

Santa Barbara County Board of Supervisors

**Santa Barbara Ranch
Notice of Compliance
February 7, 2012**



RECOMMENDED ACTIONS

- Receive a written request from SBRHC, Inc. for a Notice of Compliance concerning the Inland Development Agreement for Santa Barbara Ranch.
- Authorize the Chair of the Board to Execute and Deliver the staff-prepared Notice of Compliance (Attachment 3)
- Find that CEQA is satisfied for the action through CEQA Section 15162(a), relying on the Santa Barbara Ranch EIR.

BACKGROUND

- Santa Barbara Ranch Project approved by BOS October 21 and December 9, 2008.
 - Included approval of two separate Development Agreements, one Coastal and one Inland
- Coastal Development Agreement rescinded by BOS on November 9, 2009.
- Naples Coalition, Environmental Defense Center and Surfriders Foundation filed suit on November 20, 2008 challenging County's certification of EIR and approval of project.

BACKGROUND

- In May 2010, First Bank foreclosed on part or all of the Inland Project property and transferred its interests to SBRHC, Inc.
- On February 1, 2011, BOS heard request from First Bank, SBRHC, Inc., and the original developers to acknowledge Developer's performance is extended throughout the period of litigation and to receive and file staff's compliance report; matter was continued to April 5, 2011 and then to May 17, 2011 where the item was withdrawn.

CURRENT REQUEST

- On January 3, 2012, SBRHC, Inc. requested:
 - Notice of Compliance
 - Consent to a proposed transfer agreement
- On January 20, 2012, request for transfer agreement verbally withdrawn; written confirmation of withdrawal received January 23, 2012.
- Approval of a Notice of Compliance must be delivered within 45 days of the request, or conclusive presumption that the Inland Development Agreement remains in effect except as represented to be modified by SBRHC, Inc.

ANALYSIS OF NOTICE OF COMPLIANCE

- Notice of Compliance provided for in Section 8.04 of the Inland Development Agreement, to include:
 - Agreement is unmodified and in full force; if modified, stating the date and nature of modifications.
 - No current uncured defaults, or specifying the date and nature of defaults.
 - Any other information reasonably requested by Developer.
 - P&D Director Authorized to execute Notice of Compliance;
 - Developer to pay for reasonable costs.

ANALYSIS OF NOTICE OF COMPLIANCE

- Developer asserts time to perform automatically extended throughout time of *Naples* litigation.
 - Section 10.06 of the Inland Development Agreement states litigation shall be deemed to create a reasonable delay.
- Litigation attacking the Inland Development agreement and inland project approvals has been in place continuously since November 2008.
- Staff-prepared Notice of Compliance certifies that Developer's performance extended until conclusion of *Naples Coalition* litigation.

ANALYSIS OF NOTICE OF COMPLIANCE

- SBRHC, Inc. draft Notice of Compliance includes three modifications:
 - SBRHC, Inc. is and shall be the Developer under the Inland Development Agreement.
 - SBRHC, Inc. has and shall have all the rights of Developer under the Inland Development Agreement.
 - SBRHC, Inc. shall be obligated to perform all obligations of the Developer under the Inland Development Agreement and Inland Project Approvals.

ANALYSIS OF NOTICE OF COMPLIANCE

- Staff recommends the BOS not certify at this time these modifications to the Inland Development Agreement in the Notice of Compliance due to ongoing quiet title litigation

NEXT STEPS

- Expect request for BOS to consent to a proposed transfer agreement for consideration by BOS on March 20, 2012.

RECOMMENDED ACTIONS

- Receive a written request from SBHRC, Inc. for a Notice of Compliance concerning the Inland Development Agreement.
- Authorize the Chair of the Board to Execute and Deliver the staff prepared Notice of Compliance (Attachment 3)
- Find that CEQA is satisfied for the action through CEQA Section 15162(a), relying on the Santa Barbara Ranch EIR.