



October 26, 2023

Ashley Foster, Acting District Manager  
Central Broward Water Control District  
8020 Stirling Road  
Hollywood, FL 33024

Re: Release: Sierra Ranch  
Applicant: Lennar Homes LLC  
Bank: Fidelity LOC #s FGAC-19503 & FGAC-19504  
Amount: \$3,639,538.10 & \$4,579,462.80  
Appellant: Sunil Menon

**APPEAL OF INTERPRETATION OF DISTRICT CRITERIA & DISTRICT  
ENGINEER'S APPLICATION OR INTERPRETATION OF DISTRICT CRITERIA**

Dear Acting District Manager Foster:

Please accept this correspondence as Mr. Sunil Menon's appeal of the District's interpretation of District Criteria with respect to the District Commissioners' approval of the above referenced bond releases, pursuant to CBWCD Regulations, Standards, Procedures and Design Criteria ("Criteria"), Section 7.03.

**APPEAL OF INTERPRETATION OF DISTRICT CRITERIA**

As you know, a number of Sierra Ranches residents opposed the decision to release 90% of these bonds, due to their independent engineer's findings that raise material questions as to the construction quality of the wetlands in the Sierra Ranches community. Their engineer's findings and the residents' subsequent attempt to meaningfully present their findings to the District Commissioners unveiled a glaring error in CBWCD's procedures and the Board's interpretation of its Criteria. It is important that this error be corrected for this matter and for future bond release applications.

At the October 25, 2023 hearing, the Commissioners were instructed by District attorney that there is no mechanism to undo an As-Built approval. This instruction to the Commissioners came on the heels of potentially material information that called into question the appropriateness of the As-Built approval. However, in this instance, and other similar bond release procedures, it

is the CBWCD's practice to approve or disapprove As-Builts *before* the affected property owners are notified of a pending As-Built approval.

Clearly, the District recognizes the importance of notifying property owners of the significance of a bond release. Once 90% of a bond is released, of course, the District (and thus by extension, property owners) have little recourse to correct construction errors. The District, therefore, provides at least three (3) weeks notice to stakeholders prior to the upcoming District Meeting to consider a bond release. If, however, an As-Built approval is effectively set in stone and not to be undone, why bother providing notice to property owners at all? This simply does not make sense and renders notice to the property owners futile.

To illustrate this fallacy, consider an extreme hypothetical example. For instance, imagine if a Developer submitted As-Builts for the Board's approval and the Board, without a public meeting and without property owner feedback, simply approved the As-Builts based upon guidance from its District Engineer.

Thereafter, prior to the next scheduled Meeting to release the Developer's bond, the Board learned that the Developer's As-Built submissions relied upon a survey from a surveyor, whose license was suspended by State of Florida, due to misfeasance, at the time the relevant survey was conducted for the Developer.

Under present practice, in this hypothetical example, the property owners' objections to the faulty survey would not be considered by the Board because there "is no mechanism to undo an As-Built approval." Clearly, that would not make sense and it would undermine the entire point of giving the impacted property owners an opportunity to voice their concerns to their elected officials. Otherwise, why bother notifying the public and giving them notice that a bond release is being considered?

For this reason, Appellant urges the Board to give the property owners a meaningful opportunity to participate in this process and allow the Board to consider, at a minimum, whether the As-Built approval was appropriate, particularly in light of fresh new current survey data. Pending the appeal, Appellant asks that the bond releases be suspended until this appeal has been resolved.

### **APPEAL OF DISTRICT'S ENGINEER'S APPLICATION & INTERPRETATION OF DISTRICT CRITERIA**

Section 2.04 of the Criteria is titled "Excavations" and encompasses the Siera Ranches excavated wetlands. Section 2.04.03 states:

"A surface water body that provides attenuation, floodplain storage or water quality detention or retention storage shall be considered a lake/pond or wetland. **All three are referred to as a lake/pond in the following sections.**" Included in the following sections is 2.04.03.10 which states: "**Lake/pond excavations shall have a minimum depth of ten feet (10')** below the water control elevation."

The District's Criteria, based upon the above provisions, unambiguously state that wetlands shall have a minimum depth of ten feet.

The District Engineer's interpretation of section 2.04, apparently, was to simply ignore section 2.04.03.10. Ignoring an unambiguous direction from the Criteria is different than interpreting the Criteria. In the face of 2.04.3.10, at a minimum, a variance would be required by Developer to allow an exception to the Criteria (and the environmental plans calling for 10' depth).

If the District Engineer has unilaterally concluded that Section 2.04.03.10 is erroneous and should be removed, the appropriate remedy would be to duly amend the Criteria for future developments, however the current Developer's request for bond release must be governed by the current Criteria.

For these reasons, Appellant urges the Board to reconsider the District Engineer's interpretation and application of the Criteria and asks that the bond releases be suspended until this appeal has been resolved.

Sincerely,

*Brian R. Kopelowitz*

BRIAN R. KOPELOWITZ, ESQ.  
For the Firm

cc: Julie F. Klahr;  
Dennis Mele, Esq.  
Sunil Menon  
Allan Weinthal, Esq.