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9 Attorneys for Plaintiffs and Petitioners,  
10 TAXPAYERS FOR RESPONSIBLE LAND USE and LA JOLLA SHORES ASSOCIATION

11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
12 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

13 TAXPAYERS FOR RESPONSIBLE LAND	)	Case No. GIC867378
14 USE, et al.,	)	
15 Plaintiffs and Petitioners,	)	<b>NOTICE OF LODGMENT IN REPLY TO</b>
16 v.	)	<b>HILLEL OF SAN DIEGO'S OPPOSITION</b>
17 CITY OF SAN DIEGO, et al.,	)	<b>TO MOTION FOR PRELIMINARY</b>
18 Defendants and Respondents.	)	<b>INJUNCTION AND STAY</b>
)		ASSIGNED FOR ALL PURPOSES TO:
)		<i>Hon. Linda B. Quinn</i>
)		Date: November 6, 2006
19 HILLEL OF SAN DIEGO, et al.,	)	Time: 1:30 PM
20 Real Parties-in-Interest.	)	Dept: 74
)		Action filed: June 12, 2006

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

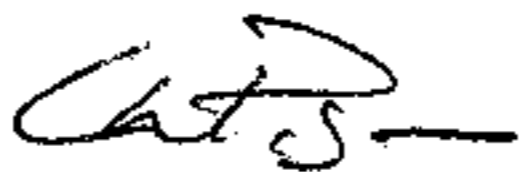
22 PLEASE TAKE NOTICE that Plaintiffs and Petitioners Taxpayers for Responsible Land Use  
23 and La Jolla Shores Association have lodged the following attached exhibits in support of their Motion  
24 for Preliminary Injunction, or Alternatively for A Stay of Administrative Decision Under CCP § 1094.5:

- 25 11. Public Records Act Request to Clerk for the City of San Diego, dated July 6, 2006;
- 26 12. Public Records Act Request to Council President Scott Peters, dated July 6, 2006;
- 27 13. A Complete Summary Appraisal of City Site 653, Prepared for the City of San Diego by  
28 Rasmuson Appraisal Services, dated June 8, 2005;
- 14. Roger P. Bush's letter to Gary L. Rasmuson, dated November 8, 2005;

- 1 15. Gary L. Rasmuson's draft appraisal to Ms. Carrie L. Gleeson, dated January 25, 2006;
- 2 16. Roger P. Bush's email to Jim Waring re: Site 653, dated April 6, 2006;
- 3 17. Dene Oliver's email to Jim Waring re: Hillel purchase on La Jolla Village Drive, dated
- 4 April 6, 2006;
- 5 18. Hillel of San Diego's Response to City of San Diego's Request for Proposal, dated June
- 6 5, 2000;
- 7 19. "About us-Management Structure" page from OliverMcMillan website;
- 8 20. James Anthony's email to Dene Oliver, et al. re: Hillel purchase on La Jolla Village
- 9 Drive, dated April 7, 2006;
- 10 21. Betsy Kinsley's email to Dene Oliver, et al. re: Hillel purchase on La Jolla Village Drive,
- 11 dated April 7, 2006;
- 12 22. Jim Waring's email to Dene Oliver re: Hillel purchase on La Jolla Village Drive, dated
- 13 April 11, 2006;
- 14 23. Jim Waring's email to Betsy Kinsley re: Hillel, dated April 18, 2006;
- 15 24. Roger P. Bush's letter to Gary L. Rasmuson, dated April 21, 2006;
- 16 25. A Complete Summary Appraisal of City Site 653, Prepared for the City of San Diego by
- 17 Rasmuson Appraisal Services, dated April 25, 2006;
- 18 26. City of San Diego Council Policy 700-10, Disposition of City-Owned Real Property.
- 19

20 DATED: October 30, 2006

COAST LAW GROUP LLP



Christian C. Polychron.  
Attorneys for Plaintiffs and Petitioners  
TAXPAYERS FOR RESPONSIBLE LAND USE  
and LA JOLLA SHORES ASSOCIATION

28

# EXHIBIT "14"



THE CITY OF SAN DIEGO

November 8, 2005

Gary L. Rasmuson, MAI  
14665 Yukon Street  
San Diego, CA 92129

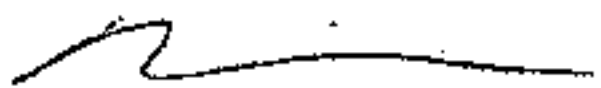
Re: AP: 627380 - Appraisal Services - Proposed Sale of Site 653 - La Scenic Drive & La Jolla Scenic Way La Jolla, California

This letter is to confirm our telephone conversation of October 27, 2005, authorizing you to proceed with the appraisal in connection with the above project.

We understand that you will provide four copies of a Complete, Summary Appraisal Report (USPAP Standard 2-2 (b)) by December 15, 2005. The purpose of the appraisal is to estimate Market Value as defined on Page 210 of the Uniform Standards of Professional Appraisal Practice and Advisory Opinions, 2005 edition. The intended use is to establish a basis for the potential sale or lease of the subject property. A presubmittal conference is requested prior to completion of the final report. The fee for this assignment is \$3,000.

As we discussed, timing in this project is critical. Any effort on your part to complete the assignment ahead of your proposed delivery date would be appreciated.

If we may be of further assistance, please call me at (619) 236-6938.

  
Roger P. Bush, MAI  
Property Agent, Acquisition & Valuation Division

cc: Stephen L. Geitz  
James P. Anthony ✓

**Real Estate Assets**

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199  
Tel (619) 236-6020 Fax (619) 236-6706



# EXHIBIT "15"

# Rasmuson Appraisal Services

14665 Yukon Street  
San Diego, California 92129  
Ph. (858) 672-1796 Fax (858) 672-3816

Gary L. Rasmuson, MAI SRA  
Wendy A. Rasmuson, MBA

January 25, 2006

File No. 25266

## DRAFT

Ms. Carrie L. Gleeson  
Deputy City Attorney  
City Attorney's Office  
c/o Ms. Carol A. Chiodo  
Deputy Director  
Acquisition and Valuation  
1200 Third Avenue, Suite 1700  
San Diego, California 92101

RE: AP 627380 -- City owned parcel known as Site 653, La Jolla, CA

Dear Ms. Gleeson:

I have completed an updated appraisal setting forth the market value of the subject property. The appraisal report has been prepared to comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Ethics and Supplemental Standards of the Appraisal Institute. This appraisal has been prepared as a complete valuation analysis and is presented as a Summary Report.

This appraisal report is intended for use by City Attorney's Office, the engager of the report, to establish a basis for the potential sale or lease of the subject property. Neither this report, nor any of the information contained herein shall be used or relied upon for any purpose or by any person or entity other than engager without the prior written consent of Rasmuson Appraisal Services.

The subject is a 15,349-square foot vacant lot located on La Jolla Scenic Drive North and La Jolla Scenic Way in the community of La Jolla, City of San Diego, California. The parcel is owned by the City of San Diego. Hillel of San Diego is negotiating to purchase or lease the subject property from the city for development with a student center facility. Hillel is also concurrently processing a street vacation for 21,278 square feet of La Jolla Scenic Drive North right-of-way to be incorporated with the adjacent city lot for a total development lot of 33,566 square feet. This street vacation area is included in my valuation of the subject property based on an extraordinary assumption that the vacation application will be approved.

My opinion of the market value of the subject's fee simple interest, as of January 25, 2006 was:

<b>CONCLUDED ESTIMATE OF MARKET VALUE - AS-IS SITE 653</b>	<b>\$800,000</b>
<b>CONCLUDED ESTIMATE OF MARKET VALUE - AS PROPOSED - HILLEL PROJECT</b>	<b>\$940,000</b>
<b>CONCLUDED ESTIMATE OF MARKET VALUE - TWO LOT RESIDENTIAL DEVELOPMENT</b>	<b>\$1,310,000</b>

Please refer to the Limiting Conditions section of this report for the specific assumptions made in this analysis. The value estimates which include consideration of the street vacation area are both based on the Extraordinary Assumption that the street vacation of the adjacent right of way along La Jolla Scenic Drive North will be approved and this area incorporated into the existing fee area of Site 653. If the street vacation is not approved, these values would be void.

Ms. Carrie L. Gleeson  
Deputy City Attorney  
City Attorney's Office

January 25, 2006

It has been a pleasure to be of service to you in this assignment. I look forward to your review of this report, and welcome your further comments or questions.

Sincerely,

RASMUSON APPRAISAL SERVICES

**DRAFT**

Gary L. Rasmuson, MAI, SRA

Certified General Real Estate Appraiser  
State of California

OREA Appraiser I.D. No. AG 002571

Expiration Date: 2/4/2008

## SUMMARY AND CONCLUSIONS

<i>Property</i>	A 15,349-square foot lot located on the north side of La Jolla Scenic Drive North and west of La Jolla Scenic Way in the community of La Jolla, California. The property is also known as City Site No. 653.
<i>Project Description</i>	Hillel of San Diego is proposing to acquire the subject property and develop a 12,100 square foot student center with a subterranean garage. The project will include requesting the street vacation of adjacent 21,278 square feet from La Jolla Scenic Way North and incorporating a large portion of this area into the development lot area. The total effective site area, after inclusion of the proposed street vacation and deduction of required street dedication area is 33,566 square feet. This area is net of 878 square feet of street vacation area that will be attached to an adjacent parcel not included in this valuation.
<i>Apparent Ownership</i>	City of San Diego
<i>Purpose</i>	To develop an opinion of the subject's market value to establish a basis for the potential sale or lease of the subject property.
<i>Estate Valued</i>	The fee simple interest
<i>Zoning</i>	SF – Single Family Residential; La Jolla Shores Planned District, City of San Diego
<i>Site Size</i>	Existing Site 653: 15,349 SF Proposed Site Area – Hillel Project: 33,566 SF gross lot area including street vacation, net of street dedication Estimated Site Area – 2 Lot Development: 30,200 SF
<i>Effective Date of Appraisal</i>	January 25, 2006
<i>Indicated Values</i>	Concluded Estimate of Market Value – As-Is Site 653 ... \$800,000 Concluded Estimate of Market Value – As Proposed – Hillel of San Diego Project .... \$940,000 Concluded Estimate of Market Value – Two Lot Residential Development .... \$1,310,000
<i>Date of Report</i>	January 25, 2006
<i>Specific Assumptions</i>	The subject property is valued under the extraordinary assumption that the proposed street vacation of 21,278 square feet from La Jolla Scenic Drive North will be approved as proposed and this area is available for development as part of the adjacent Site 653. As of the date of report, this vacation was proposed but not yet formally approved by the city. If the vacation does not occur, the value conclusion reached in this report would be significantly impacted and no longer applicable.

The valuation includes street vacation area south of the centerline of La Jolla Scenic Drive North that may have an ownership claim by Lot 67 (APN 344-131-01) who abuts this area of the street vacation. I have been instructed to include this area in my valuation.

I have relied upon an off-site cost estimate provided by Bycor General Contractors who prepared the estimate for Hillel of San Diego in a report dated April 29, 2005. These costs were reviewed at my request by Alex Garcia in the City of San Diego Development Services department. Steve Schmidt at Bycor and Alex Garcia were interviewed regarding the cost to perform the required off-site construction. My valuation is based in part on reliance upon the cost estimate made by Bycor, subject to recommended changes made by Mr. Garcia. I am not an expert in development cost estimating and have relied upon these experts in my analysis at the specific request of my client.

*Appraiser*

Gary L. Rasmuson, MAI SRA

# EXHIBIT "16"

**From:** Roger Bush  
**To:** Jim Waring  
**Date:** 4/6/2006 5:39:26 PM  
**Subject:** Site 653, Hillel

Jim, We have received a draft updated appraisal which has not been forwarded to Hillel representatives for comment as we have not yet received the customary upfront appraisal fee. Jim Anthony informs me that payment is imminent. After receiving comment the report can be finalized and reviewed in a matter of a few days. The preliminary value is \$1,310,000.

You should be aware that the March, 2005, value Hillel agreed to was \$780,000. The primary difference is due to \$400,000+ in site development costs required of the Hillel specific project. DSD now says those requirements would not be typical of a single family development. As such, we have a much higher "as is" value with the update. Please call with any questions. I will be in tomorrow, Friday, out Monday the 10th.  
Roger

Roger P. Bush, MAI  
Property Agent  
Acquisition & Valuation Division  
Real Estate Assets Department  
City of San Diego  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101

Phone: 619-236-6938  
Fax: 619-533-4522  
email: rbush@sandiego.gov

**CC:** Chris Hargett; Steve Geitz

# EXHIBIT "17"

From: "Dene Oliver" <doliver@olivermcmillan.com>  
To: "Jim Waring" <JWaring@sandiego.gov>  
Date: 4/6/2006 9:01:24 PM  
Subject: Re: Hillel purchase on Lajolla Village Drive

Thanks Jim. I look forward to getting the price and appraisal if possible so I can help Hillel with this process. Jim A please give me an email when you can on value and the appraisal. Dene

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

From: Jim Waring [mailto:JWaring@sandiego.gov]  
Sent: Thu Apr 06 13:48:15 2006  
To: Dene Oliver  
Cc: Betsy Kinsley; James Anthony  
Subject: Re: Hillel purchase on Lajolla Village Drive

Dene;  
Jim Anthony, of real estate assets is handling this transaction. He is way ahead of you and me. The deal has been appraised and the appraisal has been shared with Hillel. Hillel is trying to negotiate the price, but Jim and I agree the appraisal is reasonable and we are sticking to that number. Probably more importantly to the Hillel group is we will sell verses lease, which makes it easier for them. At this point, once they accept the price, we will move forward to council with the sale recommendation.

Jim;  
When we just spoke you were not positive of the exact appraised value. Please verify the amount and forward the number to Dean. Thanks.

James T Waring, Deputy Chief  
Land Use and Economic Development  
City of San Diego  
202 C Street, 9th Fl  
San Diego, Ca 92101  
jwaring@sandiego.gov  
[REDACTED] redacted numbers

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/5/2006 6:14:04 PM >>>

Jim, following up from our last meeting in the Mayors office and with you and Jerry at lunch today, I wanted to express my thanks for you taking this on for the Mayor to free up some one from the City staff to work quickly on the purchase documents. There is a hearing date on this in front of the council early May so it would be great if we could have something put together before then. I suppose if we don't, that based on our conversation today, that the Mayor can proceed, without further council approval, to complete the sale of the property following the land use approval. Please let me know ASAP who in the Property Department we should contact regarding the purchase documentation. Thanks so much. Dene

CC: "Betsy Kinsley" <BKinsley@sandiego.gov>, "James Anthony" <JAnthony@sandiego.gov>

# EXHIBIT "19"

Executive Team

Design Awards

History & Philosophy

View Brochure OnLine  
(Flash)

Download Corporate  
Brochure (pdf)

OM Offices/Eagles Hall

View Eagles Hall (Flash)

Industry Links

## MANAGEMENT STRUCTURE

The OliverMcMillan executive team guides the day-to-day management and operations.

One of the keys to OliverMcMillan's success is the team approach the firm brings to development. An excellent staff of management executives with degrees and backgrounds in law, business, real estate, architecture, finance, and marketing has been assembled, resulting in an organization that is able to conceptualize, implement, and respond quickly to today's dynamic market. Experienced managers have been placed in the position of overseeing construction, financial, legal, marketing and property management departments. OliverMcMillan aggressively and methodically selects properties, which can be developed in such a way as to be profitable to the firm, the investors, and the surrounding communities. By maintaining internal control of all aspects of the development process, OliverMcMillan is able to closely monitor costs, respond quickly to issues that arise, and add more quality and refinement to each of its projects.

## KEY EXECUTIVE BIOGRAPHIES

### MORGAN DENE OLIVER

Chief Executive Officer

Morgan Dene Oliver is the Chief Executive Officer of OLIVERMcMILLAN. Dene was born in San Diego, in July of 1951. He is a graduate of the University of California at Berkeley where he received a Bachelor of Science Degree in Real Estate and Urban Land Economics from the School of Business Administration. After completing an undergraduate degree, he attended and graduated from the University of Southern California School of Law, and attended the University of Southern California Graduate School of Business Administration. During undergraduate and graduate school in his 20's, Dene founded and managed Silk Screen Shirts, Inc., a



major garment printing firm which he sold in 1984. Following law school, Dene was an attorney working in the area of real estate and corporate law at the San Diego law firm of Luce, Forward, Hamilton & Scripps. After several years he left the firm and founded Oliver, Sullivan, Cummins & Wertz, a law firm practicing in the areas of real estate, business law and related civil litigation. In 1978, Dene Oliver and Jim McMillan, his lifelong friend, founded OliverMcMillan.

OliverMcMillan is one of the largest commercial development firms headquartered in San Diego and has been continually recognized for producing major architectural award winning projects throughout the Southwest.

Dene has been active in both professional and community organizations. Dene is a former member of the Board of Directors of the Sharp Hospital Foundation, the San Diego Symphony and the Museum of Photographic Arts. He is an avid sailor and member of the San Diego Yacht Club. He was appointed by Mayor Maureen O'Connor to serve on the San Diego Homeless Task Force and is a former member of the California State Board of Architectural Examiners, appointed by the Governor. Dene is a member of the Urban Land Institute and is a frequent speaker at various industry-related organizations. He was also appointed by the San Diego City Council to the Board of Directors of the San Diego Convention Center where he served as President and Chairman of the Board of the San Diego Convention Center Corporation. Dene was the founding Chairman of the Expansion Committee of the San Diego Convention Center which is in the process of a \$200 million expansion. Dene is currently working on behalf of the Mayor on the design of the Convention Center expansion. Dene was a member of the 1995 America's Cup Board of Directors and is currently a board member of the Mayor of San Diego's committee to develop a new \$100 million central library in Downtown San Diego where he was the Chairman of the sub-committee to select the architect for the project. Currently, Dene, his wife Elizabeth and their daughters, Isabelle and Emma, reside in the Point Loma area of San Diego.

#### **JAMES L. MCMILLAN**

President

James L. McMillan is the President of OLIVERMcMILLAN. Born in San Diego, in 1950, Jim is a graduate of the University of California at Berkeley where he



received a Bachelor of Science Degree in Real Estate and Urban Land Economics from the School of Business Administration in June 1973. He also holds a Master of Business Administration Degree in Finance from the University of Southern California in June 1976.

From 1973 to the present, he has been responsible for the McMillan Real Estate holdings which include properties and partnerships located in California, North Carolina and Florida. In 1978, Jim McMillan and Morgan Dene Oliver, his lifelong friend, founded OliverMcMillan. OliverMcMillan is one of the largest commercial development firms headquartered in San Diego and has been continually recognized for producing major architectural award winning projects throughout the Southwest. During the past twenty years, OliverMcMillan projects have exceeded \$1 billion in project value.

Jim is a trustee of La Jolla Country Day School where he has also served as Chair of the Finance Committee and the current Chair of the Committee on Trustees. He has additionally served as Board Member of the Child Abuse Prevention Foundation, member of the Rancho Bernardo Architectural Committee and Board Member of Investcal Realty Corporation. Currently he is a Director of the Schoenith Foundation which works to benefit educational and medical research. Jim is a member of the Urban Land Institute and the International Council of Shopping Centers.

**RICHARD PAUL BUSS, AIA**

Chief Development Officer

Born in Herington, Kansas in 1946, Richard Paul Buss is a California registered architect with a Masters Degree in Business Administration. As Chief Development Officer of OliverMcMillan, Paul heads the Project Development Division and is responsible for the planning and executing of all projects built by OliverMcMillan.



Paul is a past President of the San Diego Chapter of the American Institute of Architects. He has served as President of the San Diego Architectural Foundation, as well as

Chairman for the Long Range Planning Committee for the California Council of the American Institute for Architects. In addition, he was a member of the City of San Diego Building Department's Board of Appeals and Advisors, and served as a past Chairman of the Copley YMCA Board of Managers. Paul's most recent and visible civic involvement has been as a member of the Centre City Planning Committee charged with replanning the Downtown area of San Diego. In 1989, Paul was awarded the California Council American Institute of Architects Public Service Award.

**WILLIAM P. PERSKY**

Chief Fincancial Officer

William P. Persky is the Chief Financial Officer of OLIVERMcMILLAN. Born in San Diego, California in 1955, Bill is a graduate of the University of California at San Diego. He also holds a Master of Business Administration in Finance and Accounting from the University of California at Los Angeles where he graduated Magna Cum Laude. Bill joined OliverMcMillan in 1984 after working at Coopers and Lybrand, an international public account firm, for 3-1/2 years in auditing, tax and computer consulting. Bill is a graduate of, and active Alumnus of, LEAD San Diego and is a member of the Construction Financial Management Association.

**JIM REYNOLDS**

Managing Director

Jim earned his Bachelor of Science degree in Business Administration and Marketing at San Diego State University. After graduation, Jim went to work for University Financial focusing on real estate development and finance. After 10 years with University Financial, Jim founded his own company, Holmes-Reynolds Development Company. Over 14 years, Holmes-Reynolds Development Company developed in excess of 1,000,000 square feet of retail,



commercial and Senior-Living projects.

In 1989, Jim joined Dennis Conner in the 1992 America's Cup as his Chief Operating Officer. Together, they were responsible for raising in excess of \$60 million in corporate sponsorship for Dennis Conner and his Stars & Stripes team in the 1992, 1995 and 2000 America's Cup competitions.

In 1992, Jim and his family relocated to New York to be more effective in working with corporate sponsors. While in New York, Jim began consulting for Watermark Inc., a company focused on waterfront and marina development. There Jim worked closely with the City of New York on major projects such as a new aquarium, ice-skating rink, theme park proposals. Jim also consulted on major real estate projects associated with the World Financial Center which included a marina and related commercial, retail and residential development.

After returning to San Diego, Jim joined OliverMcMillan in 2002, bringing his more than 30 years of real estate experience. Capitalizing on his real estate experience and the financial relationships which both he and OliverMcMillan have developed over the years, it was Jim's inspiration to create OliverMcMillan Capital. In addition to his duties overseeing the pre-development and construction of all downtown San Diego projects as Senior Vice President of OliverMcMillan, Jim is Managing Director of OliverMcMillan Capital and will be directly involved in its day to day operation. Jim is a 20-year friend and industry associate of Dene Oliver and Jim McMillan.

# EXHIBIT "20"

**From:** James Anthony  
**To:** Oliver, Dene; Singer, Neal; Singer, Neal  
**Date:** 4/7/2006 10:30:27 AM  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

Dene,

VALUATION

Roger Bush, MAI, our review appraiser, informs me that we have received a draft updated appraisal. It will be forwarded to Hillel representatives for comment when we receive the customary up-front appraisal fee. Neal Singer informs me that the \$3,000 payment will be delivered shortly. After receiving comment the report can be finalized and reviewed in a matter of a few days. The preliminary value is \$1,310,000.

You should be aware that the March, 2005, value Hillel agreed to was \$780,000. The primary difference is due to \$400,000+ in site development costs required of the Hillel specific project. The Development Services Department now says those requirements would not be typical of a single family development. As such, we have a much higher "as is" value with the update.

PURCHASE AGREEMENT

I have attached a copy of the "Real Estate Purchase and Sales Agreement" that we were working on in September. We have incorporated all the requested changes by Bob Lipidus, except for the closing contingency language in section 6. This document has been back and forth between attorneys a couple time already. Since we have new staff in the City Attorneys Office, we should run it by them once more. Hillel should take another look at it and comment before I send the document down for hopefully a last review.

Note, since several individuals requested similar information, this is a group working email of sorts. Call me if you or any of the copied parties to this message have questions.

Thanks,

James P. Anthony, RPA, SRWA, CM  
City of San Diego  
Real Estate Assets Department  
1200 Third Avenue, Suite 1700  
San Diego, CA 92101

619-533-6509  
619-236-6706 (fax)

>>> "Dene Oliver" <doliver@olivermcmillan.com> 4/6/2006 8:55 PM >>>  
Thanks Jim. I look forward to getting the price and appraisal if possible so I can help Hillel with this process. Jim A please give me an email when you can on value and the appraisal. Dene

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

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**Sent:** Thu Apr 06 13:48:15 2006  
**To:** Dene Oliver  
**Cc:** Betsy Kinsley; James Anthony  
**Subject:** Re: Hillel purchase on Lajolla Village Drive

Dene;

Jim Anthony, of real estate assets is handling this transaction. He is way ahead of you and me. The deal has been appraised and the appraisal has been shared with Hillel. Hillel is trying to negotiate the price, but Jim and I agree the appraisal is reasonable and we are sticking to that number. Probably more