

OCT 23 2009

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CASE ASSIGNED FOR  
ALL PURPOSES TO  
Judge ANDREW C. KAUFFMAN  
Dept. B Div.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

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1800 PCH PROPERTY OWNERS )  
ASSOCIATION, a California )  
Nonprofit Mutual Benefit )  
Corporation, )

Plaintiff,

vs.

SEASIDE VILLAGE REDONDO BEACH )  
LLC, a California Limited )  
Liability Company; BRAEMAR URBAN )  
VENTURES LIMITED PARTNERSHIP, a )  
California Limited Partnership; )  
REDEVCO 94, INC., a California )  
Corporation; SHAWBETH, INC., a )  
California Corporation; and DOES )  
1 - 50, INCLUSIVE, )

Defendants

Case No. YC060892

COMPLAINT FOR:

- (1) STRICT LIABILITY;
- (2) NEGLIGENCE;
- (3) BREACH OF IMPLIED WARRANTY;
- (4) BREACH OF THIRD-PARTY BENEFICIARY CONTRACT;
- (5) BREACH OF FIDUCIARY DUTY; and
- (6) FRAUD

Plaintiff, 1800 PCH PROPERTY OWNERS ASSOCIATION alleges:

1. Plaintiff is, and at all times mentioned herein was, a non-profit mutual benefit corporation organized and existing under the laws of the State of California. Plaintiff exists to operate the condominium complex located at 1800 Pacific Coast

1 Highway, Redondo Beach, California (hereinafter, the "Project.")

2       2. In accordance with its Declaration of Covenants,  
3 Conditions & Restrictions ("CC&Rs"), Plaintiff has the sole  
4 right and duty to manage and repair the common area of the  
5 Project and the separate interests affected thereby and has all  
6 of the powers necessary to carry out its rights and obligations,  
7 including the right and duty to prosecute any action in regard  
8 to damage to the common area when such action is deemed by it to  
9 be necessary to enforce its rights or obligations, including the  
10 bringing of this action.

11       3. Plaintiff maintains this action as the real party in  
12 interest pursuant to California Civil Code Section 1368.3

13       4. Plaintiff is informed and believes and thereon alleges  
14 that defendant Seaside Village Redondo Beach LLC is, and all  
15 times mentioned was, a California Limited Liability Company  
16 doing business in the County of Los Angeles, State of California  
17 as a real estate builder and/or developer of mass produced  
18 residential units for sale to the general public.

19       5. Plaintiff is informed and believes and thereon alleges  
20 that defendant Braemar Urban Ventures Limited Partnership is and  
21 all times mentioned was, a California limited partnership doing  
22 business in the County of Los Angeles, State of California as a  
23 real estate builder and/or developer of mass produced  
24 residential units for sale to the general public.

25       6. Plaintiff is informed and believes and thereon alleges  
26 that defendant Redevco 94, Inc. is and all times mentioned was,  
27 a California corporation doing business in the County of Los  
28 Angeles, State of California as a real estate builder and/or

1 developer of mass produced residential units for sale to the  
2 general public.

3 7. Plaintiff is informed and believes and thereon alleges  
4 that defendant Shawbeth, Inc. is and all times mentioned was, a  
5 California corporation doing business in the County of Los  
6 Angeles, State of California as a real estate builder and/or  
7 developer of mass produced residential units for sale to the  
8 general public.

9 8. Plaintiff is informed and believes and thereon alleges  
10 that DOES 1-50, inclusive, whether individual, corporate,  
11 associate, or otherwise, are fictitious names of defendants  
12 whose true names and capacities are, at this time, unknown to  
13 the Plaintiff. Plaintiff is informed and believes and thereon  
14 alleges that, at all times herein mentioned, each Defendant sued  
15 herein as a DOE Defendant was the agent, servant and/or employee  
16 of his and/or her co-defendants and, in doing the things herein  
17 mentioned, was acting within the scope of his or her authority  
18 as such an agent, servant and employee and with the permission  
19 and consent of his or her co-defendants, and each of said  
20 fictitiously named Defendant is in some manner liable or  
21 responsible to the Plaintiff based on the facts hereinafter  
22 alleged and caused injuries and damages proximately thereby as  
23 hereinafter alleged.

24 9. Plaintiff is informed and believes and thereon alleges  
25 that at all times herein mentioned, Seaside Village Redondo  
26 Beach LLC, Braemar Urban Ventures Limited Partnership, Redevco  
27 94, Inc., Shawbeth, Inc. and DOES 1-10, inclusive (the  
28 "Developer Defendants"), and each of them, were the owners,

1 sellers and initial grantors and participated in the  
2 development, construction and sale of the Project, its  
3 residential units and common areas. Plaintiff is unaware of the  
4 precise and exact nature of the relationship between the  
5 Developer Defendants and the part each played in the  
6 acquisition, design, planning, development, construction and  
7 sale of the Project but when the true and precise nature of  
8 their participation and relationship becomes known, this  
9 pleading will be amended to reflect the same or it will be  
10 established according to proof at the time of trial.

11 10. Plaintiff is informed and believes and thereon alleges  
12 that at all times herein mentioned, DOES 11-30, inclusive (the  
13 "Subcontractor Defendants") and each of them, were  
14 subcontractors of the Developer Defendants. The Subcontractor  
15 Defendants provided labor and services in regard to the design,  
16 planning, development and construction of the Project. The  
17 Plaintiff is unaware of the precise and exact nature of the part  
18 each played in the design, planning, development and  
19 construction of the Project but when the true and precise nature  
20 of their participation and relationship becomes known, this  
21 pleading will be amended to reflect the same or it will be  
22 established according to proof at the time of trial.

23 11. Plaintiff is informed and believes and thereon alleges  
24 that the Developer and Subcontractor Defendants were the  
25 designers, builders, developers, contractors, subcontractors,  
26 material men, suppliers, installers, architects, inspectors and  
27 engineers that designed, planned, developed and constructed the  
28 Project, in whole or in part.

1           12. Plaintiff is informed and believes and thereon alleges  
2 that the Developer Defendants established and incorporated  
3 Plaintiff, were the original members of the Board of Directors  
4 of Plaintiff and had sufficient votes or influence to control  
5 the actions and activities of Plaintiff at all relevant times  
6 herein.

7           13. A variety of latent defects and deficiencies in the  
8 Project have been discovered by the Plaintiff within three years  
9 of the filing of the complaint in this action, including but not  
10 limited to:

- 11                     a. Improper slope of courtyard paving;  
12                     b. Improper slope of softscape adjacent to  
                          dwellings; and,  
13                     c. Improper drainage of courtyards.

14           14. Latent defects and deficiencies in the architectural,  
15 engineering, structural design and construction of the Project  
16 are continuing to be discovered. Plaintiff will amend this  
17 pleading as further defects are discovered or it will be  
18 established according to proof at the time of trial.

19           15. As a result of the aforementioned defects and  
20 deficiencies, there is present and actual damage to all of the  
21 above systems and throughout the Project, subject to proof at  
22 trial. These damages are progressive and continuing.

23                                     **FIRST CAUSE OF ACTION**

24                                     **(Strict Liability against the Developer Defendants)**

25           16. Plaintiff alleges and incorporates herein by reference  
26 paragraphs 1 through 15, inclusive, as though set forth in full  
27 hereat.

28           17. Plaintiff is informed and believes, and thereon

1 alleges that as developers, sellers, builders, improvers,  
2 designers, manufacturers and/or mass producers of the Project  
3 and its component parts and systems, Developer Defendants knew  
4 that the residential units in the Project would be sold to, and  
5 used by members of the general public for purposes of  
6 residential dwelling units. These defendants knew or reasonably  
7 should have known that the persons who purchased these units  
8 would do so without inspection for the defects set forth herein.

9       18. As set forth above, defects at the Project have been  
10 discovered by Plaintiff. These defects were neither known nor  
11 apparent by reasonable inspection to Plaintiff prior to their  
12 discovery. Plaintiff is informed and believes, and thereon  
13 alleges that the Project may be additionally defective in ways  
14 and to extent not now known, but which will be inserted herein  
15 by way of amendment or will be established according to proof at  
16 trial.

17       19. Developer Defendants knew or had reason to know that  
18 Plaintiff would rely on the skill, judgment and expertise of  
19 each of the defendants in producing, constructing and/or  
20 converting the Project and that Plaintiff was ignorant of the  
21 defective nature of the Project.

22       20. The Developer Defendants, and each of them, as  
23 developers, owners, mass-producers, manufacturers of component  
24 parts and systems, builders, converters and sellers of the  
25 residential units in the Project are strictly liable and  
26 responsible to the Plaintiff for all damages suffered as a  
27 result of the defects alleged herein.

28       21. Plaintiff is informed and believes, and thereon

1 alleges that as a direct and proximate result of the defective  
2 condition of the Project, Plaintiff has suffered damages in an  
3 amount precisely unknown but within the jurisdictional limit of  
4 this Court in that the Plaintiff will be required to perform  
5 works of repair, restoration and construction to portions of the  
6 Project to prevent further damage and restore the portions  
7 thereof to their proper condition. The precise amount of  
8 damages will be established to proof at trial.

9         22. The Plaintiff is informed and believes, and thereon  
10 alleges that as a further and direct and proximate result of the  
11 defective condition of the Project, the interest of Plaintiff in  
12 the Project and the value thereof has been reduced and  
13 diminished in an amount presently unknown but will be  
14 established according to proof at trial.

15                                 SECOND CAUSE OF ACTION

16         (Negligence Against the Developer and Subcontractor Defendants)

17         23. Plaintiff alleges and incorporates herein by  
18 reference paragraphs 1 through 15, inclusive, as though set  
19 forth in full hereat.

20         24. Plaintiff is informed and believes and thereon alleges  
21 that the Developer and Subcontractor Defendants, and each of  
22 them, whether developers, owners, contractors, subcontractors,  
23 suppliers, architects, inspectors, engineers, builders,  
24 improvers and/or sellers, performed work, labor, and/or services  
25 upon the Project, and each knew, or should have known, that if  
26 the Project was not properly or adequately designed, supervised  
27 and constructed, that Plaintiff would be substantially damaged  
28 thereby and that the Project would be defective and not of

1 merchantable quality.

2         25. These defendants, and each of them, were under a duty  
3 to exercise ordinary and reasonable care as developers, owners,  
4 contractors, subcontractors, suppliers, architects, engineers,  
5 builders, improvers and/or sellers or otherwise to avoid  
6 reasonably foreseeable injury to Plaintiff and knew or should  
7 have known, with reasonable certainty, Plaintiff would suffer  
8 the monetary damages set forth herein if said defendants failed  
9 to perform their duty to cause the Project to be completed in a  
10 proper workmanlike manner and fashion.

11         26. These defendants, and each of them, failed and  
12 neglected to perform the work, labor, and/or services properly  
13 or adequately in that each of the said defendants negligently,  
14 carelessly and in an unworkmanlike manner performed the  
15 aforesaid work, labor and/or services such that the Project as  
16 described herein was constructed improperly, negligently,  
17 carelessly, and in an unworkmanlike manner.

18         27. As a direct and proximate result of the foregoing  
19 negligence, carelessness, unworkmanlike conduct, and the actions  
20 and/or omissions by these defendants, and each of them,  
21 Plaintiff has suffered and will suffer damages in an amount  
22 unknown at this time, but within the jurisdiction of this Court.  
23 The precise amount of damages will be established according to  
24 proof at trial.

25         28. As a further direct and proximate result of the  
26 negligence of defendants, and each of them, the interests of the  
27 Plaintiff in the Project and the value thereof, have been  
28 reduced and diminished in an amount presently unknown, but which



1 will be established according to proof at trial.

2 THIRD CAUSE OF ACTION

3 (Breach of Implied Warranty Against the Developer Defendants)

4 29. Plaintiff alleges and incorporates herein by reference  
5 paragraphs 1 through 15, inclusive, as though set forth in full  
6 hereat.

7 30. Developer Defendants, at all times herein mentioned,  
8 were and are merchants and/or manufacturers with respect to the  
9 residential units and common areas in the Project and these  
10 defendants impliedly warranted to Plaintiff that the Project was  
11 of merchantable quality and erected in a reasonably workmanlike  
12 manner.

13 31. Plaintiff is informed that portions of the Project  
14 were inadequately constructed, manufactured, developed,  
15 designed, supervised or otherwise improved so that the above-  
16 described defective conditions exist and the Project is not of  
17 merchantable quality or erected in a reasonably workmanlike  
18 manner.

19 32. Plaintiff is informed and believes and thereon alleges  
20 that the Project may be additionally defective in ways and to  
21 extents not precisely known but which will be inserted herein by  
22 way of amendment or will be established according to proof at  
23 trial.

24 33. Plaintiff has performed everything on its part to be  
25 performed pursuant to said implied warranties and has timely  
26 notified the Developer Defendants, and each of them, that the  
27 Project, or portions thereof, was not of merchantable quality  
28 nor erected in a reasonably workmanlike manner and from time to

1 time gave further notice of the particulars of such defective  
2 conditions. Notwithstanding such notices, Developer Defendants,  
3 and each of them, have declined and failed to acknowledge  
4 responsibility for same or otherwise caused the appropriate  
5 restoration and/or repairs to be made to the Project at their  
6 expense or to otherwise contribute to the costs of same.

7 34. Plaintiff is informed and believes and thereon alleges  
8 that the defects described herein arose out of, or were  
9 attributable to and are directly and proximately caused by, the  
10 above-described latent deficiency in the design, specifications,  
11 planning, supervision, observation of construction, selection of  
12 building materials, construction, development and/or improvement  
13 of the Project and that prior to the time when it was discovered  
14 by the Plaintiff, same could not have been discovered by the  
15 exercise of reasonable diligence.

16 35. Plaintiff is informed and believes and thereon alleges  
17 that as a direct and proximately result of the defective  
18 condition of the Project, Plaintiff has suffered damages in an  
19 amount unknown, but within the jurisdictional limit of this  
20 Court in that the Plaintiff will be required to perform works of  
21 repair, restoration, and construction to portions of the Project  
22 to prevent further damage and restore the portions thereof to  
23 their proper condition. The precise amount of damages will be  
24 established according to proof at trial.

25 36. Plaintiff is informed and believes and thereon alleges  
26 that as a further and direct and proximate result of the  
27 defective condition of the Project, the interest of Plaintiff  
28 in the Project and the value thereof has been reduced and

1 diminished in an amount presently unknown but will be  
2 established according to proof at trial.

3 FOURTH CAUSE OF ACTION

4 (Breach of Third Party Beneficiary Contract Against  
5 Subcontractor Defendants)

6 37. Plaintiff alleges and incorporates herein by reference  
7 paragraphs 1 through 15, inclusive, as though set forth in full  
8 hereat.

9 38. Plaintiff is informed and believes and thereon alleges  
10 that the Subcontractor Defendants entered into written contracts  
11 with the Developer Defendants, and each of them, pursuant to  
12 which the Subcontractor Defendants agreed to perform services on  
13 the Project. The contracts were made for the benefit of the  
14 Plaintiff.

15 39. The Subcontractor Defendants breached the contracts in  
16 that they failed to perform their services in a workmanlike  
17 manner and in accordance with the plans and specifications for  
18 the Project and applicable building codes.

19 40. As a direct and proximate result of the breach of  
20 these defendants, Plaintiff has been damaged in an amount within  
21 the jurisdictional limit of this Court. The precise amount of  
22 damages will be established according to proof at trial.

23 FIFTH CAUSE OF ACTION

24 (Breach of Fiduciary Duty Against the Developer Defendants)

25 41. Plaintiff alleges and incorporates herein by reference  
26 paragraphs 1 through 15, as if set forth herein in full hereat.

27 42. Plaintiff is informed and believes and thereon alleges  
28 that one or more of the Developer Defendants and/or their

1 agents, representatives or employees were appointed as the  
2 initial members of the board of directors of Plaintiff and  
3 dominated, controlled or influenced the board. By virtue of the  
4 aforementioned positions, Developer Defendants owed duties to  
5 Plaintiff that included maintaining and repairing the Project,  
6 advising and informing Plaintiff and establishing adequate  
7 reserves. As board members, they also had an implicit duty to  
8 act in the best interests of Plaintiff.

9 43. Plaintiff is informed and believes and thereon alleges  
10 that Developer Defendants, and each of them, breached their  
11 duties as board members by, among other things, failing and  
12 refusing to maintain and repair the Project, failing to inform  
13 Plaintiff of defects and damages, concealing material  
14 information about the condition of the Project, failing to set  
15 adequate reserves and by engaging in conduct contrary to the  
16 interests of Plaintiff.

17 44. As a direct and proximate result of the breach of  
18 these duties by these defendants, Plaintiff has suffered and  
19 will suffer damages in an amount unknown at this time, but  
20 believed to be within the jurisdiction of this Court. The  
21 precise amount of damages will be established according to proof  
22 at trial.

23 45. In doing the wrongful acts alleged herein, these  
24 defendants, and each of them, acted willfully, intentionally,  
25 maliciously, and in conscious disregard of the rights of  
26 Plaintiff, thus entitling Plaintiff to recover exemplary and  
27 punitive damages against these defendants, and each of them, in  
28 an amount according to proof.

1 SIXTH CAUSE OF ACTION

2 (Fraud against the Developer Defendants)

3 46. The Plaintiff alleges and incorporates herein by  
4 reference paragraphs 1 through 15, as if set forth herein in  
5 full.

6 47. Plaintiff is informed and believes and thereon alleges  
7 that one or more of the Developer Defendants and/or their  
8 agents, representatives or employees were appointed as the  
9 initial members of the board of directors of Plaintiff and  
10 dominated, controlled or influenced the board.

11 48. Plaintiff is informed and believes and thereon alleges  
12 that the Developer Defendants and each of them, used their  
13 position, influence and control as board members to conceal the  
14 aforementioned latent defects and deficiencies and any damages  
15 they caused from Plaintiff.

16 49. Plaintiff is informed and believes and thereon alleges  
17 that the Developer Defendants and each of them, also used their  
18 position to conceal the true condition of the Project from  
19 Plaintiff.

20 50. Plaintiff is informed and believes and thereon alleges  
21 that these defendants suppressed and concealed material facts  
22 from Plaintiff by failing to disclose the latent defects and  
23 deficiencies and damages, by representing that any and all items  
24 of concern had been or would be repaired and by representing  
25 that the Project was in good condition.

26 51. Plaintiff is informed and believes and thereon alleges  
27 that the information concealed or suppressed and the  
28 representations made by these defendants were all material facts

1 that Plaintiff would have wanted to know so as to take steps to  
2 protect their interests and mitigate the damage. However,  
3 because of these defendants' conduct, Plaintiff remained unaware  
4 of the problems and was unable to take such steps.

5 52. As a direct and proximate result of the conduct of  
6 these defendants, Plaintiff has suffered and will suffer damages  
7 in an amount unknown at this time, but believed to be within the  
8 jurisdiction of this Court. The precise amount of damages will  
9 be established according to proof at trial.

10 53. In doing the wrongful acts alleged herein, these  
11 defendants, and each of them, acted willfully, intentionally,  
12 maliciously, and in conscious disregard of the rights of  
13 Plaintiff, thus entitling Plaintiff to recover exemplary and  
14 punitive damages against these defendants, and each of them, in  
15 an amount according to proof.

16 WHEREFORE, Plaintiff prays for judgment against the  
17 defendants, and each of them, as follows:

18 ALL CAUSES OF ACTION

- 19 1. For general and compensatory damages in an amount  
20 within the jurisdiction of this Court and according to proof;  
21 2. Costs of suit incurred herein;  
22 3. Reasonable attorneys' fees, to the extent permissible  
23 by law; and,  
24 4. Such other and further relief as the Court deems just  
25 and proper.

26 FIFTH AND SIXTH CAUSES OF ACTION

- 27 5. Punitive damages to be determined by the Court.  
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1 DATED: October 21, 2009

STEINER & LIBO  
Professional Corporation

2  
3 By: David Libo  
4 David J. Libo, Esq.  
Attorneys for Plaintiff

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