

GEOFFREY C. ETNIRE

REAL ESTATE LAW

ALCO
HAZMAT

94 MAY 18 AM 11:28

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

May 16, 1994

Mr. Scott Seery
ALAMEDA COUNTY ENVIRONMENTAL HEALTH DEPARTMENT
80 Swan Way, Suite #200
Oakland, California 94621

RE: 3430 CASTRO VALLEY BLVD.
GOODYEAR FACILITY

Dear Mr. Seery:

During our telephone conversation on April 28, 1994, you requested that I provide you with documents in my file relating to the underground storage tank.

Enclosed with this letter are copies of those documents. I have highlighted in yellow some relevant portions of the documentation. This documentation shows the history on the part of Goodyear of denying involvement in the removal of (and even the prior existence of) the underground storage tank. In that light, you will find the letter from Goodyear Tire and Rubber Co., dated January 18, 1990, requesting permission of the owners of the property to remove the underground tank of particular interest.

Sincerely,



GEOFFREY C. ETNIRE

GCE:ro:8313-lt.105

cc: West properties

WEST INVESTMENTS

938 A STREET

HAYWARD, CA 94541

(510) 582-2272

May 5, 1994

pd

W. J. Inghofer
The Goodyear Tire and Rubber Company
P.O. Box 660245
Dallas, Tx. 75266-0245

Re: 3430 Castro Valley Blvd.
Castro Valley, California

Dear Mr. Inghofer:

Please find enclosed copies of correspondence received from Alameda County Health Care Services Agency regarding contamination of the above mentioned property.

We are confident that the Goodyear Tire and Rubber Company will expedite this matter by working cooperatively with all concerned government agencies and will fulfill all terms and conditions of their lease in remediating this problem.

We would appreciate copies of Goodyear's correspondence with any government agencies regarding this matter.

Sincerely,

ALAMEDA COUNTY
HEALTH CARE SERVICES
AGENCY

DAVID J. KEARS, Agency Director



RAHAT A. SHARIF, ASST. AGENCY DIRECTOR
DEPARTMENT OF ENVIRONMENTAL HEALTH
State Water Resources Control Board
Division of Local Water Planning
USF Local Oversight Program
80 Swan Way, Rm. 200
Oakland, CA 94612
(415) 271-4510

Certified Mail # P 386 338 344

04/28/94
STID# 1715

Notice of Requirement to Reimburse

Aimee L. West Trust
Et Al
935 A. Street
Hayward, Ca 94541

Responsible Party #1
Property Owner

W. J. Ingelhofer
Goodyear Tire & Rubber Company
P. O. Box 660245
Dallas, Tx 75266-0245

Responsible Party #2
Contact Person
Contact Company

Former Merritt Tire Sales
3430 Castro Valley Blv
Castro Valley, CA 94546

SITE Date First Reported 10/05/93
Substance: Waste Oil
Petroleum: (X) Yes

The federal Petroleum Leaking Underground Storage Tank Trust Fund (Federal Trust Fund) provides funding to pay the local and state agency administrative and oversight costs associated with the cleanup of releases from underground storage tanks. The legislature has authorized funds to pay the local and state agency administrative and oversight costs associated with the cleanup of releases from underground storage tanks. The direct and indirect costs of site investigation or remedial action at the above site are funded, in whole or in part, from the Federal Trust Fund. The above individual(s) or entity(ies) have been identified as the party or parties responsible for investigation and cleanup of the above site. YOU ARE HEREBY NOTIFIED that pursuant to Title 42 of the United States Code, Section 6991b(h)(6) and Sections 25297.1 and 25360 of the California Health and Safety Code, the above Responsible Party or Parties must reimburse the State Water Resources Control Board not more than 150 percent of the total amount of site specific oversight costs actually incurred while overseeing the cleanup of the above underground storage tank site, and the above Responsible Party or Parties must make full payment of such costs within 30 days of receipt of a detailed invoice from the State Water Resources Control Board.

Please contact Scott SEERY, Hazardous Materials Specialist at this office if you have any questions concerning this matter.

Edgar B. Howell, III, Chief
Contract Project Director

cc: Mike Harper, SWRCB

SWRCB Use: Add : X Reason: New case

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW
P. O. BOX 660245
DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

VIA FACSIMILE

November 9, 1993

AIMEE L WEST, ET AL
c/o Geoffrey C Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

Subject: UST - Goodyear Dealer Expansion #9578
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr Etnire:

Per your fax request last night this is to confirm that we have sent you copies of all documents we have relating to the SEMCO investigation per our letter of October 5, 1993.

Since we have not had any reply since then and we noted during our site visit last week the fuel tank and pump are still on the adjoining property, please advise how you are coming in resolving this problem. Thanks.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W J Inghofer
Field Real Estate Manager

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW

P. O. BOX 660245

DALLAS, TEXAS 75266-0245

October 7, 1993

TELEPHONE: (214) 637-9100

VIA FACSIMILE & U S MAIL

AIMEE L WEST, ET AL
c/o Geoffrey C Etnire, Esq
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

Subject: UST - Goodyear Dealer Expansion #9578
3430 Castro Valley Boulevard
Castro Valley, California 94546

Dear Mr Etnire:

Please reference our letters of September 30, 1993, and October 5, 1993, which responded to your letter of September 10, 1993. As with most past correspondence, the threats and assertions of your October 6, 1993, letter are not only unwarranted but without any foundation.

The facts established both through action and various correspondence quite clearly indicate that Goodyear has "stepped up to the plate" and has NOT pursued "any further denial or delay." We ARE complying fully "with federal, state and local laws and regulations specifying particular procedures". But obviously you want to continue to pursue intimidation, uncalled for threats and demands, rather than proceeding to handle the resolution of this work in a good workmanlike manner following prudent guidelines and procedures.

Whether you agree or not, we could only accomplish the proper required determination of what work will be required by first having SEMCO take the soil tests. As the results clearly indicate, Lessor now has some very critical work cut out for itself in its responsibilities with the fuel contamination discovered from the adjoining property's fuel tanks and pumps.

Please use your efforts and demands to resolve that problem and "take immediate and responsible action" to handle the resolution of that matter with the neighbors, rather than wasting it on your continuous completely unwarranted threats of bringing an eviction proceeding. We can NOT have SEMCO prepare an action plan until this matter is addressed and resolved.

Please advise what positive action you or your client have taken with the neighbor. THANKS.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W J Inghofer
Field Real Estate Manager

cc: AIMEE L WEST, ET AL, 935 "A" Street, Hayward, CA 94541

Mr Scott Seery, Hazardous Materials Specialist, ALAMEDA COUNTY,
Dept. of Environmental Health, 80 Swan Way, Room 200, Oakland, CA 94621

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

FAX COVER SHEET

October 6, 1993

TO:

FAX NUMBER:

W.J. Ingelhofer
Field Real Estate Manager
GOOD YEAR TIRE & RUBBER COMPANY

214-637-9170

FROM: GEOFFREY C. ETNIRE
PROBLEMS CALL: 734-9950
SECRETARY: Sam

NUMBER OF PAGES: 10 (including this page)

RE: Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

DOCUMENT(S): LETTER DATED 10/6/93 FROM GEOFF ETNIRE RE UST

Original will not follow
 Original will follow by:
 Regular Mail
 Certified Mail/Return Receipt Requested
 Overnight Express Mail
 Hand Delivery
 Other _____

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

October 6, 1993

Via Fax and U.S. Mail

W.J. Inglhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
P.O. Box 660245
Dallas, TX 75266-0245

Re: **UST**
Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

Dear Mr. Inglhofer:

Please respond to my letter of September 10, 1993.

I am enclosing a copy of my letter of September 10, 1993 for review. I am also enclosing copies of the other letters that we have exchanged relative to this toxic problem.

It is time for Goodyear to step up to the plate. There is no factual basis for any further denial or delay. Your proposed action of retaining SECO to do testing is not sufficient -- as described in my letter of September 10, 1993, you must comply fully with federal, state and local laws and regulations specifying particular procedures.

If you do not take immediate and responsible action, we are prepared to serve Goodyear with another 30-day notice and, following expiration of that notice, to bring an eviction proceeding.

Sincerely,



GEOFFREY C. ETNIRE

GCE:sam:8057-1.093
cc(w/enc): West Properties
H.W. Balsat

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

September 10, 1993

Via Fax and U.S. Mail

W.J. Ingelhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
P.O. Box 660245
Dallas, TX 75266-0245

Re: UST
Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

Dear Mr. Ingelhofer:

I addressed my July 23, 1993 letter to H.W. Balsat because your responses to my clients have always been inappropriate and useless.

Lest there be any misunderstanding, my letter of July 23, 1993 correctly stated that "Mr. Ingelhofer has responded to our earnest efforts to clear up this matter with obfuscations." The subsequent interlineation was an error.

Your reply letter of August 25, 1993 is typical of all of your former responses. I will attempt, in this letter, to make things so clear that there will be no misunderstanding:

1. There was, formerly, an underground tank on the property.
2. In a letter from Balsat dated January 18, 1990, Goodyear, not the dealer, requested the permission of the owners to remove the tank:

We hereby request your permission to remove and dispose of said tank(s) at any time during the current or extended term of our lease. Should we elect to proceed with such removal, it would be conducted through competent contractors and done at Goodyear's expense and in good workmanlike manner in compliance with all applicable laws and ordinances.

3. The tank has been removed.

W.J. Ingelhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
Re: UST

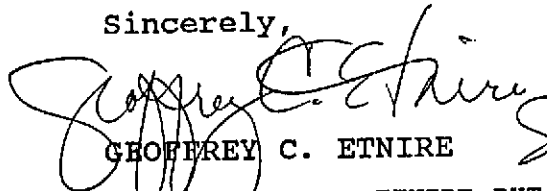
Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

September 10, 1993
Page 2

4. The County of Alameda reports to us that Goodyear did not obtain necessary permits.
5. The County of Alameda reports to us that the previous operator did not obtain any such permits.
6. The County of Alameda reports to us that no party obtained such permits.
7. Federal, state and local laws and regulations specify particular procedures relating to the removal of UST's and the clean-up of the sites. In particular, I would like to call your attention to Chapters 6.7 and 6.75 of Division 20 of the Health and Safety Code of the State of California (beginning at Section 25280). We demand that you comply with these provisions.
8. Federal, state and local laws and regulations require that Goodyear be in contact with governmental agencies with regard to this effort. We demand that you contact the appropriate authorities at the County of Alameda and all other necessary authorities as to the procedures that Goodyear and its contractors should follow at this point.
9. Please send us copies of all communications that you have with the County and other agencies. In addition, please give us regular status reports.

It is our sincere hope that Goodyear will now proceed directly to the solution of this problem.

Sincerely,



GEORGEY C. ETNIRE

Dictated by Mr. Etnire but signed
by Secretary in his absence

GCE:sam:8057-2.090
cc(mail): West Properties
(fax) H.W. Balsat

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW

P. O. BOX 660245

DALLAS, TEXAS 75266-0245

August 25, 1993

TELEPHONE: (214) 637-9100

VIA FACSIMILE & U S MAIL-CERT-RRR

AIHEE L. WEST, ET AL
c/o Geoffrey C Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

SUBJECT: Goodyear Dealer Expansion #9578, 3430 Castro Valley Blvd, Castro Valley, California 94546

Dear Mr Etnire:

Your "PLEASE RESPOND" fax of 8-18-93 and your July 23, 1993, letter to H W Balsat of our Akron office have been forwarded to me for response. Unfortunately you did not extend the professional courtesy to copy me on your correspondence so we could further answer your questions and address your concerns.

The correction you made to the first sentence of the last paragraph of your 7-23-93 letter now correctly states "Mr Ingthofer has NOT responded to our earnest efforts to clear up this matter with obfuscations." We have always given you direct and clear answers, NOT obfuscations.

In regards to your photo of the "surface contamination" which was caused by our former operator, as we indicated to you, the items were properly handled, cleaned up and disposed of. If you would have checked the property recently, you would find that all clean up has been completed, the remodel finished and the new dealer has opened for business.

As to the questions you want answered regarding the UST, let us refresh your memory by referring you back to phone conversations we had in March and April of 1993, and specifically refer you to your own Fax Memo dated March 15, 1993, wherein you state in the fourth paragraph:

"....you informed me that the dealer pulled the tank several years ago, after getting permission from West Properties. You told me further, that you had no information with regard to the pulling of the tank, as you have not been able to obtain any documentation from the former dealer. MY CLIENTS WILL ATTEMPT TO OBTAIN THE DOCUMENTATION FROM THE FORMER DEALER AND/OR FROM THE COUNTY. WE WILL BE HAPPY TO SHARE WITH YOU ANY DOCUMENTATION THAT WE DO RECEIVE and we would appreciate the same courtesy in return...." (emphasis added by us). This was based on your belief that the West family and our former dealer's families had been friends.

Unfortunately you did NOT extend us that courtesy to share any information which you may have been able to obtain, until your 7-23-93 letter to H W Balsat again makes unfounded allegations of "toxic contamination on this site", and advised us that "we have just today been informed by the County of Alameda that Goodyear Tire & Rubber did not obtain County approvals for the removal of the underground tank." This only confirmed what we have continuously and repeatedly been telling you, that is - Goodyear did NOT remove the UST so we could NOT obtain any County permits or approvals.

Again to the best of our knowledge, the former dealer had removed the UST and we could NOT get any information from them. YOUR CLIENT WAS GOING TO OBTAIN THE INFORMATION FROM THEM, but you are NOT addressing those results of their efforts.

We did have one of our Environmental contractors verify visually and with metal detector that there appears to be no UST at the site and that it apparently was removed. Now that we apparently have the results of your investigation and in an effort to finally resolve this matter, we have authorized SEMCO, an Environmental & Engineering Contractor, who has been used and been recommended by several of other Lessors to remove their USTs, to hand auger two test holes in the area of the former UST and take the two soil samples and have the standard tests run on them. As soon as we have the results, we will be glad to share the information with the Lessor and then decide and advise what further action, IF ANY, may be required by Lessee.

We have done our utmost to resolve this matter efficiently and courteously, however, have had no cooperation whatsoever from you or the Lessor. To the contrary, we have had continuous roadblocks thrown up. We hope this gives you a clear and direct response; however, should you still have any questions, please direct them directly to me, so we can try to clarify any further questions or misunderstandings.

In the meantime, now that we have finished our end of the agreement, the remodel and reopening of the store with a new dealer, please have your client take care of its obligation to replace the roof before the rainy season sets in and any more damage results to the new ceiling tire and paint job. THANKS.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W. Ingthofer
Field Real Estate Manager

AIHEE L. WEST, ET AL, 035 HAY ST, HAYWARD, CA 94541 (Via Certified Mail-RRR)

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

July 23, 1993

Mr. H.W. Balsat
Property Administrator
GOODYEAR TIRE & RUBBER CO.
1144 East Market Street
Akron, OH 94316-0001

Re: Goodyear Leased Facility No. 1748
3430 Castro Valley Boulevard
Castro Valley, California

Dear Mr. Balsat:

West Properties has still not received a sufficient response to it inquiries to Goodyear Tire & Rubber with regard to toxic contamination on this site.

I am including, for your reference, the correspondence which relates to the underground tank on the property (which has been removed) and the surface contamination.

I am also including one original photograph of the surface contamination which was caused, apparently, by your franchisee. This photograph belies the response by Mr. Ingelhofer, in a letter dated February 1, 1993, that "oil ... and all other potentially hazardous materials generally included and part of standard automotive service uses are being handled, stored and disposed following applicable laws and ordinances. So again, what specifically are you alleging as being a breach of lease?" I believe that this photograph speaks for itself.

We have just today been informed by the County of Alameda that Goodyear Tire & Rubber did not obtain County approvals for the removal of the underground tank. As you are aware, removal of underground tanks in California is subject to a careful administrative review process. On January 18, 1990, you personally wrote a letter to West Properties requesting permission to remove the tank. In granting that permission, West Properties relied on your statement that the removal "would be conducted through competent contractors and done at Goodyear's expense and in a good workmanlike manner in compliance with applicable laws and ordinances."

Mr. H.W. Balsat
Property Administrator
GOODYEAR TIRE & RUBBER CO.
Re: Goodyear Leased Facility No. 1748
3430 Castro Valley Boulevard
Castro Valley, California

July 23, 1993
Page 2

We would appreciate receiving information from you as to when the tank was removed, the type of tank, and the registration number of the tank.

Mr. Ingelhofer has responded to our earnest efforts to clear up this matter with obfuscations. We would appreciate a direct response.

Sincerely,



GEOFFREY C. ETNIRE

GCE:sam:8057-2.088
Enclosures
cc: West Properties



The Goodyear Tire & Rubber Company

Akron, Ohio 44316-0001

January 18, 1990

Aimee L. West, Robin C. West, Keith
L. West, Melissa West Phiillips and
Scott L. West,
c/o Aimee L. West
935 "A" Street
Hayward, CA 94541

Re: Underground Storage Tank(s)
Goodyear Leased Facility
3430 Castro Valley Boulevard
Castro Valley, CA

Dear Madam:

A review of our records concerning the location referenced above shows that you are the owner of the underground waste oil storage tank(s) at the site. Business considerations may lead Goodyear to consider removing the tank at some time in the future.

We hereby request your permission to remove and dispose of said tank(s) at any time during the current or extended term of our lease. Should we elect to proceed with such removal, it would be conducted through competent contractors and done at Goodyear's expense, and in a good workmanlike manner in compliance with all applicable laws and ordinances.

Will you please acknowledge your granting of permission therefor by signing and dating in the space provided, and returning to the undersigned, one of the enclosed copies of this letter.

Thank you for your cooperation.

Very truly yours,

THE GOODYEAR TIRE & RUBBER COMPANY

PERMISSION GRANTED:

BY Aimee L. West

Title Owner

Date Jan. 28, 1990

By H W Balsat
H W Balsat

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

March 26, 1993

UPS Overnight

W.J. Ingelhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
7301 Ambassador Row
Dallas, TX 75266-0245

Re: Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr. Ingelhofer:

I want to make clear that West Properties has concluded that Goodyear has not complied with the thirty-day notice and remains in breach of the lease.

West Properties acknowledges that you have taken some steps to reverse the abandonment of the property. However, the property is still clearly abandoned and constitutes an attractive nuisance.

We have previously informed you that the office partitions installed by the former franchisee did not have proper permits and may not be up to code. I do not believe that you have taken any action on this at all.

With regard to toxic contamination, you have acknowledged that there is an underground tank on the property and that it was removed. We are concerned that the removal of the tank and the clean-up may not have been done with all necessary permits and approvals and have asked you for documentation that you have. In addition, the apparent spillage at the rear of the property is not the *de minimus* "leaking" as you describe in your recent letter. Enclosed are photographs of the site which show extensive surface contamination of the soil.

West Properties is currently analyzing the situation and will determine whether or not to bring an unlawful detainer proceeding. That decision will be made during the week of April 5, 1993.

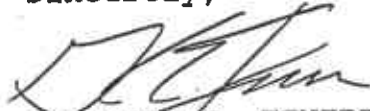
W.J. Inglhofer
GOODYEAR TIRE & RUBBER COMPANY
Re: Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, CA 94546

March 26, 1993

Page 2

I will be out of town during the week of March 29, 1993. If you would like to discuss this matter, please call me on or after April 5.

Sincerely,

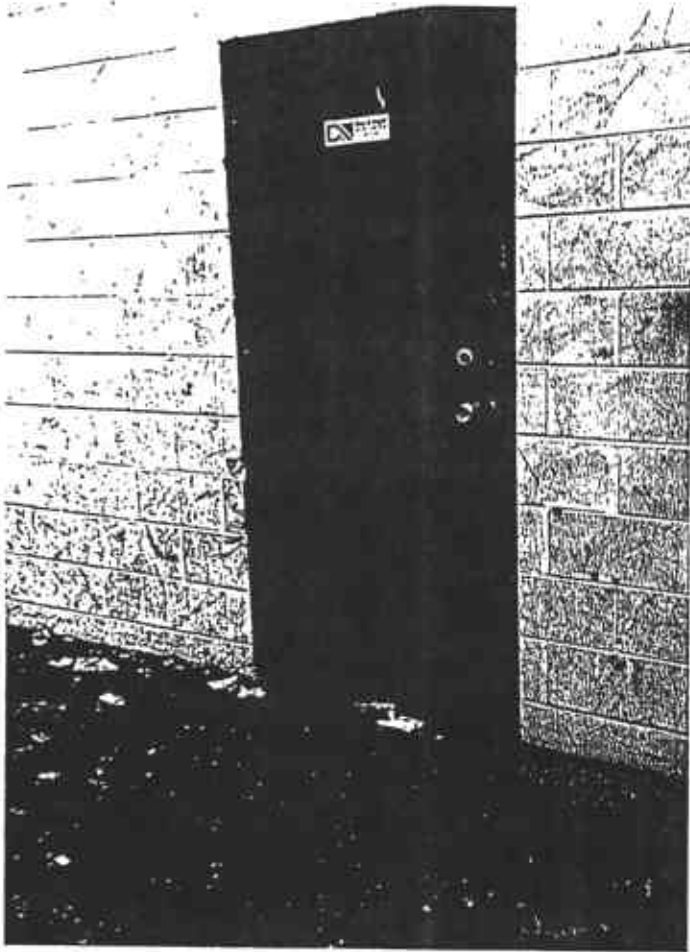
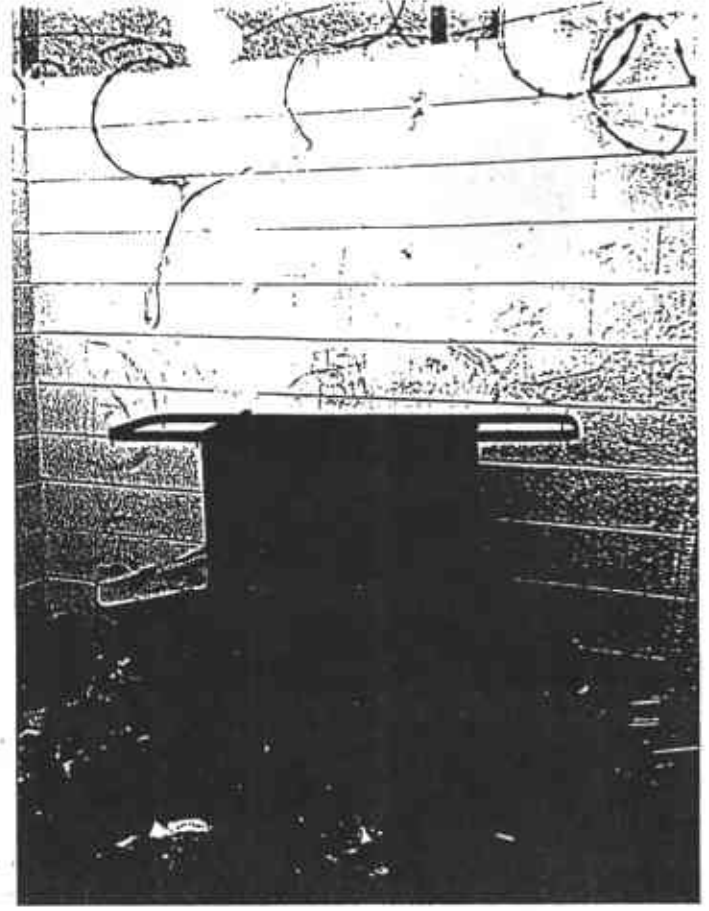


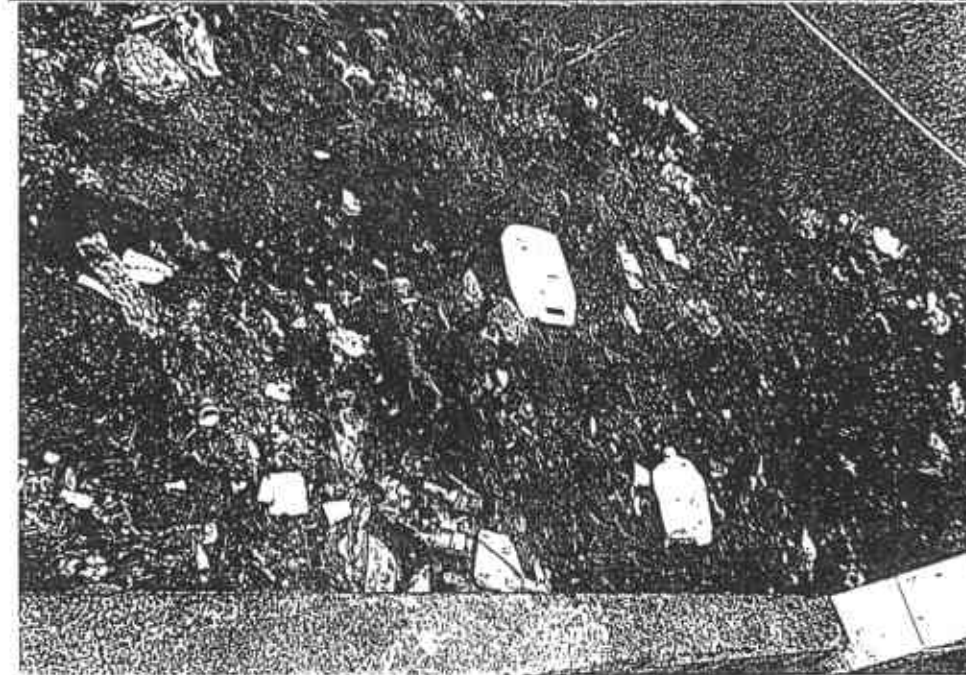
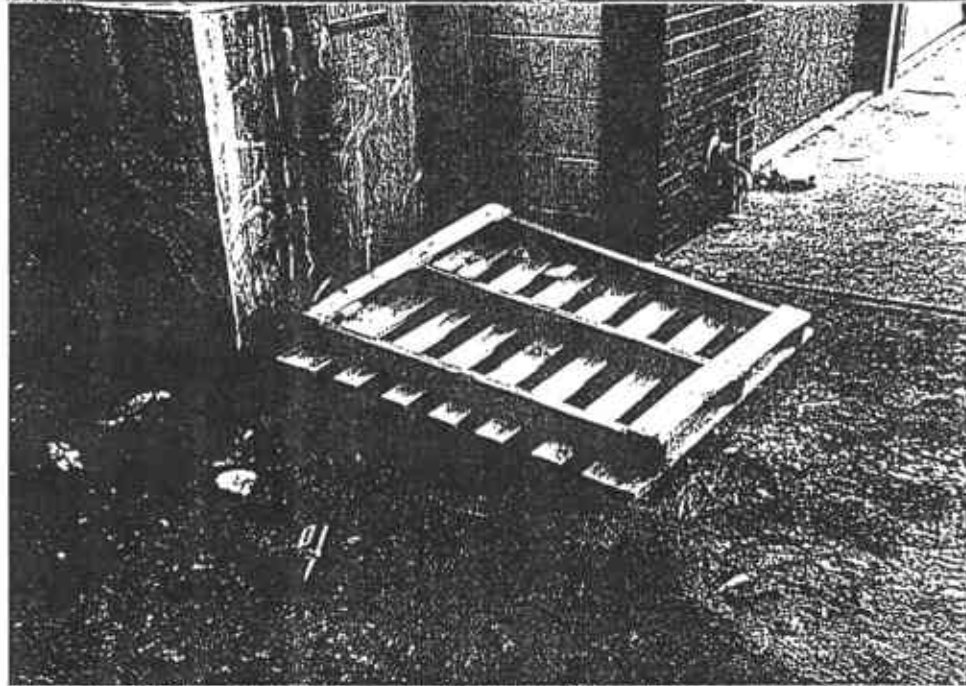
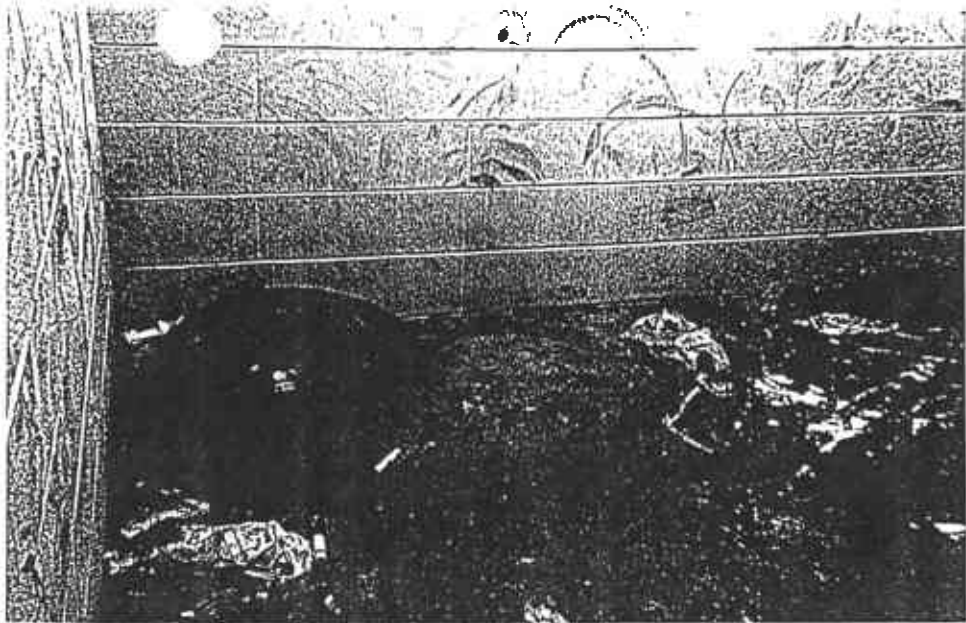
GEOFFREY C. ETNIRE

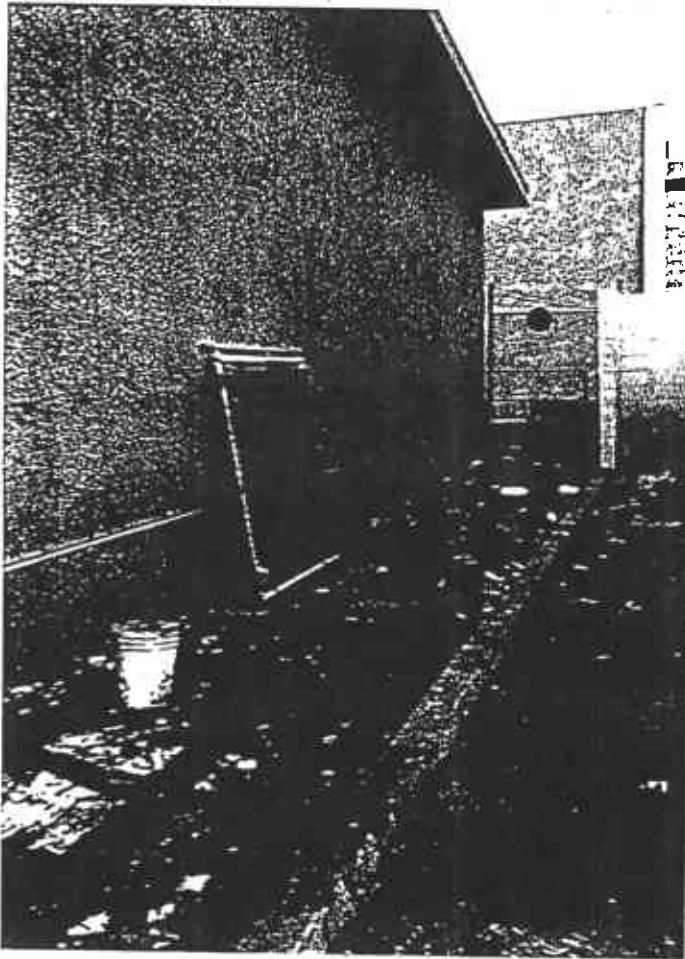
GCE:sam:8057-1.080

Enclosures

cc: West Properties







The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW

P. O. BOX 660245

DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

October 5, 1993

AIMEE L WEST, ET AL
c/o Geoffrey C Etnire, Esq
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

Re: UST - Goodyear Dealer Expansion #9578
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr Etnire:

Following up on our previous commitment and specifically our September 30, 1993, letter to you, enclosed you will find the preliminary results of the test borings we had authorized SEMCO to take at this site in the area of the former UST location.

Although we are acknowledging that the Oil & Grease levels of the test results may indicate that our previous operator, Merritt Tire, could have caused some contamination and apparently did NOT remediate it correctly, we are very concerned by the unacceptable levels of Gasoline, Benzene, Toluene, Ethyl Benzene, Total Xylene, and Diesel, which are ALL contamination results which could NOT have come of our operators use of the UST. We and our operators do NOT use or store gasoline and diesel fuels in the operation of the business.

In trying to check on the possible cause and source of this contamination, we have been advised and have visually verified that the adjoining property has a gasoline or diesel fuel pump and gasoline/diesel USTs located directly next to and possible even under the 20' Roadway Easement along the back portion of the West property line with our leased facility. Former employees of the dealer definitely recollect the neighbor fueling up his automotive equipment in the easement area. And the fuel pump and UST is still there at this time, but we could not confirm whether it presently is still in use and the tanks full.

Since the neighbor's fuel pump and USTs are only 30' to 40' away from the former location of the UST used by our previous operator for the used oil, we must conclude that this contamination was caused by these fuel tanks which either had leaking and may still be leaking, or could have caused contamination due to overfill or spillage. This matter needs your client's immediate attention.

This is a Lessor responsibility which needs to be resolved between the property owners and the owner/operator of that fuel tank and pump. Under NO circumstances can we assume any obligations or responsibilities for either the gasoline/diesel fuel contamination or its resolution. We hereby demand that Lessor investigate and resolve this matter immediately. We can NOT have SEMCO prepare and complete a remediation plan regarding any potential oil spillage until this question is heard.

By copy of this letter to the Alameda County Department of Environmental Health, we are also forwarding copies of the lab analysis results along with a separate cover letter advising them of the detection of this contamination problem. We are also requesting their help in the investigation and resolution of this matter with Lessor and the adjoining owner/operator of the UST and fuel pump.

We request that you keep us advised of your findings and the steps that will be taken to resolve it. Since SEMCO is already familiar with this site, and has been recommended by other Lessors in the Bay Area, you may want to have your clients contact Chuck Kiper of SEMCO to work with them to prepare a remediation proposal.

Should you have any questions or want to discuss this matter any further, please feel free to call me at (214) 637-9208.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W. J. Inghofer
Field Real Estate Manager

cc: AIMEE L WEST, ET AL, 935 "A" Street, Hayward, CA 94541

Mr Scott Seery, Hazardous Materials Specialist, ALAMEDA COUNTY,
Dept of Environmental Health, 80 Swan Way, Rm 200, Oakland, CA 94621

Mr Chuck Kiper, SEMCO, 1741 Leslie St, San Mateo, CA 94402



Superior Precision Analytical, Inc.

825 Arnold Drive, Suite 111 • Martinez, California 94553 • (510) 229-1512 / fax (510) 229-1526

SEMCO

OCT - 1 1993

Received

SEMCO
Attn: Chuck Kiper

Project GOODYEAR93-3258
Reported 09/29/93

TOTAL PETROLEUM HYDROCARBONS

Lab #	Sample Identification	Sampled	Analyzed Matrix
90064- 1	#1 SOUTH 8FT	09/21/93	09/28/93 Soil
90064- 2	#2 NORTH 8FT	09/21/93	09/27/93 Soil

RESULTS OF ANALYSIS

Laboratory Number: 90064- 1 90064- 2

Gasoline:	[REDACTED]	22
Benzene:	0.88	0.099
Toluene:	7.6	0.88
Ethyl Benzene:	3.6	0.34
Total Xylenes:	24	2.4
Diesel Range:	2400	380
Oil and Grease:	6100	1600
Concentration:	mg/Kg	mg/Kg



Superior Precision Analytical, Inc.

875 Arnold Drive, Suite 114 • Martinez, California 94553 • (510) 229-1512 / fax (510) 279-1526

SEMCO
OCT - 1 1993
Received

ANALYSIS FOR CADMIUM, CHROMIUM, LEAD, NICKEL, & ZINC Quality Assurance and Control Data - Soil

Laboratory Number 90064

Compound		Method Blank (mg/Kg)	PQL (mg/Kg)	Average Spike Recovery (%)	Limits (%)	RPD (%)
Cadmium	(Cd) :	ND<0.5	0.5	100%	75-125	0%
Chromium	(Cr) :	ND<5	5	100%	75-125	1%
Lead	(Pb) :	ND<5	5	102%	75-125	4%
Nickel	(Ni) :	ND<5	5	99%	75-125	2%
Zinc	(Zn) :	ND<5	5	103%	75-125	1%

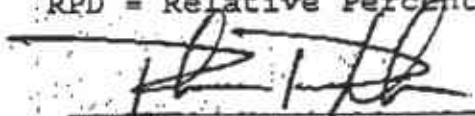
Definitions:

ND = Not Detected

PQL = Practical Quantitation Limit

QC File No. 90064

RPD = Relative Percent Difference

 9/29/93

Senior Chemist
Account Manager



Superior Precision Analytical, Inc.

825 Arnold Drive, Suite 114 • Martinez, California 94553 • (510) 229-1512 / fax (510) 229-1526

SEMCO

OCT - 1 1993

Received

SEMCO
Attn: Chuck Kiper

Project GOODYEAR93-3258
Reported 29-September-1993

ANALYSIS FOR CADMIUM, CHROMIUM, LEAD, NICKEL, & ZINC

Laboratory Number	Sample Identification	Matrix
90064- 1	#1 SOUTH 8FT	Soil
90064- 2	#2 NORTH 8FT	Soil

RESULTS OF ANALYSIS

Laboratory Number: 90064- 1 90064- 2

Cadmium	(Cd) :	ND<0.5	ND<0.5
Chromium	(Cr) :	31	45
Lead	(Pb) :	14	14
Nickel	(Ni) :	32	33
Zinc	(Zn) :	140	44

Concentration: mg/Kg mg/Kg



C E R T I F I C A T E O F A N A L Y S I S

ANALYSIS FOR TOTAL PETROLEUM HYDROCARBONS

Page 2 of 2
QA/QC INFORMATION
SET: 90064

NA = ANALYSIS NOT REQUESTED
ND = ANALYSIS NOT DETECTED ABOVE QUANTITATION LIMIT
mg/kg = parts per million (ppm)

OIL AND GREASE ANALYSIS By Standard Methods Method 5520F:
Minimum Detection Limit in Soil: 50mg/kg

Modified EPA SW-846 Method 8015 for Extractable Hydrocarbons:
Minimum Quantitation Limit for Diesel in Soil: 10mg/kg

EPA SW-846 Method 8015/5030 Total Purgable Petroleum Hydrocarbons:
Minimum Quantitation Limit for Gasoline in Soil: 1mg/kg

EPA SW-846 Method 8020/BTXE
Minimum Quantitation Limit in Soil: 0.003mg/kg

ANALYTE	MS/MSD RECOVERY	RPD	CONTROL LIMIT
Gasoline:	77/85	10%	70-130
Benzene:	112/111	1%	70-130
Toluene:	108/106	2%	70-130
Ethyl Benzene:	104/103	1%	70-130
Total Xylenes:	104/103	1%	70-130
Diesel Range:	111/111	0%	75-125
Oil and Grease:	85/68	22%	56-106

[Handwritten Signature]
Senior Chemist

ANALYSIS FOR CADMIUM, CHROMIUM, LEAD, NICKEL, & ZINC

by EPA Method SW-846 6010

Chronology

Laboratory Number 90064

Identification	Sampled	Received	Extracted	Analyzed	Run #	Lab #
#1 SOUTH 8FT	09/21/93	09/22/93	09/27/93	09/28/93		1
#2 NORTH 8FT	09/21/93	09/22/93	09/27/93	09/28/93		2

005/005

GOODYEAR SL

510 667 4249

12:25

10/07/93

90064

CHAIN OF CUSTODY AND ANALYSIS REQUEST

LAB NO. _____

Section I

Consultant Name SEMCO
 Office Location 1741 Leslie Rd. San Mateo, CA 94402
 Fax No. (415) 872-9734
 Project Manager Chuck Kiper
 Phone (415) 872 8033
 Send Coolers to : Modesto San Mateo
 Project No. / P.O. No. Goodyear 93-3258

TURN AROUND TIME
 (Circle One)
 Same Day _____
 24 Hrs _____
 48 Hrs _____
 72 Hrs _____
 5 Day 5 Day

SUPERIOR ANALYTICAL, INC.
Martinez San Francisco
 415/229-1512 415/647-2081

Sampler Bryan Dexter
 Regulatory Agency _____

Section II	Analysis Request	Section III	Sample Information
------------	------------------	-------------	--------------------

Sample Identification	Soil Matrix	Air Water	TPH - G & D	TPH - Low Level D	TPH - G	BTXE	O&G	8010	8240	Metals I CAP	Others - Subject to Subcontracting	Date	Time	Containers		Sampling Remarks
														Quantity	Pres.	
1 #1 South 8 FT			X			X	X			X		9/24/93	1630			Bioremediation <input type="checkbox"/> Contamination <input type="checkbox"/>
2 #2 North 8 FT			X			X	X			X		9/24/93	1030			
3																
4																
5																
6																
7																
8																
9																
10																
11																
12																

SEMCO
 OCT - I 1893
 Received

Relinquished by <u>Bryan Dexter</u>	Date/Time <u>9/22/93 12:35</u>	Received by <u>C. Howe</u>	Please Initial _____
Organization <u>Semco</u>		Organization <u>ARJ</u>	Samples Stored in Ice <u>67 408</u>
Relinquished by <u>C. Howe</u>	Date/Time <u>9/22 3:40</u>	Received by _____	Appropriate Containers <u>67</u>
Organization <u>ARJ</u>		Organization _____	Samples Preserved <u>67</u>
Relinquished by _____	Date/Time _____	Received by <u>T. B. B. B.</u>	VOA's without Headspaces <u>67</u>
Organization _____		Organization <u>Semco</u>	Comments <u>67</u>

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW
P. O. BOX 660245
DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

October 5, 1993

Mr Scott Seery
Hazardous Materials Specialist
ALAMEDA COUNTY
Dept of Environmental Health
80 Swan Way, Room 200
Oakland, CA 94621

Subject: Report of Apparent Contamination Problem
Goodyear Dealer Expansion #9578
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr Seery:

As you can deduce from recent correspondence on which we copied you, someone - we do NOT know who, has removed our Lessor's UST at subject location several years ago. Our former dealer, Merritt Tire & Brake, who went bankrupt had been the operator of this facility and used the UST to store used oil in his standard operation of an auto service center.

In an effort to resolve this matter with our Lessor, Aimee L West, ET AL, and their attorney, Mr Geoffrey C Etnire, we had contracted with and authorized SEMCO Environmental Consultants and Contractor to bore two test holes and take soil samples and have them analyzed to see whether there may have been any contamination left behind.

We have included copies of the test results for your information. Although there appears to be some oil and grease levels that may have been caused by our former operator's use, we are very concerned about the levels of Gasoline, Benzene, Toluene, Ethyl, Benzene, Xylene, and Diesel Fuel which were found. This contamination could NOT have come from our operators use of Lessor's UST and the facilities.

In checking this matter out we have found that along the West property line of our leased property on the neighbor's property and the 20' Roadway Easement, there still is a gasoline or diesel fuel pump and evidence of underground fuel tanks. Since these are only about 30' to 40' from the former location of the UST and where these samples were taken, it is quite obvious that this contamination is probably coming from either these tanks leaking or any past overflow or spillage.

We have requested that our Lessor resolve this matter immediately since this is NOT our responsibility, nor do we have the right to do so. We are however, hereby also requesting your help in getting this matter investigated, the contamination stopped and resolved and the remediation of their contamination handled.

We are sure you will agree that we cannot get SEMCO to prepare and finalize a remediation until this matter is handled. We would appreciate being kept appraised of your findings and the progress to resolving this matter.

In the meantime, if we can answer any questions or be of any further help, please feel free to contact me at my Dallas office at (214) 637-9208. THANKS for your help.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W. J. Ingelhof
Field Real Estate Manager

cc: AIMEE L WEST, ET AL, 935 "A" Street, Hayward, CA 94541
Geoffrey C Etnire, Esq., 4900 Hopyard Rd, Suite 260, Pleasanton, CA 94588

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW
P. O. BOX 660245
DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

September 30, 1993

AIMEE L WEST, ET AL
c/o Geoffrey C Etnire, Esq
4900 Kopyard Road, Suite 260
Pleasanton, CA 94588

Re: UST - Your Letter of 9-10-93
Goodyear Dealer Expansion #9578
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr Etnire:

Without lowering ourselves to the level of mudslinging and pursuing the obfuscation, let us just state that IF our responses to your clients were inappropriate and useless, it must have been that you didn't like the answers you received, NOT that we didn't answer clearly.

We will also attempt to answer each of your points so clearly that there will be no misunderstandings.

1. Correct - There was, formerly, an underground storage tank (UST) on the property which was owned and installed by Lessor.
2. Correct - There was a form letter sent out on 1-18-1990 by H W Balsat to ALL our Lessors who according to our records owned USTs on our leased facilities. In case of an emergency we wanted to have the various Lessor's permissions to remove their UST, if necessary, without having to chase the responsible parties, partners, etc down.

The part you left out in your quote is "Business considerations MAY lead Goodyear to CONSIDER removing the tank at some time in the future." The letter also clearly stated...."SHOULD we elect to proceed...." No where in that letter did it state that we actually WILL remove the UST. It only asked for permission IF WE DECIDED TO.

3. Correct - the tank was removed according to the confirmation we received after our investigation.
4. Correct - Goodyear did not obtain any permits from the County of Alameda since WE did NOT remove the UST, did NOT contract for or request anyone else to remove the UST, nor do we have any idea who removed the tank.
5. We take your word regarding your findings that the County of Alameda reports that the previous operator - Merritt Tire & Brake, Inc - did not obtain any necessary permits.
6. Again, we take your word that the County of Alameda reports to you that no party obtained such permits.
7. We are very familiar with federal, state and local laws and regulations specifying particular procedures relating to the removal of UST's and the clean-up of the sites. That's why IF WE contract for the work, authorize the work or are in any way aware or involved in the UST removal and related work, we only use or recommend competent, fully licensed environmental contractors who do the work in a good workmanlike manner in compliance with all applicable laws and ordinances.

As stated, IF WE ARE INVOLVED, we always comply with these provisions, so there is no need for you to demand it. If however you are demanding that we produce copies of permits, reports, tests results, disposal documents, etc, let me re-state again why we can NOT meet that demand:

- a) Goodyear did NOT remove the UST, authorize its removal or contract for its removal, nor were we aware of its removal, so do NOT have any copies of any of the requested documents.
- b) We do NOT know when the UST was removed, who removed it, who authorized its removal, and what happened to the UST, nor whether any permits were taken and the appropriate authorities notified. We have NOT been able to get anything from the previous operator.
- c) We were NOT the OPERATOR-Responsible Party, nor the generator of the used oil disposed in the UST. That was Merritt.
- d) We are NOT the OWNER-Responsible Party. That is the Lessor, your client.
- e) We do NOT know, but suspect that the previous operator, Merritt Tire had someone remove the UST, but have been unable to get any confirmation or documents from them. In previous discussions and correspondence, you had indicated that the families of the operator and your client were friends, and you pursue getting the information and share with us. Apparently you haven't done so.

We were and are enjoined by the bankruptcy proceedings and now discharge, both company and personal, by the former operators, to pursue them further on their liabilities and obligations. However, we have tried to get the information of their present whereabouts, so maybe you, your client and the County of Alameda, can try to get the demanded information, copies of permits, etc, directly from them. If successful, we would request that we be provided with copies of anything received.

To the best of our ability and knowledge, the information we have now received is that the two principal partner-owners of Merritt Tire & Brake supposedly are living at:

Richard A Gorkosky
1680 Yama Lane
Los Osos, CA 93402

OR

819 Highland Drive
Los Osos, CA

One may be his home and the other work. Telephone is unlisted.

Ben Tsurumoto &
Yoko Ann Tsurumoto
13993 Aurora Drive
San Leandro, CA 94577

8. Partly correct - Federal, state and local laws and regulations require that the owner of the UST, your client, and the operator, Merritt Tire and its principals, and their authorized contractors, be in contact with the governmental agencies with regard to any UST removal. It does NOT specifically require GOODYEAR, who is none of the above parties.

However, we had already advised you that we had authorized SEMCO Environmental Contractors and Consultants to bore two test holes in the area where the UST was previously located and take soil samples to determine if there was any contamination. The test results are expected any day now. IF any contamination levels are detected which could have been caused by our former dealer's use of the facility, SEMCO will be asked to prepare the required remediation plans and will contact the appropriate authorities and will follow all the appropriate and necessary procedures.


Per your request, we will copy the County of Alameda, Department of Environmental Health on this letter. And, of course, would and will copy them and correspond with them regarding any required matters.

9. We will be glad to send you copies of any correspondence on this matter that we may have with the County of Alameda and other appropriate agencies. Being copied on that correspondence will give you regular status reports.

As previously indicated, we have always lived up to our end and have proceeded directly to the solution of any problem, even though you and your client have NOT lived up to their end of the bargain, except in the form of sending uncalled for, unwarranted and incorrect demand letters. We will keep you advised of our progress in resolving this matter.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W. J. Ingelhof
Field Real Estate Manager

cc: AIMEE L WEST, ET ALL, 935 "A" Street, Hayward, CA 94541

Mr Scott Seery, Hazardous Materials Specialist, ALAMEDA COUNTY,
Dept of Environmental Health, 80 Swan Way, Rm 200, Oakland, CA 94621

H W Balsat, Real Estate Administrator, Akron #824

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9850
FAX: 510-734-9170

FAX COVER SHEET

September 10, 1993

TO:

FAX NUMBER:

W.J. Ingelhofer
Field Real Estate Manager
GOOD YEAR TIRE & RUBBER COMPANY

214-637-9170

FROM: GEOFFREY C. ETNIRE
PROBLEMS CALL: 734-9950
SECRETARY: Sam

NUMBER OF PAGES: 3 (including this page)

DOCUMENT(S): LETTER FROM GEOFF ETNIRE DATED 9/10/93

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

September 10, 1993

Via Fax and U.S. Mail

W.J. Inglhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
P.O. Box 660245
Dallas, TX 75266-0245

Re: UST
Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

Dear Mr. Inglhofer:

I addressed my July 23, 1993 letter to H.W. Balsat because your responses to my clients have always been inappropriate and useless.

Lest there be any misunderstanding, my letter of July 23, 1993 correctly stated that "Mr. Inglhofer has responded to our earnest efforts to clear up this matter with obfuscations." The subsequent interlineation was an error.

Your reply letter of August 25, 1993 is typical of all of your former responses. I will attempt, in this letter, to make things so clear that there will be no misunderstanding:

1. There was, formerly, an underground tank on the property.
2. In a letter from Balsat dated January 18, 1990, Goodyear, not the dealer, requested the permission of the owners to remove the tank:

We hereby request your permission to remove and dispose of said tank(s) at any time during the current or extended term of our lease. Should we elect to proceed with such removal, it would be conducted through competent contractors and done at Goodyear's expense and in good workmanlike manner in compliance with all applicable laws and ordinances.

3. The tank has been removed.

W.J. Inglhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
Re: UST

Goodyear Dealer Expansion #9578
3430 Castro Valley Blvd., Castro Valley, CA

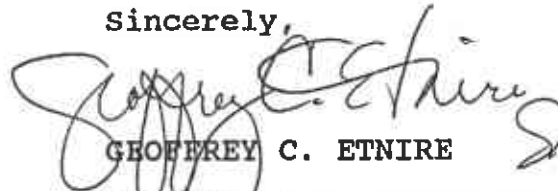
September 10, 1993

Page 2

4. The County of Alameda reports to us that Goodyear did not obtain necessary permits.
5. The County of Alameda reports to us that the previous operator did not obtain any such permits.
6. The County of Alameda reports to us that no party obtained such permits.
7. Federal, state and local laws and regulations specify particular procedures relating to the removal of UST's and the clean-up of the sites. In particular, I would like to call your attention to Chapters 6.7 and 6.75 of Division 20 of the Health and Safety Code of the State of California (beginning at Section 25280). We demand that you comply with these provisions.
8. Federal, state and local laws and regulations require that Goodyear be in contact with governmental agencies with regard to this effort. We demand that you contact the appropriate authorities at the County of Alameda and all other necessary authorities as to the procedures that Goodyear and its contractors should follow at this point.
9. Please send us copies of all communications that you have with the County and other agencies. In addition, please give us regular status reports.

It is our sincere hope that Goodyear will now proceed directly to the solution of this problem.

Sincerely,



GEOFFREY C. ETNIRE

Dictated by Mr. Etnire but signed
by Secretary in his absence

GCE:sam:8057-2.090
cc(mail): West Properties
(fax) H.W. Balsat

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW

P. O. BOX 660245

DALLAS, TEXAS 75266-0245

August 25, 1993

TELEPHONE: (214) 637-9100

VIA FACSIMILE & U S MAIL-CERT-RRR

AIMEE L. WEST, ET AL
c/o Geoffrey C Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

SUBJECT: Goodyear Dealer Expansion #9578, 3430 Castro Valley Blvd, Castro Valley, California 94546

Dear Mr Etnire:

Your "PLEASE RESPOND" fax of 8-18-93 and your July 23, 1993, letter to H W Balsat of our Akron office have been forwarded to me for response. Unfortunately you did not extend the professional courtesy to copy me on your correspondence so we could further answer your questions and address your concerns.

The correction you made to the first sentence of the last paragraph of your 7-23-93 letter now correctly states "Mr Ingthofer has NOT responded to our earnest efforts to clear up this matter with obfuscations." We have always given you direct and clear answers, NOT obfuscations.

In regards to your photo of the "surface contamination" which was caused by our former operator, as we indicated to you, the items were properly handled, cleaned up and disposed of. If you would have checked the property recently, you would find that all clean up has been completed, the remodel finished and the new dealer has opened for business.

As to the questions you want answered regarding the UST, let us refresh your memory by referring you back to phone conversations we had in March and April of 1993, and specifically refer you to your own Fax Memo dated March 15, 1993, wherein you state in the fourth paragraph:

"...you informed me that the dealer pulled the tank several years ago, after getting permission from West Properties. You told me further, that you had no information with regard to the pulling of the tank, as you have not been able to obtain any documentation from the former dealer. MY CLIENTS WILL ATTEMPT TO OBTAIN THE DOCUMENTATION FROM THE FORMER DEALER AND/OR FROM THE COUNTY. WE WILL BE HAPPY TO SHARE WITH YOU ANY DOCUMENTATION THAT WE DO RECEIVE and we would appreciate the same courtesy in return...." (emphasis added by us). This was based on your belief that the West family and our former dealer's families had been friends.

Unfortunately you did NOT extend us that courtesy to share any information which you may have been able to obtain, until your 7-23-93 letter to H W Balsat again makes unfounded allegations of "toxic contamination on this site", and advised us that "we have just today been informed by the County of Alameda that Goodyear Tire & Rubber did not obtain County approvals for the removal of the underground tank." This only confirmed what we have continuously and repeatedly been telling you, that is - Goodyear did NOT remove the UST so we could NOT obtain any County permits or approvals.

Again to the best of our knowledge, the former dealer had removed the UST and we could NOT get any information from them. YOUR CLIENT WAS GOING TO OBTAIN THE INFORMATION FROM THEM, but you are NOT addressing those results of their efforts.

We did have one of our Environmental contractors verify visually and with metal detector that there appears to be no UST at the site and that it apparently was removed. Now that we apparently have the results of your investigation and in an effort to finally resolve this matter, we have authorized SEMCO, an Environmental & Engineering Contractor, who has been used and been recommended by several of other Lessors to remove their USTs, to hand auger two test holes in the area of the former UST and take the two soil samples and have the standard tests run on them. As soon as we have the results, we will be glad to share the information with the Lessor and then decide and advise what further action, IF ANY, may be required by Lessee.

We have done our utmost to resolve this matter efficiently and courteously, however, have had no cooperation whatsoever from you or the Lessor. To the contrary, we have had continuous roadblocks thrown up. We hope this gives you a clear and direct response; however, should you still have any questions, please direct them directly to me, so we can try to clarify any further questions or misunderstandings.

In the meantime, now that we have finished our end of the agreement, the remodel and reopening of the store with a new dealer, please have your client take care of its obligation to replace the roof before the rainy season sets in and any more damage results to the new ceiling tire and paint job. THANKS.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W. S. Ingthofer
Field Real Estate Manager

cc: AIMEE L WEST, ET AL, 935 "A" St, Hayward, CA 94541 (Via Certified Mail-RRR)
H W Balsat, Real Estate Administrator, Akron #824

H8057

GEOFFREY C. ETNIRE

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

REAL ESTATE LAW

FAX COVER SHEET

TO:

H. W. BALSAT

FAX NO:

216-796-1931

DATE:

8/18, 1993

FROM:

GEOFFREY C. ETNIRE, Esq.

FAX NO:

510-734-9170

PROBLEMS CALL:

510-734-9950

SENDER'S SECRETARY:

Sam

NUMBER OF PAGES:

5 (including this page)

DOCUMENTS:

Correspondence

MESSAGE:

PLEASE RESPOND!

- Original will not follow
- Original will follow by:
 - Regular Mail
 - Federal Express
 - Other _____
- Certified Mail
- Hand Delivery

GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-9950
FAX: 510-734-9170

July 23, 1993

Mr. H.W. Balsat
Property Administrator
GOODYEAR TIRE & RUBBER CO.
1144 East Market Street
Akron, OH 94316-0001

Re: Goodyear Leased Facility No. 1748
3430 Castro Valley Boulevard
Castro Valley, California

Dear Mr. Balsat:

West Properties has still not received a sufficient response to its inquiries to Goodyear Tire & Rubber with regard to toxic contamination on this site.

I am including, for your reference, the correspondence which relates to the underground tank on the property (which has been removed) and the surface contamination.

I am also including one original photograph of the surface contamination which was caused, apparently, by your franchisee. This photograph belies the response by Mr. Ingelhofer, in a letter dated February 1, 1993, that "oil ... and all other potentially hazardous materials generally included and part of standard automotive service uses are being handled, stored and disposed following applicable laws and ordinances. So again, what specifically are you alleging as being a breach of lease?" I believe that this photograph speaks for itself.

We have just today been informed by the County of Alameda that Goodyear Tire & Rubber did not obtain County approvals for the removal of the underground tank. As you are aware, removal of underground tanks in California is subject to a careful administrative review process. On January 18, 1990, you personally wrote a letter to West Properties requesting permission to remove the tank. In granting that permission, West Properties relied on your statement that the removal "would be conducted through competent contractors and done at Goodyear's expense and in a good workmanlike manner in compliance with applicable laws and ordinances."

Mr. H.W. Balsat
Property Administrator
GOODYEAR TIRE & RUBBER CO.
Re: Goodyear Leased Facility No. 1748
3430 Castro Valley Boulevard
Castro Valley, California

July 23, 1993

Page 2

We would appreciate receiving information from you as to when the tank was removed, the type of tank, and the registration number of the tank.

Mr. Inghofer has responded to our earnest efforts to clear up this matter with obfuscations. We would appreciate a direct response.

Sincerely,



GEOFFREY C. ETNIRE

GCE:sam:8057-2.088

Enclosures

cc: West Properties



GEOFFREY C. ETNIRE

REAL ESTATE LAW

4900 HOPYARD ROAD, SUITE 260
PLEASANTON, CALIFORNIA 94588
TELEPHONE: 510-734-8950
FAX: 510-734-9170

March 26, 1993

UPS Overnight

W.J. Ingelhofer
Field Real Estate Manager
GOODYEAR TIRE & RUBBER COMPANY
7301 Ambassador Row
Dallas, TX 75266-0245

Re: Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, CA 94546

Dear Mr. Ingelhofer:

I want to make clear that West Properties has concluded that Goodyear has not complied with the thirty-day notice and remains in breach of the lease.

West Properties acknowledges that you have taken some steps to reverse the abandonment of the property. However, the property is still clearly abandoned and constitutes an attractive nuisance.

We have previously informed you that the office partitions installed by the former franchisee did not have proper permits and may not be up to code. I do not believe that you have taken any action on this at all.

With regard to toxic contamination, you have acknowledged that there is an underground tank on the property and that it was removed. We are concerned that the removal of the tank and the clean-up may not have been done with all necessary permits and approvals and have asked you for documentation that you have. In addition, the apparent spillage at the rear of the property is not the *de minimus* "leaking" as you describe in your recent letter. Enclosed are photographs of the site which show extensive surface contamination of the soil.

West Properties is currently analyzing the situation and will determine whether or not to bring an unlawful detainer proceeding. That decision will be made during the week of April 5, 1993.

W.J. Inghofer
GOODYEAR TIRE & RUBBER COMPANY
Re: Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, CA 94546

March 26, 1993
Page 2

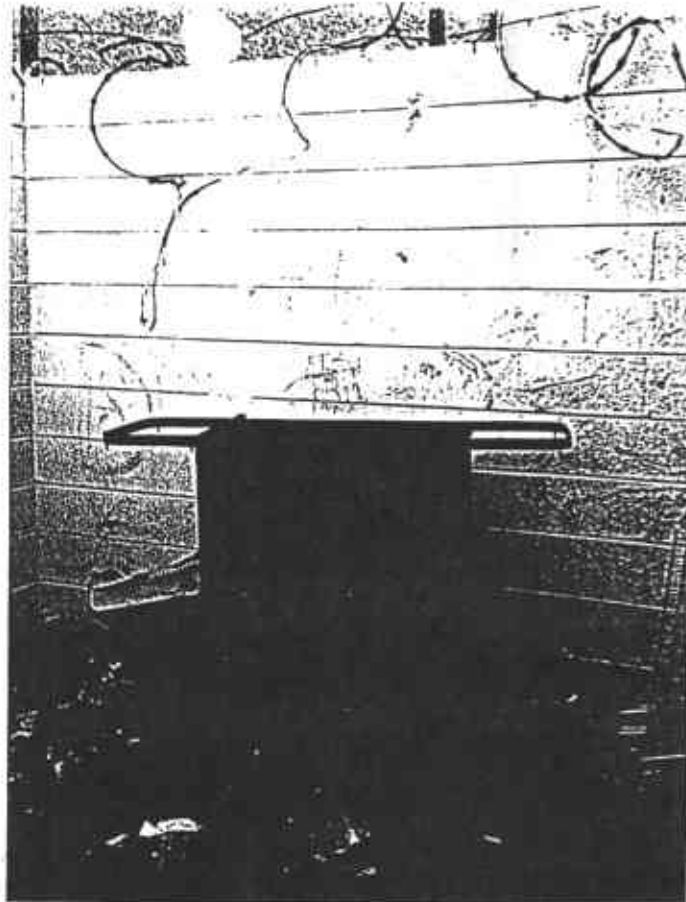
I will be out of town during the week of March 29, 1993. If you would like to discuss this matter, please call me on or after April 5.

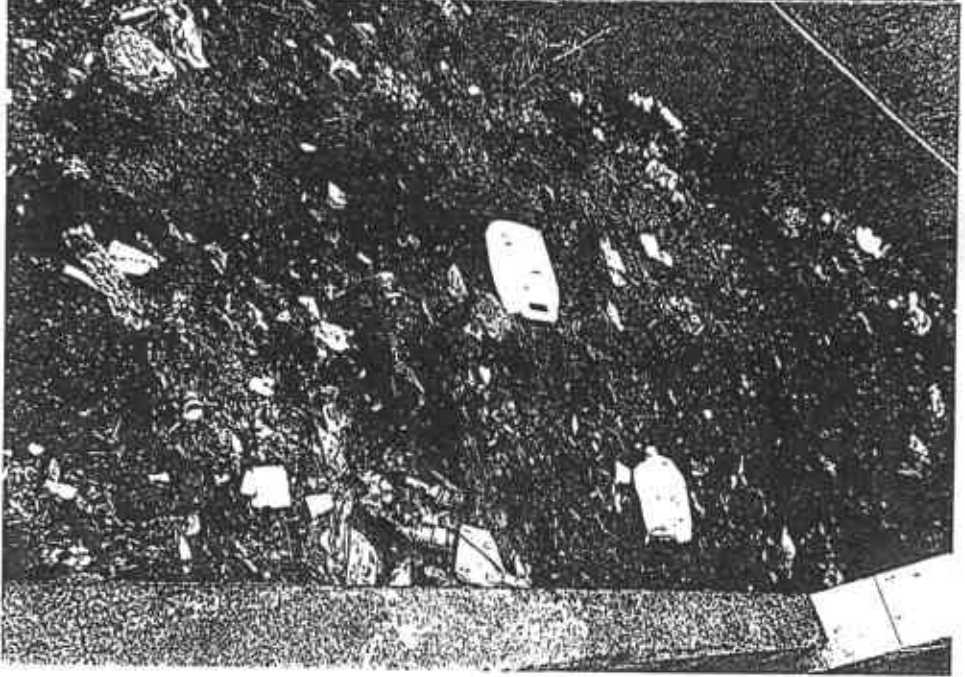
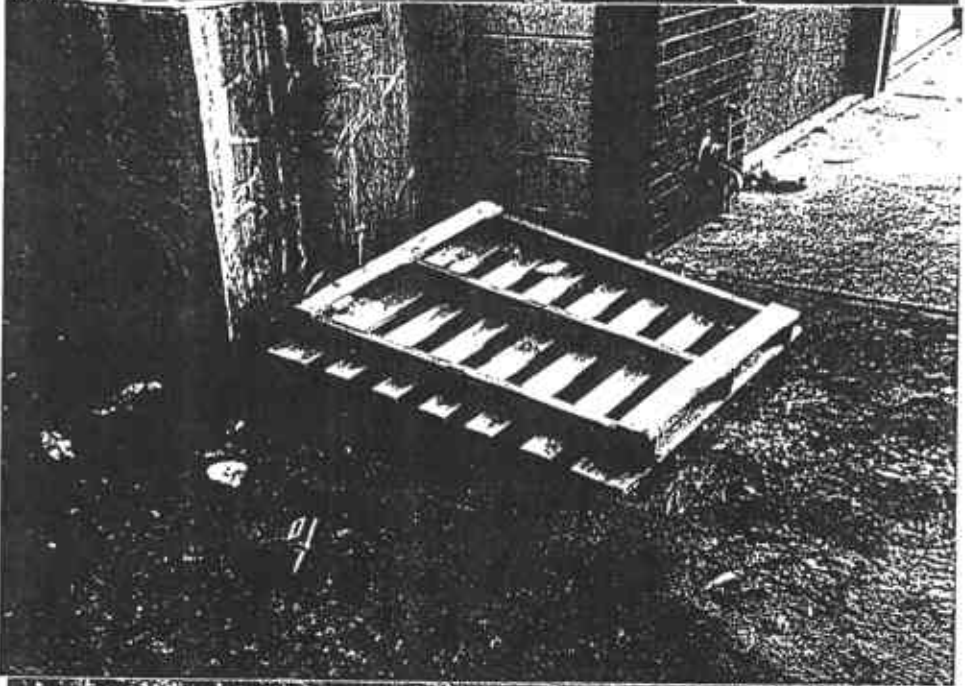
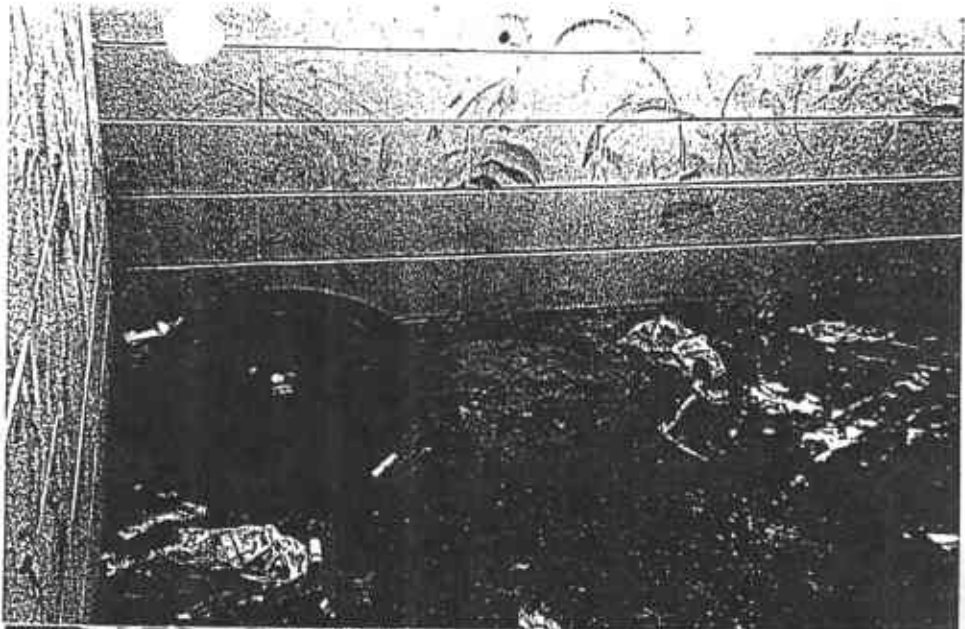
Sincerely,

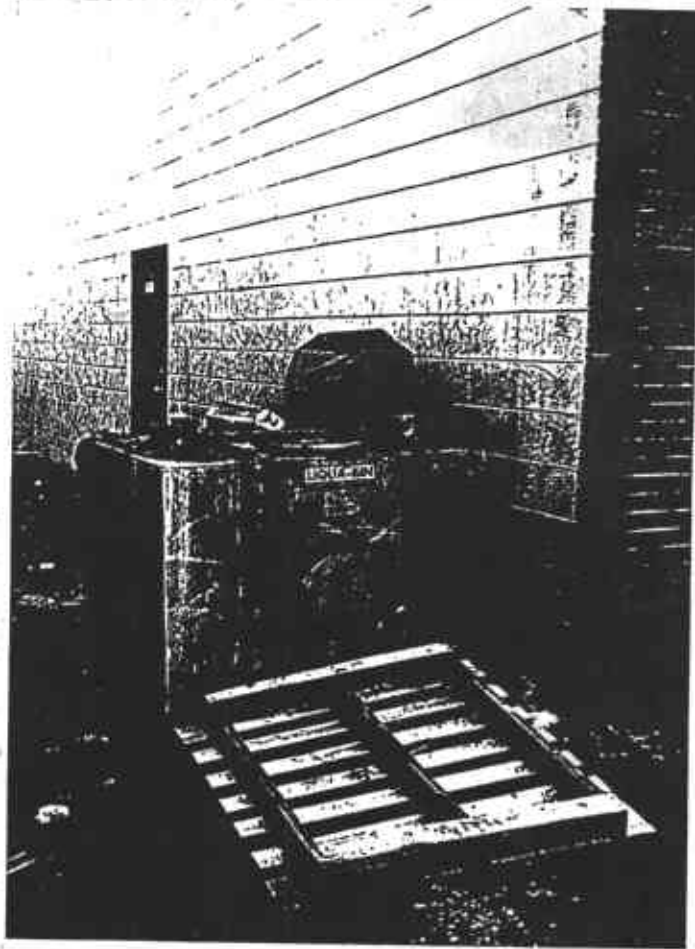


GEOFFREY C. ETNIRE

GCE:sam:8057-1.080
Enclosures
cc: West Properties







The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW

P. O. BOX 660245

DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

VIA FACSIMILE & U S MAIL-CERTIFIED RRR

March 8, 1993

AIMEE L. WEST, ET AL
c/o Geoffrey C Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

Subject: Your Fax Memo Dated 03-08-93
Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, California 94546

Dear Mr Etnire:

Just received my copy of your fax sent to our Area Sales Manager, Rick Huseman, and this office, regarding subject location. We are somewhat at a loss as to exactly what part of our February 1, 1993, letter answering your unfounded charges of a breach of lease, you don't seem to understand. We know that both you and Ms. West received your copies, since we did get the signed Return Receipts for the Certified Mail back from the U. S. Postal Service, whereby both of you acknowledged receipt of the letter on 2-5-93. It appears you either did NOT read our answer, or we have a serious communication problem. However, just in case that you just misplaced it, we are enclosing another copy for your perusal.

We do not want to regurgitate the entire letter, but quickly to again answer the previously addressed points in your letter. First, there is NO breach of the lease, based on the facts or your contentions. Second, there is NO abandonment of the property. It is only vacant while we went through the repossession process of the bankruptcy proceedings of the previous dealer and while we are refurbishing and upgrading this twenty year old facility for the next dealer. We are paying the rent in a timely manner and are actively working on the refurbishing and reopening of the facility with a new dealer, so there is NO abandonment. PLUS there is no abandonment or vacancy clause of any kind in the lease, so we don't understand on what you are basing your allegation of abandonment.

Third we are perplexed by your inconsistency of stating that there is "construction of improvements on the property that do not comply with local building codes and which were done without appropriate governmental permits" and then also stating "We have no information with regards to the improvements". If you have "no information",

then what are you basing your allegations on. As we have repeatedly requested, if you have any facts, please provide us with these facts rather than just making assertions.

As we also repeatedly pointed out to you, the fact is that contrary to your contention of consent of Lessor or notice to Lessor being required, Paragraph 2 of the lease quite clearly states "Lessee at its own expense may, in a good workmanlike manner, make such alterations and/or additions to the improvements on the demised premises as it shall deem necessary in the conduct of its business and shall not be required to restore the improvements to their original condition." So, either provide us with the specific lease language on which you are alleging breach of the lease, or point out to us specifically what the problem is.

Fourth, again as previously pointed out we have no idea what you are referring to with your allegation of breach of lease consisting of "the contamination of the property with hazardous materials", again without any specifics. As we pointed out to you, we follow all applicable laws and ordinances in the handling, storing and disposing of any potentially hazardous materials generally included and part of standard automotive service uses. Paragraph 3 of the lease quite clearly gives us the right to do so.

In regards to Bob Williams telling you that "there was an underground fuel tank on the property that has been removed", you either misunderstood or have been badly informed. To the best of our knowledge there never was an underground fuel tank on the property, unless it was on the property before Lessor delivered possession of the premises to us, and Lessor did NOT advise us of its existence. We do not use fuel other than the standard gas and electric utilities and never used an underground fuel tank.

Lessor did own, provide, install and lease to us along with the rest of the improvements a small underground used oil storage tank (UST), for which Lessor gave permission a few years back to allow the dealer to remove Lessor's tank, should business considerations lead Lessee to consider removing the tank at some time in the future. Apparently, due to the continuously changing laws and ordinances, fees, permits, testing and monitoring requirements covering USTs, our dealer decided to remove the UST rather than going through the hassle to have Lessor live up to its obligations under Paragraph 2 of the Lease, which states among other things, "Lessor will make all building changes or installations required to conform with applicable laws and ordinances." As a practical matter, in our experience at least, it makes more economic sense for Lessor to remove the UST, rather than have Lessor spend the ever increasing funds to conform with the continuously changing applicable laws and ordinances.

As to your claim that Bob acknowledged that there was some surface contamination around the parking lot, we are sure that you must be

aware that every parking lot in this country has "some surface contamination". Unfortunately, as long as automobiles do use motor oil there will be some cars "leaking" on the parking lots. We are sure that you are also aware that both the asphalt and the sealer used to seal the parking lots are petroleum (hydro-carbon) based and therefore automatically fall under the "Hazardous material" classification. The parking lots are regularly cleaned of any larger "leaks" with the material properly disposed of. The parking lots are also regularly repaired with petroleum based asphalt and resealed, which Bob indicated we would do at this site as part of the upgrading. This is NOT contamination of the property and does NOT require a toxic clean-up, nor can we give you any certification that the property is clean before any repaving occurs. After all you have NOT provided us with any certification that the property was clean.

Again we want to state that we feel we are following prudent procedures, guidelines and timetables; are conforming with all applicable laws and ordinances respecting use and occupancy of the premises; have NOT abandoned the premises and are NOT committing any undue waste on the facility; and once more respectfully request that you provide us with specific items that you feel represent an alleged breach of the lease, with specific reference to specific lease language or paragraphs, so we can cure these items of default, if they exist.

As previously stated, we are trying our utmost to get this location open again so we can sell tires, cooperate with Lessor in any way possible, and continue a good Lessor/Lessee relationship, but we need your help and cooperation, not continuing unwarranted allegations. In line with the ongoing work and the cooperation between us, would you also PLEASE ADVISE US WHEN LESSOR WILL FINALLY HAVE THE ROOF LEAKS REPAIRED. These have repeatedly been pointed out to your client and are clearly Lessor's obligation under Paragraph 2 of the Lease. They will continue to damage any new paint job and ceiling tile.

Should you have any questions or would like to discuss this matter any further, please call me at (214) 637-9208.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W J Inghofer
Field Real Estate Manager

Encl.

cc: VIA CERTIFIED MAIL-RETURN RECEIPT REQUESTED
Aimee L West, ET AL, 935 "A" Street, Hayward, CA 94541

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW
P. O. BOX 660245
DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

February 1, 1993 *

VIA FACSIMILE & U S MAIL - RRR

Mr Geoffrey C. Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

Subject: Amended Notice To Perform Covenant Of Lease 02-01-93
Goodyear Leased Facility #1748
3430 Castro Valley Boulevard
Castro Valley, California 94546

Dear Mr Etnire:

Just received your fax of the Amended Notice To Perform Covenant Of Lease dated February 1, 1993, for subject location, along with a fax from our Akron office of your Notice for 935 "A" Street, Hayward, CA, which was dated 01-28-93. The latter of course is Lessor's home address on which we have no lease. As to the first, this is for the vacant store, which was repossessed by us from a dealer in bankruptcy proceedings, and on which we have had continuing contact with you and the Lessor. Therefore, we are completely surprised and perplexed as to the purpose of your action.

As an attorney, we are sure you are quite aware that, as we discussed with you and your client, due to the bankruptcy proceedings of our dealer, we were just another creditor having to follow all procedures required by law and the Court without any special privileges. After finally having been given access to the facility by the Court in December, we had to inventory all remaining items, had to advertise the Court established auction so all other creditors could make their claims, and then had to hold the auction.

Per my phone conversations with your client, Ms. Robin West on 01-15 and 01-18-93, we advised her that we had a meeting scheduled at the District office on 01-22-93, and would discuss the progress of this repossession process and would advise her after that meeting what action would be taken. Before our District meeting even occurred, Ms West had placed another call to our Dallas office on 01-21-93 advising that she had received a call from the Sheriff's Department and reported that they "were quite concerned about the old tires at the back of the property. Not only do they consider it a fire hazard, children are using the tires for games, including rolling them into traffic, skate board launches, etc." Ms. West said "she had left word with Salesman Huseman, but he did not return her calls. She wants to hear from you regarding this problem."

When I received the message, I immediately passed on the urgency of this matter to our District Manager, who immediately assigned someone to expedite the resolution of this matter. I tried to reach Ms. West both on 01-22 and 01-23-93, but only reached her office or answering service on Friday and her recorder on Saturday. I left messages both times that the District was handling the matter, had made arrangements to get two dumpsters to the site to haul the old tires left behind by the dealer, haul the trash, clean up the facility and would try to finalize the bids for remodeling and upgrading the facility as quickly as possible. I also left the message that Ms. West should feel free to contact Rod Nelson at 510-667-4232, if she had any questions on the progress.

Because of Court requirements, we have to establish costs clearly and must follow certain procedures; therefore, we have already met with one general contractor, and have other site meetings scheduled with other contractors to get bids for the remodel and upgrading. Our District advises that they have been able to make arrangements to haul approximately half the old tires on Saturday, 01-30-93, and are scheduled to have the remaining half hauled on Tuesday, 02-02-93. The trash on the outside also has been cleaned up, everything else moved to the back of the property, the building is secured, and the remaining clean up and hauling should be completed within the next two weeks. Unfortunately, even in this economy, we have to work around the availability of the various contractors. We are also pushing very hard to get the remodel bids finalized, the costs approved, and the work completed so we finally can get another dealer in there to sell tires.

So under these circumstances, we are not only NOT breaching the lease but following prudent guidelines and procedures and feel we are "conforming with all applicable laws and ordinances respecting the use and occupancy" of the building. We did not abandon the building, we had to follow the Court's guidelines. Believe us, we are hurting a lot more from this situation, at least your client is getting paid their rent by us and therefore has no financial loss. We are not in the business of paying rent on vacant buildings, but can neither control nor eliminate these type of business problems, so quite obviously cannot breach the implied covenant of good faith and fair dealings. We cannot find anything in the lease regarding any abandonment or vacancy clause, so don't understand your allegation of that being an independent breach of the Lease.

In regards to your allegation of breach of lease consisting of "construction of improvements on the property that do not comply with local building codes and which were done without appropriate governmental permits", per our discussions since your 09-17-92 letter and our letter to you dated 09-23-92, we are not aware of any improvements that were made for which all requisite permits were not obtained and have NEVER received any notices or citations from any governmental authority indicating that anything does NOT meet local building codes or was done without appropriate permits. We also specifically requested that you provide us with detailed information as to actually what you are referring to that are improper improvements. To this date we have still NOT received any information whatsoever, yet you claim breach of the lease.

We also discussed the fact that contrary to your contention of consent of Lessor or notice to Lessor being required, Paragraph 2 of the lease quite clearly states "Lessee at its own expense may, in a good workmanlike manner, make such alterations and/or additions to the improvements on the demised premises as it shall deem necessary in the conduct of its business and shall not be required to restore the improvements to their original condition." So where is the breach of lease you are alleging?

In respect to your allegation of breach of lease consisting of "the contamination of the property with hazardous material", again without any specifics, we have no idea what you are referring to. Would you please provide us the specifics of your allegations. The tires are processed, hauled and disposed following proper laws and regulations; the used oil disposal follows all laws and regulations and involves properly permitted procedures and is hauled and disposed by properly licensed contractors; the new oil, batteries, and all other potentially hazardous materials generally included and part of standard automotive service uses are being handled, stored and disposed following applicable laws and ordinances. So again, what specifically are you alleging as being a breach of lease?

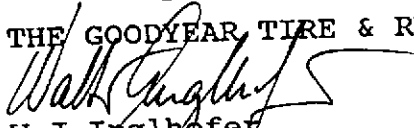
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We are trying our utmost to get this location open again so we can sell tires, cooperate with Lessor in any way possible, and continue a good Lessor/Lessee relationship for many years to come yet, but need your help to provide us with specific items and/or suggested solutions rather than starting an adverse relationship by sending an unnecessary and unfounded breach of lease allegation and giving a 30 day Notice to Perform Covenant of Lease. Please let's work together to make this a productive facility again for both of us, rather than wasting time sending legal notices and lengthy correspondence back and forth.
THANKS.

Your help and cooperation in getting us a quick reply to the requested items is greatly appreciated. Should you have any questions or like to discuss this matter any further, please call me at (214) 637-9208.

Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W J Ingelhof
Field Real Estate Manager

cc: Aimee L West, ET AL, 935 "A" St, Hayward, CA 94541
(Via Certified Mail-Return Receipt Requested)

The Goodyear Tire & Rubber Company

7301 AMBASSADOR ROW
P. O. BOX 660245
DALLAS, TEXAS 75266-0245

TELEPHONE: (214) 637-9100

February 1, 1993

VIA FACSIMILE & U S MAIL - RRR

Mr Geoffrey C. Etnire, Esq.
4900 Hopyard Road, Suite 260
Pleasanton, CA 94588

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Sincerely,

THE GOODYEAR TIRE & RUBBER COMPANY


W J Inghofer
Field Real Estate Manager

cc: Aimee L West, ET AL, 935 "A" St, Hayward, CA 94541
(Via Certified Mail-Return Receipt Requested)

The Goodyear Tire & Rubber Company

Akron, Ohio 44316-0001

January 18, 1990

Aimee L. West, Robin C. West, Keith
L. West, Melissa West Phillips and
Scott L. West,
c/o Aimee L. West
935 "A" Street
Hayward, CA 94541

Re: Underground Storage Tank(s)
Goodyear Leased Facility
3430 Castro Valley Boulevard
Castro Valley, CA

Dear Madam:

A review of our records concerning the location referenced above shows that you are the owner of the underground waste oil storage tank(s) at the site. Business considerations may lead Goodyear to consider removing the tank at some time in the future.

We hereby request your permission to remove and dispose of said tank(s) at any time during the current or extended term of our lease. Should we elect to proceed with such removal, it would be conducted through competent contractors and done at Goodyear's expense, and in a good workmanlike manner in compliance with all applicable laws and ordinances.

Will you please acknowledge your granting of permission therefor by signing and dating in the space provided, and returning to the undersigned, one of the enclosed copies of this letter.

Thank you for your cooperation.

Very truly yours,

THE GOODYEAR TIRE & RUBBER COMPANY

PERMISSION GRANTED:

By Aimee L. West
Title Owner
Date Jan. 28, 1990

BY H W Balsat
H W Balsat