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LV CITY ATTORNEY

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Brad Jerbic

From: Brad Jerbic
Sent: Tuesday, August 02, 2005 1:48 PM
To: Doug Selby
Cc: Betsy Fretwell; Scott Adams; Charlie Kalkowski; Steve Houchens
Subject: FW: Supplement for golf course transaction

This office will review your suggested conditions, but I cannot say that legal agrees with this solution. First, We know have two reports from professional engineers that conclude that there are significant impacts associated with the release of the deed restriction, including matters related to hazardous materials governed by federal law. Second, I do not agree that the purchaser should select another engineer, since the purchaser is highly motivated to select an engineer that will produce the answer they want. This is our problem. It ought to be our engineer under contract with the City. (Again, we already have two, why do we need three?) Finally, I do not know that the City can enforce these conditions should the purchaser not perform. For these reasons, this office cannot sign off on the Supplemental Conditions of Release of Deed Retraction for Foyal Links.

—Original Message—

From: Tom Green
Sent: Tuesday, August 02, 2005 10:17 AM
To: Brad Jerbic
Subject: FW: Supplement for golf course transaction

Brad—Here is a request I received from doug Selby. This was modified somewhat in the next message to follow. I will also forward my reply.

—Original Message—

From: Doug Selby
Sent: Tuesday, August 02, 2005 8:55 AM
To: Betsy Fretwell; Tom Green; Scott Adams; Steve Houchens; Charlie Kalkowski; David L. Mendenhall
Subject: Supplement for golf course transaction

The attachment is a short list of conditions that I will recommend to the City Council should they elect to move forward with the sale of the deed restriction on the Royal Links GC. Please give me any comments, suggestions, changes ASAP. I need to share this with the Walters people by noon today.



golf club agree1.rtf

Supplemental Conditions for Release of Deed Restriction at Royal Links

The Release of Condition shall be subject to completion of the following at Golf Club's sole cost:

IMPACT ASSESSMENT: Golf Club shall complete engineering studies to assess the impacts of residential development on the operations of the WPCF. These studies must consider present operations as well as operations under future likely expansion scenarios for the WPCF.

Such studies will be conducted by a licensed professional engineer with specific expertise in the areas of wastewater treatment plant design and operations. The engineer must be acceptable to the City. Specific impacts to be assessed include the following:

A. Present and future potential for odor emissions and complaints from residents who will reside in the proposed residential development.

B. Present and future regulatory impacts to the WPCF which may occur as a result of the proposed residential development.

C. Present and future issues associated with the generation, storage, use and disposal of hazardous materials present at the WPCF that may arise as a direct result of the proposed residential development. This assessment must include a hazard analysis in accordance with EPA regulations and an updated Risk Management Plan based upon the reduction of the current buffer provided by the golf course.

D. An assessment of the impact of the proposed development on flood protection for the WPCF.

MITIGATION PLAN: Golf Club shall prepare mitigation plans for all adverse impacts identified in the impact assessment. Plans shall be prepared by a licensed professional engineer with specific expertise in the areas of wastewater treatment plant design and operations. The engineer must be acceptable to the City. Buffer zones, walls, berms, vegetative barriers, changes to plant operations, changes to plant facilities and other measures shall be considered as necessary to mitigate adverse impacts. To the extent that these plans modify the current proposed wall and setback easement, the mitigation plan recommendations shall govern.

PEER REVIEW: Golf Club shall convene a peer review panel of three engineering firms to evaluate the impact assessment and recommended mitigation plans. The engineer that prepared these plans shall not be a member of the peer review panel. The panel shall provide a statement

regarding the adequacy of the assessment and mitigation plans. If the plans are determined to be inadequate they shall be modified and presented for additional review.

IMPLEMENTATION OF MITIGATION: Prior to occupancy of any homes Golf Club shall have implemented all recommended mitigation measures.

DISCLOSURE AND ODOR EASEMENTS: Golf Club and its successors shall disclose to all home owners associations and home buyers that a municipal wastewater treatment plant exists in the vicinity and that this facility may on occasion be the source of odors. In addition, all purchasers must execute an odor easement in favor of the City in which they acknowledge that noticeable odors arising from operation of the WPCF may cross their property. The odor easement must be of the form attached.