



**ROSSI HAMERSLOUGH
REISCHL & CHUCK**
A Professional Law Corporation

June 28, 2016

VIA FEDERAL EXPRESS

Successor Agency to the Former Sunnyvale Redevelopment Agency
ATTN: Brice McQueen, Manager
650 W. Olive Avenue
Sunnyvale, CA 94088

**RE: 200 Washington, LLC
Our File: R15150**

Dear Mr. McQueen:

The undersigned represent 200 Washington, LLC, one of the property owners at the Sunnyvale Town Center.

We submit this letter to the Successor Agency to the Former Sunnyvale Redevelopment Agency in connection with the Successor Agency's upcoming consideration of modifications to the Amended Disposition and Development and Owner Participation Agreement for the Sunnyvale Town Center, as previously amended (ADDOPA). We have previously submitted similar correspondence to the City of Sunnyvale, but the City stated that the Successor Agency is the responsible party.

The Successor Agency must keep in mind that the ADDOPA is not the only agreement concerning the rights and obligations of the parties who are interested in the development of the Sunnyvale Town Center. In particular, we direct your attention to the Operation and Reciprocal Easement Agreement, as amended and supplemented ("OREA"), to which the Successor Agency and 200 Washington (as successor to Macy's) are parties, as well as two others. As I am sure you are well aware, there is a well-documented set of material and ongoing breaches of the OREA by REDUS SVTC, LLC. For background, attached are letters dated June 20, 2016, June 14, 2016, and December 1, 2015, which chronicle the breaches. These are just the most recent letters.

The Successor Agency should be advised that 200 Washington objects to any modifications to the ADDOPA that would conflict with the rights and obligations of the parties to the OREA. The Successor Agency's adoption of any ADDOPA modifications conflicting with the OREA not only would not make sense, but would also constitute a breach

Successor Agency to the Former Sunnyvale Redevelopment Agency

ATTN: Brice McQueen, Manager

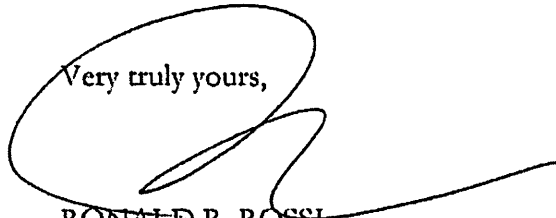
June 28, 2016

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of the OREA. Needless to say, creating new conflicts and breaches of the OREA will only enflame the unresolved and serious existing breaches.

Please send notice of all upcoming Successor Agency meetings concerning the Sunnyvale Town Center to both 200 Washington and the undersigned. We have been left off the legal notice list.

Very truly yours,



RONALD R. ROSSI
ROSSI, HAMERSLOUGH, REISCHL & CHUCK



CHARLES A. HANSEN KEVIN R. BRODEHL
WENDEL, ROSEN, BLACK & DEAN LLP



cc: Client

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ROSSI HAMERSLOUGH
REISCHL & CHUCK
A Professional Law Corporation

June 20, 2016

VIA EMAIL AND FEDERAL EXPRESS

John Nagel, Esq.
City Attorney for the City of Sunnyvale
Sunnyvale City Attorney's Office
456 W. Olive Ave.
Sunnyvale, CA 94086

RE: 200 Washington, LLC
Our File: R15150

Dear Mr. Nagel:

Enclosed herein please find a copy of our June 14th, 2016 letter to REDUS SVTC, LLC ("REDUS") responding to a request for consent to assignment of the Operation and Reciprocal Easement Agreement, as amended and supplemented ("OREA"), a recorded document. We want to remind the City, as a party to the OREA, that ongoing and uncured breaches of the OREA by REDUS remain, as articulated in the letter.

We also do not understand the City's approval of an updated development permit at a May 23rd Planning Commission hearing. That updated permit allows plans for a "temporary" parking lot, but such plans directly conflict with the obligations imposed by the OREA (this was surprising, given our in-depth review of the OREA with your predecessor, Joan Borger, just last year). These plans were not given to 200 Washington LLC (or presumably Target) for review or approval as required by the OREA. In addition, the updated permit also allows office use within the "Retail Facilities," which is also in direct conflict with the restrictions imposed by the OREA, as office space already constitutes significantly more than 20% of the gross leasable area of the Retail Facilities (Apple alone occupies at least 300,000 square feet of office space, 30% of the project's maximum 1,000,000 square feet of retail). The City itself also is maintaining an ongoing breach of the OREA by allowing non-public office-related use in space fronting McKinley Avenue (lacking even a primary entrance or signage on McKinley), which the First Amendment to the OREA requires to be preserved for retail purposes.

Whether intended or not, City actions have created conflicts and inconsistencies with the OREA. Shouldn't the City be complying with a multi-party agreement such as the OREA, to which the City itself is a party? How are these conflicts and inconsistencies going to be addressed such that 200 Washington LLC (and presumably Target) is not disadvantaged?

We believe if there were to be a new vision for the Town Center that may require changes to the OREA then all the OREA parties – not 2 out of 4 – must be in agreement, in each of their

John Nagel, Esq.
City Attorney for the City of Sunnyvale
June 20, 2016
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discretion, at the same time. Short of that, we expect the OREA to be followed to the letter by all parties.

Finally, we note that the Planning Commission's May 23rd approval has been appealed by a member of the public, which appeal shall be heard by the City Council on June 21st. We think it is appropriate that the City take this opportunity to reconsider their May 23rd action in its entirety on account of the foregoing.

Very truly yours,



RONALD R. ROSSI
ROSSI, HAMERSLOUGH, REISCHL & CHUCK



CHARLES A. HANSEN KEVIN R. BRODEHL
WENDEL, ROSEN, BLACK & DEAN LLP

RRR:jc

Enclosure

cc: Client

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ROSSI HAMERSLOUGH
REISCHL & CHUCK
A Professional Law Corporation

June 14, 2016

VIA FEDERAL EXPRESS

REDUS SVTC, LLC
Attn: David Ash
333 Market Street, 3rd Floor
San Francisco, CA 94105

RE: 200 Washington, LLC

Dear Mr. Ash:

This letter responds to yours dated May 19, 2016.

Please be advised that pursuant to sections 12.01 and 16.16 of the Operation and Reciprocal Easement Agreement ("OREA"), 200 Washington, LLC consents to the proposed assignment from REDUS SVTC, LLC ("REDUS") to STC Venture, LLC ("STC"), *subject to and conditioned upon the following*.

200 Washington, LLC expressly does NOT release REDUS from any and all liability or any defaults or breaches occurring before the date of the assignment. REDUS will remain responsible for those breaches, which have been articulated to REDUS on numerous occasions, including our recent December 1, 2015 letter. The previously identified ongoing breaches include, but are not limited to: (1) failure to timely perform the demolition/restoration obligations as set forth in section 5 of the First Amendment to Supplement to Operation and Reciprocal Easement Agreement, as articulated in our April 10, 2015 letter; (2) allowing a continuing unauthorized use in Building A as articulated in our December 1, 2015 letter; and (3) failure to provide adequate parking in Parking Facility B as articulated in our December 1, 2015 letter.

Further, an additional breach has recently come to our attention. We have learned that REDUS has caused the approval of an updated development permit featuring "temporary" parking (though it appears all but 7 of the proposed standard spaces are planned to be "fenced off" at some point) and a predominantly wood mulch landscape installation in the vicinity of planned Buildings H, I, J, and L with no discernible long-term solution. (See <https://sunnyvaleca.legistar.com/View.ashx?M=F&ID=4458587&GUID=4AAFCE6B-FA46-41E5-895C-39A0674E854A>.) In addressing REDUS's contractual obligations, section 5 of the First Amendment to Supplement to Operation and Reciprocal Easement Agreement makes no mention of "temporary" parking. And as you are aware, section 5 establishes specific parameters for the location of parking and landscape improvements within Block 3 and requires the approval of 200 Washington, LLC for any such "plan" or "design." To date, 200 Washington, LLC has never even been consulted on any parking or landscape plan or design and certainly has not

REDUS SVTC, LLC
Attn: David Ash
June 14, 2016
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approved the same. Notably, our letter of over a year ago to you dated May 11, 2015 warned of a situation such as this: where your failure to properly coordinate a planning approval modification with the parties to the OREA would result in misunderstandings, or worse, as is the case here, additional breaches of the OREA. As a reminder, in addition to all other remedies available to us at law or in equity, under section 8 of the First Amendment to Supplement to Operation and Reciprocal Easement Agreement, no new Building Construction Work on Blocks 3, 5, and/or 6 can proceed until REDUS fulfills its contractual obligations as set forth in section 5.

Notwithstanding the assignment, in our view REDUS, along with STC, will remain responsible post-assignment for any and all of the issues, defaults, or breaches arising before the assignment.

Very truly yours,



RONALD R. ROSSI
ROSSI, HAMERSLOUGH, REISCHL & CHUCK



CHARLES A. HANSEN KEVIN R. BRODEHL
WENDEL, ROSEN, BLACK & DEAN LLP

cc: Client

Benjamin Saltsman
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Patrick Murray
Executive Managing Director
200 Washington, LLC
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Walnut Creek, CA 94596

SA\CL\R\R\15150\CORRESP\REDUS RE CONSENT TO ASSIGNMENT [06-14-2016].DOCX



**ROSSI HAMERSLOUGH
REISCHL & CHUCK**
A Professional Law Corporation

December 1, 2015

VIA EMAIL AND U.S. MAIL

David Ash
Senior Vice President
Wells Fargo
333 Market Street, 3rd Floor
San Francisco, CA 94105
david.ash@wellsfargo.com

RE: 200 WASHINGTON, LLC

Dear Mr. Ash:

The undersigned and their respective law firms represent 200 Washington, LLC in connection with the property within the Sunnyvale Town Center formerly owned, and currently occupied, by Macy's. Our client, as you have been well informed, is the successor owner of the interest previously owned by Macy's.

The purpose of this letter is to reiterate our client's demand that Wells Fargo and its affiliates including REDUS SVTC, LLC (collectively "Wells") cure the clear-cut and material defaults under the agreements pertaining to Sunnyvale Town Center, both recorded and unrecorded, and particularly the OREA as amended and supplemented.

Wells has proceeded with implementing the uses at the Sunnyvale Town Center in flagrant disregard of the express provisions of OREA and particularly the requirement found in Paragraph 4 of the First Amendment to the OREA. That Paragraph addresses the topic of the permitted uses of Building A and provides for "Retail Facilities" (as that term is defined in the OREA) in the portion of Building A fronting McKinley Avenue. This requirement was included – and carefully composed – for a specific reason: to protect the integrity of the retail frontage, "create pedestrian traffic flow and an active retail environment"¹ and protect the interests of other retailers including Macy's (and by extension any future tenants of the Macy's building) against the creation of an office-park atmosphere at the project's primary entrance. While Wells had the option to place "either retail or office use"² in the "remaining portions of Building A currently designated for Retail Facilities"³, you had no such option

¹ Paragraph 4.2 of the Supplement to Operation and Reciprocal Easement Agreement

² Paragraph 4 of the First Amendment to Operation and Reciprocal Easement Agreement

³ Ibid.

David Ash
Senior Vice President
Wells Fargo
December 1, 2015
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along McKinley Avenue, and Macy's did not grant consent to waive this requirement, nor was it notified of the non-compliance. The provisions of the OREA, as amended and supplemented, are binding both on Wells and any of its transferees. The current use of Building A, 100% occupied by Apple for private office uses with zero Retail Facilities, is materially non-compliant with these express requirements of the OREA.

Furthermore, the OREA requires Wells to provide 1,110 "Shared/Retail" parking spaces in Parking Facility B⁴, which spaces are to be available for use by Macy's customers as well as those of other Sunnyvale Town Center retailers. However, for the benefit of office tenants Apple and Nokia, Wells installed signage and barrier gates to restrict access to office users only – and to prevent Macy's customers from parking – in portions of Parking Facility B. The result is that only approximately 883 parking spaces remain available to Macy's and other retailers' customers in Parking Facility B, a shortfall of approximately 227 spaces from the Shared/Retail parking requirement under the OREA and another instance of Wells' material non-compliance with the terms thereof. Again, Macy's did not grant consent to waive this requirement, nor was it ever notified of the non-compliance.

Wells has failed to conform its conduct to the pertinent provisions of the OREA or to undertake steps to honor those provisions despite prior written and verbal requests to do so by both Macy's and by 200 Washington, LLC. Our client has sought to find ways to resolve the issue of on-going breaches under the OREA with Wells since acquiring the Macy's property earlier this year, but to no avail. Given Wells' recent rebuff of 200 Washington, LLC in its most recent resolution efforts, Wells has now left no room for reasonable doubt that it has no intention of honoring, curing, or even addressing Wells' default or the express requirements of the OREA. Wells' position seems to be pretty much that it will do what it pleases regardless of the provisions of the OREA or the interests of those who have an economic stake in the Sunnyvale Town Center.

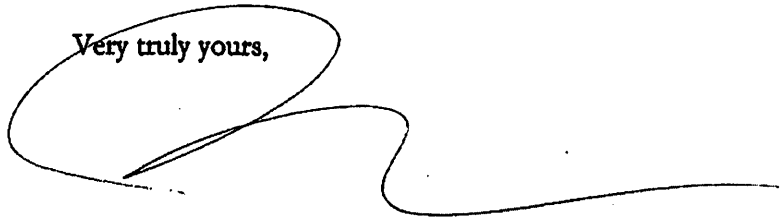
Accordingly, 200 Washington, LLC hereby demands that Wells immediately cure its default with respect to the permitted uses of Building A as well as the other defaults that our client has raised with Wells. Our client wishes to make clear that it strenuously objects to, is prejudiced by, and refuses to acquiesce in Wells' violations of the OREA, and that it reserves all rights to take appropriate and necessary steps and actions to protect its legal rights and economic interests should the defaults remain unaddressed and uncured after thirty days from the date of this letter. Our client further demands that Wells provide notice to any and all existing or prospective transferees of interests at the Sunnyvale Town Center of the

⁴ Parking Facility B is also referred to as the "New Parking Structure" in the Macy's Supplement to OREA

David Ash
Senior Vice President
Wells Fargo
December 1, 2015
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requirements of the OREA as amended and supplemented and of the existing violations of
and our clients' intention to compel strict and full compliance with the OREA.

Very truly yours,



RONALD R. ROSSI
ROSSI, HAMERSLOUGH, REISCHL & CHUCK



CHARLES A. HANSEN KEVIN R. BRODEHL
WENDEL, ROSEN, BLACK & DEAN LLP



cc: Client
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