

Subj: Fwd: occupancy letter  
 Date: 6/6/2006 3:37:15 P.M. Pacific Standard Time  
 From: Cpknw  
 To: bonyon@naturespath.com, iciebert@comcast.net, joverstreet@netzero.net, bjwolf66@comcast.net  
 CC: Cpknw  
 BCC: Harborland

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City Council Members:

Please read the attached pdf document which is a letter written by me to Ed Yurgalevicz and Gary Tomsic concerning Harbor Lands Co.'s outlook from a legal perspective on issuing temporary (partial) occupancy permits for their Seascape Condominium project located at 1300 Peace Portal Dr. Harbor Lands' position is that the City should do so, and city officials have indicated their unwillingness to do so. Please review my letter and take the matter into consideration. Thank you.

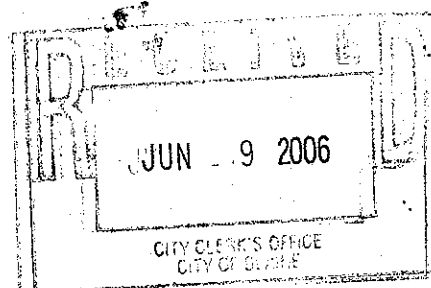
Bill Pardee  
 In-House Counsel  
 Harbor Lands Co.

-----Original Message-----

From: Harborland@aol.com  
 To: Cpknw@aol.com  
 Sent: Tue, 6 Jun 2006 6:23:21 PM Eastern Daylight Time  
 Subject: occupancy letter

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**WILLIAM G. PARDEE**

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June 6, 2006

**VIA FACSIMILE ONLY**

Mr. Gary Tomsic  
Blaine City Manager  
344 H Street  
Blaine, WA 98230

Mr. Ed Yurgalevicz  
Building Official  
City of Blaine  
344 H Street  
Blaine, WA 98230

**RE: THE ISSUE OF TEMPORARY OCCUPANCY AT SEASCAPE**

Ladies and Gentlemen:

Section 110 of the International Building Code (2003), which the City of Blaine has adopted, authorizes the building official to issue temporary certificates of occupancy. Harbor Lands Co., the developer of Seascape Condominiums along Peace Portal Dr., has repeatedly asked the City to issue a temporary certificate of occupancy for particular units in order to avoid the result of lost sales, however to no avail. In fact, due to actual lost condominium unit sale(s) which resulted from the City's failure to timely issue temporary certificates of occupancy, in addition to other arbitrary and unreasonable requests of city officials, Seascape recently filed a claim for damages with the City of Blaine.

I would ask that when you have the time you review RCW 64.34.312(1)(I) (a portion of the Condominium Act) which refers to certificates of occupancy (plural), which establishes that the legislature anticipated multiple (partial) or temporary certificates of occupancy in the condominium realm. Moreover, I would look carefully at RCW 64.34.050 (also a portion of the Condominium Act) which reads, in part, as follows: "(1) A zoning, subdivision, building code, or other real property law, ordinance, or regulation may not...impose any requirement upon a condominium which it would not impose upon a physically identical development under a different form of ownership..."

Now the question arises what does the phrase "physically identical development under a different form of ownership" mean? In the context of issuance of temporary occupancy permit(s), is the fact that the Northern Light Building was issued a temporary/partial occupancy permit, whereas Seascope has not been, which is equivalent to imposing a requirement upon Seascope that occupancy be all or nothing, which is not imposed upon similar development with a different form of ownership (e.g. Northern Light Building), and the distinction that city officials are trying to make between commercial and multi-residential development, valid and lawful under the above statute? No, it is not. It represents a violation of RCW 64.34.050.

The above statutory language originates from the Uniform Condominium Act which just about every state has utilized in one form or another. Case law involving zoning ordinances has generally ruled that condominiums and similar structures, usually rental apartment houses, should be treated similarly. Therefore, I would urge city officials to heed the language in RCW 64.34.050 and RCW 64.34.312(1)(I) and find that Seascope is in fact entitled to temporary occupancy for condominium units when the requirements of the International Building Code are satisfied. That position is reflective of the law of this State and the City of Blaine.

Sincerely,



William Pardee  
Harbor Lands Co.

cc: File, Client