

PRIORITY

OBTAIN DESCRIPTION

GEORGE VALDIVIA

7330 Owens Court
Hollywood, Florida 33024

Telephone 786-236-0992

April 11, 2016

Mayor Peter Bober
City of Hollywood
2600 Hollywood Blvd.
Hollywood, Fl. 33021

Michael Crowley
Dist. Mgr.
Ctrl. Broward Water Control Dist.
8020 Stirling Road
Davie, Fl. 33024

Mayor Martin David Kiar
Broward County
115 S. Andrews Avenue Room #417
Fort Lauderdale, Fl. 33301

HOLLYWOOD FLORIDA
APR 11 2016 AM 7:55
NEW

*KV 4/11/16 1:30 pm
4/11 2:05 pm*

**Re: Notice sent pursuant to Fla. Stat. 70.001, a/k/a Bert J. Harris Jr.,
Private Property Rights Protection Act**

Mayor Peter Bober,
Michael Crowley Dist. Mgr., Ctrl. Broward Water Control Dist.,
Mayor Martin David Kiar, Broward County :

This letter is being sent to the City of Hollywood, Central Broward Water Control Dist. and Broward County by George Valdivia and Luis Valdivia pursuant to Fla. Stat. 70.001 which is known as the "Bert J. Harris Jr., Private Property Rights Protection Act". The statute, in subsection (4) says that notice should be sent to "the head of the governmental entity," in addition Fla. Stat. 70.001 (11) states " If an owner seeks relief from the governmental action through lawfully available administrative or judicial proceedings, the time for bringing an action

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under this section is tolled until the conclusion of such proceedings. As you know our appeal in the 4th DCA has concluded, therefore I'm delivering the claim to you on behalf of the City of Hollywood, Central Broward Water Control Dist. and Broward County respectively.

We believe that, we have a valid claim against the City of Hollywood under Fla. Stat. 70.001. Fla. Stat. 70.001(2) provides that

[w]hen a specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property, the property owner of that real property is entitled to relief, which may include compensation for the actual loss to fair market value of the real property caused by the action of the government, as provided in this section.

As you know, on June 23, 1998 George and Luis Valdivia purchased a vacant track of land in Hollywood and platted the land into Phase I and Phase II in accordance with Hollywood's requirements in order to construct single family homes upon the lots and then sell the constructed homes for a profit. The property now consists of a residential *cul de sac* known as Owens Court together with 3 houses that comprise Phase I located directly on N 74th Avenue in Hollywood. Phase I used existing infrastructure for the first 3 homes.

Originally we presented a 20 lot layout site plan that matched the development immediately to the east adjacent to our property which was in full compliance to the City's Comprehensive Plan. Unfortunately the Subdivision Review Committee did not agree with our 20 lot layout site plan and recommended a 75'x80' lot size site plan layout that would yield 21 lots on our parcel, after configuring the 21 lot site plan layout it was then presented it to the SRC and after preliminary meetings the SRC agreed with the 21 lot layout site plan. We then proceeded to build the first house in accordance with the 21 lot site plan so that we could generate funds to plat the property, the plan as approved by the SRC was to build the subdivision in two phases, Phase I would have 7 houses fronting on Farragut Street which is adjacent to the south property line of our property followed by Phase II that consisted of a new street entering from N 74th Avenue ending in a cul-de-sac and would have 7 new houses on each side.

After the completion of the first house we returned to the City and resubmitted the 21 lot layout site plan to the SRC, but this time the SRC refused to consider the 21 lot layout site plan, the SRC would not issue any written

recommendation approving or denying the 21 lot layout site plan, contrary to the requirements of the City's Comprehensive Plan, this action by the City clearly inordinately burdened an existing use of real property and/or our vested right to a specific use of real property pursuant to Fla. Stat. 70.001(2). We then reconfigured the site plan lot layout and we settled with a 17 lot layout site plan, the only one the SRC would agree with and proceeded with our development, this gave us 3 lots in Phase I and 14 lots in Phase II. The SRC's refusal to allow us to plat the 21 lot site plan layout they had previously approved had a negative effect on our investment backed expectations, it cost us 4 lots which is approximately \$250,000 loss of investment backed expectations.

After the 17 lot layout was agreed to with the SRC we hired Charles O. Buckalew P.E. as our engineer to design and provide approved plans for our infrastructure known as the Paving and Grading Plan including storm drainage, water distribution system, sewer plan etc.. During the approval process of the PGD Plan the City requested the engineer of record redesign and relocate two catch basins located in front of lots 13, 14 and moved west to the corner of the new road Owens Ct. and N 74th Avenue. This redesign would later turn out to be devastating to the development of property and our investment backed expectations. After the redesign and approval of the PGD Plan we proceeded to plat and built out Phase I.

After we had received all the approvals from all the appropriate agencies for our Phase II plat and while during the construction of the infrastructure but before the completion of the drainage system the City of Hollywood issued a letter to Broward County stating that all the infrastructure had been bonded, (Landowners never issued or purchased a bond for the improvements) with that Broward County certify that the Valdivia Plat Phase II was in complete compliance with the Broward County Development Code and proceeded to record the Valdivia Plat Phase II even though the drainage system had not been completed or certified and the bond for the infrastructure claimed by the City did not exist, in violation of Broward County Development Code. The City used the changes to the original storm drainage redesign and the recording of the Valdivia Plat Phase II in a convoluted scheme to deny us of our right to complete our development by refusing to issue certificates of occupancy on completed homes due to the issues the City created with our drainage system design and costing us our investment backed expectations, detailed herein.

While in the process of constructing the residential homes in Phase II, on September of 2005 during the review of the as-built plans for the drainage system the Central Broward Water Management District notified and required that we

construct a permanent berm in the form of a speed bump across Owens Court to retain storm water on site, in order to comply with the Districts Code, even though the District had approved our PGD Plan without a speed bump. We then complied with this request on October 10, 2005 at a cost of approximately \$6,000. Thereafter, we applied to the City of Hollywood for an approval of the "as-built" Paving Grading and Drainage plan as submitted to the District and requested the City's approval. Rather than accepting the "as-built" plan, the City refused to approve the "as-built" plan stating that the speed bump was built without a permit, that the right of way could not be used as a storm water retaining area and that it created a safety hazard. The City on January 6, 2006 then ordered that the speed bump be removed and refused to issue a certificates of occupancy on a completed house on lot 14 and lot 2 in Phase II, in addition the City informed us that the City of Hollywood would not sign off on a certificate of occupancy for lot 14 and lot 2 until certain conditions related to the speed bump were met. Specifically, the city stated in an email that a certificate of occupancy would not be issued for lot 14 until we provided a letter to the City stating that the speed bump was unsafe and acknowledged that the speed bump would be removed within 90 days. The City went on to state that it would not issue another Certificate of occupancy for any of the other lots owned by us until the speed bump issue was resolved.

We then hired legal counsel Mr. Brad Beilly P.A. to resolve the issues with the PGD Plan drainage system, after meetings with the City of Hollywood engineer, the City engineer refused to consider any other method of resolution other than removing the speed bump, which was contrary to the Central Broward Water Control District code requirement and their engineer's requests. Ultimately we were forced to obtain a variance from the District that allowed the speed bump to be removed. The variance was not obtained until December 13, 2006. However, even subsequent to the removal of the speed bump, the City of Hollywood still refused to issue certificates of occupancy and even demanded that the speed bump be placed back on Owens Court (this was requested after the City engineer met with the District Manager Mr. Michael Crowley). We were then forced to expend more attorney fees to file a Petition for Writ of Mandamus directed to the City, after the Court issue a Notice to Show Cause the City finally relented and issued the certificates of occupancy for the two houses that were now completed and waiting for final inspections and certificates of occupancy, after further negotiations counsel for the City, on March 8, 2008, wrote a letter stating that the speed bump issue was finally resolved.

While the City of Hollywood took issue with Central Broward Water Control District's requirement of the construction of a berm on Owens Court to

retain water, this issue should not have been used to halt our ability to complete and construct houses on our property. During the 16 month period of inactivity caused by the City, we were unable to capitalize on the heightened real estate values as it was impossible for us to obtain any certificates of occupancy for any of our homes. The City's actions clearly constitute an "inordinate burden" pursuant Fla. Stat. 70.001, in addition the City's actions implicate Broward County by their recording of the Phase II plat without having the drainage system completed and certified prior to recording our Phase II plat, in addition to not securing a bond for the completion of the improvements, as well as Central Broward Water Control District for approving the PGD Plan drainage system, knowing that it would not meet the District's code, these actions by all three governmental entities are all responsible in some part for the inordinate burden to our property.

With respect to determining the damages I'm entitled to recover from the governmental entity or entities, Fla. Stat. 70.001(6)(b) states that

[t]he award for compensation shall be determined by calculating the difference in the fair market value of the real property, as it existed at the time of the governmental action at issue, as though the owner had the ability to attain the reasonable investment-backed expectation or was not left with uses that are unreasonable, whichever the case may be, and the fair market value of the real property, as it existed at the time of the governmental action at issue, as inordinately burdened, considering the settlement offer together with the statement of allowable uses, of the governmental entity or entities.

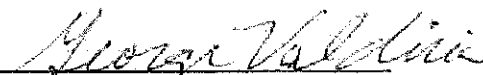
To this end, enclosed is a packet that provides the relevant fair market values of the eight subject lots by way of appraisals of each of the lots. Specifically, the enclosed packet provides the fair market value of each of the eight lots had we not been inordinately burdened by the City and had been able to complete the construction of the homes and sell same as planned. These values represent the fair market value of each of the eight lots with the planned home constructed upon them during the time period of 2006-2007. The combined fair market value of the eight lots during this period would have been \$3,040,311. That is, if the City of Hollywood would not have improperly and unjustifiably refused to issue certificates of occupancy for the eight lots, we would have constructed homes on the lots and then sold the eight lots for a combined amount of \$3,040,311. As the lots sat there during this time period due to the inordinate burden, their actual cost of the eight lots was \$ 197,216.00


Using these two values alone, Fla. Stat. 70.001 (6)(b) requires that the damages be determined by subtracting \$ 197,216.00 from \$3,040,311 which yields \$ 2,843,095. However, as we were unable to construct the houses, we did not have to spend the \$90,000 per house in construction costs which totals \$720,000.00, subtracting that from the 2,843,095 leaves \$2,123,095. At the same time, we were forced to pay carrying cost of the eight lots since 2006-2007 and that amount currently totals \$383,307.00 Adding \$383,307.00 yields a total of \$2,506,402 which is the amount of our claim for Phase II, The loss of the 4 lots in Phase I amount to \$250,532, this brings the total amount of our claim to \$2,756,934. This is the amount of my claim under Fla. Stat. 70.001. All of these numbers are explained and calculated in detail in the detail in the enclosed packet.

This claim is against the City of Hollywood, with respect to Broward County and Central Broward Water Control District, Fla. Stat. 70.001(4)(a) states that"...The property owner must submit, along with the claim, a bona-fide, valid appraisal that supports the claim and demonstrates the loss in fair market value to the real property. If the action of government is the culmination of a process that involves more than one governmental entity, or if a complete resolution of all relevant issues, in the view of the property owner or in the view of a governmental entity to whom a claim is presented, requires the active participation of more than one governmental entity, the property owner shall present the claim as provided in this section to each of the governmental entities. In addition 70.001(6) (a) states".....,the court shall determine the percentage of responsibility each such governmental entity bears with respect to the inordinate burden...."

If you have any questions regarding the appraisal values of the eight lots or the materials provided, do not hesitate to contact me. We believe you will find that the appraisal values are reasonable.

Very truly yours,


George Valdivia


Luis Valdivia