

R036

Hwang, Don, Env. Health

From: Niu, Tom [Tom.Niu@Grubb-Ellis.com]
Sent: Tuesday, October 03, 2006 2:36 PM
To: Hwang, Don, Env. Health
Cc: Rmoody@pacbell.net; Jchu@prolific-usa.com; Karyn King; jegribi@msn.com; mprado@oaklandnet.com; Drogos, Donna, Env. Health
Subject: RE: Environmental Clearance -- 1035 7th -- Accomodation of deadlines

Attachments: ChiTitLettertoDonHwang10-02-06.pdf; DHwangLetOct3-06.pdf



ChiTitLettertoDonH DHwangLetOct3-06
wang10-02-06... .pdf (458 KB)

Don, as you requested earlier this morning, please find additional documentation for your files in support of this request for closure, consisting of:

1. Letter from escrow company
2. Letter from broker with excerpt of earlier 1988 contract when it appears that tank removal was completed.

The signed letter from California Bank & Trust should be shortly forthcoming to you.

Thx. Tom

Thomas S. Niu
Senior Vice President
Real Estate Advisory Group
Grubb & Ellis Companies
Oakland: 510.444.7500 X689
San Francisco: 415.433.1050 X789
Oakland and SF fax: 415.956.5996
Email: Tom.Niu@grubb-ellis.com



Chicago Title Company

1 Kaiser Plaza, Suite 745, Oakland, CA 94612
510 451-8888 • FAX 510 465-0738

FACSIMILE TRANSMISSION

ATTN: Tom Niu 415-956-5996
Don Hwang

FROM: Chad Wilson
Escrow Officer

DATE: October 3, 2006
NO. OF PAGES: 2 - Including coversheet
ESCROW NO.: 06-58200591-CW
LOCATE NO.: CACTI7701-7701-5582-0058200591
TITLE NO.: 06-58200591-MQ

Property Address: 1035 7th Street, Oakland, CA 94607

NOTE: If there are any questions concerning this transmission please call Chad Wilson at 510-451-8888.

MESSAGE:

Dear Mr. Hwang:

I have been asked to provide to you further documentation in support of the request to facilitate the earliest review of the request for closure made in connection with 1035 7th Street. I am the escrow officer in charge of this particular transaction.

The due diligence period for financing expired some three weeks ago on September 9. I understand that, because of the unexpected difficulties in clarifying the environmental situation at the site (the previous engineer was deceased or unavailable), the buyer and seller agreed to no more than a total of three extensions of 10 days.

I also understand that all other contingencies were removed, and that the only pending matter is the environmental clearance from your department.

The first two allowable extensions over environmental clearance have already been exercised. And the last extension was used yesterday.

Therefore, the last contract extension will expire on October 12 (next week, on Thursday). At that time, the contract requires that the transaction become void or that various deposits (approximately \$25,000) be forfeited.

Please feel free to call with any questions.

Sincerely,

Chad Wilson

Chicago Title Co.
Escrow Officer

cc: Tom Niu

Date: October 3, 2006
Escrow No.: 06-**58200591**-CW
Locate No.: CACTI7701-7701-5582-0058200591

PLEASE NOTE: In the event any of these pages require an **ORIGINAL SIGNATURE**, please copy the fax transmittal page(s) and sign on the PHOTO COPY and return to us with the original signature.

THANK YOU.

CONFIDENTIALITY NOTICE

The Information contained in this facsimile is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone and return the original facsimile to us at the address above via the United States Postal Service. Thank you.

October 3, 2006

Mr. Don Hwang
Alameda County Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502-6577

RE: 1035 7th Street, Oakland, CA – Request for Closure

Dear Mr. Hwang:

This letter is written in support of the request for case closure of the above-captioned property.

The property is presently in escrow to a Hayward garment business that intends to relocate to Oakland, and all outstanding matters have been satisfied by all parties with the exception of environmental clearance. We have been advised that the City Council Member for this district, Nancy Nadel, strongly supports the arrival of this new business and is looking forward to welcoming them to the neighborhood.

The owner reasonably believed that environmental clearance had already been obtained insofar as, in 1988, almost 20 years ago when he bought the property, the prior seller promised in the purchase agreement to do all necessary work with respect to UST removal "until government approval is obtained and work completed." Please see copy of earlier sale agreement (i.e. 1988 agreement by which present seller bought the building) attached hereto.

As it turns out, the tank appears to have been removed in or about 1988, a monitoring well installed, and some work or sampling performed. However, the environmental engineer associated with that work is now deceased (according to the prior owner) and his records are not available.

For that reason, Gribi & Associates was hired to locate the earlier reports and any closure letter that were believed to be maintained by the County, the Fire Department, or the earlier engineering firm. He determined that the files were missing and he likewise was unable to locate the engineering firm that performed the earlier work.

Because of the unexpected disappearance of information, the parties were forced to scramble to expand Mr. Gribi's scope of engagement – at higher cost – to recreate that same information. Not only did Mr. Gribi re-sample the subject property, but he also investigated the contiguous site history for the environmental inspections performed by Caltrans. Mr. Gribi's lab results and report were then forwarded to the county as quickly as possible, in or about the early part of the week of September 18.

We ask that the matter be addressed by your department as expeditiously as possible since:

1. The owner has promptly submitted his application under the given circumstances
2. The escrow is jeopardized since the time lines for satisfying the environmental contingency are set to expire next week.
3. The new owner/buyer must be able to take possession of the property by mid to late October in order to install costly electrical upgrades to the transformer and panels in conjunction with

Mr. Don Hwang
October 3, 2006
Page 2 of 2

PG&E's work schedule, in order to coordinate their move from a fully operating business located in Hayward where they face a lease expiration before the end of this year. Because of the pending lease expiration, they must either begin to immediately negotiate a renewal or prepare to move to Oakland.

Don, please feel free to call with any questions. I thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "T. Niu".

Thomas S. Niu
Senior Vice President
Grubb & Ellis Company

Attachment (Excerpt of 1988 contract)

Purchaser shall have until May 20, 1988, to deliver to Seller a notice terminating this offer if the property, in the opinion of Purchaser, contains unacceptable quantities of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or underground storage tanks, as determined by Purchaser on the basis of either (1) the content of the Reports; or (2) any inspection, test, survey or other study conducted by Purchaser. Purchaser shall have the right to conduct, at any time before the expiration of said period, at its sole cost and expense, inspections, tests, surveys and other studies for the purpose of identifying the existence in, on, or about the property, of asbestos, PCB transformers, other toxic, hazardous or contaminated substances, or underground storage tanks. Seller hereby grants Purchaser and Purchaser's agents the right to enter upon the property at all reasonable times for the purpose of conducting such inspections, tests, surveys and studies. If Purchaser exercises the right to terminate within said period, this offer shall be deemed null and void and deposit shall be returned to Purchaser and the escrow cancelled.

Purchaser will be acquiring the property in an "as is" condition with respect to Hazardous Substances. If Purchaser does not elect to terminate this agreement within the thirty-day inspection period set forth above of this Purchase Contract, Purchaser will be deemed to have performed all inspections necessary to satisfy himself regarding Hazardous Substances.

Seller and Purchaser expressly acknowledge that Broker has not made an independent investigation or determination with respect to the existence or nonexistence of asbestos, PCB transformers, other toxic, hazardous or contaminated substances in, on, or about the property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or the Purchaser and Broker shall not be held responsible therefor.

6. Seller shall remove the underground fuel tank and pump presently located on the subject property. Said removal will be in accordance with all governmental authority monitoring such activity. Seller will perform any required cleanup necessary to meet or exceed governmental requirements. The area where tank was removed shall be restored to its original condition prior to its removal. Seller agrees to remove said tank and complete the additional work required related thereto prior to the close of escrow. In the event that the work outlined herein cannot be completed prior to the close of escrow, the close of escrow shall be extended until final governmental approval is obtained and work completed.
7. Seller shall deliver the property free and clear of any liens, encumbrances or bonded assessments to the Purchaser at close of escrow, except current non-delinquent taxes and easements of records against the property approved in writing by Purchaser. Seller agrees not to encumber or cause any document to be recorded against the property without first obtaining Purchaser's written permission.

LS
INITIALS
KM

INITIALS

Hwang, Don, Env. Health

From: Niu, Tom [Tom.Niu@Grubb-Ellis.com]
Sent: Monday, October 02, 2006 2:13 PM
To: Drogos, Donna, Env. Health; Hwang, Don, Env. Health
Cc: Rmoody@pacbell.net; Jchu@prolific-usa.com; Karyn King; jegribi@msn.com; mprado@oaklandnet.com
Subject: Environmental Clearance -- 1035 7th -- Accomodation of deadlines

Attachments: CBTClosure Memo.doc



CBTClosure
Memo.doc (45 KB)

Dear Donna and Don:

Thanks so much for turning your attention to this matter, as indicated by Jim Gribi, the environmental engineer who informs us of your effort to accomodate our time-sensitive situation.

The large number of parties involved in this matter (shown as CCs) truly appreciate your efforts in this regard. Attached is a letter from the lender, as requested by your department, indicating the increasing problems everyone faces without environmental clearance.

In particular:

- 1) This property has been in escrow for a lengthy period of time, and effectively awaits only the environmental clearance from your Agency/RWQCB. Sampling appears to show levels only nominally above non-detect with closure on adjoining downgradient sites.
- 2) Without environmental clearance, the transaction is jeopardized for several reasons:
 - a) expiration of multiple contractual deadlines
 - b) the buyer is presently a tenant that no longer knows whether they will be moving
 - c) the interest rate environment is shifting.
- 3) The request for closure/NFA at this date is due to NO fault of the present owner -- a) the PREVIOUS owner represented to the present owner in a written contract of 1987 that the UST site would be properly closed; however, recent calls to that PREVIOUS owner indicate that he has "lost contact" with the prior environmental engineer, and has no records to offer us; b) the tank WAS apparently pulled in 1987, although apparently not fully documented; c) the case file is apparently missing from the department.

Again, we thank you in advance for your assistance in this matter. Tom

Thomas S. Niu
Senior Vice President
Real Estate Advisory Group
Grubb & Ellis Companies
Oakland: 510.444.7500 X689
San Francisco: 415.433.1050 X789
Oakland and SF fax: 415.956.5996
Email: Tom.Niu@grubb-ellis.com

October 2, 2006

To: Mr. Tom Niu
Senior Vice President
Grubb & Ellis Companies
Via facsimile (415)956-5996

From: Karyn King
Vice President
California Bank & Trust
(925)648-3713

Re: Sale of 1035 7th Street, Oakland, Ca

Dear Mr. Niu:

As you know, escrow for the acquisition of the above referenced property by Prolific Print Co. was scheduled to close today, October 2nd. Given that we have not received the closure/no further action notice from the regional authority we are unable to complete our approval for the funding. As you have indicated, the Phase I report requires that this condition be met.

We understand that the previous owner was responsible for obtaining the closure and that your engineer has submitted the report two weeks ago in an effort to clean up the records. Nonetheless, we do require the documentation and will be unable to assist the local business in closing their transaction without it. This is a great concern as the buyers are facing a lease expiration date at their current location.

Please advise.

Sincerely,
Karyn King

BUSINESS BANKING or COMMUNITY DEVELOPMENT DIVISION

Street Address. • City • State • Zip Code
(000) 000-000 • Fax (000) 000-0000 • www.calbanktrust.com

RO36

Hwang, Don, Env. Health

From: James Gribi [JGribi@gribiassociates.com]
Sent: Friday, September 22, 2006 11:55 AM
To: Hwang, Don, Env. Health; Drogos, Donna, Env. Health
Subject: Former Vend Mart site, 1035 7th Street

Don, Donna,

Just to let you know that we did upload the report for the Vend Mart site to the Alameda County site (file name: RO#0000036_VendMart Well Sampling_2006-09-18). I was unable to email the appendices directly to you due to the file size, but the full report did apparently upload okay.

I know that you are both busy; however, any consideration you can give to this matter would be most appreciated!

Thanks

Jim

Jim Gribi, RG

Gribi Associates

1090 Adams Street, Suite K

Benicia, CA 94510

Phone 707-748-7743

Fax 707-748-7763

RO36

Hwang, Don, Env. Health

From: James Gribi [JGribi@gribiassociates.com]
Sent: Thursday, September 21, 2006 9:04 AM
To: Hwang, Don, Env. Health; ddrogos@acgov.org
Subject: Former Vend Mart site, 1035 7th Street
Attachments: Moody-Vend Mart RPT text v1.pdf

Don, Donna,

Pursuant to a pending property sale, we were asked by the site owner, Mr. Robert Moody, to obtain a copy of the closure letter, which he thought had been issued, for the former Vend Mart site at 1035 7th Street in Oakland. In doing some checking, we found that the site is still an open LUST site, but that neither the Oakland Fire Dept, the RWQCB, or ACDEH has any records for the site. This is an old site, and it appears that the site file is missing from ACDEH files. As a last-ditch effort, I checked the DTSC database and found that this site was one of 29 sites investigated during the Cypress Reconstruction Project. Thus, there is some information available for the site.

Although data for this site is lacking, it seems evident that this was not a significant release site and that, hence, regulatory closure might be warranted. Accordingly, we have prepared the attached report, which attempts to summarize the available DTSC data and provide results of our sampling of the single site well. We have also requested regulatory closure and provided, we believe, a strong basis for this request.

The site owner is currently under contract to sell the property, contingent on the seller qualifying for an SBA loan. As you may know, the SBA is fairly strict in requiring a closure letter before approving a loan. Hence, your help would be most appreciated.

Please call if you have questions or require additional information.

Thanks

Jim

9/21: I tried to send the attached report as a single pdf, but was unsuccessful. Hence, I am re-sending with text & figures only herein, and will send appendices in a follow-up email. Also, I will have my engineer, Matt, upload to the ACDEH site later today.

Thx

Jim

<<Moody-Vend Mart RPT text v1.pdf>>

Jim Gribi, RG

Gribi Associates

1090 Adams Street, Suite K

9/29/2006

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