GRAHAM & MARTIN, LLP

ATTORNEYS AT LAW

3 PARK PLAZA, SUITE 2030
IRVINE, CALIFORNIA 92614

TELEPHONE (949) 474-1022
FACSIMILE (949) 474-1217

**June 16, 2003**

**PROPOSITION 65**
**60-DAY NOTICE OF INTENT TO SUE ALLIANCE RESIDENTIAL CO. PURSUANT TO HEALTH & SAFETY CODE SECTION 25249.6**

This legal notice constitutes notification that Alliance Residential Co. (hereinafter referred to as the "Violator") has violated Proposition 65, the Safe Drinking Water and Toxic Enforcement Act (Cal. Health and Safety Code § 252495 *et seq.*). This notice is given by the Consumer Defense Group and The McKenzie Group (hereinafter referred to collectively as the "Noticing Party") which must be contacted through their legal representative Graham & Martin LLP, attn: Anthony G. Graham, Esq., 3 Park Plaza, Suite 2030, Irvine, CA 92614, (929) 474-1022.

Proposition 65 requires that a notice of violation and intent to sue be given to the Violator sixty (60) days prior to commencing a private enforcement proceeding pursuant to Health & Safety Code § 25249.7(d). With this letter, the Noticing Party gives notice of the alleged violations to the Violator and the Attorney General and District Attorney and City Attorney of cities with a population of over 750,000, in each county and city in which the violation is alleged to have occurred. This notice covers all violations of Proposition 65 that are currently known to the Noticing Party from information now available to it. A copy of "The Safety Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary," is provided with this Notice.

## I. SUMMARY OF VIOLATIONS:

Proposition 65 requires that when a person in the course of doing business that employs ten or more employees, such as the Violator, has been or is knowingly and intentionally exposing persons to a detectable level of any chemical designated by the State of California to cause cancer or reproductive toxicity (the "Designated Chemicals"), it must, prior to such exposure, provide a clear and reasonable warning to the exposed persons (Health & Safety Code § 25249.6).

The Violator has chosen to allow its tenants, visitors, and their guests, and Violator's business invitees, contractors and employees at each of its facilities to be exposed to Designated Chemicals associated with its operations without such warnings and in doing so has violated the statute.

The Violator, in the ordinary course of business, knows, controls and intends much of the conduct and actions of its tenants, visitors, guests, contractors and employees at each

of the facilities listed below (hereinafter, the "Properties"). The activities of the Violator including its employees and contractors, and the facilities and amenities provided at its Properties, expose tenants and their visitors and guests, and Violator's business invitees, contractors and employees to Designated Chemicals. The Violator's Properties include those listed in Exhibit A hereto.

Therefore, the Violator has knowingly and intentionally exposed its tenants and their visitors and guests, and Violator's business invitees, contractors and employees at each of the Properties to Designated Chemicals. Exposures to Designated Chemicals occur at the Violator's Properties in a variety of ways as described in detail below, including inhalation (breathing of designated chemicals in gaseous, vapor or aerosol form), dermal contact and absorption from skin and/or clothing and ingestion directly with respect to consumables but also indirectly due to touching of contaminated surfaces and subsequent hand-to-mouth contact. Despite knowledge of such exposures, the Violator has failed to provide clear and reasonable warnings as required by Proposition 65, so that its tenants and their visitors and guests and Violator's business invitees, contractors and employees who may not wish to be exposed, are not warned prior to exposure that they may be exposed to Designated Chemicals. [1]

## A. Environmental Exposures

While in the course of doing business, at the locations in the attached Exhibit A, from June 16, 1998 through the date of this notice, the Violator has been and is knowingly and intentionally exposing tenants and their visitors and guests, and Violator's business invitees and contractors, and employees to Designated Chemicals listed below and known to the State of California to cause cancer, developmental toxicity or other reproductive harm without first giving clear and reasonable warning of that fact to the exposed persons (Health & Safety Code § 25249.6). The locations of the exposures are the environment in and around the Violator's Properties, Violator's activities and the amenities associated with the Properties as set forth in Section II Details of the Violation.

## B. Occupational Exposures

While in the course of doing business from June 16, 1998 through the date of this notice, the Violator has been and is knowingly and intentionally exposing contractors and contractor's employees and Violator's employees to Designated Chemicals listed below and designated by the State of California to cause cancer, developmental toxicity or other reproductive harm without first giving clear and reasonable warning of that fact to the exposed person (Health & Safety Code § 25249.6). Such Employees include, and are not limited to: the property's engineering staff, janitors, maids, housekeepers, concierge, bell staff, valets, security personnel, maintenance workers, service personnel, food service employees, administrative personnel, and professional personnel and business invitees and contractors working in and around the Violator's Property and its facilities and amenities as set forth in Section II Details of the Violation.

---

[1] Each of these exposures relates to all properties listed on Exhibit A hereto unless otherwise noted.

### C. Product Exposures

While in the course of doing business from June 16, 1998 through the date of this notice, Violator has been and is knowingly and intentionally exposing tenants and their visitors and guests, and Violator's business invitees, contractors and employees to products and materials containing Designated Chemicals designated by the State of California to cause cancer, developmental toxicity or other reproductive harm without first giving clear and reasonable warning of that fact to the exposed person (Health & Safety Code § 25249.6). The product and material exposures include products and materials commonly in use at apartment properties, for example in maintenance and providing services to tenants. How tenants and their visitors and guests, and Violator's business invitees, contractors and employees are exposed to such products and materials, and the locations of such exposures, are set forth in Section II Details of Violations.

## II. DETAILS OF VIOLATIONS:

After appropriate due diligence and investigation of Violator's Properties and Activities, including review and verification of detailed information regarding exposures of tenants and their visitors and guests and the Violator's business invitees, contractors and employees, consultations with experts on such matters, such unlawful exposures occur in the following ways at the Violator's Properties identified.

### A. Violations Associated With Tenant Activity[2]

Certain apartment-related activities which result in exposures to tenants and their guests and visitors, and Violator's business invitees, contractors and employees to Designated Chemicals are due to tenant's individual conduct, that while known to Violator and could potentially be prohibited, as a matter of business practice is impractical to control. Therefore, such exposures without first providing a clear and reasonable warning constitute violations of Proposition 65, as follows:

1. Second-hand Tobacco Smoke and Smokeless Tobacco Products

Short description: Tobacco smoke and its by-products contain many chemicals that may be harmful if inhaled. Apartment properties include personal residences at which individual tenant conduct cannot be controlled. Smoking is generally allowed in outdoor common areas and other areas designated by the property manager including designated rooms.
Route(s) of exposure: Environmental exposure by breathing second-hand smoke and its contact with skin and clothing.
Location or occupation of person(s) exposed: Tenants and their guests and visitors, and Violator's business invitees, contractors and employees (including

[2] The following facilities listed on Exhibit A do not provide food services or have food service capabilities located in common areas: 1, 2, 4, 6 and 7. The following facilities listed on Exhibit A do not serve alcoholic beverages and/or allow tenants to use alcoholic beverages on the property: 1, 3, 4, 6, 7 and 8. The following facilities listed on Exhibit A do not operate, or allow a contractor to operate, a salon; 1 – 8. The following facilities listed on Exhibit A do not have dry cleaning facilities: 1 – 8.

service, maintenance, administrative, and professional staff) who enter apartments, common areas and designated smoking areas.
Location of the source of exposure: Apartments, common areas and various designated areas around the property where smoking is authorized or not prohibited.
Names of materials containing Proposition 65-listed chemicals and reason for listing: Tobacco smoke (cancer) and associated chemicals including, but not limited to nicotine (developmental toxicity) and carbon monoxide (developmental toxicity).

2. Use of Combustible Products and Materials by Tenants
Short description: Certain products and materials when used as intended as combustibles generate Designated Chemicals to which tenants and other persons are exposed.
Route(s) of exposure: Environmental exposure through inhalation of gaseous, vaporous or aerosol combustion product emissions, and in certain cases through skin contact and absorption or through hand-to-mouth ingestion.
Location or occupation of person(s) exposed: Tenants and their guests and visitors, as well as Violator's business invitees, contractors and employees, who are in and around an apartment in which a tenant is engaged in using combustibles.
Names of materials containing Proposition 65-listed chemicals and reason for listing:
• Charcoal, artificial logs and fire starters (for example Duraflame products) and wood burning in barbecues, hibachis and fireplaces emit carbon monoxide (developmental toxicity), monoxide (developmental toxicity), soots and tar (cancer), benzene (cancer, developmental toxicity and other reproductive harm), creosotes (cancer) and other chemicals (cancer and developmental toxicity and other reproductive harm).
• Charcoal lighter fluid, and the burning of alcohol, kerosene and other liquid combustibles in stoves and lanterns emit carbon monoxide (developmental toxicity), soots and tar (cancer), benzene (cancer, developmental toxicity and other reproductive harm), acetaldehyde (cancer) and formaldehyde (cancer).
• Sterno Cooking Fuel including but no limited to those manufactured by Candle Corporation of America, Colgate Palmolive, Western Family Foods, Ecolab and other makers contains ethyl alcohol and other chemical ingredients and when ignited emits soots, tars and mineral oils (cancer), acetaldehyde (cancer), benzene (cancer, developmental toxicity and other reproductive harm), carbon monoxide (developmental toxicity), and formaldehyde (cancer).
• Fireplaces, patio heaters, kitchen stoves and ovens, gas heaters and portable stoves and lanterns which use natural gas, compressed natural gas (CNG), liquified natural gas (LNG), propane and other pressurized fuel gases emit carbon monoxide (developmental toxicity), formaldehyde

(cancer), soots and tars (cancer), benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity), and radon (cancer) according to information disseminated by Pacific Gas and Electric (PG&E) and Coleman, Inc.

• Candle combustion generates soots (cancer), benzene (cancer, developmental toxicity and other reproductive harm). Some candlewicks contains lead and emit lead and lead compounds (cancer and developmentally toxicity and other reproductive harm).

• Matches contain and their ignition emits arsenic and its compounds (cancer and developmental toxicity), lead and lead compounds (cancer, developmental toxicity and other reproductive harm), and carbon monoxide (developmental toxicity).

3. Use of Hobby-Related Products and Materials by Tenants

Short description: Certain Products and materials used by tenants in pursuit of personal hobby interests expose tenants and other persons to Designated Chemicals as set forth below.

Route(s) of exposure: Environmental and consumer exposures through inhalation of gaseous, vaporous or aerosol emissions and in some cases skin absorption and ingestion through hand-to-mouth contact with hobby-use products and materials that contain or emit Designated Chemicals.

Location or occupation of person(s) exposed: Tenants and their guests and visitors, as well as Violator's business invitees, contractors and employees, who are in and around an apartment occupied by a tenant engaged in certain hobbies.

Names of materials containing Proposition 65-listed chemicals and reason for listing:

• Arts and craft hobbies including painting, ceramics and sculpture cause exposure to Designated Chemicals. Ceramic glazes and clays made by Aardvark, Resco, American Art Clay and others contain crystalline silica (cancer). Ceramic glazes and paints made by Art Clay, Duncan Enterprises, Mayco, Gare and Laguna Clay and others, depending on color, contain lead and lead compounds (cancer and developmental toxicity and other reproductive harm), cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm), cobalt metal and cobalt oxide (cancer). Crayons contain asbestos (cancer) and ceramic fibers (cancer). Oil and solvent-based aerosol and non-aerosol paints, thinners and marking pens contain toluene (developmental toxicity) and benzene (cancer, developmental toxicity and other reproductive harm). 3M Spray Adhesive contains toluene (birth defects). Acrylic paint made by Ultrech Manufacturing, Winsor and Newton, Binney & Smith, Golden Artist Colors, Creative Art Products and others contain cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm) and lead compounds (cancer, developmental toxicity and other reproductive harm). Bronze and brass contain lead (cancer, developmental toxicity and other reproductive harm).

• Glass blowing, tiffany lamp making and related glass-based arts and crafts cause exposure to combustion products of natural gas including carbon monoxide (developmental toxicity), formaldehyde (cancer), soots and tars (cancer), benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity) and radon (cancer) based on PG&E published warnings. Leaded metal, solder and leaded glass and metallic colored pigments contain lead (cancer, birth defects and other reproductive harm). Colored metallic pigments contained or use d in stained glass crafting also contain cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm), and cobalt and cobalt oxide (cancer).

• Automotive maintenance and parts cleaning involve use of solvents, cleaning products and touch-up paints, which contain volatile chemicals ~~to~~ which persons nearby can inhale, and exposures to gasoline and diesel fuel vapors and gasoline and diesel engine exhausts. Gasoline and diesel vehicle fuels contain benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity) and other designated chemicals (cancer and developmental toxicity and other reproductive harm). Gasoline and diesel engines emit gasoline engine exhaust (condensates/extracts) and diesel engine exhaust (cancer). Solvents like Bowman Safety Solvent, Champion, ZEP products, National Auto Body Supply, Gunk, Chief Autoparts and others used in vehicle maintenance including carburetor, brake and parts cleaners contain methylene chloride (cancer), tetrachloroethylene (cancer) and benzene (cancer, developmental toxicity and other reproductive harm). Paint strippers made by KleenStrip, Jasco, Bix and other companies contain methyl chloride (cancer) and toluene (developmental toxicity). Brake and clutch surfaces contain asbestos (cancer). Batteries (all brands) contain lead (cancer and developmental toxicity and other reproductive harm).

• Personal grooming hobbies including manicures involve use of nail polish, other nail care products and nail polish remover which contain toluene (developmental toxicity) and formaldehyde (cancer).

## B. Violations Associated with Apartment Property Construction Materials

4. Apartment Properties Construction Materials

Short description: Apartment construction materials contain Designated Chemicals and their presence results in knowing an intentional exposure to persons as defined in Proposition 65. Due to the fact that apartments in the state range in age from relatively new to many decades old, there is a wide variety of construction materials that have been used over the years and a similar variety of Designated Chemicals in each type of construction material depending on the date of manufacture and the regulations in effect at that time. It is alleged that all Apartment Properties expose persons to some of the materials described below and that some

Apartment Properties expose persons to all of the materials described below.

Route(s) of exposure: Environmental and occupational exposures to construction materials through inhalation of gaseous, vaporous or aerosol emissions and in some cases skin absorption and/or ingestion through hand-to-mouth contact. Such exposures occur either through the continuance emission or leaching of Designated Chemicals as construction materials degrade or deteriorate; in other cases the construction materials cause an exposure to Designated Chemicals when either inadvertently or intentionally disturbed during repairs, maintenance or renovations.

Location or occupation of person(s) exposed: Tenants and their guests and visitors, as well as Violator's business invitees, contractors and employees, who are in and around Apartment Properties or who engage in work with and around construction materials which contain Designated Chemicals are exposed to Designated Chemicals as follows:

Names of materials containing Proposition 65-listed chemicals and reason for listing:

• Roofing materials of various types contain designated chemicals which when deteriorated or undergoing repair/replacement result in emissions of such chemicals to which the persons are exposed. (1) Built-up roofs contain asbestos (cancer) or fiberglass (ceramic fibers-cancer) felting and insulation that can be released through deterioration and/or cutting/disturbing; built-up roofs also contain coal tar or petroleum asphalt which contain the following designated chemicals that can be released from hot tar or asphalt during installation and repair or as vapor or particulate during removal/renovation: benz[a]anthracene, chrysene, toluene diisocyanate, formaldehyde (gas), 5-methylchrysene, nickel and nickel compounds, dichloromethane (methylene chloride), benzene, lead, benzo[b]flouranthene, bezo[k]flouranthene, benzo[a]pyrene, indeno[1,2,3-c, d-]pyrene, acetaldehyde, beryllium and beryllium compounds, arsenic (inorganic arsenic compounds), cadmium and cadmium compounds, chromium (hexavalent compounds), tetrachloroethylene (perchloroethylene), trichloroethylene, and dibenz[a,h]anthracene (all of the preceding Designated Chemicals cause cancer); and toluene, carbon disulfide, benzene, lead, mercury and mercury compounds, arsenic and cadmium (all of the preceding Designated Chemicals cause birth defects or reproductive harm). Built-up roof installation and repair uses sand and aggregate, which contain crystalline silica (cancer). (2) Shingles contain the same chemicals as contained in built-up roofing set forth above and referenced herein, except they are pre-manufactured and installed as a construction product. Exposures would result mainly from generation of particulate or dust containing Designated Chemicals. Shingles manufactured by Owens-Corning and GAF contain the Designated Chemicals listed in (1) above and incorporated herein by reference. (3) Membrane roofing systems are comprised of the membrane, ~~usually~~ polyvinyl chloride (PVC) membrane or sheet, usually with black

pigmentation and with thermal stabilizing and plasticizing chemicals to inhibit degradation. Such PVC plastic contains the following designated chemicals: vinyl chloride monomer (cancer), lead and lead compounds (cancer, developmental toxicity and other reproductive harm) and diethylhexyl phthalate (cancer). Membrane roofing systems also use solvents and adhesives which contain benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity) and methylene chloride (cancer). (4) Wood Shake roofing systems utilize an underlying felting and/or membrane as insulation and a moisture barrier. Such materials include asbestos (cancer) and coal tar or petroleum asphalt which contains the Designated Chemicals listed in (1) above and incorporated by reference herein:

• Portable water conveyance and dispensing systems utilize metallic components including lead which leach into the water being consumed by person at Apartment Properties. Such construction materials and water conveyance and dispensing devices which contain and release lead (cancer, developmental toxicity and other reproductive harm) into drinking water include, but are not limited to: steel water pipes, water meters, solder used with copper plumbing, brass fittings, brass faucets, water purification devices and drinking fountains.

• Insulation used in apartments results in exposure of persons to Designated Chemicals due to emissions during normal degradation or deterioration of such insulation or when it is disturbed during repairs, maintenance or renovations. Insulation systems include but are not limited to the following: (1) Asbestos-containing insulation contains asbestos (cancer) and can be found in pre-1980 structures as thermal insulation on pipes, ducts, other equipment and structural applications. (2) Urea-formaldehyde rigid and flexible foam insulation installed or cured-in-place in wall systems contains and emits formaldehyde gas (cancer). (3) Fiberglass insulation which contains ceramic fibers (cancer).

• Structural construction materials used in walls, floors, ceilings and outside cladding contain Designated Chemicals which are released as gases or vapors during normal degradation or deterioration and as dust or particulate when disturbed during repairs, maintenance or renovation. Such materials include particle board, plywood and adhesives with urea formaldehyde resin which contains formaldehyde gas (cancer), vapor barriers, exterior plastic cladding, plastic window frames, facia boards and window sills, and plastic conduits and fittings for electrical systems and HV/AC duct work are made from poly vinyl chloride (PVC) which contains vinyl chloride monomer (cancer), diethylhexyl phthalate (cancer), and depending on color metallic pigments which contain lead (cancer, developmental toxicity and other reproductive harm) and cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm) and cobalt and cobalt oxide (cancer). Exterior stucco contains crystalline silica (cancer). Treated woods used for exterior and soil-contact applications contain arsenic and arsenic compounds, inorganic

oxides (cancer, developmental toxicity and other reproductive harm), pentachlorophenol (cancer), and creosote (cancer).

• Paints, coatings and associated solvents, additives and texturizers contain Designated Chemicals to which persons are exposed due to natural degradation or deterioration of these materials, during repair and renovation work and can result in foreseeable childhood exposures due to direct ingestion or indirect ingestion through hand-to-mouth contact. The following materials cause exposures to Designated Chemicals. Historical use and presence of interior and exterior paint containing lead (cancer, developmental toxicity and other reproductive harm). Currently used paints, stains and coatings include but are not limited to: Rustoleum Hard Hat Aerosol Primers and Top Coats which contain toluene (developmental toxicity), Rustoleum Enamels which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Rustoleum Painters Touch paint which contain benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Hammerite Rust Cap Aerosol and Paint which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Glidden Oil/Alkyd Gloss Interior/Exterior Paint which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Ralph Lauren Paints which contains crystalline silica (cancer); Behr Enamel Paints and Water-Based Primer which contains benzene (cancer, developmental toxicity and other reproductive harm); Thompson's Water Seal X-tra which contains benzene (cancer, developmental toxicity and other reproductive harm); Homax Paint Texturizer which contains crystalline silica (cancer); Miniwax Wood Stains which contain benzene (cancer, developmental toxicity and other reproductive harm) and Miniwax Wood Finish Aerosols which contain benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Deft Woodfinishers which contain benzene (cancer, developmental toxicity and other reproductive harm); Flecto Varathane Aerosol which contains benzene (cancer, developmental toxicity and other reproductive harm); Parks ProFinish Polyurethane Coatings which contain benzene (cancer, developmental toxicity and other reproductive harm); Mohawk Lacquer Gloss and Satin Paints which contain benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity).

• Furnished apartment and common area furnishings cause exposures to Designated Chemicals due to the materials used in their manufacture and emissions from such furnishings or the presence of Designated Chemicals on the surface of such furnishings. Apartment Properties' furnishings include furniture, furnishings and window treatments in furnished apartments, common areas, and administrative offices. Carpeting and furniture constructions materials include foams, metals, treated wood, fabrics, coatings, rubber parts and plastics and vinyl which contain

Designated Chemicals including but not limited to the following: Foams used in couches, seat cushions, carpet pads contain and emit methylene chloride (cancer), toluene diisocyanate (cancer), and soots, tars and mineral oils (cancer). Metal fixtures and furniture hardware including brass and zinc, chrome, or nickel-plated metal contain lead (cancer, developmental toxicity and other reproductive harm), cadmium (cancer), hexavalent chromium compounds (cancer) and nickel and certain nickel compounds (cancer). Plastic and rubber components of furniture and fixtures contain: 1,3 butadiene (cancer), Di(2-ethylhexyl) phthalate (cancer), vinyl chloride (cancer), lead and lead compounds (cancer, developmental toxicity and other reproductive harm), cadmium (cancer), and hexavalent chromium compounds (cancer). Window treatments, including window blinds and painted trim that contains lead and lead compounds (cancer, developmental toxicity and other reproductive harm). Plastic flooring, tiles and rubber floor coverings/typical alternatives to linoleum made of poly vinyl chloride contain vinyl chloride monomer (cancer), diethyl hexyl phthalate (cancer), lead and lead compounds (cancer, developmental toxicity and other reproductive harm), cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm) and cobalt and cobalt oxide (cancer). Adhesives used to install furnishings contain Designated Chemicals including but not limited to the following: 3M Fast Bond 30-NF Neutral Contact Adhesive which contains toluene (developmental toxicity); Mohawk Spray Adhesive which contains benzene (cancer, developmental toxicity and other reproductive harm); Mohawk Casein Urea Resin Glue which contains formaldehyde (cancer); Midway Sales and other Rubber Cements which contain toluene (developmental toxicity).

• Electrical wiring and lighting fixtures in apartments and common areas result in exposures to Designated Chemical emissions from polyvinyl chloride (PVC) insulted wiring, employee and contractor exposures due to handling such insulated wire which contains vinyl chloride monomer (cancer), diethyl ethylphthalate (cancer), lead and lead compounds (cancer, developmental toxicity and other reproductive harm), cobalt and cobalt oxide (cancer) and cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm). Electrical lighting devices including light bulbs, terminals, light sockets, fluorescent tubes and terminals, lamps, decorative lamps like tiffany lamps with lead glass shades and other electrical devices contain lead (cancer, developmental toxicity and other reproductive harm) which results in exposure by ingestion after touching such devices. Fluorescent tubes contain mercury and mercury compounds (developmental toxicity) and cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm) and if broken can cause an exposure to these Designated Chemicals through inhalation and/or ingestion.

• Hardware installed at or in apartments and in Apartment Property common areas contain Designated Chemicals and an ingestion exposure

can occur through their handling as described in the following representative examples: Brass keys, door knockers, door knobs and other entry way hardware, as well as decorative railings, fixtures, faucets, doors and furniture handles contain lead (cancer, developmental toxicity and other reproductive harm). Fencing components include galvanized steel hardware and fencing which contains lead (cancer, developmental toxicity and other reproductive harm). Fencing and other barrier hardware including safety railings and gates may be coated with colored polyvinyl chloride (PVC) which contains vinyl chloride monomer (cancer), diethyl hexyl phthalate (cancer), lead and lead compounds (cancer, developmental toxicity and other reproductive harm) cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm) and cobalt and cobalt oxide (cancer).

C. **Apartment Utilities and General Facility Services**

Providing heating and hot water, parking facilities and transportation services cause knowing and intentional exposures to Designated Chemicals.

5. Natural gas, liquid fuel gases and fuel oil conversion in furnaces, boilers, hot water heaters, apartment and patio heaters and similar equipment.
Short description: Except for Apartment Properties in which all utility services are electrical, providing heating and hot water entails use of natural gas, other fuel gases and fuel oil to operate furnaces, boilers, hot water heaters, space heaters and patio equipment either on an apartment-wide basis or in certain common areas, or in individual apartment units. Violators are aware that such activities cause exposures to Designated Chemicals, through information provided by natural gas and other fuel vendors.
Route(s) of exposure: In most cases, exposure will be through inhalation. In addition, occupational and environmental exposures will be experienced by persons touching surfaces contaminated with materials containing Designated Chemicals, for example fuel oil or soot.
Location of occupation of person(s) exposed: Natural gas, liquid fuel gas, and fuel oil release Designated Chemicals into the air through volatilization and when such fuels are combusted. Persons including tenants, their visitors and guests and Violator's business invitees, contractors and employees experience environmental exposure whenever present in areas where gaseous or liquid fuels are stored, vented and combusted including in apartments, common areas and in the general environment in and around Apartment Properties.
Names of materials containing Proposition 65-listed chemicals and reason for listing:
• Natural Gas and other liquid fuel gases including but not limited to Compressed Natural Gas (CNG), Liquified Natural Gas (LNG) and

Liquified Petroleum Gas (LPG) and Propane contain benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity), and radon (cancer); when such fuels are burned, combustion products are created and emitted which include, but are not limited to: carbon monoxide (developmental toxicity), formaldehyde (cancer), acetaldehyde (cancer) and soots (cancer) according to information disseminated by suppliers including PG&E and Coleman, Inc.
• Fuel Oil contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity) and when burned emits carbon monoxide (developmental toxicity), soots and tars (cancer), formaldehyde (cancer) and acetaldehyde (cancer).

6. Parking Facilities and Designated Loading/Unloading Locations Cause Exposure to Vehicle Emissions.
Short description: Parking facilities including, but not limited to, parking lots, parking structures, substructure or subterranean parking, and designated bus and other public transportation and commercial vehicle loading/unloading areas cause exposures to designated chemicals emitted from vehicle exhausts.
Route(s) of exposure: Exposures to vehicle exhaust emissions are generally via inhalation.
Location of exposure and person(s) exposed: Exposures occur when persons enter parking facilities and when they are at or around designated vehicle pick-up or loading/unloading points like bus stops, loading docks and in the general environment and in some cases in apartments near such areas. The persons exposed include tenants and their guests and visitors, and Violator's business invitees, contractors and employees.
Names of materials containing Proposition 65-listed chemicals and reason for listing: Diesel engines emit diesel engine exhaust (cancer). Gasoline engines emit gasoline engine exhaust (cancer).

7. Emergency Generators[3]
Short description: The Violator owns and operates emergency generators to power essential activities in the event of an interruption in utility-provided electricity. Periodically operating such generators for maintenance and testing and in the event of a power outage results in exposure to diesel and/or gasoline engine exhaust and fuel vapors.
Route(s) of exposure: Persons are exposed to engine exhausts and fuels primarily via inhalation.
Locations of exposure and person(s) exposed: Exposures to engine exhausts from emergency generators occur on Apartment Properties in common area locations at and around such emergency generators although the extent of the exposure location varies with local conditions and time of operation during testing, maintenance and emergency use. Persons

[3] The following properties on Exhibit A do not have emergency generators; 1 -8.

exposed include tenants and their guests and visitors, and Violator's business invitees, contractors and employees.
Names of materials containing Proposition 65-listed chemicals and reason for listing: Diesel emergency generator engines emit diesel engine exhaust (cancer). Gasoline emergency generator engines emit gasoline engine exhaust (cancer). Diesel fuel and gasoline contain benzene (cancer, developmental toxicity and reproductive harm) and toluene (developmental toxicity).

8. Tenant, Employee and Business Invitees Transportation Services
Short description: Many Apartment Properties provide transportation services to tenants, business invitees, contractors and employees. Such transportation services involve operation of vans, limousines, automobiles, trucks and buses which are either gasoline and diesel engine-powered, which results in engine exhaust and fuel exposure. In addition, persons may be exposed to second-hand tobacco smoke within such vehicles.
Routes of exposure and person(s) exposed: Exposures to designated chemicals contained in engine exhaust, fuels and tobacco smoke generally occurs via inhalation especially when vehicles are idling and picking-up or dropping off passengers and when vehicles are being refueled by employees. Persons exposed tenants and their guests and visitors, and Violator's business invitees, contractors and employees.
Names of materials containing Proposition 65-listed chemicals and reason for listing: Diesel engines emit diesel engine exhaust (cancer). Gasoline engines emit gasoline engine exhaust (cancer). Diesel fuel and gasoline contain benzene (cancer, developmental toxicity and reproductive harm) and toluene (developmental toxicity). Second-hand exposure to smoking contains tobacco smoke (cancer), carbon monoxide (developmental toxicity), and other chemicals (cancer, developmental toxicity and other reproductive harm).

## D. Apartment Property Cleaning and Maintenance Activities

9. In-Apartment Cleaning and Maintenance
Short description: Apartment Properties provide a range of cleaning and maintenance services with respect to individual apartment units. In some cases, the Violator provides routine periodic cleaning and maintenance services to its tenants. In others, the Violator may only provide cleaning and maintenance services upon lease renewal or upon leasing by a new tenant. In either case, persons are exposed to Designated Chemicals during or after the cleaning or maintenance activity.
Routes of exposure: Exposures to Designated Chemicals contained in cleaning and maintenance materials are through inhalation, skin absorption and skin contact followed by ingestion due to hand-to-mouth contact, especially by children.

Location of exposure and person(s) exposed: The location of ~~the~~ exposures to cleaning and maintenance chemicals is within individual apartment units that have been cleaned or maintenance activities performed by Violator or persons under its control. The persons exposed include: tenants and their guests and visitors, and Violator's business invitees, contractors and employees.

Names of materials containing Proposition 65-listed chemicals and reason for listing:

• Adhesives including but not limited to DAP, Inc. Contact cement which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity), MACCO Adhesive Liquid Nails products which contain benzene (cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity), and styrene oxide (cancer), Motsenbacker's Lift-Off No. 2 Aerosol Adhesive which contain tetrachloroethylene (cancer), benzene (cancer, developmental toxicity and other reproductive harm), 3M Fast Bond 30-NF Neutral Contact Adhesive which contains toluene (developmental toxicity); Mohawk Spray Adhesive which contains benzene (cancer, developmental toxicity and other reproductive harm); Mohawk Casein Urea Resin Glue which contains formaldehyde (cancer); Midway Sales, 3-M, GAF, DAP and other rubber cements which contain toluene (developmental toxicity).

• Specialty Cleaning Products like carpet and floor cleaners, Paint Strippers and Graffiti Removers, including but not limited to: ZEP Carpet Steam Cleaner 1291 which contains nitriloacetic acid (cancer), ZEP Aerosol Wax Stripper which contains ethylene oxide (cancer and reproductive harm); Johnson Diversey, Inc. UHS Floor Cleaner, J-Spray Cleaner and Odor Neutralizer, Horizon 420 Neutral Cleaner, Power-Foam Bravo, ProStrip and Bravo Extra contain ethylene oxide (cancer and reproductive harm); Guardsman Products Goof-Off Cleaner contains benzene cancer, developmental toxicity and other reproductive harm), toluene (developmental toxicity); Contact Industries, Contact Vandal and Graffiti Remover contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity), and ethylene glycol monomethyl ether (developmental toxicity and other reproductive harm); Locktile Naval Jelly which contains, according to its manufacturer, an undisclosed chemical which causes cancer (cancer); Motsenbocker's Lift-Off No. 3 Pen, Ink and Marker Graffiti Remover which contains benzene (cancer, developmental toxicity and other reproductive harm); Motsenbocker's Grease, oily stain and tape remover which contains tetrachloroethylene (cancer), benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); ZEP products and ZEP-O-Brite Abrasive Cleaner 1038 which contains crystalline silica (cancer); Claire Manufacturing Stainless Steel Cleaner which contains N-methyl pyrrolidone (developmental toxicity); Vandalism Spray which contains dichloromethane (cancer), tetrachloroethylene (cancer) and toluene

(developmental toxicity) and Spot Remover/Aerosol Spot Remover which contains tetrachloroethylene (cancer); Lincoln Leather Cleaner and Spot Remover which contains tetrachloroethylene (cancer); Kleenstrip Graffiti Remover Aerosol which contains dichloromethane (cancer); JASCO and BIX Graffiti Remover (non-aerosol) which contain dichloromethane (cancer) and toluene (developmental toxicity); Behr Enamel Paints and Water-Based Primer which contains benzene (cancer, developmental toxicity and other reproductive harm); Thompson's Water Seal X-tra which contain benzene (cancer, developmental toxicity and other reproductive harm); Homax Paint Texturizer which contains crystalline silica (cancer); Miniwax Wood Stains which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Deft Woodfinishers which contain benzene (cancer, developmental toxicity and other reproductive harm); Flecto Varathane Aerosol which contain benzene (cancer, developmental toxicity and other reproductive harm); Parks ProFinish Polyurethane Coatings which contain benzene (cancer, developmental toxicity and other reproductive harm); Mohawk Lacquer Gloss and Satin Paints which contain benzene (cancer, developmental toxicity and other reproductive harm).

• Pesticides including but not limited to: Wilbur Ellis Black Leaf Wasp and Hornet Killer, Ortho Hornet and Wasp Spray and United Industries Hot Shot Ant and Roach Spray which contain benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Chacon Chemical Insecticide which contains p-dichloro benzene (cancer), Agri-Enysire Corp. Insecticide which contains mancozeb (cancer) and nabam (cancer); Grants Kills Ants which contains arsenic trioxide, an inorganic arsenic oxide compound (cancer and developmental toxicity); Spectracide Plus Immunox Insect and Disease Control in Aerosol and Concentrate which contains myclobutanil (developmental toxicity and other reproductive harm); Ortho Funginex Rose and Shrub Disease Control and Orthenex Garden Insect and Disease Control which contain triforine (developmental toxicity); Ortho Outdoor Insect Fogger which contains resmethrin (developmental toxicity); MAKKI Term Out, Termite Roach and Ant which contains resmethrin (developmental toxicity); Greenlight Bermuda Grass Killer which contains fluazifopbutyl (developmental toxicity); Greenlight Fung-Away Systemic Fungicide which contains thiophanatemethyl (reproductive harm); Gordon's Trimec Plus which contains an inorganic arsenic compound (cancer); and Lilly Captan Fungicide which contains captan (cancer).

• General Purpose Cleaning and Sanitizing Products including, but not limited, to: Proctor and Gamble Professional Comet Cleaner and Muriatic Acid, Johnson Diversey, Inc. Crew Bathroom Cleaners and Disinfectants (approximately 20 different products similarly formulated), Johnson Diversey, Inc. Endback Disinfectant Cleaner, ENVOY Foaming Disinfectant Cleaner, Spitfire Power Cleaner, ZEP Disinfectant-

Deodorizer, and ZEP Chlorinated General Purpose Cleaner contain chlorine and chlorine compounds which create and emit in the presence of methane and other organic materials in soiled surfaces, chloroform (cancer); Johnson Diversey, Inc. Brite Stainless Steel Cleaner which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); Johnson Diversey Expose II Cleaner Disinfectant Deodorant which contains o-phenyl phenol (cancer); ZEP General Purpose Aerosol Cleaner/Degreaser which contains benzene (cancer, developmental toxicity and other reproductive harm); ZEP Cold Cleaning Solvent which contains methylene chloride (cancer), benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); ZEP Heavy Duty Cleaner and Degreaser which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); ZEP Abrasive Cleaner which contains crystalline silica (cancer); Johnson Diversey Cong-R-Dust which contains benzene (cancer, developmental toxicity and other reproductive harm); Chemresearch New Improved Good Riddance Cleaner which contains ethylene oxide (cancer and reproductive toxicity), 1,4 dioxane (cancer), butylated hydroxyanisole (cancer) and DEOX Cleaner which ethylene oxide (cancer and reproductive toxicity), lead (cancer, developmental toxicity and other reproductive toxicity) and inorganic arsenic compounds (cancer); ZEP Quick Cleaner 1461 and MVP 0927 Cleaner which contains ethylene oxide (cancer and reproductive toxicity); Bowman Aerosol Safety Solvent which contains tetrachlorethylene (cancer); DOW Chloroethene XL Solvent which contains nitromethane (cancer); Soco-Lynch Solvent Stripper and Cleaner which contains benzene (cancer, developmental toxicity and other reproductive harm), dichloromethane (cancer) and toluene (developmental toxicity); Greenstreet Floral Care and Cleaner which contains methylen chloride (cancer); and Slide Products Cleaner and Degreaser which contains trichloroethylene (cancer), ZEP Aerosol Furniture Cleaner and Polish which contains benzene (cancer, developmental toxicity and other reproductive harm).

• Polishes including but not limited to: Sheila Shine Aerosol Polish which contains tetrachloroethylene (cancer); Smart and Final Cleaner and Polish which contains tetrachloroethylene (cancer); Mohawk Cleaners and Polishers which contain toluene (developmental toxicity) and lemon oil polish and Buffing Paste, Buff-it Black and Tan and Rubbing Compounds contain benzene (cancer, developmental toxicity and other reproductive harm).

• Other Cleaning and Janitorial Activities which result in Designated Chemical exposure including but not limited to: Tile and other floor surface polishing generates dust containing crystalline silica (cancer) and ceramic fibers (cancer); polishing of metal surfaces especially brass generates dust containing lead (cancer, developmental toxicity and other reproductive harm).

• Maintenance Materials including but not limited to lubricants including: WD-40, Gunk Liquid Wrench, Super Penetrant (liquid and aerosol), Gunk Liquid Wrench Super Lubricant, 3 in 1 Oil contain benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity); and Contact Industries Contact Silicone – Quick Slip Aerosol which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity). Other maintenance materials containing Designated Chemicals include: DAP Durabond Webpatch which contains crystalline silica (cancer); and Sealmaster Pipe Joint Compound which contains benzene (cancer, developmental toxicity and other reproductive harm) and toluene (developmental toxicity).

• Paints and Coatings including but not limited to: PDG Acrylic Latex Paint, Speedhide Flat White Base, Pittcryl Exterior Latex Flat White, Speedcraft Flat white/pastel and Ralph Lauren Paints which contains crystalline silica (cancer); Sherwyn Williams Krylon Industrial Maintenance and Touchup Spray Colors and 6971 Mil-S Appliance Touch-up Paint which contain benzene (cancer, developmental toxicity and other reproductive harm); Masterchem Industries Kilz Alkyl Resin Primer which contain benzene (cancer, developmental toxicity and other reproductive harm).

• Hand Tools, Hardware and Brass Keys used by Violator's contractors and employees contain Designated Chemicals. All hand tools contain metals or are plated with metals which contain lead (cancer, developmental toxicity and other reproductive harm), hexavalent chromium (cancer), nickel and certain nickel compounds (cancer), cadmium and cadmium compounds (cancer, developmental toxicity and other reproductive harm). Hand tools that have plastic handles are made with pigmented, plasticized PVC which contains: di(2-ethylhexyl) phthalate (cancer), vinyl chloride (cancer), lead and lead compounds (cancer, developmental and male/female reproductive toxicity), cadmium (cancer) and hexavalent chromium compounds (cancer). Manufacturers of such tools include but are not limited to Alltrade, APW Tools, Bond, KR Tools, Rubbermaid, Michigan Tools, Stanley and Test-Rite.

## E. Exterior and Common Area Apartment Maintenance

10. Apartment Properties maintain the exteriors of structures and common areas including landscaping as a benefit for tenants, and for business purposes. In some cases, Violator's employees perform such maintenance. In other cases, contractors perform such work which places control over selection and use in the contractor's hands which may cause exposures to a variety of materials and Designated Chemicals. Due to Violator's contractual control, it could screen such chemical use and exposures which occur to provide warnings or alternatively prohibit use of products or materials containing Designated Chemicals. Violator, based

on a practical consideration, has not exercised such diligence and is deemed to have known or should have known about the exposure to designated chemicals in the following situations.
Short description: Exterior building, common areas and landscape maintenance cause emissions from or the presence of various products, materials and activities which contain Designated Chemicals to which persons are being and have been exposed without receiving prior to such exposure a clear and reasonable warning. Such exposures result from exterior building maintenance, landscape maintenance including the application of pesticides and fertilizers and the operation of internal combustion engine powered equipment, and other maintenance activities.
Routes of exposure: Environmental exposures through inhalation of gases, vapors and aerosols emitted from the subject maintenance activities and via skin contact and/or ingestion due to the presence of Designated Chemicals on surfaces and other locations with which persons, in particular children may come into contact through touching such surfaces and then be exposed to Designated Chemicals through ingestion.
Location or description of person(s) exposed: Tenants and their guests and visitors and Violator's business invitees, contractors and employees are exposed when they are present during and after such maintenance activities around the Violator's Apartment Property.
Names of materials containing Proposition 65-listed chemicals and reason for listing:

- Exterior apartment structural maintenance results in exposures to Apartment Properties Construction Materials as set forth in Paragraph 4 and incorporated herein by reference including but not limited to roofing materials, insulation, structural construction materials and paints/coatings which contain Designated Chemicals which are emitted or present as described in Paragraph 4. In addition, products commonlyused by the Violator to repair roofing and pavement manufactured by the Henry Company including Crack Filler, Driveway Resurfacer, Crack repair, Wet Patch Roof Cement, Cold Asphalt Roof Cement, Asphalt Roof Tap Cement, Elastomeric Roof Cement, and Aluminum Roof Coating.
- Emissions of materials containing Designated Chemicals from Power Tools Use including but not limited to skill saws, circular saws, table saws, band saws, mitre saws, sabre saws and jig saws; sanders, buffers and polishers, drills, planers and routers can contain any Designated Chemical contained on or in the construction materials, surface coating and paints being shaped or sanded or from any abrasive material used. The most common designated chemicals include: crystalline silica (cancer), lead (cancer, developmental toxicity and other reproductive harm), cadmium (cancer), asbestos (cancer and developmental toxicity and other reproductive harm), arsenic and its inorganic oxides (cancer and developmental toxicity), hexavalent chromium compounds (cancer), colbalt oxide (cancer) and nickel and certain nickel compounds (cancer).

•Painting and painted or finished surface maintenance including the paints, finishers and other surface maintenance materials that contain designated materials set forth in Paragraph 4 and incorporated herein by reference.

• Fertilizers and Soil Amendments applied during landscaping and which may remain thereafter on surfaces or may be emitted into the air during application or thereafter. Such fertilizing materials include, but are not limited to, mineral-based fertilizers that contain lead acetate (cancer), lead (cancer and developmental toxicity and other reproductive harm), cadmium and cadmium compounds (cancer and developmental toxicity and other reproductive harm), arsenic and its inorganic oxides (cancer and developmental toxicity), hexavalent chromium compounds (cancer), and mercury and mercury compounds (developmental toxicity), 3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) (cancer and developmental toxicity), Cobalt[II]oxide (cancer), hexachlorodibenzodioxin (cancer), nickel and certain nickel compounds (cancer) polychlorinated biphenyls (cancer and developmental toxicity), polychlorinated dibenzofurans (cancer), radionuclides (cancer) and crystalline silica (cancer). Manufacturers of such fertilizers include but are not limited to J.R. Simplot, Loncala, Ashland, IMC-Apico, Freeport-McMoran, H.J. Baker, Cebrex, Jim Hicks, Actagro, Cero-Power, Gro More, John Pryor, John Taylor, Bandini, Wilbur-Ellis, Ironite, Lilly, Conagra and Stern's Miracle-Gro.

• Pesticides used in landscaping and plant care and insect/rodent control including but not limited to those pesticides set forth in Paragraph 9 and incorporated herein by reference.

• Operation of Internal Combustion Engine Powered Landscaping Equipment including, but not limited to, lawn mowers, edgers, weed eaters and leaf blowers which emit gasoline engine exhaust (cancer).

## F. Exposures to Designated Chemicals Associated with Apartment Property Amenities

11. Apartment Property amenities ~~would~~ include swimming pools, hot tubs, exercise facilities, arts and crafts, clubhouse or common area restrooms, clubhouse or common area fireplaces and food services.
Short description: Many Apartment Properties provide amenities to tenants which ~~may~~ give rise to exposures to Designated Chemicals for which warnings have not been provided as required. The Designated Chemicals associated with such amenities are set forth in the following:
Route of exposure: Environmental exposures occur through inhalation of gaseous, vapors or aerosol emissions of Designated Chemicals, as well as skin contact and subsequent ingestion of Designated Chemicals and ingestion of Designated Chemicals associated with food services.
Location of exposure and person(s) exposed: Exposures to Designated Chemicals occur during use and maintenance of amenities at Apartment

Properties. Persons exposed include tenants and their guests and visitors, and Violator's business invitees, contractors and employees.

Names of materials containing Proposition 65-listed chemicals and reason for listing:

• Swimming pools, Jacuzzis and hot tubs located on apartment properties use disinfectants containing chlorine and bromine, which react with waterborne organic compounds, like methane, to form carcinogen compounds including: Chloroform (cancer), bromoform (cancer) and bromodichloro methane (cancer) formed during disinfection of water. All commercial pool/hot tube disinfection systems utilize chlorine and/or bromine chemistry to react with organic contaminants. Apartment operators typically use commercial product lines like Ecolab, HASA, Nalco, Taylor Technologies, All Pure, All Chem, Applied Bio Chemists, Aqua Clear, Olin, Leisure Time, Alliance, Sierra Chemical and others with similar chemistry. Pools and spas also use filtering systems with diatomaceous earth with contains crystalline silica (cancer). Certain clarifier chemicals and biocides are based on amine chemistry including but not limited to Applied Biochemists products containing ethylene oxide (cancer and reproductive harm).

• Food and Beverage Service or granting permission to use food service facilities in Apartment Property common areas which can cause exposures to Designated Chemicals through foods, water and beverages, as well as the glassware and tableware on which the food is served, and the food service environmental contain chemicals which require a warning. Food ingredients, including but not limited to meat, fish and produce may contain detectable levels of designated chemicals. Meats contain anabolic steroids (reproductive toxicity), testosterone and its esters (cancer), streptomycin sulfate (developmental toxicity), and other chemicals (cancer and developmental toxicity and other reproductive harm). Fish especially canned tuna fish and shellfish contain mercury and its compounds (developmental toxicity), methyl mercury (developmental toxicity), methyl mercury compounds (cancer), DDT and its isomers (cancer, developmental toxicity and other reproductive harm), and poly-chlorinated biphenyls (cancer and developmental toxicity) and other chemicals (cancer and developmental toxicity and other reproductive harm). Produce contains chloroform (cancer) due to processing water that contained chlorine disinfectant and pesticide and fertilizer residues that contain designated chemicals (cancer and developmental toxicity and other reproductive harm). Certain grains, cereals, nuts and peanut butter contain alfatoxins (cancer) as a naturally-occurring fungal toxin. Prepared foods, in particular, pan fried, broiled and grilled meats and fish contain benzo(a)pyrene (cancer) and other related polycyclic aromatic organic compounds (cancer). Fried food, in particular french fried potatoes, contains acrylamide (cancer). Certain processed foods including cereals and baked goods, and potato chips and other snack foods contain acrylamide (cancer).

• Kitchen cleaning and sanitation: Cleaning products used in kitchens are generally the same as those used in apartment cleaning by the Violator as described in Paragraph 9 that is incorporated herein by this reference which lists such cleaning and sanitizing products and the Designated Chemicals to which persons in and around kitchens are exposed. In addition, dishwashing detergents made by Proctor and Gamble, Shaklee Corp., Benckiser Consumer Products, Unilever and others contain arsenic compounds including arsenic oxide (cancer and developmental toxicity) and lead (cancer and developmental toxicity and other reproductive harm).

• Alcoholic beverage consumption through providing and serving such beverages or permitting tenants and other persons using common areas to serve alcoholic beverages causes an exposure through ingestion consumption to ethyl alcohol in alcoholic beverages (developmental toxicity).

• Use of fuels in kitchens and in food services causes exposures to Designated Chemicals as follows: Sterno cooking fuel manufactured by Candle Corporation of America, Colgate Palmolive, Western Family Foods, Ecolab and other makers contains ethyl alcohol and when ignited emit soots, tars and mineral oils (cancer), acetaldehyde (cancer), benzene (cancer, developmental toxicity and other reproductive harm), carbon monoxide (developmental toxicity), and formaldehyde (cancer). In addition, combustion of natural gas and compressed or liquefied fuel gases including CNG, LNG and LPG cause inhalation exposures to persons in and around kitchens to Designated Chemicals listed in Paragraph 5 and referenced herein.

• Exercise facilities provided by some Apartment Properties cause exposures to Designated Chemicals as follows: Tenants and other persons using exercise equipment are exposed by handling of exercise hand weights and metal/plastic/rubber grips on exercise equipment and then ingesting Designated Chemicals through hand to mouth contact. Such equipment is manufactured by manufactured by Keys Fitness Products, York Barbell Company, Bollinger Industries, Cap Barbell and other makers and contains lead and lead compounds (cancer, developmental toxicity and other reproductive harm), and vinyl chloride (cancer).

GRAHAM & MARTIN LLP

Dated: June 16, 2003

By:

# EXHIBIT A

| | NAME OF PROPERTY | ADDRESS |
|---|---|---|
| 1. | Desert Oasis | 77-777 Country Club Palm Desert CA 92211 |
| 2. | Aurora | 788 Harrison St. San Francisco, CA 94107 |
| 3. | Palm Lake Villas | 43376 Cook St. Palm Desert CA 92211 |
| 4. | Santa Monica Apts. I and II aka Ocean Palisades & Ocean Palms | 801 2nd St. Santa Monica CA 90403 |
| 5. | Sea Castle | 1725 Ocean Front Walk Santa Monica CA |
| 6. | The Villas at Rancho Palos Verde | 6600 Beachview Dr. #200 Rancho PV CA 90275 |
| 7. | The Boulevard | 4440 Sepulveda Blvd. Sherman Oaks CA 91403 |
| 8. | Adagio | 3124 S. Main St. South Coast Metro CA 92707 |
| 9. | Cambridge on Devonshire | 18013 Devonshire Northridge CA 91325 |

## CERTIFICATE OF MERIT

I, Anthony G. Graham, declare as follows:

1. I am a member of the State Bar of California, a partner of the law firm of Graham & Martin LLP, and one of the attorneys principally responsible for representing The Consumer Defense Group Action, the "Noticing Party" as to the "60 Day Notice of Intent to Sue" (hereinafter, "the Notice") served concurrently herewith. I have personal knowledge of the facts set forth herein and, if called upon, could and would testify competently thereto.

2. I have consulted with appropriate and qualified scientific experts and, having reviewed relevant scientific data and results of relevant test reports, as well as having reviewed the facts as set forth below and the documentary evidence of those facts regarding the exposures to the chemicals as set forth in the Notice, I have a good faith basis for believing that the exposures set forth in the Notice are likely to be above the minimum significant risk level for the chemicals at issue. I have provided the information, documents, data, reports and/or opinions I have relied upon to the Attorney General's office as required by the regulations promulgated under Proposition 65.

3. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

4. The information referred to in paragraph 3 is as follows; by physical investigation

of the location referenced in the Notice and by investigation of relevant information, documents, data, and reports Consumer Defense Group Action discovered that:

(1) the Violator is responsible for, and thus "operates", the specific subject property or proerties for purposes of Health and Safety Code section 25249.5 and 25249.6;

(2) the Violator has more than nine employees;

(3) the Violator permits and has permitted the "release" of the chemicals set forth in the Notice and such "releases" threaten to pass in sources of drinking water;

(4) exposures to the chemicals set forth in the Notice have occurred and continue to occur both to offsite and onsite persons;

(5) the Violator has not put in place a clear and reasonable warning as required under Health & Safety Code section 25249.6, or any other sign purporting to comply with the requirements of that section.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Irvine, California on June 16, 2003.

## CERTIFICATE OF SERVICE

I am over the age of 18 and not a party to this case. I am a resident of or employed in the county where the mailing occurred. My business address is 3 Park Plaza, Suite 2030, Irvine, California 92614.

I SERVED THE FOLLOWING:

1.) 60-Day Notice of Intent to Sue Under Health & Safety Code Section 24249.6
2.) The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary (*only sent to violators)*
3.) Certificate of Merit
4.) Supporting documents *(sent only to Office of Attorney General)*

by enclosing a true copy of the same in a sealed envelope addressed to each person whose name and address is shown below and depositing the envelope in the United States mail with the postage fully prepaid:

Date of Mailing: June 23, 2003
Place of Mailing: Irvine, California

NAME AND ADDRESS OF EACH PERSON TO WHOM DOCUMENTS WERE MAILED:

All Entities (Violators and Government Entities) Listed on Exhibit B hereto.

Ed Weil, Deputy Attorney General
Office of Proposition 65 Enforcement
1515 Clay Street, Suite 2000
P.O. Box 70550
Oakland, CA 94612-0550
(By Federal Express)

Counsel for Violators (by Federal Express)
Malcolm Weiss, Esq.
David Waite, Esq.
Jeffer Mangels Butler & Marmaro
1900 Avenue of the Stars, Seventh Floor
Los Angeles, CA 90067

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

Dated: June 23, 2003

# EXHIBIT B

Jay Hiemenz
Alliance Residential Company LLC
4808 N. 22nd Street #200
Phoenix, AZ

Los Angeles County District Attorney
210 W. Temple Street, 18th Floor
Los Angeles, CA 90012

Los Angeles City Attorney
200 N. Main St. N.E.
Los Angeles, CA 90012

San Francisco City Attorney
1390 Market Street
San Francisco, CA 94102

Orange County District Attorney
700 Civic Center Dr. W., 2nd Fl.
Santa Ana, CA 92701

San Bernardino County DA
316 N. Mountain View Av
San Bernardino, CA 92415

San Francisco County DA
880 Bryant Street
San Francisco, CA 94103

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

Dated: June 23, 2003