UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

March 26, 2024

Ari Lanin
Gibson, Dunn & Crutcher LLP

Re: Tejon Ranch Co. (the "Company")
Incoming letter dated January 5, 2024

Dear Ari Lanin:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by George Apostolicas (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(f) because the Proponent did not comply with 14a-8(b)(1)(i). As required by Rule 14a-8(f), the Company notified the Proponent of the problem, and the Proponent failed to adequately correct it. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rules 14a-8(b)(1)(i) and 14a-8(f). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action.

Sincerely,

Rule 14a-8 Review Team

cc: George Apostolicas

GIBSON DUNN

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January 5, 2024

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: *Tejon Ranch Co.*
Shareholder Proposal of George Apostolicas
Securities Exchange Act of 1934 ("Exchange Act") - Rule 14a-8

Ladies and Gentlemen:

This letter is to inform you that our client, Tejon Ranch Co. (the "Company"), intends to omit from its proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (collectively, the "2024 Proxy Materials") a shareholder proposal (the "Proposal") received from George Apostolicas (the "Proponent").

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the "Commission") no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission; and

- concurrently sent a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that shareholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the "Staff"). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal states:

> RESOLVED, that the Company engage independent third party appraisals in 2024 for each of its three planned communities [sic] To the extent those appraisal values, are, in the opinion of the Officers, Directors, and its auditors, materially and substantially less than the currently stated book value, such as to increase the risk of being misleading, then make appropriate adjustments in the book value of such assets and/or cease to capitalize overhead and other costs not related to physical improvements to the parcels.

BASES FOR EXCLUSION

We hereby respectfully request that the Staff concur in our view that the Proposal may properly be excluded from the 2024 Proxy Materials pursuant to:

- Rule 14a-8(b) and Rule 14a-8(f)(1) because (i) the Proponent failed to provide the requisite proof of continuous stock ownership and (ii) the Proponent failed to provide the Company with an adequate written statement regarding his ability to meet with the Company to discuss the Proposal, both despite the Company's proper request for this information; and

- Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations and seeks to micromanage the Company's operations.

BACKGROUND

The Proposal, as well as related submission materials (the "Initial Submission Materials"), were submitted to the Company by the Proponent via FedEx on November 22, 2023, according to the FedEx ship date (the "Submission Date"). *See* Exhibit A. The Proponent's Initial Submission Materials did not include adequate documentary evidence of the Proponent's ownership of Company shares or an adequate written statement regarding his availability to meet with the Company to discuss the Proposal. The November 15, 2023 letter from Fidelity Investments (the "2023 Fidelity Letter") that the Proponent provided with his Initial Submission Materials stated that "George P. Apostolicas has held more than 15,000 shares of common stock of [the Company] as of November 15, 2023. He holds over $247,000 in market value of the [C]ompany's common stock as of November 15, 2023." *See id*. The Proponent did not include any additional documentary evidence of ownership of Company shares with his Initial Submission Materials. In addition, the Company reviewed

its stock records, which did not indicate that the Proponent was a record owner of Company shares.

In addition, the accompanying cover letter stated: "I am prepared to speak with the authorized representatives of the [C]ompany in the statutory window of 10 to 30 days at the times set forth in the attached schedule." The Initial Submission Materials included a schedule of "Available Times to Review Corporate Resolution" that set forth the Proponent's availability from "8 am thru 6 pm" Pacific Time on each of 36 days (including holidays and weekends) from November 23, 2023 through December 28, 2023. *See id*.

Accordingly, the Company sent the Proponent a letter, dated December 5, 2023, identifying both deficiencies, notifying the Proponent of the requirements of Rule 14a-8, and explaining how the Proponent could cure the identified procedural deficiencies (the "Deficiency Notice"). The Deficiency Notice, attached hereto as Exhibit B, provided detailed information regarding the "record" holder requirements, as clarified by Staff Legal Bulletin No. 14F (Oct. 18, 2011) ("SLB 14F") and Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L"), and attached a copy of Rule 14a-8, SLB 14F, and SLB 14L. Specifically, the Deficiency Notice stated:

- the ownership requirements of Rule 14a-8(b);
- that, according to the Company's stock records, the Proponent was not a record owner of sufficient Company shares;
- the specific defects in the 2023 Fidelity Letter, including that the 2023 Fidelity Letter "is insufficient because it states the number and market value of Company shares held as of November 15, 2023, but does not cover any of the full time periods, including the Submission Date, set forth in any of the [o]wnership [r]equirements [of Rule 14a-8(b)]. The [2023] Fidelity Letter also does not state that the shares were held continuously during any of the full time periods set forth in any of the [o]wnership [r]equirements [of Rule 14a-8(b)]. To remedy this defect, [the Proponent] must obtain a new proof of ownership letter verifying that [the Proponent has] satisfied at least one of the [o]wnership [r]equirements [of Rule 14a-8(b)]";
- the type of statement or documentation necessary to demonstrate beneficial ownership under Rule 14a-8(b), including "a written statement from the 'record' holder of [the Proponent's] shares (usually a broker or a bank) verifying that, at the time [the Proponent] submitted the Proposal (the Submission Date), [the Proponent] continuously held the requisite amount of Company shares to satisfy at least one of the [o]wnership [r]equirements [of Rule 14a-8(b)]"; and

- that any response had to be postmarked or transmitted electronically no later than 14 calendar days from the date the Proponent received the Deficiency Notice.

The Deficiency Notice also provided detailed information regarding the requirements for the written statement to satisfy Rule 14a-8(b)(1)(iii). The Deficiency Notice stated:

- the requirements of Rule 14a-8(b)(1)(iii), including that "a shareholder . . . provide the company with a written statement that it is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal, including the shareholder's contact information and the business days and specific times during the company's regular business hours that such shareholder is available to discuss the proposal with the company"; and

- the specific defects in the Proponent's Initial Submission Materials, including that "we believe the general statement [the Proponent] provided that [the Proponent is] 'prepared to speak with the authorized representatives of the [C]ompany in the statutory window of 10 to 30 days at the times set forth in the attached schedule,' together with a schedule that sets forth [the Proponent's] availability from '8 am thru 6 pm' Pacific Time on each of the 36 days (including holidays and weekends) from November 23 through December 28 is not adequate because the statement and schedule do not include *specific* dates and times [the Proponent is] available to meet. Instead, it provides [the Proponent's] availability over a broad range of dates and times. Accordingly, to remedy this defect, [the Proponent] must provide a statement of [the Proponent's] engagement availability to the Company including the *specific* dates and times [the Proponent is] available during the period between 10 and 30 days after the Submission Date."

The Company sent the Deficiency Notice to the Proponent via email and overnight delivery on December 5, 2023, which was within 14 calendar days of the Company's receipt of the Proposal. *See* Exhibit B. On December 7, 2023, the Proponent responded to the Deficiency Notice via email and attached a letter stating "the [2023 Fidelity Letter] clearly states that I have held the requisite amount for the requisite period." *See* Exhibit C. On December 11, 2023, the Proponent sent a second response via email, noting "Fidelity sent the wrong letter as [the 2023 Fidelity Letter] does not state the length of time the shares have been held. Will get out the correct format this afternoon." *See* Exhibit D. Subsequently, on December 14, 2023, the Proponent sent a third response via email, noting "on review, we assume the wrong letter confirming ownership was the genesis of the deficiency response." The email attached a letter from Fidelity Investments dated November 28, 2022 (the "2022 Fidelity Letter," and

together with the 2023 Fidelity Letter, the "Fidelity Letters").[1] *See* Exhibit E. The 2022 Fidelity Letter, which is dated over a year before the Submission Date, states that "George P Apostolicas has continuously held more than 20,000 shares of common stock of [the Company] as of November 28, 2022. Additionally, he has held over $25,000 in market value of the [C]ompany's securities for at least one year as of November 28, 2022." *See id*. As discussed below, the Fidelity Letters are insufficient to cure the ownership deficiency because neither verifies that as of the Submission Date the Proponent had satisfied any of the continuous ownership requirements of Rule 14a-8(b)(1) for any of the full time periods set forth in the rule. The Company received an additional response via voicemail on December 22, 2023, which referenced the 2022 Fidelity Letter. As of the date of this letter, the Company has not received any further correspondence from the Proponent.

ANALYSIS

I. The Proposal May Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Because The Proponent Failed To Establish His Eligibility To Submit The Proposal Despite Proper Notice

A. Background On Rule 14a-8(b)(1)

The Company may exclude the Proposal under Rule 14a-8(f)(1) because the Proponent failed to substantiate his eligibility to submit the Proposal under Rule 14a-8(b). Rule 14a8(b)(1) provides, in part, that to be eligible to submit a proposal, a proponent must have continuously held at least:

(A) $2,000 in market value of the company's shares entitled to vote on the proposal for at least three years preceding and including the submission date;

(B) $15,000 in market value of the company's shares entitled to vote on the proposal for at least two years preceding and including the submission date; or

(C) $25,000 in market value of the company's shares entitled to vote on the proposal for at least one year preceding and including the submission date.

Each of these ownership requirements were specifically described by the Company in the Deficiency Notice.

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[1] While the Proponent asserts that the 2022 Fidelity Letter is a "revised letter," the 2022 Fidelity Letter appears to be the same proof of ownership submitted by the Proponent to the Company in 2022. *See* Tejon Ranch Co. (avail. Mar. 15, 2023), Exhibit A.

Rule 14a-8(f) provides that a company may exclude a proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8, including the beneficial ownership requirements of Rule 14a-8(b), provided that the company timely notifies the proponent of the problem and the proponent fails to correct the deficiency within the required time. Staff Legal Bulletin No. 14 (Jul. 13, 2001) ("SLB 14") specifies that when the shareholder is not the registered holder, the shareholder "is responsible for proving his or her eligibility to submit a proposal to the company," which the shareholder may do by one of the ways provided in Rule 14a-8(b)(2). *See* Section C.1.c, SLB 14.

SLB 14F provides that proof of ownership letters may fail to satisfy Rule 14a-8(b)(1)'s requirement if they do not verify ownership "for the entire one-year period preceding and including the date the proposal [was] submitted." This may occur if the letter verifies ownership as of a date before the submission date (leaving a gap between the verification date and the submission date) or if the letter verifies ownership as of a date after the submission date and only covers a one-year period, "thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission." SLB 14F. The guidance in SLB 14F remains applicable even though Rule 14a-8 has since been amended to provide the tiered ownership thresholds described above. In each case, consistent with the Staff's guidance in SLB 14F and as required by Rule 14a-8(b), a proponent must submit adequate proof demonstrating such proponent's continuous ownership of the requisite amount of company shares for the requisite time period. In SLB 14L, the Staff reminded companies that they "should identify any specific defects in the proof of ownership letter."

As discussed in the "Background" section above, the 2023 Fidelity Letter did not contain adequate documentary evidence of the Proponent's continuous ownership of Company shares for any of the requisite time periods set forth in Rule 14a-8(b). Accordingly, the Company timely provided the Deficiency Notice, which identified the specific defects in the Proponent's proof of ownership submission, and described how the deficiencies could be remedied. Thereafter, the Proponent failed to timely correct the deficiency despite providing the 2022 Fidelity Letter.

B. The Fidelity Letters Fail To Cure The Deficiency Because The Fidelity Letters Fail To Demonstrate Continuous Ownership Of Company Shares For The Requisite Period

The Fidelity Letters are insufficient because they fail to demonstrate that as of the Submission Date (November 22, 2023), the Proponent had held sufficient shares for any of the requisite time periods required by Rule 14a-8(b). Specifically, the 2023 Fidelity Letter only demonstrates that "as of November 15, 2023" the Proponent held "more than 15,000 shares of common stock of [the Company] . . . [and] over $247,000 in market value of the [C]ompany's common stock. . . ." *See* Exhibit A. Accordingly, the Proponent would have

needed to demonstrate that it had held those shares for at least one year preceding and including the Submission Date (November 22, 2023), which the 2023 Fidelity Letter fails to do. Although the Proponent submitted the 2022 Fidelity Letter in response to the Deficiency Notice in an attempt to cure this deficiency, the 2022 Fidelity Letter only demonstrates that "[the Proponent] has held over $25,000 in market value of the [C]ompany's securities for at least one year as of November 28, *2022*" (emphasis added). *See* Exhibit E. Read together, the Fidelity Letters establish ownership as of November 15, 2023 and from November 28, 2021 through November 28, 2022. However, this still fails to establish continuous ownership of such shares as of the Submission Date (November 22, 2023) and for the continuous one year period preceding and including such date, as required under Rule 14a-8(b)(i)(C), leaving an ownership gap of at least 358 days in total from November 29, 2022 through November 14, 2023 (351 days) and from November 16, 2023 through November 22, 2023 (seven days).

Accordingly, the Proponent was required to demonstrate that as of the Submission Date (November 22, 2023), the Proponent had held sufficient shares for any of the requisite time periods required by Rule 14a-8(b). The Deficiency Notice specifically states that the Submission Date was November 22, 2023 and that the 2023 Fidelity Letter "does not cover any of the full time periods, including the Submission Date, set forth in any of the [o]wnership [r]equirements [of Rule 14a-8(b)] . . . [and] also does not state that the shares were held continuously during any of the full time periods set forth in any of the [o]wnership [r]equirements [of Rule 14a-8(b)] . . . ." *See* Exhibit B.

The Staff has consistently concurred with the exclusion of proposals pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) where, after receiving proper notice from a company, the proof of ownership submitted failed to establish that as of the date the shareholder submitted the proposal, the shareholder had continuously held the requisite amount of company securities for the entire required period. For example, in *Cheniere Energy, Inc.* (avail. April 7, 2022), the company received a letter from a DTC participant verifying the proponent's ownership (through its broker) of the proponent's shares of company common stock as of the date the letter was sent (August 3, 2021). However, the letter was silent regarding the proponent's continuous ownership for the applicable period in connection with the submission of the proposal, and also silent regarding the proponent's ownership on the date the proposal was sent to the company (July 13, 2021), which the company clearly identified in its deficiency notice that was sent to the proponent 14 days after the company received the proposal. The Staff concurred with the exclusion of the proposal under Rule 14a-8(f) because the proponent "did not comply with Rule 14a-8(b)(1)(i)" noting, "the proof of ownership . . . did not meet the requirements of Rule 14a-8(b)(1)(i) because it did not demonstrate ownership for the requisite period of time."

Moreover, in *Walgreens Boots Alliance, Inc. (Myra K. Young)* (avail. Nov. 8, 2022), the company received a broker letter verifying the proponent's ownership of shares of company common stock as of August 10, 2022, two days later than the proposal's submission date of

August 8, 2022. The broker letter further verified ownership of 50 shares in the company for the continuous period from August 10, 2019 to August 10, 2022 (*i.e.*, for two years and 363 days preceding and including the submission date). In response to a timely deficiency notice, the proponent did not provide further evidentiary proof. The Staff concurred with the exclusion of the proposal under Rule 14a-8(f) because the proponent did not comply with Rule 14a-8(b)(1)(i). And in *AT&T Inc. (Lawrence)* (avail. Dec. 23, 2020), the proponents submitted the proposal on October 24, 2020 and, following the company's delivery of a deficiency notice, provided a broker letter that established continuous ownership of company securities for "more than one year" as of November 9, 2020 (leaving an ownership gap of 16 days from October 24, 2019 to November 8, 2019). There, the Staff concurred with exclusion of the proposal pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1). *See also ANSYS, Inc.* (avail. Mar. 15, 2023) (concurring with the exclusion of a proposal where the proponent's proof verified continuous ownership for a period of two years and 363 days preceding and including the submission date); *Visa Inc.* (avail. Nov. 8, 2022) (concurring with the exclusion of a proposal where the proponent's proof verified continuous ownership for a period of two years and 227 days preceding and including the submission date); *Amazon.com, Inc. (Montgomery Trust)* (avail. Apr. 2, 2021) (concurring with the exclusion of a proposal where the proponent's purported proof of ownership covered the 13-month period prior to and including November 30, 2020, but the proposal was submitted on December 17, 2020, leaving a 17-day gap in ownership); *Anthem, Inc.* (avail. Feb. 21, 2019) (concurring with the exclusion of a proposal where the proponent's purported proof of ownership covered the one-year period prior to and including November 7, 2018, but the proposal was submitted on November 13, 2018, leaving a 6-day gap in ownership); *United Parcel Service, Inc.* (avail. Jan. 28, 2016) (concurring with the exclusion of a proposal where the deficiency notice was sent to the proponent 14 days after the company received the proposal and the proponent's proof did not establish ownership for the entire one year period preceding the submission date); *Mondelez International, Inc.* (avail. Feb. 11, 2014) (concurring with the exclusion of a proposal where the proponent's purported proof of ownership covered the one-year period prior to and including November 27, 2013, but the proposal was submitted on November 29, 2013, leaving a two-day gap in ownership); *PepsiCo, Inc. (Albert)* (avail. Jan. 10, 2013) (concurring with the exclusion of a proposal where the proponent's purported proof of ownership covered the one-year period prior to and including November 19, 2012, but the proposal was submitted on November 20, 2012).

Here, and consistent with the foregoing precedent, the Fidelity Letters are deficient because they leave a gap (from November 29, 2022 through November 14, 2023 and from November 16, 2023 through November 22, 2023) by addressing ownership of Company shares as of November 15, 2023 and from November 28, 2021 through November 28, 2022, when the Proposal was submitted on November 22, 2023 (and pursuant to Rule 14a-8(b)(i)(C), the Proponent needed to cover a period of no less than one year prior to and including November 22, 2023)—a greater gap in ownership than the 16-day gap in

AT&T Inc. (Lawrence) and similar to the deficiencies in *Cheniere Energy* and *Walgreens Boots Alliance (Myra K. Young)*.

It is well established that where a company provides proper notice of a procedural defect to a proponent and the proponent's response fails to cure the defect, the company is not required to provide any further opportunities for the proponent to cure. In fact, Section C.6. of SLB 14 states that a company may exclude a proposal pursuant to Rule 14a-8 if "the shareholder timely responds but does not cure the eligibility or procedural defect(s)." While SLB 14L suggests that there may be situations where the Staff considers it appropriate for a company to provide a second deficiency notice, the language of SLB 14L indicates that this situation is limited to when a company "sen[ds] a deficiency notice prior to receiving the proponent's proof of ownership if such deficiency notice did not identify the specific defect(s)." SLB 14L. In the present case, the Deficiency Notice was sent after first receiving the 2023 Fidelity Letter, identified the specific defects in the 2023 Fidelity Letter, and provided clear and detailed instructions on the ownership requirements under Rule 14a-8(b) and how to cure the defects. *See* Exhibit B. The Proponent specifically acknowledged receipt of the Deficiency Notice in his initial response, dated December 7, 2023, as well as the deficiency at issue, noting in a second email that "Fidelity sent the wrong letter as it *does not state the length of time the shares have been held*." *See* Exhibits C and D. As such, the Deficiency Notice identified the specific defects in the Proponent's proof of ownership, and therefore the Company has complied with both the letter and spirit of the Staff's guidance in SLB 14L. In this respect, the situation is comparable to that addressed in *Bank of America Corp. (National Center for Public Policy Research)* (avail. Jan. 23, 2023), where the Staff concurred in exclusion of a proposal when a deficiency notice was sent after receiving a broker letter that failed to adequately establish the proponent's proof of ownership, and the Company's deficiency notice identified the specific defects in the proponent's proof of ownership and provided clear and detailed instructions on the ownership requirements under Rule 14a-8(b) and on how to cure the defect.

As in the precedent cited above, the Proponent failed to provide adequate documentary evidence of ownership of Company shares. Therefore, the Proponent has not demonstrated eligibility under Rule 14a-8 to submit the Proposal. Accordingly, we ask that the Staff concur that the Company may excluded the Proposal under Rule 14a-8(b) and Rule 14a-8(f)(1).

II. The Proposal May Also Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Because The Proponent Failed To Provide The Company With An Adequate Written Statement Regarding His Ability To Meet With The Company

Under Rule 14a-8(b)(1)(iii), as applicable to annual meetings held on or after January 1, 2022 (*see* Exchange Act Release No. 89964 (Sept. 23, 2020) (the "2020 Adopting Release")), a proponent must provide the company with a written statement that the proponent is able to meet with the company in person or via teleconference no less than

10 calendar days, nor more than 30 calendar days, after submission of the proposal. This written statement must include the proponent's contact information as well as "business days and *specific* times" (emphasis added) that the proponent is available to discuss the proposal with the company. The proponent must identify times that are within the regular business hours of the company's principal executive office. Rule 14a-8(f)(1) permits a company to exclude a proposal from the company's proxy materials if the proponent fails to comply with the eligibility or procedural requirements under Rule 14a-8, provided that the company has timely notified the proponent of the deficiency, and the proponent has failed to correct such deficiency within 14 calendar days of receipt of such notice.

The Staff has consistently concurred with the exclusion of proposals when proponents have failed, following a timely and proper request by a company, to timely furnish a written statement, including *specific* dates and times, of availability to meet with the company pursuant to Rule 14a-8(b). For example, in *Deere & Co.* (avail. Dec. 5, 2022), the proponent's submission included only one date and time range to meet with the company, which fell outside the required date range of availability. Despite a timely deficiency notice, the proponent did not provide the required dates and times of availability to meet. As a result, the Staff concurred with the proposal's exclusion under Rule 14a-8(f). *See also Textron Inc.* (avail. Jan. 23, 2023); *PPL Corp.* (avail. Mar. 9, 2022); *American Tower Corp.* (avail. Feb. 8, 2022); *The Allstate Corp.* (avail. Feb. 8, 2022) (in each case, concurring with the exclusion of a proposal where the respective proponent or proponent's representative failed to supply a written statement regarding the proponent's ability to meet with the company after receiving a timely deficiency notice). Here, the Proponent's statement in his Initial Submission Materials does not satisfy the eligibility requirements of Rule 14a-8(b) because the Proponent failed to provide *specific* dates and times of availability to meet with the Company, and the Proponent failed to remedy this defect in any of his responses to the Deficiency Notice despite his subsequent submission of materials purporting to cure the other procedural deficiency.

Notably, when the Commission adopted Rule 14a-8(b)(1)(iii), it specifically rejected a commenter's suggestion "that providing a general statement of . . . availability would be preferable" to stating specific dates and times, stating:

> We do not agree with [the suggestion]. While a general statement of availability could indicate a shareholder-proponent's willingness to engage, the *identification of specific dates and times* would add certainty as to the shareholder-proponent's availability, and we believe that engagement may be more likely to occur where the company knows the shareholder-proponent's availability in advance.

See 2020 Adopting Release (emphasis added). Since January 4, 2021, the effective date of amendments to Rule 14a-8, and as applicable to proposals submitted for annual meetings

held on or after January 1, 2022, the Staff consistently has concurred with the exclusion of proposals when proponents have provided a general statement regarding the proponent's ability to meet with the company. For example, in *Visa Inc. (National Legal and Policy Center)* (avail. Nov. 8, 2023) ("*Visa 2023*"), the proponent initially provided a broad statement of availability that covered the full statutory period of dates and times, indicating: "I am able to meet with the [c]ompany in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the proposal" and "I am available Monday through Friday from 9am to 5pm, Eastern Time." In response to a timely deficiency notice, the proponent did not provide specific dates or times the proponent was available to meet, but instead asserted that the prior statement of availability was sufficient because it "meant a representative of our organization could be made available to discuss [the] proposal any time during those time windows." The company argued that "[b]y providing a range of availability that tracks the full date range required under Rule 14a-8(b)(1)(iii), the [p]roponent substantively provided the type of general statement of availability that the Commission expressly rejected in the 2020 Adopting Release." The Staff concurred with the proposal's exclusion under Rule 14a-8(b)(1)(iii) and 14a-8(f), noting that "the [c]ompany notified the [p]roponent of the problem, and the [p]roponent failed to correct it."

Similarly, in *Rite Aid Corp.* (avail. Apr. 12, 2023), in response to a timely deficiency notice, the proponent's representative indicated that "[the proponent] is willing to meet with [the company]," but did not provide specific dates or times within the required range under Rule 14a-8(b)(1)(iii). The Staff concurred with the proposal's exclusion under Rule 14a-8(f). In *Tejon Ranch Co.* (avail. Mar. 15, 2023), the Staff similarly concurred with the proposal's exclusion where the same Proponent initially provided a broad statement of availability, indicating: "I am available to meet in person, or thru teleconferencing, at a convenient time with some notice as I have Christmas and overseas travel plans over the next month," and did not provide specific dates or times he was available to meet with the Company in response to a timely deficiency notice. *See also Molina Healthcare, Inc.* (avail. Jan. 17, 2023) (concurring with the exclusion of a proposal under Rule 14a-8(f) where the proponent indicated generally that "[w]e would be pleased to discuss the issues presented by this proposal with you," and failed to correct this and other procedural deficiencies identified in a timely deficiency notice).

Like the proponents in *Visa 2023*, *Rite Aid*, *Tejon Ranch*, and *Molina Healthcare*, the Proponent here did not include with the Proposal a written statement containing *specific* dates and times regarding the Proponent's ability to meet with the Company to discuss the Proposal. Instead, the Proponent provided a blanket statement of availability that included *and exceeded* the full range of dates and times required under the rule (*i.e.*, being available "in the statutory window of 10 to 30 days at the times set forth in the attached schedule"), together with a schedule that set forth the Proponent's availability from "8 am thru 6 pm"

Pacific Time on each of the 36 consecutive days (including holidays and weekends) from November 23 through December 28. *See* Exhibit A. The Company then properly notified the Proponent of this deficiency and how to correct it in the Deficiency Notice, which stated: "to remedy this defect, you must provide a statement of your engagement availability to the Company including the *specific* dates and times you are available during the period between 10 and 30 days after the Submission Date." *See* Exhibit B. However, despite his subsequent submission of materials purporting to cure the other procedural deficiency, the Proponent did not provide any response in respect to this deficiency in reply to the Company's timely Deficiency Notice.

By providing a range of availability that spans a total of 36 consecutive days (including the full date range and times required under Rule 14a-8(b)(1)(iii)), as well as all holidays and weekends within that period, the Proponent substantively provided the type of general statement of availability that the Commission expressly rejected in the 2020 Adopting Release and that the Staff rejected more recently in *Visa 2023*. This broad statement of the Proponent's availability also circumvents the purpose of requiring specific dates and times within the 10-to-30 days of submission date range to "add certainty as to the shareholder-proponent's availability." *See* 2020 Adopting Release. As a result, the Proponent is no more certainly available to meet with the Company than he was last year in *Tejon Ranch*, where he could "meet in person, or thru teleconferencing, at a convenient time with some notice," or the proponent in *Visa 2023* who was "available Monday through Friday from 9am to 5pm, Eastern Time" during the full statutory period. Accordingly, consistent with the precedent cited above, the Proposal is excludable because, despite receiving timely and proper notice pursuant to Rule 14a-8(f)(l), the Proponent failed to supply, within 14 days of receipt of the Company's request, an adequate written statement regarding his ability to meet with the Company, as required by Rule 14a-8(b).

III. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Addresses Matters Related To The Company's Ordinary Business Operations And Seeks To Micromanage The Company

The Proposal requests that the Company "engage independent third party appraisals in 2024 for each of its three planned communities" and, in response to the appraisals' results, "make appropriate adjustments in the book value of [its three planned communities] and/or cease to capitalize overhead and other costs not related to physical improvements to the parcels." As discussed below, the Proposal may be omitted under Rule 14a-8(i)(7) as it relates to appraisals of the Company's assets and related accounting judgments, does not focus on any significant social policy issue that transcends the Company's ordinary business operations, and seeks to micro-manage the Company's operations.

A. Background On Rule 14a-8(i)(7)

Rule 14a-8(i)(7) permits a company to omit from its proxy materials a proposal that relates to its "ordinary business operations." According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" "refers to matters that are not necessarily 'ordinary' in the common meaning of the word," but instead the term "is rooted in the corporate law concept providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission explained that the underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting," and identified two central considerations that underlie this policy. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration is related to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *Id.* (citing Exchange Act Release No. 12999 (Nov. 22, 1976) (the "1976 Release")). The Proposal implicates both of these considerations.

B. Background On The Company's Accounting Of Its Real Estate Development

The Financial Accounting Standards Board ("FASB") establishes and interprets generally accepted accounting principles in the United States ("US GAAP"). The FASB Accounting Standards Codification ("ASC") is the source of authoritative US GAAP and addresses specific accounting issues, with a view to enhancing the accuracy and transparency of financial reporting. ASC Topic 360, *Property, Plant and Equipment*, addresses financial accounting and reporting obligations for, as relevant here, project costs. In particular, ASC Topic 360 states that project costs, which are costs that are clearly associated with the acquisition, development, and construction of a real estate project, shall be capitalized as a cost of that project.

The Company prepares its consolidated financial statements in accordance with US GAAP, which requires the Company to make certain estimates and judgments impacting the reported amount of assets, among other items. As disclosed in Management's Discussion and Analysis of Financial Condition and Results of Operation in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2022 (the "2022 Annual Report"), the Company already has in place a process for assessing impairments of long-lived assets related to its real estate development that is in accordance with ASC Topic 360:

> We evaluate our real estate development projects for impairment on an ongoing basis. Our evaluation for impairment involves an initial assessment of each real estate development to determine whether events or changes in circumstances . . . indicate that the carrying amounts of a real estate development are no longer recoverable. Possible indications of impairment may include events or changes in circumstances affecting the entitlement process, government regulation, litigation, geographical demand for new housing, and market conditions related to pricing of new homes.
>
> We make significant assumptions to evaluate each real estate development for possible indications of impairment. These assumptions include the identification of appropriate and comparable market prices, the consideration of changes to legal factors or the business climate, and assumptions surrounding continued positive cash flows and development costs. Considering that the planned development communities will be in a location that does not currently have many comparable homes, the Company must make assumptions surrounding the expected ability to sell the real estate assets at a price that is in excess of current accumulated costs. We use our internal forecasts and business plans to estimate future prices, absorption, and costs. We develop our forecasts based on recent sales data, input from marketing consultants, as well as discussions with commercial real estate brokers.

The 2022 Annual Report further describes the Company's process for addressing and impairments related to these assets, including in future accounting:

> When events or changes in circumstances exist that result in an indicator of impairment, we perform an impairment calculation which compares the carrying value of the asset to the asset's estimated future cash flows (undiscounted). If the estimated future cash flows are less than the carrying value of the asset, we calculate an impairment loss. The impairment loss calculation compares the carrying value of the asset to the asset's estimated fair value, which may be based on estimated future cash flows (discounted). We recognize an impairment loss equal to the amount by which the asset's carrying value exceeds the asset's estimated fair value. If we recognize an impairment loss, the adjusted carrying amount of the asset will be its new cost basis. For a depreciable long-lived asset, the new cost basis will be depreciated (amortized) over the remaining useful life of that asset. Restoration of a previously recognized impairment loss is prohibited. If actual results are not consistent with our assumptions and judgments used in estimating future cash flows and asset fair values, we may be exposed to impairment losses that could be material to our results of operations.

These disclosures are consistent with US GAAP and effected as part of the Company's ordinary business operations. Those operations involve making complex accounting judgments and conclusions that reflect the day-to-day business experience and well-developed knowledge of the Company's management and independent auditors with respect to various factors relevant to accounting for its real estate developments (including prices, production, absorption, and cost).

The Company's annual financial statements are audited by an independent registered public accounting firm, and that firm's opinion states that the Company's financial statements present fairly, in all material respects, its consolidated financial position as of December 31, 2022 and 2021, and the consolidated results of its operations and its cash flows for each of the three years for the period ended December 31, 2022, in conformity with US GAAP. Further, the Audit Committee of the Company's Board of Directors (which is composed solely of independent directors) oversees the Company's financial reporting process and discusses with the Company's management and its independent auditors the Company's significant accounting policies and financial reporting issues and judgments made in connection with the preparation of the Company's financial statements.

C. The Proposal Is Excludable Because It Relates To The Company's Determination As To Whether To Have Its Assets Appraised

The Staff has consistently concurred with the exclusion under Rule 14a-8(i)(7) of proposals that relate to the determination of whether to have a company's assets appraised. For example, in *General Motors Corp.* (avail. Mar. 15, 1990) ("*General Motors 1990*"), the proposal requested that the company's outside auditors "employ specialists to ascertain the values of property at physical plant locations," to be done "on a sampling basis . . . determined by the external auditors," among other specifications. The company argued in part that "management . . . is entrusted with and responsible for the proper use and maintenance of corporate assets," and that the "proposal would have the stockholders dictate the method, means by which, and frequency at which the Corporation's property is to be valued." The Staff concurred with the proposal's exclusion under the predecessor to Rule 14a-8(i)(7), noting that "it appears to deal with a matter relating to the conduct of the [c]ompany's ordinary business operations (i.e., the determination to have [c]ompany assets appraised)." In *General Motors Corp.* (avail. Mar. 30, 1988) ("*General Motors 1988*"), the proposal requested that the company's board of directors "obtain the service of the necessary financing institutions to determine the saleable dollar value of all of General Motors assets [sic]" except certain facilities and disclose the values and assets in a particular manner. The Staff concurred with the proposal's exclusion under the predecessor to Rule 14a-8(i)(7), noting that "it appears to deal with a matter relating to the conduct of the [c]ompany's ordinary business operations (i.e., the determination to have [c]ompany assets appraised)".

Here, the Proposal directs that the Company "engage independent third party appraisals in 2024 for each of its three planned communities." As such, similar to *General Motors 1990* and *General Motors 1988*, the Proposal relates to the ordinary business matter of determining whether to have the Company's assets appraised, and is therefore excludable under Rule 14a-8(i)(7).

D. The Proposal Is Excludable Because It Relates To The Company's Accounting Judgments

The Staff has consistently concurred with the exclusion under Rule 14a-8(i)(7) of proposals like the Proposal that relate to a company's accounting judgments. For example, in *Otter Tail Corp.* (avail. Jan. 13, 2003), the proposal directed that the board of directors "act immediately to search and hire an outside firm that has impeccable business credentials and skills to: 1. Review all accounting records regarding acquisitions in the past 13 years. (Are the Goodwill numbers accurate?) [and] 2. Report their findings to the Board of Directors." The proposal further instructed that "a complete report on the findings and the actions . . . taken, if any is needed" be sent to each shareholder. The company argued that the proposal was excludable under Rule 14a-8(i)(7) because, as it relates to the hiring of an outside firm to review its accounting practices, "the [p]roposal clearly encroaches on the ordinary business operations of the [c]ompany." The Staff concurred with the proposal's exclusion under Rule 14a-8(i)(7), noting that it related "to [the company's] ordinary business operations (i.e. review of the choice of accounting methods)." Moreover, in *International Business Machines Corp.* (avail. Jan. 9, 2001), the proposal requested that the board of directors adopt a policy that future executive incentive compensation be determined "by profit from real company operations not including accounting rule profit from pension fund surplus," and that the company provide "transparent financial reporting of profit from real company operations." The company argued that the proposal was excludable under Rule 14a-8(i)(7) because the "disclosure by the company of financial information in its periodic reports, and the compliance by the company with applicable financial accounting standards in effecting such disclosure, both fall within the company's ordinary business operations under Rule 14a-8(i)(7)." There, the Staff concurred with the exclusion of the proposal under Rule 14a-8(i)(7). *See also General Electric Co.* (avail. Feb. 10, 2000) (concurring with the exclusion of a proposal requesting the company to discontinue an accounting technique, not use funds from the General Electric Pension Trust to determine executive compensation, and use the funds from the trust as intended and voted on by prior shareholders, noting "in particular that a portion of the proposal relates to ordinary business operations (i.e., choice of accounting methods)"); *Potomac Electric Power Co.* (avail. Mar. 1, 1991) (concurring with the exclusion under Rule 14a-8(i)(7) of a proposal requesting disclosure of a "contingent liability account," noting that the proposal relates to ordinary business matters "(i.e., the accounting policies and practices of the [c]ompany)").

Similarly, in *Johnson Controls, Inc.* (avail. Oct. 26, 1999), the Staff concurred with the exclusion of a proposal asking that the company ensure that it disclosed in its financial statements "goodwill-net" and identified the so-called "true value" of shareholders' equity so long as goodwill was high relative to shareholders' equity. The company argued that its accounting for "goodwill" was in full compliance with US GAAP, that their financial statements were audited by PricewaterhouseCoopers LLP, and that such firm's opinion stated that its financial statements presented fairly its financial position in conformity with US GAAP. In concurring with the exclusion, the Staff (like in *International Business Machines Corp.*) noted that the proposal "relat[ed] to [the company's] ordinary business operations (i.e., the presentation of financial statements in reports to shareholders)."

The Proposal relates to ordinary business matters like the proposals in *Otter Tail*, *International Business Machines*, *General Electric*, *Johnson Controls*, and *Potomac Electric Power*, specifically, as it relates to the Company's accounting standards and judgments. The Proposal seeks to substitute the Company's current accounting methodologies and judgments for shareholders' judgments by directing that "[t]o the extent [the] appraisal values, are, . . . materially and substantially less than the currently stated book value . . . [the Company] make appropriate adjustments in the book value of such assets and/or cease to capitalize overhead and other costs not related to physical improvements to the parcels." In this regard, the Proponent takes issue with the Company's current accounting methods, which are disclosed in the 2022 Annual Report. Regarding its real estate development projects, the 2022 Annual Report already describes management's approach to impairment (including what is considered an impairment and what steps are taken as a result), including its determination that as of December 31, 2022, "there are no assets within any of [its] reporting segments that [it] believe[s] are at risk of being impaired due to market conditions nor ha[s] [it] identified any impairment indicators." The Company's current choice of accounting methods in this regard reflects its determination of the "appropriate" book values of these assets and the "appropriate" "capitaliz[ation of] overhead and other costs not related to physical improvements to the parcels," as regularly reviewed by its independent registered public accounting firm and as determined to be in accordance with US GAAP. Thus, the Proposal seeks to implement specific accounting judgments that are contrary to the accounting conclusions and judgments the Company's management and independent auditors have determined to be in accordance with US GAAP and consistent with industry practice. Moreover, as was the case in *Johnson Controls*, the Company's annual financial statements are audited by an independent registered public accounting firm, and that firm's opinion states that the Company's financial statements present fairly, in all material respects, its consolidated financial position and the consolidated results of its operations in conformity with US GAAP.

As the precedents above demonstrate, proposals, such as the Proposal, that relate to a company's accounting judgments may be omitted under Rule 14a-8(i)(7) because they involve ordinary business operations.

E. The Proposal Does Not Focus On A Significant Social Policy Issue That Transcends The Company's Ordinary Business Operations

The well-established precedents set forth above demonstrate that the Proposal squarely addresses ordinary business matters and therefore, is excludable under Rule 14a-8(i)(7). In the 1998 Release, the Commission reaffirmed the standards for when proposals are excludable under the "ordinary business" exception that the Commission had initially articulated in the 1976 Release. In the 1998 Release, the Commission also distinguished proposals pertaining to ordinary business matters that are excludable under Rule 14a-8(i)(7) from those that "focus on" significant social policy issues. The Commission stated, "proposals relating to [ordinary business] matters but focusing on sufficiently significant social policy issues (e.g., significant discrimination matters) generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote." 1998 Release. When assessing proposals under Rule 14a-8(i)(7), the Staff considers the terms of the resolution and its supporting statement as a whole. *See* Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) ("In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.").

In SLB 14L, the Staff stated that it "will realign its approach for determining whether a proposal relates to 'ordinary business' with the standard the Commission initially articulated in [the 1976 Release], which provided an exception for certain proposals that raise significant social policy issues, and which the Commission subsequently reaffirmed in the 1998 Release." As such, the Staff stated that it will focus on the issue that is the subject of the proposal and determine whether it has "a broad societal impact, such that [it] transcend[s] the ordinary business of the company," and noted that proposals "previously viewed as excludable because they did not appear to raise a policy issue of significance for the company may no longer be viewed as excludable under Rule 14a-8(i)(7)."

In contrast, proposals that only touch upon topics that might raise significant social policy issues—but which do not focus on such issues—are not transformed into a proposal that transcends ordinary business. As a result, such proposals remain excludable under Rule 14a-8(i)(7). For example, in *Walmart Inc.* (avail. Apr. 8, 2019), the Staff concurred with the exclusion of a proposal requesting a report evaluating the risk of discrimination that may result from the company's policies and practices for hourly workers taking absences from work for personal or family illness because it related "generally to the [c]ompany's management of its workforce, and [did] not focus on an issue that transcends ordinary

business matters." *See also Apple Inc. (D. Rahardja)* (avail. Jan. 3, 2023) (concurring with the exclusion of a proposal requesting a report assessing "the effects of [the company's] return-to-office policy on employee retention and [the company's] competitiveness," noting it "relate[d] to, and [did] not transcend, ordinary business matters"); *Amazon.com, Inc. (AFL-CIO Reserve Fund)* (avail. Apr. 8, 2022) (concurring with the exclusion of a proposal requesting a report on the company's workforce turnover rates and labor market changes resulting from the COVID-19 pandemic, noting that "the [p]roposal . . . does not focus on significant social policy issues"); *Amazon.com, Inc. (McRitchie)* (avail. Apr. 8, 2022) (concurring with the exclusion of a proposal requesting an annual report on the distribution of stock-based incentives throughout the workforce despite referring to wealth inequality in the United States as a significant policy issue); *Intel Corp.* (avail. Mar. 18, 2022) (concurring with the exclusion of a proposal requesting a report "on whether, and/or to what extent, the public display of the pride flag has impacted . . . employees' [sic] view of the company as a desirable place to work," stating it "relates to, and does not transcend, ordinary business matters"); *Apache Corp.* (avail. Mar. 5, 2008) (concurring with the exclusion of a proposal requests that management "implement equal employment opportunity polices based on principles specified in the proposal prohibiting discrimination based on sexual orientation and gender identity," in which the Staff noted that some of the proposed principles related to ordinary business matters).

Here, the Proposal does not focus on a significant social policy issue that transcends the ordinary business of the Company, which was the standard articulated by the Commission in the 1998 Release. The Proposal focuses solely on appraisals of, and other accounting matters related to, the Company's planned communities and does not refer to any broader social policy implications. Accordingly, the Proposal does not focus on a significant social policy issue, does not transcend the ordinary business of the Company, and thus, is excludable under Rule 14a-8(i)(7) because it relates to ordinary business matters.

F. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Seeks To Micromanage The Company By Directing The Company To Obtain An Appraisal Of Certain Of Its Assets and Directing The Company's Complex Accounting Judgments

As explained above, the Commission stated in the 1998 Release that one of the considerations underlying the ordinary business exclusion is "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The 1998 Release further states that "[t]his consideration may come into play in a number of circumstances, such as where the proposal involves intricate detail, or seeks to impose specific time-frames or methods for implementing complex policies." In addition, SLB 14L clarified that in considering arguments for exclusion based on micromanagement, the Staff "will focus on the level of granularity sought in the proposal and

whether and to what extent it inappropriately limits discretion of the board or management." Furthermore, the Staff noted that the ordinary business exclusion "is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters." SLB 14L.

Here, the Proposal seeks to micromanage the Company by: (i) directing the Company to obtain an appraisal of "each of its three planned communities"; and (ii) directing its complex accounting judgments by requesting that it take specific actions in response to such appraisal, including "adjust[ing] . . . the book value of such assets and/or ceas[ing] to capitalize overhead and other costs not related to physical improvements of the parcels." Whether a company determines to obtain an appraisal of certain of its assets, as well as its accounting judgments related to book value adjustments or capitalization of certain costs as a result of such appraisals, depends on the day-to-day business experience and well-developed knowledge of both a company's management and its independent auditors with respect to a variety of factors. Accordingly, it is unrealistic for shareholders to be in a position to decide whether it is necessary or advisable for the Company to obtain the requested appraisal on its planned communities and make the accounting judgments requested in the Proposal.

Moreover, by mandating how the Company should respond to "appraisal values [that are] . . . materially and substantially less than the currently stated book value," the Proposal impermissibly seeks to replace management's informed and reasoned judgments with respect to specific accounting matters (that the Company's management and independent auditors have determined to be in accordance with US GAAP) with a choice of accounting advocated by the Proponent (*i.e.*, "mak[ing] . . . adjustments in the book value of such assets and/or ceasing to capitalize overhead and other costs"). In this regard, the Proposal is similar to the proposal excluded in *Phillips 66* (avail. Mar. 20, 2023). There, the Staff concurred with the exclusion under the micromanagement prong of Rule 14a-8(i)(7) of a proposal requesting that the company's board "issue an audited report that describes the undiscounted expected value to settle obligations for [asset retirement obligations ("AROs")] with indeterminate settlement dates." In its no-action request, the company argued that "by mandating how the [c]ompany should account for and present its AROs with indeterminate settlement dates, the [p]roposal impermissibly seeks to replace management's informed and reasoned judgments with respect to specific accounting judgments and conclusions (that the [c]ompany's management and independent auditors have determined to be in accordance with US GAAP) with an accounting standard advocated by the [p]roponent that would be inconsistent with US GAAP and that would require more extensive financial disclosures for AROs with indeterminate settlement dates than is currently required by US GAAP." *See also Valero Energy Corp.* (avail. Mar. 20, 2023) (same); *Deere & Co.* (avail. Jan. 3, 2022) (concurring with the exclusion of a proposal as micromanaging the company where it requested the board publish "the written and oral content of any employee-training materials offered to any subset of the company's employees"); *Verizon Communications Inc.* (avail. Mar. 22, 2022)

(same); *Marriott International, Inc.* (avail. Mar. 17, 2010, *recon. denied* Apr. 19, 2010) (concurring with the exclusion of a proposal requiring the installation of low-flow showerheads at certain of the company's hotels because "although the proposal raise[d] concerns with global warming, the proposal … [sought] to micromanage the company to such a degree that exclusion of the proposal … [was] appropriate").

As with the proposal in *Phillips 66*, the Proposal intends for shareholders to step into the shoes of management and does not afford management sufficient flexibility or discretion to address and implement a complex matter. The Proposal seeks to micromanage the Company by dictating that the Company obtain three appraisals and take specific accounting steps in response the appraisals' results. The detailed requirement in the Proposal to "make . . . adjustments in the book value of such assets and/or ceasing to capitalize overhead and other costs" does not provide the Company with sufficient flexibility to allow management to apply its accounting judgment, and the judgment of the Company's independent auditor, in accounting for its planned communities' assets. In sum, the Proposal both prescribes that the Company conduct an appraisal of each of its planned communities (which the Company's management had determined was not currently required as of December 31, 2022) and dictates how the Company should amend its accounting practices in response to such appraisal. The accounting judgments underlying the Company's determination that its planned communities do not require third-party appraisals and how these assets and related overhead and costs are recorded reflect the day-to-day business experience and the well-developed knowledge of both the Company's management and the Company's independent auditors with respect to a variety of factors. Accordingly, it would be unrealistic for shareholders to decide how to solve for such accounting judgments at an annual meeting of shareholders. The proposal process is not intended to provide an avenue for shareholders to impose their judgments on detailed accounting matters of this sort.

Thus, we believe that the Proposal may be omitted pursuant to Rule 14a-8(i)(7) because it seeks to micromanage the Company by probing too deeply into a complex matter regarding the Company's accounting practices upon which shareholders, as a group, would not be in a position to make an informed judgment.

CONCLUSION

Based upon the foregoing analysis, the Company intends to exclude the Proposal from its 2024 Proxy Materials, and we respectfully request that the Staff concur that the Proposal may be excluded.

We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject. Correspondence regarding this letter should be sent to shareholderproposals@gibsondunn.com. If we can be of any further assistance in this matter, please do not hesitate to call me at (310) 552-8581, or Allen Lyda, the Company's Executive Vice President, Chief Operating Officer, at (661) 248-3000.

Sincerely,

Ari Lanin

Enclosures

cc: Allen Lyda, Tejon Ranch Co.
George Apostolicas

Exhibit A

George Paul Apostolicas

Michael Houston, Corporate Secretary
Tejon Ranch Company
4436 Lebec Road
Tejon Ranch/ Lebec CA 93243
Via email and FedeX on 22 Nov, 2023

Re: Proposed Corporate Resolution - Tejon Ranch Co. ("Tejon" or the "Company")

Enclosed is my proposed corporate resolution submittal. I am the owner of more than $ 25,000 value of common stock, par value $0.50 per share ("Common Stock"), of the Company. Attached is a letter from Fidelity Investments confirming my position in TRC. It is my intent to continue to hold at least this amount thru the Annual Meeting.
This letter shall serve as notice to the Company of my timely submission of a stockholder proposal pursuant to Rule 14a-8 promulgated under the Securities Exchange Act of 1934, as amended, for presentation to the Company's stockholders at the Company's next annual meeting of stockholders, anticipated to be held in May 2024 (the "Meeting"). The rule 14a-8 proposal (the "Proposal") is as follows:

PROPOSAL

RESOLVED, that the Company engage independent third party appraisals in 2024 for each of its three planned communities To the extent those appraisal values, are, in the opinion of the Officers, Directors, and its auditors, materially and substantially less than the currently stated book value, such as to increase the risk of being misleading, then make appropriate adjustments in the book value of such assets and/or cease to capitalize overhead and other costs not related to physical improvements to the parcels.

I am prepared to speak with the authorized representatives of the company in the statutory window of 10 to 30 days at the times set forth in the attached schedule.

Please confirm receipt of these materials and confirmation that it complies with the appropriate requirements.

Sincerely,

George Apostolicas
[redacted]
[redacted]@hotmail.com
[redacted]
[redacted]

Personal Investing

225 Daniel Webster Highway
Nashua, NH 03060

November 15, 2023

Tejon Ranch Company

Corporate Secretary

To Whom it May Concern,

This letter confirms that George P. Apostolicas has held more than 15,000 shares of common stock of the Tejon Ranch Co. (NRSE: TRC) as of November 15, 2023. He holds over $247,000 in market value of the company's common stock as of November 15, 2023.

Should you have any questions specific to this matter, please call me at [redacted].

Yours Truly,

Anna Joyce

Financial Representative

Available Times to Review Corporate Resolution
All Time Paccific Time Zone

[redacted]hotmail.co

1	23-Nov	8 am thru 6 pm
2	24-Nov	8 am thru 6 pm
3	25-Nov	8 am thru 6 pm
4	26-Nov	8 am thru 6 pm
5	27-Nov	8 am thru 6 pm
6	28-Nov	8 am thru 6 pm
7	29-Nov	8 am thru 6 pm
8	30-Nov	8 am thru 6 pm
9	1-Dec	8 am thru 6 pm
10	2-Dec	8 am thru 6 pm
11	3-Dec	8 am thru 6 pm
12	4-Dec	8 am thru 6 pm
13	5-Dec	8 am thru 6 pm
14	6-Dec	8 am thru 6 pm
15	7-Dec	8 am thru 6 pm
16	8-Dec	8 am thru 6 pm
17	9-Dec	8 am thru 6 pm
18	10-Dec	8 am thru 6 pm
19	11-Dec	8 am thru 6 pm
20	12-Dec	8 am thru 6 pm
21	13-Dec	8 am thru 6 pm
22	14-Dec	8 am thru 6 pm
23	15-Dec	8 am thru 6 pm
24	16-Dec	8 am thru 6 pm
25	17-Dec	8 am thru 6 pm
26	18-Dec	8 am thru 6 pm
27	19-Dec	8 am thru 6 pm
28	20-Dec	8 am thru 6 pm
29	21-Dec	8 am thru 6 pm
30	22-Dec	8 am thru 6 pm
31	23-Dec	8 am thru 6 pm
32	24-Dec	8 am thru 6 pm
33	25-Dec	8 am thru 6 pm
34	26-Dec	8 am thru 6 pm
35	27-Dec	8 am thru 6 pm
36	28-Dec	8 am thru 6 pm

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FedEx® Tracking

DELIVERED

Monday

11/27/23 at 9:45 AM

Signed for by: R.RUIZ

Obtain proof of delivery

How was your delivery?

DELIVERY STATUS

Delivered

TRACKING ID

774182087955

FROM
Nashua, NH US

Label Created
11/21/23 6:58 AM

WE HAVE YOUR PACKAGE
SOUTH BOSTON, MA
11/22/23 6:09 PM

ON THE WAY
BAKERSFIELD, CA
11/27/23 7:20 AM

OUT FOR DELIVERY
BAKERSFIELD, CA
11/27/23 8:18 AM

DELIVERED
LEBEC, CA US

Delivered
11/27/23 at 9:45 AM

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MORE OPTIONS

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Shipment facts

Shipment overview

TRACKING NUMBER 774182087955

DELIVERED TO Shipping/Receiving

SHIP DATE 11/22/23

STANDARD TRANSIT 11/27/23 before 5:00 PM

ACTUAL DELIVERY 11/27/23 at 9:45 AM

Services

SERVICE FedEx 2Day

TERMS Shipper

SPECIAL HANDLING SECTION Deliver Weekday

Package details

WEIGHT 0.5 lbs / 0.23 kgs

TOTAL PIECES 1

TOTAL SHIPMENT WEIGHT 0.5 lbs / 0.23 kgs

PACKAGING FedEx Envelope

Back to to

Travel history

Ascending

Local Scan Time

FedEx

- 6:58 AM
  Shipment information sent to FedEx

Wednesday, 11/22/23

- 6:09 PM
  Picked up
  SOUTH BOSTON, MA
- 6:10 PM
  Shipment arriving On-Time
  SOUTH BOSTON, MA
- 8:06 PM
  Left FedEx origin facility
  SOUTH BOSTON, MA
- 11:32 PM
  At local FedEx facility
  EAST BOSTON, MA

Friday, 11/24/23

- 10:41 AM
  Arrived at FedEx hub
  MEMPHIS, TN
- 4:31 PM
  Departed FedEx hub
  MEMPHIS, TN
- 6:30 PM
  At destination sort facility
  LOS ANGELES, CA

Monday, 11/27/23

- 7:19 AM
  At local FedEx facility
  BAKERSFIELD, CA
- 7:20 AM
  Shipment arriving On-Time
  BAKERSFIELD, CA
- 8:18 AM
  On FedEx vehicle for delivery
  BAKERSFIELD, CA
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Exhibit B

From: Assaf-Holmes, Lauren M.
Sent: Tuesday, December 5, 2023 3:29 PM
To: [redacted]@hotmail.com
Cc: Lanin, Ari; Michael Houston
Subject: Tejon Ranch Co. (Apostolicas) Correspondence
Attachments: Tejon Ranch Co. (Apostolicas).pdf

Attached on behalf of our client, Tejon Ranch Co., please find our notice of deficiency with respect to the shareholder proposal you submitted via FedEx on November 22, 2023.

Best,

Lauren

Lauren M. Assaf-Holmes
Associate Attorney

T: +1 949.451.3990
LAssaf-Holmes@gibsondunn.com

GIBSON DUNN
Gibson, Dunn & Crutcher LLP
3161 Michelson Drive Suite 1200, Irvine, CA 92612-4412

GIBSON DUNN

Gibson, Dunn & Crutcher LLP

2029 Century Park East
Los Angeles, CA 90067-3026
Tel 310.552.8500
gibsondunn.com

Ari Lanin
Direct: +1 310.552.8581
Fax: +1 310.552.7046
ALanin@gibsondunn.com

December 5, 2023

VIA OVERNIGHT MAIL AND EMAIL

George Apostolicas
[redacted]@hotmail.com

Dear Mr. Apostolicas:

I am writing on behalf of Tejon Ranch Co. (the **"Company"**), which received on November 27, 2023, your shareholder proposal regarding independent third party appraisals that you submitted via FedEx on November 22, 2023 (according to the FedEx ship date) (the **"Submission Date"**) pursuant to Securities and Exchange Commission (**"SEC"**) Rule 14a-8 for inclusion in the proxy statement for the Company's 2024 Annual Meeting of Shareholders (the **"Proposal"**).

The Proposal contains certain procedural deficiencies, which SEC regulations require us to bring to your attention and which you should correct as described below if the Company is to consider the proposal as properly submitted.

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the **"Exchange Act"**), provides that a shareholder proponent must submit sufficient proof of its continuous ownership of company shares preceding and including the submission date. Thus, with respect to the Proposal, Rule 14a-8 requires that you demonstrate that you continuously owned at least:

(1) $2,000 in market value of the Company's shares entitled to vote on the Proposal for at least three years preceding and including the Submission Date;

(2) $15,000 in market value of the Company's shares entitled to vote on the Proposal for at least two years preceding and including the Submission Date; or

(3) $25,000 in market value of the Company's shares entitled to vote on the Proposal for at least one year preceding and including the Submission Date (each an **"Ownership Requirement,"** and collectively, the **"Ownership Requirements"**).

The Company's stock records do not indicate that you are the record owner of sufficient shares to satisfy any of the Ownership Requirements. In addition, to date the Company has not received adequate proof that you have satisfied any of the Ownership Requirements. The November 15, 2023 letter from Fidelity Investments (the "**Fidelity Letter**") that you

provided is insufficient because it states the number and market value of Company shares held as of November 15, 2023, but does not cover any of the full time periods, including the Submission Date, set forth in any of the Ownership Requirements above. The Fidelity Letter also does not state that the shares were held continuously during any of the full time periods set forth in any of the Ownership Requirements above.

To remedy this defect, you must obtain a new proof of ownership letter verifying that you have satisfied at least one of the Ownership Requirements. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of either:

(1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, at the time you submitted the Proposal (the Submission Date), you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above; or

(2) if you were required to and have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, demonstrating that you met at least one of the Ownership Requirements above, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above.

If you intend to demonstrate ownership by submitting a written statement from the "record" holder of your shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company (**"DTC"**), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking DTC's participant list, which is available at https://www.dtcc.com/-/media/Files/Downloads/client-center/DTC/DTC-Participant-in-Alphabetical-Listing-1.pdf. If a shareholder's shares are held through DTC, the shareholder needs to obtain and submit to the Company proof of ownership from the DTC participant through which the securities are held, as follows:

(1) If your broker or bank is a DTC participant, then you need to obtain and submit a written statement from your broker or bank verifying that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above.

(2) If your broker or bank is not a DTC participant, then you need to obtain and submit proof of ownership from the DTC participant through which the shares are held verifying that you continuously held the requisite amount of Company shares to satisfy at least one of the Ownership Requirements above. You should be able to find out the identity of the DTC participant by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements, because the clearing broker identified on your account statements will generally be a DTC participant. If the DTC participant that holds your shares is not able to confirm your individual holdings but is able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that you continuously held Company shares satisfying at least one of the Ownership Requirements above: (i) one from your broker or bank confirming your ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

Rule 14a-8(b)(1)(iii) of the Exchange Act requires a shareholder to provide the company with a written statement that it is able to meet with the company in person or via teleconference no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal, including the shareholder's contact information and the business days and specific times during the company's regular business hours that such shareholder is available to discuss the proposal with the company. In this regard, we believe the general statement you provided that you are "prepared to speak with the authorized representatives of the company in the statutory window of 10 to 30 days at the times set forth in the attached schedule," together with a schedule that sets forth your availability from "8 am thru 6 pm" Pacific Time on each of the 36 days (including holidays and weekends) from November 23 through December 28 is not adequate because the statement and schedule do not include *specific* dates and times you are available to meet. Instead, it provides your availability over a broad range of dates and times. Accordingly, to remedy this defect, you must provide a statement of your engagement availability to the Company including the *specific* dates and times you are available during the period between 10 and 30 days after the Submission Date.

The SEC's rules require that any response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at 2029 Century Park East, Los Angeles, California 90067. Alternatively, you may transmit any response by email to me at alanin@gibsondunn.com. Please note that the SEC's staff has stated that a proponent is responsible for confirming our receipt of any correspondence transmitted in response to this letter.

If you have any questions with respect to the foregoing, please contact me at (310) 552-8581. For your reference, I enclose a copy of Rule 14a-8, Staff Legal Bulletin No. 14F and Staff Legal Bulletin No. 14L.

Sincerely,

Ari Lanin

cc: Michael Houston, Senior Vice President, General Counsel, and Corporate Secretary, Tejon Ranch Co.

Enclosures

From: UPS <pkginfo@ups.com>
Sent: Wednesday, December 6, 2023 12:22 PM
To: Assaf-Holmes, Lauren M.
Subject: UPS Delivery Notification, Reference Number 1: 90001-00290

[WARNING: External Email]

Hello, your package has been delivered.

Delivery Date: Wednesday, 12/06/2023
Delivery Time: 3:19 PM
Left At: OTHER-RELEAS

Set Delivery Instructions | Manage Preferences | View My Packages

GIBSON DUNN AND CRUTCHER

Tracking Number:	1Z9754630192333765
Ship To:	GEORGE APOSTOLICAS [redacted] US
Number of Packages:	1
UPS Service:	UPS Next Day Air®
Package Weight:	1.0 LBS
Reference Number:	90001-00290

Manage Your UPS My Choice Delivery Alerts

Review the UPS Privacy Notice

Review the UPS My Choice Service Terms

Proof of Delivery

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number
1Z9754630192333765

Weight
1.00 LBS

Service

UPS Next Day Air®

Shipped / Billed On
12/05/2023

Delivered On

12/06/2023 3:19 P.M.

Delivered To
NASHUA, NH, US

Left At
Other

Please print for your records as photo and details are only available for a limited time.

Sincerely,

UPS

Tracking results provided by UPS: 12/31/2023 4:06 P.M. EST

Delivery Photo

For security purposes, enter the destination postal code to view the photo

View Photo

Exhibit C

From: george apostolicas [redacted]@hotmail.com>
Sent: Thursday, December 7, 2023 4:26 AM
To: Assaf-Holmes, Lauren M.
Subject: Re: Tejon Ranch Co. (Apostolicas) Correspondence
Attachments: TRC 14a objection.pdf

[WARNING: External Email]

Hope we can resolve this matter this day
Thank you

r/gpa

From: Assaf-Holmes, Lauren M. <LAssaf-Holmes@gibsondunn.com>
Date: Tuesday, December 5, 2023 at 6:29 PM
To: [redacted]@hotmail.com [redacted]@hotmail.com>
Cc: Lanin, Ari <ALanin@gibsondunn.com>, Michael Houston [redacted]@tejonranch.com>
Subject: Tejon Ranch Co. (Apostolicas) Correspondence

Attached on behalf of our client, Tejon Ranch Co., please find our notice of deficiency with respect to the shareholder proposal you submitted via FedEx on November 22, 2023.

Best,

Lauren

Lauren M. Assaf-Holmes
Associate Attorney

T: +1 949.451.3990
LAssaf-Holmes@gibsondunn.com

GIBSON DUNN
Gibson, Dunn & Crutcher LLP
3161 Michelson Drive Suite 1200, Irvine, CA 92612-4412

George Apostolicas

7 Dec 2023

Ari Lanin, Esq
Gibson Dunn
Via email on 7 Dec 2023

Re: TRC Corporate Resolution Submittal

Your letter of 5 Dec 23 was unclear as to why the letter from Fidelity was insufficient, as (1) they are a DTS participant and, (2) the letter clearly states that I have held the requisite amount for the requisite period. In what specific way is the letter deficient as it appears to comply with the requirements of the Reg and your restatement letter ?

The language format incorporated in the letter from Fidelity I believe has been previously acceptable to the company, e.g. the Glenbrook resolution previously submitted,

If this cannot be resolved presently, I will ask the SEC to participate in a conference call or otherwise provide guidance and participate in a review of this issue. Given the time constraints, perhaps we could provide you with times for a three way discussion shortly or additional correspondence if we cant clear it up before the end of the week.

I am sure your intent is to facilitate the ability of shareholders to submit resolutions so look forward to an early resolution. Perhaps you could provide language for Fidelity that meets your specific requirement.

I would like to get back to Fidelity on Thursday if their letter needs further modification to meet your requirements.

R/GPA
[redacted]@hotmail.com
[redacted]

Exhibit D

From: george apostolicas [redacted]@hotmail.com>
Date: Monday, December 11, 2023 at 9:17 AM
To: Ari Lanin <ALanin@gibsondunn.com>
Subject: Apostolicas TRC corp res

[WARNING: External Email]

Fidelity sent the wrong letter as it does not state the length of time the shares have been held. Will get out the correct format this afternoon.

r/gpa

Exhibit E

From: George Apostolicas [redacted]@apaffiliates.com>
Date: Thursday, December 14, 2023 at 4:46 AM
To: Ari Lanin <ALanin@gibsondunn.com>
Cc: Michael Houston [redacted]@tejonranch.com>
Subject: Apostolicas 14a correction

[WARNING: External Email]

on review, we assume the wrong letter confirming ownership was the genesis of the deficiency response.
attached is revised letter from Fidelity that we believe conforms.

please advise as to its sufficiency

thanks again for all your help on thiis

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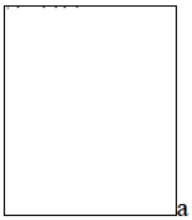
Error! Filename not specified.


a
George Apostolicas

P: [redacted] | W: www.apaffiliates.com
E: [redacted]@apaffiliates.com
A: [redacted]

Personal Investing

225 Daniel Webster Highway
Nashua, NH 03060

November 28, 2022

Tejon Ranch Company

Corporate Secretary

To Whom it May Concern,

This letter confirms that George P Apostolicas has continuously held more than 20,000 shares of common stock of the Tejon Ranch Co. (NYSE: TRC) as of November 28, 2022. Additionally, he has held over $25,000 in market value of the company's securities for at least one year as of November 28,2022.

Should you have any questions specific to this matter, please call me at [redacted].

Yours Truly,

Anna Joyce

Financial Representative