



## **Entitlement and Construction Review for: A 10-unit Condominium Construction Project at Long Beach Place, Long Beach, California**

This Property Assessment and Liability Mitigation (PALM) Report has been requested by Finance Company Inc to evaluate the current conditions, entitlements and liabilities associated with a certain 10-unit condominium construction project at Long Beach Place, Long Beach, California, hereinafter “the project” or “project”.

BuildZig has based this report on its review of information provided by Finance Company, the project owner and his consultants, and Long Beach city staff, as well as site inspections and email and phone correspondence with all of the aforementioned.

BUILDZIG is not in a position to verify the validity or accuracy of all of the information provided. For purposes of this report, we are assuming that all providers of information are acting in good-faith, and that the information is accurate to the best of their knowledge.

### **I. Scope of Work identified by B&A Capital Partners**

***On June 9, 2018, BUILDZIG signed a contract with B&A Capital Partners to conduct a PALM report to investigate the following items:***

- \* Site visit to assess the work needed to complete the project and develop an estimated budget thereof
- \* Assessment of the timeline to complete the project
- \* Review of the status of entitlements with the local jurisdictions as well as the State of California, Department of Real Estate
- \* Preliminary assessment of potential risks and liabilities associated with the property, including but not limited to, a review of the insurance policies for the project
- \* Communication with the contractors and subcontractors working on the project

\*Review existing project to ensure compliance with relevant code sections

## II. Process and Investigations

***The following list details the process and investigations by which BUILDZIG developed its report and findings:***

\*On July 8, Carlos Plazola, Director of Real Estate, and Laura Blair, Land Use Specialist, and John Bohannon, Director of Construction met with representatives of Finance Company via conference call to clarify the scope of work and identify resources of information.

\*Bohannon, conducted two site inspections. The purpose of Inspection I was to determine the current status of construction. Inspection II was conducted with a building code specialist to determine and verify the quality of work and degree of code compliance.

\* Bohannon reviewed inspection records provided by the Long Beach Building Department and interviewed the project building inspector. (A copy of the onsite inspection record and fire department permit are included in his inspection report.)

\*Bohannon also interviewed the third-party quality control company that has been reviewing the construction and reviewed their reports, also attached to his inspection report

\*Based on the above, Bohannon prepared an Inspection Report Parts I & II, and anticipated construction budget, attached at A & B, respectively.

\*Plazola interviewed the assigned planner to determine the status of local entitlements and the project's Conditions of Approval. (A copy of the Conditions of Approval are at C)

\*Blair interviewed the consultant retained to procure the condominium entitlements and draft the HOA management documents (A copy of a letter from the consultant summarizing the status is attached at D)

\*A qualified expert reviewed the insurance coverage for an assessment of liability

### **III. Current Status of the Project**

#### ***Construction Completion Status***

John Bohannon conducted two site inspections on July 8, 2018 and July 12, 2018. John developed a twenty-five page inspection report, attached at A, which includes a review of the construction completed to date (Part I) and a list of items which were flagged for monitoring (Part II), as well as a copy of the job site inspection card, fire department permits and copies of inspection reports written by Quality Built. BUILDZIG retained a third-party code specialist to assist in the preparation of this part of the report. Based on these inspections, and the other information gathering described in this report, an estimated budget to complete the project was prepared and is included at Attachment B. Given this information, and assuming that construction stays at its current pace, we estimate that construction will be completed in February 2019.

#### ***Local Planning Entitlements***

##### *City of Long Beach: Overview*

Carlos Plazola interviewed the assigned planner and was advised that the project has received all necessary approvals at the planning and zoning levels. (Jeff Winklepleck, Senior Planner, Long Beach Development Services, Planning Bureau, City of Long Beach, (562) 570-6607, Jeffrey.Winklepleck@longbeach.gov ) The Conditions of Approval were issued on June 12, 2017 and are attached at C. The project was nearing expiration of its entitlement approvals, until the entitlements were extended in January. Winklepleck advised that because foundation has been poured, the entitlements will not expire unless construction stops.

##### *Conditions of Approval:*

On June 12, 2017, the city of Long Beach issued the Conditions of Approval (Attachment C). The conditions must all be met for the project to receive its Certificate of Occupancy.

According to Winklepleck, of particular importance to track is compliance with the landscaping and Public Works conditions. As long as all Conditions of Approval are achieved, the project will meet city requirements necessary for issuance of the Certificate of Occupancy.

*Covenants, Conditions, and Restrictions:*

According to Winklepleck, the CC&Rs have received city approval. He has requested from the project applicant that a copy of the latest CC&Rs be sent to him (for his files) prior to request for Certificate of Occupancy.

*Other Regulatory Agencies: Coastal Commission*

According to Jeffrey Winklepleck, the other regulatory agency with oversight of the project is the Coastal Commission. After the project is approved at the City, and at the Coastal Commission, the City acts on behalf of the Coastal Commission as the lead enforcement agency. According to Mr. Winklepleck, the project is in good standing with the Coastal Commission.

***Status of Condominium Entitlements***

The California Department of Real Estate (“DRE”) will regulate the condominium entitlements of the project, since there are more than five units in the project. DRE requires that a Final Public Report be issued prior to the sale of the units.

*DRE Public Report Issuance Process*

The Subdivided Lands Law mandates that the DRE regulate subdivisions to protect consumers from misrepresentation, deceit, and fraud in the public sale or lease of subdivisions. (*Business and Professions Code Section 11000-11023*) DRE achieves this through a public reporting process, whereby an applicant provides certain information and documents to the state, including a HOA budget, CC&Rs, Bylaws, and Condo Map for approval and makes disclosures

regarding the project that would be relevant for a consumer or potential owner. Public reports are issued only if the proposed subdivision meets the requirements specified in the Subdivided Lands Law. All prospective purchasers must be given a copy of the public report and must be given a chance to read it before any binding contract is signed. The public report issuance process is described in attachment (E).

### *Project Status with DRE*

The law firm Fired and Fried, LLP was retained to create the documents necessary for the DRE Final Public Report processing and manage the process on behalf of the project. Martin Stein was the attorney assigned to this matter and he provided a written summary of the status with DRE at attachment D and reports that the DRE application is “qualitatively approved.”

Stein has submitted the application for a Final Public Report to the DRE. A Conditional Public Report was not applied for (allowing the project to advertise the units prior to final DRE approval) since it is anticipated that the project will get DRE approval as condominiums prior to construction completion. The file was assigned to a DRE Deputy for review. The DRE Deputy approved the documents and content of the application, granting permission to record the CC&Rs and Condo Map.

The Tract Map must be approved by the City Council and filed with the Office of the County Recorder of Los Angeles prior to recording the CC&Rs and Condo Map. Filing the Map is the critical path at this point. The Tract Map received approval from City Council and the project engineer is coordinating the filing of the Tract Map and payment of fees. Stein has prepared the proposed Draft Final Public Report. Once the Tract Map is filed, the CC&Rs and Condo Map can be recorded and DRE will issue the Final Public Report.

Stein advised that if the escrow on the loan is scheduled to close prior to recordation of the management documents, the lenders will need to sign a document agreeing to subordinate the loan to the CC&Rs and Condo Map. This will ensure that the CC&Rs and Condo Map will remain in place in the event of a foreclosure of the loan. The Mylar will also need to be amended and the loan trustee will need to sign the CC&Rs as evidence of subordination. Dave Queyrel at Anacal Engineering is the Senior Civil Engineer coordinating the filing of the Tract

Map and should be contacted prior to recording of the loan documents. (Dave Queyrel, Senior Civil Engineer, Anacal Engineering, (714) 774-1763, Dave@anacalengineering.com.) Capital Partners are advised to speak with their legal counsel and title company in regards to this contract, as BUILDZIG cannot provide any legal advice.

#### **IV. Review of Insurance Policies for the Project**

We have reviewed the project's insurance coverages with a qualified expert in the insurance industry. Coverage appears to be adequate for the project, however, our insurance expert has stated that there are some areas of exposure that aren't covered that should be considered as follows:

- The OCIP (Owner Controlled Insurance Policy) does not have coverage for Pollution or Mold/Mildew. Recommendation: this coverage should be required of certain trades that have these exposures such as HVAC, Roofing, Glaziers, Etc.
- There is Professional Liability coverage on the policy but our insurance expert has recommended that Design Build Contractors be required to carry their own Professional Liability coverage.
- You may also want to find out who the wrap administrator is for the project and make sure that every contractor working on the job is enrolled in the OCIP program. If there are any contractors not enrolled you will want to review their OCIP exclusion to verify they have coverage through their own practice General Liability policy.

In order to ensure that Finance Company is covered under the existing insurance policies, we recommend that the lender gets added as additional insured/loss payee to both the OCIP/General Liability policy as well as the Builders Risk/COC policy.

Attachment A: Inspection Report Parts I and II, Jobsite Inspection Record, Jobsite Fire Department Permit, Quality Built Reports

Attachment B: Estimated Construction Budget

Attachment C: Conditions of Approval

Attachment D: Copy of a letter from the project consultant summarizing the status of condominium entitlements

Attachment E: Public Report Issuance Process