

Melody,

Please put this email in the Town Council packet for the Warrior discussion. The approach proposed below is conceptually acceptable in my view, but of course we need to see the actual numbers and final documents. An escrow agreement would need to be presented to Council at a future public meeting for consideration, and it appears the earliest that could happen would be July 1.

It is up to Council whether or not to delay taking any action on the notice of breach in light of this update below.

The notice of breach is attached and should be included in the packet. Thank you.

David H. McConaughy  
GARFIELD & HECHT, P.C.  
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**From:** Stephen R. Connor [<mailto:sconnor@okglaw.com>]  
**Sent:** Friday, June 13, 2014 8:20 AM  
**To:** David H. McConaughy  
**Cc:** Brendan Flaherty; Walter Bolen; Bob Gibson  
**Subject:** Lakota Warranty Work

David:

The Warrior people are diligently finalizing contractual negotiations with a reputable contractor to complete the warranty work this summer. It appears the contract will not be finalized until possibly next week and therefore the actual cost of the work is still not solidified. In any event, the cost of the warranty work will be significantly less than the Town Engineer's estimate. Warrior has engaged civil and soils engineers to insure that the warranty work will conform with the Town's standards even at a cost less than the Engineer's estimate.

To collateralize the warranty work as required in the Amended Development Agreement, Warrior will fund a draw down type escrow agreement as we discussed last week. It is anticipated that the escrow will function to allow withdrawals for payment of the contractor when the portion of the warranty work that is subject to a draw request has been approved by the Town. When the warranty work has been completed the escrow will terminate and any unexpended funds will be released to Warrior. I will create a proposed form for your approval next week.

The escrow will be established in an amount equal to the Warranty Work contract cost. The initial funding will occur contemporaneously with the approval and signing of the escrow fund agreement by and between the Town and Warrior. An initial deposit of \$100,000.00 will be supplemented with an additional deposit once the warranty work contract amount has been determined, but prior to the commencement of the warranty work. The balance of the collateralization to the amount of Town Engineer's estimate will be in the form of a first deed of trust on a parcel acceptable to the Town. Upon completion of the warranty work the deed of trust will be released by the Town.

Although it is anticipated that the warranty work can be completed as required by the Amended Development Agreement, Warrior expects the Town to be cooperative in providing a reasonable extension of the deadline if necessary. As we all are trying to work through issues created by the prior developer, for the betterment of the project and the Town it is in everyone's best interest that we amicably pursue a resolution of the issues rather than create a confrontational situation.

Warrior looks forward to finalizing the escrow in the near future and completing the warranty work as required and the commencement of construction on the Clubhouse.

Can you please confirm that the proposed concept is acceptable to the Town.

I will be back in my office on Monday, but can be reached today by email or on my cell phone, 970-319-7293, should you need to contact me.

Stephen R. Connor  
Oates, Knezevich, Gardenswartz, Kelly and Morrow, P.C.  
533 East Hopkins Avenue, 3rd Floor  
Aspen, Colorado 81611

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# GARFIELD & HECHT, P.C.

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June 4, 2014

David McConaughy  
[dmcconaughey@garfieldhecht.com](mailto:dmcconaughey@garfieldhecht.com)

*Via e-mail and Certified U.S. Mail, Return Receipt Requested*

Warrior Acquisitions, LLC  
Attn: Walter Bolen  
15 Mason  
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[walter@warriorcustomgolf.com](mailto:walter@warriorcustomgolf.com)

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[sconnor@okglaw.com](mailto:sconnor@okglaw.com)

Re: Town of New Castle – Lakota Canyon Ranch  
**Notice of Breach and Opportunity to Cure**

Dear Mr. Bolen and Mr. Connor:

This letter shall serve as the 10-day notice of breach and opportunity to cure required by Section 19 of the 2013 Amendment to Development Agreements for Lakota Canyon Ranch PUD (the "Agreement").

Section 13 of the Agreement obligated Warrior Acquisitions, LLC ("Warrior") to provide security for certain road repair and warranty work in an amount to be determined by the Town Engineer and in a form approved by the Town Attorney. The security was to be provided by July 1, 2013. The Town deferred the original deadline because the Town Engineer's estimate was not complete at the time.

On January 8, 2014, I sent you a letter enclosing the cost estimate from the Town Engineer in the amount of \$722,263.18 and requesting your proposal as to the form of security. I sent you the letter again by e-mail dated February 11, 2014. While we have had some discussions about various options since that time, no security has been provided, and in fact no proposal has been offered by Warrior that would provide liquid security in the full amount recommended by the Town Engineer.

Last night, the New Castle Town Council directed me to send you this letter and to advise that the Council will direct staff to exercise remedies under the Agreement if the issue has not been resolved by the next meeting, which is on June 17, 2014. Such remedies may include (without limitation) the refusal to issue building permits or certificates of occupancy, recording an affidavit to prohibit lot sales, or refusal to consider future development plans.

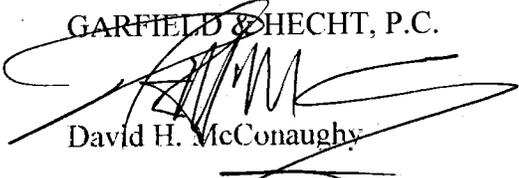
GARFIELD & HECHT, P.C.

The Town hopes and expects that no exercise of remedies will be necessary, and we do not want this issue to interfere with continuing development in Lakota Canyon Ranch. Nevertheless, given the Town's experience with the prior developer who defaulted on its obligations without adequate security in place to repair the same items we are now discussing, this issue needs to be resolved now.

Please contact me upon your receipt of this letter to discuss a resolution. You may also wish to have a representative attend the next Town Council meeting.

Very truly yours,

GARFIELD & HECHT, P.C.



David H. McConaughy

Cc: Tom Baker (*via email only* [tbaker@newcastlecolorado.org](mailto:tbaker@newcastlecolorado.org))  
Jeff Simonson, P.E. (*via email only* [jeffs@sgm-inc.com](mailto:jeffs@sgm-inc.com))