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August 26, 2022

Honorable Kimberly Overman, Chair
Hillsborough County Board of County Commissioners
601 E. Kennedy Boulevard
Tampa, Florida 33602

Via Electronic Submission

Re: Taylor Morrison of Florida, Inc.
Ground for Revocation of Permit(s)

Dear Chair Overman:

Our law firm represents the Plaintiffs in Hillsborough County Circuit Court Case No. 2022-CA-4745, against Hillsborough County (“County”) and Defendant/Intervenor, Taylor Morrison of Florida, Inc. In that capacity, we watched the discussion by the Hillsborough County Board of County Commissioners at their meeting on August 17, 2022, regarding the ongoing dispute in connection with the Subdivision Construction Plan Approval issued on May 5, 2022 (the “Permit”), by County Staff. As you are aware, the Permit was approved without notice to or opportunity to debate by the community or the County Commission.

Summarized, the lawsuit challenges the Construction Plan approval as inconsistent with the currently applicable comprehensive plans and alleges that the development, originally approved in 1991, should have proceeded under a Vested Rights Order pursuant to Development Procedure Section 5.2.3 and Land Development Code Section 11.02, or would be required to adhere to all currently applicable County codes and comprehensive plans. This letter is not an attempt to communicate regarding the ongoing lawsuit, which will continue to be handled by the Circuit Court with participation by the parties and their attorneys.

This letter is intended to show the legal basis for the County to revoke or suspend the Permit, based on two applicable legal grounds. As explained below, the Permit can be revoked or suspended as a permit issued by mistake, and/or because of ongoing violations of the Permit conditions.

I. Permit Issued by Mistake of Fact or Law May be Revoked.

A local government development permit issued by mistake may be revoked by the local government without implicating estoppel. See *Ammons v. Okeechobee County*, 710 So. 2d 641, 644 (Fla. 4th DCA 1998) (permit revoked due to mistake of law); see also *Hillsborough County v. Kortum*, 585 So. 2d 1029, 1034 (Fla. 2nd DCA 1991) (permit revoked due to mistake of fact). In the subject case of the County issuance of the Permit, it is assumed that the Permit was issued on the basis of a 1991 rezoning of the property, i. e. Ordinance 91-0136.

Since said zoning ordinance was over 30 years old, and several comprehensive plan and land development code changes that affect the property had been adopted by the County since 1991 (including but not limited to lowering allowable density and preventing public utilities within the Keystone-Odessa Rural Protection Area), the property owner should have been required to obtain a Vested Rights Order from the County pursuant to County Development Procedures Code Section 5.2.3 and Land Development Code (“LDC”) Section 11.02.00. The Vested Rights Order is the only legal method by which a development that is not consistent with all provisions of the County code and applicable comprehensive plans can proceed. The property in question has NOT applied for or received a Vested Rights Order from the County. Therefore, the Permit was issued in violation of law and can be revoked by the County without invoking equitable estoppel entitling the Permit holder to successfully claim damages from the County. See *Hillsborough County v. Kortum*, 585 So. 2d at 644.

II. Permit Violations Can Result in Revocation or Suspension.

Part 11.06 of the Hillsborough County LDC allows the County to suspend or revoke a development or building permit issued by the County if there are violations of the permit which are not corrected after notice. The County can also charge violators with a misdemeanor punishable per occurrence by a \$500 fine and/or 60 days imprisonment. See LDC Sections 11.06.02, 11.06.03. The County Administrator can issue an immediate stop work order when an alleged violation is a threat to public or private property. See LDC Section 11.06.04.D. Further, the County Administrator or the Board of County Commissioners may take other actions to ensure compliance with the Land Development Code, including “[r]evocation of any permit or changing the conditions of any permit granted under the Land Development Code.” See LDC Section 11.06.05.B.4.

In this case, with the ongoing extension of public utilities on public property in alleged violation of the comprehensive plan, and damage to nearby residents as relayed at the August 17,

2022 BOCC meeting, it is abundantly clear that the alleged violations are a threat to public and private property. Pursuant to the County's own adopted Code, the multiple reported, confirmed, and ongoing violations of the Permit and the Code and the threat to public and private property demand that the Permit be revoked or suspended until resolution of the current lawsuit.

A more extensive legal memorandum could be prepared on these topics and their application to the subject Permit/Permit violations, but we wanted to be succinct in raising these issues and requesting your assistance. We raise these urgent issues specifically because on August 17th the BOCC, in a 7-0 affirmative vote, passed a motion to “[d]irect staff to re-examine all permits and applications relating to the Taylor Morrison housing development on Patterson Road in Keystone. And furthermore, implement all enforcement measures, including the issuance of a stop work order.” (Emphasis added.) Further, the sentiment at the August 17th BOCC meeting seemed to suggest that the County/BOCC did not have the authority to stop the work or revoke the permit; we trust the authority cited herein shows otherwise. As stated herein, we believe the County has both the legal authority and public obligation to abate or revoke the Permit. We urge you to consult your very capable County Attorney's Office to evaluate the issues raised herein. Of course, we remain available to discuss these issues further or supply any further information or evaluation that may be helpful.

Thank you in advance for your action to protect the residents of the Keystone-Odessa Rural Area. Please let us know how we can assist you further.

CRAWFORD, MODICA & HOLT
CHARTERED ATTORNEYS AT LAW

/s/ Jimmy D. Crawford

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/s/ Lindsay C. T. Holt

LINDSAY C. T. HOLT, ESQ.

c: Honorable Mariella Smith, Vice Chair
Honorable Harry Cohen, District 1
Honorable Ken Hagan, District 2
Honorable Gwen Myers, District 3
Honorable Stacy White, District 4
Honorable Pat Kemp, District 6
Ms. Bonnie M. Wise, County Administrator
Ms. Christine Beck, Esquire, County Attorney
Mr. Rob Brazel, Esquire, Chief Assistant County Attorney
Ms. Mary Dorman, Esquire, Senior Assistant County Attorney
Clients