



Newmeyer & Dillion LLP  
895 Dove Street  
Second Floor  
Newport Beach, CA 92660  
(949) 854-7000

April 11, 2024

Michael W. Shonafelt  
Michael.Shonafelt@ndlf.com

**VIA E-MAIL AND HAND DELIVERY**

Bing H. Hyun  
Assistant City Manager  
City of Industry  
25625 Mayor Dave Way  
City of Industry, CA 91744  
[bhyun@cityofindustry.org](mailto:bhyun@cityofindustry.org)

Re: Legacy Point LLC: Appeal of Second Notice of Incomplete Application – City of Industry Municipal Code Section 17.44.010

Dear Mr. Hyun,

This office continues to represent Legacy Point LLC (“Legacy Point”) with respect to the above-referenced, mixed-use, affordable housing development proposed at 17201-17301 Gale Avenue (“Project”) in the City of Industry (“City”).

This letter responds to your April 5, 2024, correspondence regarding the status of the Project’s formal application (“Second Notice of Incomplete Application”). Your Second Notice of Incomplete Application is the latest in a string of correspondence to and from Legacy Point and the City, including the following: (1) my March 7, 2022, correspondence, which accompanied Legacy Point’s March 7, 2024, response to the City’s first Notice of Incomplete Application dated December 14, 2024; (2) the November 15, 2023, formal application submittal (“Formal Application”); and (3) the May 22, 2023, submittal of a preliminary application for the Project (“Preliminary Application”), in accordance with what is colloquially referred to as the “Builders Remedy” (Gov. Code, § 65589.5, subd. (d)).

In my March 7, 2024, letter, Legacy Point requested an affirmative representation, in writing to the undersigned, that the City will accept and process the Formal Application as a Builder’s Remedy project, without requiring any legislative action to amend the City’s Zoning Code and/or General Plan. We also requested that the City provide the undersigned with notice as to the proper administrative process to appeal the City’s determination, if one exists, by no later than close-of-business Friday, April 5, 2024. Your April 5, 2024, response asserted, incorrectly, that Legacy Point’s Preliminary Application had expired for failure to obtain a completeness determination within 90 days. The City’s provision is incorrect as a matter of law, as section 65941.1

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subdivision (d)(2) only requires the applicant to “supply the specific information needed to complete the application,” not to obtain a completeness determination. (Gov. Code, § 65941.1, subd. (d)(2).) In fact, Legacy Point made its submittal in response to the City’s first Notice of Incomplete Application on March 7, 2024, well within the 90-day period. More importantly, many of the City’s requests, for reasons outlined in my March 7, 2024, letter, were unlawful under the Permit Streamlining Act (Gov. Code, § 65920, et seq.) They rendered compliance impossible. The City cannot lawfully make requests that are impossible to fulfill and then use those requests as a basis for declaring Legacy Point’s vested rights expired. We reserve all of our objections to the City’s notices of incomplete application and further reserve our right to augment legal grounds for appealing those determinations.

Despite our demand, your letter failed to provide Legacy Point with notice of the proper administrative channel of appeal of the City’s decision. In fact, the City was required to provide such notice pursuant to Government Code section 69543 subdivision (c). In an abundance of caution, we hereby file this administrative appeal of the City’s Second Notice of Incomplete Application, and the City’s assertions therein, pursuant to City of Industry Municipal Code section 17.44.040, and/or any other relevant provision of the City’s code. We will forward payment of the necessary appeal fee forthwith. Please advise this office in writing by no later than **close of business Wednesday, April 17, 2024**, if this appeal will be accepted for processing.

If you have any questions about this letter, please do not hesitate to call me.

Very truly yours,



Michael W. Shonafelt

MWS

cc: Julie Gutierrez-Robles, City Clerk, [jgrobles@cityofindustry.org](mailto:jgrobles@cityofindustry.org)  
Kimberly Yu, Legacy Point