

**CITY OF DANA POINT  
PLANNING COMMISSION  
AGENDA REPORT**

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**DATE:** SEPTEMBER 28, 2015

**TO:** DANA POINT PLANNING COMMISSION

**FROM:** COMMUNITY DEVELOPMENT DEPARTMENT  
URSULA LUNA-REYNOSA, COMMUNITY DEVELOPMENT DIRECTOR  
ERICA H. DEMKOWICZ, AICP SENIOR PLANNER

**SUBJECT:** PLANNING COMMISSION REVIEW AND CONSIDERATION OF MINOR SITE DEVELOPMENT PERMIT SDP15-0013(M) FOR THE CONSTRUCTION OF A 250 SQUARE FOOT ROOF DECK TO AN EXISTING SINGLE FAMILY DWELLING LOCATED AT 32411 VIA ANTIBES

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**RECOMMENDATION:** That the Planning Commission take one of the following actions:

1. Adopt Resolution No. 15-09-28-XX, approving SDP15-0013(M) the proposed roof deck.

**OR**

2. Adopt Resolution No. 15-09-28-XX denying SDP15-0013(M).

**APPLICANT/OWNER:** William Clark/J.F. Jomphe

**LOCATION:** 32411 Via Antibes

**REQUEST:** Consideration of a Minor Site Development Permit for the construction of a 250 square foot roof deck to an existing single family dwelling

**NOTICES:** Notices were mailed to property owners within a 500-foot radius, and published in the Orange County Register on September 18, 2015. Notices were also posted on September 18, 2015 at Dana Point City Hall, the Dana Point post office, the Capistrano Beach post office, and the Dana Point Library.

**ENVIRONMENTAL:** The project is Categorically Exempt from the provisions set forth in the California Environmental Quality Act (CEQA) per Section 15301 (Class 1 – Existing Facilities).

**ITEM #2**

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- ISSUES:**
1. Is the proposal consistent with the Dana Point General Plan, and Zoning Code?
  2. Is the proposal compatible with and an enhancement to the site and surrounding neighborhood?
  3. Does the project satisfy all the findings required pursuant to the City's Zoning Code for amending conditions of approval?

**BACKGROUND:**

The subject property is approximately 8,187 square feet in size and contains an existing, approximately 3,300 square foot, single family dwelling that was built in 1977. The dwelling is currently undergoing an interior remodel and patio addition that was approved and issued under a separate building permit (BLD15-0134). The property has a zoning designation of Residential Single Family 7 (RSF 7) on the City's zoning map and is located within the Emerald Ridge community which is situated at the northernmost boundary of the city between Dana Point and the City of Laguna Beach.

A stop work order was issued by the Building Division on January 2, 2015 after the City received a complaint for construction work being done without a permit. A majority of the work, while necessitating building permits did not require discretionary permits from the Planning Division with the exception of a roof deck. The City allowed the applicant to submit plans to Building for all work except for the roof deck and after conducting a plan check issued the building permit (BLD15-0134) referenced above. Construction relative to the issued permit only was allowed to continue. The applicant was required to submit plans for the roof deck separately to the Planning Division.

In April 2015, the applicant submitted a Minor Site Development Permit [SDP(M)] application for a proposed 250 square foot roof deck. While the City can't legally enforce Covenants, Conditions and Restrictions (CC&R's) of Home Owners Associations (HOAs) it is the City's practice to request applicants to provide a letter from the HOA, when applicable, indicating that they have reviewed and approved the plans. The applicant submitted a letter from Emerald Ridge Homeowners Association dated November 11, 2014; however the letter did not specify whether or not the roof deck was included as part of their approval. As a result, City staff requested additional clarification from the HOA and a subsequent e-mail was received that stated that the HOA had not approved the roof deck and that the HOA's governing documents did not allow roof decks within the community. For reference, this e-mail is attached to the staff report as Supporting Document 3. After several internal reviews of the application by Staff and subsequent corrections made to the plans by the applicant, the application was deemed complete on August 4, 2015.

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On August 17, 2015, the City held an administrative public hearing for the application. Public hearing notices for the hearing were mailed to property owners within a 500-foot radius along with those listed on an interested party list. Approximately 24 individuals attended the administrative hearing and a significant portion of those in attendance provided public comment on the proposed project. The majority was opposed and expressed concerns about privacy, views, property values and violation of the Emerald Ridge Homeowners Association regulations. The administrative hearing meeting minutes are attached as Supporting Document 4.

After review of the project and in accordance with Section 9.71.034 of the Dana Point Zoning Code, the Director made a decision to place the application on the Planning Commission agenda for consideration.

**DISCUSSION:**

The following is a discussion of the two actions available for consideration by the Planning Commission:

**Recommendation #1: Approval of Minor Site Development Permit to allow the proposed roof deck**

Pursuant to Section 9.05.230 of the Dana Point Zoning Code (DPZC), a proposal to construct a roof deck shall first require approval of a Minor Site Development Permit (SDP[M]). The Site Development Permit process provides for the effective and efficient review of development proposals to ensure compatible and enhanced site and building design throughout the community. Certain types of projects within the City require a Major Site Development Permit which requires a public hearing and review by the Planning Commission while other types of projects require a Minor Site Development Permit which requires an administrative public hearing and review by the Director of Community Development. Section 9.71.034 of the Dana Point Zoning Code, which pertains to Minor Site Development Permits also allows for the Director to make a determination and place an application on the Planning Commission agenda for consideration.

The subject application proposes a 250 square foot roof deck (6.8 percent of a total roof area) to an existing single story dwelling. Section 9.05.230 of the DPZC also contains specific development standards that pertain to roof decks which include architectural integration and compatibility with the existing structure and design of the deck so as not be visible from the grade below.

As designed, the roof deck would be screened on all sides of the structure and from the grade below. Screening will include an angled 42" high solid parapet wall facing the rear elevation that will be treated with red roof tiles that blend and match with the existing roof that is found on the existing structure. Both sides of the roof deck will be integrated into the existing roofline and will be stuccoed to match the existing exterior of the dwelling. The sides of the deck will also contain a red tile cap trim that will wrap around the top which corresponds with the existing cap trim found on other roof ridge lines of the existing dwelling. Additionally, roof deck access will be gained through an exterior stairway from the rear yard (at grade) to the roof deck. The exterior stairway would be architecturally integrated into the design of the existing dwelling through an L-shaped stucco wall that will conceal to exterior spiral stairway. Overall, the design is compatible in form and mass to existing, surrounding development which includes several split level houses with two levels and second story balconies off of the rear. With the proposed improvements, the height of the dwelling would remain unchanged at 21 feet. The exterior of the roof deck area would include a stucco wall area to screen the exterior stairway along with a red tiled parapet to integrate the deck into the existing roofline.

All components of the scope of work are found to comply with the standards of the property's Residential Single Family 7 (RSF 7) Zoning District including height, lot coverage, landscaping, setbacks from property lines as well as the Section 9.05.230 of the Dana Point Zoning Code pertaining to roof decks. Section 9.05.230 of the Zoning Code includes the following development standards relative to roof decks:

1. In residential districts, the permitted area of all roof decks per dwelling unit may not exceed twenty-five (25) percent of the roof area of the story directly below the deck or three hundred (300) square feet, whichever is less.

*The existing dwelling is single-story and as a result, the entire roof area was used in calculating the permitted roof deck area. Based upon a total roof area of 3,676 square feet, 25% of this roof area would result in a 919 square foot deck. In accordance with the Zoning Code requirement relative to roof decks, the maximum size of the deck cannot exceed 300 square feet, however the inclusion of an exterior spiral stairway in the design requires a further size limitation in accordance with the California Building Code. As a result, the applicant was required to reduce the size of the roof deck to 250 square feet which conforms to this requirement.*

2. In residential districts, the guardrail and other objects, whether permanent or temporary, which rests upon the roof deck such as patio furniture, landscaping, and storage, may not exceed the district's height limit as specified in Section 9.05.110 (a) of this Chapter.



*The proposed guardrail for the roof deck is approximately 13'-6" above the existing grade and the overall height of the existing dwelling is approximately 21-feet in height from existing grade. Based upon the existing zoning and roof pitch of 5:12, the maximum allowable building height would be 26-feet. The guardrail does not exceed the allowable height limit.*

3. The roof deck shall be architecturally compatible with the existing exterior materials and colors of the existing structure, and appear as an integral part of the roof system.

*The proposed roof deck will contain treatments that include a stucco exterior, use of red tile roofing along with a red tile cap trim that is compatible with the exterior materials and roofing of the existing structure.*

4. The roof deck shall be appropriately designed so as not to be visible from all sides of the structure or from the grade below. Appropriate screening shall be architecturally compatible with and integrated into the existing structure as determined by the Director of Community Development. The solid screening may include roofing, solid parapet walls or other methods architecturally compatible with the design of the structure.

*The proposed roof deck has been designed so as to not be visible from all sides of the structure or from the grade below. Screening for the roof deck will include an angled 42" high solid parapet wall facing the rear elevation that will be treated with red roof tiles that blend and match with the existing roof. Both sides of the roof deck will be integrated into the existing roofline and will be stuccoed to match the existing exterior of the dwelling. The sides of the deck will also contain a red tile cap trim that will wrap around the top which corresponds with the existing cap trim found on other roof ridge lines of the existing dwelling. The exterior stairway is also architecturally integrated into the design of the existing dwelling and screened through an L-shaped stucco wall. The proposed improvements would serve to compliment the architecture of the existing dwelling.*

5. The deck shall be compatible with the color of the existing roof material or structure, yet it shall not be a color that would reflect glare onto surrounding properties at a higher elevation.

*The proposed roof deck will utilize red roof tiles and have a stucco exterior that will correspond with the existing roof and exterior. No roof material is*

*being utilized that would reflect glare onto surrounding properties. As a result, the roof deck is compatible with the existing color of the roof material on the existing structure.*

6. In residential districts, exterior stairways and other access features such a stairwells or elevators for access to roof decks shall not exceed residential zoning district's height limit and shall be architecturally integrated into the design of the structure.

*The exterior stairway proposed in connection with the roof deck will be approximately 13'-6" above the existing grade and the overall height of the existing dwelling is approximately 21-feet in height. Based upon the existing zoning and roof pitch of 5:12, the maximum allowable building height would be 26-feet. The exterior stairway does not exceed to residential zoning district's height limit.*

7. All furniture and accessories located on a roof deck shall be secured as necessary to prevent wind damage or dislocation.

*As proposed, there is no furniture or accessories to be placed or located on the roof deck. If the roof deck is approved, the property owner/applicant will be required to comply with this requirement as stipulated in the Zoning Code.*

The applicant's proposal is consistent with the City's General Plan and all applicable provisions of the Urban Design Guidelines in that the proposed improvements are not in conflict with any goal or policy. Moreover, the roof deck would be consistent with Section IIA – "Site Design" which states "... *Projects should demonstrate sensitivity to the positive aspects of the surrounding neighborhood and building*". Based upon a visual analysis of the site, the overall land use and existing configurations of several split level dwellings with second floor balconies on neighboring parcels, the proposed roof deck would be compatible with the surrounding neighborhood.

**Recommendation #2: Denial of Minor Site Development Permit to deny the proposed roof deck**

The property is zoned Residential Single Family 7 (RSF 7) and is improved with an existing single-story dwelling. The lot is approximately 8,187 square feet and the existing dwelling was constructed to the minimum required setbacks on all four sides. The existing dwelling coupled with the new addition permitted under building permit (BLD15-0134) has together maximized the use of the site. While the proposed roof deck and exterior stairway are architecturally integrated into the design of the existing dwelling and adequately screened in accordance with Section 9.05.230 of the Dana

Point Zoning Code (as described in detail above), the roof deck would be the first roof deck constructed within the Emerald Ridge community and would be contrary to the form and character of the existing and surrounding residential area.

The subject property, among other neighboring properties is predominately comprised of single-story dwellings that were designed and developed in such a way so as to complement one another and be sensitive to the positive aspects of the surrounding neighborhood. The existing graded pad elevations of each of the lots within Emerald Ridge/Tract 4516 are "stepped" with one lot being slightly lower than the lot next to it. This pattern of development allows all property owners to be afforded a certain degree of privacy and private views. While the City does not have any ordinances or regulations that pertain to privacy or private views, the development pattern within the community is clear. The addition of a roof deck to the existing dwelling would create a new architectural element to the rear elevation of the structure that would be contrary to the continuity and character of the existing residential layout and design within Emerald Ridge.

The applicant's proposal is not consistent with the City's General Plan and all applicable provisions of the Urban Design Guidelines in that the proposed roof deck would be inconsistent with Section IIA – "Site Design" of the City's Urban Design Guidelines. More specifically, Section IIA states "... *Projects should demonstrate sensitivity to the positive aspects of the surrounding neighborhood and building*". Based upon a visual analysis of the site, the overall land use and "stepping" of parcels within the community, the proposed roof deck would not be compatible with the existing residential character and would not be sensitive to the surrounding neighborhood.

**REQUIRED SITE DEVELOPMENT PERMIT FINDINGS:**

- A. Compliance of the site design with development standards of the Dana Point Zoning Code.
- B. Suitability of the site for the proposed use and development.
- C. Compliance with all elements of the General Plan and Local Coastal Program and all applicable provisions of the Urban Design Guidelines.
- D. Site and structural design which is appropriate for the site and function of the proposed use(s), without requiring a particular style or type of architecture.

**CONCLUSION:**

The Planning Commission must make all of the findings listed above, as required by the code, to approve the proposed roof deck at the subject property. If the Planning Commission fails to make only one of the prescribed findings, the project must be denied. The proposed roof deck does comply with the standards outlined in the DPZC. The question for consideration by the Planning Commission is, is the proposed roof deck consistent with the City's General Plan? The General Plan references the Urban Design Guidelines so in order to be consistent with the General Plan, a project must also be consistent with the Urban Design Guidelines. The particular guideline that is relative to a decision on the proposed roof deck is Section IIA – "*Site Design*" which states "*Projects should demonstrate sensitivity to the positive aspects of the surrounding neighborhood and building*". Two equally compelling arguments can be made either way in the Community Development Director's estimation and both arguments have been provided in this staff report. Therefore, the Community Development Director has elevated this discretionary decision to the Planning Commission. The Planning Commission should focus on the distinct subtleties of the arguments in making its decision.

In order to approve the proposed roof deck, the Planning Commission must:

- (1) Adopt Resolution No. 15-09-28-XX, approving SDP15-0013(M);

In order to deny the proposed roof deck, the Planning Commission must:

- (1) Adopt Resolution No. 15-09-28-XX denying SDP15-0013(M).

Accordingly, staff has drafted separate resolutions, for denial and for approval, depending on the Planning Commission's decision.

  
Erica H. Demkowicz, AICP  
Senior Planner

  
Ursula Luna-Reynosa, Director  
Community Development Department

**ACTION DOCUMENTS:**

1. Draft Planning Commission Resolution No. 15-09-28-xx for approval of SDP15-0013(M)
2. Draft Planning Commission Resolution No. 15-09-28-xx for denial of SDP15-0013(M)

**SUPPORTING DOCUMENTS:**

2. Vicinity Map
3. E-mail dated 6/2/15 regarding Emerald Ridge HOA approval
4. Administrative Hearing Meeting Minutes – 8/17/15
5. Correspondence Received
6. 11" x 17" architectural plans date stamped 9/21/15

**RESOLUTION NO. 15-09-28-xx**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING MINOR SITE DEVELOPMENT PERMIT SDP15-0013(M) FOR THE CONSTRUCTION OF A 250 SQUARE FOOT ROOF DECK AT 32411 VIA ANTIBES.**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, William Clark (the "Applicant") is the applicant and Jean Francois Jomphe (the "Owner") is the owner of real property commonly referred to as 32411 Via Antibes (APN 607-071-12) (the "Property"); and

WHEREAS, the applicant filed a verified application for a Minor Site Development Permit to allow for the construction of 250 square foot roof deck at 32411 Via Antibes; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Community Development Department did, on the 17<sup>th</sup> day of August, 2015, hold an Administrative Public Hearing as prescribed by law to consider said request; and

WHEREAS, pursuant to Section 9.71.034 of the Dana Point Zoning Code, the Director of Community Development made a determination to place the application on the Planning Commission agenda for review; and

WHEREAS, the Planning Commission did, on the 28<sup>th</sup> day of September, 2015, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorical Exempt per Section 15301 (Class 1 – Existing Facilities) as the project involves the construction of an addition to an existing structure that will not result in the increase of more than 2,500 square feet; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Minor Site Development Permit SDP15-0013(M).

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows;

- A) The above recitations are true and correct.

Findings:

- B) Based on the evidence presented at the public hearing, the Planning Commission adopts the following findings and approves Minor Site Development Permit SDP15-0013(M), subject to conditions:
- 1) That the site design is in compliance with the development standards of the Dana Point Zoning Code **in that the roof deck would be screened on all sides of the structure and from the grade below. Screening will include an angled 42" high solid parapet wall facing the rear elevation that will be treated with red roof tiles that blend and match with the existing roof that is found on the existing structure. Both sides of the roof deck will be integrated into the existing roofline and will be stuccoed to match the existing exterior of the dwelling. The sides of the deck will also contain a red tile cap trim that will wrap around the top which corresponds with the existing cap trim found on other roof ridge lines of the existing dwelling. Roof deck access will be gained through an exterior stairway from the rear yard (at grade) to the roof deck. The exterior stairway would be architecturally integrated into the design of the existing dwelling through an L-shaped stucco wall that will conceal the stairway. With the proposed improvements, the height of the dwelling would remain unchanged at 21 feet. All components of the scope of work are found to comply with development standards of the property's Residential Single Family 7 (RSF-7) Zoning District - including height, lot coverage, landscape coverage and setbacks from property lines.**
  - 2) That the site is suitable for the proposed use and development **in that all improvements are permitted in the subject property's RSF-7 Zoning District. The proposed improvements will comply with both the standards and intent of the respective DPZC section pertaining to roof decks, and would allow the property owner more effective and enjoyable use of the subject property. The architectural design of the project would serve to compliment the architecture of the existing dwelling, as well as those in the vicinity.**

- 3) That the project is in compliance with all elements of the General Plan and all applicable provision of the Urban Design Guidelines **in that the proposed improvements are not in conflict with any goal or policy. The subject project is not located within the City's coastal zone and consequently does not require a coastal development permit.**
- 4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, **in that the proposed improvements are permitted within the property's RSF-7 Zoning District and are of a design that is compatible in form and mass to existing, surrounding development.**

Conditions:

**A. General:**

1. Approval of this application permits a 250 square foot roof deck which shall be constructed in accordance with the approved plans and Section 9.05.230 of the Dana Point Zoning Code. The dwelling is currently undergoing an interior remodel and addition that was issued under a separate and different building permit (BLD15-0134). Subsequent changes to the approved scope-of-work shall be in substantial compliance with those plans presented to the Community Development Director, and in compliance with applicable provisions of the City of Dana Point General Plan and Municipal Code.
2. This permit shall be copied in its entirety, placed directly onto a separate plan sheet behind the cover sheet of any plans submitted to the City of Dana Point Building/Safety Division for plan check.
3. Approval of this application shall be valid for a period of 24 months from the date of determination. If the scope-of-work approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
4. The application is approved as a plan for the location and design of the uses, structures, features, and materials shown on the approved plans. Any demolition beyond that described in the approved plans or any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify



this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may approve the amendment without requiring a new public hearing.

5. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
6. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify and hold harmless the city shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions or proceedings against the City, its officers, employees, or agents arising out of or resulting from negligence of the applicant or the applicant's agents, employees or contractors. Applicant's duty to defend, indemnify and hold harmless the City shall include paying the CITY's attorney fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

7. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.

8. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
9. The construction site shall be posted with signage indicating that construction not commence before 7:00 A.M. and must cease by 8:00 P.M., Monday through Saturday. No construction activities shall be permitted on Sundays or Federal holidays.
10. The applicant shall ensure that pollutant discharges from the project are reduced to the maximum extent practicable. The applicant shall, at a minimum implement all appropriate source control BMPs and implement site design/landscape characteristics, where feasible, which maximize infiltration, provide retention, slow runoff, and minimize impervious land coverage;
11. The applicant shall be responsible for coordination with water district, sewer district, SDG&E, AT&T California and Cox Communication Services for the provision of water, sewer, electric, telephone and cable television/internet services.
12. Prior to commencement of any work within the public right-of-way, the applicant shall apply and be approved for an encroachment permit.
13. Building materials, unlicensed vehicles, portable toilets, and similar items shall not be placed in the public right-of-way.

**B. At Submittal for Plan Check to the Building Division:**

14. At the discretion of the Building Official, building plan check submittal may include two sets of any of the following construction documents. Prior to submittal, the applicant shall contact the Building/Safety Division to confirm submittal requirements.
  - *Building Plans (3 Sets)*
  - *Energy calculations*
  - *Structural Calculations*
  - *Soils/Geology Report*

- *Drainage Plan*

15. Fire Department review is required. Submit three (3) separate sets of building plans directly to the Orange County Fire Authority for review and approval.
16. Fire sprinkler system is required or waiver from the Fire Chief (All new residential; all new commercial groups A, I, E, & H and groups B, F, M & S exceeding 1,000 s.f. and U-1 exceeding 6,000 s.f.; Additions that increase the total floor area by 50% or 750 s.f. in a two year period or a second story addition regardless of s.f. or an alteration of 50% or greater in a two year period or any building that has fire sprinklers already installed).
17. Building(s) shall comply with 2013 California Codes of Regulations Parts 1-12 and any local amendments thereto. Building(s) shall comply with 2013 T-24 Energy Conservation Regulations.
18. Minimum roofing classification is A.
19. Undergrounding of all onsite utilities is required. An **Approved SDG&E Work Order and Undergrounding Plan** is required prior to permit issuance.
20. Foundation system to provide for expansive soils and soils containing sulfates unless a soils report can justify otherwise. Use Type V cement, w.c. ration of 0.45, F'c pf 4500 psi

**C. Prior to Issuance of a Building Permit:**

21. Verification of all conditions of approval is required by all City Departments.
22. All approvals from applicable departments and agencies are required.
23. All applicable supplemental/development impact fees shall be paid prior to building permit issuance.
24. Separate review, approval and permits are required for fire sprinklers, retaining walls and site walls over 3 feet.

**D. Following Issuance of a Building Permit:**

25. All structural best management practices (BMPs) shall be constructed and installed in conformance with approved plans and specifications.
26. Prior to commencement of framing for the wall surrounding the exterior stairway, the applicant shall submit a "Line and Grade Certification", to ensure that the exterior stairway will be constructed in compliance with the dimensions shown on plans approved by the City, including setbacks to property-lines included as part of SDP15-0013(M). The City's standard "Line and Grade Certification" Form shall be obtained from the Project Planner, prepared by a licensed civil engineer/surveyor and shall be delivered to the City of Dana Point Building/Safety and Planning Divisions for review and approval.
27. Prior to commencement of framing for the roof deck, the applicant shall certify by a survey or other appropriate method that the height of the roof deck complies with plans approved by the City. The City's standard "Height Certification" Form shall be obtained from the Project Planner, prepared by a licensed civil engineer/surveyor and be delivered to the City of Dana Point Building/Safety and Planning Divisions for review and approval before release of final roof sheathing is granted.
28. The applicant shall contact the Planning Division to conduct an inspection of the completed project prior to contacting the Building/Safety Division for final project sign-off.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 28<sup>th</sup> day of September, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
April O'Connor, Chairwoman  
Planning Commission

ATTEST:

\_\_\_\_\_  
Ursula Luna-Reynosa, Director  
Community Development Department

**RESOLUTION NO. 15-09-28-xx**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, DENYING MINOR SITE DEVELOPMENT PERMIT SDP15-0013(M) FOR THE CONSTRUCTION OF A 250 SQUARE FOOT ROOF DECK AT 32411 VIA ANTIBES.**

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, William Clark (the "Applicant") is the applicant and Jean Francois Jomphe (the "Owner") is the owner of real property commonly referred to as 32411 Via Antibes (APN 607-071-12) (the "Property"); and

WHEREAS, the applicant filed a verified application for a Minor Site Development Permit to allow for the construction of 250 square foot roof deck at 32411 Via Antibes; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, the Community Development Department did, on the 17<sup>th</sup> day of August, 2015, hold an Administrative Public Hearing as prescribed by law to consider said request; and

WHEREAS, pursuant to Section 9.71.034 of the Dana Point Zoning Code, the Director of Community Development made a determination to place the application on the Planning Commission agenda for review; and

WHEREAS, the Planning Commission did, on the 28<sup>th</sup> day of September, 2015, hold a duly noticed public hearing as prescribed by law to consider said request; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorical Exempt per Section 15301 (Class 1 – Existing Facilities) as the project involves the construction of an addition to an existing structure that will not result in the increase of more than 2,500 square feet; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Minor Site Development Permit SDP15-0013(M).

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows;

- A) The above recitations are true and correct.

Findings:

- B) Based on the evidence presented at the public hearing, the Planning

Commission adopts the following findings and denies Minor Site Development Permit SDP15-0013(M):

- 1) That the site design is in compliance with the development standards of the Dana Point Zoning Code **in that while the proposed roof deck and exterior stairway are architecturally integrated into the design of the existing dwelling and adequately screened in accordance with Section 9.05.230 of the Dana Point Zoning Code, the roof deck would be the first roof deck constructed within the Emerald Ridge community and would be contrary to the form and character of the existing and surrounding residential area.** The subject property, among other neighboring properties is predominately comprised of single-story dwellings that were designed and developed in such a way so as to complement one another and be sensitive to the positive aspects of the surrounding neighborhood. The existing graded pad elevations of each of the lots within Emerald Ridge/Tract 4516 are “stepped” with one lot being slightly lower than the lot next to it. This pattern of development allows all property owners to be afforded a certain degree of privacy and private views. While the City does not have any ordinances or regulations that pertain to privacy or private views, the development pattern within the community is clear. The addition of a roof deck to the existing dwelling would create a new architectural element to the rear elevation of the structure that would be contrary to the continuity and character of the existing residential layout and design within Emerald Ridge.
- 2) That the site is suitable for the proposed use and development **in that the property is zoned Residential Single Family 7 (RSF 7) and is improved with an existing single-story dwelling.** The lot is approximately 8,100 square feet and the existing dwelling was constructed to the minimum required setbacks on all four sides. The existing dwelling coupled with the new addition permitted under building permit (BLD15-0134) has together maximized the use of the site. While designed in accordance with Section 9.05.230 of the Dana Point Zoning Code, the roof deck would project from the rear elevation of the existing dwelling and would not be complimentary to the existing character of the residential

environment on Via Antibes and elsewhere in Emerald Ridge which consists of predominately low-level single-story dwellings with shallow roof pitches. The stepped development pattern between lots, an important site detail within the community, does not make the subject property suitable for a roof deck.

3) That the project is in compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines **in that the proposed roof deck would be inconsistent with Section IIA – “Site Design” of the City’s Urban Design Guidelines. More specifically, Section IIA states “... Projects should demonstrate sensitivity to the positive aspects of the surrounding neighborhood and building”.** Based upon a visual analysis of the site, the overall land use and “stepping” of parcels within the community, the proposed roof deck would not be compatible with the existing residential character and would not be sensitive to the surrounding neighborhood. The subject project is not located within the City’s coastal zone and consequently does not require a coastal development permit.

4) That the site and structural design is appropriate for the site and function of the proposed use, without requiring a particular style or type of architecture, **in that the stepped development pattern between lots, an important site detail within the Emerald Ridge community, does not make the subject property suitable for a roof deck.** The proposed roof deck would project off of the rear elevation of the existing dwelling and would be contrary and incompatible to surrounding residential area.



PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 28<sup>th</sup> day of September, 2015, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

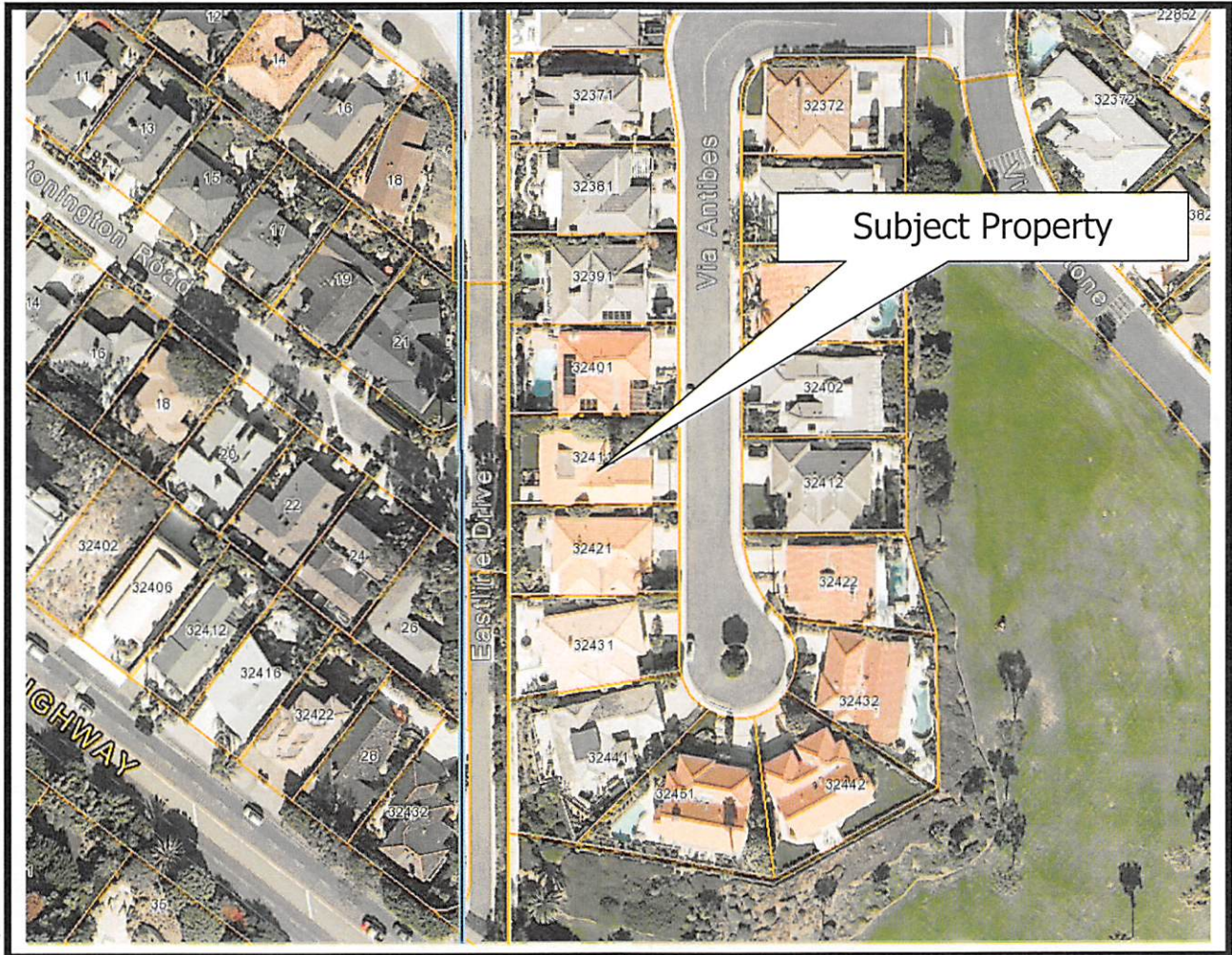
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Ursula Luna-Reynosa, Director  
Community Development Department

---

April O'Connor, Chairwoman  
Planning Commission

# VICINITY MAP



*SDP15-0013(M)*  
*Proposed Roof Deck*  
*32411 Via Antibes*



SUPPORTING DOCUMENT #2





Subject Property  
32411 Via Antibes



Applicant's Property  
32411 Via Antibes



Antibes

East Line Rd

## ERICA DEMKOWICZ

---

**From:** Barbara Parsons <barbara@accellpm.com>  
**Sent:** Tuesday, June 02, 2015 1:14 PM  
**To:** ERICA DEMKOWICZ; Randy Jones  
**Subject:** Re: RE; HOA Clarification Needed Regarding Approval of Roof Deck at 32411 Via Antibes

Hello Erica

Thank you for checking in with us on the matter. The Association did not approve a roof deck. When the Board and Committee members met with Mr. Jomphe in November of last year, they were led to believe it was a standard deck off of the house rear sliders and not a roof deck. The Association's Governing Documents clearly state roof decks are not permitted.

Let me know if you need anything else on our part. But again, the Association does not allow the roof deck per the Governing Documents.

We appreciate your help.

Barbara Parsons, CMCA



PROPERTY MANAGEMENT  
23046 Avenida de la Carlota, Ste. 700  
Laguna Hills, CA 92653  
P 949.581.4988 ■ F 949.581.9785

[www.accellpm.com](http://www.accellpm.com)

On 6/1/15 2:44 PM, "ERICA DEMKOWICZ" <[EDEMKOWICZ@DanaPoint.org](mailto:EDEMKOWICZ@DanaPoint.org)> wrote:

Good Afternoon Barbara,

The applicant (William Clark/Jean Francois Jomphe) has submitted an application to the City to add a roof deck to the existing dwelling at 32411 Via Antibes. The City has encouraged the applicant to complete any HOA-level review that might be required by Emerald Ridge HOA and provide any HOA correspondence or stamped plans verifying the approval of the roof deck. The applicant has submitted a letter in writing from Accell Property Management dated November 11, 2014 that states that architectural approval has been granted for "room addition and rear yard deck." The letter (attached) does not specify whether or not the roof deck is included in the HOA approval. Can you clarify what the HOA did, in fact, approve and did it include a roof deck towards the back of the house?

Regards,

Erica H. Demkowicz, AICP  
Senior Planner  
33282 Golden Lantern, Suite 209

1 SUPPORTING DOCUMENT #3



City of Dana Point, CA 92629  
(949) 248-3588

[edemkowicz@danapoint.org](mailto:edemkowicz@danapoint.org) <<mailto:edemkowicz@danapoint.org>>

RECEIVED

MAY 28 2015

CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

November 11, 2014

Jean Francois Jomphe  
32411 Via Antibes  
Monarch Beach, CA 92629

Re: Emerald Ridge Homeowners Association - Approval of Architectural Request  
32411 Via Antibes

Dear Mr. Jomphe :

Please be advised that subject to the following terms and conditions, architectural approval has been granted for your submitted request to room addition and rear yard deck.

Your installation shall be in conformity with the plans and specifications submitted with your architectural application. All work shall be done in a timely and workmanlike manner, with the necessary permits and otherwise in compliance with all applicable building codes and other governmental rules or regulations. The work shall be done in such a manner and at such times so as to cause the least disturbance to others. You and your successors in interest shall be solely responsible for maintaining and repairing the improvement herein approved and Emerald Ridge Homeowners Association is released from any responsibility in this regard. Upon any transfer of your property, you agree to notify the buyer of these conditions. Additionally, please be aware property owners are responsible for all damage caused to common areas and surrounding Home/Lots as a result of your improvements.

Approval of these plans relates solely to the architectural design and scheme thereof, and no representations are made nor any responsibility assumed by the Association regarding the legality, structural quality or soundness of the work proposed. It shall be the sole responsibility of owner, owner's architect and owner's builder to examine the Home/Lot and to construct and maintain the improvements in accordance with the approved plans, and applicable governmental codes, laws, ordinances and regulations. Approval of these plans does not alter or modify owner's obligation to comply with all established building requirements for the lot and with all laws, ordinances, rules and regulations now or hereafter made by any governmental or other authority affecting the Home/Lot. In case of any conflict between the same, the stricter requirement shall apply.

This approval is effective for a period not to exceed six (6) months after the date of this letter and automatically terminates if installation is not complete within such time.

Sincerely,

  
Barbara Parsons  
On Behalf of Emerald Ridge Homeowners Association



**Emerald Ridge Homeowners Association**

Accell Property Management, Inc  
23046 Avenida de la Carlota, Ste 700  
Laguna Hills, CA 92653  
949.581.4988

**Approval Request**

Applicant Name: Jean Francois Jomphe Property Address: 32411 Via Antibes

Mailing Address: \_\_\_\_\_

Phone (H): 949-981-4610 (W): \_\_\_\_\_ (e-mail): JJomphe@MHLPA.COM

Proposed Start Date: 11-9-14 Anticipated Completion Date: 11-9-15

- Painting (No Fee)
- Pool / Spa
- Lighting
- Door / Garage Door (No Fee)
- Wall / Fence
- Room Addition
- Roofing
- Deck / Patio
- Window Replacement (No fee)
- Landscape
- Hardscape
- Other SOLAR PANELES

Brief Description of Proposed Work: REMODEL KITCHEN MASTER BED/BATHROOM  
AND NEW 2 BED ROOM & BATHROOM ADDITION. (574)

Submit two (2) sets of exhibits as listed in the Submittal Checklist to the management company at the address listed above.

In addition to the information requested herein, the Architectural Review Committee (ARC) may request additional or more detailed information or plans as it deems necessary to assist it in making its decision. The ARC may deny a request with insufficient information.

All improvements will be reviewed by the ARC to determine their effect on surrounding structures and lots. The ARC may deny a request if it determines that the improvement will unreasonably obstruct views of adjacent or nearby lots, is not in harmony with surrounding structures, or if it does not comply with the CC&R's or architectural standards. (CC&R's Article VIII, Section 2)

No improvement or architectural change may be commenced prior to obtaining the written approval of the Architectural Review Committee. Failure to obtain the prior written approval of the Architectural Review Committee may result in removal or modification of the unapproved improvement / change at the applicant's expense.

Approvals and permits may be required by the City of Dana Point. Modifications to the approved plans will require resubmittal to the Emerald Ridge Architectural Review Committee.

I have read this Approval Request form, the CC&R's and Rules and Regulations and I understand and agree to the terms and conditions of the Architectural Review Committee's review of my request and exhibits. I further represent that my proposed improvement will not encroach on Common Area, Restricted Common Area or any area over which the Emerald Ridge Homeowners Association or another member holds a property interest.

Applicant Signature: [Signature] Date: 10-9-14

Applicant Name: Jean Francois Jomphe Property Address: 32411 Via Antibes



CITY OF DANA POINT  
**ADMINISTRATIVE HEARING**  
**MEETING MINUTES**

---

August 17, 2015  
9:02 – 9:50 a.m.

City Hall Offices  
Public Works Conference Room, Suite 212  
33282 Golden Lantern  
Dana Point, CA 92629

---

**CALL TO ORDER**

Erica Demkowicz called the Administrative Hearing to order at 9:02 a.m.

**A. PUBLIC HEARINGS**

**ITEM 1: Minor Site Development Permit SDP15-0013(M): A request to allow the construction of a new 250 square foot roof deck to an existing single family dwelling located at 32411 Via Antibes.**

Applicant        William Clark / J.F. Jomphe

Location:        32411 Via Antibes

Environmental: Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15301(e)(1) (Class 1 – Existing Facilities).

Erica Demkowicz (Senior Planner) provided a presentation including a history and Power Point Presentation describing the project.

Ursula Luna-Reynosa (Director of Community Development) added that if the permits for the roof deck are denied, the applicant will be required to return the roof to the original shape. She stated that the City's Municipal Code contains the laws that she must adhere to and regulate development with. She added that she is aware of the correspondence received in opposition to the roof deck.

**Director Ursula Luna-Reynosa opened the Public Hearing at 9:14 a.m.**

Marjorie Koss, Dana Point, spoke of opposition of the project. She stated that she was never made aware of changes to the back of the subject property which is viewable from her property. She added that she has come to the City multiple times to review plans.

Richard Schonfeld, Dana Point, spoke of opposition of the project. He submitted evidence of opposition from the ARC Committee and the Home Owners Association (HOA). He asked that the City respect the HOA bylaws and consider the neighbors adversely affected by the roof deck.

Christine Davis, Dana Point, spoke in opposition of the project. She stated that the deck looks into her house and yard and blocks her view.

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**CITY OF DANA POINT  
PLANNING COMMISSION  
REGULAR MEETING MINUTES**

August 17, 2015  
9:02 – 9:50 p.m.

PAGE 2

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Larry Hamlin, Dana Point, spoke in opposition of the project. He added that the HOA regulations are in place to protect the aesthetic value of the neighborhood. He submitted a petition. He added that the deck is visible and would set a bad precedent.

Barbara Kotinek, Dana Point, spoke in opposition of the project. She stated that staking was not completed and that the railings and people on the roof deck are visible.

Glenn Davis, Dana Point, spoke in opposition of the project. He stated that the roof deck will decrease property value.

Farshad Alikhani, Dana Point, spoke in opposition of the project. He stated that his privacy is violated and people can see into his house and yard. He added that allowing the roof deck would set a bad precedent. Additionally, he stated that by flattening the roof, the use is changed, so it should not be exempt from environmental evaluation

Barbara DiFrancia, Dana Point, spoke in opposition of the project. She stated that the deck would decrease the neighbor's property value as well as take away from their views.

Cathy Tiano, Dana Point, spoke in opposition of the project. She stated that she fears it would set a precedent in the neighborhood.

Jack Tiano, Dana Point, asked for clarification of the process.

**Director Luna-Reynosa closed the Public Hearing at 9:31 a.m.**

Director Luna-Reynosa stated that the City can only regulate the codes that the City has adopted. She added that as a courtesy, the City does ask applicants if they have completed the necessary review by their respective HOA's prior to the City approving their plans. She stated that she will review the testimony provided as well as the correspondence received. She added that if the project is approved, there is a 15 calendar day appeal period where the project can be appealed and will be presented to the Planning Commission. If no appeals are received, the project can move forward. Additionally, she stated that Planning Commission decisions may also be appealed.

Senior Planner Demkowicz provided a brief overview of the permits that are currently issued to the project address. She added that the permits obtained for the remodel and patio cover did not require public notification.

Director Luna-Reynosa added that the City acknowledges that work was done prior to proper permitting.

Resident Farshad Alikhani asked when the plans were submitted for the roof deck.

---

**CITY OF DANA POINT  
PLANNING COMMISSION  
REGULAR MEETING MINUTES**

---

August 17, 2015  
9:02 – 9:50 p.m.

PAGE 3

Senior Planner Demkowicz replied that they were submitted in April. She added that the City, performed an initial review of the applicant's plans as well as several subsequent reviews with multiple corrections being needed to be made to the plans to comply with City codes before a hearing could be scheduled.

City Architect John Tilton added that a stop work order was issued for work that was continuing without proper permits. He stated that once a permit is issued, any existing work must be updated to comply with an approval.

Resident Jack Tiano asked what steps can be made for further recourse.

City Architect Tilton replied that if a City permit does not comply with the CC&R's, it would be a civil matter between the Home Owners Association and the property owner.

Resident Farshad Alikhani invited City staff to come look at the project and properties first hand.

Senior Planner Demkowicz stated that City staff has driven through the neighborhood and viewed the project from the street as well as from Three Arch Bay in Laguna Beach.

Director Luna-Reynosa stated that view and privacy impacts are not part of the California Environmental Quality Act (CEQA) evaluation. She added that City codes do not protect views or privacy. The City has setback requirements in place.

J.F. Jomphe, Home Owner, stated that he spoke to HOA representatives that approved his plans. In response to a question about a Variance from city codes, Director Luna-Reynosa stated that no variance has been considered and that she will come to a decision on the application by Friday, August 21<sup>st</sup>.

**Director Luna-Reynosa closed the Administrative Hearing at 9:50 a.m.**



---

Ursula Luna-Reynosa  
Director of Community Development

— J. P. Smith

RECEIVED

AUG 17 2015

CITY OF SANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs on two grounds:

1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the ARC guidelines.

We would appreciate your support in upholding our HOA's CC&Rs in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME ADDRESS SIGNATURE

NAME	ADDRESS	SIGNATURE
Richard Schonfeld	32421 Via Antibes	
Gregoria Gina Schonfeld	32421 Via Antibes	
Margriet J. Kees	32401 Via Antibes	
Naz Alikhani	32431 Via Antibes	
Barbara P. Katende	32432 Via Antibes	
SHERYL HAMLIN	32442 VIA ANTIBES	
LARRY HAMLIN	32442 VIA ANTIBES	
ASMA & NIZAR	32451 VIA ANTIBES	
Barbara Almonrold	32422 VIA ANTIBES	
Bonny	32382 VIA ANTIBES	
Ann Miller	32372 VIA ANTIBES DP CA 92629	
Nancy Schafer	32381 Via Antibes DP CA 92629	
Curt Carlson	32412 Via Antibes DP CA	
Renee Carlson	32412 Via Antibes DP	
DAVE & JOANNA SCHRADER	32402 VIA MENTONE	



Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs and its governing documents and bylaws on two grounds:

1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the CC&Rs and its governing bylaws and guidelines.

We would appreciate your support in upholding our HOA's CC&Rs and all its governing bylaws and documents in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME	ADDRESS	SIGNATURE
Shirley Johnston	32402 Via Antibes	Johnston
Selma Ray Hill	32392 Via Antibes	Selma Ray Hill
Eusan H. Hill	32392 Via Antibes	Eusan H. Hill
Ken Boultinghouse	32361 Via Antibes	KB
Catherine Tiano	32351 Via Antibes	Catherine Tiano
Rod	22872 VIA GENOA	Rod
Lois Girty	22882 VIA GENOA	Lois Girty
Kathleen Giretz	22882 Via GENOA	Kathleen Giretz
Jack Tiano	32351 VIA ANTIBES	Jack Tiano
James H. Hardy	32782 VIA BARCELONA	James H. Hardy
Christine Davis	32391 Via Antibes	Christine Davis
Glenn Davis	32391 Via Antibes	Glenn Davis
Mike Camorelli	32371 Via Antibes	Mike Camorelli
Debra Campbell	32371 Via Antibes	Debra Campbell

Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs and its governing documents and bylaws on two grounds:

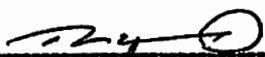
1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the CC&Rs and its governing bylaws and guidelines.

We would appreciate your support in upholding our HOA's CC&Rs and all its governing bylaws and documents in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME ADDRESS SIGNATURE

Reza Limonadi 32372 Via Mentone 

FARSHAD ALIKHANI 32431 Via Antibes 

Richard Bender 32392 Via Mentone 

TOM MANUSCALK 22842 Via Cordova 

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**HICKEY & PETCHUL, LLP**

David E. Hickey  
Dirk E. Petchul  
Kumar S. Raja  
Adam K. Obeid  
Jeffrey W. Smetana  
William P. Hickey\*

**ATTORNEYS AT LAW**  
**114 PACIFICA, SUITE 340**  
**IRVINE, CALIFORNIA 92618**  
**TELEPHONE (949) 727-1777**  
**FACSIMILE (949) 727-1797**

www.HPLaw.net

\*Of Counsel

RECEIVED

AUG 17 2015

August 14, 2015

CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

VIA ELECTRONIC MAIL ONLY

uluna@danapoint.org

Ursula Luna-Reynosa  
Director of Community Development  
City of Dana Point  
33282 Golden Lantern, Suite 209  
Dana Point, CA 92626

**Re: Emerald Ridge Homeowners Association**

**Subject: Objection to Minor Site Development Permit SDP15-0013 (M)**

**Hearing Date: Monday, August 17, 2015**

**Hearing Location: 33282 Golden Lantern, Suite 209  
Dana Point, CA 92629 (Dana Point City Hall)**

Dear Ms. Luna-Reynosa:

This firm is legal counsel for the Emerald Ridge Homeowners Association ("Association") which is a common interest development near the intersection of Crown Valley Parkway and Pacific Coast Highway. In that capacity, we are writing to communicate the Association's objection to the following Minor Site Development Permit:

Project Number: SDP15-0013(M) ("Permit")  
Project Location: 32411 Via Antibes, Dana Point, CA ("Subject Property")  
Applicant/Owner: William Clark/J.F. Jomphe ("Owner")

We understand the Office of the Director of Community Development for the City of Dana Point ("City") intends to hold an administrative public hearing on August 17, 2015 to consider the aforementioned Permit to allow for the construction of a new 250' square foot roof top deck at the Subject Property.

By way of brief background, in early January 2015, the City issued a stop work order at the Subject Property. Once City permits were acquired, the Owner continued with his construction activities. The Association filed a lawsuit which alleges, among other things, that the Owner breached the Association's governing documents by failing to obtain architectural

approval for his proposed construction activities, including the roof top deck. Attached hereto as **Exhibit "A"** for your reference is a true and correct copy of the complaint that was filed in the Orange County Superior Court on July 8, 2015. Please know that the Association also filed a Motion for Preliminary Injunction that is scheduled to be heard by the Court on September 3, 2015. That Motion seeks an order from the Court that would prevent the Owner from further construction activity at the Subject Property until a determination of the merits at the time of trial.

The Association's objection to the Permit is based on the following facts:

1. The City does not have a basis to approve the roof top deck at the Subject Property. Title IX, Section 9.71.050 (Basis for Approval, Conditional Approval, or Denial of Site Development Permit) of the City's Municipal Code provides the following:

Approval, conditional approval, or denial of any Site Development Permit application shall be based upon the following factors and principles:

(a) Compliance of the site design with development standards of this Code.

...

(c) Compliance with all elements of the General Plan and all applicable provisions of the Urban Design Guidelines<sup>1</sup>.

...

Attached hereto as **Exhibit "B"** are Declarations that were submitted by the Association in support of its pending Preliminary Injunction. Those Declarations demonstrate that the Owner's proposed roof top deck will detract from community standards and weaken the sense of community throughout this neighborhood. The deck grossly departs from the community aesthetic because, among other reasons, it unreasonably blocks neighbor views, invades the privacy interests of the Association's Members, and potentially sets a precedent that could jeopardize property values throughout the Association.

2. Over the last several months, several Association Members have presented objections to the Association and the City regarding the Owner's roof top deck. Attached hereto as **Exhibit "C"** is a true and correct copy of a petition signed by several Association Members. The undersigned has been informed that Association Members will present an updated petition with additional signatures at the time of the hearing.

---

<sup>1</sup> Article III.A. of the City of Dana Point Design Guidelines (Residential Development) provides the following: "Attached Single-Family, Duplex, and Multi-Family developments should contribute to the sense of community in their neighborhoods by carefully relating to the open spaces, scale and form of adjacent property..."

3. The Association does not allow roof top decks. Attached hereto as **Exhibit "D"** is a true and copy of the Association's Architectural Guidelines.

4. The Owner does not have current approval for the roof top deck. On November 11, 2014, the Association provided a limited approval for a plan that included a "sundeck." That approval expired within six (6) months, or by May 11, 2015. Attached hereto as **Exhibit "E"** is a true and correct of the Association's limited approval.

5. The November 2014 plan that was approved by the Association included reference to a "sundeck" (aka the roof top deck). That plan was superseded by revised architectural plans that were not approved by the Association and not seen by the Owner's neighbors. The revised plans include more detail than the approved plan, and now include reference to a "new sundeck."

The Owner continues to engage in renovation activities at the Subject Property, and if the instant Permit is granted by the City, he will complete construction of the roof top deck in further violation of the Association's governing documents.

Based on the foregoing, the Association respectfully requests that the City further evaluate the enclosed materials and deny the Permit without condition.

Please do not hesitate to contact the undersigned should you have any questions with respect to the above.

Very truly yours,

HICKEY & PETCHUL, LLP

  
Kumar S. Raja, Esq.

KSJ:sk

cc: Board of Directors (via electronic mail only)  
Emerald Ridge Homeowners Association

## **Exhibit “A”**

1 HICKEY & PETCHUL, LLP  
2 David E. Hickey, Esq. (SBN: 145469) dhickey@hplaw.net  
3 Kumar S. Raja, Esq. (SBN: 222036) kraja@hplaw.net  
4 Adam K. Obeid, Esq. (SBN: 247188) aobeid@hplaw.net  
5 114 Pacifica, Suite 340  
6 Irvine, California 92618  
7 Telephone: (949) 727-1777  
8 Fax: (949) 727-1797

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange  
**07/08/2015** at 03:18:00 PM  
Clerk of the Superior Court  
By Maria Gina Barr, Deputy Clerk

9 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION, a California Non-  
10 Profit Mutual Benefit Corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 EMERALD RIDGE HOMEOWNERS ) Case No.: 30-2015-00796965-CU-CO-CJC  
14 ASSOCIATION, a California Non-Profit )  
15 Mutual Benefit Corporation, ) Assigned for all purposes to: Judge Mary  
16 ) Fingal Schulte  
17 Plaintiff, )  
18 vs. ) Dept.: C6  
19 )  
20 JEAN-FRANCOIS JOMPHE, an individual; ) **FIRST AMENDED COMPLAINT FOR:**  
21 THOMAS J. MOORE, an individual; and ) (1) **BREACH OF CC&RS;**  
22 DOES 1 through 25, Inclusive, ) (2) **PRELIMINARY AND**  
23 ) **PERMANENT INJUNCTIONS; and**  
24 Defendants. ) (3) **DECLARATORY RELIEF**  
25 )  
26 )  
27 ) UNLIMITED JURISDICTION  
28 )

29 **COMES NOW PLAINTIFF EMERALD RIDGE HOMEOWNERS**  
30 **ASSOCIATION, a California non-profit mutual benefit corporation, and against**  
31 **Defendants Jean-Francois Jomphe, an individual, and Thomas J. Moore, an individual;**  
32 **and DOES 1 through 25, inclusive, and each of them, alleges as follows:**

33 ///  
34 ///

1 GENERAL ALLEGATIONS

2 1. Plaintiff Emerald Ridge Homeowners Association (hereinafter referred to  
3 as "Plaintiff" or "Association") was and is a non-profit mutual benefit corporation in  
4 good standing, duly organized and existing under and by virtue of the laws of the State  
5 of California, and was and is a homeowners association established as a Common  
6 Interest Development, as defined at California *Civil Code* §4100, existing for the  
7 purpose of, among other things, administering the powers and controls set forth in the  
8 Association's Governing Documents, including the Declaration of Covenants,  
9 Conditions and Restrictions and Reservation of Easements for Association, which were  
10 recorded on May 21, 1976, in the Official Records of the County Recorder of and for  
11 the County of Orange ("Declaration" and/or "CC&Rs"), as document number 23678,  
12 Book 11744, Pages 726-774, as amended on July 11, 1977, as document number 14982,  
13 Book 12285, Pages 34 to 44, as further amended and restated on October 4, 1977, as  
14 document number 3655, Book 12403, Pages 870 et seq., and as further amended and  
15 restated on February 23, 1978, as document number 28217, Book 12574, Pages 1190 to  
16 1195, and the corporate By-laws and Articles of Incorporation, as well as the Rules and  
17 Regulations, and Architectural Guidelines for the Association (collectively, "Governing  
18 Documents"). On November 22, 1985, the Association filed a Certificate of  
19 Amendment of Articles of Incorporation with the California Secretary of State which  
20 changed the name of the Association from Laguna Meadows Homeowners Association  
21 to Emerald Ridge Homeowners Association. [A true and correct copy of the  
22 Declaration, all Amendments, the Architectural Guidelines, and the Certificate of  
23 Amendment of Articles of Incorporation are attached hereto collectively as **Exhibit**  
24 **"A"**].

25 2. Plaintiff Association is a planned residential Common Interest  
26 Development, located in the City of Dana Point, County of Orange, State of California.  
27 The Association is charged with the duty, for the benefit of all Owners and Members of  
28 the Association, to, among other things, enforce the covenants, conditions, and

1 restrictions contained in the Declaration and the other Governing Documents which  
2 have been established to further the legitimate rights and interests of the Association  
3 and each Member thereof. The Association's Common Interest Development, including  
4 all common and separate real property interests, is sometimes referred to herein as the  
5 "Project."

6 3. Defendants Jean-Francois Jomphe and Thomas J. Moore, are individuals  
7 and stand as the record Owners, as joint tenants, of that certain real property described  
8 as Lot 64 of Tract Number 4516, in the County of Orange, State of California, as per  
9 Map recorded in Book 376, Pages 30 to 34 inclusive of Miscellaneous Maps, in the  
10 office of the County Recorder of said County, and more commonly known as 32411 Via  
11 Antibes, Dana Point, California (hereinafter the "Subject Property"). They became joint  
12 tenants of the Subject Property on February 2, 2015, upon recordation of a Grant Deed  
13 in the Official Records of the County of Orange, State of California. The Subject  
14 Property is located within the Association. Pursuant to Article I, Sections 17 and 20,  
15 and Article III, Section 1, respectively, of the Declaration, by ownership of a Lot within  
16 the Association, Defendants are "Members" of the Association and subject to the  
17 Declaration, the Articles, the Bylaws, the Architectural Guidelines and the Rules and  
18 Regulations.

19 4. Plaintiff is ignorant of the true names and capacities of the Defendants  
20 sued herein as Does 1 through 25, inclusive, and, therefore, sues these Defendants by  
21 such fictitious names. Plaintiff will amend this Complaint to allege the true names and  
22 capacities of the fictitiously-named Defendants when ascertained. Plaintiff is informed  
23 and believes that the fictitiously-named Defendants are in some manner responsible for  
24 the occurrences, injuries, omissions, obligations and/or damages alleged herein, and/or  
25 that said Defendants claim some beneficial interest in the Subject Property. Each  
26 reference in this Complaint to "Defendant" and/or "Defendants" refers, jointly and  
27 severally, to Jomphe and Moore, and, also refers to all Defendants sued under fictitious  
28 names.

1           5.     The Association is informed and believes and thereon alleges that each  
2 Defendant was the agent, partner, and/or employee of each of the remaining  
3 Defendants, and at all times material herein, was acting within the course and scope of  
4 such agency, partnership and/or employment.

5           6.     The Subject Property is part of the Project which is managed by the  
6 Association, and, therefore, the Subject Property is subject to the Association's  
7 "Governing Documents," as that term is defined by California *Civil Code* §4150.

8           7.     The Governing Documents may be enforced by the Association against  
9 Defendants and all who claim to be an owner of the Subject Property, as provided both  
10 in the Declaration and California *Civil Code* §5975. The terms and provisions of the  
11 Declaration provide, *inter alia*, that the Association is obligated to observe and enforce  
12 said covenants, conditions and restrictions set forth within the Declaration, and to  
13 enhance and protect the value, attractiveness and desirability of the real property within  
14 the Association, including the Subject Property, according to the established general  
15 plan for the maintenance, care, use, and management of the development.

16           8.     The Declaration was executed and recorded by the original developer and  
17 grantor of the properties within the Association as an inducement for individuals to  
18 purchase residences within the Association and to maintain the Association as a uniform  
19 and desirable residential area. The general plan of the development was established to,  
20 among other things, maintain and preserve the aesthetic quality of the residences within  
21 the Association.

22           9.     Article VIII, Section 2, of the Declaration provides, in pertinent part:

23                   "Subject to Article IX, Section 12, of this Declaration, **no**  
24                   **building, fence, wall, patio cover, or other structure shall**  
25                   **be commenced, erected...nor shall any exterior addition**  
26                   **to or change or alteration** therein be made until the plans  
27                   showing the nature and specifications showing the nature, kind, shape, height, materials, and  
28                   location of the same **shall have been submitted to and**  
                      **approved in writing...by the ARC.**" (Emphasis added.)



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10. Article IX, Section 9, of the Declaration provides, in pertinent part:

“No fence, structure, Improvement, or vegetation shall be constructed or planted anywhere on a Lot, if to do so may unreasonably interfere with the view from any adjacent or nearby Lot.... Any such obstruction shall, upon request of the ARC, be removed or otherwise altered to the satisfaction of the ARC by the Owner of the Lot upon which the obstruction is located...” (**Emphasis added.**)

11. Article IX, Section 22, of the Declaration provides, in pertinent part:

“There shall be no violation of the restrictions of this Declaration or of the rules and regulations of the Association adopted in accordance with the provisions of the By-Laws of the Association...”

12. Article XIV, Section 1(a), of the Declaration provides, in pertinent part:

“Breach of any of the covenants contained in the Declaration or the By-Laws and the continuation of any such breach may be enjoined, abated, or remedied by appropriate legal proceedings by any Owner, by the Association, or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys’ fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.”

13. Article XIV, Section 1(b), of the Declaration provides, in pertinent part:

“The result of every act or omission whereby any of the covenants contained in this Declaration or the By-Laws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors-in-interest.”

14. On October 15 2014, Defendant Jomphe submitted an architectural application (hereinafter “Approval Request”) and one-page plan to the Association for the remodel of the Subject Property. That Approval Request, signed by Defendant Jomphe on October 9, 2014 was at a time when he was not a record Owner of the

1 Subject Property, and specifically stated that “[M]odifications to the approved plans will  
2 require submittal to the Emerald Ridge Architectural Review Committee.” The one-  
3 page plan, among other things, included reference to a first floor “covered area” at the  
4 north side of the Subject Property, and a second floor sundeck at the south side of the  
5 Subject Property.

6 15. In early November 2014, Randy Jones, the Association’s Board President,  
7 and Defendant Jomphe met at the Subject Property to discuss the renovation, including  
8 the proposed exterior improvements. As to the sundeck, Defendant Jomphe represented  
9 that it would be small in size and similar to other decks throughout the community. As  
10 to the “covered area”, Defendant Jomphe stated that a small structure would simply be  
11 moved from the south side of the property to the north side of the property.

12 16. Based on the representations made by Defendant Jomphe at the November  
13 2014 meeting with Mr. Jones, the Association, on November 11, 2014, sent a letter to  
14 Defendant Jomphe which provided approval for the following: room addition and rear  
15 yard deck. That letter provided that all work must be done with the necessary permits  
16 and in compliance with all applicable building codes and other governmental rules.

17 17. In early January 2015, the City of Dana Point (“City”) posted a ‘stop  
18 work’ order at the Subject Property because Defendants were engaging in construction  
19 activities without City building permits.

20 18. On January 7, 2015, the Association sent Defendant Moore a cease and  
21 desist/stop work order which notified him that he did not have architectural approval for  
22 any construction activities at the Subject Property because the October 2014 Approval  
23 Request and one-page plan were submitted by Defendant Jomphe, who was not a record  
24 owner of the Subject Property at that time.

25 19. On January 14, 2015, the Association’s consulting architect, Jeffrey T.  
26 Smith, inspected the Subject Property to compare the current construction with the one-  
27 page plan submitted by Defendant Jomphe to the Association in October 2014. Mr.  
28 Smith noted several construction activities that appeared to deviate from Defendant

1 Jomphe's October 2014 architectural materials. Specifically, Mr. Smith noted that the  
2 sundeck cantilevers past the rear wall of the Subject Property. According to Mr. Smith,  
3 there is no indication of a cantilever on the October 2014 one-page plan.

4 20. On February 12, 2015, Defendant submitted a detailed set of architectural  
5 plans to the City.

6 21. On March 4, 2015, the Association sent a cease and desist/stop work order  
7 to Defendant Moore which advised that the current deck construction violated the  
8 Association's Architectural Guidelines, and that several other construction activities  
9 deviated from the work illustrated on the October 2014 plans submitted to the  
10 Association.

11 22. On March 5, 2015, the City issued Defendant Jomphe a building permit  
12 for the removal of a 322 sq. foot loft. The removal of a 322 sq. foot loft was not set  
13 forth on the architectural drawings submitted by Defendant Jomphe to the Association  
14 in October 2014. On this same date, Defendant Jomphe told the Association's  
15 Community Manager that he would be finishing the remodel to the interior of the  
16 Subject Property. As to the exterior improvements, Defendant Jomphe assured the  
17 Community Manager that he "would not be doing any work to the exterior of the  
18 home." After acknowledging the Association's objection to the building of the roof top  
19 deck, Defendant Jomphe stated that he "would like to set up a meeting with you [the  
20 Community Manager] and the association to talk through this issue so we can  
21 collaboratively resolve this [sic] any other concerns you may have. Please let me know  
22 when you are available to meet."

23 23. On April 1, 2015, Defendant Jomphe provided a grant deed to the  
24 Association which identified Defendants as joint tenants of the Subject Property. On  
25 this same date, Defendant Jomphe also dropped off a newly revised set of architectural  
26 plans to the Association (those that were submitted to the City on February 12, 2015)  
27 which were materially different from the architectural plans submitted to the  
28 Association in October 2014. The newly revised architectural plans were not

1 accompanied by an Approval Request as required by the Governing Documents.  
2 Further, the newly revised plans were materially different from the October 2014 plans  
3 because they depicted a 'new sun deck' and 'new covered patio' (with dimensions that  
4 were not previously illustrated on the October 2014 plans), illustrated a side  
5 view/profile of the Subject Property, and set forth significantly more detail regarding  
6 the nature and extent of the proposed improvements throughout the Subject Property  
7 (exterior and interior), including, but not limited to, setback measurements. Defendant  
8 Jomphe told the Association's Community Manager that he wanted to work with the  
9 Board on the exterior renovations, and that he requested a meeting with the  
10 Association's Architectural Review Committee ("ARC") to discuss the *changes* on his  
11 *new* set of architectural drawings.

12 24. On April 3, 2015, the Association sent Defendant Jomphe a cease and  
13 desist/stop work order for any and all construction at the Subject Property because he  
14 continued to construct exterior and interior modifications and improvements to the  
15 Subject Property that had not been approved by the Association. Those improvements  
16 included, but were not limited to, a roof top deck, front room addition and patio cover.  
17 In addition, Defendant Jomphe was also provided a blank Approval Request and  
18 Neighbor Notification, and advised that the ARC would accept his invitation to meet to  
19 discuss the architectural changes upon the Association's receipt of a completed  
20 Approval Request. That Request stated the following: "No improvements or  
21 architectural change may be commenced prior to obtaining the written approval of the  
22 Architectural Review Committee."

23 Construction of the sundeck exceeded the scope of the Association's October  
24 2014 approval because Defendant Jomphe removed the second story loft on the south  
25 side of the residence which transformed that portion of the residence into a one-story  
26 home. The sundeck now consumed significantly more area above the first floor room  
27 because the second story loft had been removed. Removal of the second story loft  
28 effectively created a deck on top of the now one-story roof. This material departure

1 from the original one-page design caused the Association to characterize the deck  
2 improvement as a "roof deck", a phrase also used by the City to describe this structure.  
3 The Association's Architectural Guidelines state the following with respect to  
4 Sundecks: "Roof decks are prohibited." Defendant Jomphe's October 2014 Approval  
5 Request and one-page plan did not illustrate the removal of the second story loft, and  
6 Defendant Jomphe never told Mr. Jones that he would remove the second story loft  
7 when they met at the Subject Property in early November 2014.

8 Construction of the patio cover or covered area exceeded the scope of the  
9 representations made by Defendant Jomphe to Mr. Jones at the November 2014  
10 meeting. Instead of simply moving a small structure to the north side of the Subject  
11 Property, Defendant Jomphe was in the process of building a large covered patio cabana  
12 within a few feet of the rear property line. The original approval paperwork from the  
13 Association in October 2014 only referenced a side wall without any dimensions. It  
14 made no reference to the current improvement, which is essentially a permanent rear  
15 yard patio room that has been constructed with three (3) tall concrete stucco walls that  
16 are unsightly and block neighbor views.

17 25. On April 16, 2015, the Association learned that the City had not approved  
18 the 'new sun deck' because it did not comply with the City's Building Code for a  
19 number of reasons. A note on the City-plans stated that the roof top deck is subject to a  
20 separate permit submittal, and that failure to submit for the proposed roof top  
21 conversion will result in the "elimination of this [roof top] deck" and cause the space to  
22 be "converted back to the original condition" (i.e. second story loft).

23 26. On April 30, 2015, the Association advised Defendant Moore that the  
24 Association's architectural approval procedure requires, among other things,  
25 compliance with City Building Codes. The Association requested that Defendant  
26 Moore resubmit amended plans that comply with City Building Codes.

27 27. On June 23, 2015, the Association sent Defendant Jomphe a cease and  
28 desist/stop work order which advised him that the architectural plans on file with the

1 City (submitted to the City on February 12, 2015) were materially different from those  
2 plans originally submitted to the Association in October 2014, and were never approved  
3 by the Association's Architectural Review Committee. In addition, the Defendants  
4 were also reminded that City approval is separate and distinct from the approval  
5 required by the Association's Architectural Review Committee.

6 28. On or about July 6, 2015, the Association confirmed that Defendants are  
7 continuing to engage in construction activities that exceed the scope of the Approval  
8 Request and one-page plan submitted to the Association in October 2014, and which  
9 have been superseded by materially different architectural plans that have never been  
10 approved by the Association or any of Defendants' neighbors.

11 29. Therefore, having extended every effort to Defendants to avoid litigation,  
12 and because of Defendants' willful disregard of the Association's Governing  
13 Documents and fellow Association Members' rights, the Association is now required to  
14 bring this action to obtain compliance with its Governing Documents. Further, as a  
15 result of Defendant Jomphe's continued construction at the Subject Property in violation  
16 of the Governing Documents, an emergency situation has been created that has  
17 prevented the Association from exhausting alternate dispute resolution methods.

18 **FIRST CAUSE OF ACTION**

19 (For Breach of CC&Rs )

20 (Against Defendants Thomas J. Moore, Jean-Francois Jomphe and Does 1 through 25)

21 30. Plaintiff incorporates by reference each and every allegation set forth in  
22 paragraphs 1 through 29, inclusive, as though fully set forth herein.

23 31. By purchasing the Subject Property and becoming Members of the  
24 Association, Defendants and Does 1 through 25, and each of them, are subject to the  
25 terms and provisions of the Declaration and the Association's other Governing  
26 Documents.

27 32. Plaintiff is informed and believes and thereon alleges that as alleged in  
28 more detail above, Defendants and Does 1 through 25, and each of them, breached and

1 violated the terms, conditions, and requirements of the CC&Rs, and the Association's  
2 other Governing Documents by engaging in unauthorized exterior and interior  
3 construction modifications that exceed the scope of the one-page plan submitted to the  
4 Association for approval in October 2014 and which have been superseded by  
5 materially different architectural plans that have never been approved by the  
6 Association or any of Defendants' neighbors. Neighbor approval for all exterior  
7 improvements is critical because of the Association's strong interest to preserve ocean  
8 and mountain views (see Article IX, Section 9 of the Declaration, *infra*)

9       33. Plaintiff has performed all conditions, covenants, and promises required  
10 by it on its part to be performed in accordance with the terms and conditions of the  
11 CC&Rs. Plaintiff has not consented to the breach of any of the terms and provisions of  
12 the CC&Rs, and has followed its own standards and procedures, which are fair and  
13 reasonable. Plaintiff has performed all conditions, covenants, and promises required by  
14 it on its part to be performed, excepting those it has been prevented from performing by  
15 Defendants' actions and which Plaintiff is ready, willing and able to perform, in  
16 accordance with the terms and conditions of the Governing Documents.

17       34. As a direct and proximate result of Defendants' acts and breach of the  
18 Declaration and Governing Documents, Plaintiff has been required and will be required  
19 in the future to incur costs, including but not limited to expert fees, to investigate,  
20 document and analyze conditions on the Subject Property, and to enforce the  
21 Declaration and Governing Documents and require compliance with the architectural  
22 requirements governing exterior and interior construction to a residence.

23       35. Additionally, as a direct and proximate result of Defendants' acts and  
24 breach of the CC&Rs, Plaintiff has been required to engage the services of legal counsel  
25 to prosecute this action, and has thereby incurred, and will continue to incur, attorney's  
26 fees and costs which Association is entitled to recover pursuant to the terms and  
27 provisions of the Association's Governing Documents and/or applicable law.

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**SECOND CAUSE OF ACTION**

(For Preliminary and Permanent Injunctions )

(Against Defendants Thomas J. Moore, Jean-Francois Jomphe and Does 1 through 25)

36. Plaintiff incorporates by reference each and every allegation set forth in paragraphs 1 through 35, inclusive, as though fully set forth herein.

37. On multiple occasions before the filing of this Complaint, a representative of the Association visually observed the Subject Property and repeatedly found that the Subject Property was, and presently remains, in violation of the CC&Rs and Architectural Guidelines, as more fully alleged above. Defendants were notified in writing of such violations and were requested to cease and desist from taking any further action in contravention of the Declaration and Governing Documents. Meetings were scheduled before the Board of Directors and other efforts were taken by Plaintiff Association in an effort to informally resolve this matter. Defendants Moore and Jomphe failed to cooperate in working with the Board to achieve compliance, and Defendants remain in violation of the Governing Documents.

38. Defendants and Does 1—25, and each of them, failed and/or refused to cease and desist from further unauthorized construction activity. Consequently, Defendants and Does 1—25, by virtue of their failure and refusal to comply with Association's demands to cease and desist, have been and remain in violation of the Declaration and Governing Documents.

39. Plaintiff is informed and believes and thereon alleges that the material alterations to the Subject Property constituting the violations, as more fully alleged above and incorporated herein by reference, (a) threaten the privacy and view-preservation interests of multiple Association Members by virtue of the construction of the roof top deck and covered patio area, (b) reflect a negative appearance to the detriment of the surrounding neighbors and the Association as a whole, thereby threatening property values, (c) establish a negative precedent, and (d) constitute patent violations of the Governing Documents.



1           40. As a proximate result of the aforesaid breach and violation of the  
2 Declaration, and the Association's other Governing Documents, by Defendants, and  
3 each of them, Plaintiff Association is entitled to a preliminary and permanent injunction  
4 requiring and directing Defendants and Does 1 through 25, and each of them, to  
5 immediately cease and desist from engaging in activities expressly prohibited by the  
6 Declaration and Governing Documents, and, cease and desist in activities that threaten  
7 the Association and its Members.

8           41. As a further proximate result of said Defendants' breach and continuing  
9 violation of the Association's Governing Documents, the Association has incurred, and  
10 will continue to incur, attorney's fees, costs and expenses in connection with this  
11 enforcement action. Pursuant to California *Civil Code* §5975(c), and the applicable  
12 provisions of the Declaration, the Association is entitled to recover its attorney's fees,  
13 costs and expenses incurred in enforcing the Governing Documents.

14           42. The continued violation of the Declaration, and the Association's other  
15 Governing Documents by Defendants, and each of them, as described herein, will  
16 irreparably harm Plaintiff Association and its Members by diminishing the desirability,  
17 attractiveness, usefulness and economic value of the lots and homes located within the  
18 Association, and by making future enforcement of the Declaration with respect to  
19 similar violations impractical and difficult. Plaintiff Association and its Members have  
20 been damaged by said violations, and by having to file an action for the enforcement of  
21 the Governing Documents, have suffered damages thereby, all according to proof at  
22 trial.

23           43. The violations of the Declaration, and the Association's other Governing  
24 Documents by Defendants and Does 1 through 25, and each of them, is/are repeated and  
25 continuous, and would, therefore, require a multiplicity of actions and constitute an  
26 undue hardship to the Association and its Members if permitted to continue.

27           44. Plaintiff Association has no adequate remedy at law to compel said  
28 Defendants, and each of them, to comply with the Declaration, and the Association's

1 other Governing Documents, nor can the Association be compensated adequately for the  
2 injuries through an award of damages in that it would be impossible for the Association  
3 to determine the precise amount of damage it will suffer if said Defendants conduct is  
4 not enjoined.

5 **THIRD CAUSE OF ACTION**

6 (For Declaratory Relief)

7 (Against Defendants Thomas J. Moore, Jean-Francois Jomphe and Does 1 through 25)

8 45. Plaintiff incorporates by reference each and every allegation set forth in  
9 paragraphs 1 through 44, inclusive, as though fully set forth herein.

10 46. An actual controversy has arisen between Plaintiff Association and  
11 Defendants, and each of them, in that Plaintiff Association maintains that the  
12 Declaration, as well as the Association's other Governing Documents, prohibit  
13 Defendants from constructing, keeping and maintaining the roof top deck, covered patio  
14 area, and other exterior and interior improvements because they have been installed  
15 without approval and in direct contravention of the CC&Rs, whereas Defendants  
16 contend that these improvements are not prohibited and that they were not required to  
17 obtain approval from the Association prior to their installation and/or construction of the  
18 same.

19 47. Plaintiff Association desires a judicial determination and declaration of  
20 the Plaintiff's and Defendants' rights and duties under the Declaration, and the  
21 Association's other Governing Documents, and specifically, a determination as to the  
22 Association's entitlement to enforce against said Defendants, and each of them, the  
23 provisions of the Declaration and the Association's Governing Documents, with the  
24 requirement that said Defendants immediately cease and desist from continuing  
25 construction activities that are expressly prohibited by the Declaration and Governing  
26 Documents. Such judicial Declaration is necessary at this time so that the Association  
27 can determine its rights, duties and obligations under its Governing Documents.  
28 Accordingly, the Association requests that this Court adjudicate the controversy,

1 interpret the Declaration and the Association's other Governing Documents, and issue a  
2 declaration of rights, duties and obligations of the parties under said documents, and  
3 order the Association's requested injunctive relief.

4 **PRAYER FOR DAMAGES**

5 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of  
6 them, as follows:

7 **AS TO ALL CAUSES OF ACTION**

- 8  
9 1. For compensatory damages in an amount to be proven at trial;  
10 2. For costs of suit incurred herein;  
11 3. For reasonable attorney's fees and costs as allowed by law; and  
12 4. For such other and further relief as the Court may deem just and proper.

13 **AS TO THE FIRST CAUSE OF ACTION**

- 14 5. Damages for Breach of the Association's Governing Documents.

15 **AS TO THE SECOND CAUSE OF ACTION**

- 16 6. For a temporary restraining order, and preliminary and permanent injunction  
17 enjoining all Defendants and persons acting with them or on their behalf, requiring them  
18 to, among other things, cease and desist any and all construction within the Subject  
19 Property that is not approved by the Association.

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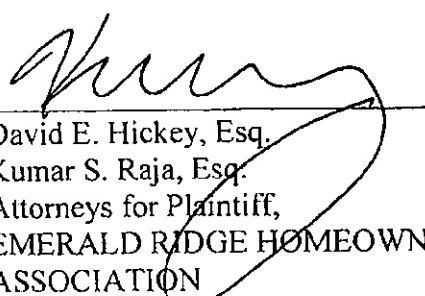
AS TO THE THIRD CAUSE OF ACTION

7. For a Declaration of Rights, Duties and Obligations of the Plaintiff and Defendants under the Governing Documents, and specifically, for a Declaration by this Court that Defendants, and each of them, violated the Governing Documents by constructing improvements on the Subject Property that were neither authorized nor approved and which fail to comport with the Governing Documents, and that Defendants' other impermissible conduct constitutes violations of the Governing Documents.

DATED: July 8, 2015

HICKEY & PETCHUL, LLP

By:

  
David E. Hickey, Esq.  
Kumar S. Raja, Esq.  
Attorneys for Plaintiff,  
EMERALD RIDGE HOMEOWNERS  
ASSOCIATION

## **Exhibit “B”**

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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange

**07/29/2015** at 09:45:00 PWT  
Clerk of the Superior Court  
By Emma Castle, Deputy Clerk

6 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION, a California Non-  
7 Profit Mutual Benefit Corporation

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

10  
11 EMERALD RIDGE HOMEOWNERS ) Case No.: 30-2015-00796965-CU-CO-CJC  
ASSOCIATION, a California Non-Profit )  
12 Mutual Benefit Corporation, ) Assigned for all purposes to:  
13 ) Hon. Mary Fingal Schulte  
14 )  
Plaintiff, ) Dept. C6  
15 )  
vs. ) **DECLARATION OF RICHARD**  
16 ) **SCHONFELD IN SUPPORT OF**  
17 ) **PLAINTIFF'S MOTION FOR**  
JEAN-FRANCOIS JOMPHE, an individual; ) **PRELIMINARY INJUNCTION**  
18 )  
THOMAS J. MOORE, an individual; and ) **Date:**  
19 DOES 1 through 25, Inclusive, ) **Time: 1:30 p.m.**  
20 ) **Dept.: C6**  
21 )  
Defendants. ) **Complaint Filed: July 6, 2015**  
22 ) **Trial Date: None Set**

23 **UNLIMITED JURISDICTION**

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25  
26 I, Richard Schonfeld, as Co-Trustee of the Schonfeld Family Trust, declare and state as  
27 follows:  
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1. I currently live at 32421 Via Antibes, Dana Point, California. I purchased this home in May 2014 to be used as my family's vacation home in the summer. For all other times of the year, I live primarily in Las Vegas, Nevada. This property is located within the Emerald Ridge Homeowners Association ("Association"). From the back of my property, I have ocean views towards the south and mountain views to the north. I specifically purchased 32421 Via Antibes because of its scenic vistas of the ocean and mountains and because the property's quiet, private setting contrasts from my Las Vegas work environment.
2. My neighbor to the immediate north of my property is Jean-Francois Jomphe ("Jomphe"). His property is located at 32411 Via Antibes, Dana Point. He purchased this property after we had purchased our home. Given the sloped geographic on my street, Jomphe's lot is slightly higher than my property, and each property to my south is relatively lower than the next.
3. On October 9, 2014, I received an email from Jomphe which stated that he was going to be updating his home by "remodeling the inside and then adding an addition to the front." Jomphe asked that I sign off acknowledging receipt of his plans as part of the HOA process. Jomphe also attached a copy of his remodel plans to his email, the Association's architectural application ("Approval Request"), and Neighbor Notification form. Attached hereto as **Exhibit "A"** is a true and correct copy of Jomphe's email. Jomphe never provided me a full-size rendering of his remodel plans and neither the written description nor the wording of the email referenced a covered patio or Rooftop Deck. I understood that regardless of what Jomphe sought to build, it would have to comply with the Association's governing documents.
4. On or about January 1, 2015, I received a call from Naz Massoudnia, my neighbor to the immediate south of my property. She resides at 32431 Via Antibes, and was

1 upset because a large part of Jomphe's existing roof (at the south side of his  
2 residence) had been removed and re-built into a flat roof with wood railings. The  
3 new structure had the appearance of a Rooftop Deck. Ms. Massoudnia was  
4 concerned that this Rooftop Deck overlooked her back yard property. I confirmed  
5 to her that the Rooftop Deck also overlooked my back yard property and was a  
6 privacy intrusion. The Rooftop Deck looked directly into my backyard that was  
7 previously private.

8  
9 5. At the time we discovered that the Rooftop Deck was being built, we were in the  
10 development stage of planning our own backyard remodel. I was shocked that  
11 Jomphe had started building a Rooftop Deck that looked directly into my backyard.  
12 I never saw the Rooftop Deck staked and I never saw detailed plans prior to its  
13 construction. Concerned that Jomphe had already received City and HOA approval  
14 for the Rooftop Deck that he had constructed (which as outlined in these  
15 proceedings was not the case) I asked my architect to research the ability to  
16 construct Rooftop Decks in the community and to pursue approval for an equivalent  
17 Rooftop Deck on my property in an effort to equalize the property value decrease  
18 and privacy invasion that would occur. My architect discovered that Rooftop Decks  
19 are prohibited by the Association's governing documents and confirmed in writing  
20 with Barbara Parsons, the Association's Community Manager, that neither Jomphe  
21 nor I would be permitted to build Rooftop Decks.

22  
23 6. Attached hereto as **Exhibit "B"** are pictures from Jomphe's Rooftop Deck that I took  
24 on January 2, 2015, that demonstrate the privacy intrusion into my backyard and the  
25 Massoudnia's backyard.  
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7. In June 2015, when I arrived for my family's summer stay, I saw that Jomphe was building a covered patio structure in the rear yard of his property. Based on the height of that structure, it was clear to me at that time that the as-built structure would block my mountain views. I immediately notified Ms. Parsons by email and shortly thereafter sent a view maintenance request to the Association.

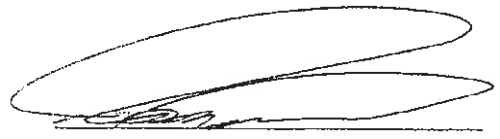
8. Since June 2015, Jomphe has continued to build the covered patio structure. Initially, after the framing of the structure and roof had been installed the construction on the covered area proceeded at a slow pace. On July 1, 2015, at 10:53 a.m., I sent an email to Jomphe which suggested that he delay construction of the covered patio in light of the community's objection to that structure. I also told him that he may want to consider avoiding the expenditure of additional resources until that issue is resolved with the Association. Nevertheless, he continued work on the structure and started to pick up the pace of work after receiving the email. Within the last week (the week of July 20, 2015), he has continued to affix stucco to its permanent block walls and has apparently completed that task. In my view, the covered patio structure is not a patio structure at all; it is a rear yard room addition that was not identified on the Approval Request, Neighbor Notification form, or plans that Jomphe emailed to me in October 2014.

9. The Rooftop Deck and covered patio structure are blatant eyesores, and because they are unlike any other structures I have seen in the community, a gross departure from the Association's aesthetic continuity. The privacy invasion and view obstruction caused by these structures has substantially affected my use and enjoyment of my property. Attached hereto as **Exhibit "C"** are pictures of the Rooftop Deck and covered patio structure that were taken by me on July 25, 2015.

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10. I have a wife and eleven year old daughter that stay at our house full time in the summer while I travel back and forth from Nevada. They were looking forward to having a renovated private backyard with a swimming pool and spa. We spent a considerable amount of money on plans and a survey to renovate that rear yard. We have now stopped the pursuit of the backyard remodel as we know that we will not enjoy the backyard if the privacy invasion is not remedied immediately.

I declare under penalty under the laws of the State of California that the foregoing is true and correct. Executed July 26, 2015 in the City of Dana Point, California.



Richard Schonfeld

# **EXHIBIT “A”**

**Kumar S. Raja**

---

**From:** Richard Schonfeld <rschonfeld@cslawoffice.net>  
**Sent:** Monday, July 20, 2015 5:36 PM  
**To:** Kumar S. Raja  
**Subject:** Fw: 32411 Via Antibes  
**Attachments:** Scan\_49336.pdf; 32 411 via Antibes HOA.jpeg; 32 411 via Antibes HOA 1.jpeg

Sent from my BlackBerry 10 smartphone.

Original Message

**From:** Jomphe, Jean-Francois <jjomphe@nhlpa.com>  
**Sent:** Thursday, October 9, 2014 2:32 PM  
**To:** Richard Schonfeld  
**Subject:** 32411 Via Antibes

Hello Richard,

I wanted to send you an email to introduce myself. My name is Jean-Francois and I am your new neighbor in Emerald Ridge. I just bought 32411 Via Antibis. I received your contact information from Mike who told me all about you and what a great guy you are.

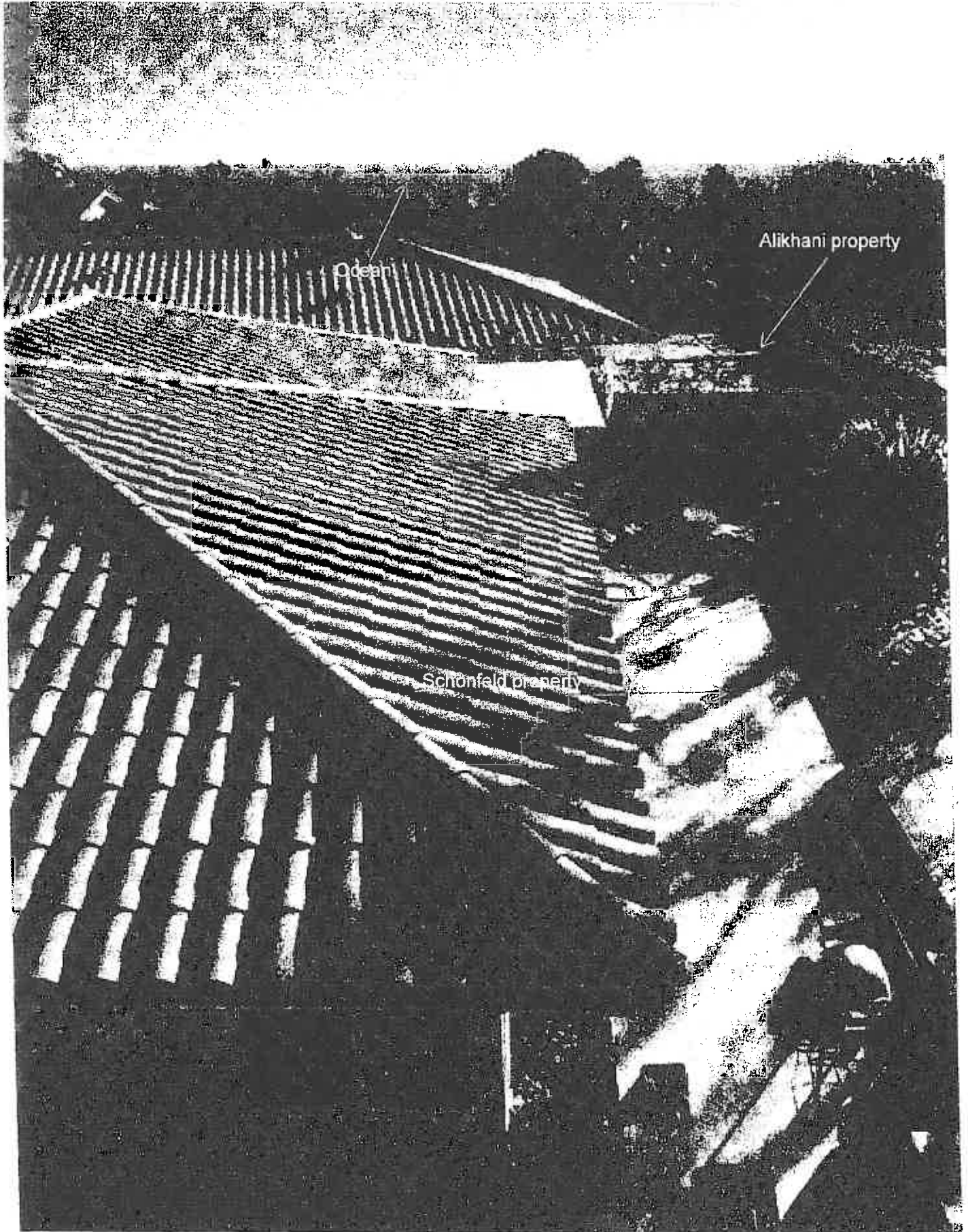
I am going to be updating the home by remodeling the inside and then adding an addition to the front. If you would't mind taking a look at the plans and approving them I would really appreciate it. I need all the neighbors to sign off on my plans as part of the HOA approval process. When you have a moment can you please email me the sign form.

I attached my remodel plans and the HOA form to this email for you. Also, Mike told me that you are looking to add a pool to your backyard. Please let me know if there is anything I can do to help you out with that.

Thank you and I look forward to meeting you in person!

Jean-Francois Jomphe  
949-981-4610

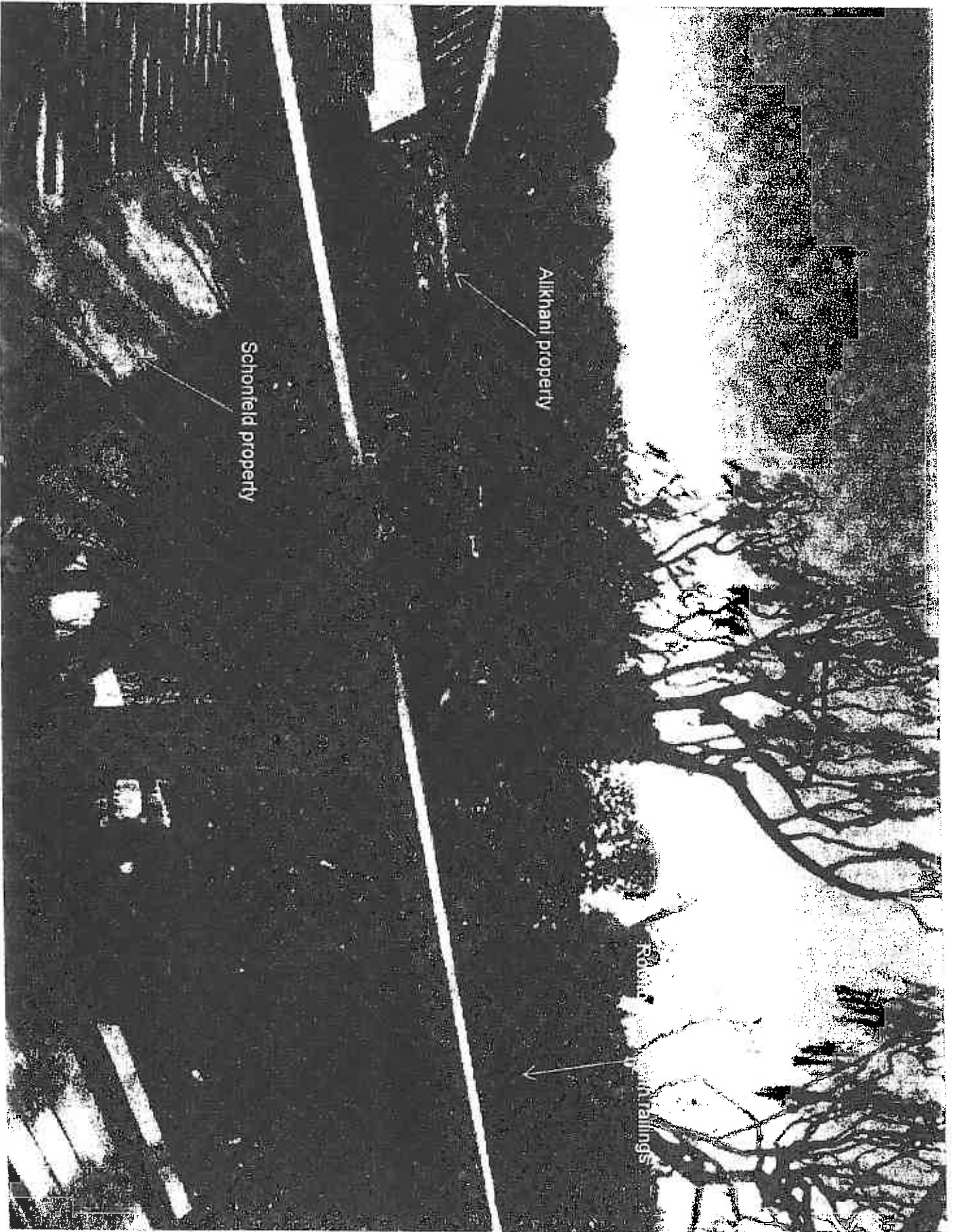
# **EXHIBIT “B”**



Ocean

Alikhani property

Schonfeld property



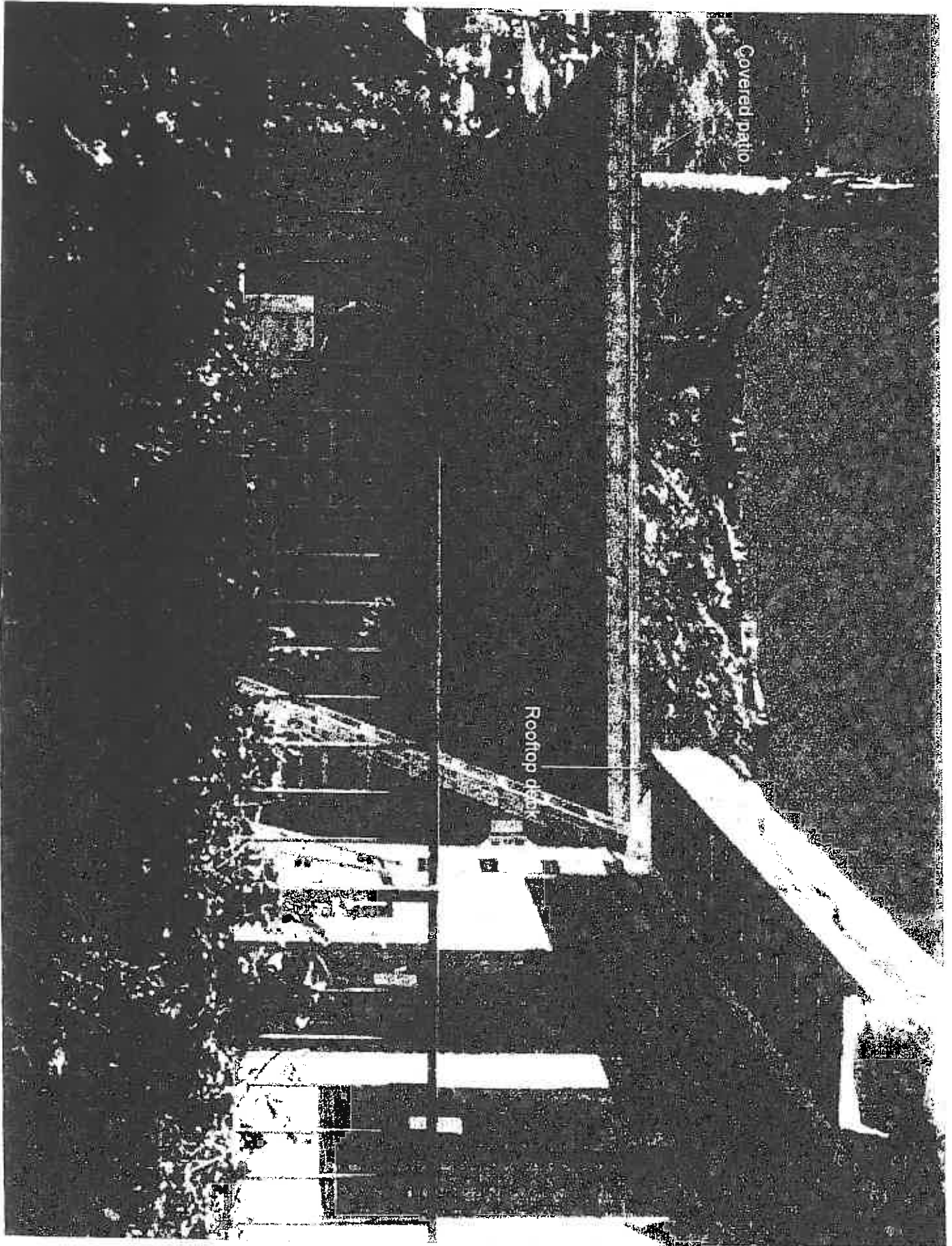
Schonfeld property

Allkhan property

Rowland Hallings

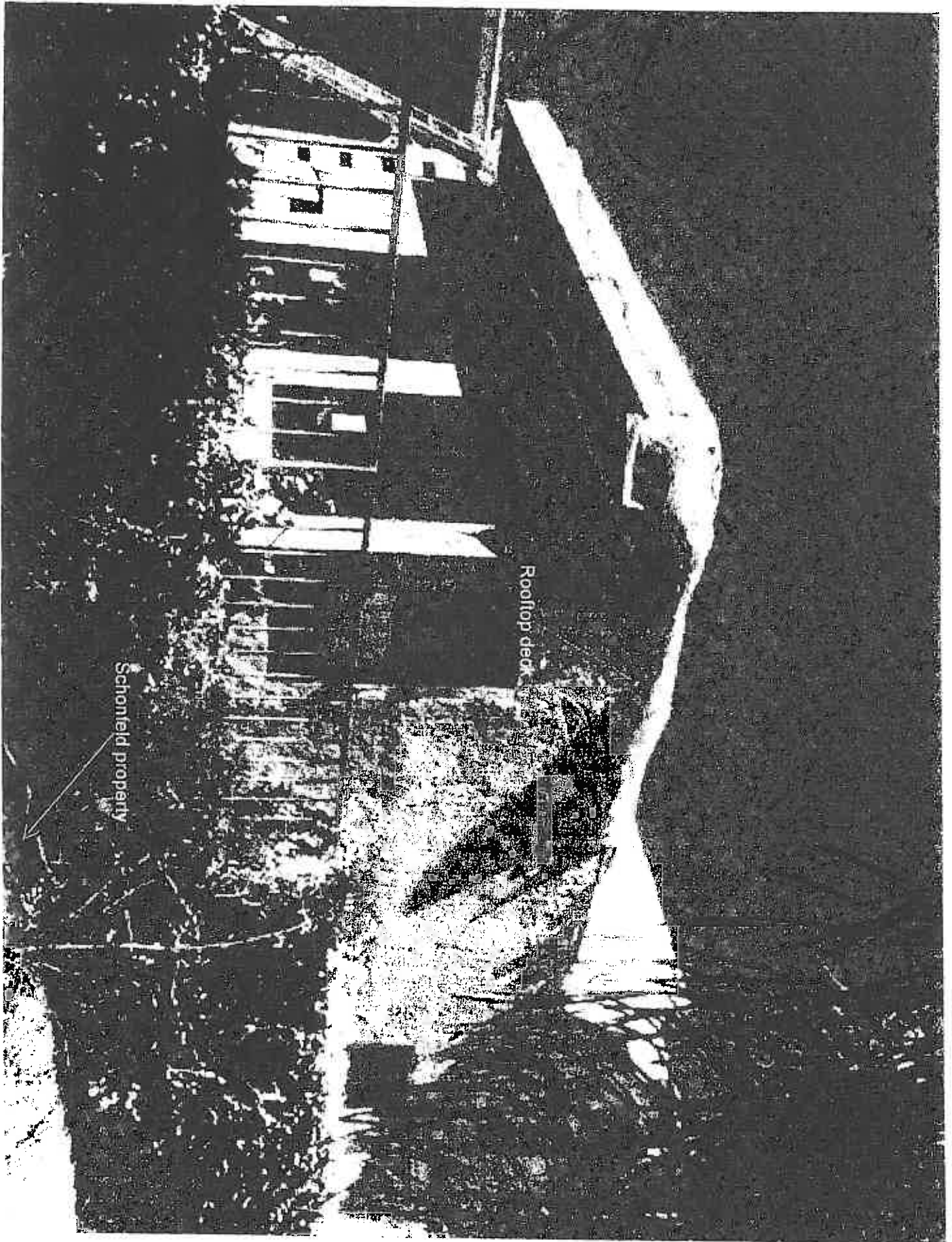
# **EXHIBIT “C”**





Covered patio

Rooftop deck



Rooflop deck

Schonfeld property

1 HICKEY & PETCHUL, LLP  
2 David E. Hickey, Esq. (SBN: 145469) dhickey@hplaw.net  
3 Kumar S. Raja, Esq. (SBN: 222036) kraja@hplaw.net  
4 Adam K. Obeid, Esq. (SBN: 247188) aobeid@hplaw.net  
5 114 Pacifica, Suite 340  
6 Irvine, California 92618  
7 Telephone: (949) 727-1777  
8 Fax: (949) 727-1797

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange  
**07/29/2015** at 09:45:00 PwI  
Clerk of the Superior Court  
By Emma Castle, Deputy Clerk

9 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION, a California Non-  
10 Profit Mutual Benefit Corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 EMERALD RIDGE HOMEOWNERS ) Case No.: 30-2015-00796965-CU-CO-CJC  
14 ASSOCIATION, a California Non-Profit )  
15 Mutual Benefit Corporation, ) Assigned for all purposes to:  
16 ) Hon. Mary Fingal Schulte  
17 Plaintiff, )  
18 vs. ) Dept. C6  
19 )  
20 JEAN-FRANCOIS JOMPHE, an individual; ) **DECLARATION OF JACK TIANO IN**  
21 THOMAS J. MOORE, an individual; and ) **SUPPORT OF PLAINTIFF'S MOTION**  
22 DOES 1 through 25, Inclusive, ) **FOR PRELIMINARY INJUNCTION**  
23 )  
24 Defendants. ) **Date:**  
25 ) **Time: 1:30 p.m.**  
26 ) **Dept.: C6**  
27 )  
28 ) Complaint Filed: July 6, 2015  
Trial Date: None Set  
UNLIMITED JURISDICTION

29 I, Jack Tiano, declare and state as follows:

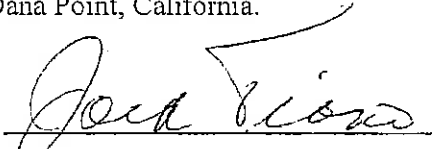
- 30 1. I own a residence within the Emerald Ridge Homeowners Association  
31 ("Association"), and am a member of its Architecture Review Committee ("ARC").  
32 I have lived in the Association since April 2008, and have been a member of the ARC  
33 for at least three (3) years.

- 1 2. In October 2014, in my capacity as ARC member, I was asked to review a proposed  
2 architectural modification at a property owned by Jean-Francois Jomphe (“Jomphe”).  
3 His property is located at 32411 Via Antibes, Dana Point, California.
- 4 3. In early November 2014, Randy Jones, the Association’s Board President, Defendant  
5 Jomphe, and I met at Jomphe’s property to discuss his renovation, including proposed  
6 exterior improvements. At that time, Jomphe explained that the covered patio in the  
7 rear yard would be an open-air trellis that would extend approximately 7-10 feet from  
8 the back wall of his property. Jomphe did not state that the covered patio would be  
9 made of solid block walls. As to the sundeck, Jomphe did not state that he would  
10 modify the existing roofline on the south side of his home so that he could build a  
11 “Rooftop Deck.” Rooftop Decks are prohibited by the Association’s governing  
12 documents.
- 13 4. I gave my approval to Jomphe based on his statements at the November 2014 site  
14 inspection with respect to the nature and extent of proposed construction activities.
- 15 5. In early 2015, Randy Jones told me that Jomphe’s neighbors objected to Jomphe’s  
16 construction in his rear yard areas. Shortly thereafter, members of the Board,  
17 including myself, met Jomphe at the property. I noticed that Jomphe’s construction  
18 appeared to depart from the statements he made to me at the November 2014 site  
19 inspection. Specifically, the covered patio was a permanent solid structure with a flat  
20 roof that enclosed a large portion of his rear yard. It also extended within a few feet  
21 of Jomphe’s rear property line; the covered patio structure was clearly more than 7-  
22 10 feet from the back wall of Jomphe’s home. The second floor of the Jomphe  
23 property (towards the south side) was significantly altered. It appeared that an interior  
24 loft had been removed and the existing roof line was modified. As a result, that part  
25 of the home now had a flat roof. The railings on the flat roof caused the structure to  
26 resemble a Rooftop Deck.
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- 6. The Rooftop Deck and covered patio structure depart from the representations made by Jomphe to me at the November 2014 site inspection. Had I known Jomphe was going to build a permanent covered patio with block walls that extend to his rear property line, I would have withheld my approval for that aspect of the proposed project. Building any improvement in that matter would block his neighbors' valued ocean and mountain views. I would have also withheld my approval for the sundeck because the as-built structure is, in fact, a Rooftop Deck. The Association's governing documents do not allow for Rooftop Decks.
- 7. Allowing Rooftop Decks establishes a precedent that undermines all property values and jeopardizes the Association's uniform aesthetic continuity because Association residents may believe the Association is not enforcing a covenant that protects and promotes the interests of all residents in our community. Residents who did not purchase (and possibly pay for) ocean view properties may build these structures to obtain better views at the expense - and to the negative detriment of - their neighbors.

I declare under penalty under the laws of the State of California that the foregoing is true and correct. Executed July 25, 2015 in the City of Dana Point, California.

  
Jack Tiano

1 HICKEY & PETCHUL, LLP  
2 David E. Hickey, Esq. (SBN: 145469) dhickey@hplaw.net  
3 Kumar S. Raja, Esq. (SBN: 222036) kraja@hplaw.net  
4 Adam K. Obeid, Esq. (SBN: 247188) aobeid@hplaw.net  
5 114 Pacifica, Suite 340  
6 Irvine, California 92618  
7 Telephone: (949) 727-1777  
8 Fax: (949) 727-1797

**ELECTRONICALLY FILED**  
Superior Court of California,  
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**07/29/2015** at 09:45:00 Plw  
Clerk of the Superior Court  
By Emma Castle, Deputy Clerk

9 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION, a California Non-  
10 Profit Mutual Benefit Corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 EMERALD RIDGE HOMEOWNERS )  
14 ASSOCIATION, a California Non-Profit )  
15 Mutual Benefit Corporation, )  
16 Plaintiff, )

17 vs. )

18 JEAN-FRANCOIS JOMPHE, an individual; )  
19 THOMAS J. MOORE, an individual; and )  
20 DOES 1 through 25, Inclusive, )  
21 Defendants. )

Case No.: 30-2015-00796965-CU-CO-CJC

) Assigned for all purposes to:  
) Hon. Mary Fingal Schulte

) Dept. C6

) **DECLARATION OF MARJORIE KOSS**  
) **IN SUPPORT OF PLAINTIFF'S MOTION**  
) **FOR PRELIMINARY INJUNCTION**

) **Date:**  
) **Time: 1:30 p.m.**  
) **Dept.: C6**

) **Complaint Filed: July 6, 2015**  
) **Trial Date: None Set**

) **UNLIMITED JURISDICTION**

22  
23  
24  
25 I, Marjorie Koss, declare and state as follows:

- 26 1. I am a retired school teacher and currently live at 32401 Via Antibes, Dana Point,  
27 California. For over 32 years, I have lived at this property which is located within  
28 the Emerald Ridge Homeowners Association ("Association"). From the back of my  
property, I have ocean views in the south – south west direction and mountain views



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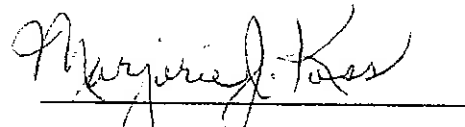
- in the north direction. These views coupled with the quiet serenity of the private community are the reasons I have lived in the Association for so many years.
2. My neighbor to the immediate south of my property is Jean-Francois Jomphe (“Jomphe”). His property is located at 32411 Via Antibes, Dana Point.
  3. I first met Jomphe in October 2014 when he approached me on the day I returned home from vacation. At that time, Jomphe asked me to sign a Neighbor Notification form related to proposed construction at his property.
  4. The day after my arrival, Jomphe knocked at my front door and showed me a rough drawing of the proposed construction. He also showed me the Association’s Approval Request and told me that he had plans to renovate the front portions of his home by adding a room and many changes to the inside of the house. The Approval Request did not reference a “covered patio” or “rooftop deck.” Attached as **Exhibit “A”** is the Approval Request. I signed the Neighbor Notification form because Jomphe led me to believe that his construction would be limited to the front of his property facing the street and indoors. After I signed the Neighbor Notification form, I invited Mr. Jomphe into my home to show him my back yard area. At that time, Jomphe said, “By the way, I’m thinking about changes in my back yard. Something like this [referring to my second story deck that can be accessed from my kitchen area], but maybe a little larger.” I explained that I would be comfortable with a similar deck with glass walls only if my ocean views would be protected. Jomphe also observed my first floor open-air lanai structure on the south side of my property, and said “I’m going to have a lanai; something just like this.” At the conclusion of our meeting, Jomphe said, “I will get back to you with my plans when I know what I’m doing.” Jomphe never came back to me with plans.
  5. In the spring, I returned from vacation. When I returned, I observed significant construction activities in Jomphe’s back yard. I heard loud digging and saw construction workers pouring concrete footings. I did not know what was going on because Jomphe told me that he would be renovating only the front portions of his

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home, and would be providing additional plans for my review related to his proposed rear yard improvements.

6. I reviewed Jomphe's construction plans with the City of Dana Point and learned for the first time that those plans appeared to show a covered patio in the rear yard. A City official explained to me that the concrete footings were being poured to construct the covered patio. This structure is completely different from the open-air lanai with slatted roof which I have on my property. It is essentially a permanent room addition that pushes out the former back wall and is now within a few feet of Jomphe's rear property line. The covered patio wall on my side of his lot has been built as a solid stucco wall (no windows) and a flat roof (no slope). This wall entirely blocks my ocean views. Attached as **Exhibit "B"** are three (3) pictures that I took from my property on July 21, 2015 that depict the block stucco wall as I look towards the ocean. Attached hereto as **Exhibit "C"** is a picture I took from my property on July 23, 2015 which depicts the "rooftop deck".
7. I would not have signed the Neighbor Notification form had Jomphe informed me of his plans to construct a rear yard covered patio and "rooftop deck." Those structures would have deprived me of my ocean views. Also, I have served on the Association's Board of Directors for two (2) terms and know that rooftop decks are prohibited by our CC&Rs and should not be considered. I object to his securing an ocean view and increasing his home value by obstructing my ocean view and decreasing my home value. The changes to Jomphe's house are in flagrant disregard of the rules of this community and should not be allowed.

I declare under penalty under the laws of the State of California that the foregoing is true and correct. Executed July 25, 2015 in the City of Dana Point, California.

  
\_\_\_\_\_  
Marjorie Koss

# **EXHIBIT “A”**



RECEIVED

OCT 15 2014

**Emerald Ridge Homeowners Association**  
Accell Property Management, Inc  
23046 Avenida de la Carlota, Ste 700  
Laguna Hills, CA 92653  
949.581.4988

**ACCELL PROPERTY  
MANAGEMENT**

### Approval Request

Applicant Name: Jean Francois Tomphe Property Address: 32411 Via Antibes  
 Mailing Address: \_\_\_\_\_  
 Phone (H): 949-981-4610 (W) \_\_\_\_\_ (e-mail): JTomphe@VHLLPA.COM  
 Proposed Start Date: 11-9-14 Anticipated Completion Date: 11-9-15

<input checked="" type="checkbox"/> Painting (No Fee)	<input type="checkbox"/> Pool / Spa	<input checked="" type="checkbox"/> Lighting
<input checked="" type="checkbox"/> Door / Garage Door (No Fee)	<input type="checkbox"/> Wall / Fence	<input checked="" type="checkbox"/> Room Addition
<input checked="" type="checkbox"/> Roofing	<input checked="" type="checkbox"/> Deck / Patio	<input checked="" type="checkbox"/> Window Replacement (No fee)
<input checked="" type="checkbox"/> Landscape	<input checked="" type="checkbox"/> Hardscape	<input checked="" type="checkbox"/> Other <u>SOLAR PANELS</u>

Brief Description of Proposed Work: REMODEL KITCHEN MASTER BED/BATH ROOM  
AND NEW 2 BED ROOM & BATH ROOM ADDITION COST:

Submit two (2) sets of exhibits as listed in the Submittal Checklist to the management company at the address listed above.

In addition to the information requested herein, the Architectural Review Committee (ARC) may request additional or more detailed information or plans as it deems necessary to assist it in making its decision. The ARC may deny a request with insufficient information.

All improvements will be reviewed by the ARC to determine their effect on surrounding structures and lots. The ARC may deny a request if it determines that the improvement will unreasonably obstruct views of adjacent or nearby lots, is not in harmony with surrounding structures, or if it does not comply with the CC&R's or architectural standards. (CC&R's Article VIII, Section 2)

No improvement or architectural change may be commenced prior to obtaining the written approval of the Architectural Review Committee. Failure to obtain the prior written approval of the Architectural Review Committee may result in removal or modification of the unapproved improvement / change at the applicant's expense.

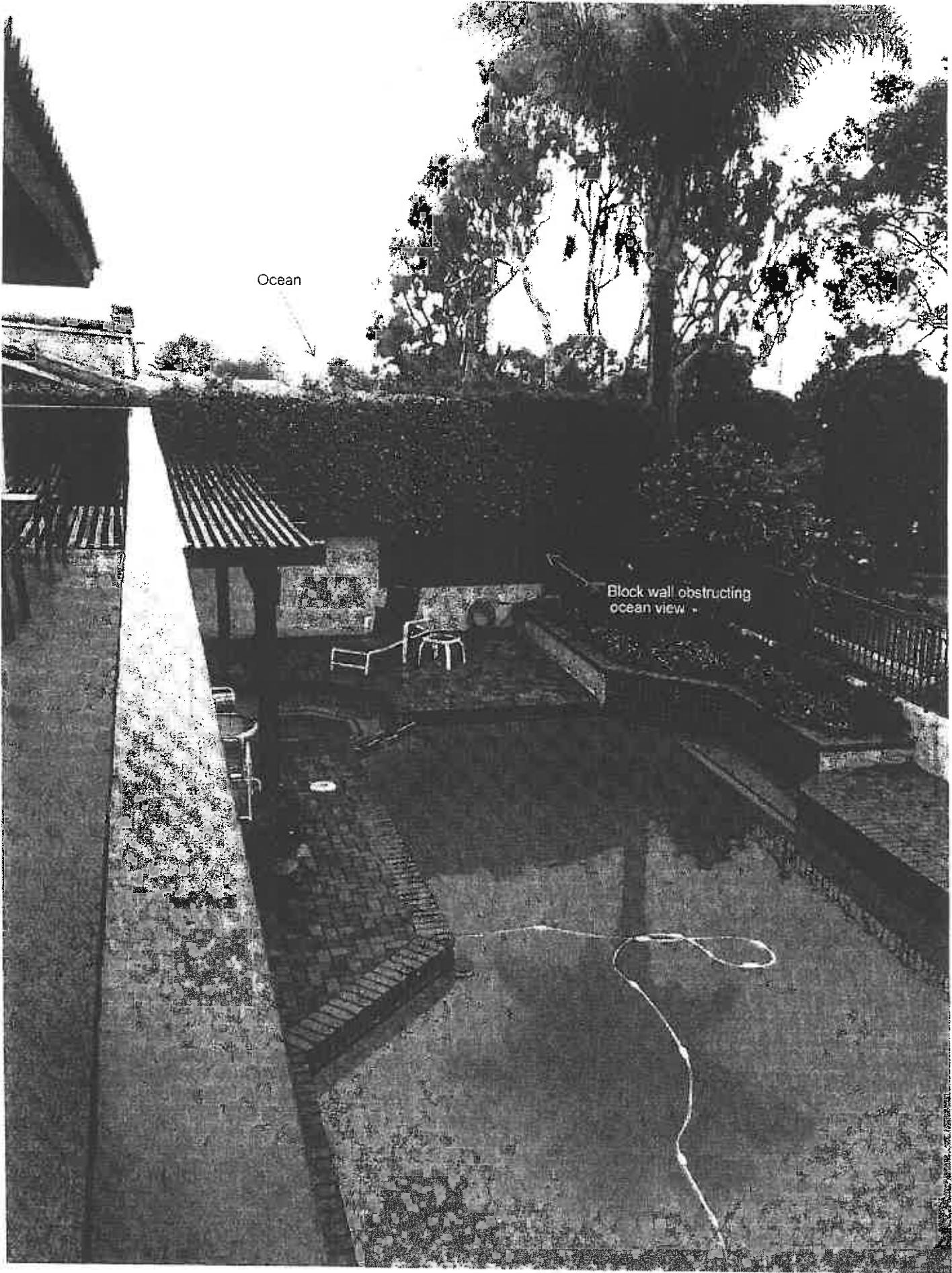
Approvals and permits may be required by the City of Dana Point. Modifications to the approved plans will require resubmittal to the Emerald Ridge Architectural Review Committee.

I have read this Approval Request form, the CC&R's and Rules and Regulations and I understand and agree to the terms and conditions of the Architectural Review Committee's review of my request and exhibits. I further represent that my proposed improvement will not encroach on Common Area, Restricted Common Area or any area over which the Emerald Ridge Homeowners Association or another member holds a property interest.

Applicant Signature: [Signature] Date: 10-9-14

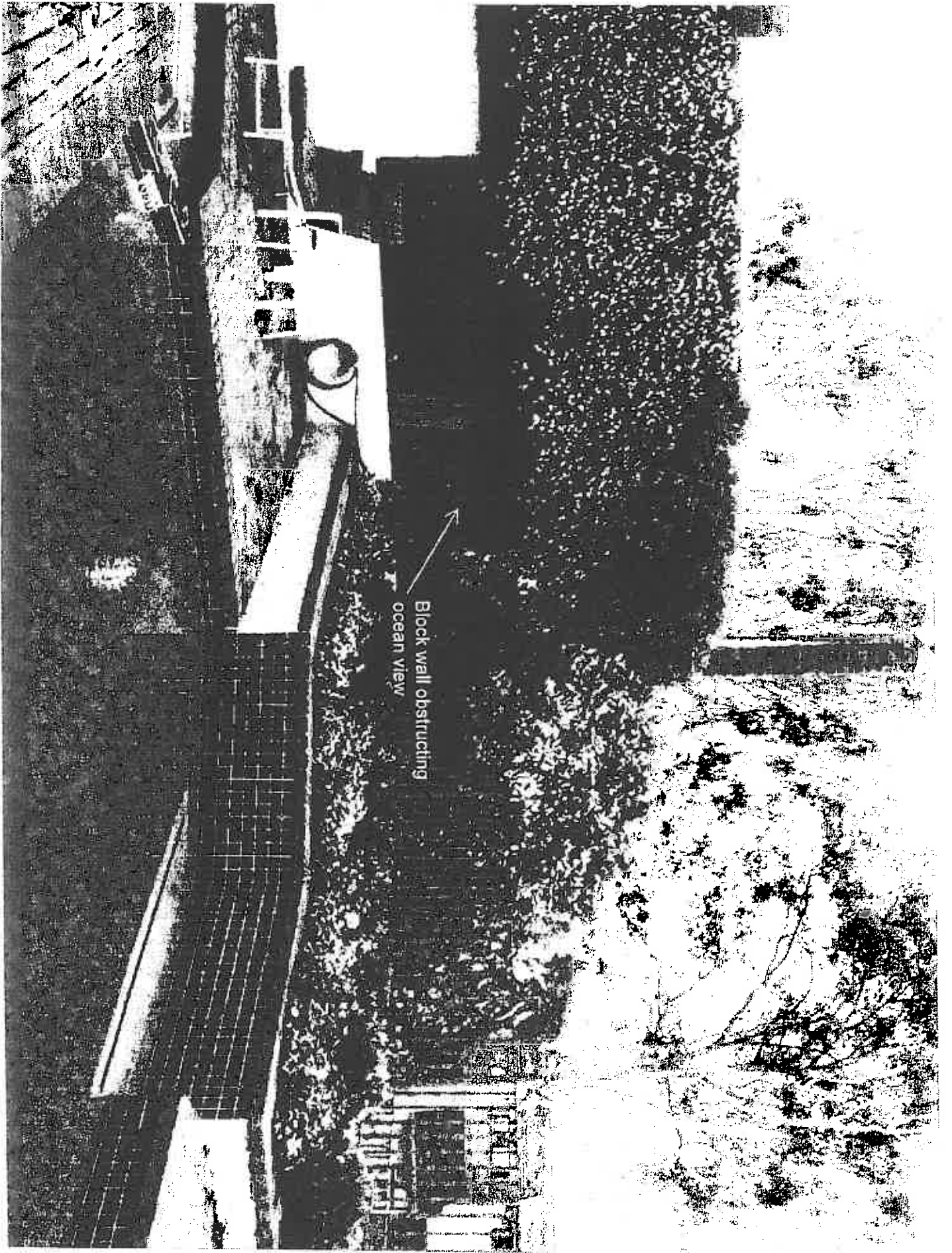
Applicant Name Jean Francois Tomphe Property Address: 32411 Via Antibes

# **EXHIBIT “B”**



Ocean

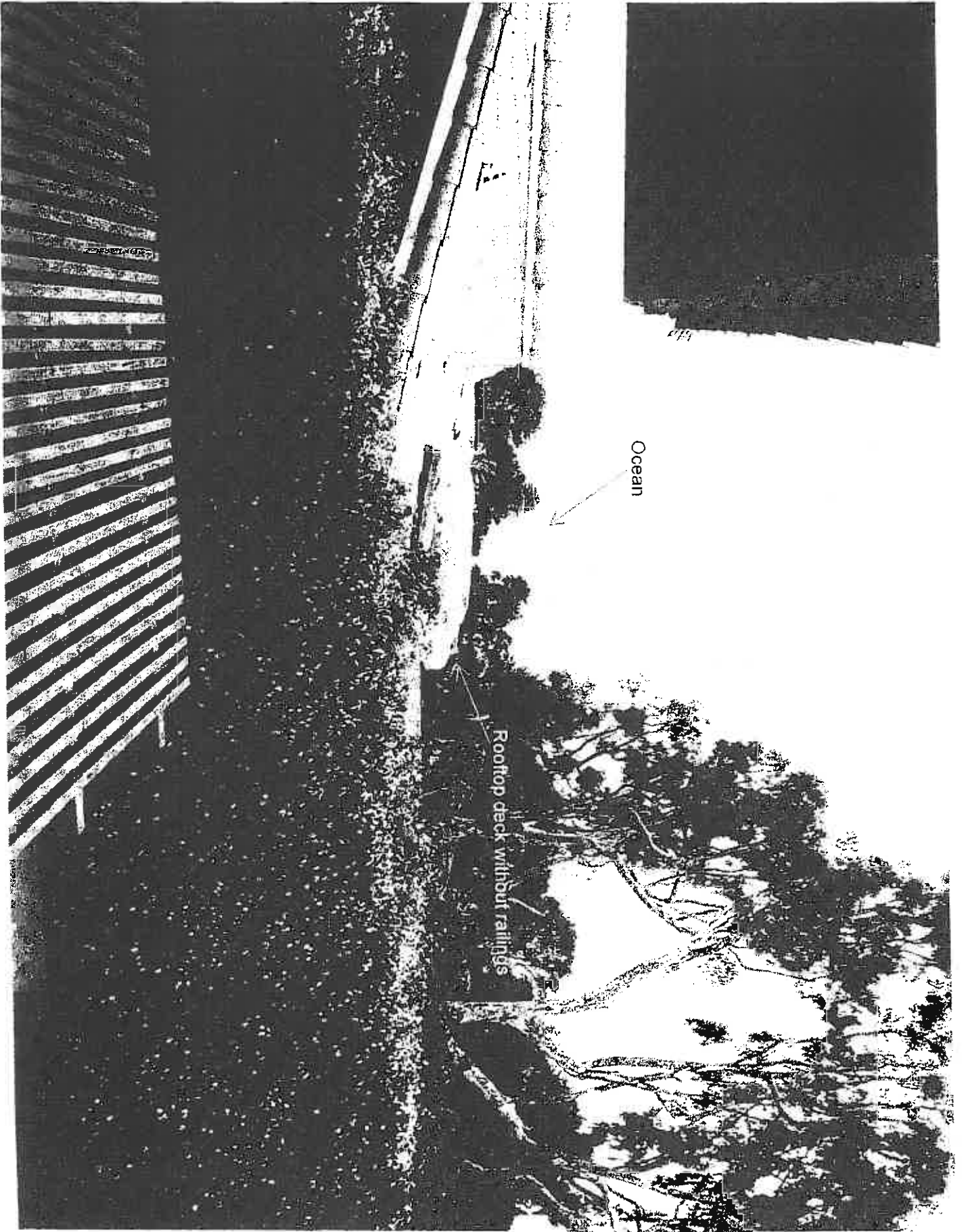
Block wall obstructing ocean view



Block wall obstructing  
ocean view



# EXHIBIT “C”



Ocean

Rooftop deck without railings

1 HICKEY & PETCHUL, LLP  
2 David E. Hickey, Esq. (SBN: 145469) dhickey@hplaw.net  
3 Kumar S. Raja, Esq. (SBN: 222036) kraja@hplaw.net  
4 Adam K. Obeid, Esq. (SBN: 247188) aobeid@hplaw.net  
5 114 Pacifica, Suite 340  
6 Irvine, California 92618  
7 Telephone: (949) 727-1777  
8 Fax: (949) 727-1797

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of Orange

**07/29/2015** at 09:45:00 Pvl  
Clerk of the Superior Court  
By Emma Castle, Deputy Clerk

9 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION (a California Non-  
10 Profit Mutual Benefit Corporation)

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 EMERALD RIDGE HOMEOWNERS ) Case No.: 30-2015-00796965-CU-CO-CJC  
14 ASSOCIATION, a California Non-Profit )  
15 Mutual Benefit Corporation, ) Assigned for all purposes to:  
16 ) Hon. Mary Fingal Schulte  
17 Plaintiff, )  
18 vs. ) Dept.: C6  
19 )  
20 JEAN-FRANCOIS JOMPHE, an individual; ) **DECLARATION OF RANDALL JONES**  
21 THOMAS J. MOORE, an individual; and ) **IN SUPPORT OF PLAINTIFF'S MOTION**  
22 DOES 1 through 25, Inclusive, ) **FOR PRELIMINARY INJUNCTION**  
23 )  
24 Defendants. )  
25 )  
26 ) UNLIMITED JURISDICTION  
27 )  
28 )  
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30 I, Randall Jones, declare:

31 1. I am over the age of eighteen and not a party to the instant action. I  
32 submit this declaration in support of Plaintiff's application for OSC re: Preliminary  
33 Injunction. All of the facts stated herein are known personally to me and if called upon  
34 to testify, I would and could testify to all facts stated herein.

35 ///

1           2.     I am currently a member of the Board of Directors for Emerald Ridge  
2 Homeowners Association (“Association”). I am Board President, and currently serve  
3 on the Association’s Architectural Review Committee (“ARC”). In my capacity as  
4 Director and ARC Committee member, I am personally aware of the architectural and  
5 construction issues involving the real property commonly known as 32411 Via Antibes,  
6 Dana Point, California (the “Subject Property”), and have access to the Association’s  
7 documents and files, and in particular, documents and files pertaining to the Subject  
8 Property.

9           3.     I am personally familiar with Jean-Francois Jomphe and Thomas J. Moore  
10 (collectively, “Defendants”), and am aware of the fact that they are the record Owners,  
11 as joint tenants, of the Subject Property.

12           4.     Over the past several months, I have personally observed the construction  
13 activities at the Subject Property from varying vantage points.

14           5.     On October 15 2014, Defendant Jomphe submitted an architectural  
15 application (hereinafter “Approval Request”) and one-page plan to the Association for  
16 the remodel of the Subject Property. That Approval Request, signed by Defendant  
17 Jomphe on October 9, 2014, specifically stated that “[M]odifications to the approved  
18 plans will require submittal to the Emerald Ridge Architectural Review Committee.”  
19 The one-page plan, among other things, included reference to a first floor “covered  
20 area” at the north side of the Subject Property, and a second floor sundeck at the south  
21 side of the Subject Property.

22           6.     In early November 2014, I met Defendant Jomphe at the Subject Property  
23 to discuss the renovation, including the proposed exterior improvements. As to the  
24 sundeck, Defendant Jomphe represented that it would be small in size and similar to  
25 other decks throughout the community. As to the “covered area,” Defendant Jomphe  
26 stated that a small structure would simply be moved from the south side of the property  
27 to the north side of the property.

28     ///

1 7. Based on the representations made by Defendant Jomphe at the November  
2 2014 meeting, the Association, on November 11, 2014, sent a letter to Defendant  
3 Jomphe which provided approval for the following: room addition and rear yard deck.  
4 That letter provided that all work must be done with the necessary permits and in  
5 compliance with all applicable building codes and other governmental rules.

6 8. In early January 2015, I learned for the first time that Defendant Jomphe  
7 was not a record Owner of the Subject Property, and that the record Owner of the  
8 property was Defendant Moore only. At that time, I also learned that the City of Dana  
9 Point ("City") posted a "stop work" order at the Subject Property because construction  
10 activities were taking place without City building permits.

11 9. On March 5, 2015, I went to the City of Dana Point and reviewed a  
12 building permit for the removal of a 322 sq. foot loft at the Subject Property. The  
13 removal of a 322 sq. foot loft was not set forth on the architectural plans submitted by  
14 Defendant Jomphe to the Association in October 2014.

15 10. On April 1, 2015, Defendant Jomphe provided a grant deed to the  
16 Association's Managing Agent which appeared to show that he became a record Owner  
17 (as joint tenant) of the Subject Property. At that time, he also dropped off a newly  
18 revised set of architectural plans to the Association (first submitted to the City on  
19 February 12, 2015). These architectural plans were not accompanied by an Approval  
20 Request, and were materially different from the October 2014 plans. Specifically, the  
21 newly revised set of architectural plans depicted a "new sun deck" and "new covered  
22 patio" (both of which included additional descriptions that were not previously  
23 illustrated on the October 2014 plans), illustrated a side view/profile of the Subject  
24 Property, and set forth significantly more details regarding the nature and extent of  
25 proposed improvements throughout the Subject Property (exterior and interior),  
26 including, but not limited to, setback measurements.

27 11. On or about April 3, 2015, I inspected the Subject Property. Among other  
28 things, I inspected the sundeck and rear yard patio cover.

1 Construction of the sundeck exceeded the scope of the Association's October  
2 2014 approval because Defendant Jomphe removed the second story loft on the south  
3 side of the residence which transformed that portion of the residence into a one-story  
4 home. The sundeck now consumed significantly more area above the first floor room  
5 because the second story loft had been removed. Removal of the second story loft  
6 effectively created a deck on top of the now one-story roof. This material departure  
7 from the original one-page design caused the Association to characterize the deck  
8 improvement as a "roof deck," a phrase also used by the City to describe this structure.  
9 The Association's Architectural Guidelines state the following with respect to  
10 Sundecks: "Roof decks are prohibited." Defendant Jomphe's October 2014 Approval  
11 Request and one-page plan did not illustrate the removal of the second story loft, and  
12 Defendant Jomphe never told me that he would remove the second story loft when we  
13 met at the Subject Property in early November 2014.

14 Construction of the patio cover or covered area exceeded the scope of the  
15 representations made by Defendant Jomphe at our November 2014 meeting. Instead of  
16 simply moving a small structure to the north side of the Subject Property, Defendant  
17 Jomphe was in the process of building a large covered patio cabana within a few feet of  
18 the rear property line. The original approval paperwork from the Association in  
19 October 2014 only referenced a side wall without any dimensions. It made no reference  
20 to the current improvement, which is essentially a permanent rear yard patio room that  
21 has been constructed with three (3) tall concrete stucco walls that are unsightly and  
22 block neighbor views.

23 12. On April 16, 2015, I inspected Defendants' building plans at the City of  
24 Dana Point because Defendant Jomphe had represented to the Association's Managing  
25 Agent on or about April 1, 2015 that he had City approval for the entire remodel,  
26 including the rear roof top deck. I learned that the City had not approved the roof top  
27 deck, and therefore, no building permits had been issued for the same because it did not  
28 comply with the City's Building Code for a number of reasons. A note on the City-

1 plans stated that the roof top deck is subject to a separate permit submittal, and that  
2 failure to submit for the proposed roof top conversion will result in the “elimination of  
3 this [roof top] deck” and cause the space to be “converted back to the original  
4 condition” (i.e. second story loft).

5 13. On June 12, 2015, I met with Defendant Jomphe at the Subject Property.  
6 I told him that I reviewed plans for the Subject Property at the City of Dana Point on  
7 June 9, 2015, and that those plans were not the same as those which he submitted to the  
8 Association in October 2014. I offered him blank architectural applications (i.e.  
9 Approval Request and Neighbor Notification), and told him that he needed to fill them  
10 out and get neighbor signatures. Defendant Jomphe refused to accept the blank  
11 applications, and said that he was not going to complete and return the same to the  
12 Association.

13 14. Over the 4<sup>th</sup> of July weekend of 2015, I personally observed that  
14 Defendants’ are in the process of completing exterior and interior construction activities  
15 at the Subject Property that exceed the scope of the Approval Request and one-page  
16 plan submitted to the Association in October 2014, and which have been superseded by  
17 materially different architectural plans that have never been approved by the  
18 Association. Neighbor notification for all exterior improvements is critical because of  
19 the Association’s strong interest to preserve ocean and mountain views. I observed that  
20 Defendants’ are in the process of installing recessed lighting within the ceiling of the  
21 “new patio cover” and have wrapped the “new patio cover” with black lath paper, which  
22 I understand is one of the first steps towards the installation of exterior stucco siding. In  
23 addition, a support railing appears to have been affixed to the “new sun deck” and there  
24 appears to be some preliminary efforts to provide electrical service to the area.  
25 Attached hereto as Exhibit “A” are three (3) photographs I took of the Subject Property  
26 on Sunday, July 6, 2015.

27 15. If Defendants are not enjoined from engaging in the improper conduct, as  
28 explained above, then Association will be irreparably harmed in that said conduct (a)

1 threatens the privacy and view-preservation interests of multiple Association Members  
2 by virtue of the construction of the roof top deck and covered patio, (b) reflects a  
3 negative appearance to the detriment of the surrounding neighbors and the Association  
4 as a whole, thereby threatening property values, (c) establishes a negative precedent,  
5 and (d) constitutes patent violations of the Governing Documents.

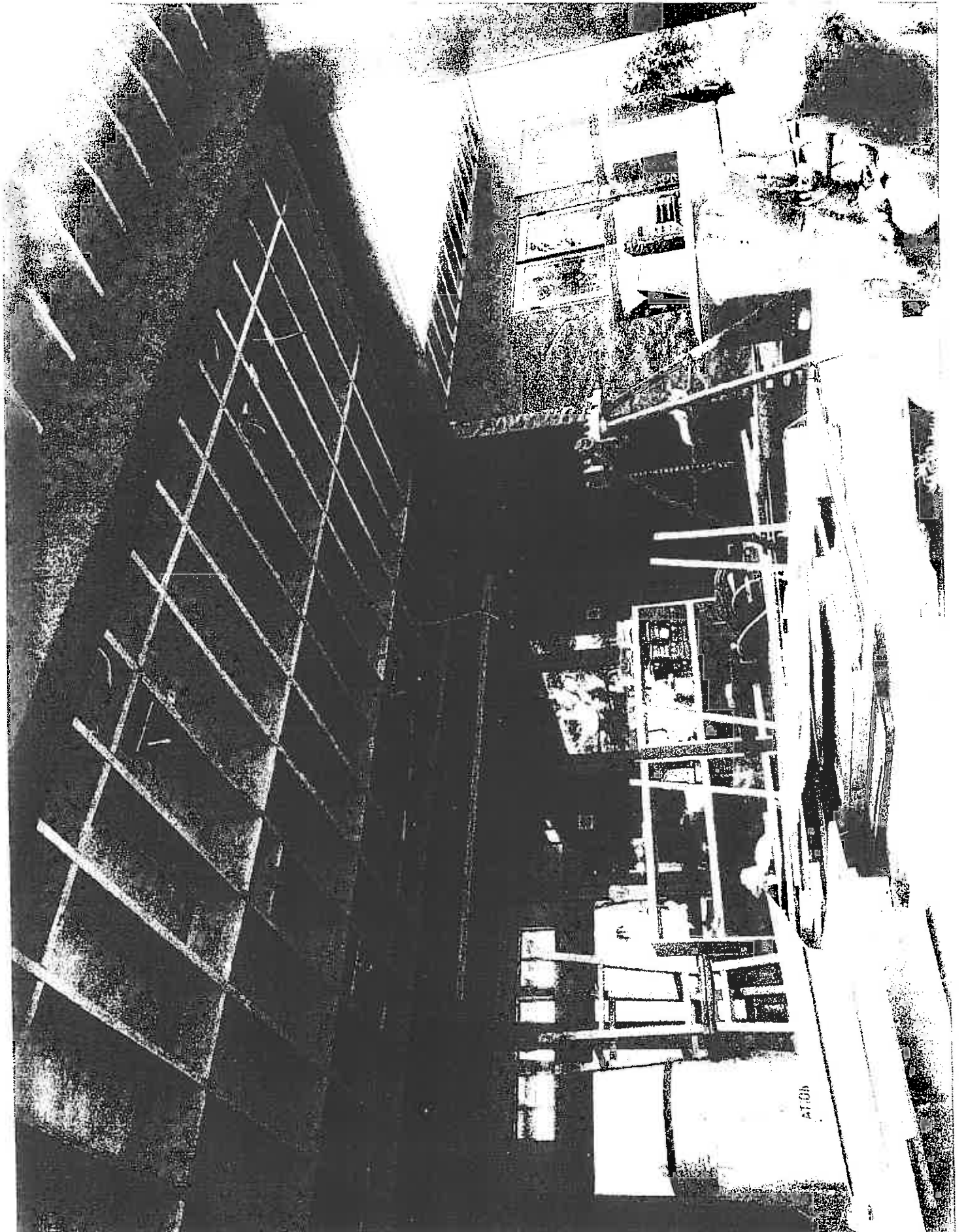
6 I declare under penalty of perjury of the laws of the State of California that the  
7 foregoing is true and correct. Executed July 16, 2015 at Orange County, California.

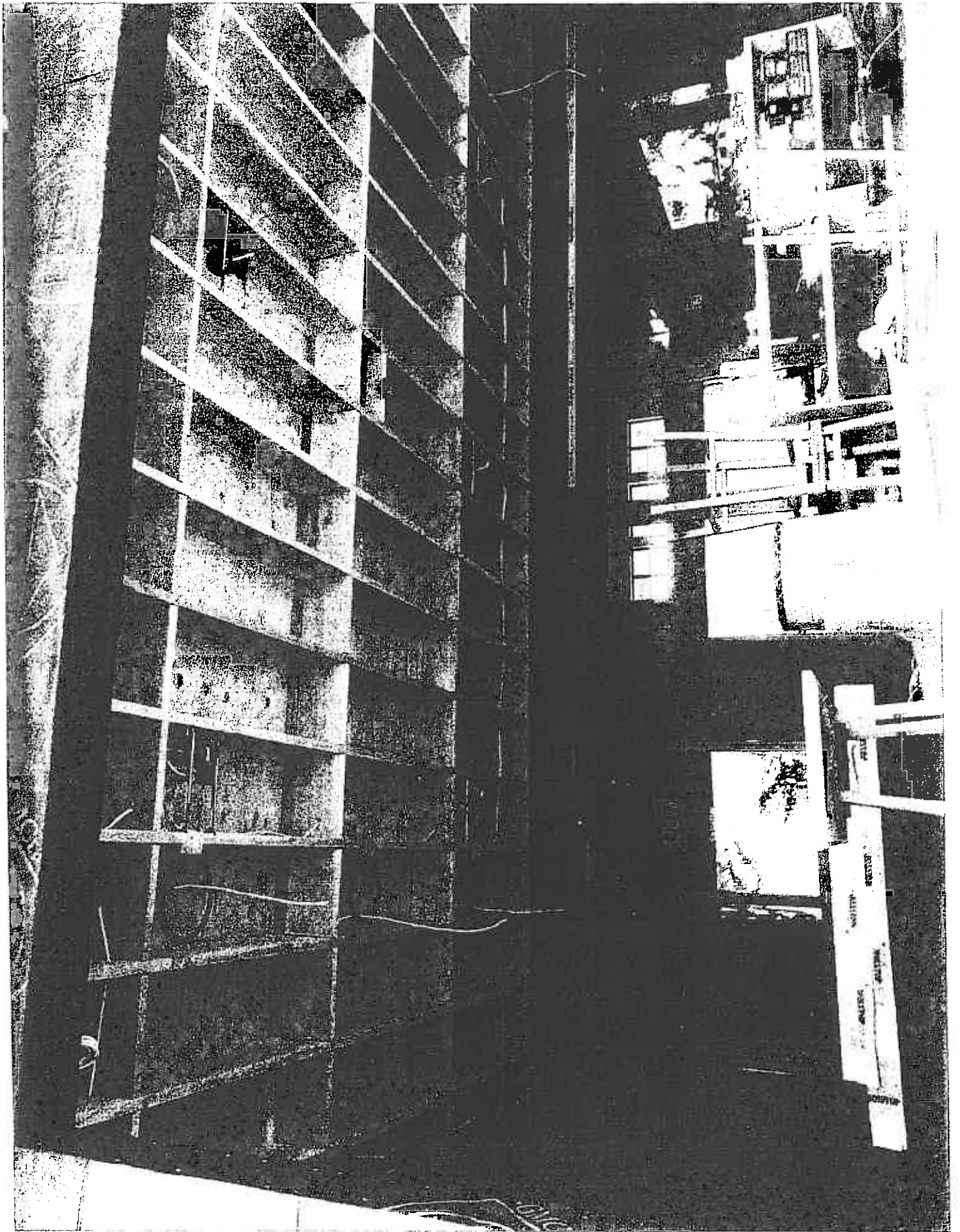
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10 Randall Jones

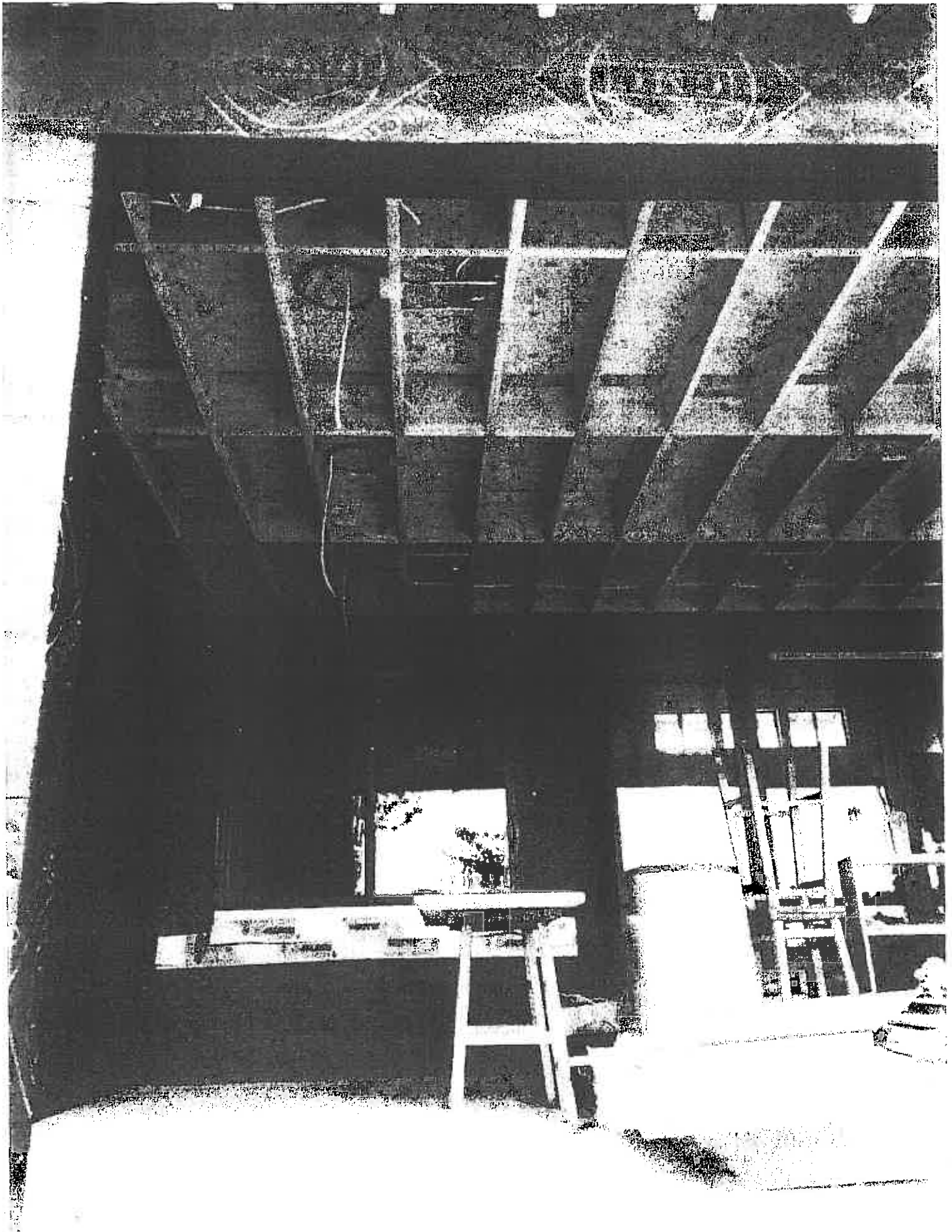
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# **EXHIBIT “A”**







1 HICKEY & PETCHUL, LLP  
2 David E. Hickey, Esq. (SBN: 145469) dhickey@hplaw.net  
3 Kumar S. Raja, Esq. (SBN: 222036) kraja@hplaw.net  
4 Adam K. Obeid, Esq. (SBN: 247188) aobeid@hplaw.net  
5 114 Pacifica, Suite 340  
6 Irvine, California 92618  
7 Telephone: (949) 727-1777  
8 Fax: (949) 727-1797

9 Attorney for Plaintiff EMERALD RIDGE HOMEOWNERS ASSOCIATION, a California Non-  
10 Profit Mutual Benefit Corporation

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

13 EMERALD RIDGE HOMEOWNERS ) Case No.: 30-2015-00796965-CU-CO-CJC  
14 ASSOCIATION, a California Non-Profit )  
15 Mutual Benefit Corporation, ) Assigned for all purposes to:  
16 ) Hon. Mary Fingal Schulte

17 Plaintiff, )  
18 vs. ) Dept. C6

19 JEAN-FRANCOIS JOMPHE, an individual; ) **DECLARATION OF FARAHNAZ**  
20 THOMAS J. MOORE, an individual; and ) **MASSOUDNIA ALIKHANI IN SUPPORT**  
21 DOES 1 through 25, Inclusive, ) **OF PLAINTIFF'S MOTION FOR**  
22 ) **PRELIMINARY INJUNCTION**

23 Defendants. )  
24 ) **Date:**  
25 ) **Time: 1:30 p.m.**  
26 ) **Dept.: C6**

27 ) Complaint Filed: July 6, 2015  
28 ) Trial Date: None Set

) **UNLIMITED JURISDICTION**  
)

29 I, Farahnaz Massoudnia Alikhani, declare and state as follows:

- 30 1. I currently live at 32431 Via Antibes, Dana Point, California. Since 1991, I have  
31 lived at this property, which is located within the Emerald Ridge Homeowners  
32 Association. From the back of my property, I have ocean views to the south – south

1 west direction and mountain views to the north. I moved into the Association  
2 because it is a quiet, gated community with beautiful ocean and mountain views  
3 which are protected by its CC&Rs and governing Bylaws. I also appreciate the  
4 uniform aesthetic themes, which I believe contribute to the harmony of the  
5 neighborhood and promote property values. My property enjoys a great degree of  
6 privacy, and ocean and mountain views.

- 7 2. My neighbor to the north of my property is Jean-Francois Jomphe ("Jomphe"). His  
8 property is located at 32411 Via Antibes, Dana Point.
- 9 3. I have never met Jomphe, and have never seen an architectural application  
10 ("Approval Request") or plans for any construction activity at Jomphe's property.  
11 Although an impacted neighbor, I never saw nor signed a Neighbor Notification  
12 form related to any construction at Jomphe's property.
- 13 4. On or about December 18, 2014, my family and I went on vacation. On the day I  
14 left, it did not appear as if any outdoor construction activities were taking place at  
15 Jomphe's property. On January 1, 2015, I returned home from my 2 week vacation.  
16 At that time, I noticed significant construction activity throughout Jomphe's rear  
17 yard areas. Specifically, a large part of the A frame roof was removed and reshaped  
18 as flat with wood railings surrounding it. A newly-created flat roof ("Rooftop  
19 Deck") overlooking my house and backyard was built while I was away with no  
20 prior notification.
- 21 5. On January 2, 2015, I called the City of Dana Point. I was informed by City  
22 officials that Jomphe did not have building permits for any construction at his  
23 property. All work was stopped per city order.
- 24 6. On or about May 28, 2015, I went into my back yard and noticed that Jomphe had  
25 erected framing for an oversized patio structure resembling more like a huge room  
26 addition.
- 27 7. On June 14, 2015, I took a picture of the Rooftop Deck. At that time, Jomphe had  
28 erected the framing for the deck railings. Attached as **Exhibit A** is a picture of the

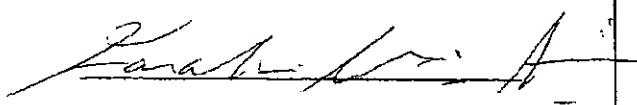


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Rooftop Deck that I took from my property on June 14, 2015.

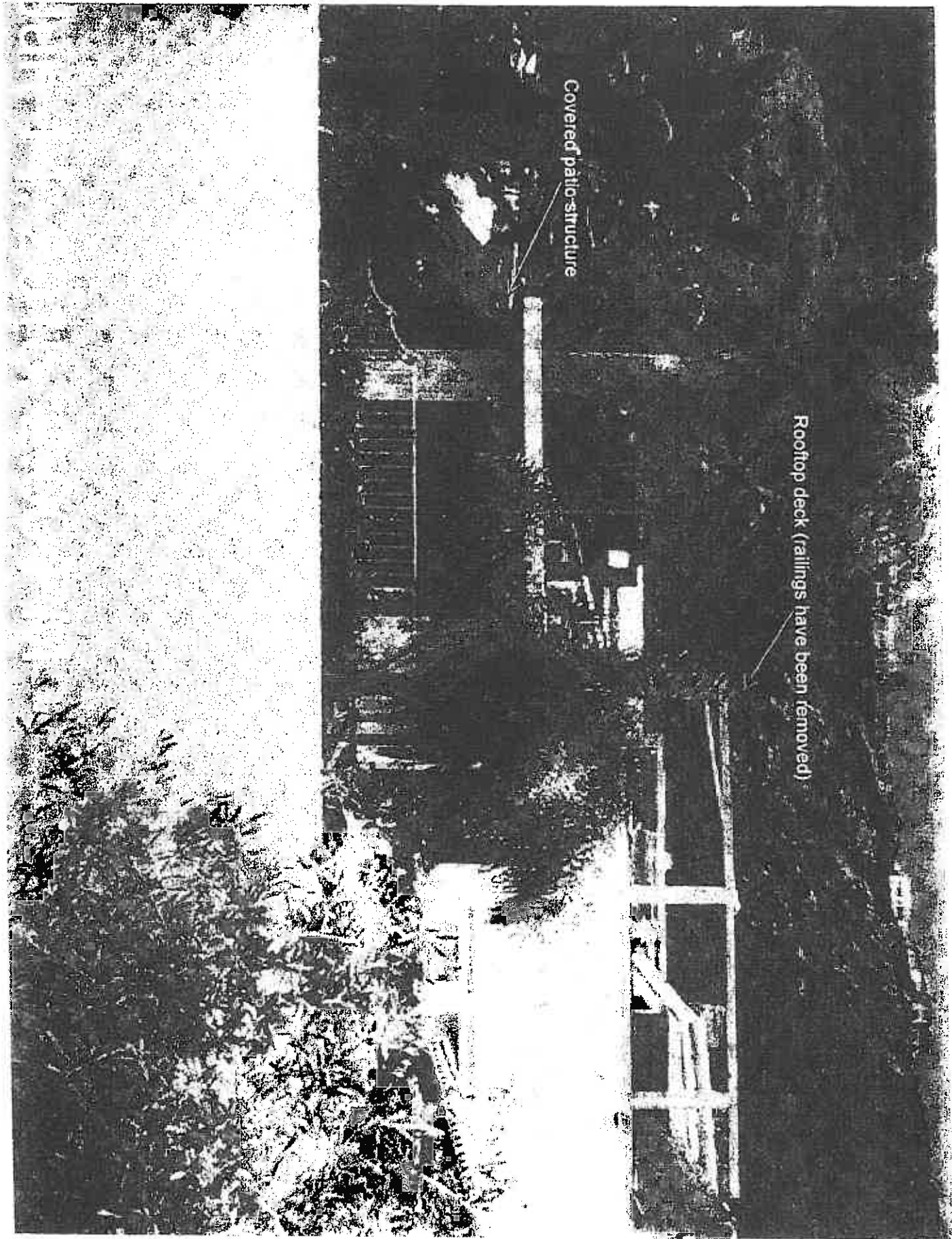
- 8. The "covered patio" (made of tall, solid block stucco walls) is not like any other patio structure I have seen throughout the Association. This "covered patio" blocks the view corridor protected by the Association's CC&Rs. Unlike other covered patios in the community, it is huge and unsightly and resembles an enormous room addition.
- 9. Had Jomphe approached me before construction to discuss his proposed rear yard improvements, I would not have signed the Neighbor Notification form. Among other matters, as for the Rooftop Deck, the structure clearly violates the CC&Rs because "Rooftop Decks" are strictly prohibited (see **Exhibit B**). Further, the Rooftop Deck invades my privacy rights because it provides a direct line of sight into my home and backyard. Also, the Rooftop Deck obstructs my mountain views as I look to the north. As for the covered patio, the structure is unsightly, invades my right to privacy, and also blocks my mountain views. Attached as **Exhibit C** are pictures that I took from my property on July 26, 2015 which depict the Rooftop Deck and covered patio.
- 10. I believe Jomphe has quickened his pace of construction over the last few weeks because I have noticed relatively more construction workers at his property.

I declare under penalty under the laws of the State of California that the foregoing is true and correct. Executed July 26, 2015 in the City of Dana Point, California.

  
Farahnaz Massoudnia Alikhani

# **EXHIBIT “A”**





Covered patio structure

Rooftop deck (railings have been removed)

# **EXHIBIT “B”**



**Emerald Ridge Homeowners Association**  
Accell Property Management, Inc  
23046 Avenida de la Carlota, Ste 700  
Laguna Hills, CA 92653  
949.581.4988

# ARCHITECTURAL GUIDELINES

## 20 - Awnings

Awnings, if used, must be of canvas and harmonious with the exterior color palette. Metal awnings will be considered based on the architecture of the home or structure.

## 21 - Sundecks

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

# Part IV - Landscape Design Guidelines

It is the intent of these guidelines to promote a community character of elegance and refinement with an element reminiscent of California's more established coastal residential communities. The following information is intended to guide the homeowner and their consultants in plan submittal and structuring of their individual landscape to achieve these community goals.

## 1 - Hardscape

Hardscape includes all exterior paved surfaces such as steps, driveways, patios, decks, and walkways, and shall comply with the following standards:

1. Excessive hardscape areas, including large expanses of paving such as driveways should be divided with banding or sections of masonry or paved units, contrasting concrete bands, or other appropriate means.
2. Access to allowable side yard storage is to be reinforced turf or a combination of paving materials and ground cover to avoid excessive hardscape areas.
3. All hardscape materials should compliment the architectural design and surrounding landscape.
4. Gravel in front yard areas is prohibited except as may be deemed appropriate by the Architectural Committee.
5. AC (Asphalt) paving for any use is prohibited

## 2 - Driveways and Walkways

Driveways and walkways must conform to the regulations of the City of Dana Point. Homeowners should use paved, scored, or textured concrete in combination to soften the monolithic look of concrete driveways and walkways.

## 3 - Artificial and Natural Turf

Artificial turf will be reviewed based on the merits of the turf quality and overall design placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

## 4 - Fire Pits and Exterior Fireplaces

Fire pits and fireplaces are to be set back the required distance as noted in the "Minimum Setback" section of the Guideline. Fire pits and exterior fireplaces are to be gas-burning only, and must comply with City code requirements.

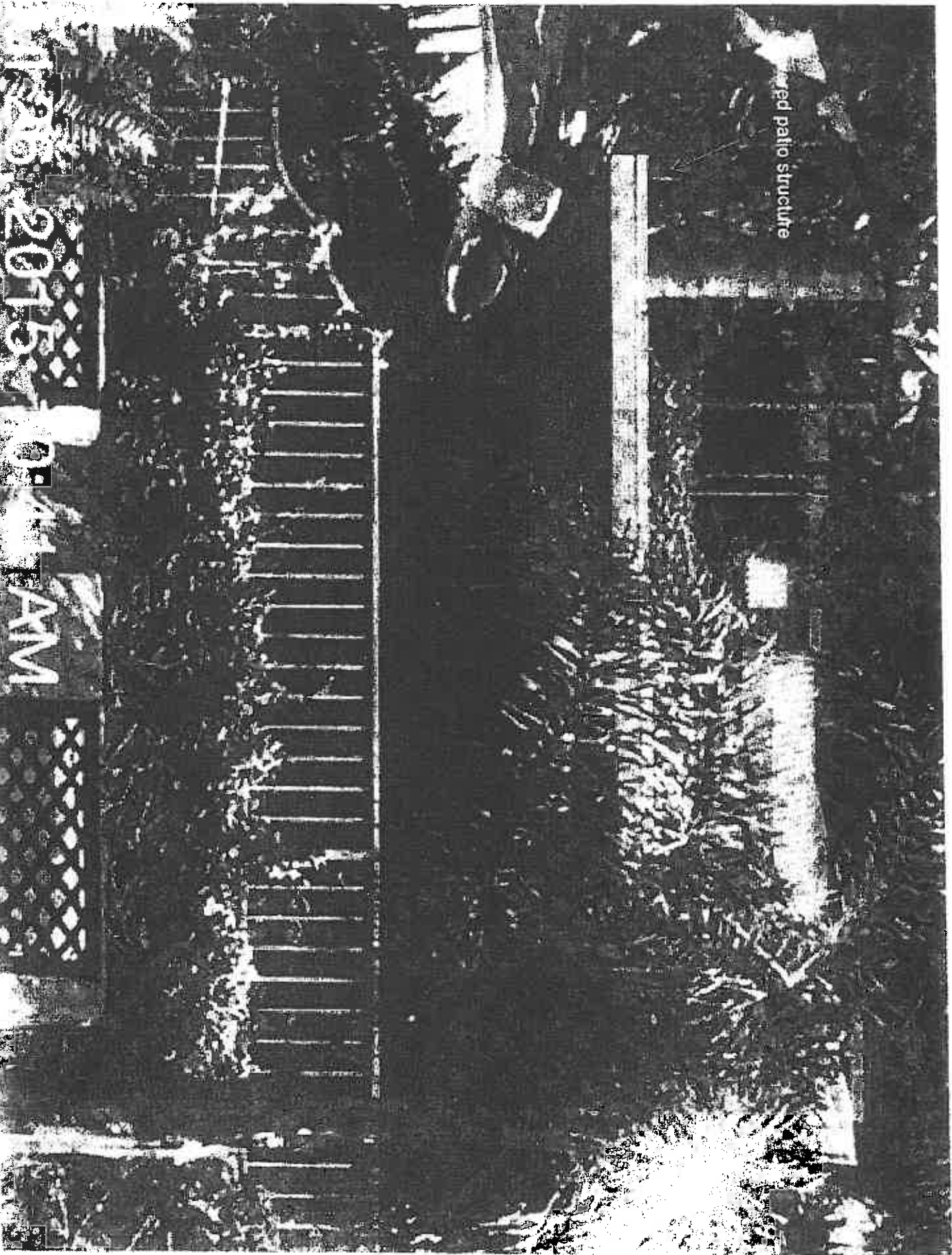
## 5 - Flagpoles and Banners

Flagpoles and banners shall be approved by the committee with the following considerations:

1. Placement in rear yards only

# **EXHIBIT “C”**

ped patio structure

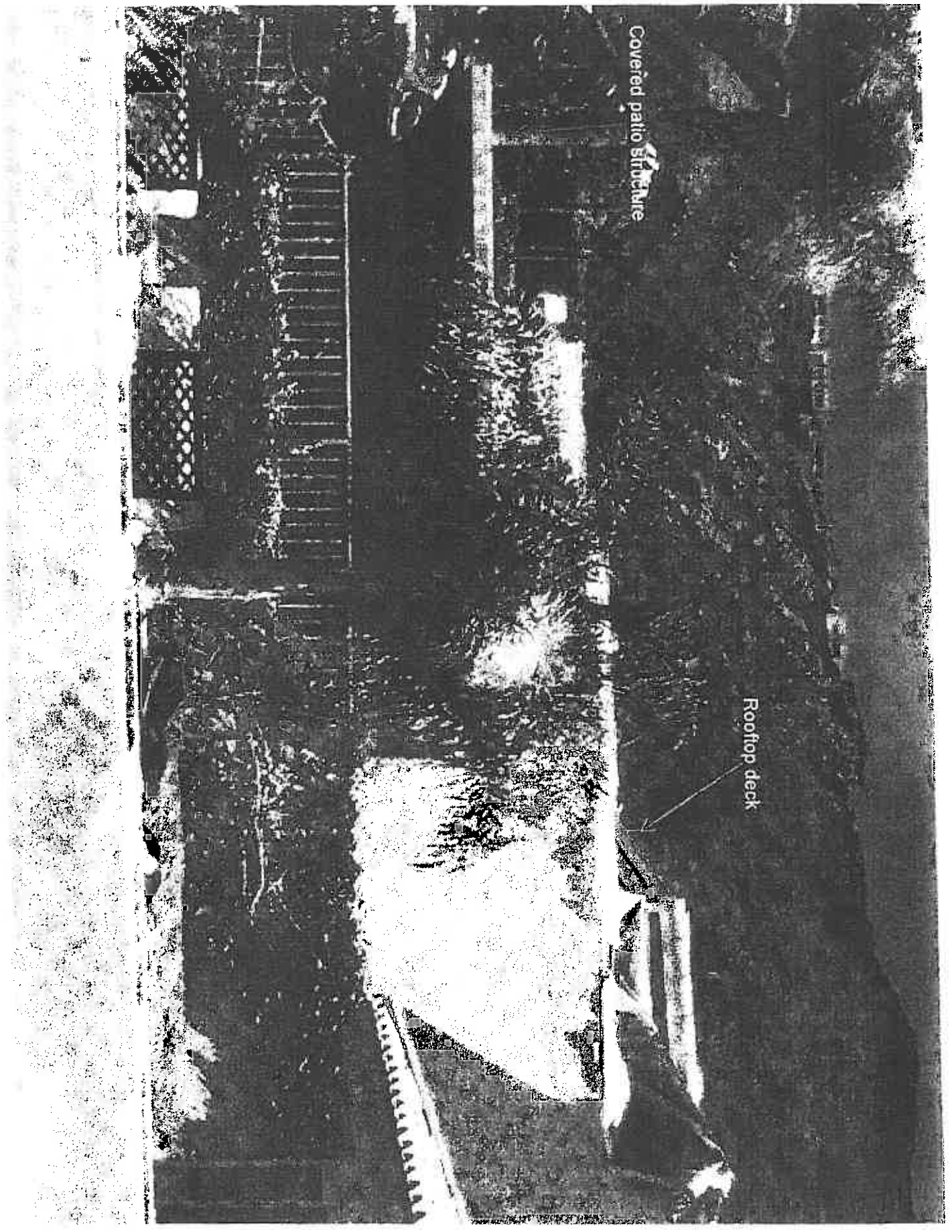


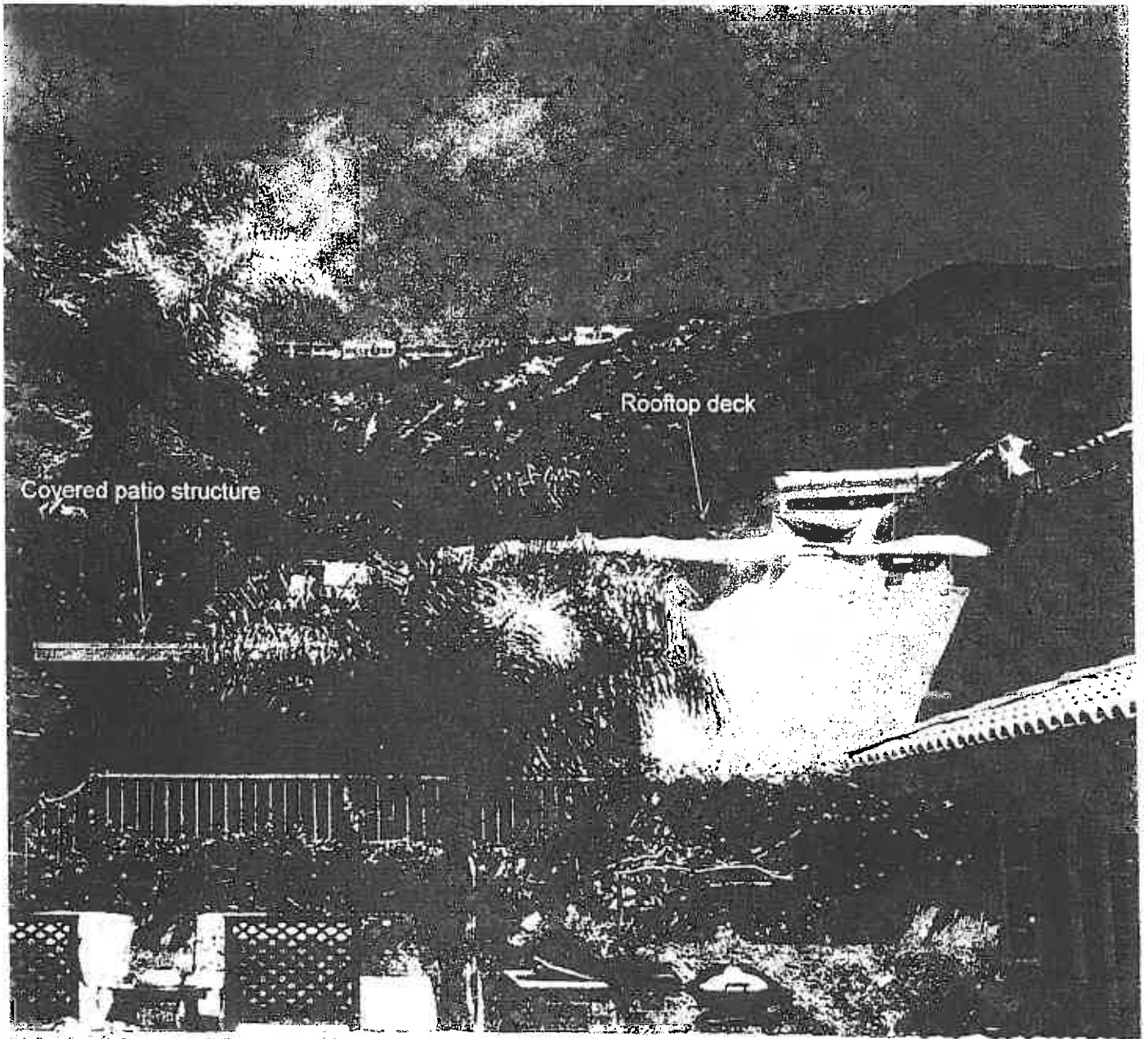
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Covered patio structure

Rooftop deck





Schonfeld property



## **Exhibit “C”**

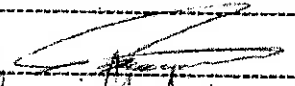
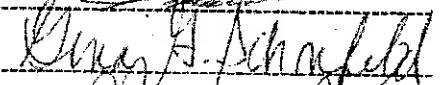
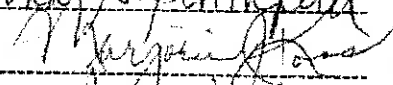
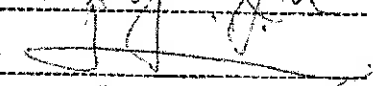
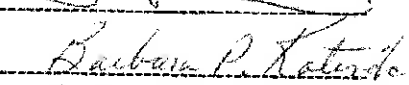
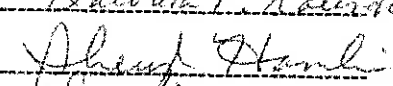
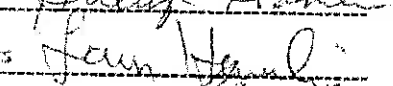
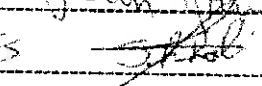
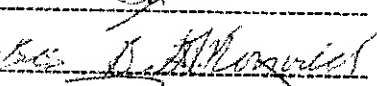
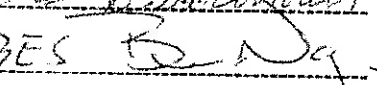
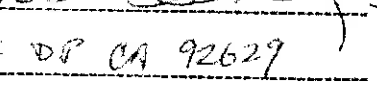
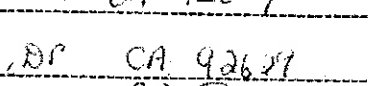

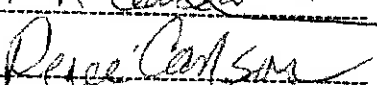
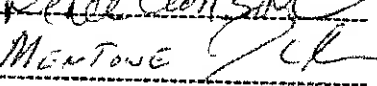
Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs on two grounds:

1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the ARC guidelines.

We would appreciate your support in upholding our HOA's CC&Rs in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME	ADDRESS	SIGNATURE
Richard Schoenfeld	32421 Via Antibes	
Georgina Grace Schoenfeld	32421 Via Antibes	
Margaret J. Ker	32401 Via Antibes	
Naz Alikhani	32431 Via Antibes	
Barbara P. Katerda	32432 Via Antibes	
SHERYL HAMILIN	32442 VIA ANTIBES	
LARRY HAMILIN	32442 VIA ANTIBES	
ASMA & NIZAR	32451 VIA ANTIBES	
Barbara Peterson	32422 VIA ANTIBES	
Bob Noy	32382 VIA ANTIBES	
Ken Muller	32372 VIA ANTIBES DP CA 92629	
Mary Schaefer	32381 Via Antibes DP CA 92629	
Curt Carlson	32412 Via Antibes DP CA	
Benee Carlson	32412 Via Antibes DP	
DAVE & JOANNA SCHAEDER	32402 VIA MENTONE	



Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs and its governing documents and bylaws on two grounds:

- 1-The addition to the house extending into the backyard has completely blocked the view corridor.
- 2-A roof deck has been constructed which is prohibited by the CC&Rs and its governing bylaws and guidelines.

We would appreciate your support in upholding our HOA's CC&Rs and all its governing bylaws and documents in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME ADDRESS SIGNATURE

NAME	ADDRESS	SIGNATURE
Shirley Johnston	32402 Via Antibes	Johnston
Selma Ruy Hood	32392 Via Antibes	Selma Ruy Hood
Eusan H. Hill	32392 Via Antibes	Eusan H. Hill
Ken Baultinghouse	32361 Via Antibes	Ken Baultinghouse
Catherine Tramm	32351 Via Antibes	Catherine Tramm
Paula	22872 VIA GENOA	Paula
Paula Ginty	22882 VIA GENOA	Paula Ginty
Kathleen Giretz	22882 Via GENOA	Kathleen Giretz
Jack Trane	32351 Via ANTIBES	Jack Trane
James H. Hendry	22782 VIA BARCELONA	James H. Hendry
Christine Davis	32351 Via Antibes	Christine Davis
Glenn Davis	32391 Via Antibes	Glenn Davis
M. Lisa Campbell	32371 Via Antibes	M. Lisa Campbell
Debra Campbell	32371 Via Antibes	Debra Campbell

## **Exhibit “D”**



**Emerald Ridge Homeowners Association**  
Accell Property Management, Inc  
23046 Avenida de la Carlota, Ste 700  
Laguna Hills, CA 92653  
949.581.4988

# ARCHITECTURAL GUIDELINES

### **19 - Ornamental Metal**

All ornamental wrought iron and tube steel shall be treated to prevent deterioration of finish painting. Wrought iron or tube steel security bars covering the exterior of windows are prohibited. Security bars if required may be applied inside the windows.

### **20 - Awnings**

Awnings, if used, must be of canvas and harmonious with the exterior color palette. Metal awnings will be considered based on the architecture of the home or structure.

### **21 - Sundecks**

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

## **Part IV - Landscape Design Guidelines**

It is the intent of these guidelines to promote a community character of elegance and refinement with an element reminiscent of California's more established coastal residential communities. The following information is intended to guide the homeowner and their consultants in plan submittal and structuring of their individual landscape to achieve these community goals.

### **1 - Hardscape**

Hardscape includes all exterior paved surfaces such as steps, driveways, patios, decks, and walkways, and shall comply with the following standards:

1. Excessive hardscape areas, including large expanses of paving such as driveways should be divided with banding or sections of masonry or paved units, contrasting concrete bands, or other appropriate means.
2. Access to allowable side yard storage is to be reinforced turf or a combination of paving materials and ground cover to avoid excessive hardscape areas.
3. All hardscape materials should compliment the architectural design and surrounding landscape.
4. Gravel in front yard areas is prohibited except as may be deemed appropriate by the Architectural Committee.
5. AC (Asphalt) paving for any use is prohibited

### **2 - Driveways and Walkways**

Driveways and walkways must conform to the regulations of the City of Dana Point. Homeowners should use paved, scored, or textured concrete in combination to soften the monolithic look of concrete driveways and walkways.

### **3 - Artificial and Natural Turf**

Artificial turf will be reviewed based on the merits of the turf quality and overall design placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

### **4 - Fire Pits and Exterior Fireplaces**

## **Exhibit “E”**



November 11, 2014

Jean Francois Jomphe  
32411 Via Antibes  
Monarch Beach, CA 92629

Re: Emerald Ridge Homeowners Association - Approval of Architectural Request  
32411 Via Antibes

Dear Mr. Jomphe :

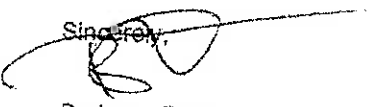
Please be advised that subject to the following terms and conditions, architectural approval has been granted for your submitted request to room addition and rear yard deck.

Your installation shall be in conformity with the plans and specifications submitted with your architectural application. All work shall be done in a timely and workmanlike manner, with the necessary permits and otherwise in compliance with all applicable building codes and other governmental rules or regulations. The work shall be done in such a manner and at such times so as to cause the least disturbance to others. You and your successors in interest shall be solely responsible for maintaining and repairing the improvement herein approved and Emerald Ridge Homeowners Association is released from any responsibility in this regard. Upon any transfer of your property, you agree to notify the buyer of these conditions. Additionally, please be aware property owners are responsible for all damage caused to common areas and surrounding Home/Lots as a result of your improvements.

Approval of these plans relates solely to the architectural design and scheme thereof, and no representations are made nor any responsibility assumed by the Association regarding the legality, structural quality or soundness of the work proposed. It shall be the sole responsibility of owner, owner's architect and owner's builder to examine the Home/Lot and to construct and maintain the improvements in accordance with the approved plans, and applicable governmental codes, laws, ordinances and regulations. Approval of these plans does not alter or modify owner's obligation to comply with all established building requirements for the lot and with all laws, ordinances, rules and regulations now or hereafter made by any governmental or other authority affecting the Home/Lot. In case of any conflict between the same, the stricter requirement shall apply.

This approval is effective for a period not to exceed six (6) months after the date of this letter and automatically terminates if installation is not complete within such time.

Sincerely,



Barbara Parsons  
On Behalf of Emerald Ridge Homeowners Association

## ERICA DEMKOWICZ

---

**From:** Naz Massoudnia <nazmassoudnia@gmail.com>  
**Sent:** Friday, August 14, 2015 12:47 AM  
**To:** ERICA DEMKOWICZ  
**Cc:** ANGELA DUZICH; JOHN TILTON; URSULA LUNA-REYNOSA; CHRISTOPHER LEA; MARK SUTTON  
**Subject:** Notice of Public Hearing permit SDP15-0013(M)  
**Attachments:** exhibits.pdf; ATT00001.htm

08/12/2015

To:  
Erica Demkowicz  
Senior Planner  
City of Dana Point

Re:  
Public Notice  
Construction at 32411 Via Antibes  
Permit SDP15-0013(M)

Dear Ms. Demkowicz,

This email is to hereby notify the City of Dana Point that I am objecting to the proposed roof deck at 32411 Via Antibes.

My objection is based on three factors:

- 1) The roof deck is prohibited pursuant to the Emerald Ridge HOA bylaws.
- 2) I have lost complete privacy in my backyard.
- 3) A significant portion of my mountain view is now obstructed by the roof deck.

Attached hereto are:

- Exhibit 1: Emerald Ridge HOA Architectural Guidelines prohibit roof decks.
- Exhibit 2: Emerald Ridge HOA Architectural Guidelines require homogeneous design in harmony with the rest of the neighborhood.
- Exhibit 3: Roof deck photo.
- Exhibit 4: Emerald Ridge residents' petition objecting to the unpermitted roof deck.

The initial construction of the roof deck commenced in December 2014. This construction was unpermitted by the City of Dana Point and was in clear violation of Emerald Ridge HOA bylaws. Additionally, the roof deck construction began without my notification as an impacted neighbor and while my family was away on vacation.

This roof deck is unprecedented in Emerald Ridge and is in clear violation of the ERHOA bylaws. Additionally, the HOA has taken court action against the owners of 32411 Via Antibes for this roof deck and other construction violations at the property.

The City often seeks to rule on development permits in a manner that is "in harmony" with the relevant HOA rules. I request the city deny the Minor Site Development Permit on the proposed roof deck.

Sincerely,  
Naz Alikhani  
32431 Via Antibes  
949-547-1198

# Exhibit 1

## 20 - Awnings

Awnings, if used, must be of canvas and harmonious with the exterior color palette. Metal awnings will be considered based on the architecture of the home or structure.



## 21 - Sundecks

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

## Part IV - Landscape Design Guidelines

It is the intent of these guidelines to promote a community character of elegance and refinement with an element reminiscent of California's more established coastal residential communities. The following information is intended to guide the homeowner and their consultants in plan submittal and structuring of their individual landscape to achieve these community goals.

### 1 - Hardscape

Hardscape includes all exterior paved surfaces such as steps, driveways, patios, decks, and walkways, and shall comply with the following standards:

1. Excessive hardscape areas, including large expanses of paving such as driveways should be divided with banding or sections of masonry or paved units, contrasting concrete bands, or other appropriate means.
2. Access to allowable side yard storage is to be reinforced turf or a combination of paving materials and ground cover to avoid excessive hardscape areas.
3. All hardscape materials should compliment the architectural design and surrounding landscape.
4. Gravel in front yard areas is prohibited except as may be deemed appropriate by the Architectural Committee.
5. AC (Asphalt) paving for any use is prohibited

### 2 - Driveways and Walkways

Driveways and walkways must conform to the regulations of the City of Dana Point. Homeowners should use paved, scored, or textured concrete in combination to soften the monolithic look of concrete driveways and walkways.

### 3 - Artificial and Natural Turf

Artificial turf will be reviewed based on the merits of the turf quality and overall design placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

### 4 - Fire Pits and Exterior Fireplaces

Fire pits and fireplaces are to be set back the required distance as noted in the "Minimum Setback" section of the Guideline. Fire pits and exterior fireplaces are to be gas-burning only, and must comply with City code requirements.

### 5 - Flagpoles and Banners

Flagpoles and banners shall be approved by the committee with the following considerations:

1. Placement in rear yards only.


# Exhibit 2

## Part I – Overview

### 1- Introduction

The Emerald Ridge Homeowners Association (Emerald Ridge) has been charged with the administration and enforcement of architectural control within the community by the authority given to it in the Covenants, Conditions and Restrictions (CC&R's) of Emerald Ridge. The CC&R's provide for an Architectural Review Committee (ARC) to be appointed by the Board of Directors. This Committee has the authority to review and approve or disapprove all plans and specifications submitted to it for any proposed improvement as defined in Article VIII of the CC&R's.

Approval by the Architectural Review Committee is for aesthetic, context, CC&R and Guideline conformance purposes only. All necessary City building permits must be obtained by the homeowner. All City regulations must be adhered to at all times. After the ARC has approved the plans for the purposes stated above, you must contact your local regulatory agencies and be sure that the plans are in compliance with all building and zoning regulations currently in force. Any revisions required by the regulatory agency must be resubmitted to the Architectural Review Committee for review.

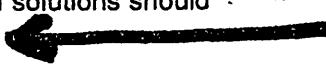
 In the event of a conflict between the provisions of these guidelines and any other ordinance or regulation, the more restrictive requirements shall prevail. These guidelines are primarily concerned with physical appearance and maintaining the harmony of the community environment. It is the intent of these guidelines to direct design efforts towards a homogeneous and quality response to the natural and as-built environments which form the context of Emerald Ridge.

The CC&R's also provide the authority for the Board of Directors to establish Architectural Guidelines to be administered by the aforementioned Architectural Committee or to amend or update the Guidelines.

The approval of any "change" or "improvement" by the Architectural Review Committee does not waive the necessity of obtaining the required City permits or compliance with governmental entity requirements. The Architectural Committee review does not approve, nor does any approval given permit, the following: (1) the construction of any Improvement which is located upon or interferes with any easement located on, in, under or over an Owner's Lot; (2) construction upon any property other than that of the applicant Owner; (3) construction within the setback's required by any state, county, city or other municipality or the Association's governing documents; (4) construction without the necessary or required governmental permits or compliance with zoning and building ordinances, applicable statutes, or requirements of public utilities.

### 2 - The Community

Emerald Ridge Homeowners Association is located in the city of Dana Point and is governed by its zoning ordinances, building codes and planning regulations. Emerald Ridge is unified by emphasizing a strong thematic landscape design in Common Area parks and slopes and low profile architectural massing. Emerald Ridge promotes a community character of understated coastal elegance and refinement. This hillside

coastal community offers impressive views and unique privacy. Design solutions should respect the context of the community, views and privacy of neighbors. 

In the event plans and specifications submitted to the Design Review Committee are disapproved, the Owner filing such Application may request the Board to reconsider the Committee's decision. The Board of Directors must receive the request not more than 30 days following the final decision of the Design Review Committee.

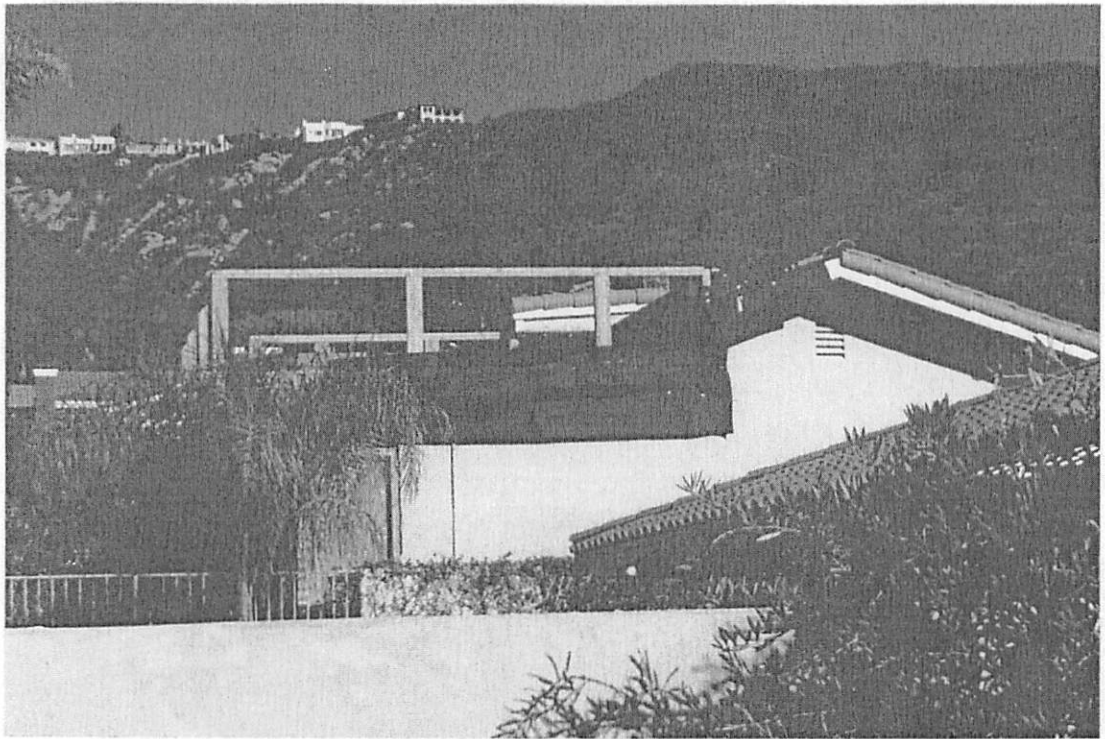
The failure to notify the Association in writing of any field changes, non-adherence to the approved plans, or project completion shall be a violation. The Association is empowered to issue a Cease and Desist/Stop Work Order to the Owner at any time. Continuing work beyond the issuance of the Cease and Desist/Stop Work Order shall subject the Owner to possible fines, and/or a court-issued temporary restraining order to stop work, and all other legal remedies to which the Association may be entitled pursuant to the Association's governing documents and the laws of the State of California. If a violation is determined to exist, the Association will seek to assess the Owner for all costs to bring the Improvement into compliance.

The Association's Common Area, including streets and walkways may not be obstructed with objects and building materials that are hazardous to pedestrians, vehicles, etc. Items such as, but not limited to, dumpsters, sand, and other building materials may not be stored on streets, sidewalks or Common Area. Any damage to Common Area will be replaced or repaired by an Association retained contractor. All applicable charges for restorations will be charged back to the Owner and will be due and payable within 30 days from notification or assessment of penalties.

Any material, condition, architectural feature or other item not specifically described in these Guidelines and Standards shall be a matter of judgment on the part of the Architectural Review Committee taking into consideration all factors and information it deems necessary or appropriate.

Please review the CC&Rs for general Use Restrictions. In the event of a conflict between these Architectural Guidelines and the CC&Rs, the CC&Rs shall prevail.

# Exhibit 3



# Exhibit 4

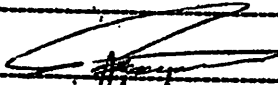

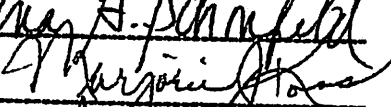


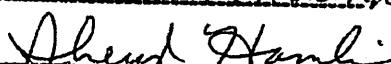

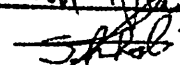

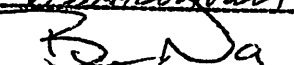
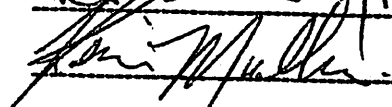
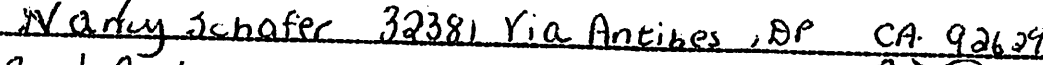
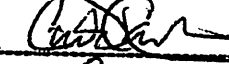


Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs on two grounds:

1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the ARC guidelines.

We would appreciate your support in upholding our HOA's CC&Rs in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME	ADDRESS	SIGNATURE
Richard Schonfeld	32421 Via Antibes	
Gregoria Gina Schonfeld	32421 Via Antibes	
Margorie J. Kass	32401 Via Antibes	
Naz Aliehani	32431 Via Antibes	
Barbara P. Katende	32432 Via Antibes	
SHERYL HAMLIN	32442 VIA ANTIBES	
LARRY HAMLIN	32442 VIA ANTIBES	
ASMA & NIZAR	32451 VIA ANTIBES	
Barbara Schonfeld	32422 Via Antibes	
Bonny Ng	32382 VIA ANTIBES	
Ann Miller	32372 VIA ANTIBES DP CA 92629	
Marilyn Schafer	32381 Via Antibes ,DP CA 92629	
Curt Carlson	32412 Via Antibes DP CA	
Renee Carlson	32412 Via Antibes DP	
DAVE & JOANNA SCHRÖEDER	32402 VIA MENTONE	



Residents of Emerald Ridge strongly believe in the governing CC&Rs and abiding by them. The recent backyard construction taking place at 32411 Via Antibes completely disregards Emerald Ridge's CC&Rs and its governing documents and bylaws on two grounds:

1-The addition to the house extending into the backyard has completely blocked the view corridor.

2-A roof deck has been constructed which is prohibited by the CC&Rs and its governing bylaws and guidelines.

We would appreciate your support in upholding our HOA's CC&Rs and all its governing bylaws and documents in order to preserve homeowners' ocean views, to keep the view corridors unobstructed and to maintain the harmonious character of Emerald Ridge.

By signing below you are voicing your objection to the two structures at 32411 Via Antibes, as referenced above. Thank you.

NAME	ADDRESS	SIGNATURE
Sue Johnston	32402 Via Antibes	Johnston
Jelene Ray Hill	32392 Via Antibes	Jelene Ray Hill
Eusan H. Hill	32392 Via Antibes	Eusan H. Hill
Ken Baultinghouse	32360 Via Antibes	KB
Catherine Tiano	32351 Via Antibes	Catherine Tiano
Rod	22872 VIA GENOA	Rod
Paul Ginty	22882 VIA GENOA	Paul Ginty
Kathleen Girretz	22882 Via GENOA	Kathleen Girretz
Jack Tiano	32351 VIA ANTIBES	Jack Tiano
James R. Henry	22782 VIA BARCELONA	James R. Henry
Christine Davis	32391 Via Antibes	Christine Davis
Glenn Davis	32391 Via Antibes	Glenn Davis
Myra Camorelli	32371 Via Antibes	Myra Camorelli
Delia Campbell	32371 Via Antibes	Delia Campbell

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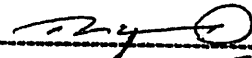
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NAME

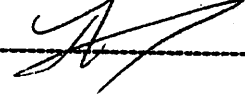
ADDRESS

SIGNATURE

Reza Limonadi 32372 Via Mentone



FARSHAD ALIKHANI 32431 Via Antibes



Blank lines for additional signatures and addresses.



## ERICA DEMKOWICZ

---

**From:** Susan Dawson <dawsonsusan1@me.com>  
**Sent:** Thursday, August 13, 2015 11:44 AM  
**To:** ERICA DEMKOWICZ  
**Subject:** 32411 Via Antibes/SDP15-0013

Hello Ms. Demkowicz,

As we are unable to attend the hearing on Monday morning regarding the above property, we would like to submit this email as our formal opposition to the project.

Allowing this construction sets a precedent for others in the community which greatly impacts the neighbors. There are several factors that affect our residence. Firstly, and most obviously, the addition is not compatible with the other homes in the area and greatly reduces our view - thus affecting our property value, let alone our enjoyment of our home.

Additionally, the noise - the sound travels so swiftly and clearly. With an open roof deck, not only will we be able to see them clearly (and not our view of the ocean) we will hear them clearly. The entire neighborhood will.

Allowing this addition opens the flood gates for everyone and makes for a change in the nature of the neighborhood which is not in line with the current standards.

Please consider the position of those affected around the them. We don't understand if none of the homes there have them why there should be an exception. The neighborhood was designed without roof decks for a reason. This extension seems an encroachment to all neighbors surrounding them.

Thank you.  
Susan Dawson  
Vista de Catalina  
Laguna Beach  
[dawsonsusan1@mac.com](mailto:dawsonsusan1@mac.com)

Sent from iCloud



Re: SDP 15-0013M

SANTA ANA

10 AUG 2015

proposed room addition  
it is a violation of the  
privacy of the neighbors  
on either side and should  
not be allowed.

The structure that has  
been built in the front  
of the property should  
never have been approved.

Yours very truly,  
Dr Johnston

Private Beach - Lounge Chairs - Umbrellas  
Weddings-Receptions-Business Meetings  
Dine at "Clas", our award winning restaurant or on our open-air Terrace  
Hotel Laguna  
425 South Coast Highway, Laguna Beach, CA 92651  
(949) 494-1151 Fax (949) 497-2163  
E-Mail: hotellaguna@msn.com  
Web Site: www.hotellaguna.com

JOHNSON  
32402 VIA ANTIBES



City Dana Point  
33282 Golden Lantern

Dana Point  
California 92629  
suite 209

RECEIVED

AUG 12 2015

CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT



City of Dana Point  
Notice of Public Hearing  
August 17, 2015

RECEIVED  
AUG 11 2015  
CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Dear Project Planner,

I object to the roof deck being built at 32411 Via Antibes. I live at 32401 Via Antibes, next door. For a short time before Mr. Jomhpe was ordered to take down the railings on the roof deck, I was able to see just how much my ocean view would be affected. From my deck, my ocean view was completely obstructed.

In October when I originally signed to agree with the planned changes to the front of his house, I invited Mr. Jomhpe into my home and out onto my deck. At that time he said he was going to build a patio and possibly a deck, something like mine. My only request was "Do not take my ocean view." He never returned with any plans about the changes to his backyard.

Emerald Ridge is a lovely, harmonious community. My husband and I chose to be a part of this community because of the well kept homes and meadow, the comfort of the gate guarded entrance, the proximity to the ocean, but mainly our ocean view. I have lived here and have followed the rules of the community for 31 years. I expect Mr. Jomhpe to do the same. Take down that deck!

Sincerely,



Marjorie Koss

Project Number SDP15-0013(M)

INFORMATION  
AS IT APPEARED  
IN E.MAIL  
(DUPLICATE)



## ERICA DEMKOWICZ

---

**From:** Lawrence Hamlin <larryhamlin@cox.net>  
**Sent:** Tuesday, August 11, 2015 5:41 PM  
**To:** ERICA DEMKOWICZ  
**Subject:** Public hearing regarding minor site development permit SDP15-0013(M)  
**Attachments:** Untitled.jpg; Untitled1.jpg

To the attention of Erica H. Demkowicz,

Regarding the scheduled public hearing at Dana Point City Hall at 9 AM on Monday August 17, 2015 to address the subject minor site permit at 32411 Via Antibes I respectfully request that this permit be denied.

Pursuant to Civil Code 4360 on March 5, 2014 the Emerald Ridge Homeowners Association provided Emerald Ridge Homeowners and Residents with the most recently revised Architectural Guidelines and Rules & Regulations which were approved on February 24, 2014 by the Board after completing the required 30 day review and comment period before adopting the revisions reflected in these final distributed documents.

A copy of the March 5, 2014 Board letter is provided below.

This prohibition is unequivocal. If the Board wishes to make revisions to the applicable Architectural Guidelines restrictions prohibiting the construction of Sundecks then under the provisions of Civil Code 4360 such changes must be subjected to the revision, review, comment and adoption practices required by California law as was done in the latest version of these documents.

The resident at 32411 Via Antibes cannot be entitled to ignore the unequivocal and crystal clear prohibition against the construction of Sundecks contained in the present and most recently adopted Architectural Guidelines.

If the resident at 32411 Via Antibes wishes build a Sundeck he must proceed to request a specific variance or obtain modifications to the Architectural Guidelines to do so. He has failed to initiate any such actions.

The subject permit should be denied based on the fact that this proposed construction is unequivocally prohibited in the applicable Emerald Ridge Architectural Guidelines and because no effort was made by this resident to obtain a specific variance or modify the Architectural Guidelines regarding this work.

Thank you for your consideration.

Larry Hamlin  
32442 Via Antibes  
Dana Point, Ca. 92629  
949 715 1260

Attached is a copy of the March 5, 2014 letter from the Board of Directors distributing the most recently revised Architectural Guidelines and Rules and Regulations which were approved on February 24, 2014 pursuant to Civil Code 4360.

Also attached is a copy of Part III Section 21 of these Architectural Guidelines which specifically and unequivocally prohibit the construction of Sunroofs in the Emerald Ridge Community.

**TO:** Emerald Ridge Homeowners and Residents  
**FROM:** Board of Directors  
**RE:** Revised Architectural Guideline and Rules & Regulations  
**DATE:** March 5, 2014

---

Pursuant to Civil Code 4360, the Emerald Ridge Homeowners Association provided its members with a thirty-day (30) review and comment period prior to adopting the Amendments to the Association's Architectural Guidelines and Rules & Regulations

At the Board of Directors meeting held on February 24, 2014, the Board voted to adopt the proposed revisions to both the Architectural Guidelines and the Rules & Regulations.

The Board would like to thank those residents who provided their feedback regarding the amendments. The Board has implemented the use of "Visitor Passes" as a result this feedback, which will help to monitor vehicle parking in the community's streets. It is the Board's intent to enforce the association's parking rules and encourage residents to report anyone who is not utilizing their garage for parking before parking in the streets to Accell Property Management.

A complete set of the Association's Architectural Guidelines and Rules & Regulations are enclosed for your records. Any questions may be directed to our Property Manager, Barbara Parsons at [Barbara@accellpm.com](mailto:Barbara@accellpm.com).



Awnings, if used, must be of canvas and harmonious with the exterior color palette. Metal awnings will be considered based on the architecture of the home or structure.

## **21 - Sundecks**

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

# **Part IV - Landscape Design Guidelines**

It is the intent of these guidelines to promote a community character of elegance and refinement with an element reminiscent of California's more established coastal residential communities. The following information is intended to guide the homeowner and their consultants in plan submittal and structuring of their individual landscape to achieve these community goals.

## **1 - Hardscape**

Hardscape includes all exterior paved surfaces such as steps, driveways, patios, decks, and walkways, and shall comply with the following standards:

1. Excessive hardscape areas, including large expanses of paving such as driveways should be divided with banding or sections of masonry or paved units, contrasting concrete bands, or other appropriate means.
2. Access to allowable side yard storage is to be reinforced turf or a combination of paving materials and ground cover to avoid excessive hardscape areas.
3. All hardscape materials should compliment the architectural design and surrounding landscape.
4. Gravel in front yard areas is prohibited except as may be deemed appropriate by the Architectural Committee.
5. AC (Asphalt) paving for any use is prohibited

## **2 - Driveways and Walkways**

Driveways and walkways must conform to the regulations of the City of Dana Point. Homeowners should use paved, scored, or textured concrete in combination to soften the monolithic look of concrete driveways and walkways.

## **3 - Artificial and Natural Turf**

Artificial turf will be reviewed based on the merits of the turf quality and overall design placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

## **4 - Fire Pits and Exterior Fireplaces**

Fire pits and fireplaces are to be set back the required distance as noted in the "Minimum Setback" section of the Guideline. Fire pits and exterior fireplaces are to be gas-burning only, and must comply with City code requirements.

## **5 - Flagpoles and Banners**

Flagpoles and banners shall be approved by the committee with the following considerations:

1. Placement in rear yards only.

TO: Emerald Ridge Homeowners and Residents  
FROM: Board of Directors  
RE: Revised Architectural Guideline and Rules & Regulations  
DATE: March 5, 2014

---

Pursuant to Civil Code 4360, the Emerald Ridge Homeowners Association provided its members with a thirty-day (30) review and comment period for adopting the Amendments to the Association's Architectural Rules & Regulations

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The Board would like to thank those residents who provided feedback regarding the amendments. The Board has implemented the "No Passes" as a result of this feedback, which will help to monitor and improve the community's streets. It is the Board's intent to enforce the parking rules and encourage residents to report anyone who is using a garage for parking before parking in the streets to Accell Property Management.

A complete set of the Association's Architectural Guidelines and Regulations are enclosed for your records. Any questions may be directed to our Property Manager, Barbara Parsons at [Barbara@accellpm.com](mailto:Barbara@accellpm.com)

recently adopted Architectural Guidelines it specifically states:

Part III - Architectural Guidelines

Section 21-Sundecks

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

A copy of this restriction from the Architectural Guidelines is provided below.

## **20 - Awnings**

Awnings, if used, must be of canvas and harmonious with the exterior color. Metal awnings will be considered based on the architecture of the home or structure.

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## **2 - Driveways and Walkways**

Driveways and walkways must conform to the regulations of the City of Danvers. Homeowners should use paved, scored, or textured concrete in combination with the monolithic look of concrete driveways and walkways.

## **3 - Artificial and Natural Turf**

Artificial turf will be reviewed based on the merits of the turf quality and overall placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

## **4 - Fire Pits and Exterior Fireplaces**





## **ERICA DEMKOWICZ**

---

**From:** Richard Schonfeld <rschonfeld@cslawoffice.net>  
**Sent:** Thursday, August 06, 2015 4:05 PM  
**To:** ERICA DEMKOWICZ  
**Subject:** 32411 Via Antibes Public Notice  
**Attachments:** Letter to Erica H Demkowicz - 08 06.pdf

Dear Ms. Demkowicz,

I have attached hereto the objection from the Schonfeld Family Trust (property owner at 32421 Via Antibes) to the Minor Site Development Application for a rooftop deck at 32411 Via Antibes.

Please share this objection with the Director.

Sincerely,

Richard A. Schonfeld

LAW OFFICES

*Chernoff & Schonfeld*

DAVID Z. CHESNOFF, CHARTERED  
RICHARD A. SCHONFELD, CHARTERED

AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

620 SOUTH FOURTH STREET

LAS VEGAS, NEVADA 89101-6603

ROBERT Z. DEMARCO

TELEPHONE  
(702) 384-8863  
FAX  
(702) 688-1428

August 6, 2015

Via Email

[edemkowicz@danapoint.org](mailto:edemkowicz@danapoint.org)

Senior Planner Erica H. Demkowicz  
City of Dana Point  
33282 Golden Lantern, Suite 209  
Dana Point, CA 92629

Re: Public Notice  
Permit SDP15-0013(M)

Dear Ms. Demkowicz,

I am writing to voice the objection of the Schonfeld Family Trust relative to the proposed roof deck at 32411 Via Antibes. The Schonfeld Family trust owns the property immediately below (toward the Ocean) at 32421 Via Antibes.

We purchased our property in or around March of 2014, prior to Mr. Jomphe and/or his associate(s) taking ownership of 32411 Via Antibes (hereinafter "Jomphe property"). After they took ownership they immediately (while we were out of town and without consulting with us) removed trees and shrubs that created privacy between our properties. Attached hereto as Exhibit 1 is a picture from Google Earth that shows the condition of the property prior to the Jomphe actions. You will clearly note that there were dense trees and shrubs between the two properties that created a barrier and privacy. There is now no barrier between the properties and the Jomphe property, which has a height elevation from ours, has a partial ground level view into our backyard. However, that is not the full extent of the privacy invasion.

In December of 2014, Mr. Jomphe (while we were out of town and while the Massoudnia's were out of town) erected a rooftop deck on his property. He created this deck by cutting a 90 degree angle into his roof and creating a flat portion therein. As can be seen in Exhibit 1, the roof was previously angled. The roof deck was constructed, as was the remainder of the renovation at that time, with no City permits or approval. The roof deck looks directly into our backyard and completely and totally invades upon our privacy.

Attached hereto as Exhibit 2 are two photographs from the roof deck as it existed in December of 2014. The photographs show that the view from the deck looks directly into the entirety of our backyard. We spent a considerable amount of money on this house and never believed that we would have our privacy rights completely distinguished. In addition, this has occurred in violation of the HOA bylaws. The Emerald Ridge Homeowners Association governing documents strictly prohibit roof top decks.

- page 2-

In reviewing prior Minutes related to requests for Minor Site Development Permits I noticed that the Commission took great interest in whether or not the applicant had secured HOA approval. In some instances the Commission voted to defer ruling to receive proof of HOA approval. In this case, the HOA has sued Jomphe and his co-property owners seeking an injunction related to the rooftop deck and another structure on the Jomphe property. Clearly, the HOA has asserted in the Court record that they do not approve of this request.

In light of the foregoing, the request for a Minor Site Development Permit should be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Schonfeld". The signature is written in a cursive style with a large, sweeping initial "R" and "S".

Richard A. Schonfeld

**EXHIBIT**





Former  
Trees

32411 Via Antibes

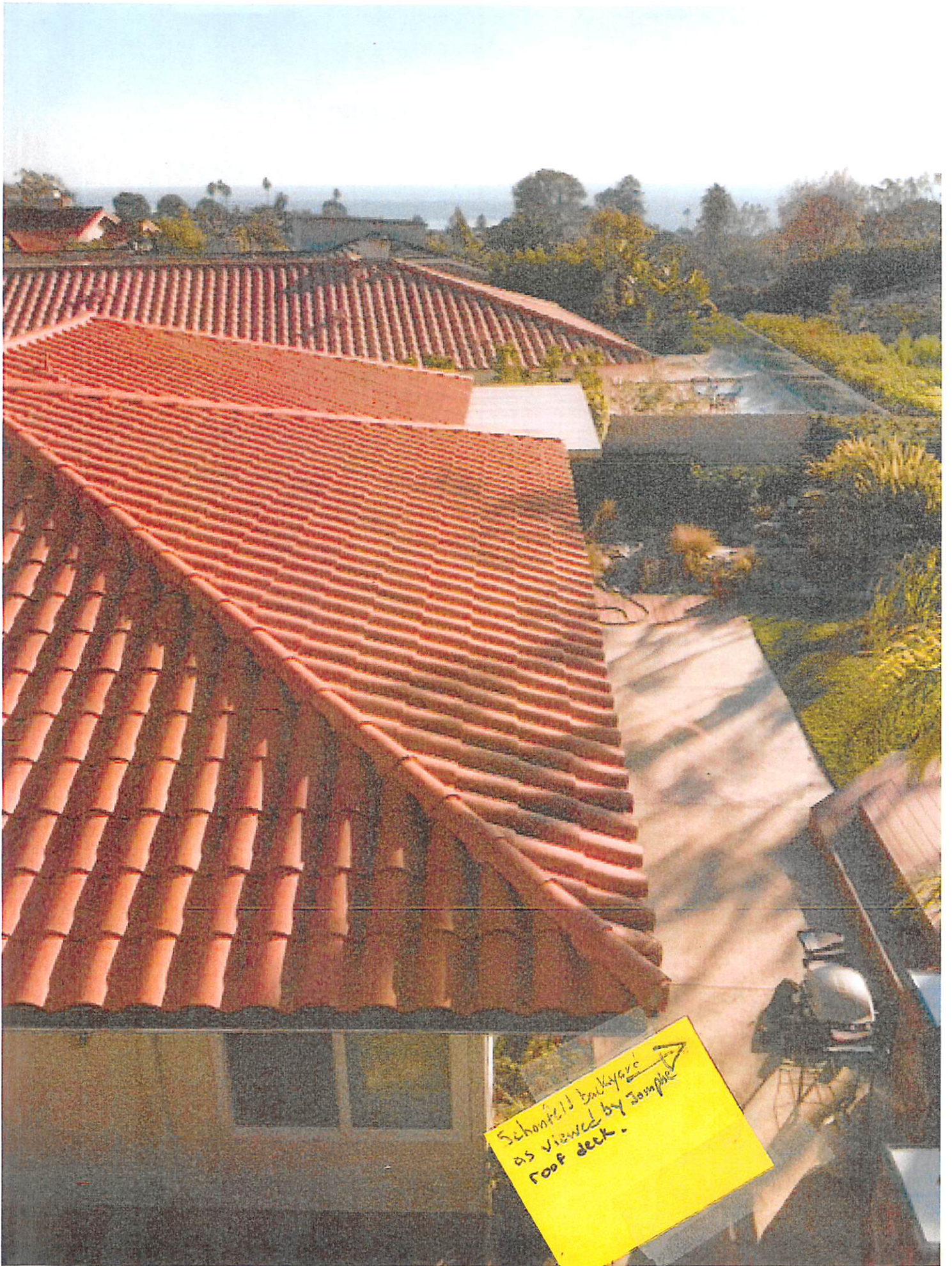
← Former  
Trees

32422 Via Antibes



**EXHIBIT**





Schonfeld balcony  
as viewed by sample  
roof deck.



Massachusetts Backyard  
as viewed from Joseph  
rooftop deck.



Schonfeld Backyard  
as viewed from  
Joseph rooftop deck.





**ERICA DEMKOWICZ**

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**From:** BRAM NAGER <rslbram@att.net>  
**Sent:** Sunday, August 16, 2015 12:01 PM  
**To:** ERICA DEMKOWICZ  
**Subject:** 32411 VIA ANTIBES DP

DEAR MS DEMKOWICZ

I am a long term resident of Emerald Ridge since 1982 and a former member of the Board of Directors.

Please consider that I object to the proposed roof deck at 32411 Via Antibes in our Emerald Ridge community. I endorse the message and letter of Naz Alikhani of 8/7/15 which adroitly outlines the cogent reasons for our objection.

I will attend the community meeting tomorrow morning regarding the above.

Thank you for your kind consideration.

Respectfully,

Bram Nager



**ERICA DEMKOWICZ**

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**From:** Devin Daniels <dpdjr82@gmail.com>  
**Sent:** Wednesday, August 26, 2015 1:50 PM  
**To:** ERICA DEMKOWICZ  
**Subject:** 32411 Via Antibes/SDP 15-0013

Hello Ms. Demkowicz,

Please accept this email as to the concern for the above referenced project.

The proposed project would have a significant impact on my family's privacy. From the proposed roof deck, people would be able to directly look into my families living room.

thank you  
Devin Daniels  
26 South Stonington Rd  
Laguna Beach  
[dpdjr82@gmail.com](mailto:dpdjr82@gmail.com)



## **ERICA DEMKOWICZ**

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**From:** bdifracia@cox.net  
**Sent:** Tuesday, September 22, 2015 9:20 AM  
**To:** ERICA DEMKOWICZ  
**Subject:** regarding property at 32411 Via Antibes

Good morning Erica,

We live at 32422 Via Antibes and will be on vacation the day of the hearing on the property located at 32411 Via Antibes and wanted our opinion regarding the proposed Roof Deck to be heard.

We are opposed to a roof top deck being added to the 32411 property. Allowing this to be done with completely take away the ocean view that his upper neighbor has had for 32 years. His gain should not result in a financial loss to a property owner of 32 years. This is just morally wrong. Anyone wanting to work with a community would search for a Win-Win solution....not an "I win" , "You lose" plan for personal gain. Adding this deck is also against our Emerald Ridge CC&Rs. Home Owners bought into this community because of it's environment, this roof-top remodel will start a negative trend within our community by setting a precedent. Additionally, the plan 32411 submitted to the community board for approval was not the plan he built to, so this would make "void" any approval from the board.

This is not the first home that the owner at 32411 Via Antibes has remodeled, and it seems unclear if this home is being remodeled for resale or not. This same owner was remodeling this property without "permits" until neighbors and our HOA found out and complained.....this certainly makes a statement.

It seems to me that searching for a Win-Win solution would be the moral thing to do, instead of sticking to an "I win", "you lose". Plan. I realize even though "currently" the remodel plan may not violate City Code, the city certainly does not want to send the message that if you know how to "work the system" " you can get around City Code and HOA guidelines.

The above are my opinions based on my knowledge of this project. Thank you for your time and attention. Barbara Gronvold



RECEIVED

SEP 21 2015

CITY OF DANA POINT  
COMMUNITY DEVELOPMENT  
DEPARTMENT

Erica H. Demkowicz  
Senior Planner  
City of Dana Point  
Community Development Department  
33282 Golden Lantern  
Suite 209  
Dana Point, CA 92629

Dear Ms. Demkowicz,

This letter is in regard to Project: SDP15-0013(M). It is attempt by the homeowner of 32411 Via Antibes, to build a second story deck on the back side of his single story home.

We have a fairly nice little community here in Emerald Ridge. Generally, homeowners and neighbors are able to get along. In the rare case where issues are not resolvable between homeowners, our HOA Board gets involved. We generally assume all parties are dealing in an honest and straight forward bases.

This apparently has not been the case with the owner of 32411 Via Antibes. According to his neighbors, he initially circulated a proposed building plan that appeared agreeable to his neighbors and subject to final approval of our HOA Board. However, once he started building several unauthorized changes were made in the building versus what was shown in his original plans. This apparently went on several months



between the neighbors, the homeowner and our Board. Each time, the owner of 32411 Via Antibes agreed to adhere to his original plans. In the case where he felt changes were needed, he agreed to submit new building plans for final approval by the Board and the neighbors. Unfortunately, those plan changes were never submitted for approval and the owner of 32411 continued building what ever he wanted.

Consequently, our neighbors and our community have now compelled a Public Hearing before the entire Dana Point Community Development Department. In addition, we may all be heading for a potential full blown lawsuit between our HOA and this homeowner.

This whole issue can be resolved by DP Community Development Department referring the homeowner back to Emerald Ridge HOA for proper submission of his building plans that reflect in total what he is building. If his plans then meet our existing CC&R's , I am sure they will be approved and we can all go back to enjoying each other.

Sincerely,



Dave Schroeder

32402 Via Mentone

Dana Point, CA 92629

## ERICA DEMKOWICZ

---

**From:** Susan Dawson <dawsonsusan1@me.com>  
**Sent:** Tuesday, September 22, 2015 5:42 PM  
**To:** SHAYNA SHARKE  
**Cc:** ERICA DEMKOWICZ  
**Subject:** Re: Public Hearing Notice - SDP15-0013(M) - 32411 Via Antibes  
**Attachments:** PHN SDP15-0013(M).pdf

Hello Ms. Sharke and Ms. Demkowicz,

Thank you for the public hearing notification the regarding the residence at 32411 Via Antibes.

Unfortunately, we will not be able attend the hearing on Monday evening. We would like to submit this email as our formal *opposition* to the project.

Even though we live across the street from the above property, our address puts us residing in another city. We appreciate the opportunity for our opinions to be heard, as it directly affects us the most with the addition facing our front doors.

As previously stated, this addition is not compatible with existing dwellings within its own community. Allowing this addition is counter to the aesthetic of the area.

Allowing this construction sets a precedent for others in the community which greatly and negatively impacts the neighbors in two cities.

There are several factors that affect our residence. Firstly, and most obviously, the addition is not compatible with the other homes in the area and greatly reduces our view - thus affecting our property value, let alone our enjoyment of our home.

Additionally, the noise - sound travels so swiftly and clearly. With an open roof deck, not only will we be able to see them clearly (and not our view of the ocean) we will hear them clearly. The entire neighborhood will.

Allowing this addition opens the flood gates for everyone and makes for a change in the nature of the neighborhood which is not in line with the current standards.

Please consider the position of those affected around the them. We don't understand if none of the homes there have them why there should be an exception. The neighborhood was designed without roof decks for a reason.

This extension is an encroachment to all neighbors surrounding them.

Thank you for your attention.

Susan Dawson  
Vista de Catalina

[dawsonsusan1@mac.com](mailto:dawsonsusan1@mac.com)

Sent from iCloud

On Sep 18, 2015, at 08:55 AM, SHAYNA SHARKE <[SSHARKE@DanaPoint.org](mailto:SSHARKE@DanaPoint.org)> wrote:

Good Morning,

Please see the attached Public Hearing Notice regarding SDP15-0013(M) – 32411 Via Antibes.

Thank you,

**Shayna Sharke**

*Administrative Secretary - Community Development*

City of Dana Point

(949) 248-3563

[ssharke@danapoint.org](mailto:ssharke@danapoint.org)

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**PUBLIC NOTICE**  
**CITY OF DANA POINT**  
**NOTICE OF PUBLIC HEARING**

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NOTICE IS HEREBY GIVEN THAT a public hearing will be held by the Planning Commission of the City of Dana Point to consider the following:

**Minor Site Development Permit [SDP15-0013(M)]:** A Minor Site Development Permit to consider the construction of a new 250 square feet roof deck to an existing single family dwelling located at 32411 Via Antibes.

**Project Number:** SDP15-0013(M)  
**Project Location:** 32411 Via Antibes  
**Applicant:** William Clark/J.F. Jomphe  
**Environmental:** Pursuant to the California Environmental Quality Act (CEQA), the project is found to be Categorically Exempt per Section 15301(e)(1) (Class 1 – Existing Facilities).

**Hearing Date:** September 28, 2015  
**Hearing Time:** 6:00 P.M. (or as soon thereafter as possible)  
**Hearing Location:** 33282 Golden Lantern, Dana Point, California 92629 (Dana Point City Hall)

All persons either favoring or opposing the subject project are invited to present their views to the Commission at this hearing.

**Note:** This project may be appealed to the City Council. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Dana Point prior to the public hearing.

For further information, please contact Erica H. Demkowicz, Senior Planner at the City of Dana Point, Community Development Department, 33282 Golden Lantern, Suite 209, Dana Point, (949) 248-3588.

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) ss AFFIDAVIT OF POSTING  
CITY OF DANA POINT )

I, Ursula Luna-Reynosa, Director of Community Development Department of the City of Dana Point, do hereby certify that on September 18, 2015, I caused the above notice to be posted in four (4) places in the City of Dana Point, to wit: City Hall, the Dana Point Post Office, the Capistrano Beach Post Office, and the Dana Point Library.

  
\_\_\_\_\_  
Ursula Luna-Reynosa, Director  
Community Development Department

**ERICA DEMKOWICZ**

---

**From:** Richard Schonfeld <rschonfeld@cslawoffice.net>  
**Sent:** Thursday, September 24, 2015 8:29 AM  
**To:** ERICA DEMKOWICZ  
**Subject:** Objection/Challenge to Minor Site Development Permit Application  
**Attachments:** Opposition Challenge to Requested Permit.pdf

Dear Erica,

Attached hereto is the objection from the Schonfeld Family Trust to the Minor Site Development Permit Application number SDP15-0013(M) submitted for the property located at 32411 Via Antibes.

Please confirm that you have received this Objection/Challenge and that it will be part of the record at the hearing on September 28, 2015.

Sincerely,

Richard A. Schonfeld

LAW OFFICES

*Chesnoff & Schonfeld*

AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

520 SOUTH FOURTH STREET

LAS VEGAS, NEVADA 89101-6593

DAVID Z. CHESNOFF, CHARTERED  
RICHARD A. SCHONFELD, CHARTERED

ROBERT Z. DEMARCO

TELEPHONE  
(702) 384-5563

FAX  
(702) 598-1425

September 24, 2015

## OPPOSITION/CHALLENGE TO REQUESTED PERMIT

Via Email

[edemkowicz@danapoint.org](mailto:edemkowicz@danapoint.org)

Planning Commission of the City of Dana Point  
c/o Senior Planner Erica H. Demkowicz  
33282 Golden Lantern, Suite 209  
Dana Point, CA 92629

Re: Public Notice  
Permit SDP15-0013(M)

Dear Planning Commission,

I was originally notified that this hearing would take place on October 12, 2015, and had planned accordingly. Last week I received notice that the hearing had been advanced to September 28, 2015, and I will be unable to attend as a result of Court obligations in Nevada.

I am writing to voice the objection of the Schonfeld Family Trust relative to the proposed roof deck at 32411 Via Antibes. The Schonfeld Family trust owns the property immediately below (toward the Ocean) at 32421 Via Antibes.

We purchased our property in or around March of 2014, prior to Mr. Jomphe and/or his associate(s) taking ownership of 32411 Via Antibes (hereinafter "Jomphe property"). After they took ownership they immediately (while we were out of town and without consulting with us) removed trees and shrubs that created privacy between our properties. Attached hereto as Exhibit 1 is a picture from Google Earth that shows the condition of the property prior to the Jomphe actions. You will clearly note that there were dense trees and shrubs between the two properties that created a barrier and privacy. There is now no barrier between the properties and the Jomphe property, which has a height elevation from ours, has a partial ground level view into our backyard. However, that is not the full extent of the privacy invasion.

In December of 2014, Mr. Jomphe (while we were out of town and while the Alikhanis were out of town) erected a rooftop deck on his property. He created this deck by cutting a 90 degree angle into his roof and creating a flat portion therein. As can be seen in Exhibit 1, the roof was previously angled. The roof deck was constructed, as was the remainder of the renovation at that time, with no City permits or approval. The roof deck looks directly into our backyard and completely and totally invades upon our privacy.

- page 2-

Attached hereto as Exhibit 2 are two photographs from the roof deck as it existed in December of 2014. The photographs show that the view from the deck looks directly into the entirety of our backyard. We spent a considerable amount of money on this house and never believed that we would have our privacy rights completely distinguished. In addition, this has occurred in violation of the HOA bylaws. The Emerald Ridge Homeowners Association governing documents strictly prohibit roof top decks.

In reviewing prior Minutes related to requests for Minor Site Development Permits I noticed that the Commission took great interest in whether or not the applicant had secured HOA approval. In some instances the Commission voted to defer ruling to receive proof of HOA approval. In this case, the HOA has sued Jomphe and his co-property owners seeking an injunction related to the rooftop deck and another structure on the Jomphe property. Clearly, the HOA has asserted in the Court record that they do not approve of this request. Moreover, it is my understanding that the Emerald Ridge Homeowners Association Board members will be present at this hearing and will provide a submission to the Commission prior to the hearing.

The permit that has been requested by Jomphe is a discretionary permit. The intent and purpose of exercising that discretion is found in Section 9.61.010. That section outlines the purpose as providing for a system of development review that is open to the public **and responsive to the needs of the community**. The requirements for the requested permit are those found in Section 9.61.040. Section 9.61.040(2)(c) provides that the Commission shall view the effect that the proposed construction will have on any existing uses, buildings, and structures within one hundred feet of the subject property. My property is well within those boundaries and this proposal will destroy my existing use, which includes my privacy, and is completely inconsistent with any other building and structure as our HOA bylaws prohibit rooftop decks. See Exhibit 3. Section 9.61.040(2)(d) provides that the applicant must explain how his request will not "cause negative impacts" and will be "compatible with and an enhancement to the subject site, **surrounding properties**, and the City. Clearly, it is not compatible with surrounding properties as those properties are prohibited from doing the very thing that Jomphe is requesting - erecting a rooftop deck. Moreover, the total invasion of privacy is not compatible with any surrounding property, including mine.



LAW OFFICES

*Chesnoff & Schonfeld*  
AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

- page 3-

In light of the foregoing, the request for a Minor Site Development Permit should be denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard A. Schonfeld', with a large, sweeping flourish above the name.

Richard A. Schonfeld

EXHIBIT

1





Former Trees



← Former Trees

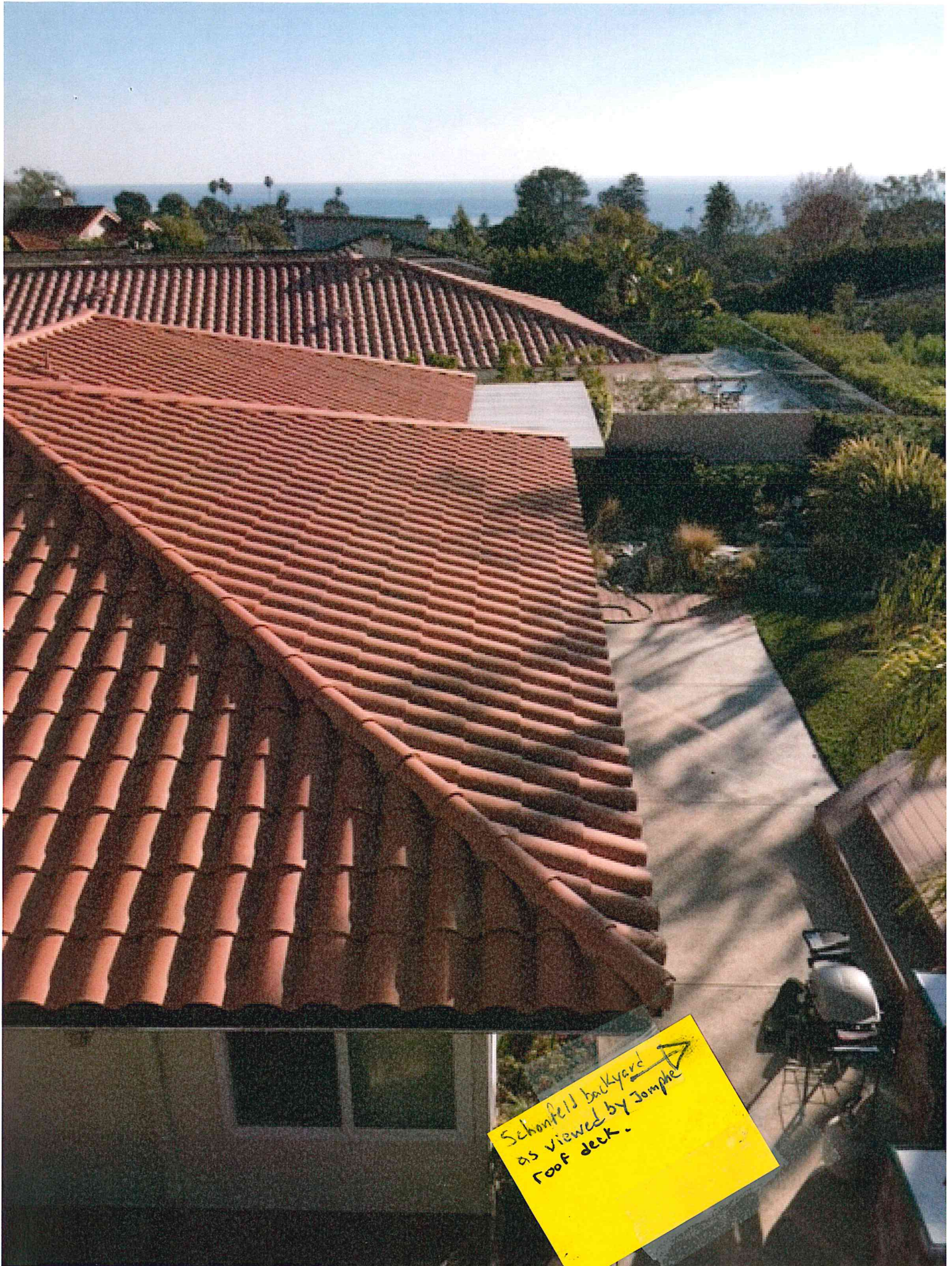
32411 Via Antibes

32421 Via Antibes



EXHIBIT





Schanfeld backyard  
as viewed by Jompe  
roof deck.



Alikhani Backyard  
as viewed from  
Jomphe rooftop deck

Schonfeld Backyard  
as viewed from  
Jomphe rooftop deck.





**EXHIBIT**

**3**

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**Emerald Ridge Homeowners Association**

Accell Property Management, Inc  
23046 Avenida de la Carlota, Ste 700  
Laguna Hills, CA 92653  
949.581.4988

# ARCHITECTURAL GUIDELINES

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## Table of Contents

## **20 - Awnings**

Awnings, if used, must be of canvas and harmonious with the exterior color palette. Metal awnings will be considered based on the architecture of the home or structure.

## **21 - Sundecks**

Roof decks are prohibited. Patio decks extending into Common Slope areas are prohibited.

# **Part IV - Landscape Design Guidelines**

It is the intent of these guidelines to promote a community character of elegance and refinement with an element reminiscent of California's more established coastal residential communities. The following information is intended to guide the homeowner and their consultants in plan submittal and structuring of their individual landscape to achieve these community goals.

## **1 - Hardscape**

Hardscape includes all exterior paved surfaces such as steps, driveways, patios, decks, and walkways, and shall comply with the following standards:

1. Excessive hardscape areas, including large expanses of paving such as driveways should be divided with banding or sections of masonry or paved units, contrasting concrete bands, or other appropriate means.
2. Access to allowable side yard storage is to be reinforced turf or a combination of paving materials and ground cover to avoid excessive hardscape areas.
3. All hardscape materials should compliment the architectural design and surrounding landscape.
4. Gravel in front yard areas is prohibited except as may be deemed appropriate by the Architectural Committee.
5. AC (Asphalt) paving for any use is prohibited

## **2 - Driveways and Walkways**

Driveways and walkways must conform to the regulations of the City of Dana Point. Homeowners should use paved, scored, or textured concrete in combination to soften the monolithic look of concrete driveways and walkways.

## **3 - Artificial and Natural Turf**

Artificial turf will be reviewed based on the merits of the turf quality and overall design placement in the landscape design. The extensive use of turf, artificial or natural, is discouraged.

## **4 - Fire Pits and Exterior Fireplaces**

Fire pits and fireplaces are to be set back the required distance as noted in the "Minimum Setback" section of the Guideline. Fire pits and exterior fireplaces are to be gas-burning only, and must comply with City code requirements.

## **5 - Flagpoles and Banners**

Flagpoles and banners shall be approved by the committee with the following considerations:

1. Placement in rear yards only.

**CITY OF DANA POINT**  
**BEST MANAGEMENT PRACTICES (BMPs) FOR CONSTRUCTION SITES**  
**MEJORES PRACTICAS DE MANTENIMIENTO EN AREAS DE CONSTRUCCION**

Date: 2-10-15, Address: 3241 VIA ANTIBES, Owner: J.F. JOMPHE

- PROVIDE EFFECTIVE PERIMETER SEDIMENT CONTROL MEASURES. PROPORCIONE MEDIDAS DE CONTROL DE EROSION PARA TODA LA AREA DE TRABAJO.
- PROVIDE A WATER REPELLANT COVER (PLASTIC SHEETING) FOR STOCKPILES. PROPORCIONE BARRERAS DE NECHASO DE AGUA (SABANAS DE PLASTICO) QUE CUBRAN LA RESERVA DE TIERRA.
- PROVIDE EFFECTIVE INLET PROTECTION FOR THE DOWNSTREAM STORM DRAIN. PROPORCIONE PROTECCION PARA LA CORRIENTE DE AGUA QUE CORRE ABAJO DEL DRENAJE.
- PROVIDE EFFECTIVE TRACKING CONTROLS (SHAKER PLATE AND/OR GRAVEL) AT JOB SITE ENTRANCE TO PREVENT TRACKING MUD AND DEBRIS INTO THE STREET. PROPORCIONE UN PLATO ALTAZADOR EN LA ENTRADA A LA AREA DE TRABAJO PARA PREVENIR EL TRAZO DE CONSTRUCCION QUE LLEVE LODO Y DEBRIS A LAS CALLES.
- NO STREET WASH-DOWN IS ALLOWED. CONSTRUCTION MATERIALS SHALL NOT BE WASHED DOWN OR SWEEP INTO STREET. SWEEP THE STREET WHEN REQUIRED. NO SEPERMITE LAVADO DE CALLES, EQUIPO DE CONSTRUCCION Y MATERIALES QUE SEAN BARRIDOS A LA CALLE Y DRENAJES (si se le debe cuando sea necesario).
- PROVIDE CONSTRUCTION DEBRIS DUMPSTER. JOB SITE MUST BE KEPT CLEAN. PONGA DEBRIS DE CONSTRUCCION Y LIMPIEZA EN EL BOTE APROPIADO PARA EL DESHECHO (Mantenga su area de trabajo limpia para prevenir la acumulacion de desechos en la calle).
- PROVIDE A CONTAINED/WATERPROOF CONSTRUCTION WASH-OUT AREA. (Wash out area for concrete and masonry mixer chert up. Do not wash out any materials into ditches.) PROPORCIONE MEDIDAS DE PREVENCCION Y RETENIMIENTO DE DESHECHO DE AGUA DE CONSTRUCCION (lavado de concreto y mortero de cemento). No arroje el concreto, calizas, arena, mortero, o cualquier otro material a la calle.
- OBTAIN AN ENCROACHMENT PERMIT FROM CITY PUBLIC WORKS DEPT. (949-349-3508) OBTENGA PERMISO DE USO O REPARACION EN CURBAS Y COLADERAS REQUERIDAS POR (SERVICIOS PUBLICOS)
- DO NOT STORE CONSTRUCTION MATERIALS IN PUBLIC RIGHT OF WAY. NO PONGA MATERIAL DE CONSTRUCCION EN VIAS.
- PREVENT LANDSCAPE OVER-WATERING RUNOFF. PREVENGA USAR MUCHA AGUA EN LA JARDINERIA.
- LOCATE PORTABLE TOILET ON PRIVATE PROPERTY. BANOS PORTATILES SON REQUERIDOS SER PUESTOS EN PROPIEDAD PRIVADA.

Failure to comply with the above measures may result in a Stop Work Notice or Citation up to \$1,000. Faltas de cumplir con las medidas requeridas resultan en Orden de Pazo de Trabajo, Cita, y/o Multa.

VERBAL WARNING  NOTICE OF NONCOMPLIANCE  STOP WORK  \$5 FINE TO FOLLOW

The above BMPs shall be implemented by: \_\_\_\_\_ Inspector: \_\_\_\_\_

2013 Triennial Edition of California Code of Regulations (CCR), Title 24  
 The 2013 triennial edition of the California Code of Regulations, Title 24 (California Building Standards Code) applies to all occupancies that applied for a building permit on or after January 1, 2014, and remains in effect until the effective date of the 2016 triennial edition which will be January 1, 2017. The California Building Standards Commission website at <http://www.ca.gov/codes.aspx> has links to where the codes can be viewed online as well as information on where the codes can be purchased. Parts 6, 11, and 12 can be directly downloaded for free.

There are 12 parts to Title 24 and the applicable parts for most Building Division permit applications are listed below.

- Part 2: The 2013 California Building Code (CBC).
- Part 2.5: The 2013 California Residential Code (CRC).
- Part 3: The 2013 California Electrical Code (CEC).
- Part 4: The 2013 California Mechanical Code (CMC).
- Part 5: The 2013 California Plumbing Code (CPC).
- Part 6: The 2013 California Energy Code

The 2013 CA Energy Code is based on the 2013 Building Energy Efficiency Standards, please visit the California Energy Commission website at <http://www.energy.ca.gov/title24/2013standards/> where additional information can be found and Compliance manuals can be downloaded for free. Also check [www.EnergyCodeAcad.com](http://www.EnergyCodeAcad.com) for helpful information on how to meet the requirements of Title 24, Part 6.

- Part 9: The 2013 California Fire Code (CFC).
- Part 11: The 2013 California Green Building Standards Code (CALGreen Code) This Part is known as the California Green Building Standards Code, and it is intended that it shall also be known as the CALGreen Code.

RECEIVED  
 SEP 21 2015  
 CITY OF DANA POINT  
 COMMUNITY DEVELOPMENT  
 DEPARTMENT

SHEET SCHEDULE	
1	SITE PLAN
2	FLOOR PLAN ELEVATIONS FRONT & REAR
3	ELEVATIONS LEFT & RIGHT SIDED SECTION
4	SPIRAL STAIR ECT EMT.
5	CALIF GREEN CODE EMT.
6	

W.C. Designs  
 P.O. Box 230625  
 Escondido, CA 92025-0625  
 Phone/Fax: (760) 654-5464

DESIGNER: W.C. DESIGNS 760 654 5464  
 STREET ENG: PAUL VERPLANK 760 655 8309  
 SOILS ENG: COLEMAN GEOTECHNICAL 949 612 2582

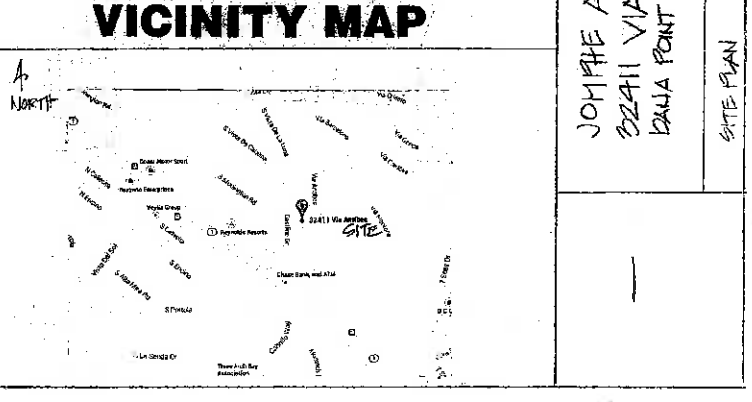
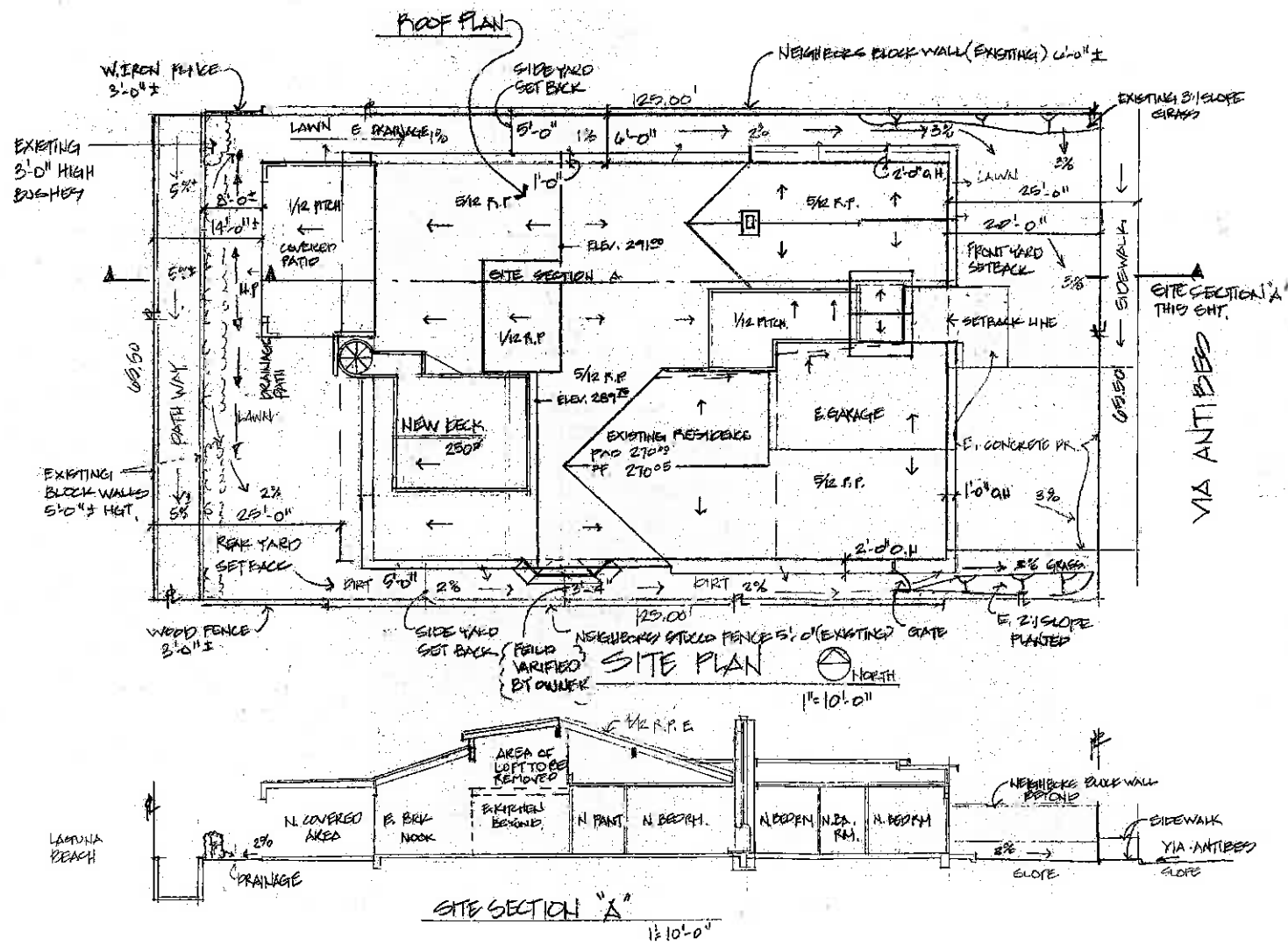
DATE: 4-25-15 SUBMITAL  
 5-20-15 RESUBMITAL  
 7-7-15 RESUBMITAL

**PROJECT DATA:**

OWNER: J.F. JOMPHE  
 SITE ADDRESS: 3241 VIA ANTIBES  
 A.P.N. 607-071-12  
 LEGAL DESCRIPTION:  
 \* LOT 64 TRACT NO. 4516 PER MAP RECORDED IN BK 376 PG 30-34, DANA POINT  
 TYPE OF CONDT V-D / OCC. R 3  
 VERY HIGH FIRE HAZARD ZONING 301 E

ZONING: RPF 7 HEIGHT LIMIT:  
 SQUARE FOOTAGE: EXISTING LIVING SQ FT: 2074 SF  
 EXISTING GARAGE SQ FT: 667 SF  
 \*NEW DECK: 90 PFT. 250 SF \*  
 \* ROOF AREA 3676 SF X .25 = 919 SF  
 250 SF UNDER THE STORY BELOW. TOTAL DECK SQ. FT.  
 LOT COVERAGE 40% OR 4912 SF  
 LOT SIZE 65.50 X 125.00 = 8187 SF  
 SCOPE OF WORK  
 NEW DECK & STAIRS & SCREENING WALL  
 TOTAL SQ FT: 3676 ÷ 8187 = 45% LOT COVERAGE.

SETBACKS:  
 FRONT: 20'  
 STREET SIDE: 20'  
 SIDE: 5'  
 REAR: 25'  
 LANDSCAPE REQ. 25%

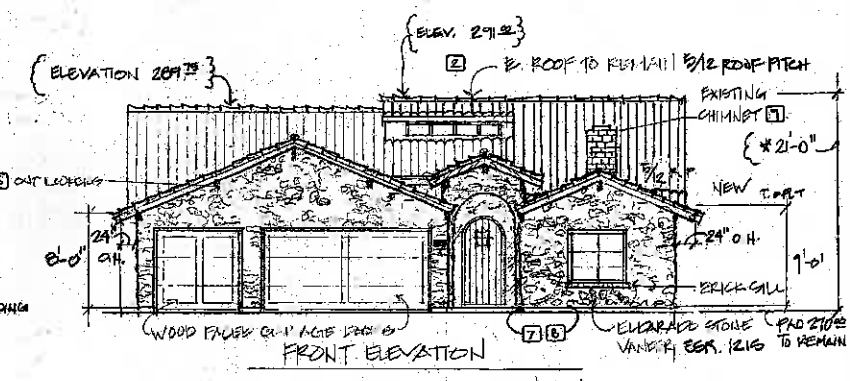
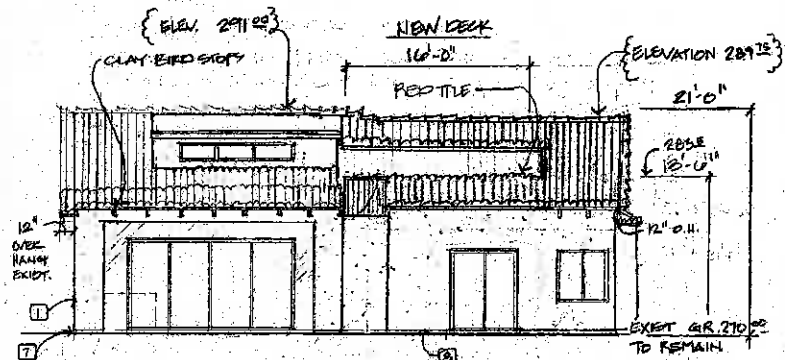
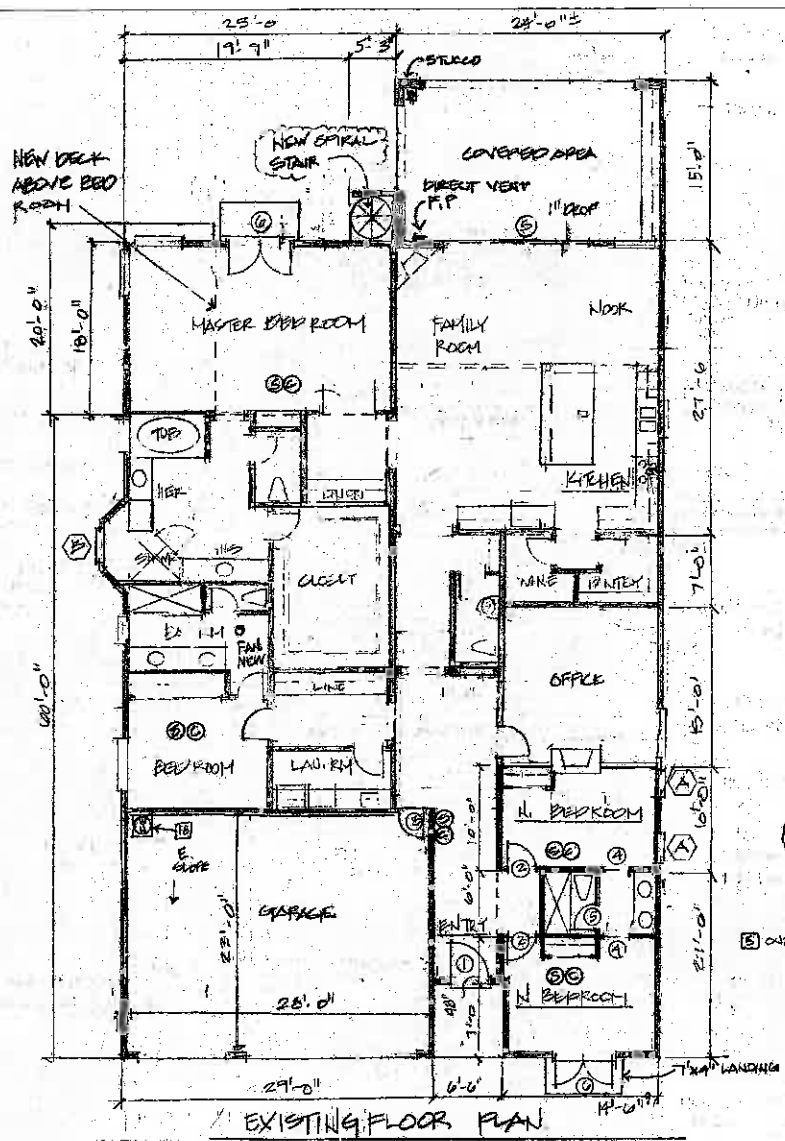
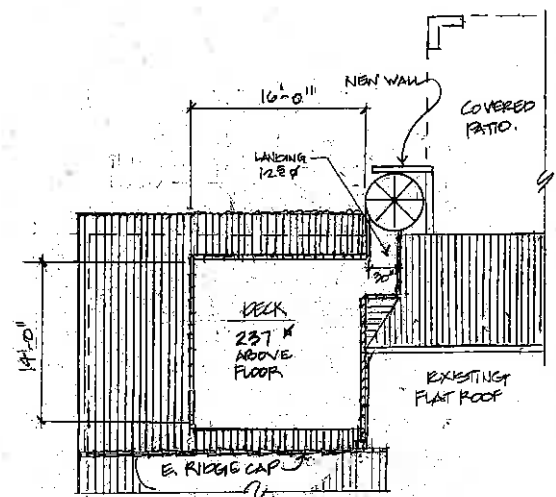


JOMPHE ADDITION  
 3241 VIA ANTIBES  
 DANA POINT CA  
 SITE PLAN





- ELEVATION NOTES (NOTED ON ELEV.)**
- 1 7/8" STUCCO SAND FLOAT FINISH
  - 2 PIECE MUD-SET CLAY TILE OVER 40# FELT, 1000 = 250# 1489 (OR 4900) (3/8" TILE)
  - EXPOSED RAFTER TAILS PER ROOF FRAMING PLAN
  - EXPOSED BARGE RAFTER PER ROOF FRAMING PLAN
  - EXPOSED ROOF LOCKOUT PER ROOF FRAMING PLAN
  - STUCCO-SAVE PER DETAIL
  - 2 4" MINIMUM FINISH GRADE TO FINISH GRADE, TYPICAL
  - PROVIDE WEEP SCREED & MUDSILL, TYPICAL
  - PROVIDE 2" - 0" MINIMUM CLEARANCE FOR A 10' - 0" RADIUS ABOUT CHIMNEY. *SEE APPROVED SPEC. A.W. FRISBEE & SONS (OR 210000A)*
  - 18 NON-STRUCTURAL C.D.I. COLUMN OR TRIM.



J.F. JOMPHE ADDITION  
 3241 VIA ANTIQUES  
 DANA POINT CA 92626  
 SHEET # 11 FLOOR PLAN - 11/16/04

