

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2 219
VOICE (415) 904-5 200
FAX (4 15) 904-5 400
TDD (415) 597-5885

**SENT BY REGULAR AND CERTIFIED MAIL**

April 25, 2014

A&G LLC
370 Convention Way
Redwood City, CA 94063-1405
ATTN: Hamid Rafiei
Certification No. 7006 2760 0005 5883 6481

Michael McCracken, Esq.
870 Mitten Road
Burlingame, CA 94010-1304
Certification No. 7006 2760 0005 5883 6474

Violation File: V-2-11-008 (La Costanera)

Location: 8150 Cabrillo Highway, Montara, San Mateo County (APNs 036-046-050, 035-046-400, 036-046-380, 036-046-390, and 036-046-310)

Dear Mr. Rafiei and Mr. McCracken:

I am writing once again concerning the ongoing alleged Coastal Act violations occurring at the La Costanera restaurant site at 8150 Cabrillo Highway in Montara, which previously consisted of the unpermitted construction of two patios and addition of restaurant seating thereto; unpermitted erection of rope lights and spotlights; unpermitted installation of signs limiting public parking at the site; and unpermitted expansion of operating hours of the bar and restaurant. More recently, it has come to our attention that unpermitted "A-Frame" signs and banners have been erected at the site, and that there has been unpermitted painting of the restaurant.

The Coastal Commission ("Commission") continues to be very concerned about the ongoing, unresolved nature of Coastal Act violations at La Costanera, some of which have persisted for

several years. Commission staff has repeatedly expressed these concerns in multiple letters to you dated April 25, 2011; November 30, 2011; March 12, 2012; December 5, 2012; and June 21, 2013, and by telephone with one or both of you on several occasions.

Alleged Coastal Act Violations

For purposes of clarity, I will discuss each of the alleged Coastal Act violations separately.

- 1. Unpermitted lights.** In our past correspondence, we have cited the presence of two types of unpermitted lighting systems: rope lights strung along the rooftop of the restaurant; and several large spotlights installed on the restaurant pointed to shine on the parking lot, Montara State Beach, and the adjacent ocean. We confirmed in our letter of June 24, 2013 that one of the two lighting system violations appears to have been finally resolved: the rope lights appear to have been removed. Unpermitted spotlights were initially installed in 2010; after repeated requests by us and in response to a petition circulated by the public, the unpermitted spotlights were removed in June of 2013. We note that spotlights were again temporarily erected without appropriate permits in October of 2013 for a wedding but were removed about a week later. Currently we are unaware of any exterior lighting system in existence at the restaurant; however, please note that while your current incomplete Coastal Development Permit ("CDP") application includes a request for new outdoor lighting, unless and until such a request is authorized by the Commission, no new outdoor lighting is allowed.
- 2. Unpermitted restaurant and bar use prior to 5:00 p.m.** As we have reminded your client on numerous occasions (via written and verbal communication), pursuant to CDP No. P-77-579 ("the Permit") and the County's Use Permit, the restaurant and bar may not be open for business prior to 5:00 p.m. In his letter of February 10, 2013, Mr. McCracken asserted that this issue is "currently being addressed and corrected," but it has come to our attention that, at least on Sundays, the bar has been opening at 4:00 p.m. and the main dining room has been opening at 4:30 p.m., which is not consistent with the requirements of the Permit and the County's Use Permit, constituting yet another Coastal Act violation.
- 3. Unpermitted construction of a patio and addition of patio seating.** Without benefit of a CDP amendment from the Commission, two new patios were constructed; these patios now provide additional seating not contemplated or approved by the Permit. This constitutes a violation of the terms and conditions of the Permit, and, therefore, of the Coastal Act. Although the County may have issued a building and/or coastal permit for the patios, no CDP amendment was authorized by the Commission for these patios. Unless and until a CDP amendment authorizes these patios and the additional seating they afford, use of the patios constitutes an ongoing Permit violation. During various site visits, I have noted customer seating on at least one of the two new patios.

4. **Unpermitted Signage.** In the past, your client placed No Trespassing signs in the parking lot; in response to our previous enforcement letters and phone calls, these were eventually removed. Then, Commission staff became aware that three new signs had been installed: one at each entrance to the main restaurant parking lot, and one at the entrance to the unpaved overflow parking lot owned by State Parks located just north of and adjacent to the restaurant site. Mr. Raffiei sent me an email dated April 30, 2013, stating that he did not know who placed the signs and that he would look into it. I was notified by a local resident that the signs were removed on or about May 9, 2013.

Despite our previous correspondence and action on unpermitted signage, it has come to our attention that your client has recently installed some new "A-frame" signs and banners on the site. As we have stated previously, these signs and banners are not permitted, and, therefore, constitute a Coastal Act violation.

5. **Exterior Painting of the Restaurant.** The Permit required the submittal to staff of material samples and colors to ensure that the permitted restaurant would be visually compatible with the highly scenic character of the area and would enhance visual quality. In addition, the project site is located in a Design Review District and in the County's Scenic Corridor. The County's Community Design Manual encourages the use of colors that are non-reflective, earth-toned, and blend in with the natural setting and neighborhood. It has come to our attention that portions of the exterior of the restaurant have been painted bright white without consulting with the County or the Commission.

Coastal Act Violation Resolution

Please take the following steps:

1. Confirm in writing to me by **June 2, 2014** that neither the bar nor the restaurant is open for business or serving drinks prior to 5:00 p.m.
2. We are aware that there is a pending incomplete CDP amendment application being held by our North Central District office through which your client is seeking authorization for outdoor lighting and for after-the-fact authorization for the unpermitted patios and additional patio seating. If all requisite information is provided to complete this application, and if it is approved by the Commission, this CDP could resolve the many Coastal Act violations at La Costanera. Please note, however, that if the unpermitted patios and additional patio seating are not approved by the Commission, the patios will have to be removed, and removal may require a CDP from the County. Please also note that your CDP amendment application was first submitted on December 29, 2011, and while some requested additional materials have been submitted, the application remains incomplete and the Coastal Act violations concerning the unpermitted patios and

A&G LLC
Mr. Hamid Raffiei
Mr. Michael McCracken
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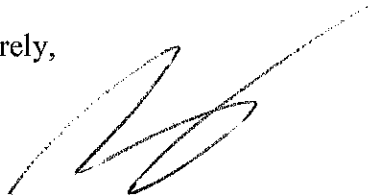
additional patio seating remain unresolved. To rectify this, please submit to Renée Ananda by **June 2, 2014** all materials requested by North Central in Ms. Ananda's letter of December 18, 2013 necessary to complete the CDP application.

3. Please remove all unpermitted "A-frame" signs and banners, and confirm in writing by **June 2, 2014** that this has taken place. Please submit photographic evidence of the removal with the June 2, 2014 letter.
4. Please consult with the County by **June 2, 2014** to obtain approval for the recent exterior painting of the building, and confirm in writing that you have done so. If the County does not approve this exterior painting, the building must be repainted to the County's specifications.

Please note that Enforcement staff cannot predict whether the Commission's Executive Director will accept all aspects of your CDP amendment application as appropriate for filing, and, if that happens, what the staff recommendation will be, or whether the Commission will approve your CDP amendment application.

We remain disappointed that despite your many assurances in the past, these Coastal Act violations persist after more than three years, and newly discovered violations continue to occur. **Failure to meet the deadlines noted above will result in our elevating this violation to our Statewide Enforcement Unit for appropriate formal enforcement action by the Commission.** If you have questions regarding this letter or any enforcement issues, please contact me at **415-904-5269**. If you have questions concerning completion of the CDP amendment application, please contact **Renée Ananda at 415-904-5292**.

Sincerely,



JO GINSBERG
Enforcement Analyst

cc: Farhad Mortazavi
Shu Dai
Renée Ananda, CCC, Permit Analyst
Linda Locklin, CCC, Coastal Access Program Coordinator
Nancy Cave, Manager, CCC North Central District
Heather Johnston, Supervisor, CCC Enforcement Program
Dave Holbrook, San Mateo County Senior Planner
Camille Leung, San Mateo County Planner