



To: Jennifer Garcia, City Planner

From: Gustavo J. Ceballos, Assistant City Attorney

Approved By: Miriam Soler Ramos, City Attorney *MSR*

CC: Suramy Cabrera, Development Services Director
Hermes Diaz, Public Works Director

RE: Legal Opinion Regarding Scrivener's Error in Zoning Code – 3-706 Bulkheads and Retaining Walls

Date: August 17, 2022

During the normal course of business, our Public Works team identified a typo in the City's Zoning Code. Specifically, in Section 3-706. Bulkheads and retaining walls, subsection (C), it states the following:

“C. The minimum elevation of such bulkheads and walls shall be six (6) feet NAVD (North American Vertical Datum 1988), and shall structurally support seven and a half (7.5) feet.”

Based on discussions with the Public Works Director and the Resiliency and Sustainability Manager, it was determined that the code's references to NAVD (North American Vertical Datum 1988) was incorrect based on the City's prior vulnerability assessment which revised the code requirements for higher bulkheads and seawalls. Accordingly, the section listed above should read “NGVD (National Geodetic Vertical Datum 1929)”

The City Attorney has been granted express authority to take such action under Section 2-252(e)(9) of the City Code. Accordingly, please make the following administrative correction¹:

Section 3-706. Bulkheads and retaining walls.

C. The minimum elevation of such bulkheads and walls shall be six (6) feet ~~NAVD (North American Vertical Datum 1988)~~ NGVD (National Geodetic Vertical Datum 1929), and shall structurally support seven and a half (7.5) feet.”

¹ Deletions are indicated by strikethrough and insertions indicated by underline.