

This page is part of your document - DO NOT DISCARD



20170356962



Pages:  
0016

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

03/31/17 AT 09:16AM

|         |       |
|---------|-------|
| FEEs :  | 60.00 |
| TAXES : | 0.00  |
| OTHER : | 0.00  |
| PAID :  | 60.00 |



LEADSHEET



201703310740003

00013541709



008240169

SEQ:  
01

DAR - Counter (Upfront Scan)



THIS FORM IS NOT TO BE DUPLICATED

RECORDING REQUESTED BY:  
Department of Toxic Substances Control  
and  
Kenfield Dev. LLC  
4332 Louise Ave.  
Encino, CA 91316

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630  
Attention: Emad Yemut, Unit Chief  
Site Mitigation and Brownfields Reuse



SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## LAND USE COVENANT AND AGREEMENT

### ENVIRONMENTAL RESTRICTIONS

County of Los Angeles, Assessor Parcel Number: 6358-019-005

This Land Use Covenant and Agreement (Covenant) is made by and between Kenfield Dev. LLC (the Covenantor), the current owner of property located in Los Angeles, California, in the County of Los Angeles, State of California, identified as Los Angeles County Assessor Parcel Number 6358-019-005 (the Property), and the Department of Toxic Substances Control (the Department). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and the Department hereby agree that, pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5, the use of the Property be restricted as set forth in this Covenant and that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I  
STATEMENT OF FACTS

1.1. Property Location. The Property that is subject to this Covenant is more particularly described in the attached Exhibit A, "Legal Description," and depicted in Exhibit B, "Parcel Map." The Property is also identified as Los Angeles County Assessor Parcel Number 6358-019-005. The Property consists of a portion of an approximately 2 acres site, consisting of two parcels identified as Los Angeles County Assessor Parcel Numbers 6358-019-005 and 6358-019-006, located in mixed light manufacturing/residential area within the city of Bell Garden (the Site). The Site is bounded by Suva Street and industrial properties to the north, by industrial properties to the west and the east, and on the south by East Florence Place and residential properties. The nearest cross street is Scout Avenue approximately 400 feet to the east. The Site across the street from residential dwellings and within 500 feet of public schools.

1.2. Remediation of Property. This Property is a portion of a Site that has been investigated and/or remediated under the Department's oversight. In February 2008, the Department divided the Site into two principal operable units for the purpose of remediation activities at the Property: Operable Unit 1 (OU-1) for soil remediation, and Operable Unit 2 (OU-2) for groundwater remediation. The Department approved Remedial Action Plans for each Operable Unit in accordance with Health and Safety Code division 20, chapter 6.8. DTSC has established a soil risk-based remedial goal (RBRG) for hexavalent chromium (Chromium VI), the primary contaminant of concern at the Site, for industrial use at the Property at 24 mg/kg taking into consideration the specific characteristics of the Site (fenced, vacant, and capped with HDPE and geomembrane liner and/or asphalt) and the type of use.<sup>1</sup> In addition, DTSC established a soil cleanup level for Chromium VI at 3.9 mg/kg based on protection of groundwater at the Site. Due to evidence that Chromium VI has migrated to and adversely impacted

---

<sup>1</sup> Specifically, industrial use where personnel work on Site 250 days per year for 25 years, spending time indoors and outdoors, with assumed access to Site soil, or construction/maintenance use where personnel work on Site, outdoors only and performing tasks that result in direct contact with Site soil, for up to one year on a continuous basis (e.g., 5 days/week) or for a longer duration but less frequently (e.g., 20 days per year over 7 years).

groundwater, this lower level applies to the entire soil column and supersedes the higher industrial use-based RBRG. The remediation goals for groundwater are the federal drinking water maximum contaminant levels (MCLs) or the California MCLs, whichever is lower for a given contaminant. In the absence of a federal or California MCL for Chromium VI at the time, a groundwater RBRG for Chromium VI of 44 µg/L was established based on available toxicologic information and site-specific conditions. A California MCL for Chromium VI has since been established at 10 µg/L.

The remediation activities conducted at the Site for OU-1 included excavating soil containing Chromium VI concentrations above 3.9 mg/kg to a maximum depth of 6 feet below ground surface (bgs) in pre-designated 40-foot by 40-foot grids and transporting the soil off-site for disposal, installing infiltration galleries (horizontal slotted piping) in grids where soil below 6 feet bgs contains Chromium VI concentrations exceeding 3.9 mg/kg, and importing clean material and backfilling the excavations. The grid cells containing residual Chromium VI concentrations below 6 feet bgs exceeding 3.9 mg/kg are located beneath concrete and asphalt. Ongoing remediation activities include chemical reduction/fixation for subsurface soils remaining on the Site accomplished through multiple discrete injections of a calcium polysulfate/water solution to the vadose zone to reduce Chromium VI to Chromium III, and periodic soil sampling and down-gradient groundwater monitoring to facilitate monitoring of the infiltration gallery injection. The remediation activities conducted at the Site for OU-2 included installation of four discrete extraction and injection well networks (active barriers) and conveyance systems, construction of a hydraulic containment, extraction well, and groundwater treatment system at the source area, construction of a mobile treatment unit to provide groundwater treatment, and construction of passive treatment injection barriers and mass reduction to reduce concentrations of Chromium VI by direct injection of calcium polysulfide. Ongoing remediation activities include system operation and maintenance activities including system monitoring activities, and groundwater monitoring and reporting to evaluate the effectiveness of the remediation system.

The hazardous substance Chromium VI remains at the Property above levels acceptable for unrestricted land use, including at levels that exceed the applicable soil RBRG of 3.9 mg/kg and the higher industrial use-based soil RBRG of 24 mg/kg in the

vicinity of the infiltration galleries installed at the Property. In addition, hazardous substances remain in the groundwater at the Property at levels exceeding the applicable MCLs, including Chromium VI, antimony, and perchlorethylene (PCE). The California MCLs for Chromium VI are 10 µg/L for Chromium VI, 6 µg/L for antimony, and 5 µg/L for PCE.

1.3. Basis for Environmental Restrictions. The Remedial Action Plans for OU-1 and OU-2 provide that a land use covenant will be legally recorded to restrict the use of the Property to uses described as the bases for the soil RBRGs,<sup>2</sup> that restriction of groundwater use will be imposed until the groundwater cleanup levels are achieved, and that future use of the Property will be restricted to acceptable industrial uses. As a result of the presence of the hazardous substances in the soil and groundwater at the Property, the Department has concluded that it is reasonably necessary to restrict the use of the Property in order to protect present or future human health or safety or the environment, and that this Covenant is required as part of the Department-approved remedy for the Property. The Department has also concluded that the Property, as remediated and when used in compliance with the Environmental Restrictions of this Covenant, does not present an unacceptable risk to present and future human health or safety or the environment.

## ARTICLE II DEFINITIONS

2.1. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.2. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, requirements, prohibitions, and terms and conditions as set forth in this Covenant.

2.3. Improvements. "Improvements" includes, but is not limited to buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.4. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.5. Occupant. "Occupant" or "Occupants" means Owner and any person or

---

<sup>2</sup> See footnote 1.

entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.6. Owner. "Owner" or "Owners" means the Covenantor, and any successor in interest including any heir and assignee, who at any time holds title to all or any portion of the Property.

2.7 Notice. "Notice" includes any demand or other communication with respect to this Covenant.

### ARTICLE III GENERAL PROVISIONS

3.1. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5; (b) inures to the benefit of and passes with each and every portion of the Property; (c) is for the benefit of, and is enforceable by the Department; and (d) is imposed upon the entire Property.

3.2. Binding upon Owners/Occupants. This Covenant: (a) binds all Owners of the Property, their heirs, successors, and assignees; and (b) the agents, employees, and lessees of the Owners and the Owners' heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive Owners of the Property are expressly bound hereby for the benefit of the Department; this Covenant, however, is binding on all Owners and Occupants, and their respective successors and assignees, only during their respective periods of ownership or occupancy except that such Owners or Occupants shall continue to be liable for any violations of, or non-compliance with, the Environmental Restrictions of this Covenant or any acts or omissions during their ownership or occupancy.

3.3. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every Lease and each and every future deed for any portion of the Property.

3.4. Conveyance of Property. The Owner and new Owner shall provide Notice to the Department not later than 30 calendar days after any conveyance or receipt of any

ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The Notice shall include the name and mailing address of the new Owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the Assessor's Parcel Number noted on page one. If the new Owner's property has been assigned a different Assessor Parcel Number, each such Assessor Parcel Number that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law or by administrative order.

3.5. Costs of Administering the Covenant to Be Paid by Owner. The Department has already incurred and will in the future incur costs associated with this Covenant. Therefore, the Covenantor hereby covenants for the Covenantor and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's costs associated with the administration of this Covenant, including all costs associated with implementation and enforcement of this Covenant.

#### ARTICLE IV

#### RESTRICTIONS AND REQUIREMENTS

4.1. Prohibited Uses. The Property shall not be used for any of the following purposes without prior written approval by the Department:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 18 years of age.
- (d) A day care center for children.
- (e) On any portion of the Property located directly above the infiltration galleries installed at the Property as part of the remedial actions for OU-1 and OU-2 depicted on Exhibit C, any commercial or industrial use.

4.2. Soil Management. Soil management activities at the Property are subject to the following requirements in addition to any other applicable Environmental

Restrictions:

- (a) No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling) shall be allowed at the Property without a Soil Management Plan pre-approved by the Department in writing.
- (b) Any soil brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.

4.3. Prohibited Activities. The following activities shall not be conducted at the Property:

- (a) Drilling for any water, oil, or gas without prior written approval by the Department.
- (b) Extraction or removal of groundwater for purposes other than Site remediation activities without a Groundwater Management Plan pre-approved by the Department in writing.
- (c) Activity that may alter, interfere with, or otherwise affect the integrity or effectiveness of, or the access to, any investigative, remedial, monitoring, or operation or maintenance system or activity required for the Property, including, without limitation, any subsurface infiltration gallery piping, header and distribution lines, and injection wells, without prior written approval of the Department.

4.4. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, investigation, remediation, monitoring, and other activities as deemed necessary by the Department in order to protect human health or safety or the environment.

4.5. Access for Implementing Operation and Maintenance. The entity or person responsible for implementing the operation and maintenance activities, if any, shall have reasonable right of entry and access to the Property for the purpose of implementing such operation and maintenance activities, until the Department determines that no further operation and maintenance activity is required.

4.6. Inspection and Reporting Requirements. The Owner shall conduct an

annual inspection of the Property verifying compliance with this Covenant and shall submit an annual inspection report to the Department for its approval by January 15 of each year. The annual inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the annual inspection report. It also shall describe how the observations that were the basis for the statements and conclusions in the annual inspection report were performed (e.g., drive by, fly over, walk in, etc.). If any violation is noted, the annual inspection report must detail the steps taken to correct the violation and return to compliance. If the Owner identifies any violations of this Covenant at any time, the Owner must within 10 calendar days of identifying the violation: (a) determine the identity of the party in violation; (b) send a letter advising the party of the violation of the Covenant; and (c) demand that the violation cease immediately. Additionally, a copy of any correspondence related to the violation of this Covenant shall be sent to the Department within 10 calendar days of its original transmission.

ARTICLE V  
ENFORCEMENT

5.1. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, such as failure to submit (including submission of any false statement) any record or report to the Department, shall be grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law.

ARTICLE VI  
VARIANCE, REMOVAL AND TERM

6.1. Variance from Environmental Restrictions. Any person may apply to the Department for a written variance from any of the Environmental Restrictions imposed by this Covenant. Such application shall be made in accordance with Health and Safety Code section 25223.

6.2. Removal of Environmental Restrictions. Any person may apply to the Department to remove any of the Environmental Restrictions imposed by this Covenant or terminate the Covenant in its entirety. Such application shall be made in accordance

with Health and Safety Code section 25224.

6.3 Term. Unless ended in accordance with paragraph 6.2, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII  
MISCELLANEOUS

7.1. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof, to the general public or anyone else for any purpose whatsoever.

7.2. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Los Angeles within 10 calendar days of the Covenantor's receipt of a fully executed original.

7.3. Notices. Whenever any person gives or serves any Notice, each such Notice shall be in writing and shall be deemed effective: (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (b) five calendar days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner:

Kenfield Dev. LLC  
4332 Louise Ave.  
Encino, CA 91316

And

To Department:

Emad Yemut, P.E., Unit Chief  
Brownfields and Environmental Restoration  
5796 Corporate Avenue  
Cypress, CA 90630

Any party to this Covenant may change its address or the individual to whose attention a Notice is to be sent by giving advance written Notice to all other parties in compliance with this paragraph.

7.4. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this

Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.5. Statutory References. All statutory or regulatory references include successor provisions.

7.6. Incorporation of Exhibits. All exhibits and attachments to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the Covenantor and the Department hereby execute this Covenant.

Covenantor: Kenfield Dev. LLC

By: Bijan Javaherian Bynjamil  
Print Name of Signatory  
Title: member  
Print Title of Signatory  
Date: 2/21/17

Department of Toxic Substances Control:

By: Mohsen Nazemi  
Print Name of Signatory  
Title: Deputy Director  
Print Title of Signatory  
Date: 3/24/17

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of ORANGE

On MARCH 24, 2017 before me,

KELLY S. LALIBERTE, NOTARY PUBLIC  
(space above this line is for name and title of the officer/notary),

personally appeared MOHSEN NAZEM, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,



Kelly S. Laliberte (seal)  
Signature of Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of LA

On FEB 22 2017 before me,

NOBUO HIRAKO NOTARY PUBLIC  
(space above this line is for name and title of the officer/notary),

personally appeared BIJAN JAVATHERIAN, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

[Signature] (seal)  
Signature of Notary Public



EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Los Angeles County Assessor Parcel Number 6358-019-005

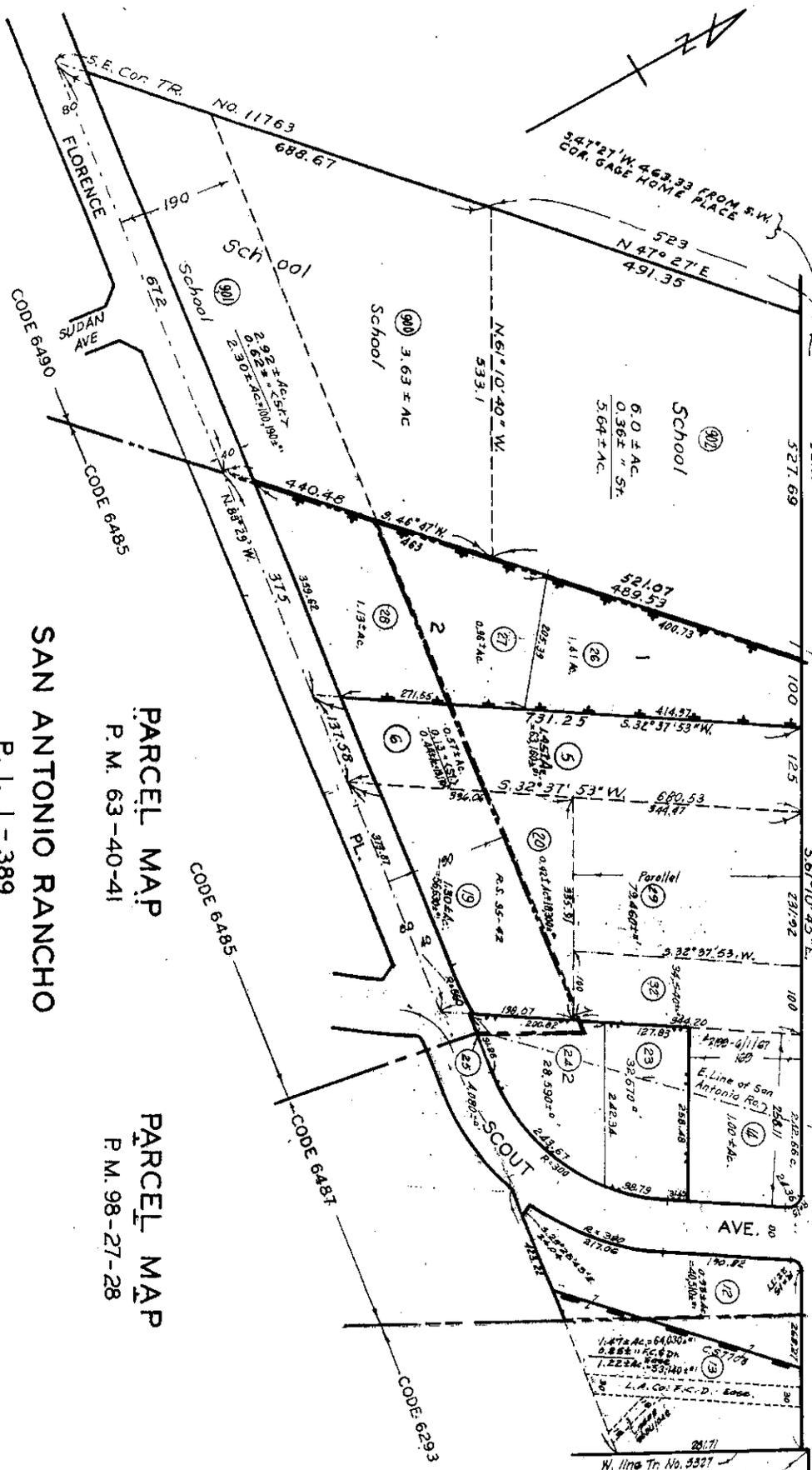
The real property in the City of Los Angeles, County of Los Angeles, State of California,  
described as follows:

\*TR=SAN ANTONIO RANCHO\*THAT POR OUTSIDE BELVEDERE  
GARBAGE DISP DIST OF LOT COM AT MOST E COR OF LOT 1 PM  
98-27-28 TH S 32°37'53" W 731.25 FT TH S 83°29'E 137.58 FT TH N  
32°37'53" E 680.53 FT TH N 61°10'45" W 125 FT TO BEG.

Commonly known as: Vacant Land

EXHIBIT B

PARCEL MAP FOR PARCEL NUMBER: 6358-019-005



SAN ANTONIO RANCHO

PARCEL MAP  
P. M. 63-40-41

PARCEL MAP  
P. M. 98-27-28

CODE  
6393  
6485  
6487  
6490  
FOR PREV. ASSMT. SEE:  
6358 - 19

RANCHO SANTA GERTRUDES  
FINALLY CONFIRMED TO J. P. McFARLAND & J. G. DOWNEY  
P. I. 156-158

ASSASSOR'S MAP  
COUNTY OF LOS ANGELES, CALIF.