



Sunil Menon <think.sunilmenon@gmail.com>

Request for Davie not to release funds for 30 days for funds related to Letters of Credit #FGAC-19504 and #FGAC-19503 funds

Sunil Menon <>

Thu, Jan 23, 2025 at 5:36 AM

To: richard_lemack@davie-fl.gov

Cc: "Brian R. Kopelowitz" <>, Tom Good <Tom@centralbrowardwcd.org>, jcreech@sfwmd.gov, Judy Paul <jpaul@davie-fl.gov>, allan_weinthal@davie-fl.gov, "Beirnes, J Timothy" <tbeirnes@sfwmd.gov>, Susan_starkey@davie-fl.gov

Dear Richard:

The CBWCD Board of Commissioners chose to release the funds related to Letters of Credit #FGAC-19504 and #FGAC-19503 funds last night.

I request the Town of Davie not to release the funds for at least 30 days pending my Value Adjustment Board quasi-judicial adjudication with Broward County related to the value diminution of the said common element property due to government action which is not permissible per the Fifth Amendment of the Constitution of the United States.

CBWCD could not also explain why my Fourteenth Amendment equal protection rights per the US constitution was violated when the CBWCD summarily rejected my attorney's appeal letter dated October 26th, 2023 without a properly noticed appeals process.

Florida Laws allow me and a class of owners to bring action without participation by the HOA related to any common area elements due to statutory requirements from the vested rights doctrine.

Can you please confirm that the Town of Davie will grant me and other residents who objected to the release of funds this courtesy pending my Broward county VAB adjudication of value diminution and if we decide to proceed with an injunction at the Broward County Court to overturn the as-built approvals at CBWCD because it did not follow their district criteria.

There were many things that the CBWCD was still not able to explain:

1/ Hans, the District Engineer, could not explain why he approved the as-built on August 9th, 2023 before the EOR, Chad Edwards, signed it. That is complete order reversal of procedures of any survey approval.

2/ The CBWCD did not explain how a survey could be valid if a 40 foot wide 10 foot deep channel that is shown in the survey was never excavated.

3/ The CBWCD could not explain how a 79% deviation in the open water width at construction vs. what is shown in the as-built is acceptable.

4/ Dennis Mele, counsel for Lennar, kept repeating that the SFWMD and Broward County have accepted the Time Zero report on July 13th, 2024 and that that means the whole preserve is correct.

However, the SFWMD OIG has clearly mentioned in an October 1, 2024 memo to Jill Creech that they only care about the shelves and not the water channels in the stormwater flowage, drainage and retention body (primary function) that doubles as a wetland preserve (secondary function). There appears to be still confusion with Lennar as to whether the water channels follow SFWMD regulations or CBWCD regulations. The SFWMD OIG has said they follow the CBWCD regulations and maintenance agreements and this preserve was designed before the CBWCD easements were granted by Lennar.

5/ Hans said that what was excavated outside the residential lots are not channels, but the SFWMD OIG has labeled it as channels, and it in fact follows the grading rules of channel excavations. So the determination by a conflicted District Engineer who was also involved in the original project is incorrect. These are lake/channels similar to other deepwater channels that cut across the preserve that were designed to be 10 feet deep below control water elevation.

6/ The CBWCD could not explain how the three deep water channels that cut across the preserve were designed and purportedly excavated to 10 feet, but the same rules for excavations do not apply to the lake/channels outside residential

lots.

7/ The absence of the missing 40 feet wide 10 feet deep channel section alone is such a major defect that the Sierra Ranches HOA will be required to declare it per Florida Laws. The CBWCD appeared to ignore the initial home equity decline impact and lowered growth impact from this defect declaration which will be required by the HOA per Florida Laws. The CBWCD may have completely ignored the Fifth Amendment impact of their action.

8/ There was a question on who owns the land below the surface. Julie Klahr said it was the HOA and that they had an easement over it. This is problematic if the land below the water was never cut to plan or code, and there is no way to maintain it per the attached recorded maintenance agreement that requires the HOA to maintain the slope shapes, depth etc. CBWCD's lack of responsibility for ensuring their easement is per their district criteria is highly problematic.

9/ The Sierra Ranches HOA has commissioned its own survey of the entire preserve. We are awaiting the results of the survey to determine the current condition of the stormwater flowage, storage and retention body. Per visual determination two of the three deepwater channels that was cut has shallowed significantly observable wetland plants thriving in them. Why were the channels cut in the first place if shallowing was permissible with eventual closing of these channels? This contradictory position does not make sense.

10/ The District Engineer, Hans Murzi, mentioned that the body does not have a storage function, however it has a retention function. It is clearly labeled as CBWCD Flowage, Drainage and **Retention** easement in the as-builts.

11/ The CBWCD asked if there was current flooding. The truth is the water levels are rising faster for the given amount of rain as the storage capacity below the water level is diminishing rapidly due to sloughing and growth of nuisance vegetation in CBWCD channels. The CBWCD appeared to ignore long-term impacts and terrestrialization from this that is already happening as well as the accelerated shoreline erosion.

12/ The CBWCD could not explain why Bank Liability was scratched off in the sub-divider agreement? Who is liable then for the construction of the preserve? Lennar I presume? This complete lack of recourse in case of Lennar's deficiencies such as not even excavating a 40 foot wide, 10 foot deep channel is an answer we don't have.

Will the Town of Davie assume fiscal responsibility for fixing it if courts in fact determine the stormwater flowage, drainage and retention body was never built correctly to plan and prevailing codes?

13/ The CBWCD could not explain why Federal Reserve Act Regulation W Section 23A and 23B violation is not a problem. As far as I know, the Town of Davie is in the United States, and it would be illegal to violate a Federal Reserve Act regulation?

14/ The CBWCD district engineer could not explain why the tolerance analysis from Appendix K of their criteria does not apply to the 40 foot wide 10 foot deep channel that was never excavated or to the channels around residential lots that was not excavated to the correct regulated depth.

15/ We also need confirmation from the CBWCD on why their easements must not follow their district criteria and rules, and maintenance agreements especially if the Sierra Ranches HOA owns the land below it?

In light of these pending items can you please confirm the Town of Davie will not release it's position in the letters of credit for 30 days while we get further clarification from SFWMD on whether their ERP and surface management system covers only the wetland shelves and other explicitly planted areas or the water channels as well, and from the Broward County VAB on the value diminution related to the latent construction defects, which the Sierra Ranches HOA will be obligated to declare.

I am also concerned that any LOMC/LOMR initiated by Davie will automatically be invalidated by FEMA as the survey approved at CBWCD is not representative of what was actually constructed and certified protections are removed. This will impose a perpetual Flood insurance burden on me costing between \$73K and 110K in Net Present Cash Value.

Thank you in advance for your consideration to protect Davie taxpayer interests on a CBWCD Easement that runs as a covenant with the land through perpetuity that will impact my heirs and I through substantial value and intergenerational wealth growth diminution.

Best regards,
Sunil Menon
1980 Meadows Drive, Davie FL 33324



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