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-  [SBA Business Physical Disaster Loans.pdf \(pdf\) <https://epa.gov/sites/default/files/2020-01/documents/small_business_loans_0.pdf>](https://epa.gov/sites/default/files/2020-01/documents/small_business_loans_0.pdf)
SBA Business Physical Disaster Loans
-  [SBA Economic Injury Disaster Loans.pdf \(pdf\) <https://epa.gov/sites/default/files/2020-01/documents/eidl_loans.pdf>](https://epa.gov/sites/default/files/2020-01/documents/eidl_loans.pdf)
SBA Economic Injury Disaster Loans

Related Information on Federal Disaster Funding Opportunities Programs

- [Programs Overview <https://epa.gov/node/107181>](https://epa.gov/node/107181)
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COVID-19 EIDL

This loan provides economic relief to small businesses and nonprofit organizations that are currently experiencing a temporary loss of revenue.

Content

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Loan details

APPLY HERE

In response to COVID-19, small business owners, including agricultural businesses, and nonprofit organizations in all U.S. states, Washington D.C., and territories can apply for the COVID-19 Economic Injury Disaster Loan (EIDL).

- [FAQ regarding COVID-19 EIDL](#)

August 4, 2021

Fish Creek Cove

Don & Michelle Curtis

Parcel # 07193-000

A request was received on October 16, 2020 asking the District's opinion as to the number connections the property is eligible for. The District responded on October 19, 2020 explaining that the property had received one water service and one sewer service. On January 18, 2021 the District received a letter from Mr. Curtis referencing the Comprehensive Plan and the number of connections allowed on the property. I responded to Mr. Curtis on January 19, 2021 explaining that our attorney Mr. Joe Boyd had passed away and we were in the process of changing to another attorney within his firm. Mr. Curtis responded indicating that he would give us a few weeks to work with the new attorney. On February 16, 2021 we received another request asking that the District confirm connections for an additional 139 dwelling units.

Property currently has one water service and one sewer service. The property had water service since 1995 and a septic tank. A grinder pump was furnished to the property under Phase II Part 2.

February 28, 1977 property was sold by Joseph and Elke Gunter to Marshall and Helen Denman

February 25, 1980 property was sold by Marshall and Helen Denman to Colin and Lucille Kelly

April 7, 1992 property was quit claimed to Fred and Mary Kate Mitchell

April 19, 1993 property was sold by Fred and Mary Kate Mitchell and Colin and Dorothy Kelly to Kenneth B. Hutchins

On May 27, 2015 Kenneth B. Hutchins and Cynthia Hutchins quit claimed to Kenneth B. Hutchins and Cynthia Hutchins

On July 12, 2019 a Death Certificate for Kenneth B. Hutchins was filed on the property

On August 27, 2019 a Warranty Deed was filed from Cynthia Hutchins as Widow of Kenneth B. Hutchins to Cynthia Hutchins

On July 7, 2020 a Court Order was filed on the property involving Cynthia Hutchins, Kenneth Wayne Hutchins and Paulene Barto.

On August 7, 2020 a Warranty Deed was filed between Cynthia Hutchins and Fish Creek Cove, LLC



Overview



Legend

- Parcels
- Highway
- City Streets
- Graded
- Roads
- Tram

Parcel ID	07193-000	Alternate ID	n/a	Owner Address	FISH CREEK COVE LLC
Sec/Twp/Rng	12-08-07	Class	Improved		5135 PRESTON SHEFFIELD RD
Property Address	22645 FISH CREEK HWY	Acreage	25		PERRY FL 32347
	CO				
District	CO				
Brief Tax Description	LEG 0025.00 ACRES - COM 230 YDS S OF NW COR GOV'T LOT 4 - FOR POB E 350 YDS S 70 YDS W 350 - YDS N 70 YDS TO POB & COM 900 FT S - OF NW COR LOT 4 E 1050 FT S 420 FT - W 1050 FT N 420 FT TO POB & COM NW - COR LOT 4 S 690 FT E 1050 FT TO POB - S 630 FT W 441.16 FT TO GULF S36DE - 196.52 FT E 1035.56 FT N16DW 141.04 - FT NW ALG CRV 294 FT N19DW 357.06 - FT NW ALG CRV 36.58 FT W 453.46 FT - TO POB - OR 729-478 - SUBJ TO UTILITY ESMT OR 666-743 DC OR 802-534 OR 802-535 CO OR 817-55 OR 818-937				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 8/18/2021
Last Data Uploaded: 8/17/2021 10:53:15 PM

Developed by Schneider
GEOSPATIAL

Subject: Re: Fish Creek plat and ownership history from 50 years prior to our Phase One USDA - RA to today
From: Dave Dall <davedall@fairpoint.net>
Date: 8/8/2021, 6:48 AM
To: Lynette Senter <tcwsd@fairpoint.net>

Thanks

Have you requested the the water and sewer available capacity to this property. How much would this info cost to develop and how long will it take

Dave Dall

c: 850.843.0037
e: davedall@fairpoint.net

On Aug 4, 2021, at 4:14 PM, Lynette Senter <tcwsd@fairpoint.net> wrote:

Good Afternoon Mr. Dall,

The District is unaware of any development history for Parcel 07193-000 other than the request received by Mr. Curtis in September 2020 referencing hookups.

I have attached a property history sheet but the available County records only go back to 1977.

We have not told Danny Griner that water is available and its' location

We have not told Danny Griner the location of our sewer line that might service the development and any USDA restrictions.

As legal counsel is involved in this matter, the District's only communication was the original letter that was sent outlining the current one water and one sewer hookup and nothing further was provided.

There is a county plat map available as well as one provided by Mr. Curtis which is the same map. No development materials have been received other than a request for hookups.

I will work this up with more detail for the August meeting.

Thank you,

Lynette Senter

On 8/1/2021 5:24 PM, Dave Dall wrote:

Do we have the development history property involved in our current Fish Creek project

Have we told Danny that we have water available and it's location

Have we told Danny the location of our sewer line that would service this development and the USDA restriction

Appreciate your help

Dave

c: 850.843.0037

e: davedall@fairpoint.net

--

Lynette Taylor Senter, District Manager

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<Fish Creek Cove #339.pdf>



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Attorneys:
Ray Curtis ^(FL)
Cathleen Curtis ^(FL)
Ian Puczkowski ^{(FL) (GA)}
Licensed in Florida ^(FL)
Licensed in Georgia ^(GA)

Taylor Coastal Water & Sewer District
18820 Beach Road
Perry, FL 32348
Sent via email to: tcwsd@fairpoint.net

October 16, 2020

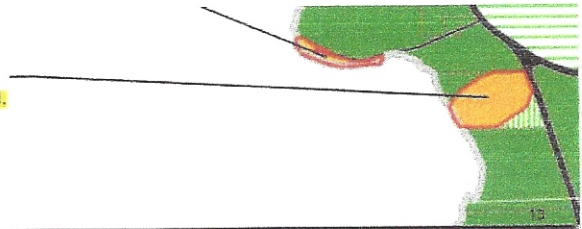
RE: Water and Sewer Connections at 22645 Fish Creek Highway

Dear Ms. Senter:

I represent Don and Michele Curtis, owners of the property (by way of a reverse 1031 exchange agreement) located at 22645 Fish Creek Highway, Perry, FL 32348.

Pursuant to the Taylor County Future Land Use Map, it would appear that the property is eligible for sewer and water connectivity for up to 10 units per acre (see below).

Note: Until such time as centralized sanitary sewer service is provided to the Hutchins property, Application No. CPA 11-01, the maximum allowable density shall be 4 dwelling units per acre. Upon such time as centralized sanitary sewer service is provided to said parcel, a maximum of 10 dwelling units per acre shall be permissible on said parcel.



Per the survey conducted by Delta Land Surveyors on August 6, 2020, the Curtises own 27.15 acres. 18.72 acres of which are upland acres.

I write you to ask Taylor Coastal Water and Sewer District's opinion as to the number of connections the property is eligible for (i.e. 271 connections, 187 connections, or some other number).

As the Curtises are considering whether or not to develop the property, certainly the number of connections available to the property is an important component of such an evaluation.

Please look into this and let me know the District's position at your earliest possible convenience.

Thank you and have a nice day.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ray Curtis". The signature is fluid and cursive, with a large initial "R" and "C".

Ray Curtis

cc: DRC. MRC

TAYLOR COASTAL WATER & SEWER DISTRICT
18820 BEACH ROAD
PERRY, FL 32348

Phone/Fax: (850) 578-3043

www.tcwsd.org

tcwsd@fairpoint.net

October 19, 2020

Mr. Ray Curtis
The Curtis Law Firm
103 North Jefferson Street
Perry, FL 32347

Dear Mr. Curtis,

Thank you for your inquiry regarding 22645 Fish Creek Highway, Perry, FL 32348, Parcel ID 07193-000.

This property received water service in 1995, and sewer service in 2013. The property contained one residence with a septic tank and qualified for a grant-funded grinder pump. This pump was installed under Phase II Part 2 of our Wastewater Improvements Project.

The total number of connections that the District can provide to this parcel is one (1), which is the existing service to the home.

Taylor County Board of County Commissioners has recently updated their ordinances to allow the possibility of exemption from the Taylor Coastal Water & Sewer District, which may apply to this property. We have received an exemption form from our attorney that will be reviewed by the Board at our next meeting. I will be happy to send you the form once it has been approved.

If you need anything further, please let me know.

Sincerely,



Lynette Senter,
Office Manager

Subject: Re: 2nd Letter re Sewer Connections (Re Don and Michele Curtis)
From: Lynette Senter <tcwsd@fairpoint.net>
Date: 1/19/2021, 11:28 AM
To: "Ray Curtis (CLF)" <ray@thecurtislawfirm.com>
CC: Don Curtis <drcurtisjr@hotmail.com>, Michele Curtis <mrc1218@hotmail.com>, laiberjeris@fairpoint.net, LaWanda Pemberton <LPemberton@taylorcountygov.com>, "Conrad C. Bishop" <lawbishop@fairpoint.net>, tdemps@taylorcountygov.com, JD Durant <jd@boydlaw.net>

Mr. Curtis,

Our Attorney, Mr. Joe Boyd, passed away earlier this month. We are working with his firm to changeover our representation and files and will respond to your request once we have discussed the matter with our new attorney.

Thank you,

Lynette Senter

On 1/18/2021 10:58 AM, Ray Curtis (CLF) wrote:

Ms. Senter,

Please find attached the second letter re connecting the Curtis' coastal property to the sewer system. Thank you and have a nice day.

Ray

--

Ray Curtis
The Curtis Law Firm
A Professional Association
103 North Jefferson Street
Perry, FL 32347

(850) 584-5299 phone
(850) 290-7448 fax

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--

Lynette Taylor Senter, Office Manager

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Attorneys:
Ray Curtis^(FL)
Cathleen Curtis^(FL)
Ian Puczkowski^{(FL)(GA)}
Licensed in Florida^(FL)
Licensed in Georgia^(GA)

Taylor Coastal Water & Sewer District
Attn: Lynn Senter
18820 Beach Road
Perry, FL 32348
Sent via email to: tcwsd@fairpoint.net

January 18, 2021

RE: Water and Sewer Connections at 22645 Fish Creek Highway

Dear Ms. Senter:

I represent Don and Michele Curtis, owners of the property (by way of a reverse 1031 exchange agreement) located at 22645 Fish Creek Highway, Perry, FL 32348 (hereinafter the "Fish Creek Property").

I sent you a letter dated October 16, 2020 (attached hereto as "Exhibit 1") wherein I inquired as to how many sewer and water connections the Fish Creek Property would be eligible for in the event its owners moved forward with a development plan.

I received a response from you dated October 19, 2020 (attached hereto as "Exhibit 2"), wherein you advised that "the total number of connections that the District can provide to this parcel is one (1), which is the existing service to the home."

The current Comprehensive Plan was amended in 2011 to permit up to 10 dwelling units per acre on the Fish Creek Property once centralized sanitary sewer service was provided to the property.

The amendment process started in 2008, was approved by the Planning Board, and was then approved by the County Commission. There was then litigation between the State of Florida Department of Community Affairs (hereinafter "DCA") on the one hand, and the County and Kenneth Hutchins (the owner of the Fish Creek Property at the time) working together on the other. A Mediated Settlement Agreement (attached hereto as "Exhibit 3") was reached between the County, Mr. Hutchins, and the DCA in April of 2011. The same was subsequently adopted by the County in Ordinance 2011-08 on June 6, 2011 (attached hereto as "Exhibit 4").

Residential & Commercial Real Estate Transactions - Title Insurance - Wills, Trusts, & Estate Planning - Governmental Law - Intentional Torts and Negligence - Family Law - Corporate & Business Law - Criminal Defense - Construction Law

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Of particular note is that Exhibit A to the Mediated Settlement Agreement, as to the Fish Creek Property, states that the Fish Creek Property, but for the Mediated Settlement Agreement, would have been “served by individual septic tanks”, but that “...at the density allowed in the land use category, septic tanks cannot be permitted under Department of Health Rules.” Per Exhibit B of the Mediated Settlement Agreement, in order to come into compliance with State law and comply with the terms of Said Mediated Settlement Agreement, the County was required to: (1) “...place an asterisk and/or notation on the Future Land Use Map which corresponds to a site specific Future Land Use Element text amendment referencing the parcels and incorporating the requirements of this Exhibit “B”.”; and (2) such notation shall state “Until such time as centralized sewer is provided to the parcels, the maximum allowable density shall be 4 units per acre. Upon connecting to a centralized sewer system, a maximum of 10 dwelling units per acre shall be permissible on the parcels.” Per the Mediated Settlement Agreement, as to the Fish Creek Property, this equates to 14 acres at 10 dwelling units per acre, or 140 dwelling units.

This entire process was concisely summarized by Building Department Director Danny Griner in his June 6, 2011 Memorandum to the Board of County Commissioners (attached hereto as “Exhibit 5”).

The engineered plans for the Phase II Part 2 installation of a sewerage main line down County Road 361 were prepared in April of 2012 (attached hereto as “Exhibit 6”). Said plans were approved by the TCWSD, the USDA, and the County subsequent to the passage of Ordinance 2011-08, with all parties knowing full well that installation of said line was meant to facilitate sewerage of up to 10 dwelling units per acre at the Fish Creek Property.

By 2013, said sewerage mainline was installed along County Road 361, facilitating sewerage service to the Fish Creek Property.

Since your letter attempts to claim that the County’s recent passage of Ordinance (*Ordinance Number Not Assigned*) (the ordinance that provides certain exemptions to Chapter 66 of the County Code) (attached hereto as “Exhibit 7”) allows TCWSD to simply opt out of providing sewerage service, I want to spend a moment to address the same.

That Ordinance does not allow TCWSD to opt out of provision of sewerage service. To the contrary, it permits an exemption from mandatory connection to TCWSD only if one of two circumstances exist:

- (1) If the owner “not required” by law to connect; or
- (2) That “the district is unable to permit connection...”

As to the Fish Creek Property:

- (1) Any dwelling units thereon are clearly required to connect to centralized sanitary sewerage pursuant to:
 - a. County Code Section 66;
 - b. The Mediated Settlement Agreement between Kenneth Hutchins, the County, and the DCA; and
 - c. Ordinance 2011-08.

(2) TCWSD is able to permit connection to said centralized sanitary sewerage system.

Moreover, pursuant to the September 13, 2002 USDA Letter of Conditions (attached hereto as "Exhibit 7") that sets forth the requirements that must be met and maintained in order to maintain USDA loan funding without default, "All residents located in the service area"... "must be afforded an opportunity to become users of the facility."

TCWSD now refuses to acknowledge that it will provide centralized sewerage service for up to 140 dwelling units per acre at the Fish Creek Property if the same is developed, and instead insists that it is only obligated to provide 1 connection.

Half a decade and many thousands of dollars were spent fighting the DCA to enable centralized sewerage service to the Fish Creek Property (and to its neighboring Bird Island to the North), culminating with the County agreeing to the same in the Mediated Settlement Agreement.

The current owners of the Fish Creek Property relied on all of the above when purchasing the property, knowing that the Mediated Settlement Agreement acknowledges that septic service cannot be permitted at the property¹, but that the County agreed that there could be up to 10 dwelling units per acre with centralized sewerage service once the County, through the TCWSD connected the Fish Creek Property to a centralized sewer system. More simply put, the County, the DCA, and the Fish Creek Property owner (Dr. Hutchins) entered into a contract that the Fish Creek Property owner could construct up to 140 dwelling units on the Fish Creek Property once centralized sewer was connected. With the property now having been so connected, the TCWSD's refusal to permit connection of up to 140 dwelling units to said central sewer system breaches the contract.

The result: (1) TCWSD has caused the County to be in breach of its agreement with the DCA; and/or (2) TCWSD has caused the County to be in breach of its agreement with the Fish Creek Property owner; and/or (3) TCWSD has effectively caused the County to take by agency action, without compensation, the development rights for up to 139 (140 allowed by the Mediated Settlement Agreement minus the 1 that TCWSD is willing to provide connection to) dwelling units from the Fish Creek Property owner.

As such, TCWSD should issue a letter advising that, **in the event of an otherwise approved development/construction permit for up to 139 additional dwelling units, TCWSD will provide centralized sewer connectivity for the same.**

If TCWSD fails to provide such letter within thirty (30) days, the Fish Creek Property owner (likely joined by the Bird Island Property owner who is similarly situated) will deliver to the TCWSD and the County a pre-suit notice as required by Fla. Stat. § 70.001(4)(a) wherein, among other things, compensation for the arbitrary and unilateral regulatory taking of said property owners' development rights will be sought.²

¹ See section I(A)(3) of Exhibit A of the Mediated Settlement Agreement (attached to this letter as "Exhibit 3").

² Although no appraisal has yet been conducted, it is expected that the development rights for 139 coastal dwellings, plus the 34 coastal dwellings for Bird Island, would well exceed \$8,000,000.00 (173 dwelling units at \$50,000.00 profit each). See Fla. Stat. § 70.001

I sincerely hope that litigation can be avoided and that the TCWSD (as an agency of the County) will honor the terms of the Mediated Settlement Agreement entered into by the County, the DCA, and the Fish Creek Property owner (Hutchins) in 2011. I look forward to hearing from you soon.

Respectfully,



Ray Curtis

cc:

Don Curtis
Joint owner of Fish Creek Property
drcurtisjr@hotmail.com

Michele Curtis
Joint owner of Fish Creek Property
mrc1218@hotmail.com

Clinton Wood
Owner of Bird Island Property
21 Bird Island Road
Perry, FL 32348

Lynn Aiberjeris
Chairperson of TCWSD
laiberjeris@fairpoint.net

Joe Boyd, Esq.
TCWSD Attorney
joerboyd@boydlaw.net

LaWanda Pemberton
County Administrator for Taylor County
Taylor County
LPemberton@taylorcountygov.com

Conrad C. Bishop, Jr., Esq.
County Attorney for the
Taylor County Board of County Commissioners
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and Negligence - Family Law - Corporate & Business Law - Criminal Defense - Construction Law

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Subject: Re: 2nd Letter re Sewer Connections (Re Don and Michele Curtis)

From: "Ray Curtis (CLF)" <ray@thecurtislawfirm.com>

Date: 2/16/2021, 7:00 AM

To: Lynette Senter <tcwsd@fairpoint.net>

CC: Don Curtis <drcurtisjr@hotmail.com>, Michele Curtis <mrc1218@hotmail.com>, laiberjeris@fairpoint.net, LaWanda Pemberton <LPemberton@taylorcountygov.com>, "Conrad C. Bishop" <lawbishop@fairpoint.net>

Ms. Senter,

As I advised in my January 19, 2021 email, due to the death of the TCWSD attorney Joe Boyd, I have waited several weeks to resume addressing the matter of sewerage to the property located at 22645 Fish Creek Highway, Perry, FL 32348, and am hopeful that TCWSD is prepared to move the dialogue along to a swift and unequivocal conclusion; hopefully in line with the 2011 Hutchins/Woods/DCA/County Mediated Settlement Agreement.

To be clear, Fish Creek Cove, LLC (the owner of 22645 Fish Creek Highway, Perry, FL 32348) seeks from TCWSD a letter that confirms that, in the event that Fish Creek Cove, LLC obtains an approved development (construction) permit for up to 139 additional dwelling units, TCWSD will provide centralized sewer connectivity for the same.

I would like to appear at the February 23, 2021 TCWSD meeting to present the background of this particular property (as I did in my January 18, 2021 letter (re-attached hereto for convenience)), and answer any questions the board may have. Will I be able to appear and give a presentation, and is there a standardized form that I need to fill out in order to appear?

Thank you.

Ray

On Tue, Jan 19, 2021 at 2:53 PM Ray Curtis (CLF) <ray@thecurtislawfirm.com> wrote:

Ms. Senter,

I'm sorry to hear that...Mr. Boyd was a fine attorney, and based on my experience with him, a good man. I will put a pin in this for a few weeks; then circle back to you.

Thank you.

Ray

On Tue, Jan 19, 2021 at 11:29 AM Lynette Senter <tcwsd@fairpoint.net> wrote:

Mr. Curtis,

Our Attorney, Mr. Joe Boyd, passed away earlier this month. We are working with his firm to changeover our representation and files and will respond to your request once we have discussed the matter with our new attorney.

Thank you,

Lynette Senter

On 1/18/2021 10:58 AM, Ray Curtis (CLF) wrote:

Ms. Senter,

Please find attached the second letter re connecting the Curtis' coastal property to the sewer system. Thank you and have a nice day.

Ray

--
Ray Curtis
The Curtis Law Firm
A Professional Association
103 North Jefferson Street
Perry, FL 32347
-
(850) 584-5299 phone
(850) 290-7448 fax

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--
Lynette Taylor Senter, Office Manager

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Attachments:

Second Letter re Connection Availability 1.18.21.pdf	18.8 MB
Bert Harris Pre-Suit Notice DRAFT.pdf	194 KB



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Ray Curtis^(FL)
Cathleen Curtis^(FL)
Ian Puczkowski^{(FL) (GA)}
Licensed in Florida^(FL)
Licensed in Georgia^(GA)

Taylor Coastal Water & Sewer District
c/o Lynette Senter
18820 Beach Road
Perry, Florida 32348

Taylor County Board of County Commissioners
c/o Conrad C. Bishop, Jr., Esq.
411 North Washington Street
Perry, Florida 32347

March __, 2021

Bert Harris Claim

Dear Lynette Senter:

I represent Fish Creek Cove, LLC. Fish Creek Cove, LLC owns real property located at 22645 Fish Creek Highway, Perry, FL 32348, consisting of 27.15 acre(s), more or less, and having a Parcel Identification Number of 07193-000 (hereinafter the "Property").

The Claim

The following governmental entities (hereinafter the "Government") have taken the following action that Fish Creek Cove, LLC asserts is violative of Chapter 70, Florida Statutes (also known as the "Bert J. Harris, Jr., Private Property Rights Protection Act" – hereinafter the "Act"):

Governmental Entity(ies)

Taylor Coastal Water & Sewer District
Taylor County Board of County Commissioners

Action Taken

On October 16, 2020, Fish Creek Cove, LLC's attorney sent a letter to the Taylor Coastal Water & Sewer District (an agency of Taylor County - hereinafter "TCWSD"), asking TCWSD to confirm that the Property was eligible for sewerage connections for up to 10 units per acre, as stated in Taylor County's Future Land Use Map.

On October 19, 2020, TCWSD responded that the Property was eligible for a single unit (the presently existing home on the Property).

On January 18, 2021, Fish Creek Cove, LLC's attorney sent a followup letter to TCWSD advising of the history of the Future Land Use Map as it related to the Property, and that the density allowances as conditioned on sewerage connection were part of a 2011 agreement reached in litigation with the State of Florida wherein Taylor County was a party to that agreement.

Nonetheless, on _____, 2021, TCWSD responded that it maintains its position that the Property was only eligible for a single connection.

The action of TCWSD (and Taylor County as its parent agency) has unilaterally reduced the Property from being eligible for up to 140 connections pursuant to the 2011 agreement, to one connection.

If TCWSD and Taylor County insist on unilaterally taking back the development rights of the Property that were reached by agreement in litigation, then they should be required to purchase those rights. ¹

In support of Fish Creek Cove, LLC's claim that the Government stands in violation of the Act (hereinafter the "Claim"), Fish Creek Cove, LLC states as follows:

1. The Government has inordinately burdened ² an existing use of the Property or a vested right to a specific use of the Property. *See §70.001(2), Florida Statutes.*
2. Fish Creek Cove, LLC is entitled to relief, which may include compensation for the actual loss to the fair market value of the real property caused by the action of government..." *See §70.001(2), Florida Statutes.*

As such, Fish Creek Cove, LLC is seeking either (a) a letter from TCWSD and the Taylor County Board of County Commissioners confirming that, in the event that Fish Creek Cove, LLC obtains an approved development (construction) permit for up to 140 dwelling units, TCWSD and Taylor County will provide centralized sewer connectivity and potable water for the same; or (b) compensation in the amount of \$_____ (Appraisal yet to be completed - expected differential to be in excess of \$2,000,000.00) _____.

The Property is Non-Agricultural. ³ As such, if this matter cannot be successfully resolved within one hundred fifty (150) days of the date of this Claim, Fish Creek Cove, LLC intends to file an action in the Circuit Court to enforce its right to just compensation under the Act against the Government.

Enclosed with this Claim, as required by §70.001(4), Florida Statutes, is a "...bona fide, valid appraisal that supports the claim and demonstrates the loss in fair

¹ "A citizen is entitled to rely on the assurances and commitments of the zoning authority and if he does, the zoning authority is bound by its representations, whether they be in the form of words or deeds." *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571 (Fla. 2nd DCA 1975)

² "The terms "inordinate burden" and "inordinately burdened" mean that an action of one or more governmental entities has directly restricted or limited the use of real property such that the property owner is permanently unable to attain the reasonable, investment-backed expectation for the existing use of the real property or a vested right to a specific use of the real property with respect to the real property as a whole..." *See §70.001(3)(e), Florida Statutes.*

³ *See §70.001(4), Florida Statutes.* If the property is agricultural, then the property owner must present a claim to the governmental entity at least 90 days prior to filing suit; at least 150 days if non-agricultural.

market value to the real property”, to wit: an appraisal performed by _____, dated _____, 2021, that finds that the Government’s action has resulted in a diminution in the fair market value of the Property in the amount of \$_____ (Appraisal yet to be completed - expected differential to be in excess of \$2,000,000.00) _____.

Post Notice of Claim Process

Pursuant to §70.001(4)(c), Florida Statutes, the Government (each and every government entity if there is more than one against which claim is being made) shall make a written settlement offer to Fish Creek Cove, LLC within one hundred fifty (150) days.

During the one hundred fifty (150)-day-notice period, unless a settlement offer is accepted by Fish Creek Cove, LLC, the Government (each and every government entity if there is more than one against which claim is being made) shall issue a written statement of allowable uses identifying the allowable uses to which the Property may be put. The failure of the Government to issue a statement of allowable uses during the one hundred fifty (150)-day-notice period shall be deemed a denial for purposes of allowing Fish Creek Cove, LLC to file an action in the Circuit Court. If a written statement of allowable uses is issued, it constitutes the last prerequisite to filing an action in the Circuit Court, notwithstanding the availability of other administrative remedies.

If Fish Creek Cove, LLC rejects the settlement offer and the statement of allowable uses of the Government, Fish Creek Cove, LLC may file a claim for compensation in the Circuit Court, a copy of which shall be served contemporaneously on the head of each of the governmental entities that made a settlement offer and a statement of allowable uses that was rejected by Fish Creek Cove, LLC.

In such an action, the Circuit Court will determine whether an existing use of the Property or a vested right to a specific use of the Property existed and, if so, whether, considering the settlement offer and statement of allowable uses, the Government has inordinately burdened the Property.

If the actions of more than one governmental entity, considering any settlement offers and statement of allowable uses, are responsible for the action that imposed the inordinate burden on the Property of Fish Creek Cove, LLC, the Court will determine the percentage of responsibility each such governmental entity bears with respect to the inordinate burden.

Following its determination of the percentage of responsibility of each governmental entity, the Court will impanel a jury to determine the total amount of compensation to Fish Creek Cove, LLC for the loss in value due to the inordinate burden to the Property.

The award of compensation shall be determined by calculating the difference in the fair market value of the Property, as it existed at the time of the governmental action at issue, as though Fish Creek Cove, LLC had the ability to attain the reasonable investment-backed expectation or was not left with uses that are unreasonable, whichever the case may be, and the fair market value of the Property, as it existed at the time of the governmental action at issue, as inordinately burdened, considering the settlement offer together with the statement of allowable uses, of the Government. The award of compensation shall include a reasonable award of prejudgment interest from the date the claim was presented to the Government.

If Fish Creek Cove, LLC prevails, Fish Creek Cove, LLC will be entitled to recover reasonable costs and attorney fees incurred, from the governmental entity or entities, according to their proportionate share as determined by the Court, from the date of the filing of the Circuit Court action, if Fish Creek Cove, LLC prevails in the action and the Court determines that the settlement offer, including the statement of allowable uses, of the governmental entity or entities did not constitute a bona fide offer to Fish Creek Cove, LLC which reasonably would have resolved the claim, based upon the knowledge available to the Government and Fish Creek Cove, LLC during the one hundred fifty (150)-day-notice period.

Please govern yourself accordingly.

Ray Curtis

cc: DRC, MRC

DRAFT