

1 ROSS W. FEINBERG, ESQ., SBN 117940
JOSEPH KANEDA, ESQ., SBN 160336
2 CHARLES R. FENTON, ESQ., SBN 200764
FEINBERG GRANT MAYFIELD KANEDA & LITT, LLP
3 4695 MacArthur Court, Suite 430
Newport Beach, California 92660
4 TEL: (949) 250-5955
FAX: (949) 250-7455

5 Attorneys for Claimant,
6 PINNACLE MUSEUM TOWER ASSOCIATION
A California Nonprofit, Mutual Benefit Corporation
7

8
9
10 PINNACLE MUSEUM TOWER
ASSOCIATION a California Nonprofit,
11 Mutual Benefit Corporation,

12 Claimant,

13 v.

14
15 PINNACLE INTERNATIONAL
DEVELOPMENT, INC., a California
16 corporation, PINNACLE INTERNATIONAL
(US), LLC, a California limited liability
17 company; and DOES 1 through 400
inclusive,
18

19 Respondent.
20

CLAIMANT PINNACLE MUSEUM
TOWER ASSOCIATION'S NOTICE TO
BUILDER PURSUANT TO CALIFORNIA
CIVIL CODE SECTION 910 et. seq.

21 TO: PINNACLE INTERNATIONAL DEVELOPMENT, INC., and PINNACLE
22 INTERNATIONAL (US), LLC:

23 Your legal rights are affected by this written Notice, which is given pursuant
24 to California Civil Code, Section 910. The purpose of this Notice is to inform you that
25 the above-named common interest development makes a claim against you for
26 defects in the design and/or construction of the PINNACLE MUSEUM TOWER. You
27 should carefully read California Civil Code, Section 1375 and consult with an
28

1 attorney to determine your specific rights and obligations.

2 NOTICE IS HEREBY GIVEN THAT the PINNACLE MUSEUM TOWER
3 ASSOCIATION (hereinafter the "Association"), hereby gives you notice pursuant to
4 California Civil Code, Section 910 (the "Notice"), that it has a claim for defects in the design
5 and/or construction of the common interest development known as "Pinnacle Museum
6 Tower" located in the City of San Diego, County of San Diego, State of California.

7 This Notice shall toll all applicable statutes of limitation and repose, whether
8 contractual or statutory, by and against all potentially responsible parties, regardless of
9 whether they were named in the Notice, including claims for indemnity applicable to the
10 claim for the period set forth in Civil Code, Section 1375(c).

11 Upon receipt of the Notice you shall, within fourteen (14) days acknowledge receipt
12 of this Notice pursuant to Civil Code, Section 913.

13 Upon receipt of the Notice you shall, within thirty (30) days provide the following:

- 14 1) All relevant plans, specifications, mass or rough grading plans, final soils
15 reports, DRE public reports and available engineering calculations relative to structural, fire
16 safety and/or soils concerns;
- 17 2) All maintenance and preventative maintenance recommendations;
- 18 3) All manufactured products maintenance, preventative maintenance, and
19 limited warranty information; and
- 20 4) All builder's limited contractual warranties in effect at the time of the original
21 sales of the residences.

22 **I. PRELIMINARY LIST OF DEFECTS**

23 Pursuant to California Civil Code, Section 1375(b)(2) & (3), with reservation to
24 amend, modify or add to this Notice required by this provision, the Association provides
25 you with a preliminary non-exclusive list of claimed defects and results identified on Exhibit
26 "A".

27 ///

28

1 II. SUMMARY OF RESULTS OF SURVEYS OR QUESTIONNAIRE

2 Pursuant to California Civil Code, Section 1375(b)(4), no homeowner surveys have
3 been sent.


4 III. SUMMARY OF RESULTS OF TESTING

5 Pursuant to California Civil Code, Section 1375(b)(5), a summary of the results of
6 preliminary testing conducted to determine the nature and extent of defects in the design
7 and/or construction is set forth in Exhibit "A".

8
9 Dated: October 23, 2006

FEINBERG GRANT MAYFIELD KANEDA &
LITT LLP

10
11
12
13 By:



ROSS W. FEINBERG, ESQ.
Attorneys for Claimant, PINNACLE MUSEUM
TOWER ASSOCIATION

EXHIBIT "A"

THE PINNACLE MUSEUM TOWER ASSOCIATION

PRELIMINARY ISSUES LIST

I. Interior.

A. Lobby.

- A-1. Inadequate support of vertical panel in front of mail boxes
- A-2. Inappropriate selection of tile materials and defective installation of floor tiles resulting in cracked, scratched and stained tiles, including elevator cab floors.
- A-3. Inadequate furnishing of lobby (missing suitable furniture, lighting, carpets, plants and art work)
- A-4. Lobby powder room not furnished to appropriate standards (exposed electrical conduit, exposed janitorial wash tubs), missing wallpaper, non-ADA compliant.
- A-5. Granite/marble above elevator entries drilled and then improperly patched.

B. Building Office.

- B-1. Inadequate size
- B-2. Failure to properly furnish and equip.

C. Engineering Office.

- C-1. Failure to provide engineering office with appropriate furniture, as built plans, etc.

D. Employee Break Room.

- D-1. Failure to provide employee break room with tables, microwave oven and refrigerator.

E. Amenity Room.

- E-1. Inappropriate selection of counter tops and flooring materials (unmaintainable, recurring stains, etc.) in kitchen area.

- F. Excessive gaping of all entry doors to residences.
- G. Missing security door at fire stairwell (#2) on Auto Court level.

II. Exterior.

H. Auto Court Area.

- H-1. Granitex required on all concrete planter boxes (unmaintainable as painted concrete).
- H-2. Landscaping inadequate.
- H-3. Landscape lighting inadequate.
- H-4. Failure to finish back flow enclosure (walls) and failure to cover with appropriate steel mesh cover.

I. Union Street.

- I-1. Missing granite around planter areas.
- I-2. Landscaping inadequate.
- I-3. Landscape lighting inadequate
- I-4. Cracked granite.

J. Market Street.

- J-1. Failure to install missing vent covers.

K. Front Street.

- K-1. Failure to underground utility boxes (several) on sidewalk.

L. Security:

- L-1. Inadequate number of security cameras around auto court and building perimeter, and on level 2 (gym, amenity room, theater room, etc.)
- L-2. Security gates needed on Front and Union to control access.
- L-3. Multi-use of garage requires security kiosk on Union entrance with all cameras connected to kiosk.

M. Tower Exterior.

M-1. Missing balcony scuppers

N. Pool Area.

N-1. Pool deck tile stained during construction

N-2. Spa hand-rails rusting.

N-3. Rusting at pool tile area.

N-4. Missing water self-leveling device for pool.

N-5. Landscaping at pool area - inappropriate selection of plant material (bamboo) and inadequate landscaping and inadequate landscape lighting.

N-6. Inadequate lighting of BBQ area.

N-7. Inadequate security cameras and need for two-way voice communication system for security.

N-8. All landscape planters need granitex (paint surfaces unmaintainable).

O. Window washing equipment and use. See attached list (including unit 3302 hot tub design error by Pinnacle LLC that precludes proper use of washing arms).

P. Trash/Loading Dock.

P-1. Failure to provide for trash area for commercial tenants.

P-2. Failure to finish concrete around vents above loading dock area.

P-3. Access door to lobby missing FOB pad.

P-4. Freight elevator needs separate call system at loading dock and at all floors.

III. Garage.

Q-1. P1, P2 and P3 require resurfacing because of construction damage, leaks in P3 and uneven plumbing leaks and seal coat throughout.

Q-2. P3 has membrane leak in waterproofing.

- Q-3. Gates at P1 and P2 were not properly wired for FOB pads.
- Q-4. Garage does not have adequate security cameras and needs voice activated speaker system for security staff tied to kiosk.
- Q-5. Missing drain shut off for Fountain at P-1 and missing drains in garage at P-1 (South).

IV. Mechanical Issues.

- R-1. Repeated, serious plumbing problems suggest plumbing was not properly installed throughout the building.
- R-2. Closed circuit HVAC system has debris levels that are inappropriate and are causing mechanical failures with HVAC units and washers in owner residences.
- R-3. Excessive corrosion on booster pumps.
- R-4. Excessive corrosion on water softener plumbing equipment.
- R-5. Excessive corrosion of the fire sprinkler plumbing pipes throughout garage area.
- R-6. Lack of appropriate HVAC monitoring equipment.
- R-7. Lack of consistent hot water.
- R-8. Excessive chiller/HVAC equipment vibration.
- R-9. Lack of water proof membrane on boiler room floor.
- R-10. Improper design and installation of dryer units.

V. HOA Reserves.

- S-1. Inadequate funding of reserves.

VI. Reimbursement of HOA Expenses.

- T-1. Reimburse HOA for floor mats in lobby.
- T-2. Reimburse HOA for safe.

T-3. Reimburse HOA for employee time and repair expense for what should have been developer performed warranty work.

VII. Insurance.

U-1. Reimburse HOA for increased insurance premiums and higher deductibles caused by repeated pipe failures due to developer plumbing defects and developer's failure to pay for repairs directly.



Contract Services Group Inc.

August 21, 2006

Rich Giandomenico
Facilities Director
Pinnacle Museum Tower
550 Front Street
San Diego, CA 92101

Dear Rich:

Find attached some outstanding issues that need to be addressed prior to the next window cleaning service:

1. Electric cable provided for second basket is not long enough, minimum of 75 feet needed, cable provided is 25 feet.
2. Current rollers on the stage are black and leave marks on the building. Non-marking white rollers need to be provided.
3. A permanent Jacuzzi has installed on the 33rd floor unit 3301 that obstructs and does not allow the use of the window cleaning system. As we discussed Tratcel will develop a system to do this work. It will also need to become part of the operating procedures.
4. 37th floor roof northwest corner, bolt on pedestal base prevents winch adapter from being attached.
5. Removable handrails needed on 31st floor east and west. In our opinion these handrails should be removable or hinged if its in compliance with Cal-OSHA regulations.
6. Handles need to be installed on Davit Arm storage cases throughout building, lack of handles can cause injury to workers opening boxes.
7. Balcony with glass partition dividers needs to be removable.
8. Concern that the balcony pavers are not compatible with weight of stage. Hollow spaces below pavers caused them to break during moving of stage.
9. Current annual certification needs to indicate that the system meets or exceeds Cal-OSHA regulations for high rise window cleaning systems.
 - a. The following should be kept in the onsite file for future annual certifications
 1. Shop drawings
 2. As built drawing
 3. Wet stamped engineering calculations
 4. Copy of acceptance testing performed including load testing.
10. Electric chair should have been included with the window cleaning system in order to maximize efficiency. Without this chair as part of your permanent installation the work will cost an additional \$5,400 per cleaning.

Sincerely,
Contract Services Group, Inc.

Luke Mansfield
Specialty Services Manager

Office (877) 670-8412
Cell/Direct (714) 552-0507

PROOF OF SERVICE

(1013a, 2015.5 California Code of Civil Procedure)

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES) ss.

I the undersigned, an employee of FEINBERG GRANT MAYFIELD KANEDA & LITT. Located at 4695 MacArthur Court, Suite 430, Newport Beach, CA 92660, attorneys at law for Plaintiff in this matter, declare under the penalty of perjury that I am over the age of eighteen (18) and not a party to this matter, action or proceeding.

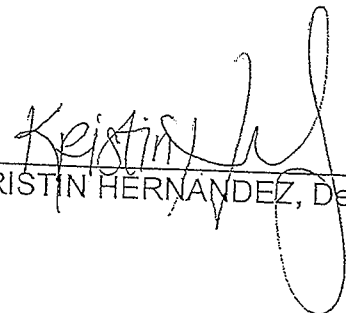
On October 23, 2006, I served the foregoing document described as:

**CLAIMANT PINNACLE MUSEUM TOWER ASSOCIATION'S NOTICE TO BUILDER
PURSUANT TO CALIFORNIA SECTION 910 et. Seq.**

on the interested parties in this action, by CERTIFIED MAIL, # 91 7108 2133 3932 2612 7778, by placing a true and correct copy thereof enclosed in a sealed envelope, addressed as follows:

James G. Ehlers
HECHT SOLBERG, et al, LLP
600 W. Broadway, Suite 800
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23rd day of October, 2006, at Newport Beach, California.



KRISTIN HERNANDEZ, Declarant

PROOF OF SERVICE
(1013a, 2015.5 California Code of Civil Procedure)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I the undersigned, an employee of FEINBERG GRANT MAYFIELD KANEDA & LITT. Located at 4695 MacArthur Court, Suite 430, Newport Beach, CA 92660, attorneys at law for Plaintiff in this matter, declare under the penalty of perjury that I am over the age of eighteen (18) and not a party to this matter, action or proceeding.


On October 23, 2006, I served the foregoing document described as:

**CLAIMANT PINNACLE MUSEUM TOWER ASSOCIATION'S NOTICE TO BUILDER
PURSUANT TO CALIFORNIA SECTION 910 et. Seq.**

on the interested parties in this action, by CERTIFIED MAIL, # 91 7108 2133 3932 2612 7754, by placing a true and correct copy thereof enclosed in a sealed envelope, addressed as follows:

David L. Dick,
Agent for Service of Process for:
Pinnacle International (US), LLC.
225 Broadway, Suite 1900
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23rd day of October, 2006, at Newport Beach, California.



KRISTIN HERNANDEZ, Declarant

PROOF OF SERVICE
(1013a, 2015.5 California Code of Civil Procedure)

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I the undersigned, an employee of FEINBERG GRANT MAYFIELD KANEDA & LITT. Located at 4695 MacArthur Court, Suite 430, Newport Beach, CA 92660, attorneys at law for Plaintiff in this matter, declare under the penalty of perjury that I am over the age of eighteen (18) and not a party to this matter, action or proceeding.

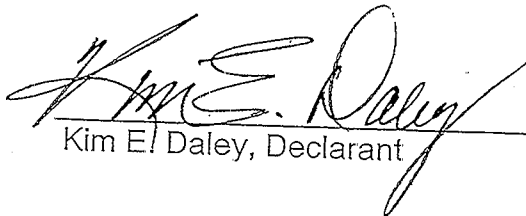
On October 23, 2006, I served the foregoing document described as:

**CLAIMANT PINNACLE MUSEUM TOWER ASSOCIATION'S NOTICE TO BUILDER
PURSUANT TO CALIFORNIA SECTION 910 et. Seq.**

on the interested parties in this action, by CERTIFIED MAIL, # 91 7108 2133 3932 2612 7624, by placing a true and correct copy thereof enclosed in a sealed envelope, addressed as follows:

Apriano Meola
Agent for Service of Process for:
Pinnacle International Development, Inc.
1443 Island Avenue
San Diego, CA 92101

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 23rd day of October, 2006, at Newport Beach, California.



Kim E Daley, Declarant