

Persson & Cohen, P.A.

Attorneys and Counselors At Law

David P. Persson
Andrew H. Cohen
Kelly M. Fernandez*
Maggie D. Mooney-Portale*
R. David Jackson
Regina A. Kardash

Telephone (941) 375-3565
Facsimile (941) 451-8375
Email: dpersson@swflgovlaw.com

* Board Certified City, County and Local Government Law

Reply to: *Venice*

July 6, 2016

The Honorable John W. Holic, Mayor
and Members of the City Council
401 West Venice Avenue
Venice, Florida 34285

Re: Status of Negotiations with Neal Communities Regarding
the Extraordinary Mitigation Fee (EMF)

Dear Mayor Holic and Council Members:

The purpose of this letter is to outline the status of discussions aimed at resolving the ongoing dispute with Neal Communities regarding collection and use of the Extraordinary Mitigation Fee (EMF).

Last year, Neal Communities questioned the legality of the City collecting the EMF as required by the pre-annexation agreements executed by previous landowners and the City prior to the City annexing the property. Neal Communities adopts the view that payment of the EMF is required in connection with a development order and is, therefore, an impermissible exaction. The City adopts the view that the EMF is a contractual obligation of the property owner, not in the nature of a development order, and is thus permissible.

In order to see if resolution of this disagreement is possible without litigation, City Council authorized and directed the City Manager and me to begin negotiations with representatives of

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

Venice
217 Nassau Street S.
Venice, Florida 34285

The Honorable John W. Holic, Mayor
and Members of the City Council
July 6, 2016
Page | 2

Neal Communities. In order to foster a frank and open dialog, it was agreed that the substance of these negotiations would not be made public.

Our first meeting occurred in September of last year. Based upon that session, another meeting occurred in February of this year. At that time, the City provided a framework to bring to Council for potential resolution. Neal Communities needed time to analyze the various options before responding to the City. Any agreed upon resolution of this matter will be brought back to City Council for a public meeting. Any changes to the current agreements will require City Council action.

Last month, we inquired as to the status of any response to the City's outline. I subsequently spoke with Mr. Boone. Attached is a letter I received from him today.

I intend to make a recommendation to you after I have had a chance to discuss this with City staff. In the meantime, if you have any questions, please telephone me.

Respectfully,



David P. Persson

DPP/dgb

Attachment

cc: Edward Lavalley, City Manager
Lori Stelzer, City Clerk
Jeff Shrum, Development Services Director
Jeffery A. Boone, Esquire
John Shubin, Esquire



LAW OFFICES
BOONE, BOONE, BOONE & KODA, P.A.
P. O. BOX 1596
VENICE, FLORIDA 34284

E.G. (DAN) BOONE
JEFFERY A. BOONE
STEPHEN K. BOONE
JOHN S. KODA

ESTABLISHED 1956

STREET ADDRESS:
1001 AVENIDA DEL CIRCO 34285
TELEPHONE (941) 488-6716
FAX (941) 488-7079
e-mail: adm@boone-law.com

JAMES T. COLLINS, LAND PLANNER
(NOT A MEMBER OF THE FLORIDA BAR)

July 5, 2016

VIA ELECTRONIC & REGULAR MAIL

David P. Persson
Persson & Cohen, P.A.
217 Nassau Street South
Venice, FL 34285

Re: Extraordinary Mitigation Fees

Dear Dave:

As you are aware, we represent Neal Communities in connection with its several Development properties in the City of Venice. We understand the City has recently requested an update from our client as to the various matters we discussed at our last meeting in connection with the Extraordinary Mitigation Fees ("EMFs"). We have discussed this with our client, and have the following update for the City. This letter follows and confirms the matters you and I have discussed the past few days.

First, and most importantly, Neal Communities continues to be very interested in reaching an agreement with the City that is acceptable to all parties involved. Due to the amount of EMFs at issue, however, there continues to be a sizeable amount of detail that remains to be reviewed and considered with respect to the different matters we have discussed. Said differently, with the amount of money at issue, it does not serve anyone's interest to rush through any possible way or ways of resolving the matters at issue.

It should be obvious to all involved that with the amount of development yet to be undertaken on the property owned by our client in the City, there is no risk that all the Neal communities will be built-out in a few months while the EMF issue remains unresolved. Moreover, and we believe this is a fundamental matter to be kept in mind as we move forward to resolve the issues, our client has continued to pay each EMF, although under protest, when due. The City, therefore, has the disputed funds in-hand, and consequently there is no risk that Neal Communities can complete development in the City and leave the City empty-handed in this regard.

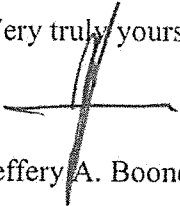
David P. Persson
July 5, 2016
Page 2

On the other hand, there is sizeable risk that if parties do not take the time to fully explore and understand the various possible ways the issues could be resolved, opportunities could be missed that could otherwise lead to a resolution of the EMF issues to the satisfaction of all involved.

Again, Neal Communities is very appreciative of the fact the City has continued to work with it to find solutions to the issues we are facing. We and our client look forward to working with City representatives on all of those possible solutions.

If you have any questions, please do not hesitate to contact me.

Kind regards.

Very truly yours,

Jeffery A. Boone

JAB

cc: Neal Communities

B192-15210/LtrPersson07.05.16