
HARRIS RANCH CID TAXPAYERS' ASSOCIATION

July 14, 2021

Members of the Board
Harris Ranch Community Infrastructure District No. 1 (“HRCID”)
City of Boise
150 N Capitol Blvd
Boise, Idaho 83702

Re: Proposed HRCID Budget for Fiscal Year 2022

Members of the HRCID Board:

The purpose of this letter is to express our objection to one of the proposed payments to the Harris Ranch developers (“Developers”) included in the proposed HRCID budget for fiscal year 2022.

The proposed budget includes an estimated payment to the Developers of almost \$1.9 million for “Southern Half Roadways” (Project ID No GO21-4). The request for payment submitted by the Developers reveals that they are seeking payment for the supposed “value” of the land underlying some of the local access roads that they have constructed in the Harris Ranch development. They have apparently submitted their request pursuant to Section 4.2(b) of the Development Agreement among the City, the HRCID and the Harris Family Limited Partnership. That subsection provides for payment to the Developers of the “fair market value of the real property for rights of way” with respect to improvements they construct and dedicate to public use.

The “appraisal” submitted to justify their request is predicated on the “hypothetical” assumption that the land underlying the roadways could be used to build additional homes. But the rather obvious and fundamental problem with the appraisal and the Developers’ request is that the land in question necessarily *cannot* be used to build additional homes, as that land is *required as a condition of the development* to be used as roadways. A development without any access roads, in which homeowners would have to hike perhaps a half dozen blocks or more to get to their homes, would not be an attractive development. More importantly, it would not have received the requisite development permits. So, the “fair market value” of land on which a public roadway is *required* to be constructed *as a condition for the development* is almost nil. We therefore object to its inclusion in the budget and consider this to be a serious abuse of the CID.

The appraiser, consistent with USPAP Standards, has been careful (and understandably so), to explain the “hypothetical” nature of their appraisal:

For the purposes of this analysis *the appraisal is based on a “Hypothetical” condition that title to the subject parcel is assumed to be marketable and free and clear of all liens and encumbrances and is included as vacant residential development land to be developed as part of the Harris Ranch Subdivision.* A “Hypothetical” condition is defined as:

Hypothetical Condition: *a condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results,* but is used for the purpose of the analysis.

Comment: *Hypothetical conditions are contrary to known facts about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of the data used in an analysis.* [Emphasis added.]¹

The appraisal provided by the Developers might have been appropriate if the City were seeking to *condemn* the property in question for a public use. Thus, for example, if the City sought to condemn the property for a new library or City Hall, the Developers would have been entitled to compensation for the fair market value, presumably at its highest and best use (such as for new homes), under the Due Process Clause of the United States Constitution and the corresponding section of the Idaho Constitution. But that is not the case. On the contrary, the Developers were *required* to build the roadways and *dedicate them to a public use as a condition to their development.* In imposing those requirements, the City was exercising its police powers consistent with the U.S. Supreme Court decisions in *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374 (1994). Under those cases and their progeny, cities may impose conditions on land development, such as the construction by the developer of local streets and utilities and their dedication to the public, *without payment by the city to the developer of any compensation*, provided, that there is a “nexus” between the development and the need for the improvements, and that the required improvements are “proportional” to the development.

We note that every other developer in the City of Boise, other than the Harris Ranch Developers, apparently must build the local access roads in their developments at their own expense and dedicate them to public use *without any compensation whatsoever from the city.* So, it is at least curious to us that the Harris Ranch Developers are being paid anything, let alone hundreds of thousands of dollars per acre, for the land under the local access roads which they are required to build and dedicate to public use as a condition to

¹ Letter of Transmittal, pp. 3-4.

their development. For what reasons are they being accorded such special and generous treatment at Harris Ranch taxpayers' expense?

We therefore request (and hope that we will not have to demand) that the Developers be required to submit a new appraisal that is based on the revised assumption that the land on which the roadways lie *cannot* be used for residential development, but instead is limited to use as roadways and must be dedicated to the public. That appraisal would be based on facts, rather than on false "hypotheticals". We suspect that will result in a quite different valuation.²

This letter does not include all our objections to proposed expenditures in the budget, which we expect to provide as further information is made available to and reviewed by us. We expect to object to many if not most of the proposed payments to the Developers on a variety of grounds, including that most if not all of them are unlawful.

We hope that the HRCID understands that making expenditures under circumstances where you have reason to believe that the payments are or may be unlawful is a serious matter, both institutionally for the District and individually for its officials. And we hope that the Developers understand that submitting requests for payments from public funds to which they are not lawfully entitled is also a serious matter.

Finally, we also request (and again hope that we will not have to demand) that the city seek reimbursement from the Developers for all prior payments made to them for land dedicated to public improvements which were predicated on the same false assumptions as this most recent request.

Sincerely,

Executive Committee,
Harris Ranch CID Taxpayers' Association

Cc: The Honorable Lauren McLean, Mayor, the City of Boise
Council Member Liza Sanchez, Council Pro Tem
Council Member Patrick Bageant
Council Member Jimmy Hallyburton
David Hasegawa, City of Boise

² We suspect, without yet having reviewed the Developers' payment request, that the proposed payment to the Developers for the "2007 Wetlands Conservation Easement" suffers from the same or similar infirmities as that for the "Southern Half Roadways". We expect, without yet having reviewed the Developers' payment request, that the proposed payment to the Developers for "Accrued Interest" includes interest on prior payments for land. If so, interest on those prior payments also would be improper.