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July 2, 2019

SENT VIA ELECTRONIC MAIL & HAND DELIVERY
citycouncil@venicegov.com

Mayor John Holic and Members of Venice City Council
Venice City Hall
401 West Venice Avenue
Venice, Florida 34285

Re: Murphy Oaks; July 9, 2019, City Council Meeting;
Request for Continuance

Dear Mayor Holic and Members of Venice City Council:

As you are aware, we represent Fox Lea Farm, Inc., operator of a large equestrian facility in Venice across Fox Lea Drive from the proposed Murphy Oaks development. Please accept this letter, on behalf of our client, as a formal request for continuance of the Murphy Oaks agenda item from the July 9, 2019, City Council meeting.

As you will recall, Fox Lea Farm was determined by Council to be an Affected Party in both of the two previous rezoning public hearings for the Murphy Oaks development. As an Affected Party, Fox Lea Farm was entitled to full party status in the proceedings. We are not certain if the Murphy Oaks agenda item will be considered to be a further public hearing of the most recent quasi-judicial rezoning matter before City Council (which resulted in a denial of the rezoning application at the November 28, 2018, City Council meeting), or by contrast, if the agenda item will be considered a new quasi-judicial matter.

Regardless of the status of the quasi-judicial matter, Fox Lea Farm either is presently an Affected Party, or will again be afforded Affected Party status and therefore entitled to make this continuance request. (There has been no change in the law, or to any facts or circumstances relating to Fox Lea Farm and Murphy Oaks that would lead to any reasonable conclusion that Fox Lea Farm would not be afforded Affected Party status if such has to be re-established for the July 9th agenda item).

The basis for this request is the fact that as of the end of the day yesterday, none of the new documents related to the agenda item have been made available for review by us, our client or the public. The July 9th City Council meeting is in essence less than one week away, as the July 4th holiday is between today and July 9th. According to what we have been told, the agenda item will be for the approval of a settlement agreement between the City and Murphy Oaks, as a result of mediation between the parties since the denial of the rezoning application, and consideration of the rezoning ordinance on first reading.

Even if *all* the documents would be available for the *first time* today, the fact that the documents have not been available for review at this late date is highly prejudicial to Fox Lea Farm, its consultants and attorneys, as it has and will continue to deny our client its right to be fully prepared for the public hearing. Among other matters, the delay in providing the new documents has denied Fox Lea Farm its rights to due process afforded to it as an Affected Party to the quasi-judicial proceeding.

While we will not know for certain what the new documents will be for the July 9th public hearing (until they are made available), we believe they will include:

1. A revised application, including but not limited to development standards set forth therein;
2. A revised binding Master Development Plan, including revised landscape plans, in addition to other plans;
3. A Report, Order, etc., from the Special Magistrate;
4. A new Ordinance, with potentially numerous important details relative to the proposed development, including stipulations and other matters;
5. A Developers Agreement with the City, which also could contain numerous important matters; and
6. Other documents (potentially).

Obviously, there are numerous important documents which are important parts of the public hearing process that require review and analysis by our clients and the public, both to understand the new proposal, the proposed settlement terms and conditions and the potential impacts to Fox Lea Farm and the public. To allow less than one week to review same and prepare responses thereto is a clear denial of our client's due process rights.

This is especially egregious when it is noted that the mediation process between the City and Murphy Oaks commenced (pursuant to the process contained in F.S. Chpt. 70.51) on December 20, 2018, which was over 6 months ago. Moreover, the last mediation session between the City and Murphy Oaks was held on May 22, 2019, which was 6 weeks ago. Even if *all* the documents are made available today for the *first time*, there are only 4 business days left before the public hearing.

Additionally, the legal ad for the July 9th City Council meeting ran in the local newspaper on June 22nd, which was 10 days ago. To have known that there was an agreement for settlement between the City and Murphy Oaks prior to June 22nd (the ad would have been prepared for publication prior to the publication date), but to not have any new documents available for review by Affected Parties and the public until – at the earliest - no more than four (4) business days before the public hearing, amounts to a total violation of Fox Lea Farm's due process rights.

A continuance of the July 9, 2019, public hearing will not be prejudicial to Murphy Oaks or the City, as the delay would mean a potential second and final reading of the rezoning ordinance on September 10, 2019, rather than on August 27, 2019, – a difference of two weeks. By contrast, denying this continuance request and allowing the public hearing to go forward on July 9th would be highly prejudicial to Fox Lea Farm.

Everyone involved should be mindful that the Standard of Review when City Council decisions are appealed to Circuit Court is a three-part test, of which affording due process is one. To not provide an Affected Party a reasonable amount of time to review newly-submitted documents to be presented at the City Council public hearing on July 9th – documents upon which all or a significant portion of the City Council decision will be based upon – would be highly prejudicial and a clear violation of our Fox Lea Farm's due process rights.

In summary, it seems as if there has been a rush by Murphy Oaks to make the July 9th City Council meeting, so much so that they have not had time to provide the necessary documents to the City and the public. Under these circumstances, our client and the public should not have to suffer negative consequences just because the applicant is in a rush.

For the reasons set forth above, and on behalf of our client, we respectfully request that the Murphy Oaks agenda item set for the July 9, 2019, City Council agenda, be continued until our

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client and the public have had a reasonable opportunity to review the new documents for the public hearing and an opportunity to prepare responses thereto.

Thank you for your attention to our request.

Kind regards.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Jeffery A. Boone', written over the closing 'yours,'.

Jeffery A. Boone

jab

cc: Ed Lavallee, City Manager (via email only)
Lori Stelzer, City Clerk (via email only)
Jeff Shrum, Development Services Director (via email only)
Kelly Fernandez, City Attorney (via email only)
Robert Lincoln, Esquire (via email only)
Richard, Ulrich, Esquire (via email only)

F109-16449/LtrMayorCCMembers07.02.19

From: [Jeffery A. Boone](#)
To: [City Council](#)
Cc: [Edward Lavallee](#); [Lori Stelzer](#); [Jeff Shrum](#); [Kelly Fernandez - Persson, Cohen & Mooney](#); [Robert Lincoln](#); [Richard Ulrich](#); [Annette Boone](#); [Jackie Griese](#); [Lee Fosco](#)
Subject: Murphy Oaks - July 9 City Council Meeting
Date: Tuesday, July 2, 2019 12:00:40 PM
Attachments: [Request for Continuance.pdf](#)

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Mayor Holic and City Council Members:

Attached please find my letter to you of today's date.

Regards,

Jeff Boone

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