the tourist area of Hollywood and is the location of Grauman's Chinese Theatre with the hand and foot impressions of many of Hollywood's stars, Madam Tussauds Wax Museum, Hollywood Museum, Jimmy Kimmel Live, the El Capitan Theatre, the Roosevelt Hotel, Lowes Hotel, Guinness World Records Museum, Ghirardelli Chocolates, the Hollywood star walk of fame, the Dolby Theatre which is a live-performance auditorium in the Hollywood and Highland shopping mall and entertainment complex, on Hollywood Boulevard and North Highland Avenue. Since its opening on November 9, 2001, the theater has hosted the Academy Awards ceremonies (the Oscars), which were initially held there in March 2002. It is the first permanent home for this annual awards ceremony.

Cahuenga Corridor: This eclectic neighborhood is along Cahuenga Boulevard between Hollywood Boulevard and Sunset Boulevard. The subject property is in this area, just one half



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block south of Hollywood Boulevard. This area is Hollywood’s prototype revitalization effort, driven by property owner collaboration. This energized stretch of retail and restaurants offer an urban ambiance with a pedestrian friendly street scene. Plans call for major landscaping along the sidewalks to create a friendly, pleasant tree lined street with seating areas.

Selma Street: Selma Street is one-half block south of the subject property and is home to the Hollywood farmers market on Sundays between Cahuenga Boulevard and Morningside Court. Selma Street is an emerging walkable neighborhood, and is planned to be a pedestrian-friendly tree lined streetscape with an eclectic offering of retail, restaurants and public services. This street is a quiet insiders corridor that links the east and west neighborhoods of Hollywood.

Hollywood and Vine: This is the center of Hollywood’s revitalization and intersection of two historic world famous Hollywood streets. The area runs along Hollywood Boulevard from Cahuenga Boulevard to El Centro Avenue, and features residences, restaurants, more retail, live theatre, and other venues.

As is evidenced by the above, Hollywood is quickly regaining its place in the world as a major tourist area with numerous entertainment, shopping and dining choices. This tends to make properties appreciate, vacancies drop, rent increase, in migration to occur, more money to go into the area as investments, businesses increase sales and revenues. The projected growth in the area will have a tendency to spread into the adjacent communities and continue to enhance the adjacent areas.

The Hollywood Real Estate Market

The Hollywood residential real estate market is very active, in the past twelve months a total of 100 single family homes sold. The sold properties ranged from \$380,000 to \$2,650,000 with a median price of \$816,950 and an average marketing time of only 57 days. At the current time there are only 15 active listing in Hollywood, they are priced from \$499,000 to \$2,485,000 with a median price of \$829,000, these properties tend to sell within 60 days. With an absorption rate of 8.33 units per month over the past year, the current supply of active properties has only a 1.80 months supply of property on the market.

In the past twelve months a total of 40, 2-4 unit properties sold in Hollywood. The sold properties ranged from \$487,000 to \$1,665,000 with a median price of \$894,500 and an average marketing time of only 89 days. At the current time there are 27 active listing of 2-4 unit properties in Hollywood, they are priced from \$569,000 to \$3,150,000 with a median price of \$1,125,000, at this time the average days on the market is 73. With an absorption rate of 3.33 units per month over the past year, the current supply of active properties has a 8.11 months supply of property in the market. Mortgages are readily available in all price levels. Overall, the market is viewed as a vibrant market with a good deal of activity. Many of the lower priced properties are purchased as tear-down properties, exclusively for the purpose of removing the existing improvements and building much larger properties with more units.

• GP 2-4 Unit : Description of the Improvements - Additional Features

The subject property consists of two buildings with four first floor units, two in each building and large parking area between the buildings which provides six tandem parking spaces. The unit mix consists of four, one bedroom, one bathroom units, with an average size of 699 square feet, this is reasonable size for one bedroom units, and is acceptable in the market. At the time of inspection 7:00 AM, Sunday, March 20, 2016, all of the units were reported to be occupied.

• GP 2-4 Unit : Description of the Improvements - Property Condition

The subject property consists of two buildings with two units each all of the units are reported to be one bedroom, one bathroom units which consist of a living room, kitchen, bedroom and bathroom. The units are typical to the area. The kitchen have not been updated and have range/ovens, disposals, fans, wood cabinetry and tile counters. The bathrooms are older style and have not been updated, the floors are a mix of ceramic tile or ceramic tile covered with linoleum. The floors are carpeted, the windows are older wood frame windows, all of the units have their own wall furnaces. The roof and exterior appear to be in average condition as are the



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individual units.

• GP 2-4 Unit: Subject Rent Schedule - Comments on Lease Data

No adjustments were necessary to compare the comparable units to the subject. The three comparables formed an overall rental range of between \$1.48 to \$3.01 per square foot per month (PSFM), this is a reasonable range of rentals based upon the fact that some properties have long term tenants with some newer tenants having rents many times that of the long term rent control tenant. We are of the opinion that the subject rents lie within the range presented by the comparables.

Similar and Comparable Rentals

- 1127 Lillian Way #4, 700 sq.ft., 1/1, \$1,350 per month, \$1.93 PSF, leased 9/10/2015.
- 6055 1/2 Selma Ave., 700 sq.ft., 1/1, \$1,550 per month, \$2.21 PSFM, leased 2/16/2016.
- 6615 Fountain Ave., 702 sq.ft., 1/1, \$1,900 per month, \$2.71 PSFM leased 1/20/2016.

Recently leased units similar to those in the subject property have rented between \$1.93 and \$2.71 PSFM. This statistic narrows the subject's projected market rent substantially. Based on a review of the rentals in the comparables and the above three rentals, It is our opinion that the indicated rental for the subject units in today's market is approximately is \$2.50 PSFM or \$1,750 per unit per month. This projected rent is used in the income approach to value.

• GP Residential: Sales Comparison Approach - Summary of Sales Comparison Approach

We attempted to obtain four plex unit sales in the Hollywood area specifically, as properties in Hollywood are enjoying a regeneration due to the Hollywood general plan which was noted and discussed in the neighborhood discussion.

We did find four, four plex property sales which occurred within the past twelve months; however, three of the properties were eliminated as follows: 1630 Alexandria Avenue, the property was a two-story building with four units, the property was 4,705 square feet and judged to be to large to compare to the subject. 905 Wilcox Avenue, the property was a one-story building with four units, the property was also 4,705 square feet and judged to be to large to compare to the subject. 1168 N Westmoreland Avenue, the property was a two-story building with four units, the property was 4,705 square feet and judged to be to large to compare to the subject.

The comparables presented were the best available at the time of the appraisal. Comparables 1, 2 and 3 were normal sales and were used to value the subject property. Comparable number 4 was an unoccupied probate sale property and used to represent the demand for properties in the area. All of the comparables were adjusted at 1% per month for a time of sale adjustment that will adjust the comparables and bring them to the current date of valuation. All of the comparables were adjusted for lot size at \$100 per square foot. All of the comparables were adjusted for square footage at \$100 per square foot. Comparable 2-4 were adjusted for unit count at 25% of the properties indicated price per unit. All of the comparables were adjusted for parking as necessary at \$10,000 per garage, \$5,000 per carport, and \$10,000 per parking space to the subject property. After making all of the adjustments a range of value of \$1,249,000 to \$1,514,500 was indicated for the subject property. The comparables have a range of value of \$265,500 or 21.26% this is a rather wide range of values. In order to value the subject property we will eliminate comparable number four as it was a probate sale not an arms-length transaction as were comparable sales 1-3. Based on an analysis of the three comparables, we are of the opinion that we can formulate a credible value for the subject property. After making all of the adjustments a range of value of \$1,249,000 to \$1,435,000 was indicated for the subject property. The comparables have a range of value of \$265,500 or 14.89% which is within a reasonable range of values to derive a value for the subject property. The final analyst and correlation of value is on the following page.



General Text Addendum

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The following valuation of the subject property is based exclusively on comparables one, two and three. The comparables were given weight based on the number of adjustments and the amount of the adjustments. The following calculations were based on the weighted values of the comparables:

Comparable: Adjusted Value X Comparable Weight = Contributory Value Of Comparable

# 1	\$1,249,000	X	34.99%	=	\$ 437,025
# 2	\$1,385,000	X	31.47%	=	\$ 435,870
# 3	\$1,435,000	X	33.54%	=	\$ <u>477,945</u>

The resulting total of the adjusted and weighed comparables is: **\$1,350,830**

Rounded to: **\$1,350,000**

The comparable sales approach to value indicates a value of \$1,350,000 for the subject as of March 20, 2016, the effective date of the appraisal in its "as is" condition.

The comparables did not transfer in the 12 months prior to their currently noted sales dates.

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Client: Napa Industries, LLC	Address: 5739 Kanan Road, Suite 292, Agoura Hills, CA 91301		
Appraiser: Thomas I. Milwicz	Address: 11856 Balboa Boulevard, Suite 116, Granada Hills, CA 91344		

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis of it being under responsible ownership.
- The appraiser may have provided a sketch in the appraisal report to show approximate dimensions of the improvements, and any such sketch is included only to assist the reader of the report in visualizing the property and understanding the appraiser's determination of its size. Unless otherwise indicated, a Land Survey was not performed.
- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.
- If the cost approach is included in this appraisal, the appraiser has estimated the value of the land in the cost approach at its highest and best use, and the improvements at their contributory value. These separate valuations of the land and improvements must not be used in conjunction with any other appraisal and are invalid if they are so used. Unless otherwise specifically indicated, the cost approach value is not an insurance value, and should not be used as such.
- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.
- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items that were furnished by other parties.
- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.
- If this appraisal is indicated as subject to satisfactory completion, repairs, or alterations, the appraiser has based his or her appraisal report and valuation conclusion on the assumption that completion of the improvements will be performed in a workmanlike manner.
- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.
- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database.
- An appraisal of real property is not a 'home inspection' and should not be construed as such. As part of the valuation process, the appraiser performs a non-invasive visual inventory that is not intended to reveal defects or detrimental conditions that are not readily apparent. The presence of such conditions or defects could adversely affect the appraiser's opinion of value. Clients with concerns about such potential negative factors are encouraged to engage the appropriate type of expert to investigate.

The Scope of Work is the type and extent of research and analyses performed in an appraisal assignment that is required to produce credible assignment results, given the nature of the appraisal problem, the specific requirements of the intended user(s) and the intended use of the appraisal report. Reliance upon this report, regardless of how acquired, by any party or for any use, other than those specified in this report by the Appraiser, is prohibited. The Opinion of Value that is the conclusion of this report is credible only within the context of the Scope of Work, Effective Date, the Date of Report, the Intended User(s), the Intended Use, the stated Assumptions and Limiting Conditions, any Hypothetical Conditions and/or Extraordinary Assumptions, and the Type of Value, as defined herein. The appraiser, appraisal firm, and related parties assume no obligation, liability, or accountability, and will not be responsible for any unauthorized use of this report or its conclusions.

Under USPAP Standards Rule 2-2(b), this is a Restricted Appraisal Report, and is intended only for the sole use of the named client. There are no other intended users. The client must clearly understand that the appraiser's opinions and conclusions may not be understood properly without additional information in the appraiser's work file.

In developing this appraisal, the appraiser has incorporated the Sales Comparison Approach and the Cost Approach to Value. The appraiser has excluded the Income Approaches to Value, due to being inapplicable given the limited scope of the appraisal. The appraiser has determined that this appraisal process is not so limited that the results of the assignment are no longer credible, and the client agrees that the limited scope of analysis is appropriate given the intended use.

Additional Comments (Scope of Work, Extraordinary Assumptions, Hypothetical Conditions, etc.):

Certifications

Property Address: 1200 Gordon St	City: Los Angeles	State: CA	Zip Code: 90038-1910
Client: Napa Industries, LLC	Address: 5739 Kanan Road, Suite 292, Agoura Hills, CA 91301		
Appraiser: Thomas I. Milwicz	Address: 11856 Balboa Boulevard, Suite 116, Granada Hills, CA 91344		

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of 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 or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- Unless otherwise indicated, I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with 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.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

Additional Certifications:

DEFINITION OF MARKET VALUE *:

Market value means 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.

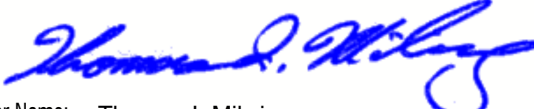
* This definition is from regulations published by federal regulatory agencies pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 between July 5, 1990, and August 24, 1990, by the Federal Reserve System (FRS), National Credit Union Administration (NCUA), Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the Office of Comptroller of the Currency (OCC). This definition is also referenced in regulations jointly published by the OCC, OTS, FRS, and FDIC on June 7, 1994, and in the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994.

Client Contact: Paul Morady	Client Name: Napa Industries, LLC
E-Mail: pmorady@sbcglobal.net	Address: 5739 Kanan Road, Suite 292, Agoura Hills, CA 91301

APPRaiser www.SureDocs.com/validate

SUPERVISORY APPRAISER (if required)
or CO-APPRAISER (if applicable)

SIGNATURES



Appraiser Name: Thomas I. Milwicz
 Company: California State Certified General Real Estate Appraiser
 Phone: (818) 416-6600
 E-Mail: thomasimg@gmail.com
 Date Report Signed: 03/23/2016
 License or Certification #: AG008920 State: CA
 Designation: California State Certified General Real Estate Appraiser
 Expiration Date of License or Certification: 05/07/2018
 Inspection of Subject: Interior & Exterior Exterior Only None
 Date of Inspection: 3/20/2016

Supervisory or Co-Appraiser Name: _____
 Company: _____
 Phone: _____ Fax: _____
 E-Mail: _____
 Date Report Signed: _____
 License or Certification #: _____ State: _____
 Designation: _____
 Expiration Date of License or Certification: _____
 Inspection of Subject: Interior & Exterior Exterior Only None
 Date of Inspection: _____

LA553401101316
File No. LA553401101316

Name of Appraiser: Thomas I. Milwicz

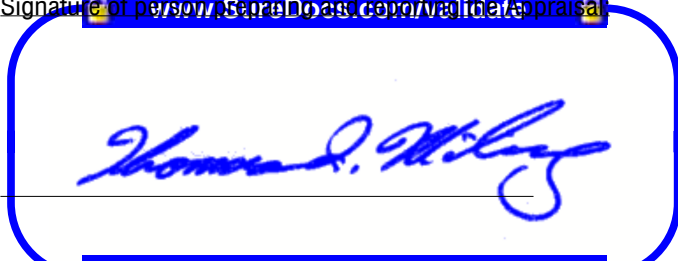
Class of Certification/Licensure: Certified General
 Certified Residential
 Licensed Residential
 Temporary General Licensed

Certification/Licensure Number: AG008920

Scope: This Report is within the scope of my Certification or License
 is not within the scope of my Certification or License

Service Provided By: Disinterested & Unbiased Third Party
 Interested & Biased Third Party
 Interested Third Party on Contingent Fee Basis

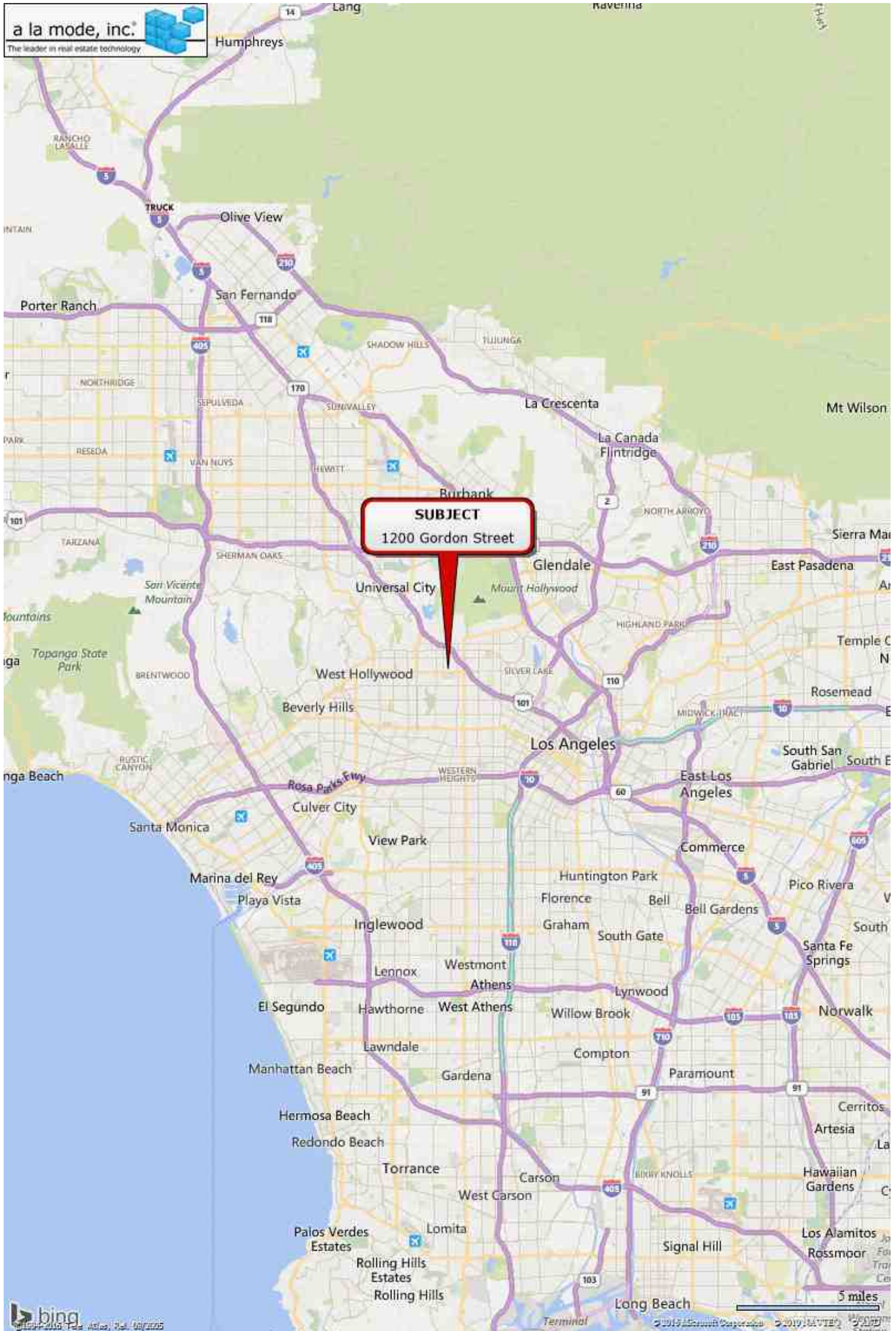
Signature of person performing the Appraisal



This form must be included in accordance with all appraisal assignments or specialized services performed by a state-certified or state-licensed real estate appraiser.

Location Map

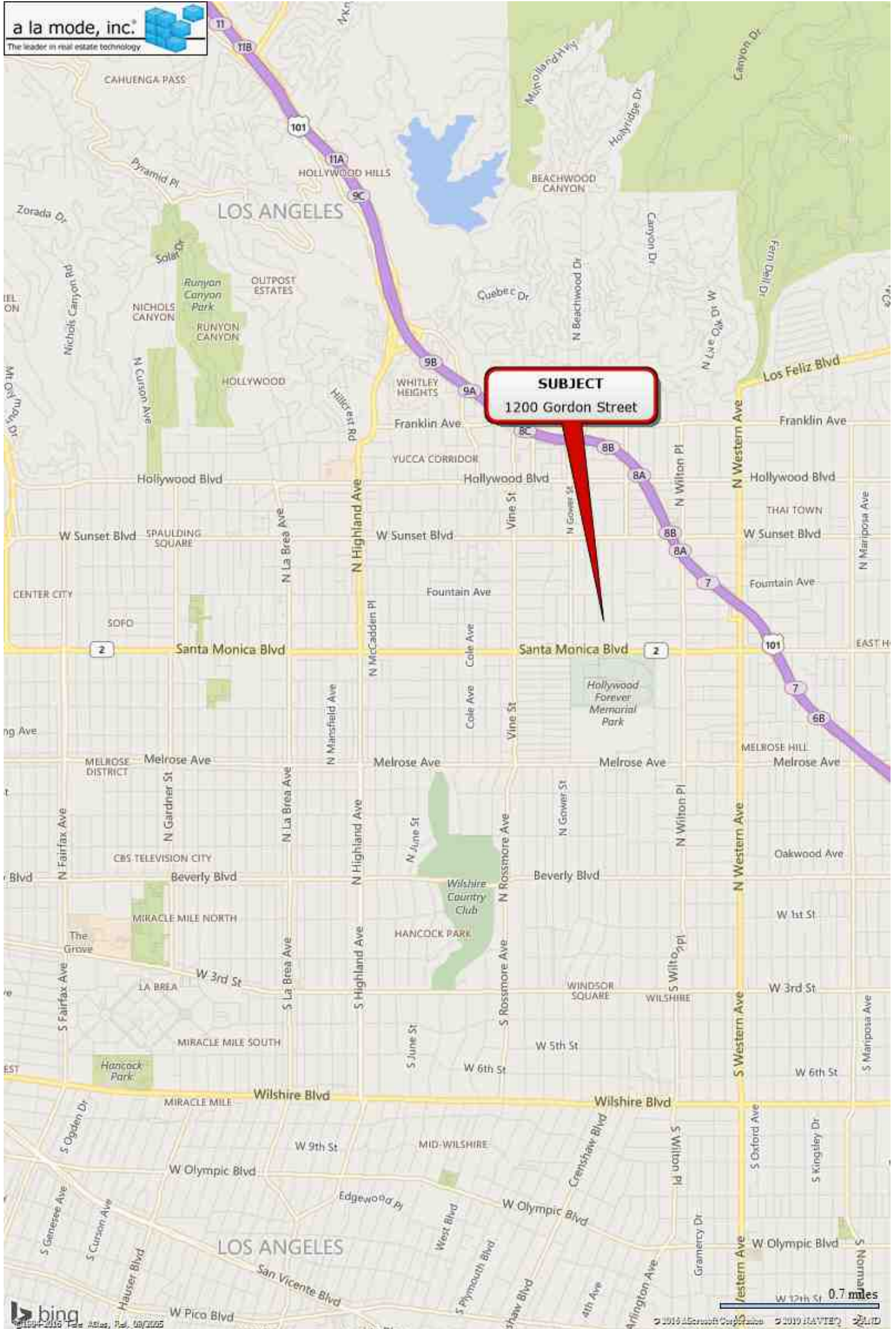
Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA
Client	Napa Industries, LLC				



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Area Map

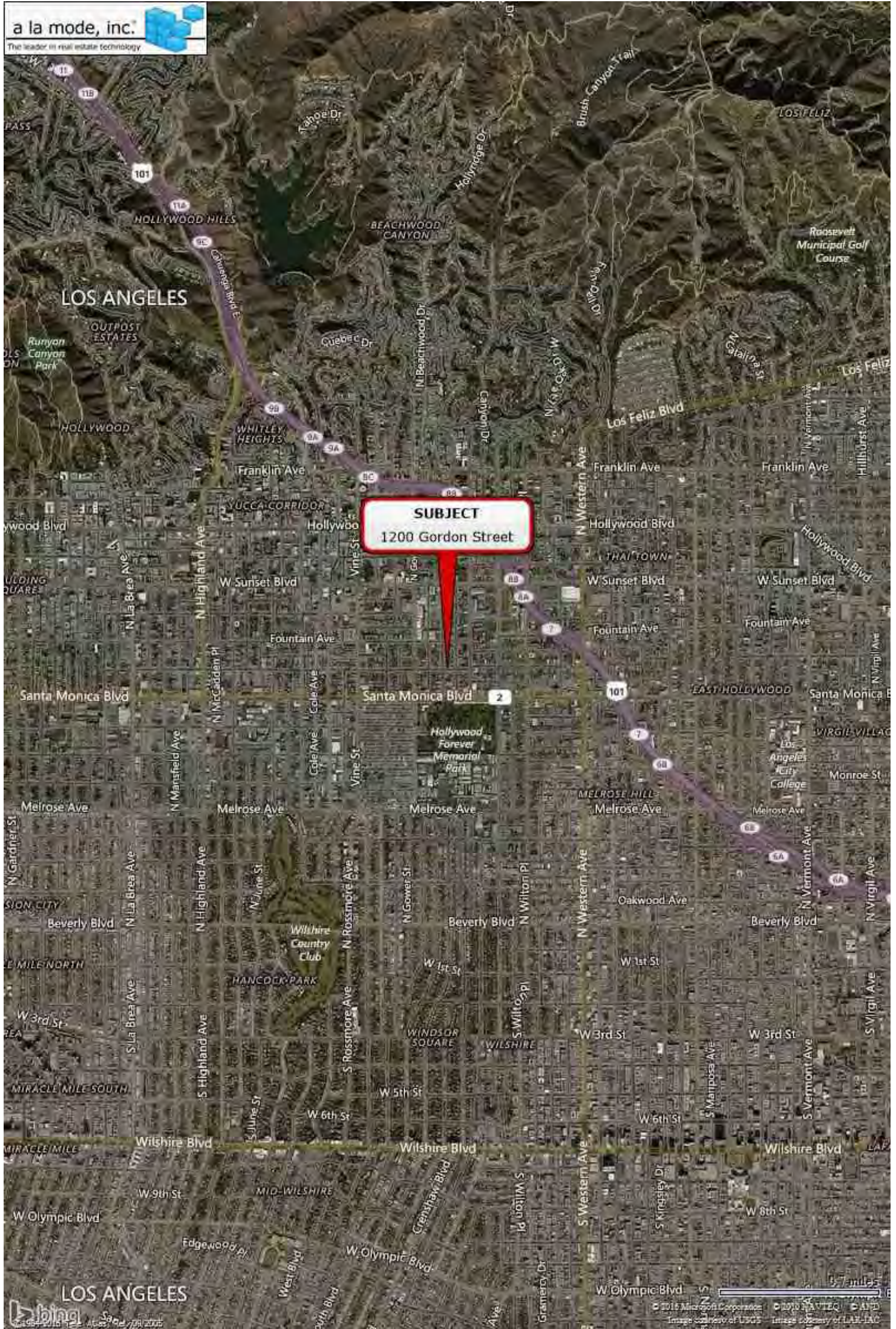
Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA
Client	Napa Industries, LLC				



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Aerial Map

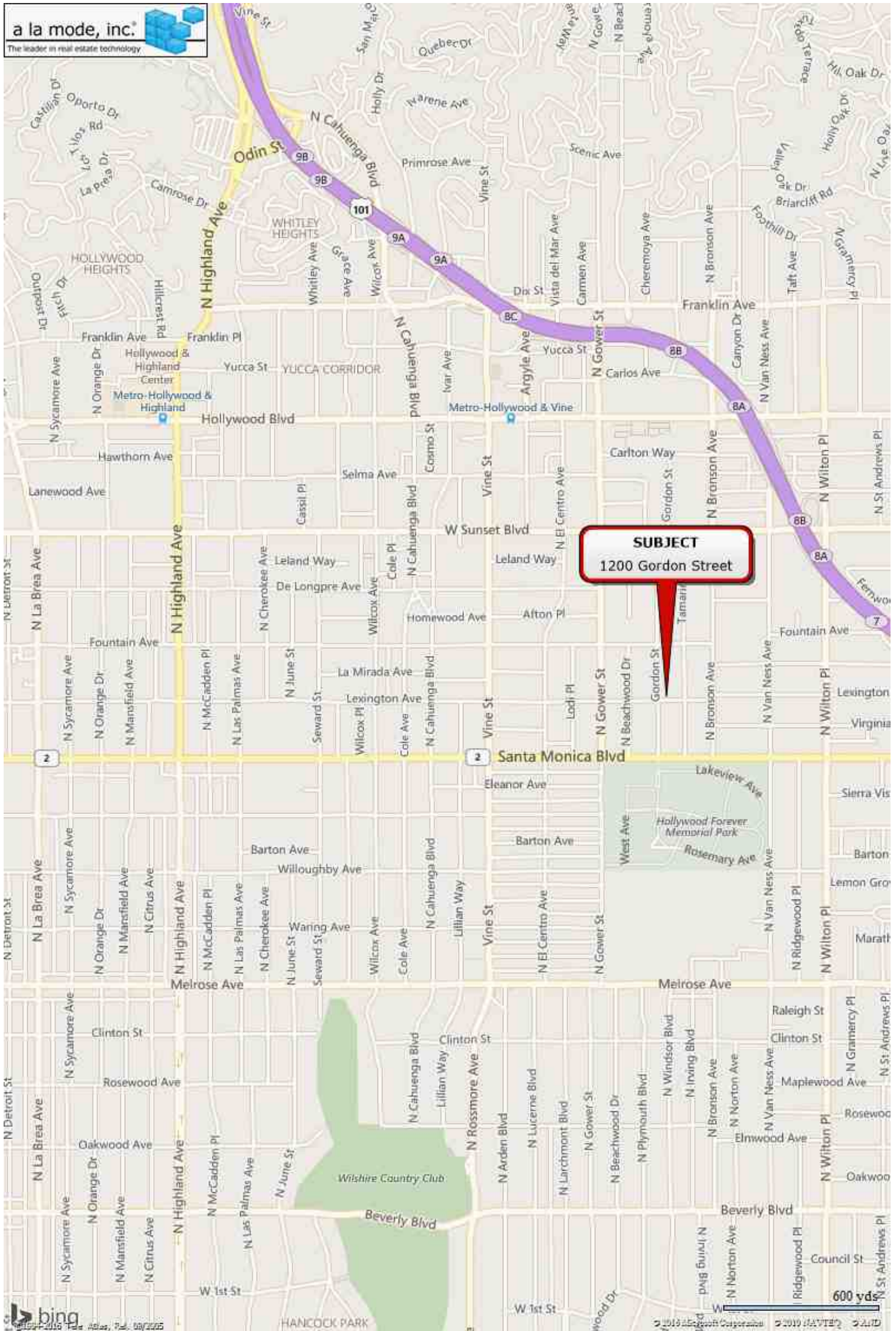
Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA
Client	Napa Industries, LLC				



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Neighborhood Map

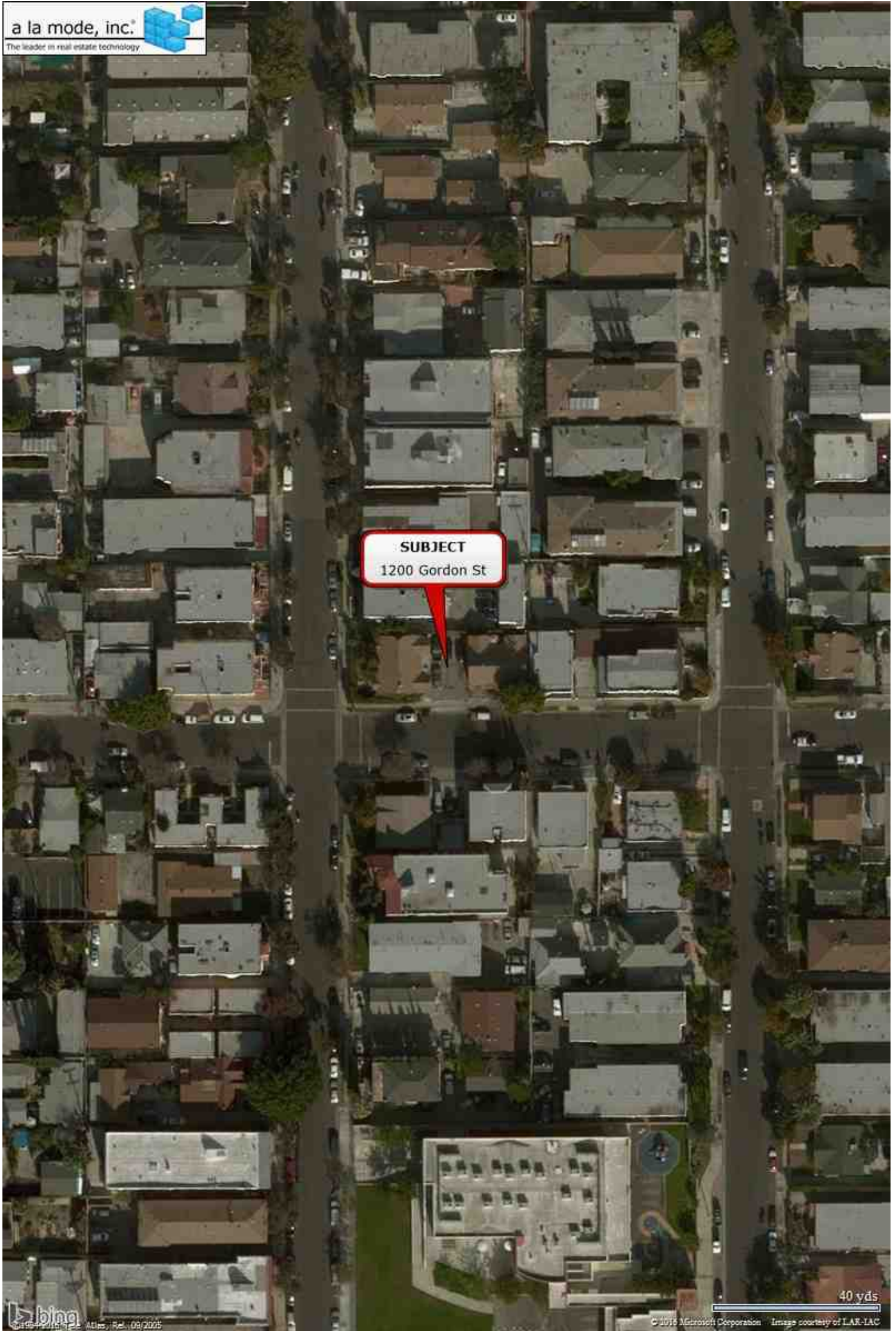
Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA
Client	Napa Industries, LLC				



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Aerial Map

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				



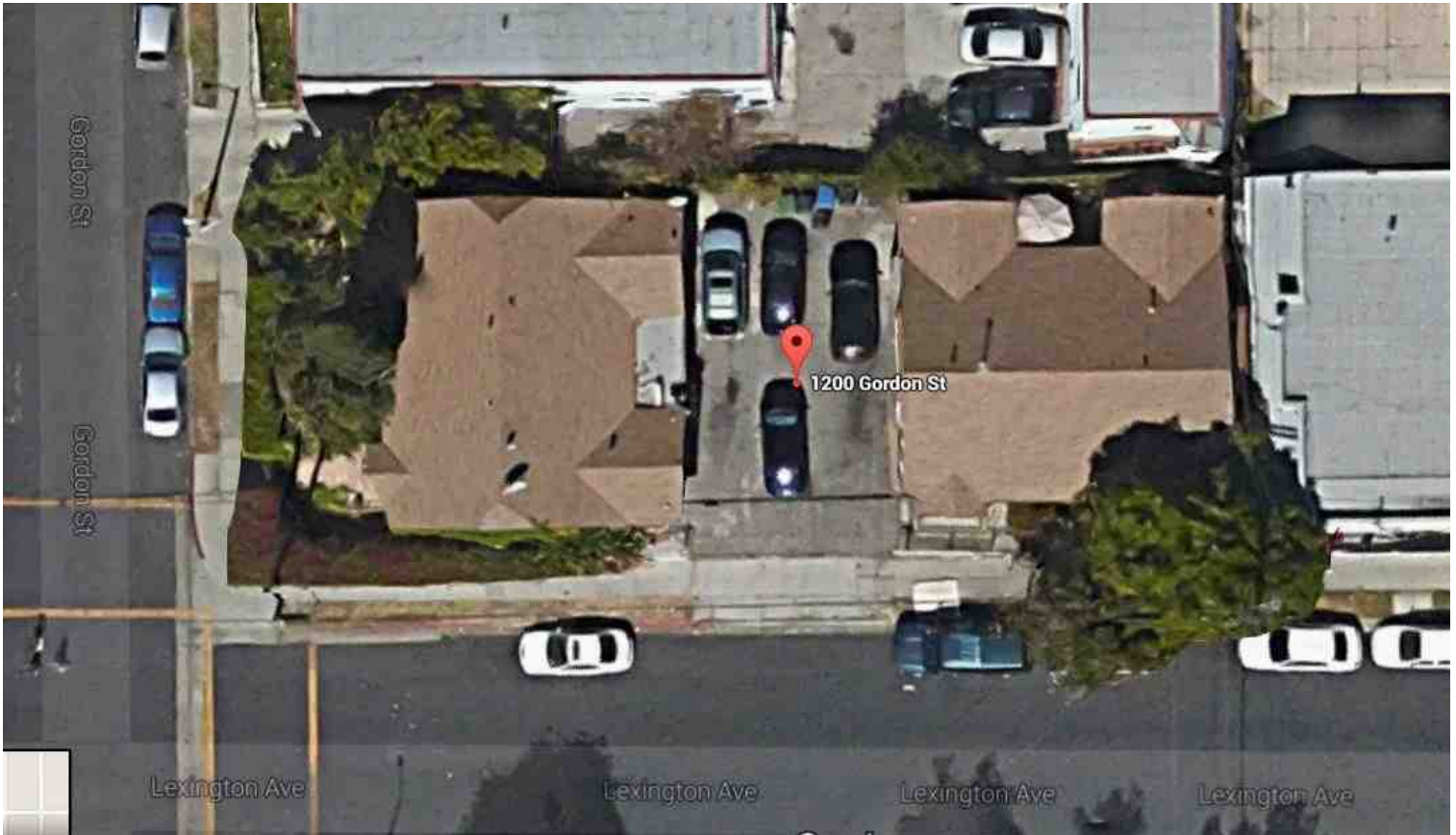
ALLS, RE, 09/2005

© 2015 Microsoft Corporation Image courtesy of LAR-IAC

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Aerial View of Subject Property

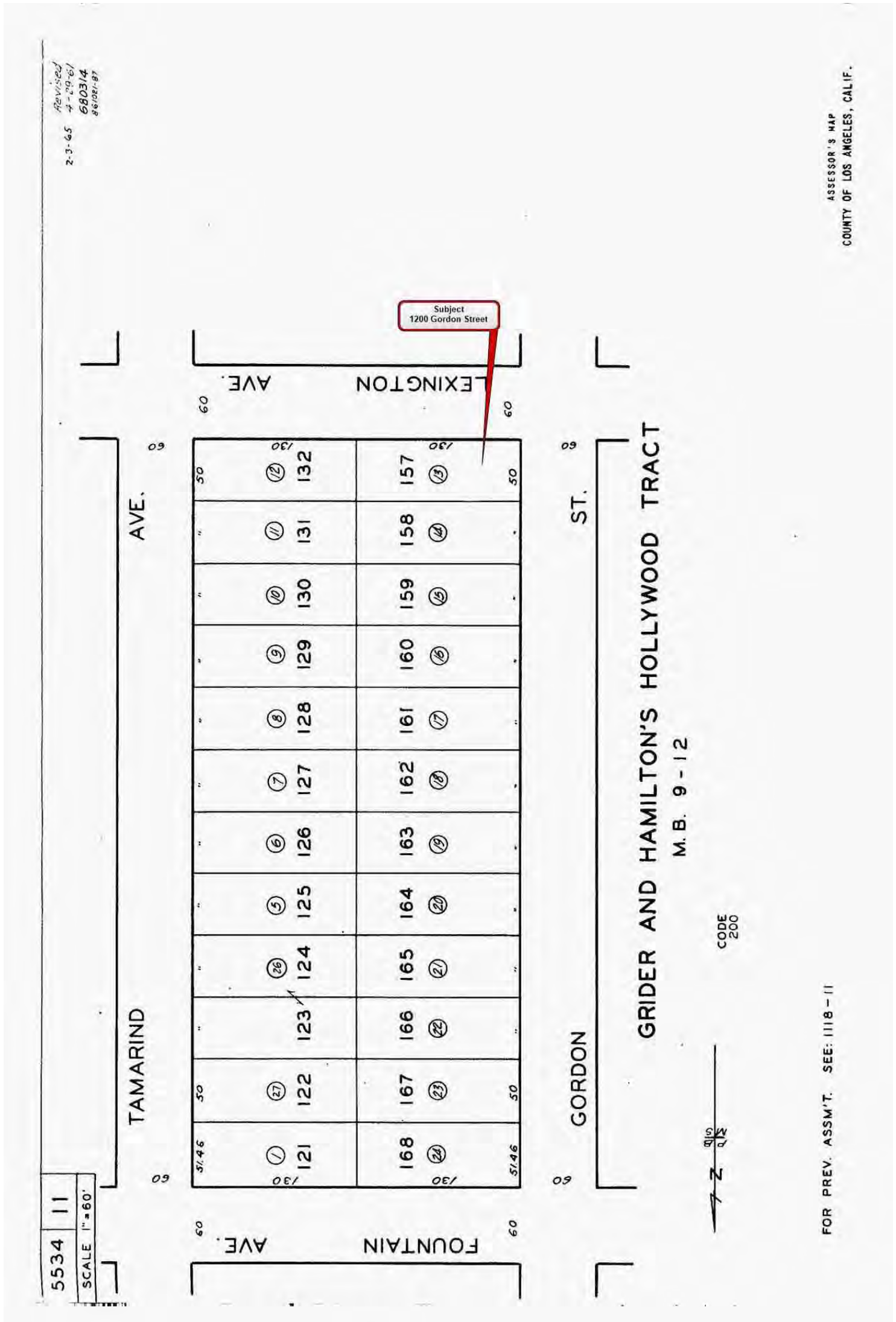
Owner	Gordon Street Condos LLC						
Property Address	1200 Gordon St						
City	Los Angeles	County	Los Angeles	State	CA	Zip Code	90038-1910
Client	Napa Industries, LLC						



Howard D. Wilson

Assessor's Tax Map

Owner	Gordon Street Condos LLC		
Property Address	1200 Gordon St		
City	Los Angeles	County	Los Angeles
Client	Napa Industries, LLC	State	CA
		Zip Code	90038-1910

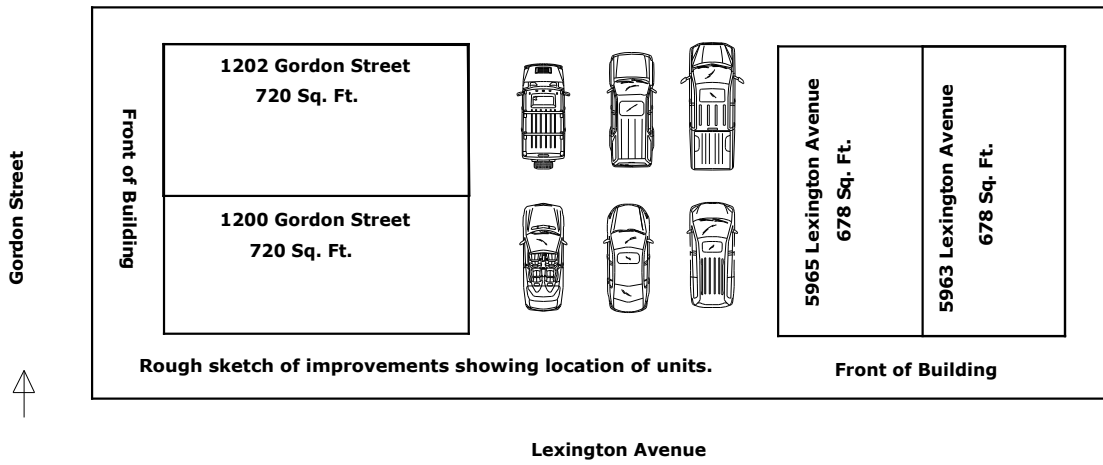


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Building Sketch

Owner	Gordon Street Condos LLC		
Property Address	1200 Gordon St		
City	Los Angeles	County	Los Angeles
State	CA	Zip Code	90038-1910
Client	Napa Industries, LLC		

This sketch is not to scale and does not represent the actual buildings. Access to the exteriors of the buildings was blocked, preventing measurement.



TOTAL Sketch by a la mode, inc.

Area Calculations Summary

Living Area		Calculation Details
Lexington Avenue	1356 Sq ft	$36.6 \times 37 = 1356$
Gordon Avenue	1440 Sq ft	$38.9 \times 37 = 1440$
Total Living Area (Rounded):	2796 Sq ft	

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Subject Photos

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon Street				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				



Subject Front

1200 Gordon Street
 Sales Price
 Gross Living Area 2,796
 Total Rooms 12
 Total Bedrooms 4
 Total Bathrooms 4
 Location Good
 View Street
 Site 6,500 sf
 Quality Average for age
 Age 96



Subject Lexington Avenue Side



Subject Street

Howard P. Wilson

Photograph Addendum

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				



Rear of Gordon Street Building



Side of Lexington Avenue Building



Rear of Gordon Street Building



Side of Lexington Avenue Building



Front of 1202 Gordon Street



Front of 1200 Gordon Street

Howard D. Wilson

Photograph Addendum

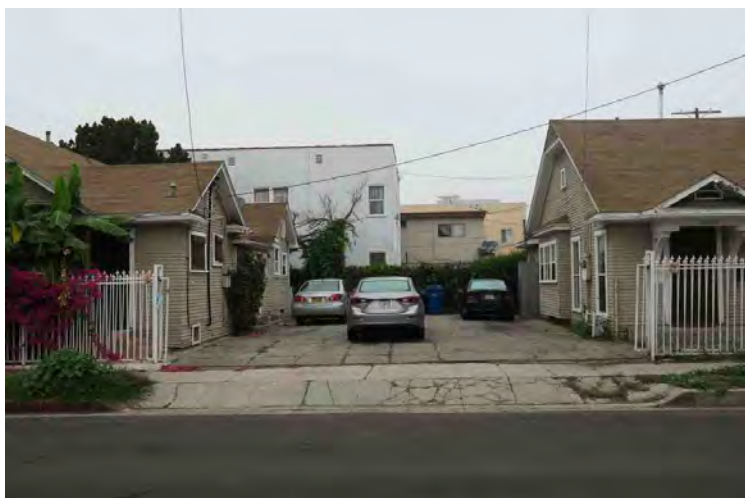
Owner	Gordon Street Condos LLC						
Property Address	1200 Gordon St						
City	Los Angeles	County	Los Angeles	State	CA	Zip Code	90038-1910
Client	Napa Industries, LLC						



Lexington Avenue Building



Gordon Street Building



**Parking Area Between Buildings
 Gordon St. Building on Left
 Lexington Ave. Building on Right**



**Lexington Ave. Side of 1200 Gordon Street
 Notice Heavy Bougainvillea Growth**



**Looking West on Lexington Avenue
 Subject Property on Right**



**Looking East on Lexington Avenue
 Subject Property on Left**

Howard D. Wilson

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				



Comparable 1

1347 N Citrus Avenue
 Prox. to Subject 1.18 miles W
 Sales Price 1,265,000
 Gross Living Area 3,633
 Total Rooms 12
 Total Bedrooms 4
 Total Bathrooms 4
 Location Good
 View Street
 Site 7,069 sf
 Quality Average for age
 Age 93

Google Photograph Used



Comparable 2

1002 N. Hudson Avenue
 Prox. to Subject 0.73 miles W
 Sales Price 1,150,000
 Gross Living Area 2,359
 Total Rooms
 Total Bedrooms
 Total Bathrooms
 Location Good
 View Street
 Site 6,813 sf
 Quality Average for age
 Age 95

3/20/2016 TIM



Comparable 3

838 N. Ridgewood Place
 Prox. to Subject 0.53 miles SE
 Sales Price 1,265,000
 Gross Living Area 2,386
 Total Rooms 14
 Total Bedrooms 6
 Total Bathrooms 4
 Location Good
 View Street
 Site 5,790 sf
 Quality Average for age
 Age 67

3/20/2016 TIM

Handwritten signature

Comparable Photo Page

Owner	Gordon Street Condos LLC				
Property Address	1200 Gordon St				
City	Los Angeles	County	Los Angeles	State	CA Zip Code 90038-1910
Client	Napa Industries, LLC				



Comparable 4

836 Mc Cadden Place
Sales Price 1,370,000
G.B.A. 2,424
Age/Yr. Blt. 93

3/20/2016 TIM

**PROFESSIONAL QUALIFICATIONS
OF
THOMAS I. MILWICZ
CALIFORNIA STATE
CERTIFIED GENERAL REAL ESTATE APPRAISER
AND REALTOR**

Appraisers Certificate # AG008920 Expires: 5/7/2016

**State of California, Real Estate Sales License
01240342, Expires: June 11, 2018**

Contact Information:

**Thomas I. Milwicz, SCREA, Realtor
11856 Balboa Boulevard, Suite 116
Granada Hills, CA 91344**

Phone: 818 416-6600

**E-mail: thomasimg@gmail.com
TheLAAppraiser@gmail.com**

**Coverage Area: Los Angeles, Orange, Riverside,
San Bernardino and Ventura Counties**

**Available seven days a week, including holidays, between
the hours of 8:00 AM & 11:00 PM**

**Properties Inspected Sunrise to Sunset,
at the client's convenience.**



Thomas I. Milwicz

General Real Estate Appraiser, Consultant and Realtor

Professional Qualifications:

Thomas I. Milwicz, California State Certified General Real Estate Appraiser, specializing in real estate appraisal, review and consultations for all types of real property. Thomas I. Milwicz has been actively involved in real estate appraisal and consulting since 1974 and has appraised properties in more than 30 states and Canada.

Professional Past and Current Affiliations:

State Accredited Affiliate of the Appraisal Institute
National Association of Realtors, Appraisal Section
National Association of Realtors
California Association of Realtors
SRAR - Southland Regional Association of Realtors
CLAW - West Los Angeles Multiple Listing Service

State Certification:

Office of Real Estate Appraisers, State of California,
Certified General Real Estate Appraiser, AG008920; Expires, May 7, 2016

Real Estate Sales License:

State of California, Real Estate Sales License, 01240342, Expires, June 11, 2018

Education:

Bachelor of Business Administration, Major Real Estate, Bernard M. Baruch College of the City
University of New York, New York, N. Y.
Graduate and Extension Courses NYU and UCLA, Major Real Estate and Finance
Continuing Education Requirements for General Appraisers License up to date
Numerous professional meetings, seminars, elective classes and webinars to keep current with
valuation theory, real estate financing, specialized properties, stigmatized properties,
green properties, valuation of photo voltaic systems (Solar Energy) in properties.



Thomas I. Milwicz, Real Estate Appraiser, Consultant and Realtor

Page 2

Employment:

- 1984 – Present, independent fee appraiser serving Southern California and the Los Angeles Area
- 2010 – Present, Keller Williams, Encino/Sherman Oaks
- 2008 – 2010, Sotheby International Realty, Ewing and Associates
- 1998 – 2008, Coldwell Banker, Realtor
- 1984 – 1994, Chase National Corporate Services, Los Angeles, California
- 1981 – 1984, Chase Manhattan Bank, NA, New York, New York
- 1974 – 1981, Anchor Savings Bank, FSB, Rockville Center, New York
- 1974 – 1984, Independent fee appraiser serving; Northeastern United States
- 1974 – Present, real estate investor, property manager, real estate marketing and sales specialist

Types of Property Appraised:

Vacant Land Developed and Undeveloped

Existing and Proposed

- | | |
|--|-------------------------------|
| Office Buildings | Office Parks |
| Commercial Facilities | Industrial Buildings |
| Research and Development Facilities | Shopping Centers |
| Shopping Malls | Strip Centers |
| Residential Subdivisions | Multi-Family Housing |
| Condominium Projects | Mixed Use Projects |
| Special Use Properties | Condominiums |
| Properties with Significant Damage | Vandalized Properties |
| Single Family Homes | Mobile Home Parks |
| Historic Properties | Trophy Properties |
| High End Homes | High End Condominiums |
| Residential Mega Mansions (40,000 square feet or larger) | Architectural Properties |
| Residential Compounds | Vacation Properties |
| Waterfront Property Vacant and Improved | Atypical Residential Property |
| Under Improved Property | Stigmatized Properties |
| Over Improved Properties | |



Thomas I. Milwicz, Real Estate Appraiser, Consultant and Realtor

Page 3

Interests Appraised:

- | | |
|-----------------------|-------------------|
| Fee Simple | Leased Fee |
| Leasehold | Partial Interests |
| Partnership Interests | Ground Leases |
| Easement | Access |

Purpose of the Appraisals:

- | | |
|-----------------------------------|--------------------------------|
| Tax Reduction | Estate Valuation |
| Mortgage Lending | Determining Collateral Value |
| Litigation | Divorce |
| Feasibility Analysis | Determine Liquidation Value |
| Corporate Relocation | Bankruptcy |
| Short Sale Negotiation | Historic Valuations |
| Debt Collection | Multi Period Valuation Studies |
| Appraisal Reviews | Contributory Value Analysis |
| Valuation after Catastrophic Loss | |

Court Appointed Independent Fee Appraiser for various types of litigation and court proceedings
Determine lost value due to the presence of hazardous materials, deed restrictions, water incursion, hostile possession, archeological artifacts, easements in gross, easement appurtenant, prescriptive easement, condemnation taking for public use, change in zoning and various other purposes.

Other Services:

- | | |
|--|--------------------------------|
| Verification of square footage of improvements | Correction of assessor records |
| Permit analysis | Tax Appeals |
| General Rent Studies (all types of property) | Rent Studies for Divorce |

We Provide Total Security and Anonymity, for personal or business reasons and especially for security reasons: Panic rooms, security systems, locations of cameras, sensors of all type (laser, sound, motion, weight, window, door, wall, ceiling, floor, etc.) smoke and gas generators, safes, ballistic glass, internal security gates or doors, security monitoring systems, bomb proof



Thomas I. Milwicz, Real Estate Appraiser, Consultant and Realtor

Page 4

locations, etc. are never divulged in the appraisal. If the owner requests, the owners actual name and/or identifying characteristics will not be noted in the appraisal or maintained in the appraiser's files without the owner's consent. If the owner instructions, we will not photograph, works of art, personal pictures, individuals or any other sensitive possessions. When necessary properties will be appraised, under the terms and conditions of a non-disclosure agreement, provided by the appraiser or the owner or owners representative. Appraisals are never divulged to anyone without the written consent of the owner or designated representative, the appraiser will not maintain any paper records or photographs and copies of the report after the completion of the appraisal.

License Verification:

For verification of my appraiser's license please visit

http://www.orea.ca.gov/html/lic_appraisers.asp

and **insert my last name Milwicz** in the space marked Last Name and press search,

For verification of my realtors' license please visit

<http://www.dre.ca.gov/>

and select **verify a real estate license** insert my last name Milwicz in the space marked Last Name and press search.





Business, Consumer Services & Housing Agency
BUREAU OF REAL ESTATE APPRAISERS
REAL ESTATE APPRAISER LICENSE

Thomas I. Milwicz

has successfully met the requirements for a license as a residential and commercial real estate appraiser in the State of California and is, therefore, entitled to use the title:

“Certified General Real Estate Appraiser”

This license has been issued in accordance with the provisions of the Real Estate Appraisers' Licensing and Certification Law.

BREA APPRAISER IDENTIFICATION NUMBER: AG 008920

Effective Date: May 8, 2014
Date Expires: May 7, 2016


Jim Martin, Bureau Chief, BREA

3013569

THIS DOCUMENT CONTAINS A TRUE WATERMARK - HOLD UP TO LIGHT TO SEE "CHAIN LINK"



This appraisal report has been electronically signed using SureDocs by a la mode. It is as valid and legally enforceable as a wet ink signature on paper, with a number of clear advantages. First, SureDocs helps to make identity theft and fraud a thing of the past. By using advanced third party identity verification from Equifax, you can be assured that the appraiser signing this report is really who they say they are. Plus, you can verify that the salient data points of the report have not been altered in any way.

To verify the integrity of this document, visit www.SureDocs.com/Validate. Enter the Serial Number and Signer Name of this document that are listed below.

SureDocs will generate a report showing the profile of the appraiser(s) who signed the report, the date and time the signatures were applied, and the salient data from the report at the time of signing. Comparing the report information in SureDocs to the document you have in hand will quickly reveal if any tampering has taken place.

The report below is an example of what you would see when verified by SureDocs.

Salient Data:	
Date of Sale: 3/20/2016	Condition: Average
Borrower: Gordon Street Condos LLC	Total Rooms: 12
Lender: Napa Industries, LLC	Bedrooms: 4
Size (Sq.Ft): 2,796	Baths: 4
Price Per Square Foot:	Appraiser: Thomas I. Milwicz
Location: Good	Effective Date of Value ('as of'): 3/20/2016
Age: 96	Final Opinion of Value: 1,350,000
Signer 1:	Signer 2:
Thomas I. Milwicz	
11856 Balboa Boulevard, Suite116, Granada Hills, CA	
91344	
Signature:	Signature:
Serial #: 3D9904E4	Serial #:
Date Signed: 03/23/2016	Date Signed:

Form SDVERIFY - "TOTAL" appraisal software by a la mode, inc. - 1-800-ALAMODE

Serial# 3D9904E4

EXHIBIT “6”



1500 Quail Street, 3rd Floor
Newport Beach, CA 92660
Phone: (714) 289-3390

Issuing Policies of Chicago Title Insurance Company

ORDER NO.: 00434620-989-BLA

Escrow/Customer Phone: (714) 289-3390

D & G ESCROW
17327 VENTURA BLVD
ENCINO, CA 91316
ATTN: Jim Potter
Email: jim@dgescrow.com
Reference No.: 1200 Gordon

Title Officer: **Bob Taylor - LA**
Title Officer Phone: (714) 289-6402
Title Officer Fax: (949) 809-0668
Title Officer Email: taylor@ticortitle.com

PROPERTY: 1200 Gordon Street, Los Angeles, CA 90038

PRELIMINARY REPORT

In response to the application for a policy of title insurance referenced herein, Tigor Title Company of California hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception herein or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations or Conditions of said policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said policy or policies are set forth in Attachment One. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in Attachment One. Copies of the policy forms should be read. They are available from the office which issued this report.


This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The policy(s) of title insurance to be issued hereunder will be policy(s) of Chicago Title Insurance Company, a Nebraska Corporation.

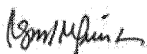

Please read the exceptions shown or referred to herein and the exceptions and exclusions set forth in Attachment One of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land.

Countersigned:

By: 
Authorized Signature



By: 
Randy Quirk, President
Attest: 
Michael Gravelle, Secretary



1500 Quail Street, 3rd Floor
Newport Beach, CA 92660
Phone: (714) 289-3390

PRELIMINARY REPORT

EFFECTIVE DATE: June 14, 2017 at 7:30 a.m.

ORDER NO.: 00434620-989-BLA

The form of policy or policies of title insurance contemplated by this report is:

ALTA Homeowners Policy of Title Insurance (12-2-13)
ALTA Extended Loan Policy (6-17-06)

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:

A Fee

2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:

Napa Industries, LLC., a Nevada Limited Liability Company

3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:

See Exhibit A attached hereto and made a part hereof.

PRELIMINARY REPORT
YOUR REFERENCE: 1200 Gordon

Ticor Title Company of California

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Lot 157 of Grider and Hamiltons Hollywood Tract, in the City of Los Angeles, County of Los Angeles, State of California, as per Map recorded in Book 9, Page 12 of Maps, in the Office of the County Recorder of Los Angeles County, California.

APN: **5534-011-013**

PRELIMINARY REPORT
YOUR REFERENCE: 1200 Gordon

Ticor Title Company of California

EXCEPTIONS

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, including any personal property taxes and any assessments collected with taxes, are as follows:

Tax Identification No.:	5534-011-013
Fiscal Year:	2016-2017
1st Installment:	\$4,203.10 Open (Delinquent after December 10, 2016)
Penalty:	\$420.31
2nd installment:	\$4,203.10 Open (Delinquent after April 10, 2017)
Penalty and Cost:	\$430.31
Homeowners Exemption:	None Shown
Code Area:	00200

2. Said property has been declared tax defaulted for non-payment of delinquent regular taxes for the fiscal year 2015-2016

Amount to redeem by June 30, 2016 for the above-stated year (and subsequent years, if any) is
\$5,817.23

3. Any liens or other assessments, bonds, or special district liens including without limitation, Community Facility Districts, that arise by reason of any local, City, Municipal or County Project or Special District.
4. The lien of supplemental or escaped assessments of property taxes, if any, made pursuant to the provisions of Chapter 3.5 or Part 2, Chapter 3, Articles 3 and 4 respectively (commencing with Section 75) of the Revenue and Taxation Code of the State of California as a result of the transfer of title to the vestee named in Schedule A; or as a result of changes in ownership or new construction occurring prior to date of policy
5. Water rights, claims or title to water, whether or not disclosed by the public records.
6. Any easements not disclosed by the public records as to matters affecting title to real property, whether or not said easements are visible and apparent.
7. Covenants, conditions and restrictions but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, citizenship, immigration status, primary language, citizenship, immigration status, primary language, ancestry, source of income, gender, gender identity, gender expression, medical condition or genetic information, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document

Recording No.: Book 6294, Page 309, of Deeds

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien of any mortgage or deed of trust made in good faith and for value.

PRELIMINARY REPORT
YOUR REFERENCE: 1200 Gordon

Ticor Title Company of California

EXCEPTIONS (Continued)

Modification(s) of said covenants, conditions and restrictions

Recording No: Book 7816, Page 275, of Official Records

8. A deed of trust to secure an indebtedness in the amount shown below,

Amount: \$945,000.00
Dated: March 25, 2016
Trustor/Grantor: Napa Industries, LLC
Trustee: PLM Loan Management, Inc.
Beneficiary: Arch Loans SPE, LLC, a Delaware Limited Liability Company
Loan No.: Not Set Out
Recording Date: April 1, 2016
Recording No: 2016-362812, of Official Records

Assignment of the beneficial interest under said deed of trust which names:

Assignee: Arch CBT SPE LLC
Recording Date: June 22, 2016
Recording No.: 2016-718715, of Official Records

This Company will require that the original note, the original deed of trust and a properly executed request for full reconveyance together with appropriate documentation (i.e., copy of trust, partnership agreement or corporate resolution) be in this office prior to the close of this transaction if the above-mentioned item is to be paid through this transaction or deleted from a policy of title insurance.

Any demands submitted to us for payoff must be signed by all beneficiaries as shown on said deed of trust, and/or any assignments thereto. In the event said demand is submitted by an agent of the beneficiary(s), we will require the written approval of the demand by the beneficiary(s). Servicing agreements do not constitute approval for the purposes of this requirement.

If no amounts remain due under the obligation a zero balance demand will be required along with the reconveyance documents.

In addition, we require the written approval of said demand by the trustor(s) on said deed of trust or the current owners if applicable.

9. A pending court action as disclosed by a recorded notice:

Plaintiff: Peter Beskodarny, individually and derivatively on behalf of Gordon St. Condos, LLC, a Nevada Limited Liability Company
Defendant: Paul Morady, Morgan Fair, Helping Hand, Investments Inc. Gordon St. Condos, LLC, a Nevada Limited Liability Company, Napa Investments, LLC A foreign Company, Arch Loans SPE, LLC, a Delaware Company Qualified to do business in California and Does 1-100
County: Los Angeles
Court: Superior
Case No.: BC657283
Nature of Action: Real Property Claim Affecting Title
Recording Date: April 11, 2017
Recording No: 2017-397214 of Official Records

PRELIMINARY REPORT
YOUR REFERENCE: 1200 Gordon

Ticor Title Company of California

**EXCEPTIONS
(Continued)**

10. Any rights of the parties in possession of a portion of, or all of, said Land, which rights are not disclosed by the Public Records.

The Company will require, for review, a full and complete copy of any unrecorded agreement, contract, license and/or lease, together with all supplements, assignments and amendments thereto, before issuing any policy of title insurance without excepting this item from coverage.

The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

11. If the Land is located within the area affected by a Geographic Targeting Order issued by FinCEN (California counties of Los Angeles, San Diego, San Francisco, Santa Clara and San Mateo), the Company must be supplied with a completed ALTA Information Collection Form ("ICF").

PLEASE REFER TO THE "INFORMATIONAL NOTES" AND "REQUIREMENTS" SECTIONS WHICH FOLLOW FOR INFORMATION NECESSARY TO COMPLETE THIS TRANSACTION.

END OF EXCEPTIONS

REQUIREMENTS SECTION

1. In order to complete this report, the Company requires a Statement of Information to be completed by the following party(s),

Party(s): All Parties

The Company reserves the right to add additional items or make further requirements after review of the requested Statement of Information.

NOTE: The Statement of Information is necessary to complete the search and examination of title under this order. Any title search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the parties but in fact affect another party with the same or similar name. Be assured that the Statement of Information is essential and will be kept strictly confidential to this file.

2. The Company will require the following documents for review prior to the issuance of any title insurance predicated upon a conveyance or encumbrance from the entity named below:

Limited Liability Company: Napa Industries, LLC

a) A copy of its operating agreement, if any, and any and all amendments, supplements and/or modifications thereto, certified by the appropriate manager or member

b) If a domestic Limited Liability Company, a copy of its Articles of Organization and all amendments thereto with the appropriate filing stamps

c) If the Limited Liability Company is member-managed, a full and complete current list of members certified by the appropriate manager or member

d) If the Limited Liability Company was formed in a foreign jurisdiction, evidence, satisfactory to the Company, that it was validly formed, is in good standing and authorized to do business in the state of origin

e) If less than all members, or managers, as appropriate, will be executing the closing documents, furnish evidence of the authority of those signing.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

3. The Company will require an affidavit signed by the seller/mortgagor certifying that there are no matters that could give rise to any defects, liens, encumbrances, adverse claims or other matters that would attach to the Land between the effective date of the report and the recording of the instruments creating the estate to be insured.

END OF REQUIREMENTS

INFORMATIONAL NOTES SECTION

1. Note: The only deed(s) affecting said land which recorded within twenty-four (24) months of the date of this report, is (are) as follows:
 - Grantor: Esfir Beskodarnaya, an unmarried woman
 - Grantee: Cordon St. Condos, LLC
 - Recording Date: November 4, 2014
 - Recording No.: 20141165226, of Official Records

 - Grantor: Cordon St. Condos, LLC a Nevada Limited Liability Company
 - Grantee: Napa Industries, LLC., a Nevada Limited Liability Company
 - Recording Date: April 1, 2016
 - Recording No.: 20160362811, of Official Records

2. Note: The Company is not aware of any matters which would cause it to decline to attach CLTA Endorsement Form 116 indicating that there is located on said Land a Multiple Family Residence known as 1200 Gordon Street, City of Los Angeles, CA, to an Extended Coverage Loan Policy.

3. Note: None of the items shown in this report will cause the Company to decline to attach CLTA Endorsement Form 100 to an ALTA Loan Policy, when issued.

4. NOTE: Ticor Title Company of California will pay Chicago Title Insurance Company 12% of the title premium, as disclosed on lines 1107 and 1108 of the HUD-1.

5. Note: The policy of title insurance will include an arbitration provision. The company of the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your title insurance coverage.

END OF INFORMATIONAL NOTES

Bob Taylor - LA/ssa

FIDELITY NATIONAL FINANCIAL PRIVACY NOTICE

At Fidelity National Financial, Inc., we respect and believe it is important to protect the privacy of consumers and our customers. This Privacy Notice explains how we collect, use, and protect any information that we collect from you, when and to whom we disclose such information, and the choices you have about the use of that information. A summary of the Privacy Notice is below, and we encourage you to review the entirety of the Privacy Notice following this summary. You can opt-out of certain disclosures by following our opt-out procedure set forth at the end of this Privacy Notice.

<p>Types of Information Collected. You may provide us with certain personal information about you, like your contact information, address demographic information, social security number (SSN), driver's license, passport, other government ID numbers and/or financial information. We may also receive browsing information from your Internet browser, computer and/or mobile device if you visit or use our websites or applications.</p>	<p>How Information is Collected. We may collect personal information from you via applications, forms, and correspondence we receive from you and others related to our transactions with you. When you visit our websites from your computer or mobile device, we automatically collect and store certain information available to us through your Internet browser or computer equipment to optimize your website experience.</p>
<p>Use of Collected Information. We request and use your personal information to provide products and services to you, to improve our products and services, and to communicate with you about these products and services. We may also share your contact information with our affiliates for marketing purposes.</p>	<p>When Information is Disclosed. We may disclose your information to our affiliates and/or nonaffiliated parties providing services for you or us, to law enforcement agencies or governmental authorities, as required by law, and to parties whose interest in title must be determined.</p>

<p>Choices With Your Information. Your decision to submit information to us is entirely up to you. You can opt-out of certain disclosure or use of your information or choose to not provide any personal information to us.</p>	<p>Information From Children. We do not knowingly collect information from children who are under the age of 13, and our website is not intended to attract children.</p>
<p>Privacy Outside the Website. We are not responsible for the privacy practices of third parties, even if our website links to those parties' websites.</p>	<p>International Users. By providing us with you information, you consent to its transfer, processing and storage outside of your country of residence, as well as the fact that we will handle such information consistent with this Privacy Notice.</p>
<p>The California Online Privacy Protection Act. Some FNF companies provide services to mortgage loan servicers and, in some cases, their websites collect information on behalf of mortgage loan servicers. The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through those websites.</p>	
<p>Your Consent To This Privacy Notice. By submitting information to us or by using our website, you are accepting and agreeing to the terms of this Privacy Notice.</p>	<p>Access and Correction; Contact Us. If you desire to contact us regarding this notice or your information, please contact us at privacy@fnf.com or as directed at the end of this Privacy Notice.</p>

**FIDELITY NATIONAL FINANCIAL, INC.
PRIVACY NOTICE**

Fidelity National Financial, Inc. and its majority-owned subsidiary companies providing title insurance, real estate- and loan-related services (collectively, "FNF", "our" or "we") respect and are committed to protecting your privacy. We will take reasonable steps to ensure that your Personal Information and Browsing Information will only be used in compliance with this Privacy Notice and applicable laws. This Privacy Notice is only in effect for Personal Information and Browsing Information collected and/or owned by or on behalf of FNF, including Personal Information and Browsing Information collected through any FNF website, online service or application (collectively, the "Website").

Types of Information Collected

We may collect two types of information from you: Personal Information and Browsing Information.

Personal Information. FNF may collect the following categories of Personal Information:

- contact information (e.g., name, address, phone number, email address);
- demographic information (e.g., date of birth, gender, marital status);
- social security number (SSN), driver's license, passport, and other government ID numbers;
- financial account information; and
- other personal information needed from you to provide title insurance, real estate- and loan-related services to you.

Browsing Information. FNF may collect the following categories of Browsing Information:

- Internet Protocol (or IP) address or device ID/UDID, protocol and sequence information;
- browser language and type;
- domain name system requests;
- browsing history, such as time spent at a domain, time and date of your visit and number of clicks;
- http headers, application client and server banners; and
- operating system and fingerprinting data.

How Information is Collected

In the course of our business, we may collect *Personal Information* about you from the following sources:

- applications or other forms we receive from you or your authorized representative;
- the correspondence you and others send to us;
- information we receive through the Website;
- information about your transactions with, or services performed by, us, our affiliates or nonaffiliated third parties; and
- information from consumer or other reporting agencies and public records maintained by governmental entities that we obtain directly from those entities, our affiliates or others.

If you visit or use our Website, we may collect *Browsing Information* from you as follows:

- Browser Log Files. Our servers automatically log each visitor to the Website and collect and record certain browsing information about each visitor. The Browsing Information includes generic information and reveals nothing personal about the user.
- Cookies. When you visit our Website, a "cookie" may be sent to your computer. A cookie is a small piece of data that is sent to your Internet browser from a web server and stored on your computer's hard drive. When you visit a website again, the cookie allows the website to recognize your computer. Cookies may store user preferences and other information. You can choose whether or not to accept cookies by changing your Internet browser settings, which may impair or limit some functionality of the Website.

Use of Collected Information

Information collected by FNF is used for three main purposes:

- To provide products and services to you or any affiliate or third party who is obtaining services on your behalf or in connection with a transaction involving you.
- To improve our products and services.
- To communicate with you and to inform you about our, our affiliates' and third parties' products and services, jointly or independently.

When Information Is Disclosed

We may provide your Personal Information (excluding information we receive from consumer or other credit reporting agencies) and Browsing Information to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Please see the section "Choices With Your Personal Information" to learn how to limit the discretionary disclosure of your Personal Information and Browsing Information.

Disclosures of your Personal Information may be made to the following categories of affiliates and nonaffiliated third parties:

- to third parties to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure;
- to our affiliate financial service providers for their use to market their products or services to you;
- to nonaffiliated third party service providers who provide or perform services on our behalf and use the disclosed information only in connection with such services;
- to nonaffiliated third party service providers with whom we perform joint marketing, pursuant to an agreement with them to market financial products or services to you;
- to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoena or court order;

- to lenders, lien holders, judgment creditors, or other parties claiming an interest in title whose claim or interest must be determined, settled, paid, or released prior to closing; and
- other third parties for whom you have given us written authorization to disclose your Personal Information.

We may disclose Personal Information and/or Browsing Information when required by law or in the good-faith belief that such disclosure is necessary to:

- comply with a legal process or applicable laws;
- enforce this Privacy Notice;
- investigate or respond to claims that any material, document, image, graphic, logo, design, audio, video or any other information provided by you violates the rights of a third party; or
- protect the rights, property or personal safety of FNF, its users or the public.

We maintain reasonable safeguards to keep your Personal Information secure. When we provide Personal Information to our affiliates or third party service providers as discussed in this Privacy Notice, we expect that these parties process such information in compliance with our Privacy Notice or in a manner that is in compliance with applicable privacy laws. The use of your information by a business partner may be subject to that party's own Privacy Notice. Unless permitted by law, we do not disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent.

We reserve the right to transfer your Personal Information, Browsing Information, and any other information, in connection with the sale or other disposition of all or part of the FNF business and/or assets, or in the event of our bankruptcy, reorganization, insolvency, receivership or an assignment for the benefit of creditors. You expressly agree and consent to the use and/or transfer of the foregoing information in connection with any of the above described proceedings. We cannot and will not be responsible for any breach of security by a third party or for any actions of any third party that receives any of the information that is disclosed to us.

Choices With Your Information

Whether you submit Personal Information or Browsing Information to FNF is entirely up to you. If you decide not to submit Personal Information or Browsing Information, FNF may not be able to provide certain services or products to you. The uses of your Personal Information and/or Browsing Information that, by law, you cannot limit, include:

- for our everyday business purposes – to process your transactions, maintain your account(s), to respond to law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders, or report to credit bureaus;
- for our own marketing purposes;
- for joint marketing with financial companies; and
- for our affiliates' everyday business purposes – information about your transactions and experiences.

You may choose to prevent FNF from disclosing or using your Personal Information and/or Browsing Information under the following circumstances ("opt-out"):

- for our affiliates' everyday business purposes – information about your creditworthiness; and
- for our affiliates to market to you.

To the extent permitted above, you may opt-out of disclosure or use of your Personal Information and Browsing Information by notifying us by one of the methods at the end of this Privacy Notice. We do not share your personal information with non-affiliates for their direct marketing purposes.

For California Residents: We will not share your Personal Information and Browsing Information with nonaffiliated third parties, except as permitted by California law. Currently, our policy is that we do not recognize "do not track" requests from Internet browsers and similar devices.

For Nevada Residents: You may be placed on our internal Do Not Call List by calling (888) 934-3354 or by contacting us via the information set forth at the end of this Privacy Notice. Nevada law requires that we also provide you with the following contact information: Bureau of Consumer Protection, Office of the Nevada Attorney General, 555 E. Washington St., Suite 3900, Las Vegas, NV 89101; Phone number: (702) 486-3132; email: BCPINFO@ag.state.nv.us.

For Oregon Residents: We will not share your Personal Information and Browsing Information with nonaffiliated third parties for marketing purposes, except after you have been informed by us of such sharing and had an opportunity to indicate that you do not want a disclosure made for marketing purposes.

For Vermont Residents: We will not share your Personal Information and Browsing Information with nonaffiliated third parties, except as permitted by Vermont law, such as to process your transactions or to maintain your account. In addition, we will not share information about your creditworthiness with our affiliates except with your authorization. For joint marketing in Vermont, we will only disclose your name, contact information and information about your transactions.

Information From Children

The Website is meant for adults and is not intended or designed to attract children under the age of thirteen (13). We do not collect Personal Information from any person that we know to be under the age of thirteen (13) without permission from a parent or guardian. By using the Website, you affirm that you are over the age of 13 and will abide by the terms of this Privacy Notice.

Privacy Outside the Website

The Website may contain links to other websites. FNF is not and cannot be responsible for the privacy practices or the content of any of those other websites.

International Users

FNF's headquarters is located within the United States. If you reside outside the United States or are a citizen of the European Union, please note that we may transfer your Personal Information and/or Browsing Information outside of your country of residence or the

European Union for any of the purposes described in this Privacy Notice. By providing FNF with your Personal Information and/or Browsing Information, you consent to our collection and transfer of such information in accordance with this Privacy Notice.

The California Online Privacy Protection Act

For some FNF websites, such as the Customer CareNet ("CCN"), FNF is acting as a third party service provider to a mortgage loan servicer. In those instances, we may collect certain information on behalf of that mortgage loan servicer via the website. The information which we may collect on behalf of the mortgage loan servicer is as follows:

- first and last name;
- property address;
- user name and password;
- loan number;
- social security number - masked upon entry;
- email address;
- three security questions and answers; and
- IP address.

The information you submit through the website is then transferred to your mortgage loan servicer by way of CCN. **The mortgage loan servicer is responsible for taking action or making changes to any consumer information submitted through this website. For example, if you believe that your payment or user information is incorrect, you must contact your mortgage loan servicer.**

CCN does not share consumer information with third parties, other than (1) those with which the mortgage loan servicer has contracted to interface with the CCN application, or (2) law enforcement or other governmental authority in connection with an investigation, or civil or criminal subpoenas or court orders. All sections of this Privacy Notice apply to your interaction with CCN, except for the sections titled "Choices with Your Information" and "Access and Correction." If you have questions regarding the choices you have with regard to your personal information or how to access or correct your personal information, you should contact your mortgage loan servicer.

Your Consent To This Privacy Notice

By submitting Personal Information and/or Browsing Information to FNF, you consent to the collection and use of the information by us in compliance with this Privacy Notice. Amendments to the Privacy Notice will be posted on the Website. Each time you provide information to us, or we receive information about you, following any amendment of this Privacy Notice will signify your assent to and acceptance of its revised terms for all previously collected information and information collected from you in the future. We may use comments, information or feedback that you submit to us in any manner that we may choose without notice or compensation to you.

Accessing and Correcting Information; Contact Us

If you have questions, would like to access or correct your Personal Information, or want to opt-out of information sharing with our affiliates for their marketing purposes, please send your requests to privacy@fnf.com or by mail or phone to:

Fidelity National Financial, Inc.
601 Riverside Avenue
Jacksonville, Florida 32204
Attn: Chief Privacy Officer
(888) 934-3354

Notice of Available Discounts

Pursuant to Section 2355.3 in Title 10 of the California Code of Regulations Fidelity National Financial, Inc. and its subsidiaries ("FNF") must deliver a notice of each discount available under our current rate filing along with the delivery of escrow instructions, a preliminary report or commitment. Please be aware that the provision of this notice does not constitute a waiver of the consumer's right to be charged the field rate. As such, your transaction may not qualify for the below discounts.

You are encouraged to discuss the applicability of one or more of the below discounts with a Company representative. These discounts are generally described below; consult the rate manual for a full description of the terms, conditions and requirements for each discount. These discounts only apply to transaction involving services rendered by the FNF Family of Companies. This notice only applies to transactions involving property improved with a one-to-four family residential dwelling.

FNF Underwritten Title Company

TTCC - Ticor Title Company of California

FNF Underwriter

CTIC - Chicago Title Insurance Company

Available Discounts

CREDIT FOR PRELIMINARY REPORTS AND/OR COMMITMENTS ON SUBSEQUENT POLICIES (CTIC)

Where no major change in the title has occurred since the issuance of the original report or commitment, the order may be reopened within 12 months and all or a portion of the charge previously paid for the report or commitment may be credited on a subsequent policy charge within the following time period from the date of the report.

DISASTER LOANS (CTIC)

The charge for a lender's Policy (Standard or Extended coverage) covering the financing or refinancing by an owner of record, within 24 months of the date of a declaration of a disaster area by the government of the United States or the State of California on any land located in said area, which was partially or totally destroyed in the disaster, will be 50% of the appropriate title insurance rate.

CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS (CTIC)

On properties used as a church or for charitable purposes within the scope of the normal activities of such entities, provided said charge is normally the church's obligation the charge for an owner's policy shall be 50% to 70% of the appropriate title insurance rate, depending on the type of coverage selected. The charge for a lender's policy shall be 40% to 50% of the appropriate title insurance rate, depending on the type of coverage selected.

EMPLOYEE RATE (TTCC and CTIC)

No charge shall be made to employees (including employees on approved retirement) of the Company or its underwritten, subsidiary title companies for policies or escrow services in connection with financing, refinancing, sale or purchase of the employees' bona fide home property. Waiver of such charges is authorized only in connection with those costs which the employee would be obligated to pay, by established custom, as a party to the transaction.

ATTACHMENT ONE
CALIFORNIA LAND TITLE ASSOCIATION
STANDARD COVERAGE POLICY – 1990
EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
 - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
 - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
 - (c) resulting in no loss or damage to the insured claimant;
 - (d) attaching or created subsequent to Date of Policy; or
 - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien or right to a lien for services, labor or material not shown by the public records.

CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (12-02-13)
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE

EXCLUSIONS

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of those portions of any law or government regulation concerning:

- a. building;
- b. zoning;
- c. land use;
- d. improvements on the Land;
- e. land division; and
- f. environmental protection.

This Exclusion does not limit the coverage described in Covered Risk 8.a., 14, 15, 16, 18, 19, 20, 23 or 27.

- 2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not limit the coverage described in Covered Risk 14 or 15.
- 3. The right to take the Land by condemning it. This Exclusion does not limit the coverage described in Covered Risk 17.
- 4. Risks:
 - a. that are created, allowed, or agreed to by You, whether or not they are recorded in the Public Records;
 - b. that are Known to You at the Policy Date, but not to Us, unless they are recorded in the Public Records at the Policy Date;
 - c. that result in no loss to You; or
 - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, 8.e., 25, 26, 27 or 28.
- 5. Failure to pay value for Your Title.
- 6. Lack of a right:
 - a. to any land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
 - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 21.
- 7. The transfer of the Title to You is invalid as a preferential transfer or as a fraudulent transfer or conveyance under federal bankruptcy, state insolvency, or similar creditors' rights laws.
- 8. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
- 9. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

LIMITATIONS ON COVERED RISKS

Your insurance for the following Covered Risks is limited on the Owner's Coverage Statement as follows:

- For Covered Risk 16, 18, 19, and 21 Your Deductible Amount and Our Maximum Dollar Limit of Liability shown in Schedule A.

The deductible amounts and maximum dollar limits shown on Schedule A are as follows:

	Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 16:	1.00% % of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 10,000.00
Covered Risk 18:	1.00% % of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 19:	1.00% of Policy Amount Shown in Schedule A or \$5,000.00 (whichever is less)	\$ 25,000.00
Covered Risk 21:	1.00% of Policy Amount Shown in Schedule A or \$2,500.00 (whichever is less)	\$ 5,000.00

2006 ALTA LOAN POLICY (06-17-06)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

- 1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
- 2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13 or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

(Except as provided in Schedule B - Part II, (t or T)his policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

(PART I

(The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.

PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the Insured Mortgage:)

2006 ALTA OWNER'S POLICY (06-17-06)

EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.

3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses, that arise by reason of:

(The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
6. Any lien or right to a lien for services, labor or material not shown by the Public Records.
7. (Variable exceptions such as taxes, easements, CC&R's, etc. shown here.)

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (04-02-15)

EXCLUSIONS FROM COVERAGE

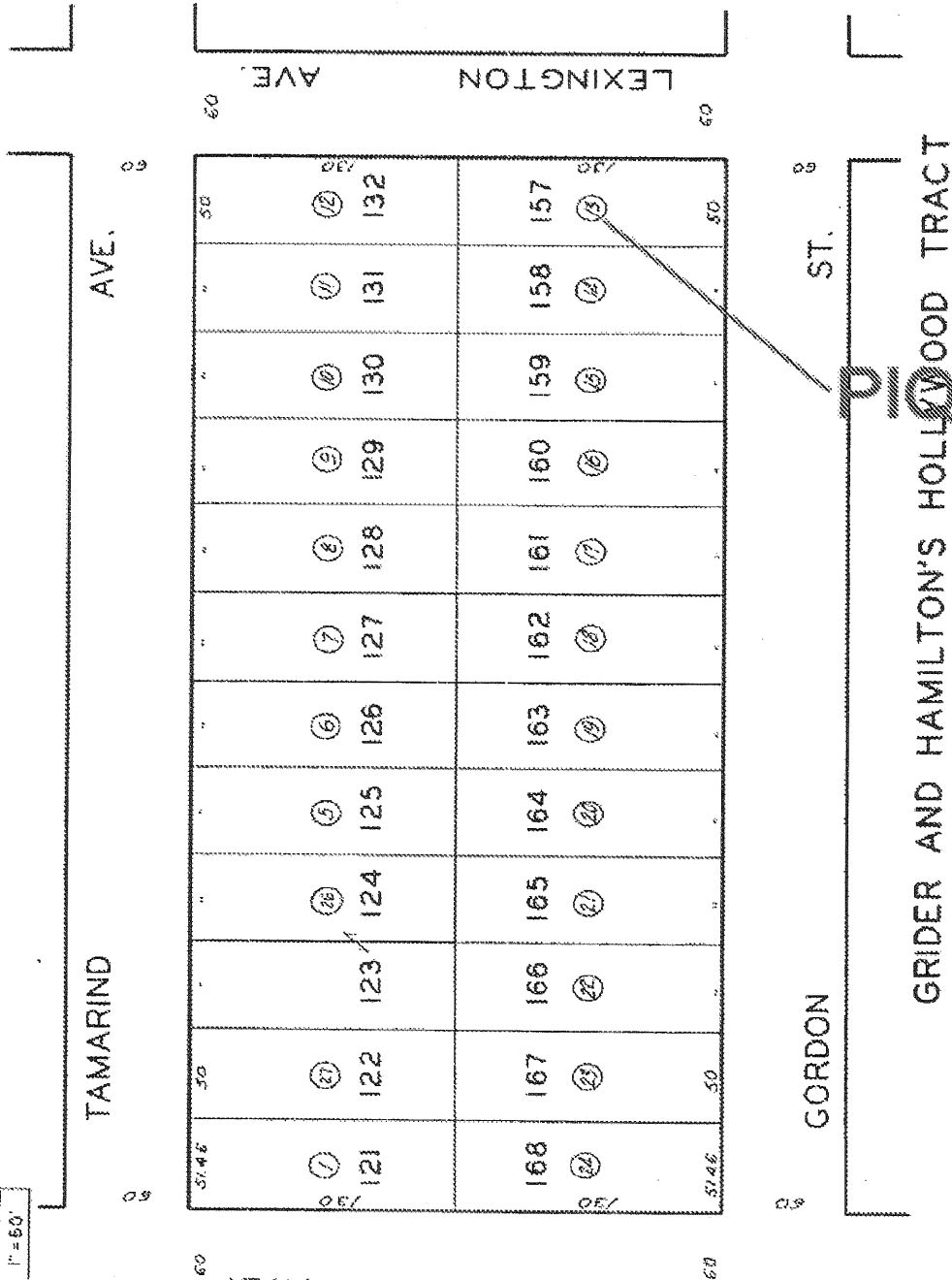
The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5, 6, 13(c), 13(d), 14 or 16.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;

- (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 27 or 28); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
 5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, or any consumer credit protection or truth-in-lending law. This Exclusion does not modify or limit the coverage provided in Covered Risk 26.
 6. Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to Advances or modifications made after the Insured has Knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11.
 7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching subsequent to Date of Policy. This Exclusion does not modify or limit the coverage provided in Covered Risk 11(b) or 25.
 8. The failure of the residential structure, or any portion of it, to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This Exclusion does not modify or limit the coverage provided in Covered Risk 5 or 6.
 9. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 27(b) of this policy.
 10. Contamination, explosion, fire, flooding, vibration, fracturing, earthquake, or subsidence.
 11. Negligence by a person or an Entity exercising a right to extract or develop minerals, water, or any other substances.

23-65
 RECORDED
 4-29-61
 682314

ASSESSOR'S MAP
 COUNTY OF LOS ANGELES, CALIF.



M. B. 9 - 12

CODE
 67

FOR PREV. ASSM'T. SEE: 1118-11

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

EXHIBIT “7”

1996 WL 194270

Only the Westlaw citation is currently available.
United States Bankruptcy Court, D. Wyoming.

In re RIVERMEADOWS ASSOCIATES, LTD.,
a California Limited Partnership, Debtor.

No. 95-20322.

|

Feb. 26, 1996.

|

Order Denying Reconsideration
and Clarification March 11, 1996.

Attorneys and Law Firms

[Georg Jensen](#), Cheyenne, WY.

Brown, Drew, Massey & Sullivan, Casper, WY.

Opinion

*DECISION ON MOTION FOR APPROVAL
OF COMPROMISE AND SETTLEMENT
AND MOTION TO SELL PROPERTY FREE
AND CLEAR OF LIENS AND INTEREST*

[PETER J. McNIFF](#), Bankruptcy Judge.

*1 THESE MATTERS came before the court on the motion of Thomas M. Falcey, the chapter 11 trustee of this estate, for approval of a compromise and settlement and for authority to sell property free and clear of liens and the interest of Donald H. Albrecht. The court has considered the evidence presented, the arguments of counsel and for the reasons set forth, grants both motions.

JURISDICTION

This court has jurisdiction of these matters pursuant to 28 U.S.C. §§ 157(a) and 1334. These matters are core proceedings within the meaning of § 157(b)(2)(A), (N), & (O).

FACTS

Background

Rivermeadows Associates, Ltd., (RAL) is a California limited partnership which filed a chapter 11 bankruptcy in the Central District of California on January 17, 1995. On May 12, 1995 the case was transferred to the District of Wyoming. Immediately thereafter some creditors moved for the appointment of a chapter 11 trustee. After the motion was granted the United States trustee appointed Mr. Falcey.

This complex estate is involved in numerous legal disputes, including the litigation which Mr. Falcey seeks to resolve by settlement. The trustee proposes to settle two (2) lawsuits between the estate, two (2) corporations both named Rivermeadows, Inc., and Mr. Albrecht on the one hand, and Edmund Opler, Jr., Patricia Ann Opler, World's Finest Chocolates, Inc., (WFC) and two (2) Opler living trusts on the other. The trustee refers to these cases as the Opler litigation.

The substance of both cases is essentially identical, but the active litigation is taking place in the United States District Court for the District of Wyoming. The other case is pending in the United States District Court for the Northern District of Illinois. The claims and positions of the parties are described thoroughly in the trustee's motion and in an order issued by the United States District Court in Wyoming. *The Edmund Opler, Jr. Living Trust v. Donald H. Albrecht*, No. 93-CV-0199-B, Order on Motions for Summary Judgment at 13 (D. Wyo. May 30, 1995). Thus, this court will not discuss them at length.

The claims and counterclaims arise out of a transaction for the purchase of four lots in Teton County, Wyoming (Fish Creek lots) by the Oplers from RAL in 1987. The purchase price of \$1,600,000 was paid and the lots were conveyed by warranty deed. Oplers hold record title, subject to a Notice of Lis Pendens executed jointly by RAL and Mr. Albrecht, individually, which was recorded against the lots. The disputes center around an alleged agreement between Mr. Opler and Mr. Albrecht collaterally related to the purchase.

When Mr. Falcey was appointed, the Wyoming litigation was scheduled for trial three months hence. The United States District Court had dismissed the claims against WFC, but all other matters remained for trial. Mr. Falcey employed Donald I. Schultz and Marilyn Kite of the law firm of Holland and Hart to represent the estate in the litigation.

The attorneys also represented the trustee at settlement negotiations with the Oplers. After three days of settlement discussions held in late September, a settlement agreement was reached which is now before this court for approval along with the related motion to sell property of the estate.

*2 The debtor objected to both motions. At the hearing, the debtor moved the court for a continuance pending the future presentation of a proposed postpetition financing arrangement being procured by Mr. Albrecht. Mr. Albrecht is the general partner of the debtor. The court denied the motion.

Mr. Albrecht presented testimony and argument in opposition to the settlement. The objections fall into three basic areas. First, the debtor alleges that the settlement was negotiated by counsel without sufficient contact with and information from Mr. Albrecht and the debtor's former litigation counsel, Gerald Mason. Thus, the debtor asserts that the value of the claims against the Opler parties has been underestimated. No concrete evidence was presented to establish this allegation.

Second, the debtor contends that the settlement terms themselves are vague and will lead to future disputes with the Oplers or other parties. Last, the debtor raises speculation concerning the possible consequences to the estate from any future litigation between the Oplers and Mr. Albrecht or RAL's previous counsel. The debtor contends that future litigation could create claims by the Oplers against other parties who would then seek reimbursement from RAL. WFC has agreed to indemnify the estate for such claims, but the Oplers have not.

The Settlement Agreement

The essential elements of the settlement agreement are:

1. The Oplers will convey the Fish Creek lots to RAL;
2. Both the Oplers and RAL will release and dismiss all of their respective claims and counterclaims against each other. RAL will release the lis pendens it recorded against the lots. No cash payment will be made by either side;
3. If the trustee's motion to sell the Fish Creek lots is approved, the trustee will convey, by trustee's deed, all right title and interest of the estate in the lots to the Oplers

free and clear of liens and of the Notice of Lis Pendens filed by Donald H. Albrecht, individually, against the lots along with lifetime fishing rights;

4. If the motion to sell free and clear of liens and interest is not approved, the trustee will grant the Oplers a nonrecourse mortgage on the lots in the amount of their current fair market value, established at \$2,000,000;

5. The agreement essentially reinstates the 1987 status quo, including the rights, obligations, and exceptions granted by the original warranty deed from RAL to the Oplers; and

6. All claims pending between the Opler parties and Donald Albrecht and the two Rivermeadows corporations will be unaffected by the settlement agreement. WFC has agreed to indemnify the estate for any third party claims against the estate which may result from that or subsequent, related litigation.

The trustee characterizes the settlement as a "walk away" agreement, subject to the obligations and rights already in effect since 1987. The obligations of RAL include road and utility improvements required by the Crescent H Guest Ranch Subdivision - First Filing in Teton County Plat No. 586. The trustee estimates the cost of this construction at approximately \$30,000.

The Evidence

*3 Most of the facts are undisputed. Mr. Falcey conducted a thorough investigation into all aspects of the claims between the Opler parties and the estate prior to reaching the settlement agreement. Mr. Falcey made his evaluation with the advice and assistance of competent, experienced counsel and through consultation with numerous other contacts.

He evaluated the cost and effect on the estate of continuing the litigation, including the likely attorney fees of at least \$250,000 through the trial stage. His counsel evaluated the legitimacy and value of all the claims and considered whether the estate was likely to prevail on its claims. Counsel also considered the credibility of the witnesses for both sides when assessing the burdens of the litigation. With the advice of the estate's bankruptcy counsel, Mr. Falcey considered the impact of the ongoing litigation on his ability to propose a confirmable reorganization plan.

This estate does not have liquid assets with which to fund the Opler litigation. Even though the estate is solvent, the lack of cash is a significant factor in assessing settlement, particularly because the prospects for success on the merits are risky and long-term at best.

Through the in camera testimony, Mr. Falcey established that his counsel would have been prepared for a trial if necessary. This is in contrast to Mr. Albrecht's counsel who were not preparing for trial at that time.

Mr. Albrecht's testimony concerning his willingness to assist the trustee in trial preparation was not credible and was contradicted. Mr. Schultz made numerous, documented attempts to obtain feedback, input, and information from Mr. Albrecht, without success. Yet, there is no indication that this lack of input adversely affected the terms of settlement or the attorneys' well-supported assessment of the claims.

Mr. Schultz, an experienced litigation attorney, testified concerning the indemnification provisions about which the debtor objected. The indemnity provision with WFC was negotiated and included because it is the entity dismissed by the United States District Court with a consequent, potential claim for malicious prosecution. Mr. Schultz also opined that there is little chance the Oplers have similar claims for malicious prosecution because their case must still proceed to a trial on the merits. The debtor's concern in this regard appears to the court to be quite speculative.

Mr. Falcey is also well-informed concerning the duties and responsibilities RAL is assuming under the settlement agreement. The value set by the parties for the Fish Creek Lots, \$2,000,000, is supported and reasonable. In both areas, the trustee obtained background and assistance from realtors, the Teton County Commissioners, members of the homeowners' association, Teton County planning authorities, attorneys expert in riparian and environmental matters, and his own counsel. He has had informative conversations with professionals familiar with these lots, with the real estate market in Teton County, and with the general area under development. The parties also obtained an appraisal of the property by a qualified appraiser to assist in their determination of value.

DISCUSSION

Approval of Compromise and Settlement

*4 The bankruptcy court has broad authority to approve a compromise and settlement, and the decision is within the court's discretion. *In re Del Grosso*, 106 B.R. 165, 167 (Bankr. N.D. Ill. 1989). The major issue for the court's determination is whether the settlement is in the best interests of the estate, with special consideration given to the concerns of the estate's creditors. *Id.* Further, the interest of the creditors is paramount to the interests of the debtor (or equity holders). *In re Foster Mortg. Corp.*, 68 F.3d 914, 917 (5th Cir. 1995), *rehearing denied*, (1996).

The court considers a number of criteria when reviewing a motion to compromise a claim. *American Employers' Insurance Co. v. King Resources Co.*, 556 F.2d 471, 475 (10th Cir. 1977). The four (4) factors generally held applicable to approval of a compromise in cases under the Bankruptcy Code incorporate most of the ten (10) criteria set out by the Tenth Circuit. The four factors are: 1) the probability of success if the claim is litigated; 2) the complexity, expense, and duration of the litigation; 3) the possible difficulty of collecting any judgment; and 4) all other factors relevant to a full and fair assessment of the proposed compromise including the views of the creditors. *In re Bowman*, 181 B.R. 836, 843 (Bankr. D. Md. 1995).

With regard to the manner in which the settlement was obtained, the court should consider that: 1) the settlement was not collusive; 2) the proponents have counsel experienced in similar cases; 3) there has been sufficient discovery of the claims to enable counsel to act intelligently; and 4) the number of objectors or their interest is small. *In re Del Grosso*, 106 B.R. at 168. Application of these standards require that the court compare the terms of the settlement with the likely rewards of the litigation. *In re Foster Mortg. Corp.*, 68 F.3d at 917.

In this case there is no evidence that the settlement was collusive. Both sides had experienced, competent counsel fully apprised of all relevant matters.

The in camera testimony and affidavit established to the court's satisfaction that counsel's advice to the trustee was based on a thorough investigation. Adverse legal effects from the proposed settlement appear to be minimal. Yet there is a very real risk that the estate will not prevail on

its claims despite protracted litigation and a risk that a large judgment could be entered against the estate to the detriment of all the creditors. This is not litigation where the estate is assured of some likely recovery on its claims.

This agreement was crafted to put the estate in the best position for moving forward. The Opler litigation is complex and the claims are novel; a trial will cause a financial drain on the estate even absent a likely appeal; the risk of a significant judgment against the estate is very real; and the likelihood that the estate will prevail on its claims is questionable. The time involved in the litigation alone was a drain on the trustee's resources, preventing him from moving forward to solve the myriad of other problems with which he is confronted.

*5 The settlement will have a positive effect on future development of the estate's real property by removing an encumbrance on the title to property which is part of the overall development. The settlement may have a positive effect on the ability of the estate to obtain future funding by restoring confidence in the estate.

The trustee's rational and pragmatic approach will demonstrate to the community and other's involved with the estate that the litigiousness of Mr. Albrecht is a thing of the past. None of these results is possible while the estate is engaged in long, contentious litigation of uncertain outcome.

The input from the homeowners' association was also beneficial to the court. Their general satisfaction with the settlement agreement is indicative of the positive effect the settlement could have on other disputes in which the estate is engaged.

The court agrees with Mr. Falcey that a settlement between Mr. Opler and Mr. Albrecht is unlikely, and this conclusion is supported by Mr. Albrecht's testimony. The Albrecht and Opler relationship is so contentious that it harms the estate, and any attempt to include Mr. Albrecht in this settlement would make resolution impossible.

Mr. Albrecht clearly has a large financial interest in this solvent estate, and a personal interest in the litigation. Yet, this court is convinced that the settlement is in the best interests of Mr. Albrecht as well. The agreement protects Mr. Albrecht's ability to resolve his differences with Mr. Opler independently. Removing the estate from

the dispute also eliminates the ongoing issue of which party, the estate or Mr. Albrecht, has the duty to defend the claims and pay for the litigation. Mr. Falcey is clearly acting in the best interests of the estate and Mr. Albrecht, as anything that benefits this estate benefits Mr. Albrecht in the long run.

The debtor raised concerns about the lack of specificity in some provisions of the settlement agreement. Particularly, the debtor is concerned that the documents transferring title and effectuating the provisions are not yet drafted, that the debtor should have input into the document language, and that the settlement should not be approved until the terms are defined.

The trustee asserts that the expense of drafting the documents should not be incurred until the agreement is approved, and that the basic outline of the terms is sufficiently described. The court concludes that the trustee and his counsel are aware of the issues raised by the debtor, understand the intent of the agreement, and can draft the necessary terminology to the Oplers' and the estate's mutual benefit. If the trustee wishes to obtain the input of Mr. Albrecht he may do so, but as the legal representative of the estate he is under no such obligation.

With regard to the debtor's concerns that the duties undertaken by the estate are ambiguous, the court concludes that the language is intended to and does implement the status quo as of the 1987 warranty deed. Although the cost of implementing the improvements detailed in the original plat filing remains inexact, Mr. Falcey did obtain a reasonable estimate not refuted by the debtor.

*6 The debtor seeks to have Mr. Falcey find a perfect solution to every possible contingency, and to have every issue completely addressed to the debtor's satisfaction before the agreement is approved. The court does not view such a goal as realistic. Mr. Falcey is an impartial representative of the estate. He cannot be held to an impossible standard of anticipating every potential problem, no matter how remote, and being required to address it.

The court concludes that the agreement is not an invitation to further litigation or unforeseen problems. RAL had the duties included in the settlement long before this agreement was proposed. Further, the debtor never

established to the court's satisfaction how the settlement, which basically adopts the 1987 Opler/Albrecht language, was acceptable in 1987 but is now detrimental. To allow the debtor to obstruct a settlement that is obviously in the best interests of the estate on the basis of supposition is not acceptable to the court.

The trustee may rely on his qualified counsel for legal advice. Although the court must exercise independent judgment, the court may also rely on the trustee's investigation and the opinions of his counsel. *In re Del Grosso*, 106 B.R. at 168. From the evidence presented, the court concludes that Mr. Falcey has shown that this settlement agreement is in the best interests of the estate and equity holders, is fair and reasonable, restores confidence in the estate, outweighs any potential harm, and protects the estate from liability.

Finally, no creditor has objected. This suggests to the court that the creditors are in favor of the settlement and the benefits it will confer on the estate. See *In re Shoemaker*, 155 B.R. 552, 556 (Bankr. N.D. Ala. 1992). The settlement agreement will be approved.

Sale Free and Clear of Liens and Donald H. Albrecht's Interest

The estate seeks approval of a sale free and clear of liens and the interest of Mr. Albrecht's lis pendens pursuant to 11 U.S.C. § 363(f)(4). The trustee asserts that Mr. Albrecht's interest is subject to a bona fide dispute which allows it to be removed from the record title on the Fish Creek lots.

The debtor objected to this transfer which the trustee denominates a sale. Mr. Albrecht did not object.

The trustee argues that Mr. Albrecht is the only party in interest with standing to object and because he did not, the sale must be approved. However, the court finds that this is a solvent estate in which the debtor's partners have a likely monetary interest. Therefore, the court believes that the concerns are legitimately raised and require further examination.

Most of the sale objections are intertwined with the compromise and settlement and have been previously discussed in this decision. The debtor also argued that the trustee's two motions are so intertwined that they must

be considered together. On this, the court and the trustee agree with the debtor and Mr. Albrecht.

The debtor also contends that after the sale is approved, the Oplers will have one (1) year in which to proceed to close the transfer and that this time period is distant. The court concludes, however, that the purpose of the provision is to allow the Oplers time to resolve their disputes with Mr. Albrecht. Because Mr. Albrecht is the driving force behind the debtor's objection here, and the provision was inserted because of the Opler/Albrecht acrimony, the debtor's objection is at the very least somewhat suspect. Besides, no actual harm has been demonstrated.

*7 Mr. Falcey seeks to transfer the Fish Creek lots to the Oplers free and clear of Mr. Albrecht's lis pendens, asserting that interest is subject to a bona fide dispute. Although undefined in § 363(f)(4), the term bona fide dispute appears in § 303 as well. The standard under § 303 requires the bankruptcy court to determine whether there is an objective basis for either a factual or legal dispute as to the validity of the debt. *In re Octagon Roofing*, 123 B.R. 583, 590 (Bankr. N.D. Ill. 1991). The court in *In re Collins*, 180 B.R. 447, 451 (Bankr. E.D. Va. 1995), held that a court need not resolve the dispute, but only determine its existence.

Evidence of a bona fide dispute was presented by the trustee and not refuted by the debtor. To accept the trustee's assessment of the Opler litigation is by necessity also an indication that the Albrecht claims against Oplers are disputed. The Order on Summary Judgment from the United States District Court also establishes that very real and relevant factual disputes exist between the parties to that litigation. And finally, once the lots are transferred to the estate, Mr. Albrecht has no reason to maintain a lis pendens. He is not a party to litigation with RAL.

The court concludes that the claims underlying Mr. Albrecht's filing of the lis pendens are certainly subject to a bona fide dispute. Further, the trustee has established that the conveyance of the lots to the Oplers free and clear of this interest is beneficial to the settlement agreement and hence, to the estate. The sale free and clear of Mr. Albrecht's interest will be approved.

*ORDER DENYING MOTION TO
RECONSIDER AND CLARIFY ORDERS*

The debtor in this chapter 11 case, Rivermeadows Associates, Ltd., filed a motion to reconsider and clarify two (2) orders of this court entered February 26, 1996: an order approving the sale of property of the estate free and clear of liens and interests; and an order approving a compromise and settlement of the Opler litigation.

A motion to reconsider is not recognized as a proper motion by the Federal Rules of Civil Procedure, and there is no vehicle for bringing a “motion to reconsider” before the court. Parties should properly plead their motions to apprise the court of the specific procedural grounds and legal criteria applicable to their legal arguments. *In re BNT Terminals, Inc.*, 125 B.R. 963 (Bankr. N.D. Ill. 1990).

This court will treat the debtor's motion as a motion to alter or amend a judgment pursuant to Fed. R. Civ. P. 59(e). *Committee for First Amendment v. Campbell*, 962 F.2d 1517, 1523 (10th Cir. 1992). Motions to alter or amend a judgment may be granted to correct manifest errors of law or fact, or to consider newly discovered evidence. *In re Larson*, 103 B.R. 896 (Bankr. S.D. Ohio 1989). A motion under Rule 59(e) is not intended to provide the parties with an opportunity to relitigate previously-decided matters or raise new issues after the entry of judgment. *Id.* at 897; *Steele v. Young*, 11 F.3d 1518, 1520 (10th Cir. 1993). Furthermore, the motions are not to be brought simply because the losing party disagrees with the court's decision. *In re BNT Terminals, Inc.*, 125 B.R. at 977. An appeal is the proper avenue for review in such a circumstance.

*8 In this case, the debtor's motion to reconsider does not state any error of law; it does not raise any error of fact; and it does not present any newly discovered evidence. Rather, the motion reargues the issues presented at the hearing and alleges certain circumstances which have occurred since the hearing. The debtor argues that these subsequent developments should persuade the court to change its opinion.

These subsequently occurring circumstances, even if accurately alleged, are not newly discovered evidence. Newly discovered evidence is evidence which was in existence at the time of trial of which the moving party was excusably ignorant. *In re Crozier Brothers, Inc.*, 60 B.R. 683, 688 (Bankr. S.D.N.Y. 1986).

Most of the matters raised by the movant were considered by the court when entering the orders at issue. To the extent that the matters raised were not considered, the court does not believe that there is any information pleaded which presents grounds for a change in the decision.

Finally, the movant urges the court to require the trustee to consult with Mr. Albrecht prior to drafting documents of sale. The court believes its prior ruling on this issue was proper.

The debtor has failed to establish any grounds for reconsideration of the February 26, 1996 orders. Accordingly, the motion to reconsider and clarify is denied.

All Citations

Not Reported in B.R., 1996 WL 194270

EXHIBIT “8”

2009 WL 7751435

Only the Westlaw citation is currently available.

NOT FOR PUBLICATION

United States Bankruptcy Appellate Panel,
of the Ninth Circuit.

In re Richard L. HATFIELD, Debtor.
Jennifer M. Moore, Appellant,
v.
Janina M. Elder, Trustee, Appellee.

No. NC-08-1204-HJuMk.

|
Bankruptcy No. 08-30154.

|
Adversary No. 08-03040.

|
Argued and Submitted on Jan. 22, 2009.

|
March 17, 2009.

Appeal from the United States Bankruptcy Court for the Northern District of California Honorable [Thomas E. Carlson](#), Bankruptcy Judge, presiding.

Before [HOLLOWELL](#), [JURY](#) and [MARKELL](#), Bankruptcy Judges.

Opinion

MEMORANDUM¹

PER CURIAM.

*1 Jennifer Moore (“Moore”) appeals an order of the bankruptcy court granting summary judgment in favor of the chapter 7 trustee (“Trustee”), authorizing the Trustee to sell real property co-owned by the debtor and his ex-domestic partner, Moore. Moore asserts the bankruptcy court erred in granting summary judgment to the Trustee because (1) before a sale can be authorized free of her co-owner interest, the Trustee must demonstrate there is equity in the co-owned property for the bankruptcy estate; and (2) the bankruptcy court wrongly determined that the equity issue could be deferred until the Trustee brought a motion to sell the property under § 363(b) and (f). We find no error and therefore AFFIRM.

I. FACTS

Richard Hatfield (“Debtor”) filed a chapter 11 bankruptcy case on January 31, 2008 which was subsequently converted to chapter 7.² Debtor’s primary assets are real property (single family residences) at 35 Echo Lane in Woodside, California (“Echo”) and 351 Arbor Avenue in South San Francisco, California (“Arbor”). Debtor currently resides at Echo. Arbor has been sold by the Trustee and is not a subject of this appeal.

Debtor and Moore began living together in 1990. They never legally married, but continued their domestic relationship until September 2001.³ Debtor and Moore purchased Arbor in 1990, taking title as husband and wife, tenants in common. Echo, on the other hand, was purchased in 1993 by Debtor as an “unmarried man.” When the relationship between Debtor and Moore ended, Moore undertook litigation to obtain a share of all the assets they acquired during their thirteen year relationship, including Echo.

A. Moore’s Interest in Echo.

On December 17, 2001, Moore filed a petition for dissolution of marriage in the San Mateo Superior Court of California, seeking one-half community property interest in all of Debtor’s assets (“Dissolution Action”). *Marriage of Hatfield*, Case No. FL-068286. On June 2, 2002, Moore recorded a lis pendens in order to provide constructive notice of her purported community property claim (“2002 Lis Pendens”).

In January, 2003, the Superior Court concluded that Moore and Debtor were not legally married and ordered Moore’s petition dismissed. An order expunging the 2002 Lis Pendens on Echo was entered January 3, 2003 (“Expungement Order”). The Expungement Order was not recorded.

Moore subsequently filed a second action in the San Mateo Superior Court of California on August 21, 2003, a Complaint for Breach of Agreement, For Constructive Trust, Accounting and Breach of Agreement for Support. *Moore v. Hatfield*, Case No. CIV433625. In the complaint, Moore asserted an equitable ownership of one-half of Debtor’s property under the principles set forth in *Marvin v. Marvin*, 18 Cal.3d 660, 134 Cal.Rptr. 815, 557 P.2d 106

(1976) (we refer to Moore's August 21, 2003 complaint as the "Marvin Action").

Moore filed a second *lis pendens* related to the Marvin Action on February 1, 2006 ("Marvin Lis Pendens"). On January 22, 2007, the California Superior Court determined that a contractual relationship existed between Debtor and Moore and that Debtor's and Moore's assets, including Echo, should be divided equally, subject to any separate property interest Debtor could establish by contributions of his holdings that existed before 1990.

B. Liens and Judgments Encumbering Echo.

1. WaMu Deed of Trust

*2 Debtor purchased Echo for \$950,000 using purchase money financing in the amount of \$665,000. In April 2001 (prior to the Dissolution Action), the property was refinanced. In conjunction with that refinancing, a new \$985,000 first deed of trust with Indymac Bank was recorded. At the same time, a \$205,000 line of credit was obtained and secured by a second deed of trust in favor of Greenpoint Mortgage Funding. In February 2004, Debtor refinanced the Indymac Bank and Greenpoint Mortgage Funding obligations and executed a \$1,210,000 deed of trust in favor of Preferred Financial Group. That deed of trust is still secured by Echo and is now held by Washington Mutual Bank ("WaMu") ("WaMu Deed of Trust").⁴

Even though the WaMu Deed of Trust was recorded after the Expungement Order of the 2002 *Lis Pendens* and prior to the filing of the Marvin Lis Pendens, WaMu stipulated with Moore, in December 2007 (after Moore's victory in the Marvin Action), that the WaMu Deed of Trust only encumbered Debtor's one-half interest in Echo ("WaMu Stipulation").⁵ The WaMu Stipulation was submitted in a separate civil partition action, brought by Moore in May 2007, against Hatfield and other lienholders on Echo ("Partition Action").⁶ *Moore v. Hatfield, et.al.*, Case No. CIV463382. The WaMu Stipulation was not signed by all the parties to the litigation. There is no record of an order approving the WaMu Stipulation either in the record on appeal or on the Partition Action docket.⁷

Besides the WaMu Deed of Trust, there were two other major encumbrances on Echo that grew out of Debtor's businesses.

The WaMu Stipulation was filed on December 17, 2007 for the judge's signature but "sent back with note form [sic] Judge Freeman ." Counsel for Moore admits the judge refused to sign the WaMu Stipulation because not all parties were signatories. We note that at paragraph 1 of the WaMu Stipulation, the parties agreed WaMu would not be required to appear or file a responsive pleading in the action. We see from the docket that WaMu's counsel filed an answer to the complaint. Therefore, we assume the WaMu Stipulation was not effective or binding on the parties.

2. Sand Hill Deed of Trust

A second position deed of trust was recorded against Echo in February 2004 to secure loans in the amount of \$1,509,984.92 in favor of Sand Hill Venture Group ("Sand Hill") ("Sand Hill Deed of Trust"). Sand Hill's address in the Sand Hill Deed of Trust is the same as the address of one of Debtor's companies. Sand Hill was controlled by Melvin Slager, an employee of the Debtor. The Sand Hill Deed of Trust also secures obligations in favor of other entities controlled by Slager, which we refer to as the "Sand Hill and IP Entities."

The Sand Hill and IP Entities brought suit to enforce their contractual rights in the United States District Court, Eastern District of Michigan, on March 16, 2006. *I.P. Enterprises Pension Fund, et. al. v. Hatfield et. al.*, Case No. 06-11162. The action did not include a cause of action for judicial foreclosure but sought a judgment on eight different notes. A settlement was reached in December 2006, giving the Sand Hill and IP Entities a money judgment in the amount of \$2,375,836.44.

3. Judgment Liens

*3 In addition to the WaMu and Sand Hill Deeds of Trust, two judgment liens against Debtor as judgment debtor were recorded against Echo in favor of individual investors for prepetition debts in the approximate amount of \$2,000,000 ("Judgment Liens"). The Judgment Liens were recorded in November and December 2007, within 90 days of Debtor's bankruptcy filing.

On July 11, 2008, the Trustee filed an adversary proceeding against the Sand Hill and IP Entities, Moore, and the Judgment Lienholders, seeking: (1) a determination that the WaMu Deed of Trust is secured by the entire fee of Echo; (2) the avoidance of the Sand Hill Deed of Trust under California's "one form of action" law and as a fraudulent transfer; and (3) the avoidance of the Judgment Liens as preferences ("Sand Hill Adversary"). The Sand Hill Adversary was still pending at the time the Trustee sought authorization to sell Arbor and Echo free of Moore's interest.

C. Trustee's Request to Sell Echo.

On May 8, 2008, the Trustee filed a Complaint to Sell Real Property Free and Clear of Co-Owner's Interest in order to acquire the authority to sell Arbor and Echo free and clear of Moore's co-tenancy interest (the "Adversary Proceeding"). At the same time, in the main bankruptcy case, the Trustee filed an Ex Parte Motion to Employ Real Estate Broker to sell Arbor and Echo ("Motion to Employ").

Moore responded to these actions by filing:

- (1) in the main case, on May 21, 2008, an Opposition to the Motion to Employ which included, as exhibits, Debtor's bankruptcy schedules, the statement of decision in the Marvin Action, WaMu's proof of claim, and the WaMu Stipulation, to support her argument there was no equity in the properties, and therefore nothing for a real estate agent to sell;
- (2) in both the main case and the Adversary Proceeding, on May 28, 2008, a Motion to Consolidate the Motion to Employ with the Adversary Proceeding ("Motion to Consolidate");
- (3) in the main case, on May 30, 2008, an Amended and Restated Motion for Relief from Stay in order to permit Moore to proceed in state court with her Partition Action and an action for child support;
- (4) in the Adversary Proceeding on June 10, 2008, a Motion to Dismiss Complaint Pursuant to Rule 7012 along with a request to the bankruptcy court to take judicial notice of Debtor's bankruptcy schedules (included as exhibits), as evidence of the lack of equity in the Echo and Arbor properties ("Motion to Dismiss").

Because Moore included Debtor's schedules in her Motion to Dismiss, the Motion to Dismiss was treated as a motion for summary judgment under [Federal Rule of Civil Procedure 12\(d\)](#) and Rule 7012(b). The Trustee filed a Counter Motion for Summary Judgment on June 27, 2008 ("Counter Motion"). Moore filed a Combined Memorandum in Support of Motions by Jennifer Moore and in Opposition to Motions by the Trustee ("Opposition"). The Opposition reiterated Moore's argument that without establishing equity in Echo the Trustee could not properly sell it under § 363(h). The Trustee did not file a reply to Moore's Opposition.

*4 On July 17, 2008, the day before the hearing on the Motion to Dismiss and the Counter Motion, the bankruptcy court issued a Tentative Ruling Re Defendant's Motion to Dismiss and Plaintiff's Counter-Motion for Summary Judgment ("Tentative Ruling"). The bankruptcy court held, in its Tentative Ruling, that the Trustee had met the requirements of § 363(h) and authorized the Trustee to sell Echo and Arbor free of Moore's interest.

After the Tentative Ruling was issued, Moore filed a supplement to her Opposition addressing the findings made in the Tentative Ruling. The bankruptcy court then amended its Tentative Ruling, reiterating its conclusion that the Trustee was entitled to summary judgment and determining that the Trustee made a "plausible case" for establishing equity in Echo and that final determination of whether the Trustee's interest was overencumbered was not necessary prior to authorization of a sale under § 363(h).

Oral argument was held the following day, on July 18, 2008. It does not appear from the record that oral argument altered the bankruptcy court's Tentative Ruling, as amended.⁸ After the hearing, Moore filed an objection to the Trustee's proposed orders on the Motion to Dismiss and Counter Motion on the basis that the bankruptcy court did not explain the grounds for its decision and that the ruling was erroneous because it did not include a finding that a sale would benefit the estate. The bankruptcy court declined to make specific findings of fact beyond those made in its Tentative Ruling and its amended Tentative Ruling and overruled Moore's objections by written order dated July 23, 2008. It entered its order and Judgment Authorizing Sale of Real Property Free and Clear of Co-Owner's Interest on July 24, 2008,

granting Trustee's Counter Motion and denying Moore's Motion to Dismiss ("Judgment Authorizing Sale").

Moore's Motion to Consolidate and the Trustee's Motion to Employ were also set for hearing on July 18, 2008. The record does not contain a ruling made on the Motion to Consolidate. However, the bankruptcy court apparently approved the Motion to Employ because Moore made an objection to the form of order proposed by the Trustee. The Trustee then filed an Ex Parte Motion for Modified Order on July 22, 2008. The bankruptcy court approved the Trustee's motion the following day, directing the parties to work together on sale terms prior to marketing the properties ("Modified Employment Order").

On July 25, 2008, the Trustee sought further hearing on the Motion to Employ in order to consider marketing terms ("Amended Motion to Employ"). The hearing was held August 1, 2008. After further declarations were submitted, the bankruptcy court entered its Order Granting Trustee's Amended Motion to Employ, on August 4, 2008, along with an accompanying memorandum concluding that there was no basis to sustain Moore's objection to the employment of the real estate broker and any objection regarding the sale price could be raised if and when the Trustee filed a motion under § 363(b) and (f) ("Order to Employ").

D. Moore's Appeal

*5 Moore filed a notice of appeal on August 2, 2008 which appealed the Judgment Authorizing Sale and the Modified Employment Order entered July 24, 2008.

When Moore appealed the Modified Employment Order, there had just been further hearing on the Amended Motion to Employ and the bankruptcy court had not yet entered the Order to Employ. Moore did not file a notice of appeal of the Modified Employment Order (or the Order to Employ) in the main bankruptcy case.

On August 12, 2008, Moore filed an Amended Notice of Appeal to include the Order to Employ. Moore's Amended Notice of Appeal states she is appealing (1) the Modified Employment Order approving the Trustee's Motion to Employ, entered July 24, 2008; (2) the Judgment Authorizing Sale (along with the Tentative Ruling, the amended Tentative Ruling, and the order overruling Moore's objection to the form of order); and (3) the Order to Employ.

Moore has withdrawn her appeal as far as the Judgment Authorizing Sale relates to the Arbor property which has now been sold with Moore's consent.

II. ISSUE

Did the bankruptcy court err in entering the Judgment Authorizing Sale, as well as the Modified Employment Order and Order to Employ, which allowed the Trustee to market and sell Echo free and clear of Moore's interest?

III. JURISDICTION

The bankruptcy court had jurisdiction pursuant to 28 U.S.C. § 157(b)(2)(B). We have jurisdiction to hear appeals from final judgments, orders, and decrees under 28 U.S.C. § 158(c).

The Judgment Authorizing Sale entered in favor of the Trustee, is "a complete act of adjudication," that "ends the litigation on its merits and leaves nothing for the court to do but execute a judgment". *Slimick v. Silva (In re Slimick)*, 928 F.2d 304, 307 (9th Cir.1990) (quoting *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 373-74, 101 S.Ct. 669, 673-74, 66 L.Ed.2d 571 (1981)).

However, the Modified Employment Order and the Order to Employ are interlocutory orders for which no motion for leave to appeal was filed in the main bankruptcy case. See e.g., *Sec. Pac. Bank Wash. v. Steinberg (In re Westwood Shake & Shingle, Inc.)*, 971 F.2d 387, 389-90 (9th Cir.1992).

We have discretionary authority to review interlocutory appeals from judgments that are not final. See 28 U.S.C. § 158(a)(3); *Wolkowitz v. Beverly (In re Beverly)*, 374 B.R. 221, 231-32 (9th Cir.BAP2007). The Panel may treat a timely notice of appeal as a motion for leave to appeal when an order is interlocutory and no motion for leave has been filed. *Cutter v. Seror (In re Cutter)*, 398 B.R. 6, 17 (9th Cir.BAP2008). Granting leave to appeal is left to the discretion of the Panel and may be appropriate when the appeal would materially advance resolution of the dispute and minimize further litigation expenses. *Id.* Because we do not find that to be the case here, we decline to exercise such authority with respect to the Modified

Employment Order and the Order to Employ. *See Id.* Therefore, the Panel's jurisdiction extends only over the Judgment Authorizing Sale. 28 U.S.C. § 158(a)(1).

IV. STANDARDS OF REVIEW

*6 We review de novo the bankruptcy court's ruling on a motion for summary judgment. *Woodworking Enters., Inc. v. Baird (In re Baird)*, 114 B.R. 198, 201 (9th Cir.BAP1990). In conducting a de novo review, we view the evidence, in the light most favorable to the non-moving party, to determine whether the bankruptcy court correctly found that there were no genuine issues of material fact and that the moving party was entitled to judgment as a matter of law. *Id.*

V. DISCUSSION

A bankruptcy trustee is required to collect and reduce to money property of the estate as expeditiously as is compatible with the best interests of the parties involved. 11 U.S.C. § 704(a)(1); *Cnty. Nat'l Bank & Trust Co. of N.Y. v. Persky (In re Persky)*, 893 F.2d 15, 19 (2d Cir.1989). Here, the Trustee sought a declaratory judgment under § 363(h) to allow her to realize the value of Debtor's property through a sale of Echo free and clear of Moore's interest. Rule 7001(3). Section 363(h) was enacted by Congress to “facilitate the bankruptcy goal of effective distribution of the property of the bankruptcy estate by the trustee.” *Coan v. Bernier (In re Bernier)*, 176 B.R. 976, 985–86 (Bankr.D.Conn.1995). It “makes significant changes in what constitutes property of the estate.... These changes will bring anything of value that the debtors have into the estate ... for a coherent valuation of its value and transferability, and then to dispose of it for the benefit of debtor's creditors.” *Id.* (citing H.R.Rep. No. 595, 95th Cong.2d Sess. 175–75 (1977) reprinted in 1978 U.S.C.C.A.N. 5963, 6136–37 (1977)). Section 363(h) provides:

Notwithstanding subsection (f) of this section, the trustee may sell both the estate's interest, ... and the interest of any co-owner in property in which the debtor had, at the time of the commencement of the case, an undivided interest as a tenant in common, joint tenant, or tenant by the entirety, only if—

- (1) partition in kind of such property among the estate and such co-owners is impracticable;
- (2) sale of the estate's undivided interest in such property would realize significantly less for the estate than sale of such property free of the interests of such co-owners;
- (3) the benefit to the estate of a sale of such property free of the interests of co-owners outweighs the detriment, if any, to such co-owners; and
- (4) such property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light, or power.

11 U.S.C. § 363(h).

Moore contends the Trustee must demonstrate equity in Echo before a sale free of Moore's co-ownership interest can be authorized under § 363(h). Moore bases this argument on her interpretation of the introductory language of § 363(h), which grants a bankruptcy trustee the right to sell co-owned property “notwithstanding” § 363(f). According to Moore, the use of the word “notwithstanding” in subsection (h) means that courts must “forget” about subsection (f) in considering sales of co-owned property under § 363(h).

*7 Moore's contention that § 363(h) effectively “writes out” or supplants § 363(f) when a trustee is attempting to sell co-owned property is based upon the mistaken premise that § 363(h) is a *limitation* of a trustee's powers to sell under § 363(f). However, § 363(h) is actually an *expansion* of those rights. Section 363(f) permits a trustee “to maximize the recovery from an asset without being unduly entangled at an early stage of the proceedings in controversies concerning the existence, validity and priority of liens and other interests in the property sought to be sold.” *In re Takeout Taxi Holdings, Inc.*, 307 B.R. 525, 528 (Bankr.E.D.Va.2004); *see also, Moldo v. Clark (In re Clark)*, 266 B.R. 163, 171 (9th Cir.BAP2001).

A trustee must be able to satisfy one of the conditions specified in § 363(f) in order to proceed with a sale. *In re Takeout Taxi Holdings, Inc.*, 307 B.R. at 529. In cases where there is no bona fide dispute about a co-owner's interest in property, the co-owner does not consent to the sale, and, state law will not permit a “money partition” of

the property, § 363(f) will not provide a trustee with the power to sell the co-owned property.

However, § 363(h) “provides a method by which the estate may realize on the value of a debtor's interest in [co-owned] property” by permitting the bankruptcy trustee to sell such property without obtaining the consent of the co-owner as otherwise may be required under applicable state law. H.R.Rep. No. 95–595, 95th Cong., 1st Sess.1977, 175–177, reprinted in 1978 U.S.C.C.A.N. 5963, 6136–38 (1977). Section 363(h), therefore, does not supplant § 363(f) when co-owned property is being sold, but rather permits a sale which might not otherwise be possible under § 363(f). If the trustee satisfies the requirements of § 363(h), then a sale can be pursued under §§ 363(b) and (f).

A. The Trustee May Sell Echo Because it is Property of the Estate.

Moore asserts that under accountings which are to take place in the Marvin and Partition Actions, she will be granted such a large interest in Echo that the Trustee will be left with either no interest in Echo or an interest which is completely encumbered. Moore contends that the Trustee is subject to her to-be-determined larger interest because she filed lis pendens in the Marvin and Partition Actions.⁹

Moore relies on *Warwick w. Yassian (In re Rodeo Canon Dev. Corp.)*, 362 F.3d 603 (9th Cir.2004) and *Darby v. Zimmerman (In re Popp)*, 323 B.R. 260 (9th Cir.BAP2005) to support her contention that the Trustee has no interest to sell. Those cases are not applicable here. In both *In re Rodeo Canon Dev. Corp.* and *In re Popp* there was a pending adversary proceeding regarding whether the bankruptcy estate held *any title* to the property at the time the motion to sell was filed. In this case, it is undisputed that, as of the commencement of the bankruptcy case, the state court had awarded Moore 50% of the Debtor's undivided interest in Echo, leaving the Debtor with the other 50% interest which the Trustee now owns.

*8 Property of the estate is broadly defined and not limited to property that may have equity value for creditors. 11 U.S.C. § 541(a). It encompasses all property in which the debtor has an interest at the time the debtor files bankruptcy. *Id.* Accordingly, we agree with the bankruptcy court that the Trustee is the co-owner of

Echo and may sell it free of Moore's interest if she can meet the requirements of § 363(h).

The parties agree that partition of Echo as a single family residence is impracticable. Further, the parties agree that Echo is not used in the production, transmission, distribution or sale, of electric energy or of natural or synthetic gas for heat, light, or power. Therefore, the only issues in this dispute are whether the second and third conditions for a sale under § 363(h) have been satisfied.

B. Selling Moore's and Debtor's Interest in Echo Will Realize More Value than Selling the Debtor's Interest Alone.

Moore argues the Trustee failed to meet the requirement of § 363(h)(2), that a sale of the estate's partial interest in Echo would realize significantly less than a sale of all of Echo, because the Trustee did not demonstrate there was equity for the estate in Echo.

However, in order to satisfy § 363(h)(2), the Trustee must only demonstrate that selling Debtor's and Moore's interests together will realize more value from a sale than selling the Debtor's interest alone. *Yoppolo v. Schwenker (In re Zeigler)*, 396 B.R. 1, 4 (Bankr.N.D.Ohio 2008). Echo is a single family residence. It is “generally accepted” that a sale of only the debtor's undivided interest in a single family residence would significantly diminish the value of the property. *Id.*; *Brown v. Phillips (In re Phillips)*, 379 B.R. 765, 796 (Bankr.N.D.Ill.2007) (citations omitted).

Both parties submitted declarations from real estate brokers who evaluated the fair market value of Echo if it were sold in its entirety. Moore presented detailed listing information and market analysis for single family homes (without any co-owner's interest attached to the property). The Trustee's and Moore's real estate brokers determined Echo could sell at a price between \$1,900,000 and \$2,225,000. Neither party submitted any evidence or argued that Echo could fetch more than that amount if only the Debtor's interest was sold.

Therefore, we find there is no genuine issue of fact about whether the sale of the entire property would provide more value than selling Echo with Moore's interest attached and agree with the bankruptcy court's determination that the Trustee satisfied § 363(h)(2).

C. Benefit to the Estate From a Sale of Echo Outweighs Detriment to Moore.

The third condition for a § 363(h) sale is that the benefit to the estate of selling the property as a whole outweighs any detriment to the co-owner. 11 U.S.C. § 363(h)(3); see e.g., *Gazes v. Roswick (In re Roswick)*, 231 B.R. 843, 859–64 (S.D.N.Y.1999) (balancing the non-consenting co-owner's detriment, economic and non-economic, against the benefit to the estate); *Bakst v. Griffin (In re Griffin)*, 123 B.R. 933, 936–37 (Bankr.S.D.Fla.1991) (applying the benefit/detriment balancing test of § 363(h)(3)). The detriment to a co-owner can be composed of psychological or emotional injury to the person who is forced to give up his or her interest in property. See *In re Persky*, 893 F.2d 15, 20–21 (2d Cir.1989). Moore does not have a possessory interest in Echo; therefore, a sale of Echo would not displace her or uproot her from her community. See *In re Roswick*, 231 B.R. at 859–64; *In re Griffin*, 123 B.R. at 936.

*9 Moore provided no evidence, and did not argue, that a sale of Echo would be detrimental to her. At oral argument, the Panel asked Moore what the detriment would be if Echo were sold free of her interest. Moore answered the detriment was a concern that the Trustee's valuation of Echo was too low. But Moore's financial interests are protected by other subsections of § 363, including the right to obtain her share of the net proceeds under § 363(j) and a right of first refusal to purchase Echo at the sale price under § 363(I).

Rather than demonstrating that a sale of Echo would be detrimental to her, Moore argues that the phrase “benefit to the estate” in § 363(h)(3) requires the Trustee to demonstrate the existence of equity in the property to be sold. However, because the question of equity is considered when a sale motion is brought under §§ 363(b) and (f), the Trustee is not required to demonstrate equity to satisfy § 363(h). Further, even if we were to agree with Moore's interpretation of § 363(h)(3), we find the Trustee presented sufficient evidence to demonstrate that she could create equity in Echo through the pursuit of litigation to avoid certain liens and to establish that the WaMu Deed of Trust encumbers all of Echo.

The Trustee asserts the Sand Hill Deed of Trust can be avoided because the Sand Hill and IP Entities sought a money judgment on the underlying notes and not a judicial foreclosure, which bars them from enforcing their deed of trust under California's “one form of action rule.”

See CAL.CODE CIV. P. § 726. Further, the Trustee argues the transfer of the Sand Hill Deed of Trust was a fraudulent transfer. See e.g., *Pajaro Dunes Rental Agency, Inc. v. Spitters (In re Pajaro Dunes Rental Agency, Inc.)*, 174 B.R. 557, 572–73 (Bankr.N.D.Cal.1994); 11 U.S.C. § 548.

In support of her contention that the Sand Hill Deed of Trust can be avoided, the Trustee provided the underlying documentation for, and recordation of, the Sand Hill Deed of Trust which shows the address of Sand Hill to be the same as that of one of Debtor's companies. She submitted deposition testimony evidencing Slager's position as an employee of the Debtor. Further, the Trustee provided evidence of the action the Sand Hill and IP Entities brought in the Eastern District of Michigan for a money judgment instead of judicial foreclosure.

The Trustee argues the Judgment Liens are avoidable as preferences because they were recorded within 90 days of the Debtor filing bankruptcy and are to “insiders” of the Debtor. See 11 U.S.C. § 547(b). In support of this argument, the Trustee provided the documentation of the underlying obligations giving rise to the Judgment Liens and the recording of them in November and December 2007.

To support her assertion that the WaMu Deed of Trust encumbers all of Echo, the Trustee provided the statement of decision in the Dissolution Action denying Moore marital community property rights, the Expungement Order of the 2002 Lis Pendens, and the statement of decision in the Marvin Action entitling Moore to 50% interest in Echo, as well as the underlying obligations supporting all prior deeds of trust which were replaced by the WaMu Deed of Trust in 2004. The Trustee further requested the bankruptcy court take judicial notice of all pleadings, orders, and papers filed in the Debtor's main bankruptcy case.

*10 The Trustee argues that the evidence supports her contention that a potential sale of Echo in the amount of approximately \$1,900,000 would realize a significant benefit to the estate once the Sand Hill Deed of Trust and the Judgment Liens are avoided, and a determination is made that the WaMu Deed of Trust encumbers both Moore and Debtor's interest in Echo.

Moore did not dispute the evidence submitted by the Trustee regarding the avoidability of the Sand Hill Deed of Trust and Judgment Liens under §§ 548 and 544. Moore suggested the judgment in the District Court Action may be enforceable despite California's "one action rule," but she did not counter the Trustee's allegation that the Sand Hill Deed of Trust is avoidable as a fraudulent transfer. Therefore, we find that Moore failed to demonstrate the existence of an issue of material fact regarding the Trustee's ability to avoid the Sand Hill Deed of Trust and Judgment Liens.

Moore did contest the Trustee's assertions regarding the scope of the WaMu Deed of Trust, but the only evidence she submitted to counter the Trustee's assertion was the WaMu Stipulation, which was not given effect; her 2002 Lis Pendens, which was expunged; along with reference to the Marvin Lis Pendens and the Partition Lis Pendens recorded after the WaMu Deed of Trust. We do not find this evidence is sufficient to create a genuine issue of material fact regarding the extent of the WaMu Deed of Trust.

Nevertheless, to the extent Moore is correct in her contention that the WaMu Deed of Trust only attaches to the estate's interest, a sale of Echo may still result in the satisfaction of WaMu's claim. That, in and of itself, is beneficial to the estate. "The satisfaction of a claim against the estate clearly confers a benefit on the estate." *Spear v. Crow Canyon Office Park Partners (In re Haley)*, 100 B.R. 13, 17 (Bankr.N.D.Cal.1989); *Behm v. Bell (In re Bell)*, 80 B.R. 104, 107 (Bankr.M.D.Tenn.1987); *In re Roswick*, 231 B.R. 843, 860 (Bankr.S.D.N.Y.1999).

The complete determination of the extent of the encumbrances and the amount of equity available in Echo is not a determination that needs to be made here. Section § 363(h)(3) only requires that a sale of the property free

of the co-owner's interest offer a benefit to the estate that is not outweighed by any detriment to a co-owner. In this case, the Trustee demonstrated the benefit to the estate is that Echo will bring a higher price if sold in its entirety rather than if the Debtor's interest alone were sold. Additionally, the Trustee demonstrated she can realize a benefit from the sale of Echo as successor to any avoided liens and by paying off claims against the estate. See 11 U.S.C. § 544. Moore presented no evidence that a sale of Echo was detrimental to her, so there is nothing against which to balance these benefits to the estate. See e.g., *In re Roswick*, 231 B.R. at 859–64.

Moore's "stated objective," as articulated in her briefs on appeal, is "to assure the maximum value is obtained by the sale of Echo." However, Moore may raise this issue if and when the Trustee brings a motion to sell under §§ 363(b) and (f). Accordingly, we agree with the bankruptcy court that a final determination of whether the Trustee's interest in Echo is over encumbered is not necessary to a § 363(h) determination and that the Trustee was entitled to judgment as a matter of law under § 363(h).

VI. CONCLUSION

*11 Moore failed to demonstrate the existence of a material fact under either §§ 363(h)(2) or (h)(3) to bar granting summary judgment to the Trustee. Moore's assertion that §§ 363(h)(2) and (h)(3) require a showing of equity for the estate in co-owned property before it can be sold is simply incorrect. Because we conclude the Trustee satisfied the conditions of § 363(h), we AFFIRM the bankruptcy court's Judgment Authorizing Sale.

All Citations

Not Reported in B.R., 2009 WL 7751435

Footnotes

- 1 This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R.App. P. 32.1), it has no precedential value. See 9th Cir. BAP Rule 8013–1.
- 2 Unless otherwise indicated, all chapter, "Code," and section references are to the Bankruptcy Code, 11 U.S.C. §§ 101–1532 and to the Federal Rules of Bankruptcy Procedure, Rules 1001–9037.
- 3 Hatfield and Moore did have a wedding ceremony, but no marriage license was filed.
- 4 According to the Trustee, the Debtor is not paying on the WaMu Deed of Trust and as a result, the "carrying costs" for Echo are about \$10,000 per month.

- 5 The WaMu Stipulation states, in part. “On June 19, 2002, [Moore] filed a *Lis Pendens* on the Property [Echo]. The *Lis Pendens* is *prior* to WAMU's Deed, and by way of this stipulation, it is acknowledged by WAMU that [Moore] holds a 1/2 (one-half) interest in the Property that is not subject to WAMU's Deed.”
- 6 Moore recorded a third *lis pendens* May 30, 2007, against Echo in conjunction with the Partition Action (the “Partition *Lis Pendens*”).
- 7 Because the parties presented scant information as to the context or effect of the WaMu Stipulation, we have taken judicial notice of the docket in the Partition Action, *Moore v. Hatfield, et. al.*, Case No. CIV463382 filed in San Mateo Superior Court. *O'Rourke v. Seaboard Sur. Co. (In re E.R. Fegert, Inc.)*, 887 F.2d 955, 957–58 (9th Cir.1989).
- 8 No transcript of the July 18, 2008 hearing is available either in the record on appeal or on the bankruptcy case dockets.
- 9 To the extent that Moore is asserting equitable claims, such as a constructive trust, such claims can generally be avoided by the Trustee. 11 U.S.C. § 544. A constructive trust is “not the same kind of interest in property as a joint tenancy or a remainder. It is a remedy, flexibly fashioned in equity to provide relief where a balancing of interests in the context of a particular case seems to call for it.” *Chbat v. Teeel (In re Chbat)*, 876 F.2d 769, 771 (9th Cir.1989).

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I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 10250 Constellation Boulevard, Suite 1700, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled **DEBTOR'S MOTION FOR ENTRY OF AN ORDER (1) AUTHORIZING SALE OF PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES AND OTHER INTERESTS; (2) APPROVING OVERBID PROCEDURE; AND (3) GRANTING RELATED RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 20, 2018**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Joseph Caceres jec@locs.com, generalbox@locs.com
- David B Golubchik dbg@lnbyb.com, dbg@ecf.inforuptcy.com
- Brian R Nelson becky@ringstadlaw.com, brian@ringstadlaw.com
- S Margaux Ross margaux.ross@usdoj.gov
- Charles Shamash cs@locs.com, generalbox@locs.com
- Lindsey L Smith lls@lnbyb.com, lls@ecf.inforuptcy.com
- Jay M Spillane jspillane@spillanepc.com, cdale@spillanepc.com; smargetis@spillanepc.com
- United States Trustee (SV) ustpreion16.wh.ecf@usdoj.gov

2. SERVED BY UNITED STATES MAIL: On **February 20, 2018**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Los Angeles County Tax Collector
P.O. Box 54018
Los Angeles, CA 90054-0018

United States Trustee
915 Wilshire Blvd, Suite 1850
Los Angeles, CA 90017-3560

Aaron Mensch
Barrington Capital Group, LLC
5757 W Century Blvd
Los Angeles, CA 90045

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **February 20, 2018**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

1 **Served via Attorney Service**

Hon. Martin R. Barash
2 United States Bankruptcy Court
21041 Burbank Boulevard, Suite 342
3 Woodland Hills, CA 91367

4 I declare under penalty of perjury under the laws of the United States of America that the foregoing is
true and correct.

5
6

February 20, 2018	Stephanie Reichert	/s/ Stephanie Reichert
<i>Date</i>	<i>Type Name</i>	<i>Signature</i>

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