

From: Boyd Simpson
Sent: Monday, June 30, 2008 11:33 AM
To: Allen, Russell
Cc: 'Howe, Daniel'; Williams, Bradford; 'Buckingham, David T.'; Gil Hearn; Melody Mann-Simpson; 'Fuller, Alan'; 'tom.mccormick@ci.raleigh.nc.us'; 'Hall, Crystal'
Subject: City Plaza

Mr. Russell Allen
City Manager
City of Raleigh, North Carolina

Transmitted Via E – Mail

Dear Mr. Allen,

June 30, 2008

We are aware of the news article by WRAL which apparently was occasioned by a City source, which attributes statements to you which are in our view not true, and which is apparently intended to create an unfair, negative, and incorrect view of our company with the public and City Council members. We have attached a copy of the relevant article above. In light of the inaccuracies contained in the article we respectfully request the opportunity to make our own statement to the City Council during the Tuesday meeting. Please let us know if you will grant us this opportunity. If you will not, then we will be forced to take such action to communicate with the public and members of City Council as may otherwise be available to us.

The article indicates that negotiations have "broken down". As you clearly know, this is not the case. If anything is true, it is that the City has taken the position that it is withdrawing from the negotiations. Both Dan Howe and Brad Williams have so indicated, although, as you know, we have had continued communication with Brad over the weekend. There is also the implication that TSO has delayed the City's project. Nothing could be further from the truth. We have continually supported the project, never sought to delay it, and worked tirelessly at great expense with the City to craft the necessary agreements to allow the unified development of City Plaza and its associated infrastructure. There has never been any indication that TSO would not grant the easements to the City which it requires to complete the City Plaza project. We have never sought any monetary compensation from the City in connection with the granting of the easements. Additionally, we have proposed to bear certain costs and responsibilities in connection with the project including the construction of the retail pavilions at our entire risk and expense and payment by us of other infrastructure costs. There are numerous mutual benefits in the agreements which have been negotiated which would be lost if the City chooses to pursue condemnation of our property interests. You have previously recognized the benefits to both parties in a public statement on March 25, 2008 wherein you said, in part, in reference to us "They have never objected to the plaza or the street going through – they've been big supporters. They just have to watch out for their private interest in their building and we understand that." It is beyond us to understand why you now are taking a different point of view which is inconsistent with the facts. Your May 25th statement was and remains accurate.

If you elect to pursue condemnation it will be very expensive and difficult to conclude in an adversarial environment the complex physical, legal and practical interrelationships between the City project and our property. This will undoubtedly lead to delay, an increase in costs, and great uncertainty for both the City and TSO. Given that our consensual work to avoid this approach is essentially complete we cannot imagine why the City would choose such a course of action. The very good work between the parties which has been accomplished at great time and expense will be totally wasted. This is totally unnecessary.

Let us proceed together with the consensual development of the project as we have been for over two years. As indicated below we remain committed to this approach.

As you also know, we will deliver today to the City an executed Irrevocable License Agreement which will allow the City to start construction at a time of its own choosing, whether before or after August 1, 2008. We will also deliver an executed copy of the "Acknowledgement of Unified Development, Deed of Easement for Public Street Purposes, Ratification and Sixth Amendment of the Garage Site Purchase Agreement, Pavilion Easement, Paver Easement, Reciprocal Access Easement and Temporary Construction Easement Agreement" (the City Plaza Agreement) by and between TSO Fayetteville, LLC and the City of Raleigh. These deliveries are a clear indication of our good faith to complete negotiations and render the need for your condemnation threat and any follow up regarding it totally moot. We trust, given this action which we communicated to you on June 27th (interestingly the same date as the news article attributing information to you), that you will see the wisdom in not engaging in the adversarial action which you have threatened.

Please let us know if you will give us the opportunity to share our views at the City Council meeting. If not we will conduct ourselves accordingly, although we will, in any case have representatives present at the meeting for the purpose of observation and answering any questions which members of City staff or City Council members may wish to address to us. We would appreciate a response from you regarding our request to provide comment in an open environment at the public meeting prior to 3 PM today.

Regards,

For TSO Fayetteville, LLC

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