TO: Tom Good (Tom@centralbrowardwcd.org)
District Manager, CBWCD

CC: Richard Lemack (rlemack@davie-fl.gov)
Town Administrator, Town of Davie

CC: Brian Kopelowitz
Partner, KO Lawyers

CC: Jill Creech (jcreech@sfwmd.gov)
Regulatory Division Director, SFWMD

FROM: Sunil Menon

DATE: January 12, 2025

RE: Objection to release of Letters of Credit #FGAC-19504 and #FGAC-19503 funds

As a homeowner at Sierra Ranches, Davie, I strongly object to the release of the funds under Letters of Credit #FGAC-19504 and #FGAC-19503 for Paving and Drainage, and Earthwork. The 24-acre final downstream lake/basin for stormwater flowage, drainage and retention (primary function) before drainage into the N17 canal that also serves as a sensitive wetland area (secondary function) was never built to plan and CBWCD regulations that were in effect when I purchased my home in November 2021 and when my vested interests in the common elements began.

My right to petition government is protected by the First Amendment rights granted by the Constitution of the United States. My right to seek relief on liabilities related to a common property critical infrastructure is protected by the following clause in Florida statute 720.303 (1) "This subsection does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association." Common area liabilities flow directly to the individual units. Those liabilities arise from construction defects, functional obsolescence, lack of fidelity to approved plans (which were flawed to begin with due to not following prevailing CBWCD depth regulations for excavations of channels in wetlands), inability to maintain according to plans due to the construction defects, other regulations and legal agreements.

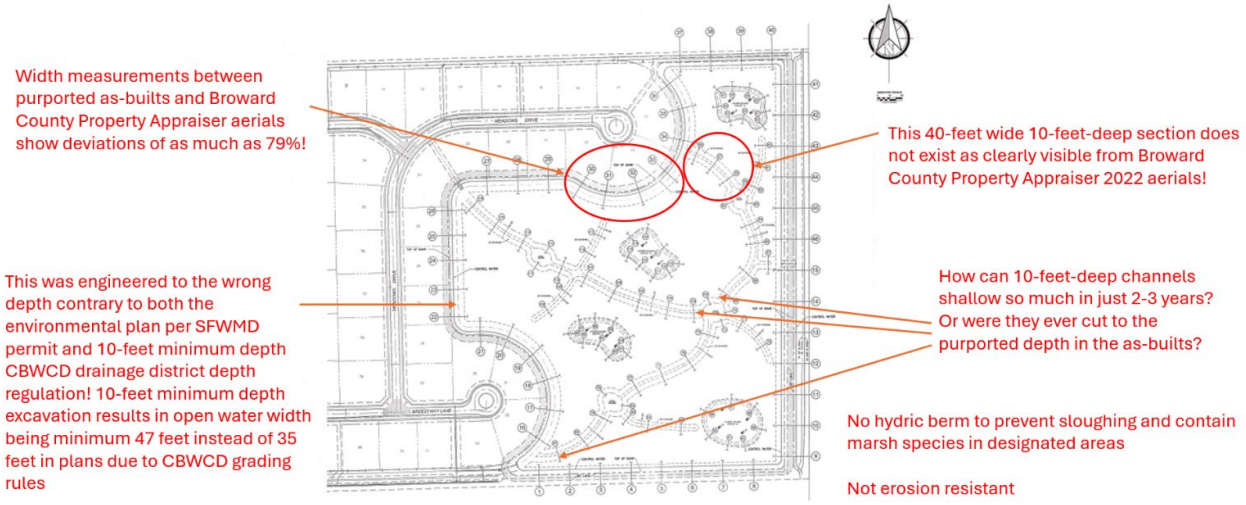
I further urge that CBWCD must use its authority granted in the Subdivider's Completion agreement with the Principal (Lennar Homes LLC) to make changes to the original conditions due to faulty engineering and workmanship and hold the developer responsible for delivering a compliant critical stormwater management system that will last in perpetuity with minimum maintenance and burdens imposed on Sierra Ranches residents and their heirs. All water channels in this downstream flowage, drainage and retention lake/basin that also has a sensitive wetland area as secondary function needs to meet the minimum 10 feet depth of excavation below control water elevation prevailing CBWCD regulations at the time of project completion and my home purchase. Consequently, the width of the open water around residential lots will need to increase to 47 feet minimum vs the planned 35 feet to accommodate the CBWCD grading rules. Optimally, the width of the open water should be 100+ feet using the gold standards in the neighboring South

Broward Drainage District that many Davie residents in that jurisdiction enjoy as the benchmark. 94% of the Preserve-facing residents preferred this option in a survey in January 2024 (one household did not participate). If this project redesign is undertaken, a good standard of care would be to add new engineering features such as hydric berms between all wetland shelves and lake/channels to prevent sloughing and making the channel repose surfaces LBR40 minimum or concrete for erosion resistance and longevity. As an alternative, the entire preserve area could be converted into a lake with just three acres of littoral planting that is required by CBWCD statutory requirements that can be accommodated at the Eastern, Northern, or Southern ends of the lake/basin. Any of these comprehensive redesigns will require a new SFWMD Environmental Resource Permit as the impacted mitigation from any of these potential redesigns will need to be compensated offsite. A new bond needs to be secured for the redesign and subsequent construction/inspection. Due to regulatory reasons, financial assurance needs to be provided by a company other than Fidelity Guaranty and Acceptance Corp, a 100% Delaware incorporated subsidiary of the principal.

For your convenience, the essential facts using the purported as-builts approved by the CBWCD and SFWMD are summarized below. Based on these essential facts, all as-builts accepted by various regulatory agencies should be immediately nullified. The CBWCD legal counsel used the fallacious circular argument that "all government agencies have accepted the as-builts" at the initial bond release hearing. This circular logic was fundamentally flawed to begin with!

Essential facts of the situation- Purported Engineering as-built

Engineered flow channels for stormwater management (Primary function)



Because of several interconnected issues with this project, local, state and federal laws spanning various jurisdictions such as housing, banking, securities, environment, insurance, consumer protection, unfair trade practices etc. are likely broken and there are several victims, beginning with your constituents, Sierra Ranches residents and taxpayers. The prudent, legal, ethical and just action is to redesign the stormwater flowage, drainage and retention lake/basin (primary

function) doubling as a wetland preserve (secondary function) to code and plans to last and maintain their depth and shape in perpetuity with minimum maintenance burdens.

The main problems are:

1/ The lake/channel around the residential lots facing the preserve was never designed to meet the minimum 10 feet depth of excavation below control water elevation per 2.04.3.10 that applies to lakes/ponds and wetlands per CBWCD's Stormwater Management, Regulations, Standards, Procedures and Design Criteria adopted August 12, 2020. This was the regulation that was valid at the time of project implementation and when I purchased my home in November 2021 at which time my rights vested for the critical common stormwater infrastructure. Starting in September 2023, my attorney and I have provided this written notification to the CBWCD directly several times. It also does not meet plan-mandated environmental depth of 10 feet below control water elevation (2.4' NAVD[1]or 4' NGVD[2]) per South Florida Water Management District (SFWMD) Permit # 06-07569-P, which was issued based on Application# 141223-14.

2/ The as-builts for the preserve area have several misrepresentations as noted below:

a/ The as-built survey data is misrepresented. A 40-feet wide, 10 feet-deep section purportedly present in the developer's as-built survey was never excavated. This is clearly visible from Broward County Property Appraiser's (BCPA) 2022 aerials by which point the excavations were complete per the December 2021 last field survey date shown on the as-builts. But because the wetland planting was not completed, this latent defect can be clearly seen through aerials. Recent drone videos and on-ground videos also reinforce the absence of the said 40-feet wide 10-feet deep channel. There are also width discrepancies of up to 79% vs the as-builts in the open water channels around residential lots that are easily established from BCPA 2022 aerials. This calls into suspicion the whole as-built survey that was used as a basis for subsequent approvals, compliance reports and financial releases by various agencies, inclusive of the CBWCD.

b/ The as-built survey approved by CBWCD on August 9th, 2023 did not follow CBWCD's regulations on record drawings. A 20-month-old survey was magically stamped with new dates without rechecking[3], is missing a surveyor seal to make the survey valid, was not signed by the EOR when the District Engineer, Hans Murzi, approved it without exception. It's completely wrong that the Engineer of Record's (EOR's) signature and stamp were only affixed after the district engineer's approval. This finding about new dates and stamps without rechecking the work has independently been upheld in a memo dated October 1st by the SFWMD OIG. His conclusion is that there is sufficient evidence to conclude that something improper or unlawful occurred. None of the other allegations I made to the SFWMD OIG in January 2024 were found to be Unfounded or Exonerated. I have provided additional information to the SFWMD OIG and

[1] NAVD=North American Vertical Datum of 1988

[2] NGVD=National Geodetic Vertical Datum of 1929=NAVD+1.6'

[3] Coincidentally the magic stamps and signatures started appearing just one week after I started complaining about issues to various government agencies and asking questions

to Jill Creech to substantiate the other allegations. A copy of the SFWMD OIG investigation report has been furnished to both the CBWCD and the Town of Davie.

As additional due diligence, I explained the illegality of the as-built survey approved at the CBWCD to Tom Good in person in September 2024. If the underlying approved as-built was not valid, isn't the initial 90% bond release also illegal? In Brian Kopelowitz's 90% bond release hearing testimony at the October 25th, 2023 asking for the CBWCD Board of Commissioners to follow its own district rules and regulations and procure a new survey before any bond money was released, the Board willfully ignored taxpayer evidence based on faulty advice from the CBWCD legal counsel that "there is no way to undo approved as-builts". The CBWCD district engineer, Hans Murzi, who provided engineering counsel during that hearing flat out perjured in front of 20+ Sierra Ranches residents that the prevailing CBWCD regulations demanding a non-discretionary, mandatory 10 feet minimum depth of excavation of channels below control water regulation in wetlands did not exist. This is despite me explicitly showing him the regulations on September 20th, 2023 during a field visit with my engineers, the EOR and the acting CBWCD district manager, Ashey Foster. Hans Murzi also perjured that all transmittals followed procedures directly contradicting Brian Kopelowitz at the October 25th, 2023 bond release hearing. This perjury directly negatively impacted my statutory rights and those of other Sierra Ranches residents at a properly noticed meeting to raise objections to the bond release to get a compliant surface stormwater system.

Lennar's legal counsel was also allowed to make several clear false claims that are now easily debunked, without direct challenge by the District Engineer or the CBWCD Board of Commissioners at this hearing. My challenges were mostly ignored. CBWCD refused to afford me due process in my appeal objecting to the bond release on matters that directly impact my finances, well-being and lifestyle. CBWCD chose to summarily dismiss my appeal based on contrived Robert's rules vs. giving proper notice to the counterparties for a fair hearing to explain the merits of their positions. This possibly demonstrates arbitrary and capricious behavior unseeming of a government agency whose primary role is to protect the interests of its taxpayers vs. being rubber stamps for developers.

The CBWCD has not been able to provide any partial and complete as-built transmittals as Hans Murzi asserted, or the CAD files per their procedures despite several open record requests starting October 31, 2023.

3/ Appendix K tolerances are so grossly exceeded that it is criminal from an engineering point of view. CBWCD must enforce the mandatory non-discretionary provisions of Appendix K.

This is the first clause in Appendix K of the Stormwater regulations "Any portion of a stormwater management facility that is not within the allowable tolerance described below must be reconstructed, re-inspected by the engineer of record, and re-surveyed prior to submittal of as-built and record drawings." The actual measurements from September 2023 are even worse.

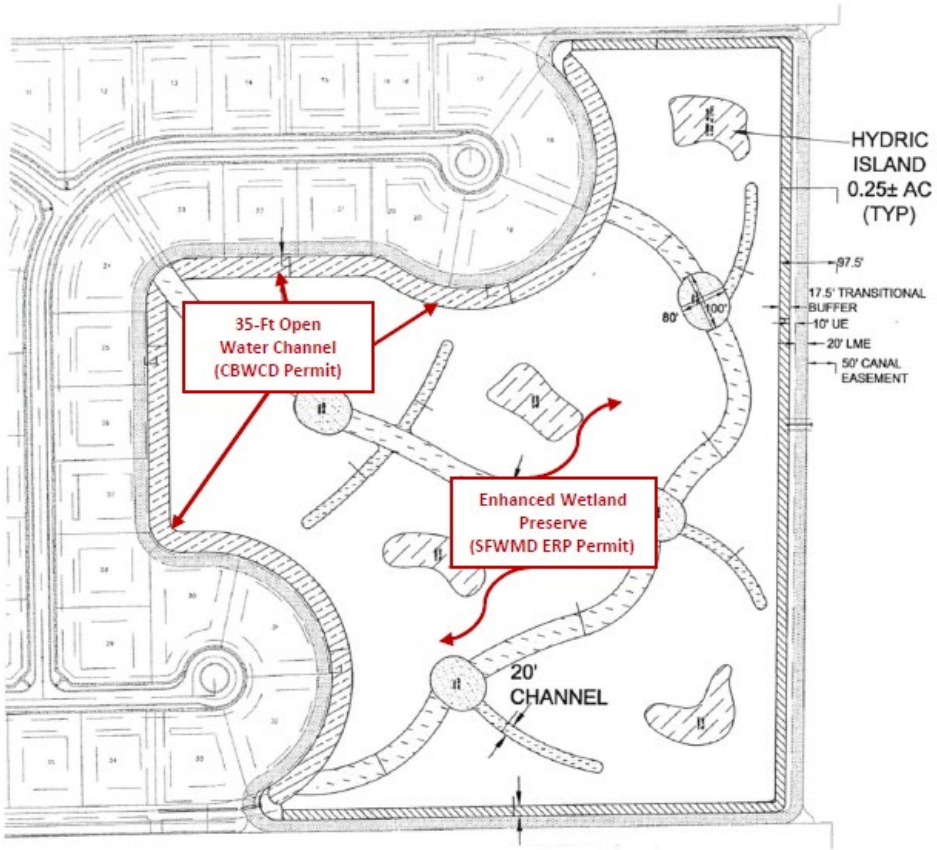
Channels near residences

Measurements	What was designed	What should have been designed	Deviation	Tolerance Allowed	Deviation vs. Tolerance
Channel Depth near residences (ft)	7	10	3	0.2	1500%
Area at Control Water Elevation (sq. ft)	76,650	102,930	26,280	1%	2553%

4/ The SFWMD OIG in his report to Jill Creech on October 1, 2024 has categorically illustrated on a diagram that the flow channels in the Sierra Ranches Preserve follow CBWCD permits, regulations and maintenance, and that they care only about the plantings in the shelves and uplands. It is impossible to maintain the lake/flow channels per the CBWCD maintenance agreement with Sierra Ranches or achieve the five-year mandatory stormwater certification due to construction defects, sloughing and proliferation of native and non-native nuisance species in the flow channels. There is also loss of hydraulic capacity, flowage capability, environmental degradation and eutrophic conditions, drainage issues, and consequential problems, including massive financial liabilities.

Schematic: Reported delineation of areas controlled by CBWCD Permit and SFWMD Permit per Investigation Report from SFWMD OIG report dated October 1, 2024

The following illustration delineates the areas covered by the CBWCD permit for the Open Water Channel and the SFWMD's ERP Permit:



Another grave anti-consumer action that now becomes clear from the SFWMD OIG's clarification is that Marlon John, Sr. Land Development manager of Lennar Homes LLC on September 19th, 2023 provided incorrect and misleading information to the Town of Davie officials in email stating that the water channels in the preserve were not in CBWCD's jurisdiction and that they were SFWMD's jurisdiction. This also shows a profound lack of understanding of the stormwater surface management system leading me to question if a key Lennar field person in charge of land development even knew what he was building. He copied Lennar's outside counsel, Dennis Mele on this email to Davie officials and SFWMD. He asserted that SFWMD was happy with the entire mitigation area that included these water channels. Darryl Stoddard, Sr. Environmental Compliance Analyst of SFWMD, spoke to Philip Holste of Davie on September 25th, 2023, perhaps backing up Marlon's assertions (I do not know what was discussed) but can only indirectly surmise from the Town of Davie's inactions and decision to release their position in the bond despite repeated appeals to protect taxpayer interests. The timing and content of this interaction is very strange because I have two communications from the Town of Davie and SFWMD prior to that date that directly support the understanding that these channels followed CBWCD's rules, regulations and maintenance agreements.

a/ July 21, 2023: From Sarah Pereira, Inspector from Police Code Enforcement department of the Town of Davie: "I did speak with Chief Engineering Inspector, he confirmed that Central Broward Water Control District would be the one to enforce the issues you asked about yesterday with the 35 feet of open water, plants and 6 foot drop off (*now corrected to be 10-foot*). "

b/ September 11, 2023: From Natalie Cole, SFWMD: "Maintenance of spatterdock within the 35-foot open water buffer/flowage easement should be determined by the CBWCD, as it is their flowage easement."

Marlon grossly misstated several of my positions in this email. He had never directly spoken to me before; so it must be second hand information from someone who had spoken to me and made interpretations on my behalf. He also misrepresented that the Sierra Ranches HOA did not want to incur the costs to maintain the water channels outside residential lots, a point that has been flatly denied in writing by a fellow board member of the Sierra Ranches HOA to me several months ago. He falsely asserted that Daryl Stoddard had explained to me in person on site that vegetation can naturally mitigate to the back of my lot before that date. This is complete fabrication because while I had spoken to Daryl Stoddard and Natalie Cole of SFWMD over the phone before September 19th, 2023, the first time I physically met Daryl was during a preserve inspection on September 27th, 2023, the day of the initial CBWCD Bond release hearing. He also asserted that I did not want wetlands in my backyard, which is also demonstrably false, because I have an email with Lennar on the date of contract signing where I sought written clarification on the nature of the wetlands in the backyard and only proceeded with the contract upon being assured that there would be a clear water buffer between my backyard the planted areas because a clear water buffer was important to me.

The purported inspection of the preserve on September 27th, the day of the first bond release was attended by Daryl Stoddard (SFWMD), Michelle Decker (Broward), Marlon John (Lennar), Ken Sagahon (Lennar), Tamir Ness from the Sierra Ranches HOA and another individual from

SFWMD whose name I do not know. I was not invited to this inspection but showed up unannounced when alerted by a vigilant neighbor. I informed all of them that the prevailing CBWCD minimum depth regulation of excavation was never met in the channels around residential lots. Therefore any assertions contrary to that from any of them after that date demonstrate willful disregard for the prevailing regulations at that time.

Broward's approval of as-builts on October 18th, 2023 is also not valid because Michelle Decker, who accepted the as-built based on "her inspection" on September 27th, 2023 is not qualified to accept engineering as-builts and did not have any mechanism to verify depth or width. I also informed her in person twice before her approval that the preserve had depth issues, which makes her acceptance not only problematic but also suspiciously timed coming just before the bond release hearing at the CBWCD. The Sierra Ranches HOA not only assumed that this letter was valid but also wrote to my attorney and I that the Preserve issues were my problem and not the HOA's explicitly using that letter two days before the CBWCD October 25th, 2023 bond release hearing. Michelle did not respond to the immediate demand for the as-built she used and her inspection data. The utter falsehood of this letter became clear on December 4th, 2023 when I went to the Broward Environmental Planning Division and was met by Linda Sunderland, Michelle's manager. She confirmed that Michelle did not have any means to measure width or depth. How did she accept an engineering as-built then? And is she even qualified as an environmental project coordinator to accept an engineering as-built emailed to her by Marlon John on September 25th, 2023? I immediately escalated this grave issue to Michael Owens, Broward County attorney and copied my attorney, Brian Kopelowitz. Per other email evidence, Michael Owens was already brought into the Sierra Ranches Preserve discussions with Linda Sunderland and Daryl Stoddard on September 21st, 2023 as Linda and Daryl were trying to figure out if vegetation could be removed from the CBWCD flow channels. He confirmed that they could be removed to maintain flowage, storage and drainage consistent with CBWCD Easements and maintenance agreements.