

**FILED**

**DEC - 7 2023**

**DEPT. OF REAL ESTATE**

By. 

1 Department of Real Estate  
2 320 West Fourth Street, Ste. 350  
3 Los Angeles, California 90013  
4 Telephone: (213) 576-6982

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

12 TO:	)	No. H-03523 FR
	)	
13 BEN MAR DEVELOPMENT, LLC;	)	
14 BENNY J. MARTINEZ;	)	ORDER TO DESIST
15 REBECCA MARTINEZ;	)	AND REFRAIN
16 MALCOLM G. DUTCH CONSTRUCTION, INC.;	)	
17 FRANKLIN THOMAS MORENO;	)	(B&P Section 11019)
18 FCM COMPANY, LLC;	)	
AVEDIAN PROPERTIES COMPANY;	)	
CATHY DARLENE MORENO; and	)	
ALEXANDER CEBALLOS.	)	

19 RE: CALIFORNIA RANCHOS (Phase 1)  
20 Conditional Public Report No. 125162SA-A01/C00

21 The Real Estate Commissioner of the State of California (hereinafter  
22 "Commissioner") has caused an investigation to be made, and based upon the findings of that  
23 investigation as set forth below, has determined that BEN MAR DEVELOPMENT, LLC,  
24 BENNY J. MARTINEZ, REBECCA MARTINEZ, MALCOLM G. DUTCH  
25 CONSTRUCTION, INC., FRANKLIN THOMAS MORENO, FCM COMPANY, LLC,  
26 AVEDIAN PROPERTIES COMPANY, CATHY DARLENE MORENO, and ALEXANDER  
27 CEBALLOS (sometimes collectively referred to as "Respondents") have violated or failed to

1 comply with Sections 11018.2 of the California Business and Professions Code (“Code”) and  
2 Section 2801.5 of Chapter 6, Title 10 of the California Code of Regulations (“Regulations”) in  
3 that Respondents have sold, and continue to offer for sale, lots in the above-referenced  
4 subdivision known as CALIFORNIA RANCHOS (Phase 1) (“the subdivision”), even though the  
5 public report for that subdivision expired on January 2, 2012.

6 1.

7 Respondent BEN MAR DEVELOPMENT, LLC (“BMD”) is the current owner or  
8 subdivider of a subdivision of real property as defined in Section 11010 of the Code and  
9 described as CALIFORNIA RANCHOS (Phase 1), in the City of Tulare, Tulare County,  
10 California. That subdivision is further identified in this Order as Department of Real Estate  
11 (“Department”) File No. 125162SA-A01/C00.

12 (a) Respondent BENNY J. MARTINEZ (“B. MARTINEZ”) is a managing  
13 member of BMD.

14 (b) Respondent REBECCA MARTINEZ (“R. MARTINEZ”) is a member of  
15 BMD.

16 2.

17 Respondent MALCOLM G. DUTCH CONSTRUCTION, INC. (“MGDCI”), dba  
18 G J Gardener Homes, is a California corporation whose contractor license expired on December  
19 31, 2022.

20 3.

21 Respondent FRANKLIN THOMAS MORENO (“F. MORENO”) is the  
22 authorized representative of BMD and, from January 2005 through May 2021, the authorized  
23 signer for MGDCI’s real estate documents. In those positions, F. MORENO is authorized to  
24 complete, execute and file on behalf of BMD and MGDCI, a Subdivision Questionnaire for  
25 Application for issuance of a Preliminary, Conditional and/or Final Public Report from the  
26 Department for the subdivision, and prepare or cause to be prepared and filed other documents  
27 and take action with respect to and in connection with the subdivision. F. MORENO is also a

1 director of MGDCI.

2 4.

3 Respondent FCM COMPANY, LLC (“FCMC”), dba Oakmore Construction, is a  
4 California corporation with an active contractor license (License No. 1085835). F. MORENO  
5 and CATHY DARLENE MORENO (“C. MORENO”) are managing members of FCMC.

6 5.

7 Respondent AVEDIAN PROPERTIES COMPANY (“APC”) is presently  
8 licensed or has license rights under the Real Estate Law as a corporate real estate broker with  
9 Department license ID 01987747. APC’s license is set to expire on October 13, 2027. APC’s  
10 current designated officer is Mark Allen Avedian (license ID 01795198).

11 6.

12 Respondent C. MORENO is presently licensed or has license rights under the  
13 Real Estate Law as a real estate salesperson with Department license ID 01830474. C.  
14 MORENO’s license expired on October 17, 2023. APC is C. MORENO’s responsible broker.

15 7.

16 Respondent ALEXANDER CEBALLOS (“CEBALLOS”) is presently licensed or  
17 has license rights under the Real Estate Law as a real estate salesperson with Department license  
18 ID 01973411. CEBALLOS’ license is set to expire on May 6, 2027. APC is CEBALLOS’  
19 responsible broker.

20 8.

21 On or about January 3, 2007, the Department issued Public Report No.  
22 125162SA-F00 for 20 lots in a 2-phase project called “California Ranchos Phase 1” to California  
23 Ranchos, LLC, the original subdivider. This public report expired on January 2, 2012.

24 9.

25 On or about January 31, 2020, BMD entered an agreement with MGDCI  
26 providing MGDCI an option to purchase 14 lots in the subdivision when the public report, File  
27 No. 125162SA-F00, was expired in violation of Code section 11018.2 and Regulations section

1 2801.5. The option to purchase expires on December 1, 2024. BMD failed to notify the  
2 Department of MGDCI's option to purchase lots in the subdivision in violation of Regulations  
3 section 2800(a).

4 10.

5 On or about April 3, 2020, a grant deed was recorded granting Lot Nos. 14 and 15  
6 of the subdivision from BMD to MGDCI when the public report, File No. 125162SA-F00, for  
7 the subdivision was expired in violation of Code section 11018.2 and Regulations section  
8 2801.5. B. MARTINEZ and R. MARTINEZ signed the grant deed on behalf of BMD.

9 11.

10 On or about October 21, 2020, BMD, as a subsequent subdivider, submitted an  
11 amended application (Form RE 635) for 17 lots of the subdivision (Lot Nos. 1, 2, 6, 7, 8, 9, 11-  
12 19, 21 & a remainder parcel).

13 12.

14 On or about March 10, 2021, the Department issued a Conditional Public Report  
15 with File No. 125162SA-A01/C00 to BMD for the subdivision with an expiration date of  
16 September 9, 2021. It was later discovered by the Department that BMD entered into purchase  
17 agreements and sold lots of the subdivision without a final public report in violation of Code  
18 section 11018.2 and Regulations section 2801.5.

19 13.

20 On or about March 30, 2021, F. MORENO, on behalf of MGDCI, entered into a  
21 purchase agreement for the sale of Lot No. 15 of the subdivision to R.P., while the subdivision  
22 was under a conditional public report. F. MORENO signed as "seller." C. MORENO and  
23 CEBALLOS, on behalf of APC, signed the purchase agreement as the seller's brokerage.

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(a) On or about May 4, 2021, a grant deed was recorded granting Lot No. 15 of the subdivision from MGDCI to R.P. when no final public report was issued for the subdivision in violation of Code sections 11018.2 and 11018.12(d)-(f) and Regulations section 2801.5. F. MORENO signed the grant deed on behalf of MGDCI.

14.

On or about April 22, 2021, F. MORENO, on behalf of MGDCI, entered into a purchase agreement for the sale of Lot No. 14 of the subdivision to A.M. and P.L., while the subdivision was under a conditional public report. F. MORENO signed as "seller." C. MORENO and CEBALLOS, on behalf of APC, signed the purchase agreement as the seller's brokerage.

(a) On or about June 2, 2021, a grant deed was recorded granting Lot No. 14 of the subdivision from MGDCI to A.M. and P.L. when no final public report was issued for the subdivision in violation of Code sections 11018.2 and 11018.12(d)-(f) and Regulations section 2801.5. F. MORENO signed the grant deed on behalf of MGDCI.

15.

On or about October 8, 2021, a grant deed was recorded granting Lot Nos. 8 and 12 of the subdivision from BMD to FCMC when no final public report was issued for the subdivision in violation of Code section 11018.2 and 11018.12(d)-(f) and Regulations section 2801.5. B. MARTINEZ signed the grant deed on behalf of BMD.

16.

On or about July 27, 2023, the Department denied BMD's application for a public report based on the violations described above. BMD did not request a hearing in connection with the denial of that public report.

17.

Respondents' continued sales of lots in the subdivision after the expiration of the public report, Public Report No. 125162SA-F00, and during the conditional public report period,

1 File No. 125162SA-A01/C00, constitute a violation of Code Section 11018.2 and Regulation  
2 2801.5, and subjects the Respondents to an Order to Desist and Refrain from violating the law  
3 pursuant to Code Section 11019(a)(1).

4 NOW, THEREFORE, RESPONDENTS AND THEIR AGENTS, EMPLOYEES,  
5 SUCCESSORS AND ASSIGNS, ARE HEREBY ORDERED TO DESIST AND REFRAIN  
6 from selling or leasing, or offering for sale or lease, any lots in the subdivision until Respondents  
7 have corrected the violations and failures to comply with the provisions of the Subdivided Lands  
8 Act, beginning at Code Section 11000 and the Regulations described hereinabove; and until  
9 Respondents have applied for and obtained a Final Public Report for the subdivision.

10 DATED: 11/27/23.

11  
12 DOUGLAS R. McCAULEY  
13 Real Estate Commissioner

14   
15 \_\_\_\_\_  
16 for Doug McCauley

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19  
20  
21 cc: BEN MAR DEVELOPMENT, LLC  
22 c/o Frank Moreno  
23 1441 S. Mooney Blvd. Suite F  
24 Visalia, California 93277

25 c/o Benny J. Martinez  
26 15353 Rubicon Ave.  
27 Bakersfield, California 93314

BENNY J. MARTINEZ  
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REBECCA MARTINEZ  
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