

GRAY | ROBINSON
ATTORNEYS AT LAW

301 SOUTH BRONOUGH STREET
SUITE 600
TALLAHASSEE, FL 32301
TEL 850-577-9090
FAX 850-577-3311
gray-robinson.com

FORT LAUDERDALE
JACKSONVILLE
KEY WEST
LAKE LAND
MELBOURNE
MIAMI
NAPLES
ORLANDO
TALLAHASSEE
TAMPA

Board Certified Construction Lawyer

850-577-6958

SHAWN.HEATH@GRAY-ROBINSON.COM

February 13, 2012

VIA E-MAIL AND MAIL

Gregory T. Stewart
Nabors, Gibson & Nickerson, P.A.
1500 Mahan Drive, Suite 200
Tallahassee, FL. 32308

Re: Driftwood Estates, Sandestin Florida
*Cynthia L. Abbott Revocable Trust, et al. v. Olson & Associates of NW
Florida, Inc., et al*; Case No.: 07-CA-000889

Dear Greg:

As you know, we represent the Greater Driftwood Homeowners' Association. ("Homeowers"). From our conversation last Friday, February 10, 2012, I understand that you have determined that the Sandestin DRI is in substantial compliance, and will, at tomorrow's meeting inform the Walton County Board of County Commissioners of such and recommend that the Board not continue the suspension of the issuance of building permits within Driftwood.

The Homeowners understand your determination and are writing to express our disappointment. Perhaps even more disappointing to the Homeowners is the way Walton County has failed to communicate with the Homeowners concerning its decision and the basis of that decision.

Other than our January 17, 2012, meeting with you, Mr. Kisela, Wayne Dyess and Lynn Hoshihara, Walton County has not sought from the Homeowners any information, nor provided to the Homeowners any information concerning its decision or the basis of that decision. Indeed, at the January 17, 2012, meeting no one refuted any point that we raised and no one offered any documents or proof that purported to conclusively determine any of the issues that the Homeowners raised. Rather, Walton County pledged to investigate the issues that we raised and respond to us. Until we spoke last Friday during the conference call that I arranged, we had heard nothing from Walton County

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concerning their investigation or decisions and we still have received nothing in writing regarding Walton County's position.

On Friday, you identified the following:

1. **Annual Reports.** You said that Sandestin is required to file biennial reports and although Walton County disputes some of the data in the developer's reports and whether the reports themselves sufficiently comply with the reporting requirements, nevertheless, you had determined that such was not substantial noncompliance. We request that Walton County specifically identify and produce to us each report filed by the Sandestin DRI developer since January 1, 2004 that purports to comply with the annual report requirement and identify what Walton County has determined to be any problems, errors, or purported noncompliance issues with each such report. It seems to us that such information must necessarily have already been determined by Walton County in order to conclude that no aspect of the information reported reflects a material noncompliance issue in, for example, the actual as-built conditions when compared to the requirements of the DRI.

2. **Open Space change to Residential.** I understood you to say that that several NOPCs had approved the change in land use in the interior of Driftwood from "Open Space" to "residential" to authorize the construction of 463 lots within the interior of Driftwood. You pledged to furnish me with that information quickly. What you determined is different than what the Homeowners have seen in the documents gathered from multiple sources, including Walton County, over the years. Moreover, it is a threshold issue and would appear to be a relatively simple issue that ought to be readily discernible from the NOPCs. **I would appreciate receiving that information today.** You also said that the special magistrate had made this determination. I have re-read the Special Magistrate Recommendation dated December 18, 2009 and did not see such a finding of fact, conclusion of law or determination for such. Please direct me to what you are referring to.

3. **Stormwater Retention Standard.** You said that the Homeowners were wrong concerning the stormwater retention standard. At our January 17 meeting we discussed this aspect including that the 1984 Agreement adopted by Ordinance 84-24 states:

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The projected retention time for stormwater runoff is for a storm with a three year frequency of occurrence with twenty-four hour duration.

Both the special magistrate and DCA agreed with the Homeowners' position on this. The Homeowners simply seek the courtesy of a written explanation from Walton County on why the Homeowners, DCA and special magistrate are wrong and how the plain language of the 1984 agreement either means something else or it has been superseded.

4. **DEP Non-Compliance Letter.** You said that you had spoken with the engineer of record, David Campbell, concerning the Department of Environmental Protection's November 29, 2011 "NON-COMPLIANCE LETTER" and that Mr. Campbell said that the issues were minor, likely to be resolved soon, and, in your opinion, not a basis to determine that the Sandestin DRI was not in substantial compliance.

DEP's letter stated, in part, that "modifications to the stormwater system...were not approved by the existing permit...no as-built certification concerning [those] modifications had been received...and [those] modifications have rendered the location of the skimmers to be ineffective in meeting State Water Quality Standards." We simply ask Walton County to identify in writing the facts that support its determination and whether the DEP has expressed its concurrence with Walton County concerning the issue.

You noted Walton County has not accepted the maintenance obligations of Driftwood II where DEP found the problems identified above. Please know that Walton County allowed the developer's letter of credit to expire without obtaining substitute collateral to secure the developer's performance in accordance with the permitted design and law. Please let us know if Walton County believes that Driftwood residents, the taxpayers or others should absorb any costs necessary to comply with the DEP requirements.

5. **Access to the DRI.** You said that it was your belief that the courts' decisions resolved this issue. We disagree that those decisions determined that the Sandestin developer is not required to provide access to the DRI for those in Driftwood. In 2000, 2002 and 2004, Walton County adopted by ordinances the developer's NOPC

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submissions that showed a golf course and road connections in Driftwood to the rest of Sandestin. That fact has never been revealed to any court.

As the Homeowners' expressed in the January 17, 2012, meeting—and had previously and since told the County—if the Homeowners are wrong on any point, we simply ask for the County to identify the basis and the documents that show why the Homeowners are wrong.

If Walton County has determined that it is correct on every point and that the Homeowners are wrong, then specifically identifying that to us may avert a lawsuit and save the Walton County taxpayers thousands of dollars in legal expenses. Moreover, there appears to be no good no reason for Walton County to not do so because without that information the Homeowners really have no viable alternative but to sue. In which case, Walton County will obviously have to very soon provide the same explanations and answers anyway.

You expressed that you would advise the Board against agreeing to a temporary injunction abating the issuance of building permits in Driftwood pending a prompt determination by the Court because, in part, of the potentially impacted interests of home builders within Driftwood.

That position is disappointing and bewildering. Walton County seems to afford undue consideration to every other person except the Homeowners. It appears that Walton County affords every consideration, every precaution and resolves all reasonable doubt in favor of any other interest other than those of the Homeowners in Driftwood. (For example, have we not raised at least some reasonable doubt regarding the stormwater retention drainage standard? Yet, Walton County strains to *support* the opposite view, where it should simply act as a neutral—not an advocate—and require the developers to respond.) Further, every person whose interest Walton County bends and sways to seek to protect bought their interest concerning the Sandestin DRI with actual or constructive knowledge of these issues and problems. Yet Walton County resolves every doubt in their favor.

In contrast, the Homeowners again would like to remind Walton County that they did nothing to create any of these problems. The Homeowners were enjoying their property in 2003 and before when Walton County authorized the developer to build 463 residential units in low area designated as open space/green space by employing a

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stormwater retention standard that does not comply with the law. The Homeowners have been flooded by the construction activities and their property values have diminished because of that construction. It angers and frustrates the Homeowners to see emails that reveal that Walton County reacted to their inquiries by colluding with the Sandestin Owners Association Inc., Intrawest, Olson and Associates and others to join together "to silence" the Homeowners, ignore their pleas, and to have them and other Walton County taxpayers pay for problems created by others. It is within Walton County's ability to seek to hold those others responsible, but Walton County apparently lacks the will to perform its constitutional obligations to enforce the law because of apparent fear of those who would be angered by doing so.

The Homeowners would like prompt answers to the questions raised above particularly where they will be harmed by the issuance of additional permits. If Walton County regards this as a private matter and it has sufficiently investigated whether the Sandestin DRI is in substantial compliance in order it to make its determination, then Walton County should, at a minimum, quickly do what it can to provide the information that the Homeowners need to be able to seek to protect themselves.

Respectfully,

A handwritten signature in black ink, appearing to read "Shawn", with a long horizontal flourish extending to the right.

Shawn M. Heath

SMH/vr

cc: Alan Osborne (via e-mail)