

CALIFORNIA COASTAL COMMISSION

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W13 & 14

SECOND ADDENDUM

May 10, 2022

TO: Coastal Commissioners and Interested Parties
FROM: Lisa Haage, Chief of Enforcement
Heather Johnston, Headquarters Enforcement Analyst
Alex Helperin, Assistant General Counsel
Aaron McLendon, Deputy Chief of Enforcement

SUBJECT: ADDENDUM TO ITEMS NO. W13&14 CEASE AND DESIST ORDER NO. CCC-22-CD-02 AND ADMINISTRATIVE PENALTY NO. CCC-22-AP-02 (HEADLAND PROPERTIES ASSOCIATES, LLC) FOR THE COMMISSION MEETING OF MAY 11, 2022

As is explained in greater detail on pages 25-33 of the original (April 28, 2022) staff report, Commission staff has been attempting to work with Headlands since mid-2016; and as early as April of 2018, Mr. Edward Miller signed a certified mail receipt indicating that he had received the Notice of Intent sent to him as a representative of Headlands. Despite that history, staff's numerous efforts to engage with Mr. Miller, including a meeting and a number of actual telephone and email conversations that staff had with him over the period from 2016 to 2022, Mr. Miller provided one of his only substantive response to staff's assertions (other than simply disavowing any interest in the Property) on Monday evening, May 9, 2022, less than 48 hours prior to the Commission hearing on this matter. His response was in the form of a three-paragraph email message (attached hereto).

The first paragraph of Mr. Miller's message includes a number of assertions about the history of the title to the Property, acquisitions of the business entities that held record title to the Property, control of those companies, and general management responsibilities related to the Property. Mr. Miller included no documentation to support any of these claims, and many, if not all, are in direct conflict with documentary evidence included with the staff report or otherwise reviewed by staff. The second paragraph of Mr. Miller's message includes a proposal for resolution of this matter and a request for a postponement of the hearing. Below are responses to some of Mr. Miller's statements.

Commission Staff Responses

1. *“Met Life acquired the Highlands in 1997 thru an acquisition of New England Life Insurance Company. Cal Coast Homes was retained in 1998 as an asset manager and home builder on behalf of Met Life.”*

- a. It is unclear what this is intended to signify; The Highlands is the name of the whole subdivision, most of which is individual, privately owned lots (and has been since prior to 1997), while most of the common areas are owned and operated by various Homeowners’ Associations. In any event, it is unclear how ownership of those areas is relevant. Headlands remains the record owner of some property both inside and outside of the urban limit line (perhaps this is the property to which Mr. Miller is referring), and this included the property at issue in this matter until at least the first tax sale in 2006. It appears from record documents that Headlands is a subsidiary operation of Met Life (Exhibit 12), not a wholly separate entity. Regardless, even assuming arguendo that what Mr. Miller claims is true, by 1997 when the alleged transfer to Met Life occurred, it had already been at least a year-and-a-half since the last grant deed to the City, so Headlands was already failing to pay property taxes on (and thus failing to maintain) the Trailhead Property.

Further, as Headland Properties Inc was listed as a co-applicant on all but one of the CDP amendments for the underlying subdivision-wide CDP from 1980 until 2002, they ostensibly had sufficient control and ownership of the development to obtain and exercise permits benefiting and burdening the subdivision. Moreover, even again assuming that what Mr. Miller claims is veracious, that information is not exculpatory as if Cal Coast Homes/Headlands was indeed an asset manager and home builder on behalf of Met Life that means that they had day to day operational control and oversight over the development.

2. *“That [sic] Met deeded the property to the City of LA in 2001 and as we have stated before Met turned the keys over to LAP&R who maintained the property for 10 years.”*

- a. Commission staff has never seen any evidence of this alleged grant deed. Prior to Mr. Miller’s message, no such deed was ever even mentioned, by either Headlands or the City. Further, it is not clear how Met Life could have deeded it to the City when Headlands deeded it to its own subsidiary nine years later (Exhibit 12). Lastly, by email dated May 9, 2018 (Exhibit 43), Mr. Miller alleged that Met Life deeded the property to the City on February 1, 2000, not in 2001 as he asserts here. In any event, Headlands remained the record owner at least until the first tax sale in 2006.

3. *“I assume that all tax billings went to Met accounting department thru 2011. Headlands LLC was not aware of any tax defaults as it took the county of LA to until 2014 to finally send the statements to the proper address.”*

- a. Not only did the Tax Assessor record a Notice of Power to Sell Tax Defaulted Property against the title of the Trailhead Property in 2005 when Headlands was still record owner, but the Tax Assessor received a signed certified mail receipt from Headlands in 2010 (Exhibit 31, page 3) so Headlands was apparently receiving correspondence from the Tax Assessor contrary to this assertion.
4. *“As for the transfer in 2010 this parcel was one of over a dozen the attorneys and the Title company reviewed and frankly just went unnoticed as it would not be on anyone’s radar because it was believed to have been deeded to the City and they were maintaining it.”*
 - a. See Section H.1.h on page 62 of the Staff Report.
5. *“In 2013 our people only new of the sale when contacted by the County after the sale had been completed. Any dollars received by Headlands was invested into the repair and maintenance of the remaining common area and remaining 262 acres.”*
 - a. How they used funds received from the Trailhead Property is irrelevant to Headlands’ liability for this Coastal Act violation.
6. *“Headlands proposes the following, it would facilitate the recording of the deed to the City of LA, then immediately work with Rec & Parks to evaluate the current status of the property and develop a plan with Rec & Parks to renovate and upgrade the facility. Request a 90-day postponement of the hearing on this matter so we could contact Superintendent Darryl Ford at Los Angeles Dept of Recreation & Parks, to devise a Final plan for their permanent take over of the facility.”*
 - a. Headlands claimed, via email dated September 10, 2020, to be working with Wooster and the City to create a ‘land swap deal’ to resolve the violation; nothing has come of this (nor has there been any evidence that any such coordination has in fact occurred), and it is not clear how allowing additional time would result in a resolution. Headlands has provided almost exclusively brief, non-substantive responses to staff over the course of almost four years – this 11th hour email with a variety of never-before made assertions is not timely, and while it does contain new allegations none of them is relevant to Headlands’ underlying liability for the Coastal Act violations relating to the Trailhead Property. Staff therefore recommends that this matter not be postponed.

W13 & 14

CCC-22-CD-02 & CCC-22-AP-02 (Headland Properties Associates LLC)

May 10, 2022

ATTACHMENT

CORRESPONDENCE FROM EDWARD MILLER

May 9, 2022

Heather, the staff report seems very thorough and give me a lot of history. For background I understand that Met Life acquired the Highlands in 1997 thru an acquisition of New England Life Insurance Company. Cal Coast Homes was retained in 1998 as an asset manager and home builder on behalf of Met Life. That Met deeded the property to the City of LA in 2001 and as we have stated before Met turned the keys over to LAP&R who maintained the property for 10 years. I assume that all tax billings went to Met accounting department thru 2011. Headlands LLC was not aware of any tax defaults as it took the county of LA to until 2014 to finally send the statements to the proper address. As for the transfer in 2010 this parcel was one of over a dozen the attorneys and the Title company reviewed and frankly just went unnoticed as it would not be on anyone's radar because it was believed to have been deeded to the City and they were maintaining it. In 2013 our people only new of the sale when contacted by the County after the sale had been completed. Any dollars received by Headlands was invested into the repair and maintenance of the remaining common area and remaining 262 acres. Unfortunately, in working with Mr. Levey who should have done the proper due diligence and would have seen the deed restrictions and not have acquired the property. In my discussions with him he believed he could develop the property no matter me telling him the lot was not developable due to its public purpose in perpetuity. If it were Met would have sold it for that purpose. After speaking to Mr. Levy's new council, it seems like Mr. Levy maybe willing to deed the property to an entity approved by the Coastal Commission and peruse litigation elsewhere.

Heather, in the spirit of trying to resolve this issue for some time, and now that Mr. Levy maybe willing to release the property. Headlands proposes the following, it would facilitate the recording of the deed to the City of LA, then immediately work with Rec & Parks to evaluate the current status of the property and develop a plan with Rec & Parks to renovate and upgrade the facility. I would request a 90-day postponement of the hearing on this matter so we could contact Superintendent Darryl Ford at Los Angeles Dept of Recreation & Parks, to devise a Final plan for their permanent take over of the facility. Obviously, this would have to be approved by Coastal. Headlands would appreciate Staff and the Commission's approval of this extension. Thank You Ed Miller for Headlands Properties Associates.

Also, I and my family live in the Highlands, I am a long time Board member of the Enclave and have always wanted this issue to be resolved for all of the homeowners and public who use the trails.

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