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Reply to: *Venice*

February 23, 2016

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

Re: Vested Rights Determinations

Dear Mayor Holic and Council Members:

Since the hearing presently scheduled before you for March 8th is the first Vested Rights Determination that Council will be called upon to make, I thought it might be helpful to discuss the intent and requirements of the vested rights process.

A vested rights determination is designed to allow City Council to hear and resolve disputes that would otherwise be required to go to court. Absent a vested rights process, any alleged right that was not absolutely clear would require a law suit and court determination. A vested rights determination process is intended to allow the City Council to make a decision based upon the legal standard and evidence.

Section 86-48 (a) and (b) provide the legal standard. The applicant has to demonstrate that there was some act (or non-act) of government that the applicant relied upon in good faith. Based upon this reliance, the applicant incurred such a substantial change in position or incurred such extensive obligations and expenses that it would be unjust to deprive the applicant of the right.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

Venice
217 Nassau Street S.
Venice, Florida 34285

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At a vested rights hearing, you will hear evidence whether there was: 1) some act of government, 2) upon which the applicant reasonably relied in good faith such that 3) it would be unfair or unjust to deprive the applicant of the right.

An applicant cannot rely upon an erroneous act of the City that the applicant could have discovered. Also a vested right can be denied when there is a new danger to the health, safety and welfare of the citizens that has arisen since the governmental entity did the act upon which the applicant based the vested right.

If a vested right is granted, the property is treated as a legal non-conforming use. In the context of resort dwellings, the property must still meet all of the requirements of Section 86-151 as well as the fire and life safety codes and state law.

I hope that this has been of some assistance. I'd be pleased to discuss this with you should you have any questions or would like further elaboration.

Respectfully,

A handwritten signature in black ink, appearing to read 'David P. Persson', with a large, sweeping flourish above the name.

David P. Persson

DPP/dgb

cc: Edward Lavalley, City Manager
Jeff Shrum, Development Services Director
Lori Stelzer, City Clerk