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August 10, 2006

Gary Lane, Sr. Project Manager
Aperion Communities
7835 East Redfield Road, #100
Scottsdale, Arizona 85260

DEBBIE HAYS
County Manager

Re: Rio West Master Plan

SANDOVAL COUNTY
200729035

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Dear Mr. Lane:

Michael Springfield, Director of County Development, has advised me that you would like some assurance from Sandoval County that you have vested rights to move forward with your Rio West Master Plan. The purpose of this letter is to explain the Vested Rights Doctrine as interpreted by the New Mexico Courts.

The New Mexico Courts have only two (2) cases that examine the Doctrine of Vested Rights in this State. However, the Doctrine of Vested Rights has been interpreted to give you, or any developer, vested rights after two (2) events occur. You must submit a plan to a local government that is approved. You have met that prong of the Vested Rights Doctrine.

The second prong to vested rights in New Mexico is reliance upon the approval. This has been interpreted to mean that you have expended time and financial resources in reliance upon your approval by the applicable local government. I cannot tell you at this time the extent of your vested rights, but you do have the right to go forward with the development of Rio West. It would be my assumption, although I am lacking in factual information, that you have expended a considerable sum of money in developing the Master Plan. However, you must now rely upon the approval of the Master Plan and continue forward with the necessary development or exploration for development. In other words, you must take acts that are in reliance upon approval of the Master Plan that show financial expenditures. It is my opinion you will have vested rights to proceed with the Rio West Master Plan after, for example, you had taken acts such as drilling exploratory wells.

What remains uncertain in New Mexico is how much reliance upon the Master Plan is considered detrimental reliance in the financial sense. This issue has never been fully explored in New Mexico. However, the lack of law in New Mexico does allow the local government the power to determine you have met the Doctrine of Vested Rights. What I can advise you at this time is after you take steps to move forward with this development based upon Sandoval County's approval, you will achieve the status of vested rights. I believe the drilling of test wells

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Letter to Gary Lane, Sr. Project Manager
Aperion Communities

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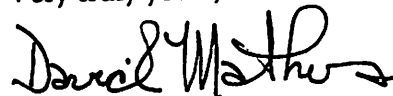
and exploration of methods of obtaining water and planning for infrastructure will complete the process of complete vesting of your rights to proceed with the Rio West Project.

For example, I do not believe the case law from other states is helpful in examining the Vested Rights Doctrine of New Mexico. I read a California case that found the expenditure of \$500,000.00 on a shopping center to be insufficient to achieve vested rights. It is my belief the New Mexico Courts would find vesting at a lower financial level than California. It is also important for you to understand that you have vested rights to proceed with the Master Plan, but you do not have vested rights to proceed with any particular subdivision within Rio West. As you become ready for subsequent County approval of individual developments within the Rio West area, you will obtain additional vested rights for those developments. For example, if you submit a preliminary plat for a subdivision in the Rio West area and the preliminary plat is approved, you have vested rights to proceed with that subdivision. This does not mean that you have vested rights to proceed with every subdivision in Rio West. This opinion is based upon the assumption that you will develop this community in phases. Obviously, a plat that includes the whole Rio West area would give you vested rights to proceed with everything approved by the County in such a plat.

In summary, I regret that this letter is not more definitive as to the extent of your vested rights, but I do not have the facts available to assess how much money you have spent in reliance of the County's approval. However, your Master Plan has been approved and you have the right to proceed with the next steps you deem to be required to continue this development. When you get to the stage of actually planning subdivisions, you will be required to submit preliminary plats to the County for approval and approval of each preliminary plat submitted increases the extent of your vested rights.

I apologize if you find this letter at all confusing, but it is important to note that only two (2) New Mexico cases have ever discussed the Doctrine of Vested Rights. I invite you to call me at any time if you have any questions concerning New Mexico law regarding land use or development, but you may rely upon this letter to proceed with the next steps necessary to move forward with Rio West.

Very truly yours,



David Mathews, County Attorney

DM:hl

cc: Michael Springfield, Director
County Development

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SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

April 6, 2009

David Maniatis
RECORP
7835 E. Redfield Road, Ste. 102
Scottsdale, AZ 85260

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JUAN R. VIGIL
County Manager

Dear Mr Maniatis:

Sandoval County is proceeding with Phase II of our Desalination Project. We have expended \$6 million on Phase I (exploratory) of the project. Phase II (the treatment pilot study) is funded by the Environment Department of the State of New Mexico. One of the State's mandatory requirements is *ownership of all well sites and rights-of-way by the County*. Discussions are underway with the State Land Office and other land owners regarding the transfer of well site(s) and roadway(s). The County respectfully requests your consideration of a transfer of 42 acres in order to bring the project into compliance.

The site requirement is approximately 2 acres for well 6, while the land requirements for well 5 are more substantial due to the planned location of the actual desalination plant on that site. It is also necessary to connect the source wells to the desalination plant with rights-of-way or easements for utility improvements and the current right-of-way of the North-West Loop (NWL) is a practical alignment for some of the infrastructure. The right-of-way for the NWL has been designated and surveyed. The County now seeks a 100-foot wide right-of-way for a road connecting 60th St NW (along the western edge of Rio Rancho Estates) to the North-West Loop alignment. This road should proceed generally west from 60th St to the North-West Loop and cross lands owned by the King Brothers, Recorp, and the State Land Office. This road is needed to access the NWL and well sites and to provide access for potable water delivery.

The County is currently preparing the surveys, plats, and appraisals needed for the granting of these right-of-ways and well sites. We believe the partnerships developed during Phase I will be instrumental in furthering this important project. When the appraisal is complete, the values of dedicated lands and / or easements can be considered as a basis for tax offsets.

We would appreciate favorable consideration. This series of projects supports the regional development of both a new water source for this region and facilitates continuation of both industrial and economic development. If you have any questions regarding this request, please contact Guy Bralley, the County's Water Resources Administrator at 505-771-7953. I am also available at my office, 505-867-7538. I look forward to meeting you on April 21st.

Sincerely,

Juan R. Vigil
County Manager

Board of County Commissioners; Michael Springfield; Guy Bralley

