

Chad Finke, Executive Officer / Clerk of the Court

By: D. Oliver Deputy

1 SCOTT W. DITFURTH, Bar No. 238127
scott.ditfurth@bbklaw.com
2 MEGAN BESHAI, Bar No. 195564
megan.beshai@bbklaw.com
3 BEST BEST & KRIEGER LLP
3390 University Avenue, 5th Floor
4 P.O. Box 1028
Riverside, California 92502
5 Telephone: (951) 686-1450
Facsimile: (951) 686-3083

6 Attorneys for Plaintiff
7 CITY OF ALBANY, a charter city

EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE SECTION 6103

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ALAMEDA

11 CITY OF ALBANY, a charter city,
12 Plaintiff,

13 v.

14 ALBANY LIONS CLUB, LIONS
15 INTERNATIONAL, a California Non-Profit
Corporation; DOES 1-10, inclusive; and ALL
16 PERSONS UNKNOWN CLAIMING AN
INTEREST IN THE PROPERTY,

17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No. 22CV010822
Assigned to Hon. Somnath Raj Chatterjee

NOTICE OF DEPOSIT OF PROBABLE
JUST COMPENSATION;
DECLARATION OF SCOTT
DELAHOOKE, MAI, IN SUPPORT
THEREOF

[Filed concurrently with:

1. Complaint in Eminent Domain;
2. Declaration of J. Bond in Support of Motion for Order for Prejudgment Possession;
3. Notice of Motion and Motion for Order of Prejudgment Possession; and
4. (Proposed) Order for Prejudgment Possession.]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


TO THE DEFENDANTS NAMED HEREIN

You are hereby notified, pursuant to the provisions of sections 1255.010 *et seq.* of the Code of Civil Procedure, that or about April 28, 2022, Plaintiff deposited \$500,000 in the State of California Condemnation Deposits Fund as probable just compensation for the easement interest sought to be acquired in this action, as described in the Complaint.

This deposit is based upon the appraisal prepared by Scott D. Delahooke, MAI, a qualified real estate appraiser, of The Delahooke Appraisal Company, as outlined in his declaration and appraisal report.

Dated: May 4, 2022

BEST BEST & KRIEGER LLP

By 
SCOTT W. DITFURTH
MEGAN BESHAI
Attorneys for Plaintiff
CITY OF ALBANY

BEST BEST & KRIEGER LLP
ATTORNEYS AT LAW
3390 UNIVERSITY AVENUE, 5TH FLOOR
RIVERSIDE, CALIFORNIA 92502

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF SCOTT D. DELAHOKE, MAI

I, Scott Delahooke, declare:

1. I am presently engaged in the general real estate appraisal profession, and I am the owner and principal of The Delahooke Appraisal Company. I am a licensed general real property appraiser, qualified by education, training, and experience of over 40 years. My qualifications as an appraiser are more fully set forth in Exhibit A attached hereto.

2. I have investigated comparable sales, reviewed the proposed acquisition and investigated the pertinent factors influencing the value of the real property subject to this action. Based upon these studies and analysis, I have come to certain conclusions as to the fair market value of the subject property as determined by sound appraisal methodologies, including the use of the sales comparison and income approaches.

3. My estimate of just compensation for the easement interest to be acquired is \$500,000, which includes the fair market value of the interest being acquired, as more fully set forth in the appraisal report, attached hereto as Exhibit B.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 20th day of April, 2022 at Arcadia, Los Angeles County, California

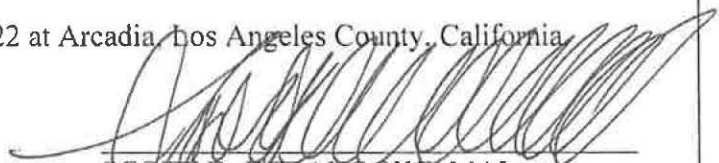

SCOTT D. DELAHOKE, MAI

EXHIBIT A

SCOTT D. DELAHOKE, MAI
225 S. First Avenue, Suite #201
Arcadia, California 91006
(626)-445-0500

GENERAL EDUCATION

1981 University of Southern California, B.S., Business Administration
Finance & Business Administration Program

APPRAISAL EDUCATION

1980 Real Estate Valuation-Courses 101/201
University of Southern California
1983 Society of Real Estate Appraisers-Course R-2
1984 Society of Real Estate Appraisers-Course 202
1991 Comprehensive Appraisal Workshop-Appraisal Institute

TEACHING EXPERIENCE

Course 110 Appraisal Institute (Introduction to Appraisal)
Course 310 Appraisal Institute (Capitalization- Theory)
Course 510 Appraisal Institute (Capitalization-Application)
Seminars Lectured at multiple seminars on a range of topics.
Consultation Lectured at banking institutions on valuation principles.
Guest Lecturer USC Law School/UCLA Business School

APPRAISAL EXPERIENCE

Office Includes valuation of office projects ranging in size from 1,500 sq.ft. to over 200,000 sq.ft., and from low-rise to mid-rise complexes.
Retail Includes valuation of anchored and non-anchored centers ranging in size from 2,000 sq.ft. to over 150,000 sq.ft., with most being multi-tenant in use and from neighborhood to regional in design.
Industrial Includes valuation of single and multi-tenant industrial facilities, including incubator projects and business parks. Project sizes have ranged from 5,000 sq.ft. to over 150,000 sq.ft.
Apartment Includes valuation of apartment projects ranging in size from 10 to over 250 units including conversion issues and feasibility.
Residential Includes single family dwellings and residential subdivisions ranging in size from 10 sites to over 100 sites (both vacant and improved).
Vacant Land A wide range of vacant sites have been valued, including land zoned for commercial, industrial, multi-residential and residential use.

SPECIAL PURPOSE PROPERTIES

Bowling Centers
Service Stations
Private Schools
Self Storage Facilities
Hotel/Motel Valuation

Car Wash Facilities
Religious Facilities
Mobile Home Parks
Airport Fixed Base Operations
Conservancy Land

REAL ESTATE INTERESTS VALUED

Fee Simple Estate-Income and Non-Income
Leased Fee Estate
Leasehold Estate
Partial Interests

CONSULTATION ASSIGNMENTS

Feasibility Analysis
Developer Consultation
Marketing Oversight

Loan Portfolio Analysis
Highest and Best Use Analysis
Entitlement Assistance

PARTIAL LIST OF CLIENTS

Financial Institution Clients

Pacific Western Bank
Chase Bank
Banco Popular-North America
East/West Bank
California State Bank
Wells Fargo Bank
General Bank
Inland Community Bank
Bank Audi of New York
Imperial Capital Bank
Broadway Federal, FSB
First Security Corporation
Southern California Bank
Capital Crossing Bank
Marathon National Bank
First Union National Bank
Kaiser Federal Bank

City National Bank
Citibank
Mercantile National Bank
Farmers & Merchants Bank
Comerica Bank
Luther Burbank Savings
Fidelity Federal Bank
US Bank
Silvergate Thrift & Loan
Foothill Independent Bank
First Professional Bank
First Federal Bank
Gilmore Bank
First Bank of Beverly Hills, FSB
Thai Farmers Bank
United Mizrahi Bank
Pacific Mercantile Bank

General Client Summary

University of Southern California	Pepperdine University
Metropolitan Mtg. & Securities, Inc.	GE Capital Corporation
George Elkins Mortgage Banking Company	Imperial Commercial Capital Corporation
Weyerhaeuser Financial Investments, Inc.	Int'l. Brotherhood of Electrical Workers
GMAC Mortgage	George Smith Partners
Deutsche Bank Securities	ARCS Commercial Mtg. Company
Bankers Insurance Group	Safeco Insurance Company
Teachers Insurance & Annuity Assoc.-America	Cobham/Sargent Fletcher Corporation
AES/Southland Corporation	Aetna Casualty Insurers
State Farm Insurance Company	The Travelers Insurance Company
Scottsdale Insurance	TransAmerica Financial Services
Star Insurance Company	North America Title Insurance Company
Kindercare Learning Centers, Inc.	Savers Property & Casualty Insurance
Community Housing Services	TransAmerica Title Insurance
CIM Group	Stewart Title Insurance Company
Pankow Companies	Kaiser Permanente
Ronald McDonald House	Presbytery of San Gabriel Valley
Orion Outdoor Media	Pacific Theaters
All-Saints Church-Pasadena	Affordable Housing Development Corp.
Marlborough School	Stock Building Supply

Public Agency Clients

L.A. Unified School District	Metropolitan Transit Agency
Federal Deposit Insurance Corporation	City of Glendale
City of El Monte	City of Pasadena
Housing/Urban Development	U.S. Department of Justice
City of Los Angeles	State of California
Perris Unified School District	Los Angeles C.R.A.
Val Verde Unified School District	City of South Pasadena
City of Palmdale	City of Santa Monica
City of South Pasadena	City of Cathedral City
City of San Juan Capistrano	City of Downey
City of Highland	City of Azusa

LITIGATION ASSIGNMENTS

Qualified Expert Witness:	County of Los Angeles, Superior Court
	County of Orange, Superior Court
	County of Riverside, Superior Court
	County of Santa Clara, Superior Court
	United States Bankruptcy Court, Central District of California

Litigation Client Summary

O'Melveny & Myers	Briedenbach, Swainston, Crispo & Way
Myers, Nave, Riback, Silver & Wilson	Best, Best & Krieger
Cooksey, Toolen, Gage, Duffy & Woog	Buchalter, Nemer, Fields & Younger
Loeb & Loeb, LLP	Hornberger & Brewer
Jones, Bell, Abbott, Fleming & Fitzgerald	Hunter, Molloy & Salcido
Holland & Knight, LLP	Cahill, Davis & O'Neill
Gaglione, Dolan & Kaplan	Polk, Scheer & Prober
Palmieri, Hennessey & Leifer	Stone, Rosenblatt & Cha
Reed & Brown	Hill, Wynne, Troop & Meisinger
Nossaman, Guthner, Knox & Elliott	Solomon, Grindle, Silverman & Spinella
Hughes, Hubbard & Reed	The Law Offices of John S. Peterson
Nigro, Karlin & Segal	Rosenfeld, Wolff, Aronson & Klein
Dubia, Erickson, Tenerelli & Russo	Hill, Farrer & Burrill
Demetriou, Del Gercio, Springer & Francis	Hahn & Hahn
Stringfellow & Associates	Oliver, Sandifer & Murphy
Paul, Hastings, Janofsky & Walker	Jones, Mahoney, Brayton & Soll
Lewis, D'Amato, Brisbois & Bisgaard	Rodi & Pollock
Blue & Schoor	Haight, Brown & Bonesteel
Hunt, Ortmann, Blasco, Palffy & Rosell	Jeffer, Mangels, Butler & Marmaro
Senn, Palumbo & Muelemans	Castro & Associates
Sullivan, Workman & Dee	Schrieffer, Nakashima & Downey
California Eminent Domain Law Group	Kendrick & Jackson
Kessler & Schneider	Gipson, Hoffinan & Pancione
Richards, Watson & Gershon	DLA Piper, US
Richardson & Harman	Perona, Langer, Beck, Llande & Serbin
Wolf, Rifkin, Shapiro & Schulman	Price, Postel & Parma
Anglin, Flewelling, Rasmussen, Campbell & Trytten	Carpenter, Rothans & Dumont
Gresham, Savage, Nolan & Tilden	Cooksey, Toolen, Gage, Duffy & Woog

PROFESSIONAL DESIGNATIONS

Appraisal Institute

MAI Designation

PROFESSIONAL AFFILIATIONS

Past President-
Board of Directors-

Los Angeles Chapter, Appraisal Institute
Los Angeles Chapter, Appraisal Institute

STATE CERTIFICATION

State of California-

Office of Real Estate Appraisers-#AG002796

EXHIBIT B

***AN APPRAISAL REPORT PREPARED FOR
BEST, BEST & KRIEGER LLP
OF THE PROPERTY LOCATED AT
North Taft Street
Albany, California 94706***

***PREPARED BY
The Delahooke Appraisal Company
Scott D. Delahooke, MAI***

***THE EFFECTIVE DATE OF APPRAISAL IS
July 17, 2021***



*The Delahooke Appraisal Company
Scott D. Delahooke, MAI
225 S. First Avenue, Suite #201
Arcadia, California 91006*

November 8, 2021

Best, Best & Krieger, LLP
Scott Ditfurth, Attorney-at-Law
3390 University Avenue, 5th Floor
Riverside, California 92501

Dear Mr. Ditfurth:

At your request, an appraisal has been prepared of the property located at:

**North Taft Street
Albany, California 94706**

Property Description: The legal description includes the following:

An easement over Lots 1-18, Block 8, Plat of Cerrito Hill,
City of Albany, County of Alameda, State of California.
Portion of Assessor Parcel #066-2754-14-5,40-3

Purpose of the Appraisal: The purpose of the assignment is to provide an opinion of value of the existing easement held by the *Albany Lions Club, Lions International, A California Non-Profit Corporation*, which is described on Document 73-116351, recorded 8/24/73 as being:

An Easement For Ingress And Egress To Maintain The Existing Cross Standing On A Portion Of The Following Described Premises... (Legal stated above).

Notably, the legal description of the easement does not state where on the servient property the cross is to be located, but rather notes it is an *Existing Cross*. While ultimately a legal opinion, this could be interpreted to mean that the cross can be relocated to any portion of the servient property, with the retained rights of ingress and egress extending to the entire site.

Property History: The existing cross on Albany Hill has a long history, which is summarized below:

1971 A 20' high cross was erected on privately owned land (reportedly roughly 1.1 acres). This cross is illuminated on Easter and Christmas each year (it is reportedly visible "all the way to the East Bay Hills").

- 1973 As part of securing entitlements for a proximate development, the buyer (IGC) purchased from the property owner (Call) land which included an easement for ingress/egress to the existing cross in favor of the Lion's Club. The developer (IGC) then deeded the land to the City of Albany, subject to the underlying Lion's Club easement (the District Court later affirmed there was constructive notice).
- 1978 Termed the *Thomson litigation*, there were several court challenges to the transfer, extending all the way to the California State Supreme Court. The transfer of the land to the City was deemed valid, but there were several other portions of the decision that had financial implications for those named in the suit.
- 2017 The Lions Club filed suit against the City of Albany alleging conspiracy between the defendants and the East Bay Atheists. The District Court Judge visited the park and cross in 2018. Several motions for summary judgement by the Lions Club were granted, while others were denied.
- 2019 The 9th Circuit Court of Appeal affirmed the District Court's ruling.

Fair Market Value Defined: As the acquiring entity is a public agency with the right of eminent domain (this right has reportedly not yet been formalized), the value opinion will be based on the definition stated in the California Code of Civil Procedure, Section 1263.320:

The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available. The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

Property Rights Appraised: The final value estimate represents the easement rights held by the Lions Club to a property owned in Fee (subject to the underlying easement) by the City of Albany. The Fee Simple Estate is defined as follows, according to the Dictionary of Real Estate Appraisal, 6th Edition:

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

Legal Instruction: The appraiser was provided with the following legal instruction: *The larger parcel, for purposes of appraisal, is limited to the easement and not to the underlying land owned by the City, as there is no unity of ownership between the City and the Lions Club.* This instruction has been followed in this appraisal assignment.

Application of CCCP in Valuation: Along with the Uniform Standards of Professional Appraisal Practice, real estate appraisers analyzing value in an eminent domain setting also look to the California Code of Civil Procedure for guidance. The definition of Fair Market Value, summarized above, is one of the CCCP requirements. Traditionally, there are three approaches to value which can be utilized by an appraiser in a

given assignment. These include the Sales Comparison Approach (which uses sales of comparable property, applying proper adjustments), the Income Approach (which looks at cash flow to a given property and market-based return rates) and the Cost Approach (which considers the value of the land as vacant and adds the depreciated value of the existing improvements). All three approaches are market-based, and rely on an active market from which to research and analyze transactional information. However, if the property being appraised is truly unique, there might not be truly comparable market information upon which to base value. In that case, the last sentence of CCCP 1263.320 becomes important:

The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

The Lions Club International (LCI) is a 501(c)(4) tax-exempt social welfare organization. Section 1235.155 of the California Code of Civil Procedure states:

“Nonprofit, special use property” means property which is operated for a special nonprofit, tax-exempt use such as a school, church, cemetery, hospital, or similar property. “Nonprofit, special use property” does not include property owned by a public entity.

Further, Section 1263.321 of the California Code of Civil Procedure states:

A just and equitable method of determining the value of nonprofit, special use property for which there is no relevant, comparable market is as set forth in Section 824 of the Evidence Code, but subject to the exceptions set forth in subdivision “c” of Section 824 of the Evidence Code.

Lastly, Section 824 of the Evidence Code states:

(a) Notwithstanding any other provision of this article, a just and equitable method of determining the value of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, for which there is no relevant, comparable market, is the cost of purchasing land and the reasonable cost of making it suitable for the conduct of the same nonprofit, special use, together with the cost of constructing similar improvements. The method for determining compensation for improvements shall be as set forth in subdivision (b).

(b) Notwithstanding any other provision of this article, a witness providing opinion testimony on the value of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, for which there is no relevant, comparable market, shall base his or her opinion on the value of reproducing the improvements without taking into consideration any depreciation or obsolescence of the improvements.

While not an attorney, it is my preliminary opinion that since the owner of the rights being acquired is a tax-exempt non-profit organization, and as there is no “relevant comparable market” (that is, no discernable active market for the purchase and sale of the type of rights being acquired) the special-use provision noted

above would apply, and the value should be based in part on “the cost of purchasing land and the reasonable cost of making it suitable for the conduct of the same non-profit, special use”.

USPAP/Scope of Work: This report complies with the Uniform Standards of Professional Appraisal Practice. The report has been presented in the Appraisal Report format, in compliance with Standard Rule #2. The appraiser complies with the Competency Provision of USPAP, and has valued numerous types and sizes of government-owned property, easement rights, private property owned in Fee, unique and special purpose property over the past forty years. The intended use of this report is for Best, Best & Krieger and the City of Albany to analyze the potential property/easement value, with the intended users being the clients and others they designate. This report may be used to support the required deposit in a future Condemnation action, but is not to be used for designated expert litigation exchange purposes.

Sales History: The subject property has not been involved in a market-based sale transaction over the past twenty years according to public records.

Market Area Overview: The subject property is located in the City of Albany, which is in the eastern San Francisco Bay area. Adjacent cities include El Cerrito and Kensington (County) to the north and Berkeley to the south. The San Francisco Bay is adjacent-west. The 80 Freeway runs north/south along the western city border, and there is a foothill range to the east. The population in Albany is approximately 19,696. The median household income is \$95,400, and the total employment 2,506. Most of the employment is in the service industry. There has been some higher-density development in the western section of the city (multi-family), however most buildings are older in age and lower-density in design. Use patterns are well established. No significant change in property use is anticipated over the next several years.

Religious Symbol Easement Relevant Comparable Market: As previously noted, this assignment involves valuation of the easement rights held by the Lions Club, a not-for-profit private organization. There are many types and sizes of religious facilities. In some market areas, there are many religious facilities which have been constructed over the years. In these markets, it is not uncommon for religious types of facilities to be listed for sale and sold/purchased by similar organizations who are looking to grow or down-size. This type of activity, in the opinion of the appraiser, represents a “relevant, comparable market”, with both demand and supply. If a religious facility property in this area were to be taken by eminent domain, there tends to be sufficient supply which would allow the Condemnee to find a suitable replacement property proximate to the one being acquired. However, if the religious facility is of a unique size or location, there may be very little opportunity to find a similar property to purchase. In that instance, Section 824(a)(b) of the California Evidence Code would apply, allowing the Condemnee to purchase land and build a new, similar facility to replicate what was lost (which is why deducting depreciation in the valuation approach is not permitted, because the Condemnee has to construct a new building).

The issue of determining if there is a “relevant, comparable market” in this assignment is of great importance. The appraiser has conducted significant market research to ascertain if there has been the transfer of either a property owned in fee or an easement which has as its sole improvement a religious symbol (of any kind). Based on research conducted during this assignment, there does not appear to be a “relevant comparable market” for this type of property use. Based on Section 1235.155, the subject property appears to be clearly

in the classification of the “Non-Profit, Special Use Property” (it is a *special nonprofit, tax-exempt use*). The last section of Section 1263.320 states:

The fair market value of property taken for which there is no relevant, comparable market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

In the valuation section of this report, additional discussion will be presented as to the type of market data and methods of valuation that, in the opinion of the appraiser result in a conclusion that is just and equitable.

Property Description: The Larger Parcel in this assignment, in consultation with the client, is the easement right held by The Lion’s Club which allows access to and from, and maintenance of, a cross structure. This easement right blankets eighteen lots which are along the west side of Taft Street, extending north of Hillside Avenue. Adjacent-north and west are additional lots which, combined with the eighteen lots blanketed by the easement, represent the *Albany Hill Park*. This park is largely unimproved with structures (there is a concrete paved walkway), but does have several mature eucalyptus trees varying in height. The park is accessible from both Taft Street and Jackson Street. The cross is in the eastern/central section of the park, roughly 30' below the highest elevation. Due to both the elevation and density of trees, the cross is primarily visible to the east, in the communities of Albany, Berkeley, El Cerrito and Kensington. The easement does not limit the cross size or illumination, nor does it specify the cross location.

The cross is on a 4' x 6' concrete pad. The total cross elevation is roughly 23'-24', and the total width is approximately 10'-12'. The cross is metal-framed. An elevated electrical line extends to the cross structure from the east. The eastern side of the cross illuminates. No deferred maintenance was noted. There are two benches, one on either side of the cross, which is for use by park patrons. Based on inspection of the area around the cross, there appears to be a roughly 5,000sf usable pad area (no specific area was noted in the easement document, only that the easement holder has the right to access and maintain the existing cross).

Highest and Best Use: The land underlying the cross easement is reportedly owned by the City of Albany for use as a public park. The park land has a zoning classification of PF, or Public Facilities. The General Plan Designation is Parks & Open Space. The zone classification and general plan designation is oriented toward operation of “public facilities”, and applies to property which is government-owned. Religious institutions are considered “Public and Quasi-Public Use Classifications”, and are allowed under R-1, R-2 and R-3 zoning (subject to CUP). The Highest and Best Use of the property owned by the City of Albany is continued operation as a public park. If the property were sold to a private developer, the Highest and Best Use would likely change to a residential classification consistent with surrounding privately-held property.

Market Value Analysis: The three approaches to value typically utilized by a real estate appraiser include the following:

Sales Comparison Approach

In this approach, comparable sales of properties similar in use and utility are researched and compared to the subject property, with adjustments made for characteristics that differ. The comparables should have a similar Highest and Best Use to the subject property.

Income Approach

In this approach, market-based cash flows are analyzed for the subject property, with vacancy and expenses being deducted to arrive at net operating income. This resulting income is then capitalized at an appropriate market return rate to arrive at a value indicator. The comparables utilized should have a similar Highest and Best Use to the subject property.

Cost Approach

This approach first involves valuation of the underlying land “as if vacant”, utilizing sales of sites similar in location, zoning, uses permitted and size. The value of the land as vacant is added to the estimated depreciated improvement value (unless it is a Special Use property as noted in the CCCP) to arrive at an overall property value. As with the other two approaches, comparables should reflect a similar Highest and Best to the subject property.

All three approaches have at their core the principle of substitution, which holds that a potential buyer would not pay more for a property than the cost (price, rental rate or cost of land and building) of acquiring a reasonable substitute in the general marketplace. Each approach depends on an active market which includes available alternative property to the one being appraised. The appropriate approaches will be summarized in the following sections. The Cost Approach has not been utilized due to the limited improvement value.

As part of this assignment, the appraiser interviewed the Albany Director of Development Services, Mr. Jeff Bond. Questions were asked about the subject property, as well as the underlying Zoning Code and General Plan. One of the questions asked was about potential zoning classifications that would accept a cross improvement similar to the subject, because one approach to value could include analysis of relocation of the cross to another section of the City which had similar site prominence.

Sales Comparison Approach: There are two scenarios which were considered in this assignment for application of the Sales Comparison Approach. The first was to research potential sales of sites improved with religious symbols similar to the subject (this search extended to the entire State of California). The second was to research sales of potential cross replacement sites owned privately in the market area around the subject property. Both scenarios are presented below.

Religious Symbol Sales

After a State-wide search for this type of comparable transaction, the only sale which was found was the *Mount Soledad Cross* property. This property is located in La Jolla, California. Termed the “Mount Soledad Easter Cross”, this religious symbol was first built in 1913. It is located on the top of a hill known as Mount Soledad. The cross currently stands at a total elevation of 43' (29' cross, 14' base). Easter services were held at the cross for forty years. The cross was involved in litigation from 1989 to 2015. The cross was originally on public land. In 1998, the City of San Diego sold the land under the cross (and the cross structure) to a non-profit organization, which then became part of a larger Korean

War Memorial. The land under the cross was then transferred to the Federal government, however there were subsequent lawsuits and challenges to ownership by the Federal government. In July of 2015, the Mount Soledad Memorial Association bought the land under the cross (22,215sf) plus an access easement over surrounding government-owned land from the Department of the Navy for \$1,369,000, ending the Establishment Clause legal challenges (Quitclaim Deed, Document #0379341). The Assessor Parcel is #353-010-17-00, in San Diego County.

The improvements in place for this comparable are much more extensive than those for the subject property (there is paved access, there are brick and concrete walkways, there are stone walls with named war veterans, and there is the cross). Additionally, the acquisition was of the Fee interest, which is generally superior to an easement interest. While an upward adjustment is warranted for improving market conditions, a significant downward adjustment is warranted for the superior improvements and rights acquired as compared with the subject property.



Sales of Replacement Property

The search for replacement property sale comparables included the submarkets around the subject property, including El Cerrito, Kensington, northern Berkeley and Albany. The search focused on elevated sites which had views and could be seen in a manner similar to the subject site. These elevated sites were almost entirely residential in zoning (these classifications generally allows development of religious facilities, however typically Conditional Use Permits are required). These sales are summarized in the following table.

View-Oriented Residential Sale Comparables							
Sale	Location/APN	Site Area	Site Zoning Topography/View	Buyer Seller	Sale Date/Doc. Sources	Sale Price	Price/SqFt
1	8246 Terrace Drive El Cerrito, CA #505-262-059	10,065sf	RS-5 Level/Ltd. City	Zadeh/Sajjadian Kaake/Ebertza	6/11/21 #0170943 MLS/Broker-Eckert	\$600,000	\$59.61
2	10 Garden Drive Kensington, CA #572-080-017-5	7,840sf	R-6/TOV/K Steep/Bay View	Lieber Murray	8/17/20 #0173338 MLS/Broker-Feiner	\$531,000	\$67.73
3	940 Arlington Blvd. El Cerrito, CA #505-301-046-7	5,000sf	RS-5 Steep/Bay View	Wadsworth Arlington Prosp. LLC	8/28/19 #0139306 MLS	\$580,000	\$116.00
4	6518 Hagen Blvd. El Cerrito, CA #501-322-014-9	6,000sf	RS-5 Steep/Bay View	Malik/Razzaq Karpinski	7/9/19 #0105120 MLS/Hyun	\$375,000	\$62.50
5	1196 Curtis Street Albany, CA #065-2643-066	8,175sf	R-1 Level/No View	NAMC Holdings Wipaki	4/30/19 #0078480 MLS/Broker-Rose	\$535,000	\$65.44
6	185 Hill Road Berkeley, CA #060-2493-071	4,960sf	R-1H Steep/Bay View	Millennium Trust Neilands	4/18/18 #0076949 MLS/Broker-Gordon	\$460,000	\$92.74
7	1074 Sterling Avenue Berkeley, CA #063-2980-019	5,310sf	R-1H Steep/Bay View	Fong/Kim Wilde/Park Trusts	1/3/18 #0000872 MLS/Broker-McPhail	\$450,000	\$84.75

Comparable Sale Comments:

Sale #1 involves a new two story home nearing completion. Sale #2 is on a smaller street with center median. Sale #3 involves a vacant lot in an area of new home development. Sale #4 has a new two level home nearing completion. Sale #5 has a new two story home in place. This is the only residential land sale which could be found in Albany. It has no view, and involves a level lot. Sale #6 is still vacant. Sale #7 is in an area of new home construction. The escrow period was one year.

Below is a summary of the information based on the sales presented:

Sale Comparable Summary			
	Range	Variance (Top = Denominator)	Mean
Lot Size	4,960sf-10,065sf	50.7%	6,764sf
Sale Price	\$375,000-\$600,000	37.5%	\$504,430
Price/Sq.Ft.	\$59.61/sf-\$116.00/sf	48.6%	\$78.40/sf

The smallest variance is in the total sale price unit of measure. It is important to note that installation of a religious symbol similar in size to the subject is not a use by right, and will require a Conditional Use Permit in most cases. This type of symbol would likely receive some neighbor opposition, especially if it is lit in the evenings. So an upward adjustment to the indicators summarized above would be appropriate to account for the risk associated with obtaining the proper approvals, which are not assured. The estimated value based on the comparables summarized is in the range of from **\$450,000-\$550,000**.

Income Approach: This approach to value considers market rental revenue for a property or property use, and applies appropriate market return rates to arrive at a value indicator. The easement right is specific to the cross improvement which is visible to thousands of people, especially when illuminated during the evening (there appear to be no limitations on how often the cross can be lit). While the cross is tied to a particular religious practice, it does not highlight a specific church or religious location (although there are no limitations against having one specified). The easement also does not restrict the cross to a specific size, although the cross structure currently in place does appear to have been there for many years. In some ways, this structure is a religious reminder. Many religious groups rent billboard space showing only a religious symbol, while others advertise a specific religious facility.

General research was conducted on single-faced billboard sign revenue potential for a non-freeway sign. Assuming a 14' x 48' standard board size, annual gross advertising revenue of \$97,500 would be reasonable to expect. Allowing 20% for vacancy, the effective gross advertising income would be \$78,000. Real estate net rent is typically 25%-30% of effective gross advertising income, which would result in real estate rental of from \$19,500 to \$23,400. Capitalization rates for billboard easements generally range from 7.0% to 8.0%. Utilizing a 7.5% rate, the range of value would be from \$260,000 to \$312,000, or say **\$300,000**.

Final Value Estimates: Based on the analysis conducted in this assignment, which is based on the data summarized in this report as well as additional information held in the appraiser's work file, the indicated values are:

Summary of Value Indicators	
Sales Comparison Approach : Cross Comparable	\$1,369,000 (Prior to Adjustments)
Sales Comparison Approach : Residential Land Comparables	\$450,000-\$550,000
Income Approach : Billboard Revenue	\$300,000

As noted earlier, significant downward adjustments to the purchase price of the Mt. Soledad cross are warranted for site prominence, interest acquired, visibility and memorial improvements, while an upward adjustment is warranted for improving market conditions. While quantifying an adjustment is extremely difficult, a reasonable value for the subject based on this transaction would be in the \$500,000-\$750,000 range in the opinion of the appraiser. The residential land comparables represent a price for cross relocation to a site with visibility and prominence. The billboard revenue analysis is a secondary approach due to the lack of similarity to the subject, but it is given some consideration. After consideration of all available data, and taking into account the special use nature of the property and the lack of a relevant comparable market, the estimated Fair Market Value of the easement right being analyzed is:

Five Hundred Thousand Dollars
\$500,000

Extraordinary Assumptions: Below, the extraordinary limiting condition utilized as part of this assignment is summarized:

1. The opinion of value assumes the subject property is free from all forms of environmental contamination. If environmental contamination is later found, the appraiser reserves the right to amend value as appropriate.

Hypothetical Conditions: No hypothetical conditions have been utilized in this assignment, other than valuation of the property rights being acquired prior to consideration of any post-acquisition impacts.

Respectfully submitted,

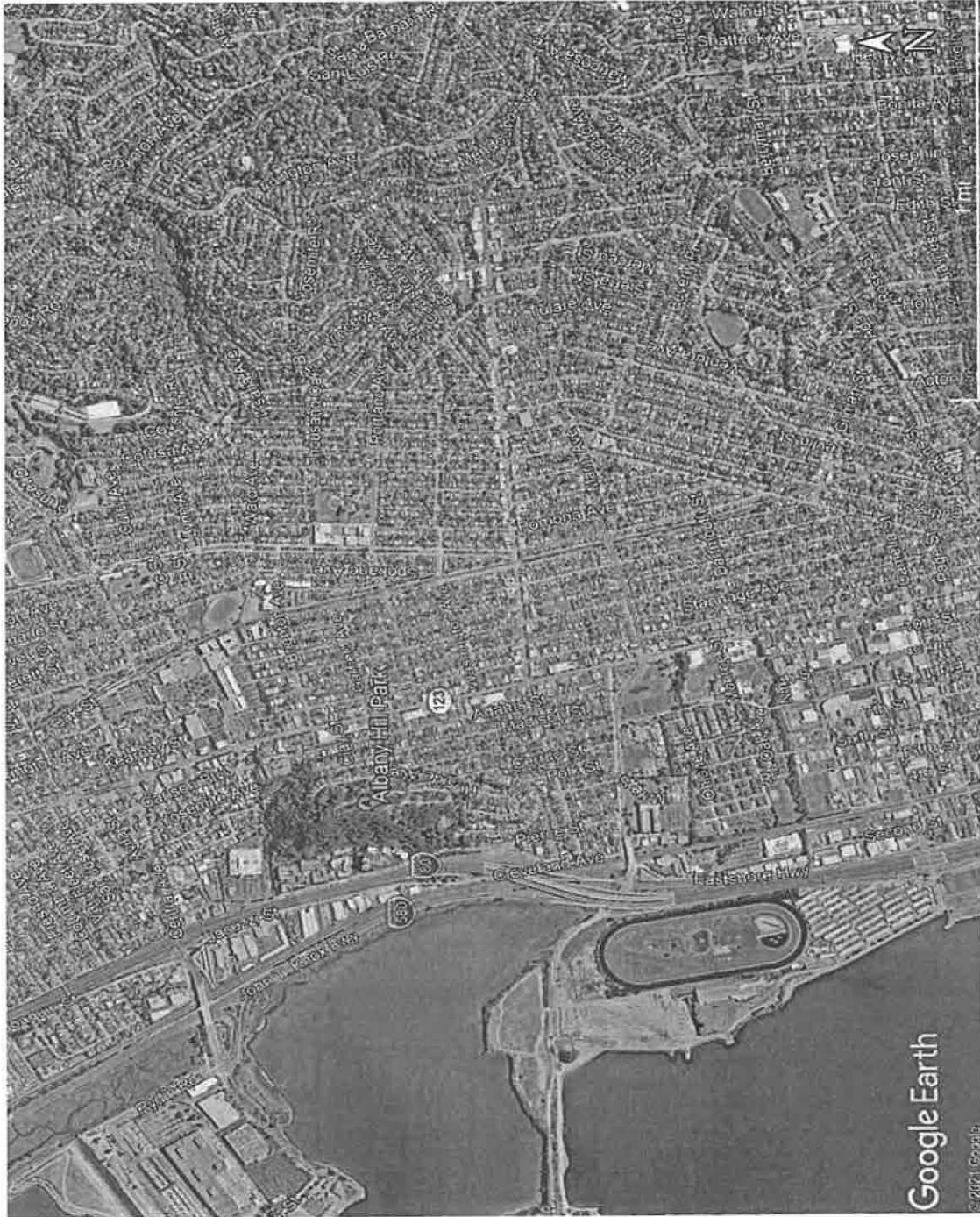


Scott D. Delahooke, MAI
The Delahooke Appraisal Company
State Certification #AG002796
Expires 7/2/2022

AERIAL VIEW



AERIAL VIEW



CERTIFICATION OF SCOTT D. DELAHOKE, MAI

I certify that, to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions and conclusions are limited only by the reported Assumptions and Limiting Conditions and Hypothetical Conditions, and are my personal, impartial, and unbiased professional analyses, opinions and conclusions.

I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved. I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment. My engagement in this assignment was not contingent upon developing or reporting predetermined results.

I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

The reported analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Practice of the Appraisal Institute, and also conform with the requirements of the Uniform Standards of Professional Appraisal Practice.

Carmen Steele provided research and verification assistance. I have made a personal inspection of the property that is the subject of this report.

As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives. If this assignment involves historical or prospective valuation, this certification will be signed as of the date of report completion. The statements in this certification apply to both the date of value and the date of report completion.



Signed-Scott D. Delahooke, MAI
(AG002796 : Expires 7/2/2022)

11-8-21

Report Completion Date

ASSUMPTIONS AND LIMITING CONDITIONS

1. The appraiser assumes no responsibility for matters of a legal nature affecting the property appraised or the title thereto, nor does the appraiser render any opinion as to the title, which is assumed to be good and marketable. The property is appraised as though under responsible ownership.
2. No survey has been made of the property and it is assumed that the improvement is well within the lot lines and in accordance with local zoning and building ordinances. This fact can only be ascertained by an engineering survey, which is beyond the appraiser's area of expertise.
3. All information furnished by others are from reliable sources and are assumed to be true and correct. No responsibility is assumed for errors or omissions nor for information not disclosed by others which might otherwise affect the value estimate.
4. The appraiser assumes that there are no hidden or unapparent conditions of the property, subsoil or structures, which would render it more or less valuable. The appraiser assumes no responsibility for such conditions, or for engineering, which might be required to discover such factors. The appraiser can only report items which could be seen during the property inspection. The appraiser used due diligence in inspecting the property, however if access was limited for any reason the appraiser cannot be responsible for items which were hidden or unapparent due to the limited access.
5. The appraiser shall not be required to give testimony or appear in court by reason of this appraisal, unless prior arrangements have been made therefore. The client shall advise appraiser as to testimony required. If the appraiser is to provide expert testimony on behalf of the client, the client shall provide the appraiser with legal representation and pay for such legal representation as may be required.
6. Possession of this report does not carry with it the right of publication, nor may it or any part thereof, be used by anyone but the applicant without the previous written consent of the appraiser. The appraiser has no accountability, obligation or liability to any third party. If the client gives this report, or a copy of this report, to a third party, this limit of appraiser liability should be fully explained and communicated. The report must always be observed in its entirety.
7. Neither all nor any part of the content or the report or copy thereof (including the conclusions as to the property value, the identity of the appraiser, professional designations, reference to any professional appraisal organizations, or the firm with which the appraiser is connected) shall be used for any purposes by anyone but the client specified in the report, the mortgagee or its successors and assigns, mortgage insurers, consultants, professional appraisal organizations, any state or federally approved financial institutions any department, agency or instrumentality of the United States or any state or the District of Columbia, without the previous written consent of the appraiser; nor shall it be conveyed

by anyone to the public through advertising, public relations, news, sales or other media, without the written consent and approval of the appraiser.

8. No search was made for insect infestation or rot in existing structures if any.
9. In this appraisal assignment, the existence of potentially hazardous material used in the construction or maintenance of the building, such as the presence of urea formaldehyde foam insulation and/or existence of toxic waste (which may or may not be present on the property) was not observed by the appraiser nor does the appraiser have any knowledge of the existence of such materials on, in, or near the property. The appraiser, however, is not qualified to detect such substances. The existence of urea-formaldehyde insulation or other potentially hazardous waste material may have an effect on the value of the property. The client is urged to retain an expert in this field, if needed.
10. In April of 1992, the United States Congress passed landmark legislation known as the "Americans with Disabilities Act". It has unique and strong requirements on all property owners which is retroactive. At some point in the future, all buildings must provide adequate access to persons with disabilities. Due to the design of some structures, this could become extremely expensive and potentially alter property value. The appraiser is not an expert in architecture and can make no claims regarding the subject property's compliance with this act. The client should be aware that at some future date requirements may be made by governmental agencies for upgrades to the subject property.
11. The appraised value is based on the assumption all required licenses, certificates of occupancy, permits/conditional use permits or other operating approvals are in place and can be renewed in the future allowing reasonable property operation. In the event the subject site has been improved with legal, non-conforming structures, the appraiser assumes all such structures have been implemented with proper permits. It is also assumed that in the event of demolition, the building department having jurisdiction would allow reconstruction to the level of legal non-conforming use existing prior to destruction.
12. The appraised value is as of a specific date. The appraiser is not an economist and cannot predict or project future economic events which may impact the future value of the subject property. The appraiser can only take into account current and historic market information to estimate value.
13. If the client or any third party brings legal action against the appraiser and the appraiser prevails, the party initiating such legal action shall reimburse the appraiser for any and all costs of any nature, including attorney's fees, incurred during such legal action.

SCOTT D. DELAHOOKE, MAI
225 S. First Avenue, Suite #201
Arcadia, California 91006
(626)-445-0500

GENERAL EDUCATION

1981 University of Southern California, B.S., Business Administration
Finance & Business Administration Program

APPRAISAL EDUCATION

1980 Real Estate Valuation-Courses 101/201
University of Southern California
1983 Society of Real Estate Appraisers-Course R-2
1984 Society of Real Estate Appraisers-Course 202
1991 Comprehensive Appraisal Workshop-Appraisal Institute

TEACHING EXPERIENCE

Course 110 Appraisal Institute (Introduction to Appraisal)
Course 310 Appraisal Institute (Capitalization- Theory)
Course 510 Appraisal Institute (Capitalization-Application)
Seminars Lectured at multiple seminars on a range of topics.
Consultation Lectured at banking institutions on valuation principles.
Guest Lecturer USC Law School/UCLA Business School

APPRAISAL EXPERIENCE

Office Includes valuation of office projects ranging in size from 1,500 sq.ft. to over 200,000 sq.ft., and from low-rise to mid-rise complexes.
Retail Includes valuation of anchored and non-anchored centers ranging in size from 2,000 sq.ft. to over 150,000 sq.ft., with most being multi-tenant in use and from neighborhood to regional in design.
Industrial Includes valuation of single and multi-tenant industrial facilities, including incubator projects and business parks. Project sizes have ranged from 5,000 sq.ft. to over 150,000 sq.ft.
Apartment Includes valuation of apartment projects ranging in size from 10 to over 250 units including conversion issues and feasibility.
Residential Includes single family dwellings and residential subdivisions ranging in size from 10 sites to over 100 sites (both vacant and improved).
Vacant Land A wide range of vacant sites have been valued, including land zoned for commercial, industrial, multi-residential and residential use.

SPECIAL PURPOSE PROPERTIES

Bowling Centers
Service Stations
Private Schools
Self Storage Facilities
Hotel/Motel Valuation

Car Wash Facilities
Religious Facilities
Mobile Home Parks
Airport Fixed Base Operations
Conservancy Land

REAL ESTATE INTERESTS VALUED

Fee Simple Estate-Income and Non-Income
Leased Fee Estate
Leasehold Estate
Partial Interests

CONSULTATION ASSIGNMENTS

Feasibility Analysis
Developer Consultation
Marketing Oversight

Loan Portfolio Analysis
Highest and Best Use Analysis
Entitlement Assistance

PARTIAL LIST OF CLIENTS

Financial Institution Clients

Pacific Western Bank
Chase Bank
Banco Popular-North America
East/West Bank
California State Bank
Wells Fargo Bank
General Bank
Inland Community Bank
Bank Audi of New York
Imperial Capital Bank
Broadway Federal, FSB
First Security Corporation
Southern California Bank
Capital Crossing Bank
Marathon National Bank
First Union National Bank
Kaiser Federal Bank

City National Bank
Citibank
Mercantile National Bank
Farmers & Merchants Bank
Comerica Bank
Luther Burbank Savings
Fidelity Federal Bank
US Bank
Silvergate Thrift & Loan
Foothill Independent Bank
First Professional Bank
First Federal Bank
Gilmore Bank
First Bank of Beverly Hills, FSB
Thai Farmers Bank
United Mizrahi Bank
Pacific Mercantile Bank

General Client Summary

University of Southern California	Pepperdine University
Metropolitan Mtg. & Securities, Inc.	GE Capital Corporation
George Elkins Mortgage Banking Company	Imperial Commercial Capital Corporation
Weyerhaeuser Financial Investments, Inc.	Int'l. Brotherhood of Electrical Workers
GMAC Mortgage	George Smith Partners
Deutsche Bank Securities	ARCS Commercial Mtg. Company
Bankers Insurance Group	Safeco Insurance Company
Teachers Insurance & Annuity Assoc.-America	Cobham/Sargent Fletcher Corporation
AES/Southland Corporation	Aetna Casualty Insurers
State Farm Insurance Company	The Travelers Insurance Company
Scottsdale Insurance	TransAmerica Financial Services
Star Insurance Company	North America Title Insurance Company
Kindercare Learning Centers, Inc.	Savers Property & Casualty Insurance
Community Housing Services	TransAmerica Title Insurance
CIM Group	Stewart Title Insurance Company
Pankow Companies	Kaiser Permanente
Ronald McDonald House	Presbytery of San Gabriel Valley
Orion Outdoor Media	Pacific Theaters
All-Saints Church-Pasadena	Affordable Housing Development Corp.
Marlborough School	Stock Building Supply

Public Agency Clients

L.A. Unified School District	Metropolitan Transit Agency
Federal Deposit Insurance Corporation	City of Glendale
City of El Monte	City of Pasadena
Housing/Urban Development	U.S. Department of Justice
City of Los Angeles	State of California
Perris Unified School District	Los Angeles C.R.A.
Val Verde Unified School District	City of South Pasadena
City of Palmdale	City of Santa Monica
City of South Pasadena	City of Cathedral City
City of San Juan Capistrano	City of Downey
City of Highland	City of Azusa

LITIGATION ASSIGNMENTS

Qualified Expert Witness:	County of Los Angeles, Superior Court
	County of Orange, Superior Court
	County of Riverside, Superior Court
	County of Santa Clara, Superior Court
	United States Bankruptcy Court, Central District of California

Litigation Client Summary

O'Melveny & Myers	Briedenbach, Swainston, Crispo & Way
Myers, Nave, Riback, Silver & Wilson	Best, Best & Krieger
Cooksey, Toolen, Gage, Duffy & Woog	Buchalter, Nemer, Fields & Younger
Loeb & Loeb, LLP	Hornberger & Brewer
Jones, Bell, Abbott, Fleming & Fitzgerald	Hunter, Molloy & Salcido
Holland & Knight, LLP	Cahill, Davis & O'Neill
Gaglione, Dolan & Kaplan	Polk, Scheer & Prober
Palmieri, Hennessey & Leifer	Stone, Rosenblatt & Cha
Reed & Brown	Hill, Wynne, Troop & Meisinger
Nossaman, Guthner, Knox & Elliott	Solomon, Grindle, Silverman & Spinella
Hughes, Hubbard & Reed	The Law Offices of John S. Peterson
Nigro, Karlin & Segal	Rosenfeld, Wolff, Aronson & Klein
Dubia, Erickson, Tenerelli & Russo	Hill, Farrer & Burrill
Demetriou, Del Gercio, Springer & Francis	Hahn & Hahn
Stringfellow & Associates	Oliver, Sandifer & Murphy
Paul, Hastings, Janofsky & Walker	Jones, Mahoney, Brayton & Soll
Lewis, D'Amato, Brisbois & Bisgaard	Rodi & Pollock
Blue & Schoor	Haight, Brown & Bonesteel
Hunt, Ortman, Blasco, Palffy & Rosell	Jeffer, Mangels, Butler & Marmaro
Senn, Palumbo & Muelemans	Castro & Associates
Sullivan, Workman & Dee	Schrieffer, Nakashima & Downey
California Eminent Domain Law Group	Kendrick & Jackson
Kessler & Schneider	Gipson, Hoffman & Pancione
Richards, Watson & Gershon	DLA Piper, US
Richardson & Harman	Perona, Langer, Beck, Llande & Serbin
Wolf, Rifkin, Shapiro & Schulman	Price, Postel & Parma
Anglin, Flewelling, Rasmussen, Campbell & Trytten	Carpenter, Rothans & Dumont
Gresham, Savage, Nolan & Tilden	Cooksey, Toolen, Gage, Duffy & Woog

PROFESSIONAL DESIGNATIONS

Appraisal Institute

MAI Designation

PROFESSIONAL AFFILIATIONS

Past President-
Board of Directors-

Los Angeles Chapter, Appraisal Institute
Los Angeles Chapter, Appraisal Institute

STATE CERTIFICATION

State of California-

Office of Real Estate Appraisers-#AG002796