

LAW OFFICES OF

ANDREW L. PACKARD

319 PLEASANT STREET, PETALUMA, CALIFORNIA 94952

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May 23, 2007

Via Certified Mail

Stuart Miller, President/CEO
Lennar Corporation
700 NW 107th Avenue, Ste. 400
Miami, FL 33172

Lennar-BVHP, LLC
CT Corporation System, Agent for Service
818 West Seventh Street
Los Angeles, CA 90017

Lennar Homes of California, Inc.
CT Corporation System, Agent for Service
818 West Seventh Street
Los Angeles, CA 90017

Lennar Associates Management, LLC
CT Corporation System, Agent for Service
818 West Seventh Street
Los Angeles, CA 90017

Lennar Communities, Inc.
CT Corporation System, Agent for Service
818 West Seventh Street
Los Angeles, CA 90017

Hal Stober, President
Gordon N. Ball, Inc.
333 Camille Avenue
Alamo, CA 94507

Re: Notice of Violations of California Health & Safety Code §25249.5 *et seq.*

Dear Sirs:

This firm represents The Center for Self-Improvement & Community Development ("the Center") in connection with this notice of violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986, codified at Health & Safety Code §25249.5 *et seq.* (also referred to as "Proposition 65"). The Center is located at 195 Kiska Road in San Francisco; the Center's mailing address is 1711 Revere Street, San Francisco, CA 94124 (Tel.: (415) 671-0662) This letter serves to provide notification of these violations to you and to the public enforcement agencies.

Pursuant to §25249.7(d) of the statute, the Center intends to bring an enforcement action against the above-referenced entities sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations. A summary of the statute and its implementing regulations, which was prepared by the Office of Environmental Health Hazard Assessment, the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

The names of the violators covered by this notice are: **Lennar Corporation; Lennar Homes of California, Inc.; Lennar Associates Management, LLC; Lennar Communities, Inc.; Lennar-BVHP, LLC; and Gordon N. Ball, Inc.** (collectively, “the Noticees”). The Noticees are currently or have been involved in construction activities at or near “Parcel A” of the Hunter’s Point Shipyard in San Francisco (the “Site”) (a map of the Site is attached hereto). These activities have included grading and other site preparation work, including but not limited to scraping and excavation of materials containing asbestos at the Site, as well as the storage and transportation of such materials off site. These ongoing occupational and environmental violations of Proposition 65 arise out of exposures to asbestos caused by the Noticees’ activities at the Site. On February 27, 1987, the State of California officially listed asbestos as a chemical known to cause cancer.

Location of the Source of the Occupational and Environmental Exposures At Issue. The Site is located in San Francisco’s Bayview-Hunter’s Point District, in the southeast corner of the City (see attached Site map). Exposed persons, for purposes of occupational exposures, include all persons entering the Site since the project’s inception, including, but not limited to, the Noticees’ employees, subcontractors and consultants. For purposes of environmental exposures, exposed persons include all persons entering the Site, as well as the areas adjacent to, and in the vicinity of, the Site, including but not limited to residents of the area, students and teachers attending school in the area, and persons passing through the area. These exposures have occurred and continue to occur beyond the property owned or controlled by the Noticees.

This notice alleges violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions with regard to occupational exposures outside the State of California. The approval also provided that an employer may use the means of compliance in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

Route of exposure. The asbestos exposures that are the subject of this notice have occurred and continue to occur through the inhalation route of exposure.

Duration of violations. These violations began with the inception of groundbreaking activities at the Site in April 2006, and will continue every day until appropriate remedial efforts are undertaken by Noticees to abate the violations. Information available to the Center, including required air monitoring at and near the Site over the past year, establishes asbestos concentrations as high as 55,700 structures per cubic meter. The Noticees have been repeatedly cited by both the San Francisco Department of Public Health and the Bay Area Air Quality Management District for

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violating local regulations and ordinances, including Article 31 of the San Francisco Health Code.

Counsel. The Center will be represented by the following law firms in connection with this matter:

Andrew L. Packard
Law Offices of Andrew L. Packard
319 Pleasant Street
Petaluma, CA 94952
(707) 763-7227
Andrew@packardlawoffices.com

Michael R. Lozeau
Law Office of Michael R. Lozeau
1516 Oak Street, Suite 216
Alameda, California 94501
(510) 749-9102
mrlozeau@lozeaulaw.com

In keeping with the public interest goals of the statute and the Center's objective of protecting the community from further unlawful toxic exposures, we are interested in seeking a constructive resolution of this matter to avoid continuing unwarned exposures to asbestos in the Bayview-Hunter's Point District community without protracted litigation. While we intend to file a citizen enforcement action against the Noticees upon the expiration of the 60-day notice, we are also willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, we suggest that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint if discussions are continuing when that period ends.

Please direct all communications regarding this notice to Andrew L. Packard at the above-listed firm address and telephone number.

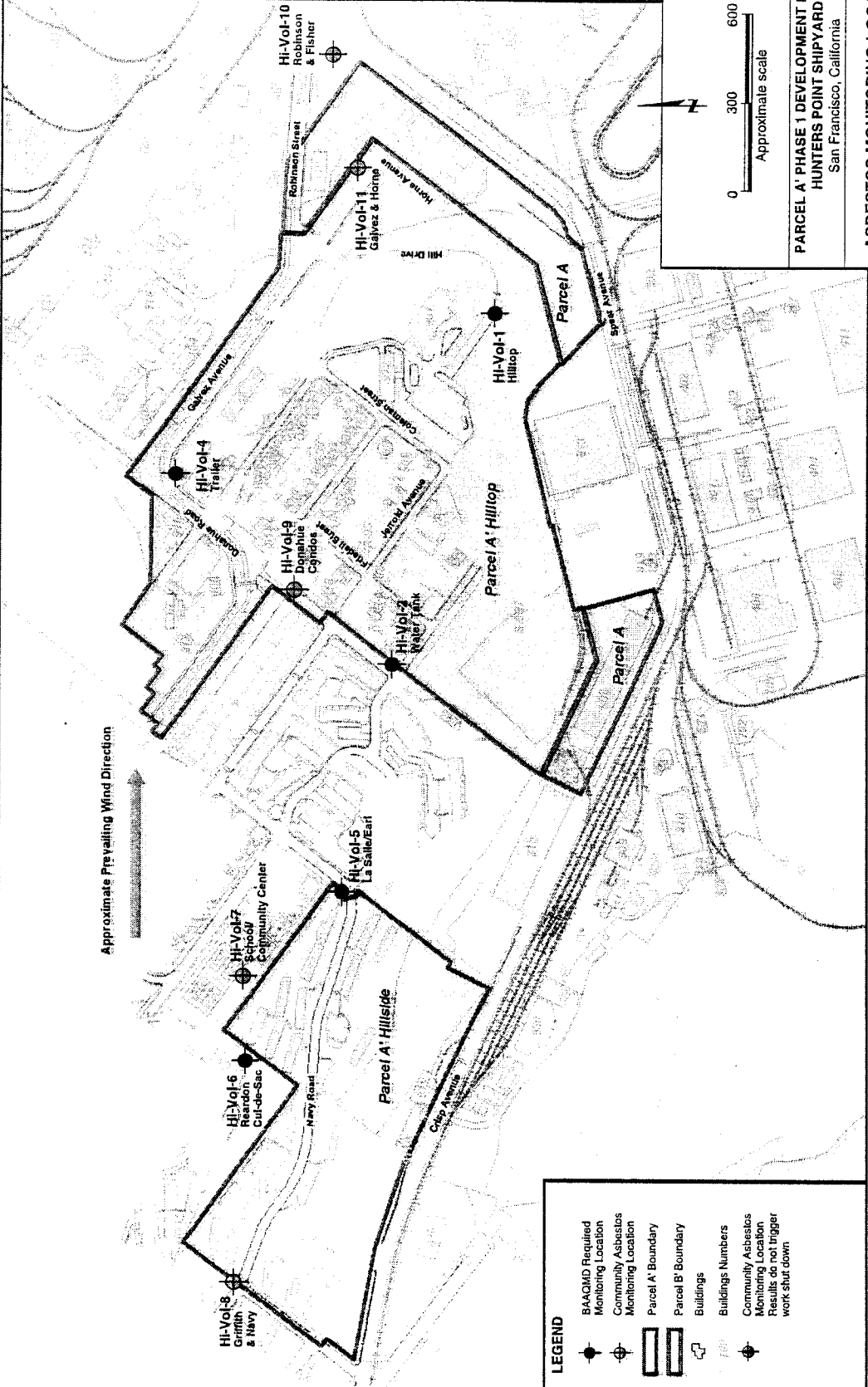
Very Truly Yours,



Andrew L. Packard

Attachments:

OEHHA Summary
Certificate of Merit (w/o AG attachments)
Certificate of Service



PARCEL A' PHASE 1 DEVELOPMENT PROJECT
HUNTERS POINT SHIPYARD
 San Francisco, California

ASBESTOS MONITORING LOCATIONS

Date 02/13/07 Project No. 3848.02 Figure 1

Treadwell&Rollo

Source: CH2MHill, 9/2006.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

THE SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986
(PROPOSITION 65): A SUMMARY

The following summary has been prepared by the Office of Environmental Health Hazard Assessment, the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65"). A copy of this summary must be included as an attachment to any notice of violation served upon an alleged violator of the Act. The summary provides basic information about the provisions of the law, and is intended to serve only as a convenient source of general information. It is not intended to provide authoritative guidance on the meaning or application of the law. The reader is directed to the statute and its implementing regulations (see citations below) for further information. Proposition 65 appears in California law as Health and Safety Code Sections 25249.5 through 25249.13. Regulations that provide more specific guidance on compliance, and that specify procedures to be followed by the State in carrying out certain aspects of the law, are found in Title 22 of the California Code of Regulations, Sections 12000 through 14000.

WHAT DOES PROPOSITION 65 REQUIRE?

The "Governor's List." Proposition 65 requires the Governor to publish a list of chemicals that are known to the State of California to cause cancer, or birth defects or other reproductive harm. This list must be updated at least once a year. Over 550 chemicals have been listed as of May 1, 1996. Only those chemicals that are on the list are regulated under this law. Businesses that produce, use, release or otherwise engage in activities involving those chemicals must comply with the following:

Clear and reasonable warnings. A business is required to warn a person before "knowingly and intentionally" exposing that person to a listed chemical. The warning given must be "clear and reasonable." This means that the warning must: (1) clearly make known that the chemical involved is known to cause cancer, or birth defects or other reproductive harm; and (2) be given in such a way that it will effectively reach the person before he or she is exposed. Exposures are exempt from the warning requirement if they occur less than twelve months after the date of listing of the chemical.

Prohibition from discharges into drinking water. A business must not knowingly discharge or release a listed chemical into water or onto land where it passes or probably will pass into a source of drinking water. Discharges are exempt from this requirement if they occur less than twenty months after the date of listing of the chemical.

DOES PROPOSITION 65 PROVIDE ANY EXEMPTIONS?

Yes. The law exempts:

Governmental agencies and public water utilities. All agencies of the federal, State or local government, as well as entities operating public water systems, are exempt.

Businesses with nine or fewer employees. Neither the warning requirement nor the discharge prohibition applies to a business that employs a total of nine or fewer employees.

Exposures that pose no significant risk of cancer. For chemicals that are listed as known to the State to cause cancer ("carcinogens"), a warning is not required if the business can demonstrate that the exposure occurs at a level that poses "no significant risk." This means that the exposure is calculated to result in not more than one excess case of cancer in 100,000 individuals exposed over a 70-year lifetime.

The Proposition 65 regulations identify specific "no significant risk" levels for more than 250 listed carcinogens.

Exposures that will produce no observable reproductive effect at 1,000 times the level in question. For chemicals known to the State to cause birth defects or other reproductive harm ("reproductive toxicants"), a warning is not required if the business can demonstrate that the exposure will produce no observable effect, even at 1,000 times the level in question. In other words, the level of exposure must be below the "no observable effect level (NOEL)," divided by a 1,000-fold safety or uncertainty factor. The "no observable effect level" is the highest dose level which has not been associated with an observable adverse reproductive or developmental effect.

Discharges that do not result in a "significant amount" of the listed chemical entering into any source of drinking water. The prohibition from discharges into drinking water does not apply if the discharger is able to demonstrate that a "significant amount" of the listed chemical has not, does not, or will not enter any drinking water source, and that the discharge complies with all other applicable laws, regulations, permits, requirements, or orders. A "significant amount" means any detectable amount, except an amount that would meet the "no significant risk" or "no observable effect" test if an individual were exposed to such an amount in drinking water.

HOW IS PROPOSITION 65 ENFORCED?

Enforcement is carried out through civil lawsuits. These lawsuits may be brought by the Attorney General, any district attorney, or certain city attorneys (those in cities with a population exceeding 750,000). Lawsuits may also be brought by private parties acting in the public interest, but only after providing notice of the alleged violation to the Attorney General, the appropriate district attorney and city attorney, and the business accused of the violation. The notice must provide adequate information to allow the recipient to assess the nature of the alleged violation. A notice must comply with the information and procedural requirements specified in regulations (Title 22, California Code of Regulations, Section 12903). A private party may not pursue an enforcement action directly under Proposition 65 if one of the governmental officials noted above initiates an action within sixty days of the notice.

A business found to be in violation of Proposition 65 is subject to civil penalties of up to \$2,500 per day for each violation. In addition, the business may be ordered by a court of law to stop committing the violation.

CERTIFICATE OF MERIT
**(The Center for Self-Improvement & Community Development's
May 23, 2007 Notice of Proposition 65 Violation)**

I, Andrew L. Packard, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health & Safety Code §25249.6 by failing to provide clear and reasonable warnings.

2. I am an attorney for the noticing party.

3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.

4. 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 plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.

5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code §25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: May 23, 2007



Andrew L. Packard

Attachments (for Attorney General Copy only)

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years of age, and am not a party to the within entitled action. My business address is 319 Pleasant Street, Petaluma, California 94952.

On May 23, 2007, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT; "SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986: A SUMMARY"**

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Stuart Miller, President/CEO
Lennar Corporation
700 NW 107th Avenue, Ste. 400
Miami, FL 33172

Lennar-BVHP, LLC
CT Corporation System, Agent for Service
818 West Seventh Street
Los Angeles, CA 90017

Lennar Homes of California, Inc.
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Hal Stober, President
Gordon N. Ball, Inc.
333 Camille Avenue
Alamo, CA 94507

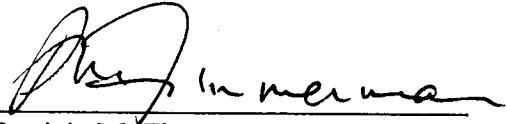
On May 23 2007, I served the following documents: **NOTICE OF VIOLATION, CALIFORNIA HEALTH & SAFETY CODE §25249.5 ET SEQ.; CERTIFICATE OF MERIT (including supporting documentation required by Title 11 CCR §3102)** on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below and depositing it in a US Postal Service Office for delivery by Certified Mail:

Office of the California Attorney General
Prop 65 Enforcement Reporting
1515 Clay Street, Suite 2000
Post Office Box 70550
Oakland, CA 94612-0550

The Honorable Kamala Harris
District Attorney, San Francisco County
850 Bryant Street, Room 325
San Francisco, CA 94103

The Honorable Dennis Herrera
San Francisco City Attorney's Office
City Hall, Room 234
San Francisco, CA 94102

Executed on May 23, 2007, in Petaluma, California.

A handwritten signature in black ink, appearing to read "Patricia M. Zimmerman", written over a horizontal line.

Patricia M. Zimmerman