

AGUA DULCE TOWN COUNCIL

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April 24, 2023

Supervisor Kathryn Barger, 5th District Supervisor
Los Angeles County Board of Supervisors
500 West Temple Street, Room 869
Los Angeles, CA 90012

Via Email to: kbarger@bos.lacounty.gov

RE: Agua Dulce Town Council requests additional clarification related to the performance and grading bonds pertaining to the Agua Dulce Residential Project Phases 1-3 (Tract 50385-01)

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Dear Supervisor Barger:

The Agua Dulce Town Council recently received correspondence from Travelers Insurance, the Surety for the performance bonds related to the first three phases of the Agua Dulce Residential Project. The response from Travelers fails to support the assertions made by Director Pestrella in his September 29th response to the Council's August 12th letter to Anish Saraiya where the Council raised concerns over the validity of the bonds that were issued in 2002.

Separately, in view of the fact that the Grading Permit UNC-GRAD200218000115 is supported by a Letter of Credit drawn on an account held at Credit Suisse in Zurich, Switzerland, the Council is requesting that the underlying financial instrument is re-validated given the unprecedented withdrawals that were made by Credit Suisse customers in the months leading up to its eventual takeover by United Bank of Switzerland last month. This is particularly important to the community given the apparently unpermitted grading that has been performed by the developer on a lot immediately to the South of Tract 50385-01.

1. Travelers Insurance cannot confirm that the 2002 bonds remain in force

When the Multiple Agreement related to the first three phases of TR 50385 (TR 50385-01) was executed in 2002, the insurer was Gulf Insurance. Gulf Insurance was acquired by Travelers Insurance in 2005.

The bonds issued by Gulf Insurance were referenced as follows:

B3 4217653, B3 4217654, B3 4217655, B3 4217656, B3 4217661, B3 4217662, B3 4217662, B3 4217662, B3 4217663 and B3 4217664

Combined, the bonds provided \$7,914,000 of Performance surety and \$3,628,000 of Labor and Materials surety

In their July 11th 2022 response to Public Records Request #5234, the Department of Public Works stated in the comments "the County is attempting to obtain copies of these bonds from third parties." as it relates

to the assertion made by representatives of Public Works to the Council that these bonds from 2002 remain valid.

In December 2022, the Council submitted Public Records Request #5374 seeking copies of the correspondence between the County and these third parties related to the 2002 bonds.

After six months had passed during which time the County had been “unable to determine whether there are any disclosable documents that are responsive to this request.” the Council reached out to Travelers Insurance directly in February to elicit a response.

Travelers Insurance representatives researched the origination of the bonds with Gulf Insurance and their Senior Counsel’s April 2023 response indicated that “Given the amount of time that has passed since these bonds were written, I cannot at this time confirm whether these bonds remain in force.”

In the County’s December 2022 response to PRR #5374 the County indicated “The County and the new owner of Tract 50385 are still in the process of drafting a replacement multiple agreement, related bonds and/or letters of credit. Drafts of such documents are not subject to disclosure. See, Gov. Code, § 6254, subd. (a). However, once the documents are finalized, they will be produced.”

Since none of these replacement documents have yet been forthcoming, it is reasonable to conclude that there is a legitimate question over whether any valid Performance or Labor and Materials surety currently exists in support of the Multiple Agreement for Tract 50385-01, particularly in view of the fact that the current owner and the County have not yet managed to complete the negotiation and execution of any replacement for a project which has already broken ground and is in the site development stage.

Absent the requisite bonds, please explain how the County will hold the developer financially accountable to either complete the necessary works covered by the Multiple Agreement or undertake the restoration of the site and adjacent locations outside the boundary of the project where the developer is currently performing significant grading and development work.

As The Council has noted previously, the developer has no prior experience in subdivision development in the United States and required the financial support of their offshore, Cyprus-based parent company in order to deliver the financial assurance for grading permit UNC-GRAD200218000115.

2. There is an apparent 5 year gap when the Multiple Agreement was not extended

Both the Department of Public Works and Travelers Insurance provided copies of the annual Multiple Agreement/Improvement Agreement extensions. The most recent document showed that the annual extension was renewed in May of 2015 with an expiration date of May 15th 2016.

In response to PRR #5374, Los Angeles County Department of Public Works provided a copy of Receipt TRC-030188-15-06-2021 dated June 15 2021 in the amount of \$570. This would appear to be consistent with an inflation adjusted annual multiple agreement extension renewal (which was \$500 in the 2015-16 renewal period).

Despite being able to produce a copy of the June 15th 2021 annual extension payment receipt, Los Angeles County Department of Public Works was unable, or unwilling, to produce a copy of the corresponding Multiple Agreement extension letter. In response to PRR #5394 to secure this information, the response from Public Works is “After a thorough and diligent search, we failed to find any records that satisfy your request. Other than the payment receipt that was previously provided to you that is associated with the number referenced, we have no other responsive documents in our possession.”

The Council finds it highly unusual that a project document from approximately 18 months ago could not be located when similar project documents dating back almost a decade can be more readily reproduced.

In view of the five year gap in renewal extensions between 2016 and 2021, please explain how the Multiple Agreement remained valid during this period and did not lapse through continued non-renewal. Please also provide a copy of the Multiple Agreement extension that relates to receipt TRC-030188-15-06-2021.

3. The letter of credit for grading permit GRAD200218000115 should be re-validated

In July 2022, the Department of Public Works approved Grading Permit UNC-GRAD200218000115 related to the grading of Tract 50385-01. The grading permit was supported by a \$2.27 million Letter of Credit issued by Credit Suisse Bank in Zurich Switzerland using an account held by Nicosia, Cyprus-based Vinette Trading Company Limited, the stated parent company of Wyoming-registered RTG Investment, LLC.

During the fourth quarter of 2022, Credit Suisse experienced an unprecedented level of client withdrawals totaling \$119 billion due to concerns about the viability of Credit Suisse's business. These client withdrawals continued unabated in the first three months of this year resulting in the hasty \$3.3 billion takeover of Credit Suisse by United Bank of Switzerland in mid-March.

In view of the sheer amount of client withdrawals made by Credit Suisse customers in recent months, the Council believes it is prudent for the County to re-validate the July 2022 Letter of Credit directly with the bank to confirm that the underlying funds are still available and the Letter of Credit remains valid.

The Letter of Credit lists a contact of Antonio Demarchi in the Corporate Banking division with an email address of mailbox.documentaregeschaeft@credit-suisse.com and a phone number of +41 44 332 88 52.

Please accept this as a formal request to re-validate the Letter of Credit with Credit Suisse directly and to provide the Council with confirmation of the continued valid financial assurance. If there has been any change in the underlying financial assurance for Grading Permit UNC-GRAD200218000115, please advise the Council of any changes and provide details of any new financial assurances that may have replaced the Credit Suisse instrument issued in 2022.

4. Summary

The Council respectfully requests a response to the above items along with an explanation of how the County plans to secure the necessary replacement financial assurance (to the extent they are no longer valid) and in what period of time. Should any financial assurances be no longer valid, the Council would appreciate an explanation as to what steps the County will take to mitigate the risk created by allowing the development to continue without them.

Respectfully,

Don Henry

Don Henry, President
Agua Dulce Town Council – 2023

cc: Stephanie English, Field Deputy, District 5
Anish Saraiya, Planning & Public Works Deputy
Mark Pestrella, Director, Public Works

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