



Planning and Community Development Department
City Planning Division
<http://www01.smgov.net/planning/>
1685 Main Street PO Box 2200
Santa Monica, CA 90407-2200

December 12, 2013

Attn: Ken Kutcher
Harding Larmore Kutcher & Kozal, LLP
1250 Sixth Street, Suite 200
Santa Monica, CA 90401

RE: Zoning Conformance Letter – 825 Ocean Avenue, Santa Monica, CA

To Whom It May Concern:

Pursuant to your September 30, 2013, request, the property located at 825 Ocean Avenue is zoned Medium Density Multiple Family Residential District (R3). The Santa Monica Municipal Code (SMMC) requirements regarding permitted uses and property development standards for the R3 zone can be found online at:

<http://www.smgov.net/Departments/PCD/Zoning/Zoning-Districts-and-Uses/>

The City does not have any open code violations or open permits on the subject property

According to City records including Zoning Administrator Variance (No. 717-Y) and the Downey Trust Settlement Agreement, the residential care facility for the elderly is a legal, nonconforming use (Attachment A.).

Pursuant to Subchapter 9.04.18.020 of the SMMC, a legal, nonconforming building is a structure which lawfully existed on the effective date of this Chapter but which does not comply with one or more of the property development standards for the district in which it is located.

Pursuant to Subchapter 9.04.18.030 of the SMMC, a legal, nonconforming use is a use which lawfully existed on the effective date of the ordinance codified in the SMMC, but which is either: (a) not now permitted in the district in which it is located; or (b) now permitted by a performance standards permit, use permit or conditional use permit but no such permits have been obtained.

The SMMC Subchapter regarding nonconforming buildings and uses can be found at:
http://www.qcode.us/codes/santamonica/view.php?topic=9-9_04-9_04_18&frames=on

If you have any questions, please contact me by phone at (310) 458-8341 or by email at russell.bunim@smgov.net.

Sincerely,

Russell Bunim, Associate Planner

Attachment A:
Zoning Administrator Variance (No. 717-Y) and Downey Trust Settlement Agreement.

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413 Ocean Ave 4293-007-021
825 Ocean Ave 0292-025-013 ✓

SANTA MONICA RENT CONTROL BOARD - MEMO

TO: Tracy Condon
FROM: Jackie Boyd Butler JB
DATE: November 8, 2000
RE: Removal of Litigation Code – 413 and 825 Ocean Avenue

The above referenced properties were the subject of litigation concerning whether they were permanently exempt from the Rent Control Law because they were improved with residential care facilities. The litigation was settled several years ago, but the litigation code was never removed.

Please remove the "9" litigation code from the data base. I've attached a copy of the settlement agreement to a copy of this memo for the site file.

Thanks.

cc: Site File w/copy of Agreement

12/07/00

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE ("Agreement"), dated for reference purposes only August 30, 1993 (hereinafter "Effective Date"), is hereby entered into by and between ROSEMARY B. DOWNEY, ("Mrs. Downey") and THE ROSEMARY BOULDS DOWNEY TRUST, U/T/A October 1, 1987 ("Downey Trust"), on the one part, and the SANTA MONICA RENT CONTROL BOARD ("Board"), on the other part, with reference to the following:

R E C I T A L S

A. Mrs. Downey is the trustee of the Downey Trust, a California trust.

B. The Downey Trust is the owner of that certain real property commonly known as 825 Ocean Avenue, City of Santa Monica, County of Los Angeles, State of California. This property is improved with a residential care facility serving the elderly known as the Delorme Guest House. This facility and the property are hereinafter jointly referred to as the "Delorme Guest House".

C. Mrs. Downey purchased the Delorme Guest House in or about June 1974 and continuously owned it until approximately October 1, 1987, when she transferred it to the Downey Trust. The Downey Trust continuously owned the Delorme Guest House between October 1, 1987 and December 1, 1989, when it was sold to FMA Development, a California limited partnership. On or about April 6, 1992, the

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Downey Trust regained title to the Delorme Guest House through a foreclosure proceeding and has continuously held title to this property since that time. During the time period PMA Development owned the Delorme Guest House, the Downey Trust leased the property from PMA Development and continuously operated the Delorme Guest House.

D. The Downey Trust is also the owner of that certain real property commonly known as 413 Ocean Avenue, City of Santa Monica, County of Los Angeles, State of California. This property is improved with a residential care facility serving the elderly known as the Ocean Gardens Guest House. This facility and the property are hereinafter jointly referred to as the "Ocean Gardens Guest House". Mrs. Downey purchased the Ocean Gardens Guest House in or about June 1975 and continuously owned it until approximately October 1, 1987, when she transferred it to the Downey Trust. Since October 1, 1987, the Downey Trust has continuously owned the Ocean Gardens Guest House.

E. Both the Delorme Guest House and the Ocean Gardens Guest House were constructed prior to April 10, 1978. Each facility contains rooms for residential occupancy. The Delorme Guest House contains twenty (20) such rooms. The Ocean Gardens Guest House contains twenty-nine (29) such rooms. These rooms, however, do not constitute typical apartment units. Each room has an individual bathroom but does not have an individual kitchen. These rooms do not have exits to the outside; the doors to the rooms open into

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interior central hallways. Both the Delorme Guest House and the Ocean Gardens Guest House have a central kitchen and a central dining area. In addition, each facility contains a front desk area at its interior entrance which is staffed by employees of the facilities.

F. Shortly after purchasing the Delorme Guest House and the Ocean Gardens Guest House, Mrs. Downey applied for, and obtained, a State of California Residential Care Facility License for the Elderly for each property ("State Licenses"). The State Licenses were issued pursuant to: (1) the California Residential Care Facilities for the Elderly Act (CA Health & Safety Code §§ 1569, et seq.), and (2) Chapter 8 (Residential Care Facilities for the Elderly), Division 6 (Licensing of Community Care Facilities), Title 22 of the California Administrative Code. The State Licenses were originally issued prior to April 10, 1978, and remained in effect until approximately September 1, 1983. At that time, the State Licenses lapsed. Mrs. Downey, on behalf of the Downey Trust, reobtained the State Licenses for both the Ocean Gardens Guest House and the Delorme Guest House on or about January 22, 1991. The State Licenses have been continuously maintained since that time.

G. On or about April 10, 1979, the electorate of the City of Santa Monica adopted the Santa Monica Rent Control Charter Amendment ("RCCA"), which provides a comprehensive system of residential rent control for the City of Santa Monica. The RCCA is

not applicable to units which have not been utilized for residential rental purposes at any time since prior to April 10, 1979.

H. At all times since Mrs. Downey purchased the Dalorme Guest House and the Ocean Gardens Guest House through and including the Effective Date of this Agreement, these properties were operated as residential care facilities for the elderly and were not utilized for residential rental purposes. The method of operation, and types of services provided, at these two properties have continuously remained substantially the same and have not been affected by whether or not the State Licenses were in effect for these properties or by the adoption of the RCCA. The current method of operation and types of services provided at these two properties can be described as follows:

H(1) Food Service: The occupants are served breakfast, lunch and dinner, in both the main dining rooms and in individual rooms if necessary. In addition, special meals are provided as needed by the occupants (i.e., for those on low-sodium or diabetic diets).

H(2) Daily Observation: The staff of the facilities and Mrs. Downey observe the physical and mental condition of the occupants on a daily basis and advise the occupants' families and doctors of such physical and mental condition as necessary.

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H(3) Maid Service: The occupants are provided the following maid services:

H(a) Daily removal of trash, making beds and minor cleanup; and

H(b) Weekly thorough cleaning of the rooms.

H(4) Personal Laundry: Weekly laundry service is provided for all occupants.

H(5) Staffing: A total of 17 full-time and part-time staff members are employed at the facilities. At least one attendant is on duty at each property 24 hours a day, seven days a week. All staff members have received first-aid and CPR training and have received fingerprint and health clearance from the State of California. In addition, Mrs. Downey, her son and her daughter are on call at all times.

H(6) Transportation: Staff members and Mrs. Downey arrange transportation with W.I.S.E. (Westside Independent Services to the Elderly) and taxi companies for the occupants.

H(7) Entertainment: Staff members and Mrs. Downey arrange entertainment for the occupants (e.g., a pianist for weekly sing-a-longs, visiting librarians, holiday parties and bingo on occasion).

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H(8) Personal Assistance: Staff members and Mrs. Downey provide personal assistance to the occupants in numerous ways, such as making small purchases for them (i.e., stamps and other miscellaneous items) and cashing small personal checks. In addition, as necessary, occupants are provided I.D. tags to wear in the event they leave the premises. This is done so that the Police Department or whoever else finds the occupants can contact either the Delorme Guest House or the Ocean Gardens Guest House and the occupant can be picked up if they get lost.

I. Occupants at the Delorme Guest House and Ocean Gardens Guest House are provided food, maid service, laundry and extensive personal attention and care. Attendants are on duty at these two properties seven days a week, 24 hours a day, to, among other things, provide observation of the physical and mental condition of the occupants and provide other personal services and attention. All of the occupants are elderly individuals who require varying degrees of personal care and assistance. The fee the occupants pay to occupy the Delorme Guest House and the Ocean Gardens Guest House includes the exclusive right to occupy their room and the foregoing described services. The majority of the occupants at these two properties are placed there by their families. Moreover, the compensation paid relating to the majority of the occupants' right to occupy their rooms and receive services at the facilities are paid by the occupants' families and not the occupants themselves. Upon commencing their occupancy of either of these facilities, the

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occupants execute admission agreements, not typical residential rental agreements.

J. In or about 1985, the California State Legislature adopted California Health and Safety Code Section 1569.147. This Section indicates that licensed residential care facilities for the elderly are not subject to local rent control rules and regulations.

K. On or about July 31, 1991, the Board filed a lawsuit against PMA Development and Mrs. Downey, individually and as trustee of the Downey Trust, relating to the Delorme Guest House. This lawsuit is designated as Los Angeles Superior Court Case No. SC010634 ("Delorme Guest House Litigation"). In this litigation, the Board contends that the Delorme Guest House is a controlled rental property subject to the RCCA and that there are outstanding registration fees and penalties due and owing to the Board for this property pursuant to the RCCA in excess of \$100,000. Default against the defendants was entered in the Delorme Guest House Litigation on September 15, 1992, but was vacated on November 12, 1992 based upon a stipulation executed by the parties. The Delorme Guest House Litigation remains pending.

L. On or about July 31, 1992, the Board filed an action against Mrs. Downey, individually and as trustee of the Downey Trust, relating to the Ocean Gardens Guest House. This lawsuit is designated as Los Angeles Superior Court Case No. SC018569 ("Ocean

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Gardens Guest House Litigation"). In this litigation, the Board contends that the Ocean Gardens Guest House is a controlled rental property subject to the RCCA and that there are outstanding registration fees and penalties due and owing to the Board for this property pursuant to the RCCA in excess of \$240,000. Default against the defendants was entered in the Ocean Gardens Guest House Litigation on September 10, 1992, but was vacated on November 12, 1992 based upon a stipulation executed by the parties. The Ocean Gardens Guest House Litigation remains pending.

M. Mrs. Downey disputes the allegations made by the Board in the Delorme Guest House Litigation and the Ocean Gardens Guest House Litigation that the Delorme Guest House and Ocean Gardens Guest House are subject to the RCCA and that outstanding registration fees and penalties are due and owing to the Board for these properties. Mrs. Downey contends as follows:

M(1) Since adoption of the RCCA, the Delorme Guest House and Ocean Gardens Guest House have been exempt from the RCCA because they have never been utilized for residential rental purposes; and

M(2) The Delorme Guest House and Ocean Gardens Guest House currently are, and in the past have been, exempt from the RCCA pursuant to California Health and Safety Code Section 1569.147.

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N. The Board disputes the contentions set forth in Recital M above and contends that any exemption pursuant to California Health and Safety Code Section 1569.147 lapsed when the State Licenses for the Delorme Guest House and Ocean Gardens Guest House lapsed and during such period of lapse the RCCA was applicable to the Delorme Guest House and the Ocean Gardens Guest House.

O. Mrs. Downey and the Downey Trust dispute the Board's contentions as set forth in Recital N above.

P. It is the intention of the parties hereto to enter into this Agreement in order to resolve all matters in dispute between the parties. This includes, without limitation, (1) resolving the Delorme Guest House Litigation and the Ocean Gardens Guest House Litigation, (2) confirming that the Delorme Guest House and Ocean Gardens Guest House are permanently exempt from the RCCA, and (3) providing certain protections to the existing occupants at these properties.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, agreements and understandings contained in this Agreement, the parties hereto hereby agree as follows:

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1. Designation of Downey Trust. For purposes of the provisions set forth below, references to the Downey Trust are deemed to include, bind, obligate and benefit Mrs. Downey as well.

2. Non-Rental Exemption. The Board hereby acknowledges and agrees that since the adoption of the RCCA, none of the rooms at either the Delorme Guest House or the Ocean Gardens Guest House have been used for residential rental purposes pursuant to a typical residential landlord/tenant relationship. This agreement and acknowledgement is based upon the Board's investigation of the Delorme Guest House and Ocean Gardens Guest House, which included, but was not limited to, a declaration dated April 16, 1993 prepared by Mrs. Downey and forwarded to the Board relating to the operation of these properties. The Board hereby further acknowledges and agrees that the Delorme Guest House and Ocean Gardens Guest House are, and have been since April 10, 1979, permanently exempt from the RCCA on the basis that they have never been utilized for residential rental purposes since prior to April 10, 1979. Within thirty (30) days of mutual execution of this Agreement by the parties, the Board shall: (a) issue a written decision and notice confirming that the Delorme Guest House and Ocean Gardens Guest House have been issued non-rental exemptions and are permanently exempt from the RCCA, and (b) provide the Downey Trust with a copy thereof c/o Lawrence & Harding, a Professional Corporation, 1250 6th Street, Santa Monica, California 90401.

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3. Demolition/Re-Development. The Board hereby acknowledges and agrees that no further approvals or permits need to be obtained from the Board, including but not limited to a removal permit, in order for the Delorme Guest House or Ocean Gardens Guest House to be demolished, redeveloped, temporarily or permanently closed, or for any construction work to occur at the properties.

4. Past Due Registration Fees. The Board hereby acknowledges and agrees that execution of this Agreement by the Board shall constitute complete settlement of: (1) all allegedly due and outstanding rent control registration fees, penalties, interest, and other charges related thereto, for the Delorme Guest House and the Ocean Gardens Guest House, and all rooms therein, through and including the Effective Date of this Agreement, and (2) any and all claims which were, or could have been, raised in either the Delorme Guest House Litigation or the Ocean Gardens Guest House Litigation. The Downey Trust is not required to pay the Board any sum or payment whatsoever relating to rent control registration fees, penalties, interest or other charges for the Delorme Guest House or the Ocean Gardens Guest House related to any time period prior to and including the Effective Date hereof. The Board hereby further acknowledges and agrees that, consistent with the permanent exemption set forth in Section 2 above, subsequent to the Effective Date of this Agreement there shall be no further rent control registration fees or related charges pursuant to the RCCA or the Board's Regulations due and owing to the Board relating to either the Delorme Guest House or the Ocean Gardens Guest House.

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5. Pending Litigation. Within five (5) business days after mutual execution of this Agreement by the parties, the Board shall dismiss the Delorme Guest House Litigation and the Ocean Gardens Guest House Litigation with prejudice. The Board shall provide conformed copies of the dismissals with prejudice to the Downey Trust, c/o the law firm of Lawrence & Harding, located at 1250 - 6th Street, Suite 300, Santa Monica, California 90401, within two (2) days after said forms are filed in Court.

6. Protection of Existing Occupants. Notwithstanding the permanent exemption from the RCCA as set forth in Section 2 above, the existing occupants of the Delorme Guest House and Ocean Gardens Guest House shall be provided with certain benefits as set forth in this Section 6. These benefits are applicable to the persons and not to the rooms they occupy. These benefits are not assignable.

6(a) Delorme Guest House Occupants. Any person who occupies the Delorme Guest House as of the Effective Date of this Agreement shall be deemed a Delorme Guest House Occupant for purposes of this Agreement. Attached hereto as Exhibit "A" and incorporated herein by this reference is a list of all Delorme Guest House Occupants. Mrs. Downey hereby warrants and represents that Exhibit "A" contains a complete and exclusive list of all persons who were occupying the Delorme Guest House as of the Effective Date of this Agreement. The Delorme Guest House Occupants are entitled to the protections set forth below in Sections 6(c) and (d).

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6(b) Ocean Gardens Guest House Occupants. Any person who occupies the Ocean Gardens Guest House as of the Effective Date hereof shall be deemed an Ocean Gardens Guest House Occupant for purposes of this Agreement. Attached hereto as Exhibit "B" and incorporated herein by this reference is a list of all Ocean Gardens Guest House Occupants. Mrs. Downey hereby warrants and represents that Exhibit "B" contains a complete and exclusive list of all persons who occupied the Ocean Gardens Guest House as of the Effective Date of this Agreement. The Ocean Gardens Guest House Occupants are entitled to the protections set forth below in Section 6(e).

6(c) Relocation of Delorme Guest House Occupants. Any Delorme Guest House Occupant who will continue to occupy the Delorme Guest House as of the anticipated date that the Delorme Guest House will be closed and all business operations at the property will be terminated ("Delorme Closure Date") shall be relocated prior to the Delorme Closure Date, at the sole cost and expense of the Downey Trust, into the Ocean Gardens Guest House. In the event that the Delorme Guest House and the Ocean Gardens Guest House are not owned or controlled by the same entity, the Delorme Guest House Occupants shall be relocated into another facility located in the Los Angeles area which maintains a Residential Care Facility for the Elderly license issued by the State of California. In such event, the Downey Trust shall make a good faith effort to find a facility for relocation which is located on the "Westside" of the Los Angeles area. The

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establishment and determination of the Delorme Closure Date shall be at the sole discretion of the Downey Trust. The Downey Trust shall make reasonable efforts to insure that, to the extent possible, the new room to be occupied by each Delorme Guest House Occupant at the Ocean Gardens Guest House or other facility is similar in terms of size and configuration to the room each occupant occupied at the Delorme Guest House. Such relocation shall include, without limitation, moving the occupant from the Delorme Guest House to the Ocean Gardens Guest House or other facility by means deemed appropriate by the Downey Trust in its reasonable discretion (e.g., transportation by taxi, W.I.S.E. or ambulance) and moving all of the occupant's personal belongings from the Delorme Guest House to the occupant's new room at the Ocean Gardens Guest House or other facility. Such relocation shall be without expense or cost to the Delorme Guest House Occupant. Nothing herein shall prevent or prohibit the Downey Trust and any Delorme Guest House Occupant from mutually agreeing to relocation of the occupant to the Ocean Gardens Guest House or other facility prior to the Delorme Closure Date.

6(d) Fee Protection for Delorme Guest House Occupants.

For a period of twelve (12) consecutive months after the date any Delorme Guest House Occupant is relocated to the Ocean Gardens Guest House, the monthly fees that occupant pays to occupy the Ocean Gardens Guest House shall be no more than the fee they paid at the Delorme Guest House for the month immediately preceding the date they were relocated to the Ocean Gardens Guest House. In the

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event that a Delorme Guest House Occupant is relocated to a facility other than the Ocean Gardens Guest House, then, for a period of twelve (12) consecutive months after the date any Delorme Guest House Occupant is relocated to the new facility, the amount by which the monthly fee for the new facility exceeds the monthly fee said occupant paid at the Delorme Guest House for the month immediately preceding the date they were relocated to the new facility, if any, shall be paid by the Downey Trust. After twelve (12) consecutive months subsequent to the relocation of the Delorme Guest House Occupant, the Downey Trust shall have no further obligation whatsoever, including any obligation for monetary compensation, to the Delorme Guest House Occupants pursuant to this Agreement.

6(e) Ocean Gardens Guest House Occupants. Any Ocean Gardens Guest House Occupant who will continue to occupy the Ocean Gardens Guest House as of the anticipated date that the Ocean Gardens Guest House will be closed and all business operations at the property will be terminated ("Ocean Gardens Closure Date") shall be relocated into another facility located in the Los Angeles area which maintains a Residential Care Facility for the Elderly license issued by the State of California. The Downey Trust shall make a good faith effort to find a facility for relocation which is located on the "Westside" of the Los Angeles area. The establishment and determination of the Ocean Gardens Closure Date shall be at the sole discretion of the Downey Trust. The relocation of any Ocean Gardens Guest House Occupant to another

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facility shall be at the sole cost and expense of the Downey Trust and shall include, without limitation, moving the occupant from the Ocean Gardens Guest House to the new facility by means deemed appropriate by the Downey Trust in its reasonable discretion (e.g., transportation by taxi, W.I.S.E. or ambulance), and moving all of the occupant's personal belongings from the Ocean Gardens Guest House to the new facility. Such relocation shall be without expense or cost to Ocean Gardens Guest House Occupants. Once such relocation occurs, the Downey Trust shall have no other obligation whatsoever, including any obligation for monetary compensation, to the Board or the Ocean Gardens Occupants pursuant to this Agreement.

6(f) Fee Protection for Ocean Gardens Guest House Occupants. If at any time during the period five years subsequent to the Effective Date of this Agreement, any Ocean Gardens Guest House Occupant is to be relocated pursuant to Section 6(a) above, because the Ocean Gardens Guest House will be closed and all business operations at the property will be terminated, then such occupants shall be provided certain fee protection. In such event, then, for a period of twelve (12) consecutive months after the date any Ocean Gardens Guest House Occupant is relocated to the new facility, the amount by which the monthly fee for the new facility exceeds the monthly fee said occupant paid at the Ocean Gardens Guest House for the month immediately preceding the date they were relocated to the new facility, up to a maximum of \$300 per month, shall be paid by the Downey Trust. After twelve (12) consecutive

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months subsequent to the relocation of the Ocean Gardens Guest House Occupant, in accordance with Section 6(e), the Downey Trust shall have no further obligation whatsoever, including any obligation for monetary compensation, to the Ocean Gardens Guest House Occupants pursuant to this Agreement. This Section 6(f) shall become null and void in the event the Ocean Gardens Closure Date occurs subsequent to the date which is five (5) years after the date the Board executes this Agreement.

6(g) Voluntary Vacancy. Any Delorme Guest House Occupant or Ocean Gardens Guest House Occupant who voluntarily vacates the Delorme Guest House or Ocean Gardens Guest House, respectively, prior to the Delorme Closure Date or the Ocean Gardens Closure Date, respectively, shall not be entitled to any relocation benefits pursuant to this Section 6.

7. Notices. Within ten (10) days after mutual execution of this Agreement, the Downey Trust shall mail to each Delorme Guest House Occupant and Ocean Gardens Guest House Occupant the Notices attached hereto as Exhibits "C" and "D" and incorporated herein by this reference, respectively. Within such ten (10) day period, the Downey Trust shall also deliver to any individual who has moved into either the Delorme Guest House or Ocean Gardens Guest House between the Effective Date of this Agreement and the date this Agreement is mutually executed, the Notices attached hereto as Exhibit "E" and "F" and incorporated herein by this reference, respectively. Upon the date an individual moves into the Delorme

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Guest House or Ocean Gardens Guest House subsequent to the date this Agreement is mutually executed, the Downey Trust shall deliver to such individual the Notice attached hereto as Exhibits "E" and "F", respectively.

8. Release Provisions.

8(a) Release by the Downey Trust and Mrs. Downey. Mrs. Downey and the Downey Trust, on behalf of themselves, their partners, administrators, executors, employees, representatives, assigns, successors and agents (hereinafter collectively "Downey Releasers") hereby fully release and discharge the Board and its respective commissioners, officials, employees, representatives, assigns, successors and agents (hereinafter collectively "Board Releasees") from any and all claims, actions, causes of action, demands, rights, damages, injuries, losses, liabilities, costs, expenses (including attorneys' fees) and compensation whatsoever ("Claims"), which the Downey Releasers have incurred or which may hereinafter accrue on account or growing out of the actions the Board Releasees have taken in the past, prior to the Effective Date of this Agreement, relating to the Delorme Guest House or the Ocean Gardens Guest House, including, but not limited to, claims arising from the Delorme Guest House Litigation or the Ocean Gardens Guest House Litigation.

8(b) Release by the Board. The Board, on behalf of its respective commissioners, officials, employees, representatives,

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assigns, successors and agents (hereinafter collectively "Board Releasers") hereby fully release and discharge Mrs. Downey, the Downey Trust and their partners, administrators, executors, employees, representatives, assigns, successors and agents (hereinafter collectively "Downey Releasees") from any and all claims which the Board Releasers have incurred or which may hereinafter accrue on account or growing out of actions the Downey Releasees have taken in the past, prior to the Effective Date of this Agreement, relating to the Delorme Guest House or the Ocean Gardens Guest House, including, but not limited to, claims arising from the Delorme Guest House Litigation or the Ocean Gardens Guest House Litigation or claims which were, or could have been, raised in said litigation.

8(c) Civil Code Section 1542. Civil Code Section 1542 provides as follows:

"SECTION 1542. CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

TO THE EXTENT THE PROVISIONS OF SECTION 1542 OF THE CIVIL CODE AS WELL AS THE PROVISIONS OF ANY AND ALL COMPARABLE OR SIMILAR STATUTES OR PRINCIPLES OF THE LAW OF CALIFORNIA OR ANY OTHER STATE OR FEDERAL JURISDICTION MIGHT OTHERWISE BE DEEMED APPLICABLE, THEY ARE HEREBY EXPRESSLY AND WITH THE ADVICE OF COUNSEL WAIVED BY THE DOWNEY RELEASERS AND THE BOARD RELEASERS, AND EACH OF THEM, AND THE

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DOWNEY RELEASORS AND THE BOARD RELEASORS, AND EACH OF THEM, ADMITS AND ACKNOWLEDGES HIS, HER, OR ITS FULL KNOWLEDGE AND UNDERSTANDING OF THE CONSEQUENCES AND EFFECTS OF THIS WAIVER.

9. Advice of Counsel. The advice of legal counsel has been obtained by the parties hereto prior to the execution of this Agreement. All parties hereby execute this Agreement voluntarily with full knowledge of its significance, and with the express intention of effecting the extinguishment of any and all obligations and claims arising out of or in any way connected with the matters herein addressed as set forth in Section 8 above.

10. Entire Contract. This Agreement contains the entire and exclusive agreement of the parties hereto, and supersedes any prior written or oral agreements concerning the subject matter herein. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter contained in this Agreement which are not fully expressed herein.

11. Interpretation. This Agreement shall be governed and construed in accordance with the laws of the State of California.

12. Attorneys' Fees. The parties, and each of them, agree that if they, or any of them, hereafter commence any suit arising out of, based upon, or relating to, any of the matters resolved in this Agreement, such party shall be liable to the other party for,

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in addition to any other damages caused thereby, all reasonable attorneys' fees and costs incurred in defending or otherwise responding to such suit or claims.

13. Successors and Assigns. This Agreement is binding upon the heirs, successors and assigns of the respective parties hereto.

14. Non-Severability. This Agreement is entire as to all the provisions, obligations and duties herein. If any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this entire Agreement shall be held invalid. In the event that a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, then this entire Agreement shall be deemed void and rescinded.

15. Headings. The headings and captions used herein are for convenience and reference purposes only and are not intended to be a part of this Agreement nor shall they be used for interpreting any part or Section of this Agreement.

16. Unique Circumstances. This Agreement is being entered into based upon unique and special circumstances, and the parties agree that it cannot be used by the parties or any other person or entity as precedent in any other matters.

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17. Costs. Each of the parties shall bear its own costs and attorneys' fees in any way connected with the negotiation of this Agreement and resolution of the matters addressed herein and each party shall bear its own costs and legal expenses as incurred in the Delorme Guest House Litigation and the Ocean Gardens Guest House Litigation.

18. Presumption. Each party agrees that in any dispute regarding the interpretation or construction of this Agreement, no presumption shall operate in favor of or against any party hereto by virtue of his or its role in drafting or not drafting the terms and conditions set forth herein.

19. Additional Documents. The parties hereby agree to execute any and all documents reasonably necessary to effectuate the terms and provisions of this Agreement.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year indicated below.

Dated: Dec 21, 1993

Rosemary B. Downey
Rosemary B. Downey, an individual

12707/00

Dated: Nov 21, 1993 Rosemary B. Downey, Trustee of the Rosemary Boulds Downey Trust, U/T/A October 1, 1987

SANTA MONICA RENT CONTROL BOARD

Dated: December 9, 1993 Jay Johnson
Jay Johnson
Its: Chairperson

APPROVED AS TO FORM AND CONTENT:

SANTA MONICA RENT CONTROL BOARD
GENERAL COUNSEL

Dated: December 15, 1993 Anthony A. Trendacosta
Anthony A. Trendacosta

LAWRENCE & HARDING, A Professional Corporation

Dated: Dec 21, 1993 Christopher M. Harding
Christopher M. Harding
Attorneys for Rosemary B. Downey and the Rosemary Boulds Downey Trust, U/T/A October 1, 1987

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OCCUPANTS OF DE LORME GUEST HOUSE

AS OF AUGUST 30, 1993

<u>Unit No.</u>	<u>Occupant</u>
#4	Mary F. Scudder
#7	Anna Madar
#9	Francis Crowley
#11	Wally Pelziger
#14	Dorothy McCutcheon
#16	Monty Ray
#21	T. Liebwein

EX-101-15-944.3

EXHIBIT "A"

12/07/00

OCCUPANTS OF OCEAN GARDEN GUEST HOUSE

AS OF AUGUST 30, 1993

<u>Unit No.</u>	<u>Occupant</u>
#1	Leo Benoit
#2	Stella Mott
#3	Josephine McDiarmid
#4	Ludie Whelan
#5	Hazel Aldrich
#6	Bertha Fox
#7	Lottie Reid
#8	Irmheld Zentner
#10	Helen Silversparre
#11	Barbara Hogg
#12	Loretto Nosek
#12A	Dona Bronson
#14	Lenore Berg
#15	Erika Koessler
#16	Barbara Price
#17	Pauline Cohen
#18	Ethel Detner
#19	Natalie Hirschfield
#20	Marjorie Ott
#21	Elsie Sabatini
#23	Sylvia Moan
#24	Hildegard Meyer
#25	Virginia Reed
#26	Eleanor Mahana
#27	Florence Margolin
#29	Arthur Sussman

KVC:tr13vezht5.944.3

EXHIBIT "B"

12/07/00

DISCLOSURE NOTICE

Regarding the Delorme Guest House Located at
825 Ocean Avenue, Santa Monica, California

Dear _____,

Recently the Delorme Guest House and the Santa Monica Rent Control Board settled litigation regarding the applicability of the Santa Monica Rent Control Law (Chapter XVIII of the Santa Monica City Charter) to the Delorme Guest House. The Delorme Guest House is exempt from the Santa Monica Rent Control Law.

Neither the lawsuit nor the settlement affects your occupancy rights. Your occupancy of the Delorme Guest House is subject to the terms of your occupancy agreement with the Delorme Guest House. If you have any questions regarding your occupancy agreement you should ask the manager of the Delorme Guest House for clarification.

The settlement agreement entered into between the Delorme Guest House and the Rent Control Board provides you certain relocation benefits. In the event the Delorme Guest House is closed while you still occupy it, then you are entitled to the following benefits:

1. You are entitled to be relocated, at no cost or expense to you, into a similar room at the Ocean Gardens Guest House located at 413 Ocean Avenue. However, if Mrs. Downey's Trust does not still own and operate the Ocean Gardens Guest House when the Delorme Guest House is closed, you will be entitled to be relocated into another similar facility in the Los Angeles area. If at all possible, this facility will be located on the "Westside" of Los Angeles.

2. For each of the twelve months following the date you are relocated, you will not be required to pay any more per month for your occupancy of the new facility than you did during the last month you occupied the Delorme Guest House. Any difference in the monthly cost will be paid by the Delorme Guest House.

If you have any questions regarding your rights as set forth in the settlement agreement, you should contact either the manager of the Delorme Guest House or David Daniels, an attorney with the Santa Monica Rent Control Board. Mr. Daniels telephone number is (310) 458-8681.

EXHIBIT "C"

12/07/00

DISCLOSURE NOTICE

Regarding the Ocean Gardens Guest House Located at
413 Ocean Avenue, Santa Monica, California

Dear _____,

Recently the Ocean Gardens Guest House and the Santa Monica Rent Control Board settled litigation regarding the applicability of the Santa Monica Rent Control Law (Chapter XVIII of the Santa Monica City Charter) to the Ocean Gardens Guest House. The Ocean Gardens Guest House is exempt from the Santa Monica Rent Control Law.

Neither the lawsuit nor the settlement affects your occupancy rights. Your occupancy of the Ocean Gardens Guest House is subject to the terms of your occupancy agreement with the Ocean Gardens Guest House. If you have any questions regarding your occupancy agreement you should ask the manager of the Ocean Gardens Guest House for clarification.

The settlement agreement entered into between the Ocean Gardens Guest House and the Rent Control Board provides you certain relocation benefits. In the event the Ocean Gardens Guest House is closed before August 30, 1998 and you still occupy it, then you are entitled to the following benefits:

3. You are entitled to be relocated, at no cost or expense to you, into another similar facility in the Los Angeles area. If at all possible, this facility will be located on the "Westside" of Los Angeles.

4. For each of the twelve months following the date you are relocated, you will be provided certain cost protections. In the event the per month charge for your occupancy of the new facility is greater than the per month charge you paid during the last month you occupied the Ocean Gardens Guest House, then the difference, up to a maximum of \$300 per month, will be paid by the Ocean Gardens Guest House for the twelve month period.

If you have any questions regarding your rights as set forth in the settlement agreement, you should contact either the manager of the Ocean Gardens Guest House or David Daniels, an attorney with the Santa Monica Rent Control Board. Mr. Daniels telephone number is (310) 458-8681.

EXHIBIT "D"

12/07/00

OCCUPANCY DISCLOSURE NOTICE

Regarding the Delorme Guest House Located
at 825 Ocean Avenue, Santa Monica, California

Dear Occupant:

Thank you for choosing to occupy the Delorme Guest House.

The Delorme Guest House is exempt from the Santa Monica Rent Control Law (Chapter XVIII of the Santa Monica City Charter).

Your occupancy of the Delorme Guest House is subject to the terms of your occupancy agreement with the Delorme Guest House.

Please review your occupancy agreement with the Delorme Guest House carefully and if you have any questions regarding it or the contents of this statement, please ask the manager of the Delorme Guest House for clarification.

EXHIBIT "E"

12/07/00

E

OCCUPANCY DISCLOSURE NOTICE

Regarding the Ocean Gardens Guest House Located
at 413 Ocean Avenue, Santa Monica, California

Dear Occupant:

Thank you for choosing to occupy the Ocean Gardens Guest House.

The Ocean Gardens Guest House is exempt from the Santa Monica Rent
Control Law (Chapter XVIII of the Santa Monica City Charter).

Your occupancy of the Ocean Gardens Guest House is subject to the terms
of your occupancy agreement with the Ocean Gardens Guest House.

Please review your occupancy agreement with the Ocean Gardens Guest
House carefully and if you have any questions regarding it or the contents of this
statement, please ask the manager of the Ocean Gardens Guest House for clarification.

EXHIBIT "F"

**FINDINGS AND DETERMINATION
OF THE ZONING ADMINISTRATOR
UPON APPLICATION FOR A VARIANCE (YARD)**

An application for a variance (YD.) from the rules, regulations and provisions of Chapter 1, Article IX, Municipal Code of Santa Monica, having been filed by M. SCHOENBERG as the OWNER of those certain premises situated in the City of Santa Monica, County of Los Angeles, State of California, described as:

Lot S and the Southeasterly 25 feet of Lot T,
Block 25, Town of Santa Monica as recorded
in Miscellaneous Records Book 39, Page 45, Et Seq.,
in the office of the County Recorder of Los
Angeles County, California,

and a hearing having been held upon said application as required by Chapter 1, Article IX, Municipal Code of Santa Monica, the Zoning Administrator now makes the following findings of fact:

1. That the strict application of the provisions of Chapter 1, Article IX, of the Municipal Code of Santa Monica WOULD result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this chapter, in that

a. the building in question is requested for use of applicant's elderly father due to an emergency condition pending building of a residence in another area, and due to his age applicant feels that he should remain on the premises.

2. That there ARE exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood, in that

a. the balance of the property is operated as a boarding home for elderly people.

3. That the granting of a variance WOULD NOT BE materially detrimental to the public welfare or injurious to the property or improvements in such zone or neighborhood in which the property is located, in that

a. the use of the accessory building has no effect upon the surrounding properties.

4. That the granting of a variance WOULD NOT BE contrary to the objectives of the master plan,

a. In that the request is for a temporary emergency period only.

THEREFORE, the Zoning Administrator determines that the requested variance be and herewith is granted from the rules, regulations and provisions of Chapter 1, Article IX, Municipal Code of Santa Monica, permitting the applicant (s) or lessee or successor in interest to use the property hereinbefore described (825 Ocean Avenue, R-4), to use an accessory building as a sleeping room, which said accessory building encroaches into the side yard for such use.
SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- a. The variance hereby allowed is conditional upon the privileges being utilized within 180 days after the effective date thereof, and if not utilized or construction work is not begun within said time, and carried on diligently to completion of at least one usable unit, this authorization shall become void and any privilege or variance granted hereby shall be deemed to have lapsed.
- b. That the applicant shall comply with all other provisions of Chapter 1, Article IX, Municipal Code of Santa Monica, and with all other pertinent ordinances of the City of Santa Monica.
- c. That a lean-to addition between the original accessory building and the alley be removed within 30 days from the effective date of this variance. ✓
- d. That the variance granted herewith shall terminate automatically 180 days from the effective date hereof and the accessory building in question shall be converted back to some permissible use.

DATED: This 28 day of JUN 1955


L.S. STORRS,
Zoning Administrator

Z.A. CASE NO. 717-Y
ADDRESS: 825 Ocean Avenue
Not effective until conditions set forth
in Sec. 9119D3 of the Municipal Code
shall have been met.
M. Schoenberg