



TOWN OF FAIRFAX

STAFF REPORT

August 7, 2019

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Discuss the Residents' Petition submitted per Town Code, for Town to sue Resources for Community Development for breach of contract.

RECOMMENDATION

Discuss the petition and direct staff as appropriate.

DISCUSSION

On July 17, 2019, a resident petition was submitted to the Town for the Council's consideration. Pursuant to Fairfax Municipal Code Section 2.08.090 (C), if the Council is presented with a petition signed by 25 residents urging consideration of an issue, the issue shall be placed on the Council's agenda for discussion. The petition has the required 25 signatures and is on file with the Deputy Town Clerk. A copy of the petition is attached.

The petition concerns the acquisition of an 18 acre parcel at Victory Village. The petition states that the RCD, the developer of the Victory Village affordable senior housing project, promised to donate the 18 acres from Victory Village to the town. Since this was never completed and RCD listed the 18 acres as two lots for sale, the petition requests that the Town Council of the Town of Fairfax direct the Town Attorney to pursue a lawsuit against Resources for Community Development for breaching a verbal contract. The petition also requests for a judge to block the sale of the two lots while the case is being considered.

It should be noted that the October 3, 2018 Council meeting to approve the final parcel map for the project, RCD indicated to the Council that due to significant increases in construction costs and less than anticipated award of state and federal tax credits, RCD will need to sell the two parcels to fund the project. Back in May 2017, RCD had originally hoped it would be able to secure additional grant funding to allow RCD to donate the two 9-acre parcels to the Town.

In-lieu of a donation, staff worked with RCD to secure a 20-ft public access easement which leads to a 150-ft public access easement along the northern ridgeline of the property. The estimated acreage of the easement is between 2-3 acres.

FISCAL IMPACT

n/a

ATTACHMENT

Petition

Petition to the Fairfax Town Council July 2019

Since it is a town ordinance that any petition to the Town Council with at least 25 signatures must be considered by the TC, we the following Fairfax residents state:

RCD, the developers of Victory Village, promised the Town of Fairfax in an open meeting that they would donate the 18 back acres at the VV site to the town, and Alicia Klein, their Associate Director of Housing Development and representative to the Town that evening, as recorded on official Town video further stated that the town attorneys and RCD attorneys should should draw up the legal papers to do so. Further, this promised donation of the 18 acres contributed to the final approval of the project Though for reasons unknown to the public, this didn't happen, it still consitutes a legally binding and enforceable verbal contract. RCD then renege on the promise and has listed the 18 acres as two lots for sale thru Golden Gate Sotheby's International.

We town residents therefore request that the Town Council immediately direct the Town attorneys to sue RCD for breach of contract, and to ask a judge that the sale of said properties be blocked while the case is being considered.

The town has one year in which to file this case upon learning that RCD renege upon the agreement. Why the attorneys didn't fill out the papers initially, and haven't subsequently filed a case is also a puzzle which we would like explained. They are well paid.

It is not the job of the Town of Fairfax to make RCD financially whole. It is the job of Fairfax to make sure that these significant representations to the town are realized.

Therefore we direct the TC and attorneys to institute a lawsuit post haste, before the one year is up, and to file an injunction against the sale post haste.

Fairfax residents:

- 1) Name Stephen Wilde Address 187 Meernag, FX
- 2) Name Miriam Kleinstein Address 7 Oak Tree Ln #4, FX
- 3) Name G. Staacke Address 2555 SED Blvd, FX
- 4) Name Lynette Car Hon Address 14 Aureo Way, Fairfax
- 5) Name Ryan Gurley Address 80 Rocca Drive, FX
- 6) Name GREG ANSEL Address 120 SCHOOL ST. 8C FX
- 7) Name DAND SPAMPANATO Address 3250 SIR FRANCIS DEAKE FX
- 8) Name Marsha van Gelder Address 5 Scenic Road FX

Petition to the Fairfax Town Council July 2019

Since it is a town ordinance that any petition to the Town Council with at least 25 signatures must be considered by the TC, we the following Fairfax residents state:

RCD, the developers of Victory Village, promised the Town of Fairfax in an open meeting that they would donate the 18 back acres at the VV site to the town, and Alicia Klein, their Associate Director of Housing Development and representative to the Town that evening, as recorded on official Town video further stated that the town attorneys and RCD attorneys should should draw up the legal papers to do so. Further, this promised donation of the 18 acres contributed to the final approval of the project Though for reasons unknown to the public, this didn't happen, it still consitutes a legally binding and enforceable verbal contract. RCD then reneged on the promise and has listed the 18 acres as two lots for sale thru Colden Gate Sotheby's International.

We town residents therefore request that the Town Council immediately direct the Town attorneys to sue RCD for breach of contract, and to ask a judge that the sale of said properties be blocked while the case is being considered.

The town has one year in which to file this case upon learning that RCD reneged upon the agreement. Why the attorneys didn't fill out the papers initially, and haven't subsequently filed a case is also a puzzlet which we would like explained. They are well paid.

It is not the job of the Town of Fairfax to make RCD financially whole. It is the job of Fairfax to make sure that these significant representations to the town are realized.

Therefore we direct the TC and attorneys to institute a lawsuit post haste, before the one year is up, and to file an injunction against the sale post haste.

Fairfax residents:

Name	<u>Kathy Flores</u>	Address	<u>14 Claus Circle</u>
Name	<u>Stan Kowalski</u>	Address	<u>12 12cell Ct.</u>
Name	<u>Ed Tilton</u>	Address	<u>14 Claus Circle</u>
Name	<u>Connie Stegert</u>	Address	<u>81 - SAN GABRIEL DR</u>
Name	<u>Monica Stegert</u>	Address	<u>81 San Gabriel Dr.</u>
Name	<u>Joe Stegert</u>	Address	<u>81 San Gabriel Dr.</u>
Name	<u>Mah Stegert</u>	Address	<u>81 SAN Gabriel Dr.</u>
Name	<u>Bonnie Leonard</u>	Address	<u>73 Dominga Ave, Fairfax</u>
Name	<u>Valeri D. Howard</u>	Address	<u>79 Dominga Ave, Fairfax</u>

CA

PETITION TO THE FAIRFAX TOWN COUNCIL JULY 2019

Since it is a town ordinance that any petition to the Town Council with at least 25 signatures must be considered by the TC, we the following Fairfax residents state:

RCD, the developers of Victory Village, promised the Town of Fairfax in an open meeting that they would donate the 18 back acres at the VV site to the town, and Alicia Klein, their Associate Director of Housing Development and representative to the Town that evening, as recorded on official Town video further stated that the town attorneys and RCD attorneys should should draw up the legal papers to do so. Further, this promised donation of the 18 acres contributed to the final approval of the project Though for reasons unknown to the public, this didn't happen, it still consititutes a legally binding and enforceable verbal contract. RCD then reneged on the promise and has listed the 18 acres as two lots for sale thru Golden Gate Sotheby's International.

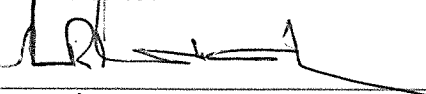


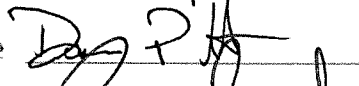
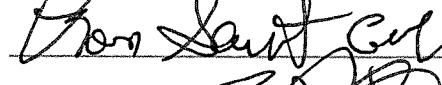

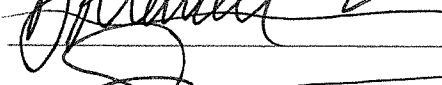

We town residents therefore request that the Town Council immediately direct the Town attorneys to sue RCD for breach of contract. and to ask a judge that the sale of said properties be blocked while the case is being considered.

The town has one year in which to file this case upon learning that RCD reneged upon the agreement. Why the attorneys didn't fill out the papers initially, and haven't subsequently filed a case is also a puzzlet which we would like explained. They are well paid.

It is not the job of the Town of Fairfax to make RCD financially whole. It is the job of Fairfax to make sure that these significant representations to the town are realized.

Therefore we direct the TC and attorneys to institute a lawsuit post haste, before the one year is up, and to file an injunction against the sale post haste.

Fairfax residents:

Name		Address	12 Shadow Creek Court Fairfax
Name		Address	12 Shadow Creek Ct Fairfax
Name		Address	2 Claus Circle Fairfax
Name		Address	2 claus circle FAIRFAX, CA.
Name		Address	22 Spruce Rd FAIRFAX CA
Name		Address	62 Laura Ln. FAIRFAX, CA.
Name		Address	30 Ray CT SAN RAFAEL
Name		Address	30 Ray Ct, San Rafael, CA

PEITION TO THE FAIRFAX TOWN COUNCIL JULY 2019

Since it is a town ordinance that any petition to the Town Council with at least 25 signatures must be considered by the TC, we the following Fairfax residents state

RCD, the developers of Victory Village, promised the Town of Fairfax in an open meeting that they would donate the 18 back acres at the VV site to the town, and Alicia Klein, their Associate Director of Housing Development and representative to the Town that evening, as recorded on official Town video further stated that the town attorneys and RCD attorneys should ~~should~~ draw up the legal papers to do so. Further, this promised donation of the 18 acres contributed to the final approval of the project. Though for reasons unknown to the public, this didn't happen, it still constitutes a legally binding and enforceable verbal contract. RCD then reneged on the promise and has listed the 18 acres as two lots for sale thru Golden Gate Sotheby's International.

We town residents therefore request that the Town Council immediately direct the Town attorneys to sue RCD for breach of contract, and to ask a judge that the sale of said properties be blocked while the case is being considered.

The town has one year in which to file this case upon learning that RCD reneged upon the agreement. Why the attorneys didn't fill out the papers initially, and haven't subsequently filed a case is also a puzzle which we would like explained. They are well paid.

It is not the job of the Town of Fairfax to make RCD financially whole. It is the job of Fairfax to make sure that these significant representations to the town are realized.

Therefore we direct the TC and attorneys to institute a lawsuit post haste, before the one year is up, and to file an injunction against the sale post haste.

Fairfax residents:

- Name Peter Anderson Address 19 Claus Dr. FAIRFAX
- Name Evan ... Address 19 Claus Dr. Fairfax
- Name BERT BARRACH Address 79 DOMINGA AVE FX
- Name Elizabeth Bell Address 63 Dominga ave FX
- Name Mark S Bell Address 63 DOMINGA AVE FX
- Name Arnold ... Address 77 Dominga Ave, Fairfax
- Name ... Address 77 Dominga Ave, Fairfax

Resolution of the Fairfax Board of Supervisors July 2017

WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

AND WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program" and the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

AND WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program" and the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

AND WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program" and the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

AND WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program" and the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

AND WHEREAS, the Board of Supervisors has approved the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program" and the "Fairfax County 2017-2020 Strategic Plan" and the "Fairfax County 2017-2020 Capital Program";

(JOAN KLOEHN)

- Joan Kloehn 85 Dominga - Fairfax x 94930
- Mark Woodrow 81 Dominga Ave, Fairfax, CA 94930
- Eric Woodrow 81 Dominga Avenue, Fairfax, CA 94930
- Stephanne Burns 28 Mountain View Rd, Fairfax CA 94930