

B3 Dighera



**ASSESSMENT APPEALS BOARD
SANTA BARBARA COUNTY**
105 East Anapamu Street, Room 407
Santa Barbara, California 93101
Telephone: (805) 568-2240
FAX: (805) 568-2249

October 27, 2011

WALPOLE & CO., LLP
ATTN: JOHN BOSTWICK, CPA
70 SANTA FELICIA DR
GOLETA, CA 93117

Santa Barbara County Assessor
Joseph Holland
105 East Anapamu Street, Room 204
Santa Barbara, CA 93101

Reference: Application Number(s) 09-0725
Parcel Number(s): 065-310-023
Applicant: DIGHERA, LARRY

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

Wilde/Anticouni: Approved the stipulation as to value in the matter of Application for Reduction No. 09-0725, Assessor's Parcel No. 065-310-023, entered into between the assessor and (applicant or agent) be approved, that the full cash value under subdivision (a) of section 2 of article XIII A of the California Constitution for said parcel be set at \$ 887,000 as provided in said stipulation, and that the appearance of (person affected or agent) be deemed waived.

CLERK'S CERTIFICATE OF SERVICE

I, Chandra L. Wallar, Clerk of the Santa Barbara County Assessment Appeals Board, do certify that I am not a party to the above-entitled case; that I served this notice of assessment appeal action by (1) depositing a true copy thereof in separate envelope to the applicant or his or her agent named above, and then by sealing said envelope and depositing the same, with postage fully paid thereon, in the US mail at Santa Barbara; and by (2) depositing a true copy thereof in separate envelope to the Assessor or his or her agent named above, and then by sealing said envelope and depositing the same in the interoffice mail for the County of Santa Barbara at Santa Barbara.

Dated: October 27, 2011

Chandra L. Wallar
County Executive Officer - Clerk of the Board

STATE BOARD OF EQUALIZATION



by: Robert Cohen
Deputy Clerk of the Assessment Appeals Board

Appeal Name: Larry G. Dighera
Case ID: 515547 ITEM #: B3
Date: 2/24/15 Exhibit No: 2.6

TP FTB DEPT PUBLIC COMMENT

TAXPAYER EXHIBIT
B3
February 24, 2015
Larry G. Dighera
515547

BOARD OF EQUALIZATION OF THE COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA

STIPULATION

Name of Applicant: Larry G Dighera Application #: 09-0725
Name of Agent: John Bostwick, CPA
Mailing Address: Walpole & Co., LLP
70 Santa Felicia Dr
Goleta, CA 93117
Parcel Number: 065-310-023 Tax Code Area: 066-162
Property Address: [REDACTED]
Applicant's Opinion of Taxable Value: \$ 615,000
Assessor's Opinion of Taxable Value: \$ 1,290,257

The parties agree by this written stipulation:

1. That the full cash value (market value) of the above real property as of 1/1/09 is \$887,000. Under Article XIII A, the fair market value is \$887,000.
2. That the Taxable Value is set forth below:

Land	\$	260,000
Improvements	\$	627,000
Trade Fixtures	\$	
Personal Property	\$	
Total (Gross)	\$	887,000
Exemptions	\$	
Net Total Assessed Valuation	\$	887,000

This stipulation is based upon the facts recited below and is subject to acceptance by the Assessment Appeals Board as provided in Revenue and Taxation Code Section 1607.

Statement of Facts: This stipulation is made in conformance with Section 110. 110.1 and Section 51 of the Revenue and Taxation Code. Section 51 provides that the assessed value of any property shall not exceed its full market value on January 1 of any roll year. Pursuant to the provisions of this Section, a review of the property was completed to determine its full market value on January 1, 2009. The subject property was found to have a shortened expected economic life due to continuing erosion. The Assessor's Office conducted a review of comparable market data for sales of similar ocean bluff properties to determine the fair market value of the subject property assuming no adverse site conditions. This value was then discounted based on the expected remaining economic life of the property due to erosion. Based on this approach the Assessor's Office determined the market value as of lien date January 1, 2009 to be \$887,000. Therefore, a reduction in the assessed value is appropriate for the 2009 Regular tax roll. This property will be subject to an annual review each January 1 under Section 51.

JOSEPH E. HOLLAND
County Clerk-Recorder-Assessor

By [Signature] 9/9/11
Assessor Staff Date

By [Signature] 9/9/11
Assessor Staff Date

APPLICANT OR AGENT

By [Signature] 9/9/11
Applicant or Agent Date

DENNIS A. MARSHALL
COUNTY COUNSEL

By [Signature] 9/9/11
Deputy Date



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Santa Barbara, CA 93101

Reference: Application Number(s) 09-0726
Parcel Number(s): 065-310-025
Applicant: DIGHERA, LARRY

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

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County Executive Officer - Clerk of the Board

by: Robert Cohen
Deputy Clerk of the Assessment Appeals Board

BOARD OF EQUALIZATION OF THE COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA

STIPULATION

Name of Applicant: Larry G Dighera Application #: 09-0726
Name of Agent: John Boswick, CPA
Mailing Address: Walpole & Co., LLP
70 Santa Felicia Dr
Goleta, CA 93117
Parcel Number: 065-310-025 Tax Code Area: 066-162
Property Address: [REDACTED]
Applicant's Opinion of Taxable Value: \$ 305,000
Assessor's Opinion of Taxable Value: \$ 660,063

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JOSEPH E. HOLLAND
County Clerk-Recorder-Assessor

By: [Signature] Date: 9/1/09
Assessor Staff

By: [Signature] Date: 9/1/09
Assessor Staff

APPLICANT OR AGENT

By: [Signature] Date: 9/1/09
Applicant or Agent

DENNIS A. MARSHALL
COUNTY COUNSEL

By: [Signature] Date: 9/1/09
Deputy



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Reference: Application Number(s) 10-0185
Parcel Number(s): 065-310-023
Applicant: DIGHERA, LARRY G.

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

Wilde/Anticouni: Accepted withdrawal

CLERK'S CERTIFICATE OF SERVICE

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Santa Barbara, CA 93101

Reference: Application Number(s) 10-0186
Parcel Number(s): 065-310-025
Applicant: DIGHERA, LARRY G.

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Reference: Application Number(s) 09-0725
Parcel Number(s): 065-310-023
Applicant: DIGHERA, LARRY

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BOARD OF EQUALIZATION OF THE COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA

STIPULATION

Name of Applicant: Larry G Dighera Application #: 09-0725
Name of Agent: John Bostwick, CPA
Mailing Address: Walpole & Co., LLP
70 Santa Felicia Dr
Goleta, CA 93117
Parcel Number: 065-310-023 Tax Code Area: 066-162
Property Address: [REDACTED]
Applicant's Opinion of Taxable Value: \$ 615,000
Assessor's Opinion of Taxable Value: \$ 1,290,257

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JOSEPH E. HOLLAND
County Clerk-Recorder-Assessor

By: [Signature] 9/9/10
Assessor Staff Date

By: [Signature] 9/9/10
Assessor Staff Date

APPLICANT OR AGENT

By: [Signature] 9/9/10
Applicant or Agent Date

DENNIS A. MARSHALL
COUNTY COUNSEL

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Deputy Date



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Reference: Application Number(s) 09-0726
Parcel Number(s): 065-310-025
Applicant: DIGHERA, LARRY

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JOSEPH E. HOLLAND
County Clerk-Recorder-Assessor

By: [Signature] Date: 9/15/09
Assessor Staff

By: [Signature] Date: 9/15/09
Assessor Staff

APPLICANT OR AGENT

By: [Signature] Date: 9/15/09
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DENNIS A. MARSHALL
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Deputy



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Reference: Application Number(s) 10-0185
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TO THE ABOVE NAMED PARTIES:

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Wilde/Anticouni: Accepted withdrawal

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Reference: Application Number(s) 10-0186
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STATE OF CALIFORNIA

STIPULATION

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Name of Agent: John Bostwick, CPA
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By: [Signature] 9/9/11
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APPLICANT OR AGENT

By: [Signature] 9/9/11
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Santa Barbara, CA 93101

Reference: Application Number(s) 09-0726
Parcel Number(s): 065-310-025
Applicant: DIGHERA, LARRY

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

Wilde/Anticouni: Approved the stipulation as to value in the matter of Application for Reduction No. 09-0726, Assessor's Parcel No. 065-310-025, entered into between the assessor and (applicant or agent) be approved, that the full cash value under subdivision (a) of section 2 of article XIII A of the California Constitution for said parcel be set at \$ 463,000 as provided in said stipulation, and that the appearance of (person affected or agent) be deemed waived.

CLERK'S CERTIFICATE OF SERVICE

I, Chandra L. Wallar, Clerk of the Santa Barbara County Assessment Appeals Board, do certify that I am not a party to the above-entitled case; that I served this notice of assessment appeal action by (1) depositing a true copy thereof in separate envelope to the applicant or his or her agent named above, and then by sealing said envelope and depositing the same, with postage fully paid thereon, in the US mail at Santa Barbara; and by (2) depositing a true copy thereof in separate envelope to the Assessor or his or her agent named above, and then by sealing said envelope and depositing the same in the interoffice mail for the County of Santa Barbara at Santa Barbara.

Dated: October 27, 2011

Chandra L. Wallar
County Executive Officer - Clerk of the Board

by: Robert Cohen
Deputy Clerk of the Assessment Appeals Board

BOARD OF EQUALIZATION OF THE COUNTY OF SANTA BARBARA
STATE OF CALIFORNIA

STIPULATION

Name of Applicant: Larry G Dighera Application #: 09-0726
Name of Agent: John Bostwick, CPA
Mailing Address: Walpole & Co., LLP
70 Santa Felicia Dr
Goleta, CA 93117
Parcel Number: 065-310-025 Tax Code Area: 066-162
Property Address: [REDACTED] a
Applicant's Opinion of Taxable Value: \$ 305,000
Assessor's Opinion of Taxable Value: \$ 660,063

The parties agree by this written stipulation:

1. That the full cash value (market value) of the above real property as of 1/1/09 is \$463,000. Under Article XIII A, the fair market value is \$463,000.
2. That the Taxable Value is set forth below:

Land	\$	140,000
Improvements	\$	323,000
Trade Fixtures	\$	
Personal Property	\$	
Total (Gross)	\$	463,000
Exemptions	\$	
Net Total Assessed Valuation	\$	463,000

This stipulation is based upon the facts recited below and is subject to acceptance by the Assessment Appeals Board as provided in Revenue and Taxation Code Section 1607.

Statement of Facts: This stipulation is made in conformance with Section 110, 110.1 and Section 51 of the Revenue and Taxation Code. Section 51 provides that the assessed value of any property shall not exceed its full market value on January 1 of any roll year. Pursuant to the provisions of this Section, a review of the property was completed to determine its full market value on January 1, 2009. The subject property was found to have a shortened expected economic life due to continuing erosion. The Assessor's Office conducted a review of comparable market data for sales of similar ocean bluff properties to determine the fair market value of the subject property assuming no adverse site conditions. This value was then discounted based on the expected remaining economic life of the property due to erosion. Based on this approach the Assessor's Office determined the market value as of lien date January 1, 2009 to be \$463,000. Therefore, a reduction in the assessed value is appropriate for the 2009 Regular tax roll. This property will be subject to an annual review each January 1 under Section 51

JOSEPH E. HOLLAND
County Clerk-Recorder-Assessor

By: [Signature] Date: 9/28/09
Assessor Staff

By: [Signature] Date: 9/28/09
Assessor Staff

APPLICANT OR AGENT

By: [Signature] Date: 9/28/09
Applicant or Agent

DENNIS A. MARSHALL
COUNTY COUNSEL

By: [Signature] Date: 9/28/09
Deputy



ASSESSMENT APPEALS BOARD
SANTA BARBARA COUNTY
105 East Anapamu Street, Room 407
Santa Barbara, California 93101
Telephone: (805) 568-2240
FAX: (805) 568-2249

October 27, 2011

WALPOLE & CO., LLP
ATTN: JOHN BOSTWICK, CPA
70 SANTA FELICIA DR
GOLETA, CA 93117

Santa Barbara County Assessor
Joseph Holland
105 East Anapamu Street, Room 204
Santa Barbara, CA 93101

Reference: Application Number(s) 10-0185
Parcel Number(s): 065-310-023
Applicant: DIGHERA, LARRY G.

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

Wilde/Anticouni: Accepted withdrawal

CLERK'S CERTIFICATE OF SERVICE

I, Chandra L. Wallar, Clerk of the Santa Barbara County Assessment Appeals Board, do certify that I am not a party to the above-entitled case; that I served this notice of assessment appeal action by (1) depositing a true copy thereof in separate envelope to the applicant or his or her agent named above, and then by sealing said envelope and depositing the same, with postage fully paid thereon, in the US mail at Santa Barbara; and by (2) depositing a true copy thereof in separate envelope to the Assessor or his or her agent named above, and then by sealing said envelope and depositing the same in the interoffice mail for the County of Santa Barbara at Santa Barbara.

Dated: October 27, 2011

Chandra L. Wallar
County Executive Officer - Clerk of the Board

by: Robert Cohen
Deputy Clerk of the Assessment Appeals Board



**ASSESSMENT APPEALS BOARD
SANTA BARBARA COUNTY**
105 East Anapamu Street, Room 407
Santa Barbara, California 93101
Telephone: (805) 568-2240
FAX: (805) 568-2249

October 27, 2011

WALPOLE & CO., LLP
ATTN: JOHN BOSTWICK, CPA
70 SANTA FELICIA DR
GOLETA, CA 93117

Santa Barbara County Assessor
Joseph Holland
105 East Anapamu Street, Room 204
Santa Barbara, CA 93101

Reference: Application Number(s) 10-0186
Parcel Number(s): 065-310-025
Applicant: DIGHERA, LARRY G.

TO THE ABOVE NAMED PARTIES:

NOTICE IS HEREBY GIVEN THAT on October 27, 2011 the Santa Barbara County Assessment Appeals Board entered the following order and/or decision:

Wilde/Anticouni: Accepted withdrawal

CLERK'S CERTIFICATE OF SERVICE

I, Chandra L. Wallar, Clerk of the Santa Barbara County Assessment Appeals Board, do certify that I am not a party to the above-entitled case; that I served this notice of assessment appeal action by (1) depositing a true copy thereof in separate envelope to the applicant or his or her agent named above, and then by sealing said envelope and depositing the same, with postage fully paid thereon, in the US mail at Santa Barbara; and by (2) depositing a true copy thereof in separate envelope to the Assessor or his or her agent named above, and then by sealing said envelope and depositing the same in the interoffice mail for the County of Santa Barbara at Santa Barbara.

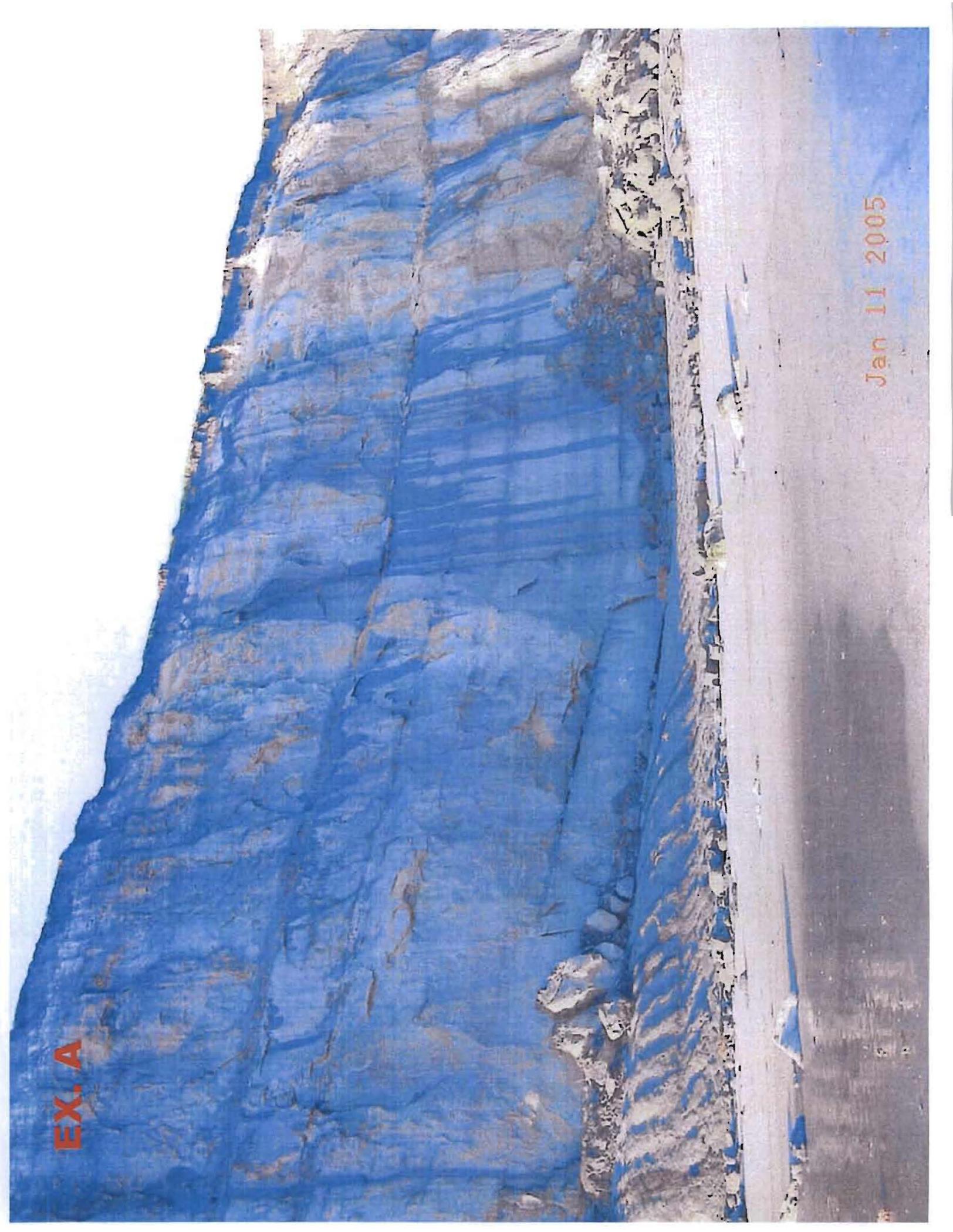
Dated: October 27, 2011

Chandra L. Wallar
County Executive Officer - Clerk of the Board

by: Robert Cohen
Deputy Clerk of the Assessment Appeals Board

EX. A

Jan 11 2005



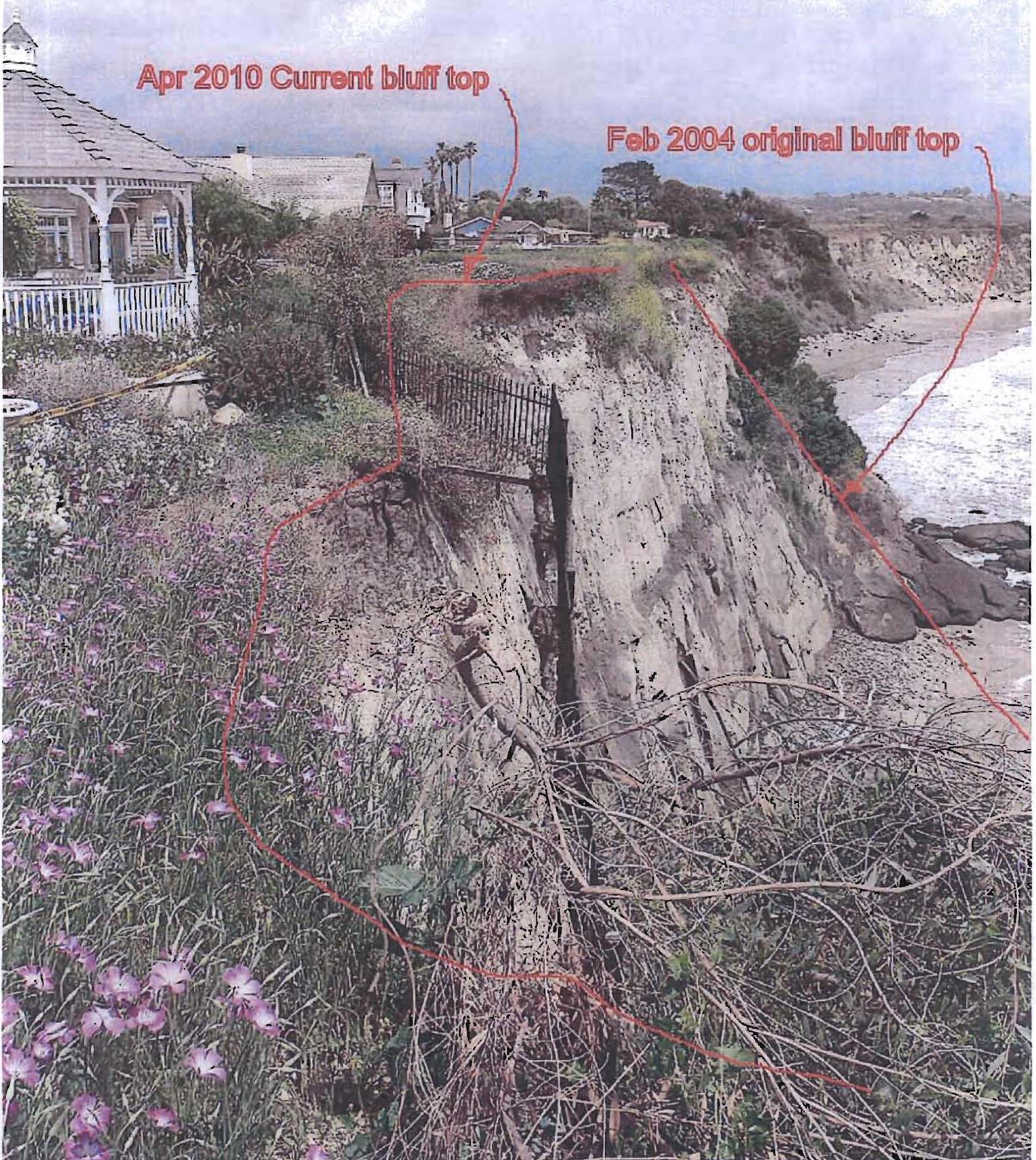
EX. B



EX. C

Apr 2010 Current bluff top

Feb 2004 original bluff top



EX. D

Apr 2010 Current bluff top

Feb 2004 Original bluff top

Austin Rd

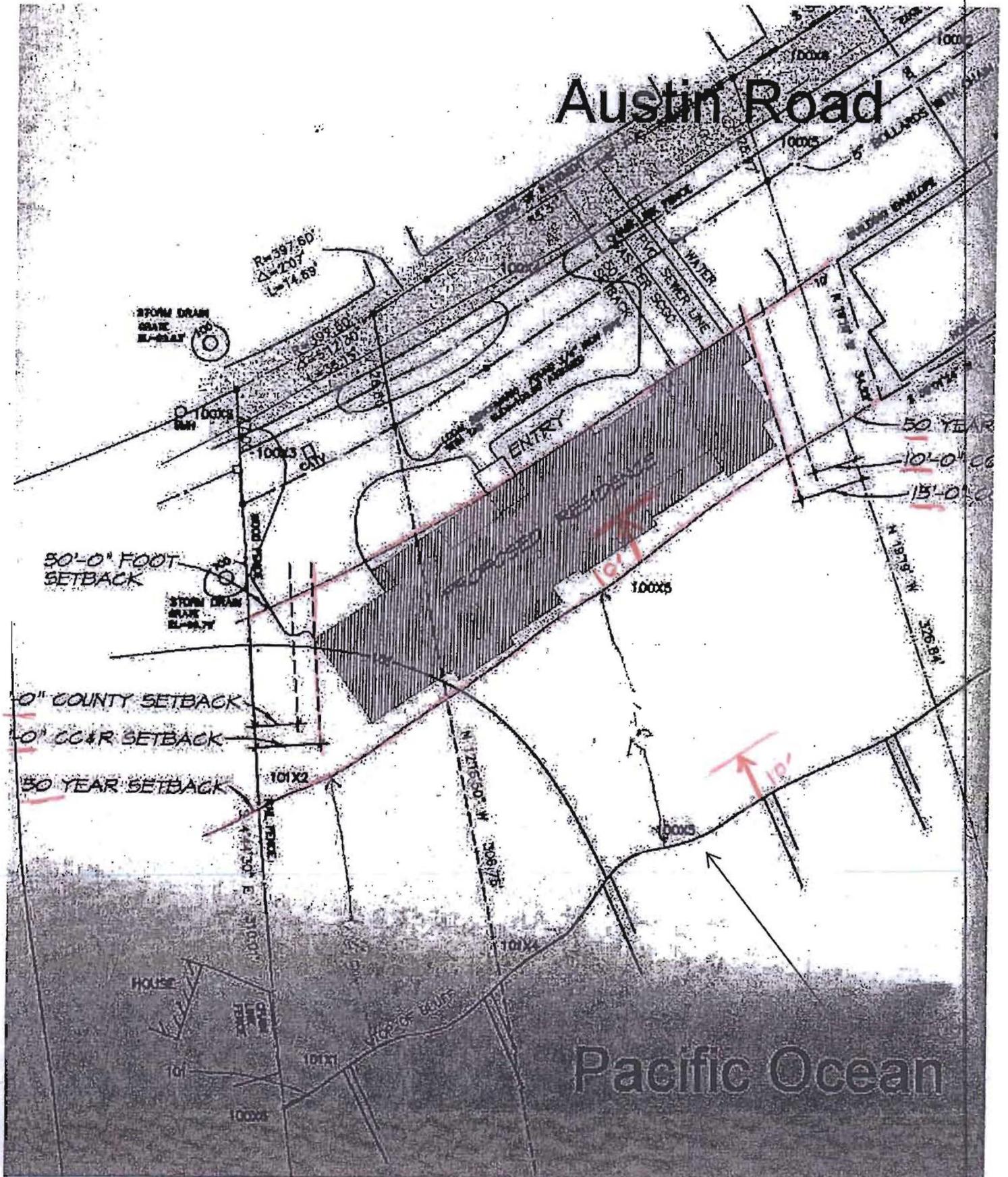
490-415

50 feet

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EX. E



February 24, 2015

Larry G. Dighera

515547

BEWLEY LASSLEBEN & MILLER LLP

Legal Excellence Since 1888

13215 E. PENN STREET, SUITE 510, WHITTIER, CA 90602-1797 562.698.9771

JOSEPH A. VINATIERI, ESQ.

CALIFORNIA STATE AND LOCAL TAX GROUP

JOSEPH A. VINATIERI

JEFFREY S. BAIRD

JASON C. DEMILLE

RICHARD L. DEWBERRY

LEIGHTON M. ANDERSON

PATRICIA VERDUGO

February 23, 2015

Sent Via Email (Anthony.Epolite@boe.ca.gov) and U.S. Mail

Anthony Epolite

Tax Counsel IV

Appeals Division, Legal Department

Board of Equalization

450 N Street, MIC: 85

PO Box 942879

Sacramento, CA 95814

Re: Appeal of Larry G. Dighera (Case ID. 515547)
Hearing Date: Tuesday, February 24, 2015
Objection to Franchise Tax Board Memorandum of February 19, 2015

Dear Mr. Epolite:

This letter is written to object to certain information contained in the Franchise Tax Board ("FTB") memorandum response to Board Member's inquiry dated February 13th, page 2, a copy of which is attached hereto.

In said letter, FTB counsel refers to an alleged reverse mortgage obtained by Taxpayer based upon an alleged value of the subject property of \$4,237,500. FTB counsel further opines that in order to procure a reverse mortgage in the amount of \$4,237,500, it suggests that Taxpayer must have received an appraisal of the subject property in the amount of \$4,237,500. Counsel statements are nothing more than uncorroborated speculation/supposition and Appellant/Taxpayer hereby objects to said speculative statements based upon Board of Equalization Rules for Tax Appeals Rule 5523.6.

Rule 5523.6 (a) "Admissible Evidence" provides that "Any relevant evidence...may be presented to the Board."

Section (b) further provides that "...The Board will consider any objections to, and comments on, the evidence presented at the oral hearing in assigning weight to such evidence. The Board may refuse to allow the presentation of evidence that it considers irrelevant, untrustworthy, or unduly repetitious."

Anthony Epolite
February 23, 2015
Page 2

Appellant's first objection relates to discussion of a reverse mortgage taken out November 2014 and the relevance of said reverse mortgage to a casualty loss that occurred in December 2004, 10 years prior.

Furthermore, FTB counsel has made a blanket assertion, "... Since the amount a person can borrow using a reverse mortgage requires an appraisal of the property, the \$4,237,500 amount suggests the valuation of the Austin Road property was at least this amount at the end of 2014." Counsel produces no appraisal or valuation, only counsel supposition that there must be an appraisal in this amount. Beyond the fact that any appraisal is 10 years after the fact, no appraisal has been produced which shows any opined value including comparable sales, income data, cost data, etc. that might justify a number.

All of this is supposition and speculation. "... There was a reverse mortgage given of over \$4 million, therefore there must be an appraisal that justifies a \$4 million value, therefore, assumedly, how could his property be worth \$1.3 million immediately after the casualty in December 2004?" It is this very sort of uncorroborated, non-credible supposition that is the basis for not allowing such inherently untrustworthy speculation to become part of the official record in this matter.

In light of the foregoing, Appellant requests that the speculation that is contained on page 2 of FTB's Memorandum dated 2/19/15 be stricken from the record.

Sincerely,

BEWLEY LASSLEBEN & MILLER



JOSEPH A. VINATIERI, ESQ.

Direct Line: 562.907.2037

Direct Fax: 562.309.8158

[e-mail: joseph.vinatieri@bewleylaw.com](mailto:joseph.vinatieri@bewleylaw.com)

JAV:dm

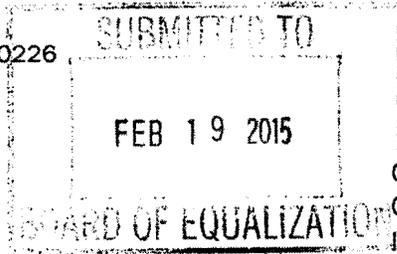
cc: Larry Dighera
John Bostwick, CPA
Raul Escatel, Esq.



State of California
Franchise Tax Board

Legal Division MS L-23
1515 Clay Street, Suite 306
Oakland, CA 94612-1401
tel: 510.622.3960 fax: 916.843.0226
Raul.Escatel@ftb.ca.gov

chair Betty T. Yee | member Jerome E. Horton | member Michael Cohen



COPY

Date: 02.19.15

Case: 4690312050381193
Case Unit: 4690312050381393
In reply refer to: 410:RAE

TO: CHIEF, BOARD PROCEEDINGS DIVISION
STATE BOARD OF EQUALIZATION
ATTN: ANTHONY EPOLITE
450 N STREET, MIC: 81
SACRAMENTO, CA 95814

FROM: RAUL A. ESCATEL

RE: Appeal of Larry G. Dighera
Appeal Case ID No. 515547
Additional Brief – Response to BOE Inquiry

MEMORANDUM

Dear Mr. Epolite:

This memorandum is in response to your email inquiry dated February 13, 2015, addressing the Board's request for additional information in the above matter. The questions below were addressed to the Franchise Tax Board ("Respondent").

Question (1): What is the breakdown of the proposed tax assessment in the amount of \$148,177, as stated on the Notice of Proposed Assessment ("NPA") for the 2004 tax year?

Answer (1): The proposed tax assessment on the NPA results from Appellant's failed like-kind exchange¹ and Respondent's disallowance of a \$224,070 casualty loss deduction as originally reported on Appellant's 2004 California return. The tax assessment on the NPA is broken down as follows:

Tax effect of disallowed casualty loss:	\$20,839
Tax effect of failed like-kind exchange:	\$127,338

///

///

¹ Appellant has since conceded this issue.

Date : 02.19.15
Appeal Name : Larry G. Dighera
Appeal Case ID No. : 515547
Page 2 of 2

Question (2): What is the tax effect resulting from Appellant's claim at appeal, that he is entitled to a casualty loss in the amount of \$1,309,531, including Respondent's adjustment from Appellant's failed like-kind exchange?

Answer (2): The tax effect resulting from Appellant's claim he is entitled to a casualty loss in the amount of \$1,309,531, coupled with Respondent's adjustment related to Appellant's failed like-kind exchange results in a net tax liability in the amount of \$5,552.²

In addition to the above, Respondent would like to bring to your Board's attention newly discovered information. A real property search on Lexis.com of the real property located at 5289 Austin Road, San Barbara, CA 93111 ("Austin Road") (and the subject of this appeal) revealed that Appellant took out a reverse mortgage on the Austin Road property on or around November 2014.³ According to the information on Lexis.com, Appellant received a reverse mortgage in the amount of \$4,237,500. Since the amount a person can borrow using a reverse mortgage requires an appraisal of the property, the \$4,237,500 amount suggests the valuation of the Austin Road property was at least this amount at the end of 2014.⁴

If you have any further questions, please feel free to contact me at the number above.


Tax Counsel III

cc: Joseph Vinatieri

² A casualty loss deduction in the amount of \$1,309,531 would result in a reduction of tax in the amount of \$121,786.

³ Exhibit A: Printout from Lexis.com of the Mortgage Record for the property located at 5289 Austin Road, Santa Barbara, CA 93111.

⁴ Reverse mortgage loan limits are contingent, in part, on the property owner's age; the older the borrower, the higher the lending limits.

Mortgage Record

This data is for informational purposes only.

Borrower Information

Original Name: DIGHERA, LARRY (INDIVIDUALS)
Standardized Name: DIGHERA, LARRY

Property Information

Original Property Address: [REDACTED]

Standardized Property Address: [REDACTED]

SANTA BARBARA COUNTY

Zoning: PLANNED UNIT DEVELOPMENT

Data Source: B

Lender Information

Name: GENERATION MORTGAGE CO
Address: 30305
Type: MORTGAGE COMPANY

Legal Information

Assessor's Parcel Number: 065-310-023
Recording Date: 11/26/2014
Contract Date: 11/17/2014
Document Number: 2014-0054437
Loan Number: 2200019897
Legal Description: LOT NUMBER: 24&25; SUBDIVISION: BEGUHL; TRACT: 2;
CITY/MUNI/TWNSP: SANTA BARBARA

Mortgage Information

Mortgage Type: NON-PURCHASE MONEY
Loan Amount: \$4,237,500
Loan Type: Reverse Mortgage***
Type of Financing: FIXED RATE
Due Date: 12/04/2092
Title Company: WESTERN RESOURCES TITLE CO

Internal Revenue Service, Treasury

§ 1.165-7

this section shall be construed to disallow the deduction of any loss reflected in the inventories of the taxpayer. For provisions relating to inventories of farmers, see section 471 and the regulations thereunder.

(3) *Other limitations.* For other provisions relating to the amount deductible under this section, see paragraph (c) of § 1.165-1, relating to the amount deductible under section 165(a); § 1.165-7, relating to casualty losses; and § 1.1231-1, relating to gains and losses from the sale or exchange of certain property used in the trade or business.

(g) *Other provisions applicable to farmers.* For other provisions relating to farmers, see § 1.61-4, relating to gross income of farmers; paragraph (b) of § 1.167(a)-6, relating to depreciation in the case of farmers; and § 1.175-1, relating to soil and water conservation expenditures.

§ 1.165-7 Casualty losses.

(a) *In general*—(1) *Allowance of deduction.* Except as otherwise provided in paragraphs (b)(4) and (c) of this section, any loss arising from fire, storm, shipwreck, or other casualty is allowable as a deduction under section 165(a) for the taxable year in which the loss is sustained. However, see § 1.165-6, relating to farming losses, and § 1.165-11, relating to an election by a taxpayer to deduct disaster losses in the taxable year immediately preceding the taxable year in which the disaster occurred. The manner of determining the amount of a casualty loss allowable as a deduction in computing taxable income under section 63 is the same whether the loss has been incurred in a trade or business or in any transaction entered into for profit, or whether it has been a loss of property not connected with a trade or business and not incurred in any transaction entered into for profit. The amount of a casualty loss shall be determined in accordance with paragraph (b) of this section. For other rules relating to the treatment of deductible casualty losses, see § 1.1231-1, relating to the involuntary conversion of property.

(2) *Method of valuation.* (i) In determining the amount of loss deductible under this section, the fair market value of the property immediately be-

fore and immediately after the casualty shall generally be ascertained by competent appraisal. This appraisal must recognize the effects of any general market decline affecting undamaged as well as damaged property which may occur simultaneously with the casualty, in order that any deduction under this section shall be limited to the actual loss resulting from damage to the property.

(ii) The cost of repairs to the property damaged is acceptable as evidence of the loss of value if the taxpayer shows that (a) the repairs are necessary to restore the property to its condition immediately before the casualty, (b) the amount spent for such repairs is not excessive, (c) the repairs do not care for more than the damage suffered, and (d) the value of the property after the repairs does not as a result of the repairs exceed the value of the property immediately before the casualty.

(3) *Damage to automobiles.* An automobile owned by the taxpayer, whether used for business purposes or maintained for recreation or pleasure, may be the subject of a casualty loss, including those losses specifically referred to in subparagraph (1) of this paragraph. In addition, a casualty loss occurs when an automobile owned by the taxpayer is damaged and when:

(i) The damage results from the faulty driving of the taxpayer or other person operating the automobile but is not due to the willful act or willful negligence of the taxpayer or of one acting in his behalf or

(ii) The damage results from the faulty driving of the operator of the vehicle with which the automobile of the taxpayer collides.

(4) *Application to inventories.* This section does not apply to a casualty loss reflected in the inventories of the taxpayer. For provisions relating to inventories, see section 471 and the regulations thereunder.

(5) *Property converted from personal use.* In the case of property which originally was not used in the trade or business or for income-producing purposes and which is thereafter converted to either of such uses, the fair market value of the property on the date of conversion, if less than the adjusted basis of

EX. G

HAMMOCK, ARNOLD, SMITH & COMPANY

Real Estate Appraisers & Consultants

JAMES W. HAMMOCK, MAI
MICHAEL NEAL ARNOLD, MAI, MRICS
BENJAMIN F. SMITH, M.A., MAI
C. MATTHEW N. ARNOLD

TELEPHONE: (805) 966-0869
FACSIMILE: (805) 966-6352
www.hascosb.com

215 W. FIGUEROA STREET
SANTA BARBARA
CALIFORNIA 93101

May 5, 2009

Larry Dighera
P. O. Box 26768
Santa Ana, CA 92799

Reference: Residential Property

[REDACTED] d
[REDACTED]

Dear Mr. Dighera:

As authorized I have proceeded with the work necessary to develop an opinion of the loss in market value of the subject property as a result of storm damages sustained on December 28, 2004.

The scope of work for this engagement has included:

- *Inspection of subject property*
- *Survey for subject property details*
- *Review of prior appraisals*
- *Review of other submitted data*
- *Surveys for market data*
- *Estimation of value without damages*
- *Consideration of damage impacts*
- *Estimate of value with damages*
- *Estimation of total damages*

Insofar as is practical, every effort has been made to verify as factual and true all data set forth in this report. However, no responsibility is assumed for the accuracy of any information furnished by others.

All current work has been undertaken in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, the Professional Standards and Code of Ethics of the Appraisal Institute, and the Appraisal & Valuation Standards of the Royal Institution of Chartered Surveyors. This letter is considered to be a Summary Report.

May 5, 2009

Page 2

Property Description

The subject property is a beachfront bluff top home situated on two adjacent parcels with a gross area of over of an acre. Due to public beaches, the bluffs, and the private road easement, the usable area of the site is judged to be no more than 20,000 square feet. The improvements are a recently constructed home containing a total of 3,021 square feet apportioned into an entry, living room, kitchen, family room, game room, and three bedrooms, library, office, and three and a half baths. The home is generally of good to very good quality construction materials and the condition currently is very good.

Title to the subject site was transferred on August 31, 2004 for the sum of \$1,150,000. However, the sale price was the result of an exchange that was negotiated in February of 2004. The sale price included plans for construction of the now existing improvements. Just prior to the sale the property, was appraised by Greg Wood (Certified General Appraiser) resulting in a market value estimation of \$3,148,000 "As Is" (with approximately \$360,000 remaining expenditure to complete all construction). As of December 28, 2004 the subject property was structurally complete but in need of exterior site work (landscape, etc. of \$250,000).

Based on my general familiarity with Santa Barbara area properties, market data surveys, and review of the Wood report, I have formed the opinion that the purchase price was equivalent to market value at the negotiation date and that the Wood market value estimate was reasonable and appropriate as of August 21, 2004.

Value Without Damages

In addition to the aforementioned Greg Wood appraisal, consideration has been given to market activity between August and December of 2004 as published by the local Santa Barbara Board of Realtors Multiple Listing Service. Considering this I have formed the opinion that the value of the site had increased to approximately \$1,300,000 and the market value of the property subject to completion of all improvements had increased to approximately \$3,650,000. Subsequent to the date of value, the owner reportedly spent approximately \$250,000 to complete the site work. Based on this, I have formed the opinion that, as of the date of value, an appropriate reflection of a market perception of what would be needed to complete the exterior site work would be an allowance of approximately \$250,000. Therefore, the value of the property, "as is" as of the date of value was approximately \$3,400,000.

Description of Damages

On December 28, 2004, as a result of heavy storms, the subject property reportedly sustained significant bluff damage. Based on owner description as well as a review of a site land survey made in 2007 by Dodson Land Surveying Inc., I have formed the opinion that the area lost was approximately 10 feet

May 5, 2009

Page 3

deep and had a width of approximately 85 feet. The total area lost was approximately 850 square feet. Therefore, the physical area lost was equivalent to approximately 4.25% of the total usable area.

In addition to the actual physical loss, there are damages to the remaining portions of the property. The utility of the site was diminished significantly due to the 10 foot loss in site area. The building envelope for the subject site is effectively established by set back requirements. On the north, the improvements must be at least 50 feet below the private roadway center line. On the south, the required setback was equivalent to a minimum of 50 years of erosion. It was established that maximum bluff erosion averages were 18 inches per year. Therefore, the minimum setback from the bluff top would be 75 feet.

From the cited survey and descriptions supplied by the owner, it appears that the placement of the recently constructed residence was almost exactly 75 feet back from the then existing bluff top and approximately 25 feet below the private road easement. The loss of 10 feet of bluff top moved the set back into the middle of the existing structure. Based on discussions with Brian Banks, a planner with the County of Santa Barbara, I have formed the opinion that if the structure were to be destroyed for any reason, it could not legally have been replaced. In fact, the depth of the building envelope was reduced to the point where the only newly proposed improvements allowed would have to be extremely modest in size and irregular in shape. (Subsequent bluff top loss has essentially eliminated any potential to re-build on the site.)

The bluff top cannot be replaced and the impacts on the remaining property cannot be reversed. There is no "cure". California law requires full disclosure of any adverse conditions affecting a residential property being sold. The remaining subject property was negatively impacted because of having improvements that could not be replaced (not to mention fears – since borne out – of further extraordinary bluff loss). Further, conventional financing would not be available when the full facts were revealed.

Estimate of Value With Damages

The loss in value to the site is a fairly straight forward calculation; 4.25% of the usable area was lost. The damages to the remaining property require more judgment. It is possible to structure a hypothetical value analysis from the perspective of present value of potential future net earnings. The elements required would be projection period, net incomes, reversion value, and discount rate.

The projection period would be the remaining economic life. Using the geologist established average erosion rate of 18 inches per year, it would be approximately 35 years until the bluff top was too close (within 10 to 15 feet) to the house for habitation.

The projected net income would be potential rentals less ownership costs (taxes, insurance, maintenance, etc.). There is evidence of beach house rentals easily exceeding \$10,000 per month in summer months. However, for a year-round rental, an allowance of \$10,000 per month is judged the highest reasonable amount. The total potential gross annual income would be \$120,000. From this is subtracted allowances for taxes (\$30,000), insurance (\$2,500), maintenance (\$7,500) and miscellaneous (\$2,500). Therefore, the net annual operating income would be approximately \$77,500. Any potential for gains through rising rents will be allowed for in rate selection.

The reversion is the value of the property at the end of the projection period. It is judged that the salvage value of the building materials and an allowance for a non-buildable beachfront site certainly would not be perceived as having any potential to exceed \$2,000,000.

The discount rate is, among other things, a reflection of the degree of confidence placed on the projections made. In this case a typical market participant would likely feel the projection period was speculative. (As it turned out, they would have been right – the bluff lost an additional 20 plus feet within months of the date of value.) Further, they would likely anticipate that there was good potential for some income growth at least through the middle years of the projection period. The reversion is highly speculative but, as will be seen, not a particularly significant portion of the value. Discount rates for real estate investments have been on the rise over the past eight to twelve months. National surveys coupled with knowledge of local markets suggest discount rates in the range of 10% to 15%. Considering the uncertainty of the projection period (offset some by income growth potential) it is judged that a rate from the upper end of the range would be required to attract investor interest.

Using the elements discussed above, an indication of value can be calculated as follows:

Incomes:		
\$77,500 x 7.5856 ^{*1} =	\$587,884	
\$77,500 x 7.0700 ^{*2} =		\$547,925
Reversion:		
\$2,000,000 x 0.0139 ^{*3} =	<u>27,800</u>	
\$2,000,000 x 0.0139 ^{*4} =		<u>20,400</u>
Indicated Present Value:	\$615,684	\$568,325

^{*1} PV \$1/year, 35 years @ 13%

^{*2} PV \$1/year, 35 years @ 14%

^{*3} PV \$1 deferred 35 years @ 13%

^{*4} PV \$1 deferred 35 years @ 14%

While theoretically sound, the preceding analysis does not reflect the perspective or decision making process for a typical market participant for this type of property. Nonetheless, the analysis does demonstrate the potential for a significant discount in value.

Market generated discounts for detrimental conditions in residential properties reflect the nature of the conditions. If it is curable, what are the costs? If it is not curable, what benefits remain to be enjoyed?

The subject property bluff loss was irreversible. After the damages sustained on December 28, 2004 the property would be viewed as having a remaining economic life of up to 35 years. This is 30% less than what could have been expected the day before. Add to this the permanent constraints associated with impaired utility and financing difficulties and a total discount to the remaining property in the area of 35% to 40% is judged reasonable and appropriate.

Considering the above discussions, the following calculations are made.

Impact of Site Loss:

$$\$1,300,000 \times 4.25\% = \$55,250$$

Impact to Remaining Property:

$$\$3,344,750^* \times 37.5\% = \underline{\$1,254,281}$$

$$\text{Total Impacts:} \quad \$1,309,531$$

Therefore, the total loss in value to the property is judged to be approximately \$1,300,000 resulting in an indication of market value, as of December 28, 2004, *after damages* of approximately \$2,100,000. Considering the significance of the loss, this seems reasonable and appropriate.

Therefore, the opinion has been formed that the total loss in value to the subject property as a result of the described sustained damages was the sum of approximately **\$1,300,000**.

* Market Value:	\$3,650,000
Allowance for Completion:	- 250,000
Allowance for Site Loss:	- <u>55,250</u>
Remaining:	\$3,344,750

May 5, 2009

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

- o the statements of fact contained in this report are true and correct.*
- o the reported analyses, opinion, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.*
- o 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.*
- o I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.*
- o my engagement in this assignment was not contingent upon developing or reporting predetermined results.*
- o 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.*
- o my analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.*
- o my analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute.*
- o my analyses, opinions, and conclusions were developed and this report has been prepared in conformity with the Rules of Conduct and Valuation Standards of the Royal Institution of Chartered Surveyors.*
- o I have made a personal inspection of the property that is the subject of this report.*
- o no one provided significant professional assistance to the person signing this report.*
- o the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.*

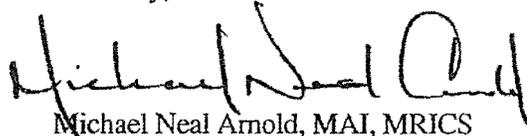
May 5, 2009
Page 7

As of the date of this report, I have completed the requirements under the continuing education program of the Appraisal Institute.

This letter may not include enough detailed information to be readily understandable to the public. Therefore, it is advised that it be considered for internal use only. Opinions expressed are subject to attached certification, limiting conditions, extraordinary assumptions and general assumptions. At your request, and additional cost, a more complete report can be developed.

I hope the information contained in this letter is suitable for your current needs. If you have any questions or require further information please do not hesitate to call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Neal Arnold". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael Neal Arnold, MAI, MRICS
CA #AG002089

HAMMOCK, ARNOLD, SMITH & CO.

MNA:lz

USPAP
REPORTING REQUIREMENTS

Property Identification

[REDACTED]
[REDACTED]

Assessor's Parcel Number

63-310-23 & 25

Property Interest

Fee Simple Estate

Record Owner

Larry Dighera since August of 2004

Purpose, Use, & Intended User

Market Value for tax planning by the addressee and assignees.

Definition of Value

Market Value as defined in Uniform Standards of Professional Appraisal Practice (of the Appraisal Foundation). See attached.

Date of Value

December 28, 2004

Scope

Estimate damage loss

Extraordinary & General Assumptions & Limiting Conditions

See attached

ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made with the following extraordinary assumptions:

- 1) It has been assumed, for the purpose of this valuation work, that the appropriate allowance for the subject average bluff erosion is 18 inches (1.5 feet) per year.
- 2) It has been assumed, for the purpose of this valuation work, that the cost to complete all construction after August 31, 2004 was approximately \$363,145.

This appraisal report has been made with the following general assumptions and limiting conditions:

- 1) As agreed upon with the client this appraisal is made subject to the scope of work discussed in this valuation.
- 2) This is a Summary Appraisal Report which is intended to comply with the reporting requirements set forth under Standard Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice. As such, it might not include full discussions of the data, reasoning, and analyses that were used in the appraisal process to develop the appraiser's opinion of value. Supporting documentation concerning the data, reasoning, and analyses is retained in the appraiser's file. The information contained in this report is specific to the needs of the client and for the intended use stated in this report. The appraiser is not responsible for unauthorized use of this report.
- 3) No responsibility is assumed for legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated in this report.
- 4) The property is appraised free and clear of any or all liens and encumbrances unless otherwise stated in this report.
- 5) Responsible ownership and competent property management are assumed unless otherwise stated in this report.

- 6) The information furnished by others is believed to be reliable. However, no warranty is given for its accuracy.
- 7) All engineering is assumed to be correct. Any plot plans and illustrative material in this report are included only to assist the reader in visualizing the property.
- 8) It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them.
- 9) It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless otherwise stated in this report.
- 10) It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless a nonconformity has been stated, defined, and considered in this appraisal report.
- 11) It is assumed that all required licenses, certificates of occupancy or other legislative or administrative authority from any local, state, or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimates contained in this report are based.
- 12) Any sketch in this report may show approximate dimensions and is included to assist the reader in visualizing the property. Maps and exhibits found in this report are provided for reader reference purposes only. No guarantee as to accuracy is expressed or implied unless otherwise stated in this report. No survey has been made for the purpose of this report.
- 13) It is assumed that the utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless otherwise stated in this report.
- 14) The appraiser is not qualified to detect hazardous waste and/or toxic materials. Any comment by the appraiser that might suggest the possibility of the presence of such substances should not be taken as confirmation of the presence of hazardous waste and/or toxic materials. Such determination would require investigation by a qualified expert in the field of environmental

assessment. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The appraiser's value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value unless otherwise stated in this report. No responsibility is assumed for environmental conditions, or for any expertise or engineering knowledge required to discover them. The appraiser's descriptions and resulting comments are the result of the routine observations made during the appraisal process.

- 15) Unless otherwise stated in this report, the subject property is appraised without a specific compliance survey having been conducted to determine if the property is or is not in conformance with the requirements of the Americans with Disabilities Act. The presence of architectural and communications barriers that are structural in nature that would restrict access by disabled individuals may adversely affect the property's value, marketability, or utility.
- 16) Any proposed improvements are assumed to be completed in a good workmanlike manner in accordance with the submitted plans and specifications.
- 17) The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
- 18) Possession of this report, or a copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the party to whom it is addressed without the written consent of the appraiser, and in any event, only with properly written qualification and only in its entirety.
- 19) Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, or the firm with which the appraiser is connected) shall be disseminated to the public through advertising, public relations, news sales, or other media without prior written consent and approval of the appraiser.

DEFINITION OF TERMS

MARKET VALUE

Market value is the major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined. A current economic definition agreed upon by federal financial institutions in the United States of America is:

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:

- (a) Buyer and seller are typically motivated;
- (b) Both parties are well informed or well advised, and acting in what they consider their best interest;
- (c) A reasonable time is allowed for exposure in the open market;
- (d) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
- (e) 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.

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

PROFESSIONAL QUALIFICATIONS

General

The firm of Hammock, Arnold, Smith & Company was established in 1972. The offices of the practice are located at 215 West Figueroa Street in Santa Barbara, California. Over the years, the firm has grown to be regarded as a regional leader in the field of real estate evaluation and valuation.

Scope of Services

Hammock, Arnold, Smith & Company is a professional practice offering services in the following areas of specialization:

Residential

Analysis and valuation of existing and proposed single family dwellings, estates, apartment buildings, condominiums, multi-unit projects, mobile home parks, etc.

Commercial

Analysis and valuation of existing and proposed retail store buildings, office buildings, strip commercial, shopping centers, motels, hotels, restaurants, etc.

Industrial

Analysis and valuation of existing and proposed warehouses, shop buildings, light industrial buildings, industrial parks, mini-storage facilities, etc.

Agriculture

Analysis and valuation of cattle and horse ranches, row crop, orchards, vineyards, nurseries, etc.

Unimproved Land

Analysis and valuation of residential, commercial, industrial, multi-purpose sites, and rural acreage.

Special Purpose

Analysis and valuation of leasehold and leased fee interests, mixed-use properties, historic properties, fractional interests, conservation easements, etc.

Evaluation Studies

Acquisition and disposition consultations, marketing studies, feasibility analysis, highest and best use studies, reproduction and replacement cost studies, litigation consultation, lease negotiations, etc.

Partial List of Clients

A partial list of clients of Hammock, Arnold, Smith & Company, past and present, is as follows:

Attorneys:

Stanley W. Abbott	Patricia K. Jasper
Allen & Kimbell	Laskin & Graham
John W. Ambrecht	McCarthy & Kroes
Thomas P. Anderle	Merrill Dean
Angle, Carlson, Goldrick & Roberts	Michaelson, Susi & Michaelson
Collison & Collison	Mullen & Henzell
James F. Cote	O'Melveny & Meyers
Robert F. Egenolf	Price, Postel & Parma
Fell, Marking, Abkin & Montgomery	Reetz, Fox & Barlett
John Gherini	Reicker, Clough, et al
Gibson, Dunn & Crutcher	Rogers & Sheffield
Griffith & Thornburgh	Seed, Mackall LLP
Grokenberger & Smith	Sullivan, Workman & Dee
Derek Westen	Elizabeth Vogt
Hatch & Parent	Zilinskas & Jacobs
Hollister & Brace	
Jarvis, Hartloff & Simon	

Corporate:

AGIA	McDonald's
ARCO	MCR Technology
Astro Aerospace Corp.	Oceanering International
Bechtel	Raytheon
Bixby Ranch Company	Southern California Edison Company
Carrows Restaurants	Southern California Gas Company
Chevron Land Co.	UP/SP Railroad Company
Columbia Broadcasting Systems	State Farm Insurance
Cox Communications	Texaco
East Valley Ranch Company	3-M Company
Environmental Golf	Union Oil Company
General Motors	Valley Improvement Company
Goleta Land Company	Venoco
Lawyers Title	Xerox

Financial:

Allstate Financial Services	JP Morgan Chase
Bank of America	Founders Community Bank
Bank of the West	Keystone Mortgage
Business First National Bank	La Jolla Bank
Citibank	Los Padres Bank
Citizens Business Bank	Mid State Bank
City National Bank	Montecito Bank & Trust

HAMMOCK, ARNOLD, SMITH & COMPANY

Commercial Capital Bank
Deutsch Bank
First Bank & Trust
First Republic Bank
GMAC
John Hancock Life

Northern Trust of California
Santa Barbara Bank & Trust
Teacher' s Insurance & Annuity Assn.
Tokai Bank
Wells Fargo Bank

Governmental:

California State Department
of Parks & Recreation
Carpinteria County Water District
Carpinteria Unified School District
City of Carpinteria
Federal Aviation Agency
Goleta School District
Goleta Water District
Internal Revenue Service
Isla Vista Recreation
& Parks District
La Cumbre Mutual Water Company
Public Guardian,
County of Santa Barbara

Santa Barbara, City and County
Santa Barbara Community Housing
Corporation
Santa Barbara School/
High School District
U.S. Department of Interior,
Water & Power Resources Div.
U.S. Forest Service
U.S. Postal Service
Veterans Administration

Other:

Allan J. Bordofsky, CPA
American Cancer Society
Bartlett, Pringle & Wolfe
Bermant Development Co.
Brooks Institute of Photography
County Lumber Company
Cottage Healthcare
Designworks
Devereaux Foundation
Dan Gainey
Howe Properties
James H. Franzen, CPA
Jarabin, Gaggs & Hunt
Garner & Tyler
Goleta Valley Community Hospital
Green Hills Software, Inc.
Investec
Jacor Communications
Peter Kaufman

Laventhol & Horwath
Morehart Land Company
Nasif & Hicks
Penfield & Smith
Roman Catholic Church,
Los Angeles Archdiocese
St. Vincent' s School
San Ysidro Ranch
Santa Barbara County Land Trust
Sansum - Santa Barbara Medical
Foundation Clinic
Santa Barbara Trust for
Historic Preservation
Serena Construction & Development
The Towbes Group
Tynan Group
University of California
Yardi Systems

MICHAEL NEAL ARNOLD, MAI, MRICS

Professional Experience

1976 to Present: Partner; Hammock, Arnold, Smith & Company
8/75 – 3/76: Associate; Pickthorn Appraisal, San Bruno, CA
2/75 – 8/75: Appraiser; Madera County Assessor's Office, Madera, CA
1/74 – 1/75: Appraiser; Robert W. Raymond, MAI, Santa Barbara, CA

Education

University of California, Santa Barbara: Bachelor of Arts Degree
Geography major with emphasis on Urban and Regional Analysis
American Institute of Real Estate Appraisers;
Various courses and seminars
American Society Farm Managers & Rural Appraisers:
Rural Appraisal School, (University of California, Davis)
Society of Real Estate Appraisers:
Various courses and seminars
Appraisal Institute:
Various courses and seminars
Continuing attendance at various courses and seminars sponsored by professional organizations and educational institutes in real estate.

Professional Activities (Past & Present)

Appraisal Institute:
National Level:
Instructor, General Applications, Advanced Applications, Standards of Professional Practice
Grader, Demonstration Appraisal Reports
Panel Member, Regional Ethics and Counseling Committee
Committee Member, Political Action Committee
Chapter Level:
President
Board of Directors
Committee Member, Membership (Chair)
Committee Member, Admissions
Committee Member, Education (Chair)
Committee Member, Newsletter (Chair)
Designated Instructor, "Real Estate Appraisal", University of California
Instructor, "Real Estate Appraisal", Santa Barbara City College
Speaker, various organizations
Real Estate, Escrow and Insurance Advisory Committee, Santa Barbara City College
Continuing Education Advisory Council, Santa Barbara City College

Membership & Certification

MAI Certificate No. 6802, Appraisal Institute
MRICS No. 1238128, Royal Institution of Chartered Surveyors
Charter Member, Santa Barbara Council of Real Estate Appraisers
Certified General Real Estate Appraiser, No. AG002089, State of California
Lifetime Teaching Credential, No. 203639, The California Community Colleges

EX. H



Market Value Before and After Storm Damages (as of December 28, 2004)

Market Value Before

- Wood August 21, 2004 Appraisal, \$3,148,000.
 - Allowed \$360,000 additional costs
 - Market appreciating at +/- 1% per mo.
- Valuation Test, Replacement Cost Evaluation.
 - Accepted valuation analysis
 - Generally felt to be conservative
- Market Data Surveys.
 - Data pertaining to beach influenced sales
- Professional Experience and Judgment
 - Approx. 40 years local valuation experience

Market Value After

- Physical Damages, Lost Bluff Top.
 - 4.25% of usable area lost
- Impaired Utility to Remaining Parcel
 - Building Envelope Dramatically Shrunk
 - Marketing and Financing difficulties
- Present Value of Anticipated Future Benefits
 - Benefits = Right to Use and Enjoy
 - Before could expect fifty years
 - After could expect 35 years
 - A 30% decrease

Summary

Market Value, Before	\$3,400,000 (p. 2)
Site Area Loss	<u>- 55,250 (p. 5)</u>
Sub-total	\$3,344,750
Lost Utility \$3,344,750 x 7.5%	- 250,856 (p. 5)
Lost Benefits \$3,344,750 x 30%	<u>- 1,003,425 (p. 5)</u>
Market Value, After	\$2,090,469 (p.5)

Therefore

Market Value, Before	\$3,400,000
Market Value, After	<u>- 2,090,469</u>
Loss in Value	\$1,309,531
Say	\$1,300,000 (p. 5)



Replacement Cost Scenario – A Valuation Test
(as of December 28, 2004)

Site Acquisition	\$1,150,000
Replacement Cost	
Structural Improvements 3,021 S.F. @ \$500/S.F.	1,510,500
Site Improvements	<u>250,000</u>
Total	\$2,910,500
Entrepreneurial Profit (15%)	<u>x 1.15</u>
Indication	\$3,347,076

MARKET DATA SURVEY

No.	Location	Description	Site	Impvts.	Situated	Date	Sale Price
1.	9 Seaview Drive	Condo	0.05 Ac.	2,342 SF	Beach	10/05	\$2,450,000
2.	5297 Austin Rd.	SFR	1.30 Ac.	3,000 SF*	Bluff	05/05	2,600,000
3.	1305 Plaza Pacifica	Condo	0.04 Ac.	1,694 SF	Beach	07/04	2,875,000
4.	13 Seaview Dr.	Condo	0.05 Ac.	2,597 SF	Beach	04/05	3,800,000
5.	3433 Sea Ledge Ln.	SFR	1.14 Ac.	1,882 SF	Bluff	11/04	4,300,000
6.	4405 Avenue del Mar	SFR	0.27 Ac.	940 SF*	Beach	11/04	4,300,000
7.	3339 Cliff Dr.	SFR	1.30 Ac.	3,397 SF	Bluff	07/05	4,800,000
8.	879 Sand Point Rd.	Condo	0.16 Ac.	5,656 SF	Beach	12/04	5,250,000
9.	657 Sand Point Rd.	SFR	1.60 Ac.	5,197 SF	Beach	03/04	7,235,000
10.	3248 Beach Club Rd.	SFR	0.39 Ac.	2,821 SF	Beach	01/05	9,200,000

*Tear down