

**TOWN OF FAIRFAX
STAFF REPORT**

To:	Mayor, Members of the Town Council
From:	Jack Judkins, Co-Chair Fairfax Open Space Committee
Date:	September 5, 2012
Subject:	Authorization for Open Space Committee to Initiate Negotiations for Real Property Acquisition: Assessor's Parcel Nos. 001-193-07, 001-193-09 and 001-193-003

RECOMMENDATION

The Fairfax Open Space Committee (FOSC) recommends that the Town Council authorize members of FOSC to initiate negotiations on behalf of the Town for acquisition of three parcels as open space.

BACKGROUND

The Town created the Fairfax Open Space Committee (FOSC) by resolution in 2004. Under that resolution, FOSC is charged with the responsibility "to determine the availability of unique, threatened, or environmentally sensitive land parcels that may be appropriate to acquire to hold in perpetuity as dedicated open space for the public".

In April 2012, FOSC was contacted by Rick Holland, the realtor for Neil Reed, the owner of three vacant, undeveloped lots located on or near Upper Ridgeway Avenue: Assessor's Parcel Nos. 001-193-07, 001-193-09 and 001-193-003 (the "Property"). Mr. Holland indicated that Mr. Reed was interested in negotiation of the sale of the lots to the Town for open space purposes, before putting them on the open market.

At the June 6, 2012 meeting of the Town Council, the FOSC Chair, Mimi Newton, made a presentation concerning the Property to the Council. She presented photographs and a description of the Property and indicated the FOSC interest in pursuing potential acquisition of the Property by the Town. At its meeting of July 24, 2012, FOSC voted unanimously to seek Town Council approval to undertake negotiations for acquisition of the Property.

DISCUSSION

The Property consists of three parcels: two merged parcels (the "Acquisition Parcel") totaling 16,416 square feet (0.3769 acres) and one separate parcel (the "Donation Parcel") of 7,680 square feet (0.1763 acres). FOSC is primarily interested in the

AGENDA ITEM # 9

Ex 2

Acquisition Parcel. The Donation Parcel might be donated to the Town, if the Town purchases the Acquisition Parcel.

The Acquisition Parcel is located on the east side and near the end of the short, narrow paved segment of Upper Ridgeway Avenue, which extends north from the junction of Willow and Chester Avenues. The Donation Property is on the northern segment of Upper Ridgeway Avenue, which runs east to west, just to the north and west of the location of the Acquisition Property. The portion of Upper Ridgeway Avenue on which the Donation Parcel is located is unimproved, unpaved and exists merely as a "paper" street. Maps of the Property are attached as **Exhibit 1**.

All of the parcels comprising the Property are unimproved, are on moderately steep slopes and are populated with underbrush and trees. On the Acquisition Parcel, there is an informal trail that leads from the paved street up to the ridge and to the adjoining Hawthorne Canyon Open Space and all the connecting trails along the ridgeline. If acquired by the Town, the Acquisition Parcel would provide permanent public access between the Willow Avenue neighborhood and the open space and ridgeline trails and also provides an important wildlife corridor. The Donation Parcel is immediately adjacent to the Town's Triangle Park, to the north, and would increase the acreage of the Town park and provide public access to it from the currently unimproved Upper Ridgeway Avenue right-of-way. Photographs of the Property are attached as **Exhibit 2**.

Because of the attributes described above, FOSC gave the Property a high rating under its *Criteria for Priority for Protecting Open Space*, adopted by the Town Council on September 7, 2011. See **Exhibit 3**, attached.

The Open Space Element of the Town General Plan identifies undeveloped properties of interest as open space in the inventory found in the "OS Appendix" of the General Plan. The Property is called out as a property of interest in the inventory, which refers specifically to the "Lots by Upper Ridgeway, next to Fairfax Park, adjacent to Hawthorn Canyon Open Space belonging to San Anselmo."

The Town has obtained a Preliminary Title Report for the Acquisition Parcel (**Exhibit 4**), which shows no encumbrances, liens or other exceptions to title that are of concern. A Title Report for the Donation property has also been requested, but not yet obtained. It will be provided to the Town Council, should FOSC subsequently seek formal Town approval of acceptance of title to the Donation Parcel, as part of an agreement to acquire the Property.

FOSC is concerned that, should the Acquisition Parcel be sold to a private entity, it could be developed. The Acquisition Parcel has significant value in its undeveloped state to the neighborhood and to other users of the adjacent public lands, because of its location on a well-developed residential street, where access to the ridgeline and ridge trails is extremely limited. FOSC believes that these benefits warrant fully exploring the opportunity to acquire the parcel. For these reason, FOSC recommends that the Town authorize FOSC to initiate negotiations on behalf of the Town to acquire the Acquisition Parcel and, if donated, the Donation Parcel. Any terms negotiated would be subject to

the future formal approval of the Town Council.

FISCAL IMPACT

None. The recommended action is solely for initiation of negotiation, which involves no cost to the Town. It is possible that Town funds that are dedicated for open space purposes and budgeted to FOSC may be expended for items such as a survey or appraisal, if deemed necessary for negotiations.

ATTACHMENTS

Exhibit 1 - Maps

Exhibit 2 - Photos

Exhibit 3 - Ranking Criteria Sheet

Exhibit 4 - Title Report

Town of Fairfax Triangle Park

PTN. RANCHO CANADA DE HERRERA

Tax Rate Area
3-000

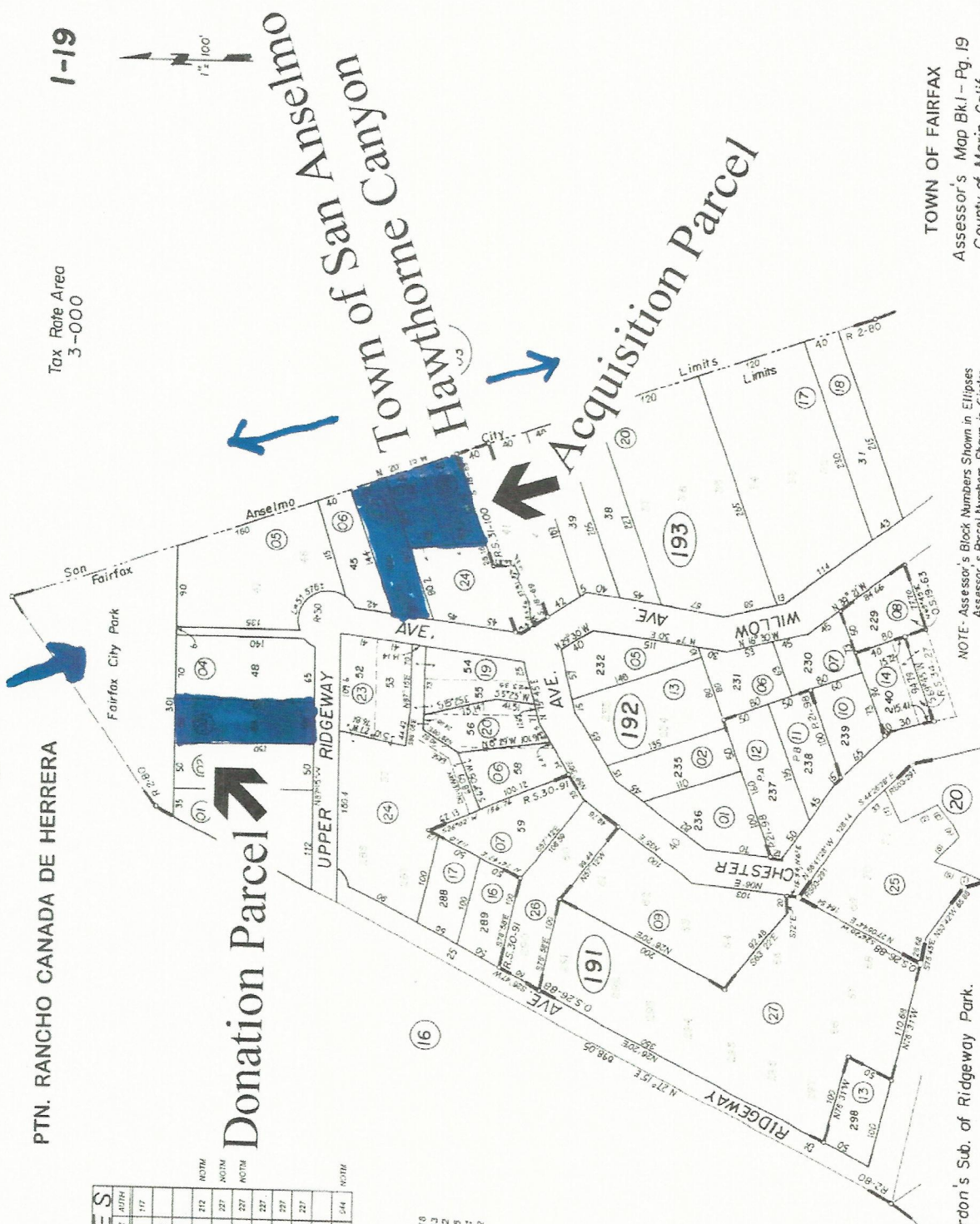
1-19

8/22/2011 L&D

BLK	POWER	DATE	TYPE	NOTES
197	11	25	04	117
198	001-182-20	NOTM	06	
199	001-181-25	NOTM	06	
200	001-182-21	NOTM	06	
191	0875	20	06	227
191	101214	27	06	227
191	0824	NOTM	06	227
192	13	NOTM	06	227
192	0517	NOTM	06	227
193	0522	24	12	214

MAP UPDATE

- (1) N 65° 23' 42" E 42.10
- (2) S 24° 35' 43" E 48.53
- (3) S 82° 28' 51" W 28.42
- (4) S 68° 11' 26" W 17.86
- (5) S 42° 03' 52" E 41.51
- (6) S 30° 25' 00" W 52.62
- (7) S 30° E 25



NOTE: Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

TOWN OF FAIRFAX
Assessor's Map Bk 1 - Pg. 19
County of Marin, Calif.

R.M. Bk. 2 - Pg. 80, P.H. Jordan's Sub. of Ridgeway Park.

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY. NO LIABILITY IS ASSUMED FOR THE ACCURACY OF THE DATA SHOWN. ASSESSOR'S PARCELS MAY NOT CORRELATE WITH LOCAL SUBDIVISION OR BUILDING ORDINANCES.

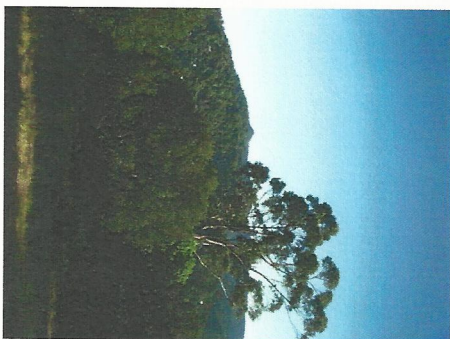
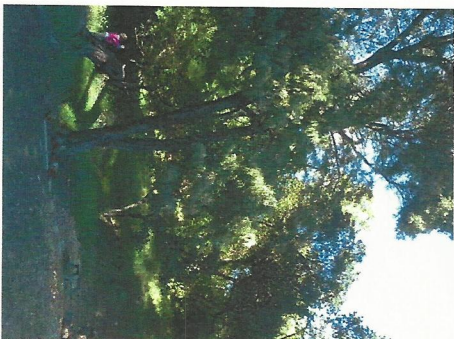
The Fairfax Open Space Committee is interested in pursuing acquisition of open space parcels on Upper Ridgeway Avenue, connecting the Willow Avenue neighborhood in Fairfax with Hawthorne Canyon Open Space -



- = unprotected open space
- = parcels for sale

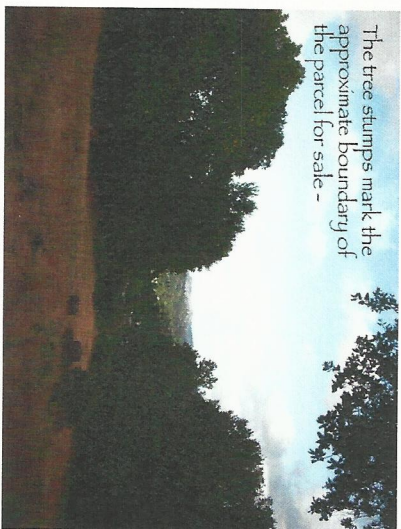


The trail head begins on Upper Ridgeway Avenue, above Willow Avenue -



The trail to the ridge provides neighborhood access to some spectacular views -

The Trail opens up on the ridge to the Hawthorne Canyon Open Space -



The tree stumps mark the approximate boundary of the parcel for sale -

Prepared by Fairfax Open Space Committee
May 2012

PROPERTY INFORMATION

Address: Between #2 + #11 Upper Ridgeway Ave, Fairfax CA 94930

Parcel No: 001-193-07; 001-193-09; 001-193-03

Owner/Agent Name and Contact Info:

Neil Reid - Realtor Rick Holland → rickholland@toproducers.com
Bradley Real Estate (DRE # 01360957)
415-482-3101

Size of the parcel: parcels 07+09 = .3769 acres TOTAL = 55.32 acres
parcel 03 = .1763 acres

Zoning, including overlays and special protection areas (setbacks, ridgeline etc):

part of the property extends up to the ridgeline.

Potential development (houses/other residential or commercial units): appears to be developable - there are some questions regarding turn-around for fire dept. Well-developed residential area

Preservation assistance available from non-town sources:

Supervisor Rice has been contacted & has expressed support for the acquisition - still working with other organizations eg MOST, Coastal Conservancy, Marin City Open Space etc

Parcel has potential for other public uses:

existing trail provides access to San Anselmo Open Space + ridgeline trail system above, Fairfax, San Anselmo + Sleepy Hollow

Encumbrances, easements etc. affecting (if available, e.g through Title Report):

unknown

Development Status:

currently undeveloped

PRIORITY RATING SHEET

Score: Assign 1-10 points for each of the follow categories

I. PROPERTY ATTRIBUTES

A. Natural Resources 4 [Score]

Notes: assessment of natural resource value still underway.

B. Cultural Resources 8 [Score]

Notes: parcel contains important scenic views, is within a Visually Distinctive Area, and is part of Ridgeline Scenic Corridor.

C. Recreational Opportunities 10 [Score]

Notes: Existing trail from residential area with otherwise limited access to Ridgeline trail system.

D. Connectivity 10 [Score]

Notes: identified as priority for acquisition as Open Space in general plan, connects with Hawthorne Canyon Open Space, wildlife corridor, accessible to residents

Total Property Attributes Score 32 [Total Score]

II. ADDITIONAL CONSIDERATIONS

[Note: A particularly high or low score on one of these "Additional Considerations" would offset a high or low "Property Attributes" score]

E. Level of Threat 5 [Score]

Notes: Questions exist regarding potential need for residential developer to improve turnaround for fire dept.

F. Cost Related Issues _____ [Score]

Notes: potential tree-fall liability to be assessed.



Stewart Title of California, Inc
2850 Cordelia Road, Ste 100
Fairfield, CA 94534
(707) 439-7500 Phone

PRELIMINARY REPORT

Order Number : 476716
Title Unit Number : 7931

Buyer/Borrower Name: : Neil Dan Reid Neil Dan Reid

Property Address: AP#001-193-07, Fairfax, California

In response to the above referenced application for a Policy of Title Insurance, Stewart Title of California, Inc. hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception on Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions, and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters, which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report, (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance a binder or commitment should be requested.

Dated as of: at 7:30 a.m.

Peggy Suhrke, Title Officer

When replying, please contact Peggy Suhrke, Title Officer

PRELIMINARY REPORT

The form of Policy of Title Insurance contemplated by this report is:

- California Land Title Association Standard Coverage Policy
- American Land Title Association Owners Policy
- American Land Title Association Residential Title Insurance Policy
- American Land Title Association Loan Policy
- CLTA/ALTA Homeowners Policy
- ALTA Short Form Residential Loan Policy (06/16/07)
- 2006 ALTA Loan Policy

SCHEDULE A

The estate or interest in the land hereinafter described or referred to covered by this report is:

A fee as to Parcel(s) One and Two. An easement more particularly described below as to Parcel(s) Three.

Title to said estate or interest at the date hereof is vested in:

Neil Dan Reid, Trustee of the Neil Reid Trust A (Survivor Trust), established under the Reid 1988 Revocable Trust as to Parcel One, and Neil Dan Reid and The heirs or devisees of Constance Hall Reid, deceased, their interest being subject to the administration of the estate of said decedent, as to Parcels Two and Three.

LEGAL DESCRIPTION

The land referred to herein is situated in the State of California, County of Marin, and described as follows:

PARCEL ONE:

Lot 44, as shown upon that certain Map entitled "Map of P.H. Jordan Company Subdivision of Ridgeway Park (now known as Ramona Terrace)", filed for record March 30, 197 in Volume 2 of Maps, at Page 80, Marin County Records.

PARCEL TWO:

A portion of Lots 42 and 43, as shown upon that certain Map entitled "Map of P.H. Jordan Company Subdivision of Ridgeway Park (now known as Ramona Terrace)", filed for record March 30, 197 in Volume 2 of Maps, at Page 80, Marin County Records.

Being more particularly described as follows:

Beginning at the most Northerly corner of Lot 43, as said Lot is laid down and delineated upon the certain Map entitled, "Licensed Surveyor's Record Resurvey of a portion of P.H. Jordan Company, Subdivision of Ridgeway Park, Marin Co. Calif.", original Map filed May 30, 1907 in Volume 2 of Maps at Page 80, Resurvey September 1923, by C.H. Towle, filed in Book 1 of Licensed Surveys at Page 42, Marin County Records; and running thence along the Northeasterly lines of Lot 43 and 42 Southeasterly 80 feet to the most Easterly corner of Lot 42; thence Southwesterly along the Southeasterly line of Lot 42, 101.5 feet; thence Northwesterly 80 feet more or less to a point on the Northwesterly line of Lot 43 distant on said line 81.8 feet Southwesterly from the point of beginning and running thence along said line Northeasterly 81.8 feet to the point of beginning.

PARCEL THREE:

An easement for public utilities 5 feet in width lying Northerly of and adjacent to the Southeasterly line of Lot 42 from the lot above described to Ridgeway Avenue.

APN 001-193-07 & 09

(End of Legal Description)

SCHEDULE B

At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:

Taxes:

- A. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes, to be levied for the fiscal year 2012 – 2013.
- B. Assessments, if any, for Community Facility Districts affecting said land which may exist by virtue of assessment maps or notices filed by said districts. Said assessments are collected with the County Taxes.
- C. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.

Exceptions:

1. An easement for water pipes & mains together with service connections and rights incidental thereto in favor of Marin Water & Power Company, a corporation as set forth in a document recorded June 17, 1909 in Book 123 of Deeds at Page 32, Marin County Records, affects Willow Avenue, Laurel Avenue, Live Oak Avenue & Ridgeway Avenue.
2. Certificate of Compliance executed by the Town of Fairfax recorded February 23, 1983, as Instrument 83-0009069, Marin County Records.
3. Notice of Merger, merging the herein described property
Executed by: Town of Fairfax
Recorded: June 22, 1984
as Instrument No. 84-029227, Marin County Records.
4. Any invalidity or defect in the title of the vestees in the event that the trust referred to in the vesting portion of Schedule A is invalid or fails to grant sufficient powers to the trustee(s) or in the event there is a lack of compliance with the terms and provisions of the trust instrument.

(Affects Parcel One)
5. If title is to be insured in the trustee(s) of a trust or their act is to be insured, we will require a full copy of the trust agreement and any amendments thereto. In certain situations the Company may accept a Trust Certificate, pursuant to Section 18100.5 of the California Probate Code in lieu of the trust agreement. The Company reserves the right to except additional items and/or make additional requirements after reviewing said documents.

(Affects Parcel One)

6. Any lien for Federal or California estate taxes, by reason of the death of Constance H. Reid.
(Affects Parcel Two)
7. The requirement that a copy of the "Order Confirming Sale" or the "Order Authorizing the Encumbrance" from the probate case under the estate of Constance H. Reid referred to herein be submitted for examination. A certified copy of the order must be recorded.
(Affects Parcel Two)
8. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records

(End of Exceptions)

NOTES AND REQUIREMENTS

Property taxes for the fiscal year 2011 - 2012 shown below are **paid**. For proration purposes the amounts are:

1 st Installment:	\$326.61
2 nd Installment:	\$326.61
Land:	\$3,339.00
Improvements:	\$None shown
Exemptions:	\$None shown
Parcel No.:	001-193-07
Code Area:	003-000

Property taxes for the fiscal year 2011 - 2012 shown below are **paid**. For proration purposes the amounts are:

1 st Installment:	\$46.72
2 nd Installment:	\$46.72
Land:	\$2,384.00
Improvements:	\$None shown
Exemptions:	\$None shown
Parcel No.:	001-193-09
Code Area:	003-000

According to the public records, there has been no conveyance of the land within a period of twenty-four months prior to the date of this report, except as follows:

a) Affidavit of Death, recorded July 6, 2011, as Instrument 2011-0033398 of Official Records

(Affects Parcel One)

b) Grant Deed recorded July 6, 2011, as Instrument 2011-0033399 of Official Records

(Affects Parcel One)

This report is preparatory to the issuance of an ALTA loan Policy. We have no knowledge of any fact which would preclude the issuance of the policy with CLTA Endorsement Forms 100 and 116 and if applicable, 115 and 116.2 attached.

When issued, the CLTA Endorsement Form 116 or 116.2, if applicable will reference a(n) Vacant/Unimproved-Residential, AP#001-193-07 & 09, Fairfax, CA

The charge for a policy of title insurance, when issued through this title order, will be based on the Basic Rate.

The map attached, if any, may or may not be a survey of the land depicted hereon. Stewart Title expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

A Preliminary Change of Ownership Report must be completed by the transferee (buyer) prior to the transfer of property in accordance with the provisions of Section 480.3 of the Revenue and Taxation Code. The Preliminary Change of Ownership Report should be submitted to the recorder concurrent with the recordation of any document effecting a change of ownership. If a document evidencing a change of ownership (i.e. Deed, Affidavit-Death Joint Tenant) is presented to the recorder for recording without a preliminary change of ownership report, the recorder may charge an additional \$20.00

If your property is in San Francisco, it is the requirement of the City and County of San Francisco that a Transfer Tax affidavit to be completed and signed by the Grantor for each deed submitted for recording. This is an addition to a Preliminary Change of Ownership Report.

In addition to County Transfer Tax, any conveyance of the herein described property may be subject to a City Transfer and/or Conveyance Tax, as follows.

Alameda	\$12.00 per thousand
Albany	\$11.50 per thousand
Berkeley	\$15.00 per thousand
Cloverdale	\$1.10 per thousand
Cotati	\$1.90 per thousand
Culver City	\$4.50 per thousand
Hayward	\$4.50 per thousand
Los Angeles	\$4.50 per thousand
Mountain View	\$3.30 per thousand
Oakland	\$15.00 per thousand
Palo Alto	\$3.30 per thousand
Petaluma	\$2.00 per thousand
Piedmont	\$13.00 per thousand
Pomona	\$2.20 per thousand
Redondo Beach	\$2.20 per thousand
Richmond	\$7.00 per thousand
Riverside	\$1.10 per thousand
Sacramento	\$2.75 per thousand
San Leandro	\$6.00 per thousand
City and County of San Francisco	Up to \$250,000 = \$5.00 per thousand \$250,000 to \$1,000,000 = \$6.80 per thousand \$1,000,000 to \$5,000,000 = \$7.50 per thousand \$5,000,000 to \$10,000,000 = \$20.00 per thousand Above \$10,000,000 = \$25.00 per thousand (Do not add the additional \$1.10 for County Tax, it is included.)
San Jose	\$3.30 per thousand
San Mateo	\$5.00 per thousand
San Rafael	\$2.00 per thousand
Santa Monica	\$3.00 per thousand
Santa Rosa	\$2.00 per thousand
Sebastopol	\$2.00 per thousand
Vallejo	\$3.30 per thousand
Waterford	\$0.55 per thousand
Winters	\$1.10 per thousand
Woodland	\$1.10 per thousand

Additional Requirements for "Short Sale" Transactions in which a lender will accept less than the outstanding balance of its loan as full satisfaction of the obligation:

The Company will require, prior to the issuance of a policy of title insurance, evidence that the first-position trust deed holder has received and acknowledged all payments to be made to subordinate-position lien

holders, regardless of whether such payments are to be made from proceeds or from contributions by real estate brokers and/or buyers in the subject transaction, or from other third-party sources. Evidence shall include but not be limited to: (a) a written demand from the first-position trust deed holder acknowledging and approving payments to subordinate-position lien holders from proceeds and otherwise; or (b) a supplemental letter or amended demand from the first-position lien holder acknowledging payments to be made to subordinate lien holders from sources other than proceeds (including broker commissions and additional buyer deposits).

CALIFORNIA "GOOD FUNDS" LAW

California Insurance Code Section 12413.1 regulates the disbursement of escrow and sub-escrow funds by title companies. The law requires that funds be deposited in the title company escrow account and available for withdrawal prior to disbursement. Funds received by Stewart Title of California, Inc. via wire transfer may be disbursed upon receipt. Funds received via cashier's checks or teller checks drawn on a California Bank may be disbursed on the next business day after the day of deposit. If funds are received by any other means, recording and/or disbursement may be delayed, and you should contact your title or escrow officer. All escrow and sub-escrow funds received will be deposited with other escrow funds in one or more non-interest bearing escrow accounts in a financial institution selected by Stewart Title of California, Inc.. Stewart Title of California, Inc. may receive certain direct or indirect benefits from the financial institution by reason of the deposit of such funds or the maintenance of such accounts with the financial institution, and Stewart Title of California, Inc. shall have no obligation to account to the depositing party in any manner for the value of, or to pay to such party, any benefit received by Stewart Title of California, Inc.. Such benefits shall be deemed additional compensation to Stewart Title of California, Inc. for its services in connection with the escrow or sub-escrow.

If any check submitted is dishonored upon presentation for payment, you are authorized to notify all principals and/or their respective agents of such nonpayment.