

March 17, 2021

Mr. Israel Dahan
12805 Avenida La Valencia
Poway, CA 92064

RE: Appeal of Stop Work Order issued for 1395 West Muirlands Drive, San Diego, CA 92037

VIA: Email israeldahan86@gmail.com and Certified Mail – 7009 0080 0001 2456 4002

Dear Mr. Israel Dahan,

The letter is to inform you of my decision regarding your appeal of the Stop Work Order issued by the City on February 1, 2021 against your project located at 1395 West Muirlands Drive, San Diego, CA 92037. The Stop Work Order was issued pursuant to San Diego Municipal Code (SDMC) sections 121.0205 and 121.0309 for your failure to comply with two Correction Notices after City inspectors found your project to be in violation of SDMC sections 129.0214, 126.0702, and 126.0704.

You were entitled to an informal appeal hearing of the Stop Work Order pursuant to SDMC 121.0309 with a decision to be made by the DSD Director. In reviewing your appeal, I considered the materials you submitted to the City as well as the new information you presented at the appeal meeting on March 11, 2021. I also reviewed City materials and spoke with the City personnel involved with your project.

You alleged that the removal of the bottom plate does not constitute a demolition or removal under SDMC section 126.0704. I find that the complete removal and destruction of the bottom plate does constitute a demolition or removal of the wall. This is consistent with the language of the SDMC, decades of past City practice on residential development in the Coastal Overlay Zone and is in conformance with interpretation made by the California Coastal Commission. The draft DSD document you received illustrates this practice. You alleged that you were unaware of the City's practices for determining percentage of demolition and that it would affect your exemption from a CDP. You stated in the hearing you have built multiple homes (over twenty) in La Jolla, thus I would expect that you would be very familiar with the City of San Diego's LDC requirements pertaining to Coastal Development Permits and exemptions. Additionally, Assistant Director of the City Development Services Department Gary Geiler also advised you in writing approximately six months ago of the relevant codes when DSD received complaints about your project relating to the grading.

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You alleged that City employees had not only given you permission to remove the bottom plate, but they directed you to do so. I could find no corroborating evidence that this occurred. There are no approved plans that corroborate this allegation. There are no other written statements supporting this allegation. City Inspector Michael Bonitati does not concur that that he directed the work to occur. Michael Bonitati, a residential combo inspector with six years of experience, asserts he did not tell you that this change would be exempt from the requirements of Coastal Development Permit.

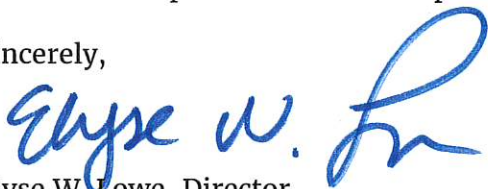
City employees Michael Bonitati, Harold Edging and Daniel Scherer disagree with your assertion that they told you replacement of the bottom plate was not considered demolition. Mr. Edging's Correction Notice clearly shows that he did consider it a demolition. It is incumbent upon you to ensure your project is in conformance with the requirements of the SDMC. The City does not provide project design advice.

At the very end of our meeting, when I asked if you had any other information to share as to why I should grant your appeal, you alleged that I have a conflict of interest in reviewing this appeal and thus I had no right to perform the role of arbitrator in the informal hearing because of my prior involvement in your projects. It is unclear to me as to what evidence was presented that names me as having a conflict of interest. My email records indicate no record of any communication involving you prior to June 2020, when your neighbors began to complain to the Code Enforcement Division about your property on West Muirlands. I have not issued any previous decisions that cause me to have a conflict of interest, nor do I have any financial, personal, or material conflicts of interest that would affect my decision making on your appeal.

You alleged that the City has been working to slow down your project since its inception. I found no evidence of this. I did find evidence that the City has sided with you over the course of the last year when complaints were filed against your project, such as allowing you to continue with your pool and spa permits.

For the reasons above, I am denying your appeal of the Stop Work Order. This means that you must abide by the City's Stop Work Order, until you have submitted corrected plans to the City and brought your project into compliance with the SDMC by receiving a Coastal Development Permit from the City because your building project no longer qualifies for a Coastal Development Permit exemption pursuant to SDMC section 126.0704.

Sincerely,



Elyse W. Lowe, Director
Development Services Department

cc: Noah Brazier, Deputy City Attorney
Gary Geiler, Assistant Director, Development Services Department
Kelly Charles, Chief Building Official, Development Services Department
Daral B. Mazzarella, Esq.