

To Village of Cottage Grove Board of Trustees

From Rick Manthe

Date February 28, 2020

Re R.G. Huston Estoppel Certificate

The Village of Cottage Grove (Village) entered into development agreements with Huston Properties, Inc. (Huston) in 1998 and 2007. The agreements concerned the Arrowwood Green subdivision and the Huston Olde Town Development.

As part of those agreements, Huston granted the Village a restrictive covenant restricting the sale of three specific lots (phase II, Lot 4 and Outlots 1 and 2) in the Arrowwood Green Subdivision. Under this restriction, the Village must approve any sale or transfer of the lots. The purpose of the restrictive covenant was to ensure Huston followed through on its obligations (i.e. installing public improvements) under the 1998 development agreement. The restrictive covenant runs with the land. Under the covenant, once Huston satisfied its obligations under the development agreements, the restrictive covenant would end.

On February 25, 2020, R.G. Huston Company, Inc. submitted an estoppel certificate (Certificate) for Village approval. The Certificate serves as an acknowledgement by the Village that Huston has satisfied all of its obligations under the development agreements. The Certificate also verifies that the restrictive covenant no longer applies, thus releasing that declaration within the 1998 development agreement. The Certificate would obligate the Village to record a release of the restrictive covenant from the lots specified above. Doing so would confirm that the Village does not need to approve transfers of the lots.

Due to the short amount of time for review, Village staff were not able to confirm whether Huston had complied with all terms and obligations in the development agreements as of February 28, 2020. If Village staff confirm that Huston complied with all of its obligations under the development agreements, the only existing obligation would be for the Village to provide revenue bond proceeds to Huston.

In the event that Village staff confirm Huston complied with all of its obligations under both development agreements, then Village approval of the Certificate is appropriate.