

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT



To: The Honorable Mayor and Council

From: Patricia Boomsma, City Attorney
Harry Lane, Deputy City Attorney

Date: October 2, 2008

Meeting Date: October 7, 2008

Title: Consideration of Stipulation For Entry of Order Facilitating Infrastructure Improvements (Presidio in the Pines Development Project)

Recommended Action: Approve Stipulation

ACTION SUMMARY: At a Special Meeting of the City Council held September 29, 2008, the City Council directed staff and the City Attorney to continue negotiations with Premiere Acquisitions LLC and Luxury Lofts LLC concerning the construction of infrastructure improvements within and related to the Presidio in the Pines subdivision. These negotiations also involved the surety company who issued the performance bonds for the subdivision (American Contractors Indemnity Company) and a bank holding collateral for those bonds (Alliance Bank of Arizona). The proposed Stipulation is an agreement between all these parties and the City for the construction of bonded infrastructure for the subdivision. The Stipulation is subject to the approval of the United States Bankruptcy Court.

DISCUSSION:

Background/History: The plat for the Presidio subdivision was approved in May of 2005, and a permit for construction of public improvements in the public rights-of-way was issued in October of 2005. Construction of the infrastructure commenced in 2005, and ended in early 2008. During this time, city staff inspected and approved significant portions of the infrastructure construction. In the Spring of 2008 a subcontractor filed suit claiming a right to payment under the performance bonds. Premiere Acquisitions and Luxury Lofts, the Presidio developers, filed for protection under Chapter 11 of the United States Bankruptcy Code in June of 2008. City staff has been working with the developer to achieve construction of the public infrastructure.

Key Considerations:

- Court approval of the Stipulation will allow Developer to fund infrastructure construction

- Lot owners cannot build within the subdivision until required infrastructure is completed
- No lots in the subdivision may be sold until a new public report is issued

Community Benefits and Considerations:

- Completion of public infrastructure benefits lot owners and nearby property owners

Community Involvement: City Staff has worked with a number of concerned citizens and owners of lots within the subdivision, and the City Council held a special meeting on September 29, 2007, to hear and understand the issues involved with the Presidio development project.

Options and Alternatives:

- Make a claim on the performance bonds
- Propose changes to the Stipulation
- Allow the developers to work through their reorganization plan before acting

Attachments/Exhibits: None. The proposed stipulation should be available for review Monday October 6, 2008, and will be distributed to the City Council as soon as it is approved by the non-City parties.

Department Head *(Acknowledgment that all reviews have been completed and required approvals initialed below.)*

INITIALS	RESPONSIBILITY	DATE	INITIALS	RESPONSIBILITY	DATE
_____	BIDS/PURCHASES	_____	_____	FINANCE/BUDGET	_____
_____	GRANTS	_____	_____	CONTRACTS	_____
_____	LEGAL	_____	_____	IGAS	_____
_____	_____	_____	_____	_____	_____

DATE OF COUNCIL APPROVAL: _____