

From: [Carla Blackwell](#)
To: ["bratjrc@aol.com"](mailto:bratjrc@aol.com)
Cc: [John Bernal](#); [Carmine DeBonis](#); ["BRATGTA@aol.com"](mailto:BRATGTA@aol.com); [Chuck Huckelberry](#); ["BRATJeff@aol.com"](mailto:BRATJeff@aol.com); [Priscilla Cornelio](#)
Bcc: [Ben Goff](#); [Diane Garcia](#); [Maura Kwiatkowski](#); [Lesley Lukach](#)
Subject: Star Valley Transportation Improvement Agreement
Date: Friday, January 17, 2014 3:11:00 PM
Attachments: [2014_117_Transportation_Agreement.pdf](#)

Hi Joe and GT,

In the interest of time, I am sending this formal response and additional information to you via email. This information is in response to the items enumerated below in your email memorandum. Please let me know if you have any issues viewing it (big file.) We can send it in pieces.

Thanks
Carla

Carla L. Blackwell
Deputy Director, Development Services
201 N. Stone Ave. First Floor
Tucson, Arizona 85701
(520) 724-9516
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From: bratjrc@aol.com [mailto:bratjrc@aol.com]
Sent: Monday, January 13, 2014 3:12 PM
To: Carla Blackwell
Cc: John Bernal; Carmine DeBonis; BRATGTA@aol.com; Chuck Huckelberry; BRATJeff@aol.com
Subject: Re: Meeting on Wednesday, January 8, 2014

E-mail Memorandum

To: Carla Blackwell
Cc: John Bernal, Carmine Debonis, Chuck Huckelberry, G.T. Alley III, Jeffrey J. Cesare
From: Joseph R. Cesare
Date: January. 13, 2014
Subject: Meeting on Wednesday, January 8, 2014

Carla,

1) Thank you for your E-mail of Jan. 10, 2014 @ 2:32 PM and providing us a copy of the October 30, 2002 letter from our Engineers (MMLA now PSOMAS) which was not in our records; however it only raises additional questions because it refers to Pima County's requested changes of **October 7, 2002** and **October 20, 2002**. We do not have any record of these "changes" and need to know if these were made by letter,

conversation or meetings. Therefore we are requesting that you E-mail to us the documents or memos of October 7, 2002 and October 20, 2002 so we can properly address same.

2) In regard to the October 30, 2002 letter from our engineers, this is a letter that is simply part of what appears to be the negotiations of a Transportation Finance Agreement (TFA). As you are well aware, no such agreement was ever entered into. If you have a completed executed FTA please provide that immediately. If you do not have a completed and executed FTA, then I believe it is a more prudent position that everyone agree that there was no FTA and act accordingly. We have no record of a Transportation Finance Agreement (TFA) and knew nothing of Pima County's position regarding this letter until we received a letter from Priscilla Cornelio, Director of Pima County Department of Transportation, dated May 23, 2013, eleven (11) years after any correspondence from Pima County concerning a Transportation Finance Agreement.

3) Clearly there is a reason for an eleven (11) year hiatus and it is very simple: we all knew that a Transportation Impact Fees was going to be assessed to Star Valley (which occurred within a few months of the Star Valley Block Plat being recorded) that satisfied all of the conditions of the Zoning Ordinance for the Star Valley Specific Plan.

4) Now the real question is how the Impact Fees for Star Valley (over \$10 million) have been applied? Have those Impact Fees been applied for the benefit of Star Valley?

Within ten (10) days of the date hereof please provide me how the Impact Fees collected for Star Valley were allocated and to which Transportation (Roads) projects.

5) I think it is important to note that if you applied a Transportation Impact Fee and a Transportation Finance Plan Fee to Star Valley that would be charging Star Valley twice for the same thing. No Housing Development could sustain such fees being charged.

6) Please note that Ben Goff's E-mail to Priscilla Cornelio dated September 20, 2012 clearly states that Star Valley Specific Plan "predates the adoption of Roadway Development Impact Fees" which supports our position that you do not place a double burden on a Housing Development and expect it to survive. Contrary to political rhetoric that Development does not pay for itself, the National Home-builders Association and the National Board of Realtors have many studies that prove to the contrary that Housing Development not only pays for itself in 3 to 4 years but keeps paying thereafter.

7) LGI Homes is a new Home-builder to Tucson and it was my understanding with Mr. Huckelberry that we would put this issue (the Transportation Finance Plan) aside, such that LGI could get their Building Permits, Sewer Service Agreement, etc. and sell their homes. That we would then attempt to negotiate our differences or let a Court of Competent jurisdiction make the decision for us without affecting LGI's plans

in Tucson.

8) Time is of the essence with the LGI deal that exceeds \$85,000,000.00 most of which is labor and materials. Due to of the gravity of this situation, I am requesting an immediate meeting with Mr. Huckelberry in hopes of avoiding an unpleasant situation.

Respectfully Submitted,

Joseph R. Cesare, President
Broadway Realty & Trust, Inc.
P.O. Box 12863
Tucson, Arizona 85732
(520) 747-5700
BRATJRC@aol.com

-----Original Message-----

From: Carla Blackwell <Carla.Blackwell@pima.gov>
To: 'BRATJRC@aol.com' <BRATJRC@aol.com>
Cc: John Bernal <John.Bernal@pima.gov>; Carmine DeBonis <Carmine.DeBonis@pima.gov>; 'BRATGTA@aol.com' <BRATGTA@aol.com>
Sent: Fri, Jan 10, 2014 2:23 pm
Subject: RE: Meeting on Wednesday, January 8. 2014

Joe and GT,

Attached is the letter referenced from your engineer dated October 30,2002. This letter was also sent to your attorney, Mr. Thompson in September when the issues arose around the stoplight and Camino Verde.

Carmine checked in with John Bernal regarding delaying a response to the county administrator. We are under deadline of today to outline the issues and recommendations to him. Carmine has revised the draft and it is attached. Although this memo will be sent by the end of the day, we welcome the opportunity to continue discussing alternatives and options and would forward them to the County Administrator and John.

Thanks
Carla

Carla L. Blackwell
Deputy Director, Development Services
201 N. Stone Ave. First Floor
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(520) 724-9516

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From: BRATJRC@aol.com [<mailto:BRATJRC@aol.com>]

Sent: Friday, January 10, 2014 10:36 AM
To: Carla Blackwell
Cc: John Bernal; Carmine DeBonis; BRATGTA@aol.com
Subject: Re: Meeting on Wednesday, January 8, 2014

E-mail Memorandum

To: Carla Blackwell
Cc: John Bernal, Carmine DeBonis, G.T. Alley III
From: Joseph R. Cesare
Date: January 10, 2014
Subject: Meeting on Wednesday, January 8, 2014

Carla,

I am not in agreement with your draft letter of January 9, 2014. The October 30, 2002 letter from the engineer is not in our file so we need to see it before we can comment (kindly E-mail us the October 30, 2002 letter). As to some of the other issues, such as Traffic Signal and Camino Verde, we need to get a better understanding so we can further discuss it with you, therefore I am requesting a time extension be given concerning your draft letter until Tuesday, January 14, 2014 so we can draft our alternatives or comments as offered in your letter before said letter is sent to Mr. Huckelberry and Mr. Bernal.

Thank you for your consideration.

Joseph R. Cesare, President
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Tucson, Arizona 85732
(520) 747-5700
BRATJRC@aol.com

In a message dated 1/9/2014 11:04:00 A.M. US Mountain Standard Time, Carla.Blackwell@pima.gov writes:

Joe and GT,

Here is a draft of the memo back to the county administrator (with comments from John Bernal, DOT,etc.) that details our differences and suggestions for moving forward. We included some of your feedback from the meeting.

Is there any alternatives or comments that you would like to suggest? We want to finalize this by tomorrow.

Thanks

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From: BRATGTA@aol.com [<mailto:BRATGTA@aol.com>]

Sent: Monday, January 06, 2014 10:12 AM

To: Carmine DeBonis; Carla Blackwell

Cc: bratjrc@aol.com

Subject: Meeting on Wednesday, January 8, 2014

Carmine/Carla:

Based on our conversation this morning and my discussions with Joe Cesare, we would like to schedule a meeting with you both on Wednesday, January 8, 2014 at 9:00am to discuss Star Valley Block 4.

The above requested meeting will be a precursor to any meetings scheduled with LGI Homes and our engineers, so that we can have a "meeting of the minds" on how to move forward with this project. Joe and I will be the only ones attending this meeting. Kindly confirm that the above time works for you.

Thank you,

G.T.

Gordon Thomas (G.T.) Alley, III
Senior Vice President
Broadway Realty & Trust, Inc.
4855 E. Broadway, Suite 103
Tucson, Arizona 85711
(520) 747-5700 -O-
(520) 577-8555 -F-
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January 17, 2014

Mr. Joseph R. Cesare
USH/SVA Star Valley LLC
Broadway Realty & Trust, Inc
4855 E. Broadway Blvd. #103
Tucson, Arizona 85711

Re: Transportation Finance Agreement for Star Valley

Dear Mr. Cesare:

This is a formal response to your request for additional information and items outlined in your email Memorandum dated January 13, 2014. Multiple departments contributed to this consensus response.

The Star Valley Specific Plan rezoning required approval of the Transportation Improvement Financing Plan and Transportation System Implementation Plan ("Transportation Plans" or "Plans") before the recording of any plat. Your initial proposal for the Transportation Plans was embedded in the Traffic Impact Analysis dated February 2002 and submitted by MMLA with the Master Block Plat. Because your initial proposal for the Transportation Plans was not acceptable to Pima County, subsequent correspondence settled the details of the Plans with final acceptance documented in the October 30, 2002 letter from MMLA. In response to your specific comments (1-8), I offer the following:

1. Attached to this letter is a history of the submittal, comments and responses specifically addressing the Transportation Plans for Star Valley. As mentioned above, the Plans were submitted as a part of the Traffic Impact Analysis (EXHIBIT 1 is the abridged edition, we can send you the full one if needed). The components of the Plans that needed to be changed were recited in the letters to your engineer, MMLA, and from your engineer to DOT. (EXHIBIT 2) Approval and recordation of the plat was dependent upon your commitment to implement Plans acceptable to, and approved by, DOT. The Transportation Plans are subdivision improvements contemplated by the plat. As a condition of approval, DOT required the list of improvements, payment mechanisms and timetable stipulated in the Traffic Impact Analysis as modified by the October 30, 2002 letter (EXHIBIT 3). Unless otherwise indicated in the letter, it was and remains clear that you were responsible for the cost and timely completion of the listed improvements.
2. The Traffic Impact Analysis with the embedded transportation financing and implementation comments and acceptance constitutes your agreement to implement transportation improvements for Star Valley, and Pima County has acted accordingly pursuant to that agreement. The plat was recorded

in reliance on the final satisfactory terms and acceptance as illustrated in the October 30, 2002 letter. (EXHIBIT 4)

3. The agreement is being discussed at this time because some of the improvements required by the agreement are now necessary. The timetable in the Plans contemplated a much shorter time span for the improvements, but it also relied on a rapid build out of the community. Pima County was forced to install a temporary traffic signal at the intersection of Valencia and Wade and has asked you for traffic light signal payment. Pima County is requiring construction of Camino Verde based on present conditions. These improvements and the other responsibilities of the developer would have been demanded long ago if it were not for the Great Recession slowing building of homes. Impact fees were not the reason. In 2002, DOT denied your request to use impact fees for the road improvements, except to expand Camino Verde from a two lane road to a four lane road. (See fax of October 7, 2002 from Ben Goff marking up October 2, 2002 MMLA letter in Exhibit 2.)

4. Impact Fee Use breakout is attached. (EXHIBIT 5)

5. Impact Fees cover the cost of impacts and expansion to regional roadways in the entire benefit area (Avra Valley) such as Valencia Road. The Transportation Improvement Financing Plan, not impact fees, covers direct impacts from the development on adjacent roadways and provides for the construction of roads to safely enter and exit Star Valley such as Wade, Camino Verde, and Vivianna. Those roads directly serve Star Valley. Impact fees are a common vehicle to fund transportation improvements in high growth areas. Pima County has a number of master planned communities that are subject to impact fees in their benefit area as well as their share of road improvements that directly serve their developments. The Star Valley Transportation Improvement Financing Plan is in alignment with other developer agreements to both build improvements and pay the impact fees.

6. Impact fees were in place during the plat period. However, Altar Valley Benefit Area did not have a road improvement plan at that time and therefore no fee was assessed at that time but one was contemplated. That fee is discussed in the 2002 Traffic Impact Analysis.

7. Due to the needed transportation requirements, blocks and lots are on hold for any further releases. Development Services is the safe keeper of the assurance agreements. We rely on the Department of Transportation to inspect subdivision improvements and give us the approval to release the lots or blocks if the improvements have met their requirements and conditions. Per state statute, there are two mechanisms that Pima County has to ensure residents that improvements get built:

- Third Party Trust Assurance agreements, where nothing gets sold until the improvements are made and inspected by DOT.
- Building Permits can be held if the rezoning conditions as stated on the plat are not met.

The deadlines in your assurance agreements have passed. In the absence of the necessary transportation improvements, continued increases in residential density in the Star Valley Specific Plan

area would cause hardships to the current residents and present public safety issues. Pima County is now considering all options to ensure that the improvements are made and the Specific Plan and Block Plat conditions are complied with, including but not limited to the following:

1. Re-plat Star Valley due to expired Assurance Agreements.
2. Hold building permits, as permitted by the International Building Code, until the rezoning conditions are complied with and an acceptable development agreement is executed.
3. Hold lots and blocks under the terms of the assurance agreement until the terms of the current Transportation Plans are met.
4. If LGI plans to purchase Block 4, allow LGI to propose assurances for Block 4 (under the Bulk Sales provision of the Assurance Agreement, a bulk sale is permitted if the purchaser has entered into an assurance agreement satisfactory to the County). Acceptable assurances would recognize the need to address off-site transportation improvements.
5. Initiate an amendment of the Star Valley Specific Plan and related ordinances to allow the Board of Supervisors to rescind or amend parts of the Specific Plan to remedy the problems caused by your failure to comply with the Transportation Plans.
6. File a lawsuit against you under A.R.S. § 11-815 and other available authority to compel you to meet your obligations.

Unless we come to terms quickly on the outstanding improvements enumerated in the Plans, no further blocks/lots may be released and/or no further building permits may be issued. As stated in the recommendation to the County Administrator, memo dated January 10, 2014 from Carmine DeBonis, Jr. on this subject, Pima County requires the following improvements be made or satisfied:

- In accordance with the Specific Plan and Star Valley Development – Transportation Financing Plan, Camino Verde is required to be constructed from the Star Valley development north boundary to Valencia Road. Pima County has commenced design of this roadway. Full reimbursement and/or other financial assurances will be necessary from the developer to cover all costs including design, right-of-way acquisition and construction.
- In accordance with the Specific Plan and Star Valley Development – Transportation Financing Plan, funding is required from the developer for half of the cost of the stop light at the intersection of Wade Road and Valencia Road.

In addition, Pima County will require an updated Traffic Impact Statement (TIS) that reflects current conditions for the entire Star Valley development and pursuant to the updated TIS, establish revised

MR. JOE CESARE
RE: TRANSPORTATION FINANCE AGREEMENT FOR STAR VALLEY
JANUARY 16, 2014
PAGE 4

terms for developer financing and construction timing of all the remaining improvements via a revised agreement in the form of a development agreement.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, reading "Carla L. Blackwell".

Carla L. Blackwell
Deputy Director, Development Services

Attachments

C: Mr. C.H. Huckelberry, Pima County Administrator
Mr. John Bernal, Deputy County Administrator
Carmine DeBonis, Jr. Director, Development Services Department
Priscilla Cornelio, Director, Department of Transportation