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**OF COUNSEL

April 16, 2012

Gerald Canfield, Code Compliance Supervisor
Town of Newburgh
308 Gardnertown Road
Newburgh, New York 12550

Via Facsimile: 845-564-7802 and Regular Mail

Re: Santa Monica Holdings, LLC
Building Permit Application
Our File No. 9876-004

Dear Mr. Canfield:

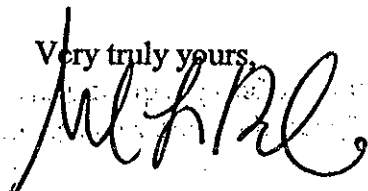
Pursuant to Town of Newburgh Local Law No. 2 of 2012, Santa Monica Holdings, LLC, is exempt from the moratorium imposed on the issuance of permits and approvals for adult oriented businesses since it has not obtained a decision on its pending building permit application within the applicable time period set forth in Town of Newburgh Town Code §185-49D.

As set forth in your March 15 letter to architect Mazzarelli, a properly complete application has been filed with your office since March 9, 2012. Therefore, the 20-day time frame set forth in §185-49D for you to issue a building permit has expired.

Please issue the building permit immediately.

Thank you.

Very truly yours,



Michele L. Babcock

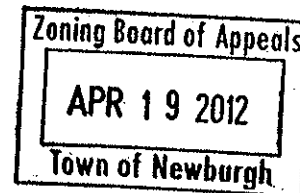
cc: Mark C. Taylor, Esq. (via facsimile: 845-562-9126)
Clients

TOWN OF NEWBURGH

Crossroads of the Northeast

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Michele L. Babcock, Esq.
Jacobowitz and Gubits, LLP
158 Orange Avenue
P.O. Box 367
Walden, New York 12586-0367

April 19, 2012

Re: Santa Monica Holdings, LLC
Building Permit Application
Your File No. 9876-004

Dear Ms. Babcock:

I am in receipt of your letter of April 16, 2012.

During his appearance at the Zoning Board of Appeals hearing held on March 22, 2012, Mr. Cappello discussed both the appeal on which a public hearing was being held and our Department's request for an interpretation with respect to the pending building permit application. He advised that he would be happy to agree to allow the Zoning Board of Appeals time to digest the submitted materials and make an informed decision, if the moratorium was not adopted.

Given the clarifications the Town Board made to the moratorium's application to pending applications, we assumed Mr. Cappello's offer still stood and that your firm and client agreed the Zoning Board of Appeals would at least be given the opportunity to provide guidance to our Department on the limited private room issue on which we requested interpretation. Our request is on its agenda for the April 26, 2012 meeting.

I was therefore surprised to receive your letter. An explanation of your firm's change in position would be appreciated.

Thank you


Gerald Canfield, Code Compliance Supervisor

cc: Mark C. Taylor, Esq.
Grace Cardone, Zoning Board of Appeals Chairperson

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**OF COUNSEL

April 24, 2012

Via Facsimile: 845-564-7802 and Regular Mail

Hon. Gerald Canfield, Code Compliance Supervisor
Town of Newburgh
308 Gardnertown Road
Newburgh, New York 12550

Re: Santa Monica Holdings, LLC - Building Permit Application
Our File No. 9876-004

Dear Mr. Canfield:

I am writing you in follow up to the April 16, 2012, letter from Michele Babcock, Esq. demanding issuance of the building permit for the above referenced establishment and in response to your letter dated April 19, 2012 (received April 23, 2012) to Ms. Babcock.

Your letter of April 19, 2012, makes several incorrect assumptions regarding my presentation to the Zoning Board of Appeals at its March 22, 2012 meeting. My position has not changed. At that meeting, I did advise the ZBA that if the ZBA wished to take time to digest the materials I submitted in support of my client's position they could make a request to the Town Board that the moratorium not be adopted.

The ZBA did not make that request and the Town Board did adopt the moratorium.

In addition, as I set forth in my March 22, 2012, letter to the Zoning Board of Appeals on the Neighbor's application and your last minute request for an interpretation, my client's position is that your request related to the existence of seven private rooms. In the letter and orally at the meeting, my client offered to remove the doors from the rooms pending a determination of the ZBA. I reiterated that position to you in a letter of March 26, 2012.

Further, as I have related to you and Town Attorney Taylor on several occasions, neither your request to the ZBA nor the Neighbor's appeal cause a stay of any action by you. Therefore, absent a moratorium, my client is entitled to issuance of the building permit pursuant to your original determination.

Moreover, the moratorium law adopted by the Town Board exempts from the moratorium those applicants who have not obtained a decision on their applications pertaining to expansion or alteration of adult-oriented businesses within applicable time periods.

As set forth in Ms. Babcock's April 16th letter, the Santa Monica Holdings LLC building permit application is exempt from the moratorium imposed by the Town Board on the issuance of permits and approvals for businesses with adult-oriented entertainment since a complete building permit application was pending, as acknowledged by you on, March 9, 2012, and the 20-day time frame to act on the building permit application expired prior to the effective date of the moratorium law. Pursuant to the terms of that law, building permit for my client's adult-oriented business must be issued.

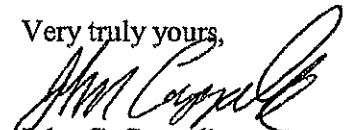
The fact that the Neighbor's appeal and your request are still on the ZBA's public hearings agenda also demonstrates that my client's adult-oriented business is exempt from the moratorium. Since my client's establishment is an exempt adult-oriented business, your request to the ZBA is moot. Whether or not the private rooms have doors does not make this establishment any more or less of an adult-oriented business. Therefore, your request to the ZBA should be withdrawn.

I noticed that your letter to the ZBA, dated March 16, 2012, (which by the way, I still have not received though I am listed as a cc) included a floor plan of the architect Carlo Mazzerelli that was submitted in error, but did not include the corrected floor plan submitted by Architect Mazzerelli. The correct floor plan was submitted to you on February 14, 2012. Mr. Mazzerelli's letter and the correct floor plan were included as Exhibit Q to my March 22, 2012, submission to the ZBA. Additionally, the applicant's representative, Keith Slifstein submitted a letter to you further clarifying the issue of use of the rooms. Then on March 9, 2012, subsequent to a meeting with you, I submitted a letter to you reiterating and explaining the use of the rooms. This letter provided the floor plan together with a comparison schedule comparing square footage of the various uses from the Minuta floor plan to the Mazzerelli floor plan.

Although you had all of those submissions prior to your March 16, 2012, letter, you chose to submit the plan that had been corrected and replaced by the applicant over a month before you wrote your interpretation request to the ZBA, and not to submit the correct floor plan.

Therefore, based upon the facts that this project is exempt from the moratorium, that the applications to the ZBA do not cause a stay of your duty to issue the building permit, and that my client is entitled to the building permit, I reiterate my demand that you issue the building permit for this establishment, with or without doors to the private rooms, immediately.

Very truly yours,



John C. Cappello

cc: Hon. Grace Cardone, Chair and ZBA Members (Via email: zoningboard@hvc.rr.com)
Mark Taylor, Esq. (Via email: MTaylor@riderweiner.com)
David Donovan (Via email: david.donovan@dddblaw.com)
Mr. Keith Slifstein (Via email: keithslifstein@yahoo.com)
Luke Lirot, Esq. (Via email: luke2@lirotlaw.com)