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June 24, 2013

VIA OVERNITE EXPRESS

Mr. Richard B. Moore, P.L.S., Executive Officer of the Board
Ms. Corrine Gray, Enforcement Staff Analyst
Board for Professional Engineers, Land Surveyors, and Geologists
Department of Consumer Affairs, State of California
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833-2944

Re: Business & Professions Code Section 7860, *et seq.* Complaint
Request for Investigation of Langan Engineering and Environmental,
Rudolph P. Frizzi, PE, GE, and Dan Royden Eberhart, PG, CEG

Dear Mr. Moore and Ms. Gray:

I. INTRODUCTION.

Under California Business and Professions Code Sections 7870 and 7871, we file this complaint (**Exhibit 1**) asking that your Board investigate, discipline, and refer to the Los Angeles District Attorney for criminal investigation Langan Engineering and Environmental (“Langan”), and its engineers Rudolph Pio Frizzi (“Frizzi”) and Dan Royden Eberhart (“Eberhart”), who were in “responsible charge of work” related to two geotechnical/seismic reports prepared for a project known as the Millennium Hollywood Project (“Project”) at 1750 N. Vine Street, Los Angeles, California.

The Project calls for the construction of more than a million square feet of space, including two skyscrapers for human dwelling and occupancy, near Hollywood and Vine. We believe that Langan, Frizzi and Eberhart have endangered human life, safety and property through their work, and have violated core standards required of their licensure.

As part of your Board’s investigation, Langan should be required to preserve intact and to produce to you all communications, electronic and otherwise, between or among Langan and the Project developer and the developer’s representatives and attorneys. The individuals who assisted in preparing the deceptive reports and figures at issue herein should also be deposed under oath.

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II. THE SUBJECT REPORTS.

The two Langan reports at issue herein are:

1. May 10, 2012 Langan Engineering and Environmental Geotechnical Report for the Millennium Hollywood Project. (“May 2012 Report”) (**Exhibit 2.**)
2. November 30, 2012 Langan Engineering and Environmental Fault Investigation Report for the Millennium Hollywood Project. (“November 2012 Report”) (**Exhibit 3** [see Exhibit 19A to the June 18, 2013 letter at **Exhibit 3** hereto].)

The May 2012 Report signed by Langan’s Frizzi and Eberhart is the source of the seismic analysis in the City’s Draft and Final Environmental Impact Reports (“EIRs”) for the Project (www.cityplanning.cityofla.org – go to Final EIR for Millennium Project).

The City of Los Angeles subsequently requested preparation of a fault investigation report for the Project Site, although neither the existence nor the contents of that report were publicly disclosed. We learned of it, and upon a request made to the City of Los Angeles Department of Building and Safety, obtained a copy of the November 2012 Report.

On June 18, 2013, at a public hearing before the Los Angeles City Council’s Planning and Land Use Management (“PLUM”) Committee, this office presented an analysis of what we believe are gross professional improprieties and violations of the law by Langan concerning its distortion and suppression of evidence of seismic hazards from the Hollywood Fault and the Hollywood Fault’s relation to the Project Site. We refer you to the attached **Exhibit 3**, which is that portion of our June 18, 2013 letter concerning seismic issues, plus our Exhibits 15-24 related thereto.

III. THE MISCONDUCT.

We respectfully request your careful review of the materials attached hereto at **Exhibit 3**. Without attempting to repeat those materials, in summary, we believe the facts show that:

1. Frizzi and Eberhart of Langan violated the standards of their licensure when they failed to report the location of strands of the Hollywood Fault as shown on the official, 2010 California Geological Survey Active Fault Map in both the May and November 2012 Reports. The omission or suppression of the fact that the Millennium Project site has the southern strand of the Hollywood Fault officially mapped as traversing the Project Site was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
2. Frizzi and Eberhart of Langan violated the standards of their licensure when they failed to report the existence of well-known, peer-reviewed studies of Crook and Proctor (1992) and Dolan and others (1997), both of which showed at least one strand of the Hollywood Fault traversing the Millennium Project site. The suppression of these well-respected reports from the May 2012 Report which was made public, and the gratuitous disparaging of the conclusions of those reports in the November 2012 Report which was not made public, but which was relied upon by the City of Los Angeles Planning Dept., was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
3. Frizzi and Eberhart of Langan violated the standards of their licensure when they created, or supervised a subordinate to create, a regional map depicting the Millennium Project Site as physically separated from the Hollywood Fault (Figure 5 in the May 2012 Report and Figure 4 in the November 2012 Report), when this depiction is demonstrably false. As such, it was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).
4. Frizzi and Eberhart of Langan violated the standards of their licensure when they created, or supervised a subordinate to create, a local map depicting the Millennium Project Site location as being approximately 850 feet north of where it actually is, to Franklin Avenue and omitting Yucca Street (Figure 4 in the May 2012 Report

and Figure 3 in the November 2012 Report), in order to falsely represent that the Millennium Project site is not within the City of Los Angeles General Plan Safety Element's Fault Rupture Study Zone. As such, it was an act of material misrepresentation, fraud or deceit, in violation of Business & Professions Code Section 7860(b)(2) and (c).

5. Frizzi and Eberhart of Langan violated the standards of their licensure because they have no credible evidence to support the repeated contention they make in the May and November 2012 Reports that the Hollywood Fault is allegedly 0.4 miles (2,112 feet) from the Millennium Project site. This assertion – which could only be made by denying or ignoring the existence of the 2010 California Geological Survey Active Fault Map, and the Dolan and Crook and Proctor studies, was an act of material misrepresentation, fraud or deceit in violation of Business & Professions Code Section 7860(b)(2) and (c).

As described more fully in **Exhibit 3** hereto, compelling evidence exists to show that Langan elevated the financial interests of its real estate developer client over the paramount interests of truth and protecting the public health and safety. Thousands of lives may have been put at risk because of these actions. Accordingly, we also ask that you refer this matter to the Los Angeles County District Attorney for potential criminal prosecution, including under Business and Professions Code Section 7872(h).

IV. RELEVANT STATUTES.

Business and Professions Code Section 7860 provides in relevant part:

“(a) The board may, upon its own initiative or upon the receipt of a complaint, investigate the actions of any professional geologist, geophysicist . . . and make findings thereon.

(b) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered hereunder . . . on any of the following grounds:

* * *

(2) Misrepresentation, fraud or deceit by a geologist or geophysicist in his or her practice.

* * *

(c) By a majority vote, the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any geologist or geophysicist registered under this chapter . . . for professional misconduct. Unprofessional conduct includes, but is not limited to, any of the following:

(1) Aiding or abetting any person in a violation of this chapter or any regulation adopted by the board pursuant to this chapter.

(2) Violating this chapter or any regulation adopted by the board pursuant to this chapter.

(3) Conduct in the course of practice as a geologist or geophysicist that violates professional standards adopted by the board.”

Business and Professions Code Section 7872 provides in relevant part:

“Every person is guilty of a misdemeanor and for each offense of which he or she is convicted is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment:

* * *

(h) Who violates any provision of this chapter.”

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Business and Professions Code Section 7810.1 provides:


“Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.”

V. CONCLUSION.

This is an urgent issue of public health and safety. The currently-scheduled final Project approval date by the Los Angeles City Council is **July 24, 2013**. The City of Los Angeles and its Planning Dept. are relying on the Langan Reports, as did the PLUM Committee, which approved and advanced the Project.

The Board of Professional Engineers, Land Surveyors and Geologists should immediately take appropriate action regarding what we believe are Langan, Frizzi and Eberhart’s serious violations of the law and professional standards regarding their May and November 2012 Reports for the Millennium Hollywood Project.

Please acknowledge receipt of this complaint and advise as to timing and substance of steps to be taken by you and the Board. Thank you.

Very truly yours,

ROBERT P. SILVERSTEIN
FOR
THE SILVERSTEIN LAW FIRM

RPS:jmr
Attachments