Via Certified and Regular Mail  
and Email and Facsimile  

August 13, 2019  

Logado Companies  
c/o Edward M. Czucker  
121 S. Beverly Drive  
Beverly Hills, CA 90212  
Certified Mail No. 70011940000205439555  

Subject: Notice Prior to Issuance of Executive Director Cease and Desist Order for Violation No. V-5-19-0119 and Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings and Administrative Civil Penalty Proceedings  

Location: 6819 Pacific Ave., Playa Del Rey, Los Angeles APN’s (4116-003-001 and 4116-003-006) and potentially land located seaward of these properties  

Violation Description: Unpermitted grading and removal of major vegetation, which had the effect of impacting an Environmentally Sensitive Habitat Area; and undertaking of activities that blocked or impacted public access.  

Dear Mr. Czucker:  

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission (“Commission”) to: 1) issue an Executive Director Cease and Desist Order (“EDCDO”) directing you to cease and desist from conducting any further unpermitted development including but not limited to: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, or (c) blocking or impeding public access to or along the beach, on property located at and potentially seaward of 6819 Pacific Ave. (“Property”); 2) commence proceedings for issuance by the Commission of Cease and Desist and Restoration Orders to direct you to cease and desist from undertaking further unpermitted development and to undertake restoration and mitigation efforts on the Property, and 3) commence proceedings for Administrative Civil Penalties pursuant to Section 30821 of the Coastal Act.  

The unpermitted development includes: (a) grading beyond any remedial measures required by this EDCDO or other Order issued by the Commission or government agency having jurisdiction
in this matter, (b) removing major vegetation, as that term is defined in the Coastal Act, and (c) blocking or impeding public access to or along the beach (see below for more details).

**History of Violation Investigation**

Commission staff was alerted to the unpermitted development over the weekend of August 10-11, 2019, through news outlets, posts from City of Los Angeles Councilmember Mike Bonin’s office, and by members of the public. My staff has since confirmed that unpermitted development occurred on your property and that heavy construction equipment, including front loaders and a bulldozer, were used to break the dunes located on your property apart and grade the dunes flat, and in doing so, removed sensitive dune habitat, which is considered an environmentally sensitive habitat area or “ESHA,” and adversely impacted public access to the coast.

Coastal dune habitat is extremely rare in southern California and southern for dune habitat, as is the case here, has been consistently categorized as ESHA by the Commission. The Commission’s responsibility to protect those remaining coastal dunes, in this case the Play Del Rey dune complex, is established by the habitat protection policies of the Coastal Act.

Article 5 Section 30240 of the Coastal Act’s Coastal Resource Planning and Management Policies provide for the protection of ESHA:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The scenic and visual qualities of beaches are also protected under Section 30251 of the Coastal Act, which deems public coastal views to be a “resource of public importance.” Natural landforms—such as undeveloped, sandy beaches and dunes—are components of the area’s scenic qualities and are likewise protected by Section 30251.

We are aware that representative’s from Councilmember Bonin’s office told your construction crew to stop work on Friday August 9, 2019, and you did, but then early in the morning the next day on Saturday August 10, 2019, grading of the dunes with large mechanized equipment recommenced, even after being instructed to stop, which caused even more damage to the above-described dune ESHA on the Property.

**Executive Director Cease and Desist Order**
Section 30809 of the Coastal Act authorizes the Executive Director to issue an order directing a person to cease and desist if that person has undertaken, or threatened to undertake, any activity that may require a permit without securing a permit or may be inconsistent with any permit previously issued by the Commission. The unpermitted activities, including the grading of the Property, removing Major Vegetation from the Property, and conducting activities that impacts coastal access each constitute development that requires a coastal development permit (“CDP”). No CDP has been issued by the Commission for the above-described development activities. Therefore, the unpermitted development is unpermitted and constitutes a violation of the Coastal Act.

Section 30809(b) of the Coastal Act states that an Executive Director Cease and Desist Order can be issued:

If the person or agency has failed to respond in a satisfactory manner to an oral notice given in person or by telephone, followed by a written confirmation, or a written notice given by certified mail or hand delivered to the landowner or the person performing the activity.

Section 13180(a) of the Commission’s regulations (Title 14, Division 5.5 of the California Code of Regulations (CCR)) defines the term “satisfactory manner” as that term is used in Section 30809(b) as being, in part, “a response which is made in the manner and within the timeframe specified in the notice.” Therefore, to prevent the issuance of the Executive Director Cease and Desist Order to you, you must provide a response that satisfies the standards of sections 13180(a)(2)(B) and (C) of the Commission’s regulations. If you do not comply with these requirements, an EDCDO will be issued to you, the violation of which could subject you to additional penalties. This response should include:

1. Agreement to immediately and completely cease and desist from performing any unpermitted development on the Property, including, but not limited to, grading, removal of major vegetation, placement of fill, or blocking or impeding public access to and along the beach, unless authorized by the Commission through a CDP or an Order issued by the Executive Director or the Commission.

2. By 11:00 am, August 13, 2019, confirm that all such activities have indeed ceased, and commit to perform no further unpermitted development. This confirmation should be provided by telephone to Jordan Sanchez at (562) 590-5071 and followed by a written confirmation emailed to Jordan.Sanchez@coastal.ca.gov.

3. By 1:00 pm, August 13, 2019, submit:

   A. Two copies, prepared by a coastal engineer or other specialist qualified to prepare such plans acceptable to the Executive Director, of an interim erosion control plan to address impacts caused by the unpermitted development. Such interim measures shall ensure that no further impacts will occur on the Property. Measures shall include, but are not limited to: 1) install straw plugs in the impacted area, 2) lay...
sterile straw down over the impacted area, and 3) spread the sand into the impacted area.

B. Two copies of a plan for 1) interim signage indicating that the area is ESHA and is subject to restoration, including a proposal for both text and location, and 2) a proposal for interim exclusion fencing to prevent additional harm and as an interim measure prior to the restoration work.

C. A detailed work schedule for all activities list above.

The Executive Director Cease and Desist Order may be subject to such terms and conditions as the Executive Director may determine are necessary to avoid irreparable injury to any area within the jurisdiction of the Commission pending action by the Commission under Section 30810 and 30811 of the Coastal Act (which grants the Commission the authority to issue Cease and Desist and Restoration Orders). The Executive Director Cease and Desist Order shall be effective upon its issuance.

**Notice of Intent to Commence Commission Cease and Desist and Restoration Order and Administrative Civil Penalty Proceedings**

I am also notifying you of my intent to commence proceedings for issuance by the Commission of a Cease and Desist and Restoration Order to direct you to cease and desist from undertaking further unpermitted development on the Property and to restore the Property and to mitigate for temporal losses of habitat caused by the unpermitted development. I am also notifying you of my intent to commence proceedings for imposition by the Commission of Administrative Civil Penalties for violations of the public access provisions of the Coastal Act.

**Cease and Desist Order**

The Commission’s authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

*If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.*

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings to require you to cease and desist from conducting any further unpermitted development and to take actions to ensure compliance with the Coastal Act. The Property where the unpermitted development occurred is located in Playa Del Rey within the City of Los Angeles. The Property is comprised of sandy beach and southern California foredune habitat.
Section 30600(a) of the Coastal Act states that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. “Development” is defined by Section 30106 of the Coastal Act as follows:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land…change in the intensity of use of water, or of access thereto…and the removal or harvesting of major vegetation other than for agricultural purposes…

The unpermitted development clearly constitutes “development” within the meaning of the above-quoted definition and therefore is subject to the permit requirement of section 30600(a). A CDP was not issued to authorize the subject unpermitted development.

For these reasons, the criterion of Section 30810(a) of the Coastal Act has been met and I am sending this letter to initiate proceedings for the Commission to determine whether to issue a Cease and Desist Order.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, including removal of any unpermitted development or material.

**Restoration Order**

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

Pursuant to Section 13191 of the Commission’s regulations, I have determined that the specified activities meet the criteria of Section 30811 of the Coastal Act, based on the following:

1) Unpermitted development as listed above has occurred on the Property.

2) This development is inconsistent with numerous resource protection policies of the Coastal Act, including, but not limited to the following:

   a) Section 30240 (environmentally sensitive habitat areas or ESHA),
   b) Section 30251 (scenic and visual qualities), and
c) Section 30211 (public access)

3) The unpermitted development is causing continuing resource damage, as defined by Section 13190 of the Commission’s regulations. The unpermitted development has impacted the resources listed in the previous paragraph (item number two). Such impacts meet the definition of damage provided in Section 13190(b): “any degradation or other reduction in quality, abundance, or other quantitative or qualitative characteristic of the resource as compared to the condition the resource was in before it was disturbed by unpermitted development.” The existence of the unpermitted development will lead to adverse impacts to this area of Playa Del Rey, including the disruption of sensitive habitat, and effects to the scenic qualities of and public access in this area.

In addition, the continuation of the unpermitted development, as listed above, will create further adverse impacts to the scenic and visual qualities of this natural area, ESHA, and would create and/or contribute to erosion of the site and adjacent areas and cause degradation of the remaining undisturbed dune ESHA. The impacts from the unpermitted development continue to exist at the Property; therefore, the damage to resources protected by the Coastal Act is continuing.

For the reasons stated above, I have decided to commence proceedings for a Restoration Order before the Commission in order to restore the Property.

The procedures for the issuance of Restoration Orders are described in Sections 13190 through 13197 of the Commission’s regulations.

Administrative Civil Penalties, Civil Liability, and Exemplary Damages

This area of Playa del Rey is a heavily used beach by a wide variety of people from all races, cultures, and incomes. The public has, for years, walked through or near the Property to access the beach, and the use of large mechanized equipment to grade this portion of the sandy beach and dunes created a deterrence to reach this portion of the beach. Under Section 30821 of the Coastal Act, in cases involving violations of the public access provisions of the Coastal Act, the Commission is authorized to impose administrative civil penalties by a majority vote of the Commissioners present at a public hearing. In this case, violations of the public access provisions of the Coastal Act have occurred; and therefore, the criteria of Section 30821 have been satisfied. The penalties imposed may be in an amount up to $11,250, for each violation, for each day each violation has persisted or is persisting, for up to five (5) years. In addition, the 30 day time period to correct a violation that is allowed under the statute does not apply in this case. If a person fails to pay an administrative penalty imposed by the Commission, under 30821(e) the Commission may record a lien on that person’s property in the amount of the assessed penalty. This lien shall be equal in force, effect, and priority to a judgment lien.

Further, you should be aware that Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation
of the Coastal Act. Section 30820(a)(1) provides that any person who undertakes development in violation of the Coastal Act may be subject to a penalty amount that shall not exceed $30,000 and shall not be less than $500 per violation. Section 30820(b) states that, in addition to any other penalties, any person who “knowingly and intentionally” performs or undertakes any development in violation of the Coastal Act can be subject to a civil penalty of not less than $1,000 nor more than $15,000 per violation for each day in which each violation persists.

Finally, Section 30812 authorizes the Executive Director to record a Notice of Violation against any property determined to have been developed in violation of the Coastal Act. If the Executive Director chooses to pursue that course, you will first be given notice of the Executive Director's intent to record such a notice. If a notice of violation is ultimately recorded against your property, it will serve as notice of the violation to all successors in interest in that property.

Response Procedure

In accordance with Sections 13181(a) and 13191 of the Commission’s regulations, you have the opportunity to respond to the Commission staff’s allegations as set forth in this notice of intent to commence Cease and Desist and Restoration Order and Administrative Penalty proceedings by completing the enclosed statement of defense (“SOD”) form. The SOD form would be directed to the attention of Aaron McLendon, at 300 E Ocean Blvd., Suite 300, Long Beach, CA 90802, not later than September 2, 2019.

However, should this matter be resolved via consent orders, an SOD form would not be necessary. In any case and in the interim, staff would be happy to accept any information you wish to share regarding this matter and staff can extend deadlines for submittal of the SOD form to specifically allow additional time to discuss terms of consent orders and to resolve this matter amicably. Commission staff currently intends to schedule the hearings for the Cease and Desist and Restoration Order and Administrative Penalty action for either the Commission’s October or November 2019 hearing.

Resolution

This is a very serious violation of the Coastal Act and we hope that we are able to address this matter consensually without the need for costly and time consuming litigation. One option you may wish to pursue is to resolve these issues amicably through the consent order process. Such a process provides an opportunity to resolve these issues through mutual agreement. While requiring compliance with the Coastal Act, Consent Orders give you additional input into the process and could potentially allow you to negotiate a penalty amount with the Commission staff.

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1 Even without such notice, by law, while liability for Coastal Act violations attaches to the person or persons originally responsible for said violations (and continues to do so even if they no longer own the property), liability additionally attaches to whomsoever owns the property upon which a Coastal Act violation persists (see Leslie Salt Co. v. San Francisco Bay Conservation and Development Com. [1984], 153 Cal. App.3d 605, 622). Therefore, any new owner(s) of the property will share liability for, and the duty to correct, any remaining violations. Under California Real Estate law, if you plan to sell the property, it is incumbent upon you to inform any potential new owner(s) of same.
to resolve your civil liabilities. Consent Orders would provide for a permanent resolution of this matter and thereby resolve the complete violation without any further formal legal action. We are hopeful that we can find a mutually agreeable resolution to resolve this matter.

Another benefit of Consent Orders that you should consider is that in a Consent Order proceeding, Commission staff will be presenting and recommending approval of an agreement between you and staff rather than addressing the violations through a contested hearing. Alternatively, if we are not able to reach a consensual resolution, we will need to proceed with a unilateral order at the next available hearing. Again, should we settle this matter, you do not need to expend the time and resources to fill out and return the SOD form mentioned above in this letter.

If you have any questions regarding this letter or the enforcement case, please call Jordan Sanchez at (562) 590-5071 or Aaron McLendon at (562) 590-5071.

Sincerely,

[Signature]

John Ainsworth
Executive Director

cc: Lisa Haage, Chief of Enforcement (w/o Encl)
    Aaron McLendon, Deputy Chief of Enforcement (w/o Encl)
    Alex Helperin, Acting Deputy Chief Counsel (w/o Encl)
    Andrew Willis, Southern California Enforcement Supervisor (w/o Encl)
    Rob Moddelmog, Statewide Enforcement Analyst (w/o Encl)
    Matt Tecle, Field Deputy, Council District 11 (w/o Encl)
    Pascal Challita, Asst. Bureau Chief, LADBS (w/o Encl)
    Ben Reznick (w/o Encl)
    Susan McCabe (w/o Encl)

Encl: Statement of Defense Form