



CITY OF PORTLAND ENVIRONMENTAL SERVICES



1120 SW Fifth Avenue, Room 1000, Portland, Oregon 97204 ■ Dan Saltzman, Commissioner ■ Dean Marriott, Director

SUMMARY OF OBJECTIONS AND FINDINGS TO COUNCIL

185693

Assess benefited properties for sanitary sewer improvements in the Deltawood Phase II Local Improvement District (Hearing; Ordinance; C-10032)

I. SUMMARY

One (1) written objection was received by the filing deadline objecting to final assessment of the Deltawood Phase II Local Improvement District (LID). The objection was submitted by the owner of 1 of the 42 assessable properties proposed for assessment by the LID. The objection is summarized in Section II below.

An e-mail communication was received objecting to final assessment of the LID, but it was not provided in writing, nor was it sent to the City Auditor as required by City Code. Although it is therefore not considered an objection for purposes of Section 17.08.130 of City Code, it is summarized in Section III below.

II. SPECIFIC RESPONSES TO THE OBJECTION FILED BY PROPERTY OWNER VIVIAN REZAC.

An objection objection was submitted by Vivian Rezac, the owner of the developed property at 9410 NE Gertz Court; State ID #1N1E03DD 6100; #R776800840; Property ID #R271832; legal description SNOOZY'S HOLLOW, LOT 37; pending lien record #146176; see Attachment 1.

ISSUES RAISED BY THE OBJECTION

Issue No. 1: The total cost of the LID assessments will be over \$21,600 when including both proposed LID assessments and connection costs.

Findings:

- a. The assessment for the Deltawood Phase II LID for sanitary sewer improvements has been reduced from \$6,917.40 as estimated at LID formation to a proposed amount of \$4,844.00. This is a reduction of \$2,073.40 or 30.0%. If there were no funding from the Bureau of Environmental Services for this LID, the proposed assessment would be \$8,016.17 or 69.3% higher at \$19,582.47.
- b. Although not within the scope of this LID, the proposed assessment for this LID, the Deltawood Phase I LID for water main improvements, is unchanged from the estimate at LID formation of \$11,566.30. If there were no funding from the Portland Water Bureau for this LID, the proposed assessment would be \$2,459.95 or 21.3% higher at \$14,026.25.

- c. The \$5,200 sanitary sewer connection cost that would be incurred by Ms. Rezac is a one-time cost. She submitted testimony regarding costs of private repairs, which have been an ongoing expense in Deltawood prior to completion of these LIDs; as an example this single repair was estimated at \$4,500 (see Attachment 3). Completion of this LID will eliminate the chronic neighborhood-wide need for repairs and can be budgeted as a one-time, exact amount in lieu of unanticipated and unbudgeted emergency repair costs for which financing otherwise would likely not be available.
- d. Although not within the scope of this LID, the Portland Water Bureau absorbed the costs of connecting water services to the new public water system in Deltawood; therefore there will be no additional, privately-incurred connection expense by Ms. Rezac. The privately-incurred sanitary sewer connection cost estimated by Ms. Rezac in the amount of \$5,200 may be eligible for a plumbing loan from the Bureau of Environmental Services for up to 10 years.

Issue No. 2: The combined costs, including the sanitary sewer connection expense of approximately \$21,600 is approximately 55% of the average selling price of \$39,483 of all homes sold in Deltawood over the past two years.

Findings:

- a. Construction of water main and sanitary sewer improvements had not begun as of two years ago; therefore selling prices would not reflect completion of the improvements financed by this LID. Oregon law requires the disclosure of material defects prior to the sale of property; therefore the cost of water main and sanitary sewer system repairs would presumably be reflected in the sale price assuming proper disclosure, irrespective of whether the water main and sanitary sewer system repairs were actually made.
- b. Factors aside from the LID affect selling prices, such as whether a property was sold as part of a foreclosure, the condition of the property, etc. These external factors do not affect the special benefit that completion of this project affords to this property.
- c. As noted in Findings 1a and 1b above, the costs of resolving these problems is significantly less as part of an LID in lieu of an unsubsidized permit job. Further, the City is offering deferrals for qualified property owners in addition to 5, 10 and 20 year LID financing, which would not be available in the unlikely event that the repairs could have been completed under a permit job, which has been a topic of discussion in Deltawood for years.
- d. Assuming a decrease in daily usage of water (which influences both water and sanitary sewer utility charges) has declined from 0.39 c.c.f. to 0.15 c.c.f. for an individual household, this would equate to average monthly savings of \$81 per month. If both LIDs were financed over a 20-year term, the monthly combined payment would be \$120 per month assuming a 20-year financing term at an interim interest rate of 5.50%. Therefore, the net cost per month assuming this hypothetical usage decrease would be \$39 per month if the utility customer is also the property owner. Actual results will vary by household depending upon actual usage; however, preliminary indications of Deltawood households' overall usage from 2009 to 2012 indicate that these savings may materialize if recent usage trends hold true in the future.

- e. Previously there was one meter serving the entire neighborhood, and the utility billing was to the Deltawood Homeowners' Association (HOA) and then billed by the HOA among the residents. Now that the improvements are completed and Deltawood property owners are now on individual meters, utility customers are now in control of their own utility expense. They also may qualify for an ongoing low income discount, which was not previously available to any Deltawood residents prior to formation of this LID. If a utility customer qualifies for this discount, their monthly utility savings based on the hypothetical decrease in usage in Finding 1d above would increase from the \$81 per month to \$121 per month based on current utility billing rates. If they are also the owner of the property, this would result in positive cash flow of \$1 per month versus the \$39 per month net expenditure cited in Finding 1d above. Again, actual results will vary by household, but early indications are that the project has achieved its objective of eliminating substantial waste of water due to failing private water main and private sanitary sewer system infrastructure.
- f. The assessment for this LID must be based on benefit to property, not upon property value per Oregon law.

Issue No. 3: Despite the Safety Net deferral program, Realtors have been unable to sell homes in Deltawood due to the LID assessments, and the high HOA dues. These assessments will exacerbate the number of bankruptcies and foreclosures in Deltawood.

Findings:

- a. See responses to Issue No. 1 and Issue No. 2 above.
- b. The City does not control monthly dues assessed by the HOA. However, completion of the LID eliminates HOA billing of Deltawood residents for ongoing utility charges. The City is not in control of whether the HOA has actually adjusted its HOA dues to reflect this.
- c. Deferrals and loan programs are being offered in conjunction with the LID assessments, which would not be available to finance continued emergency repairs to the private system, nor for continued unusually high ongoing utility charges due to wasted water.

III. SPECIFIC RESPONSES TO THE E-MAIL FILED BY PROPERTY OWNER DENISE KRAFT.

E-mails were submitted by Denise Kraft, the owner of the developed property at 9521 NE Gertz Circle; State ID #1N1E03DD 4500; #R776800300; Property ID #R271808; legal description SNOOZY'S HOLLOW, LOT 13; pending lien record #146152; see Attachments 2 and 3.

ISSUES RAISED BY THE E-MAILS

Issue No. 1: The LID projects were never disclosed to me.

Finding:

- a. A pending lien record was created prior to Council formation of this LID on February 18, 2009 prior to Ms. Kraft purchasing this property on June 7, 2010. This information included the estimated pending lien amount. It should appear in any title search for the property conducted by an escrow company not excluding city liens.

Issue No. 2: The cost being placed on every homeowner is \$17,000 with additional amounts to come. Grant funding should be applied towards this project.

Findings:

- a. The assessment for the Deltawood Phase II LID for sanitary sewer improvements has been reduced from \$5,378.37 as estimated at LID formation to a proposed amount of \$4,844.00. This is a reduction of \$534.37 or 9.9%. If there were no funding from the Bureau of Environmental Services for this LID, the proposed assessment would be \$8,016.17 or 69.3% higher at \$19,582.47. The proposed assessment is one-time only.
- b. Although not within the scope of this LID, the proposed assessment for this LID, the Deltawood Phase I LID for water main improvements is unchanged from the estimate at LID formation of \$11,566.30. If there were no funding from the Portland Water Bureau for this LID, the proposed assessment would be \$2,459.95 or 21.3% higher at \$14,026.25. The proposed assessment is one-time only.

Issue No. 3: At the completion of this project the roads were repaved. No storm drains were placed anywhere so I would assume the stormwater issues will remain. Why?

Finding:

- a. Repaving of the streets in Deltawood was necessary after completion of construction of the water main and sanitary sewer improvements. All Deltawood property owners were invited by the City to meetings prior to formation of this LID about a possible third LID to construct street and stormwater improvements. The community consensus was not to move forward with such an LID at that time for which the Bureau of Transportation would be the Responsible Bureau. Reasons for deferring consideration of the LID included considerations of cost for Deltawood residents, as well as right-of-way constraints. However this does not preclude a future LID for street and stormwater improvements should Deltawood residents desire to move forward with such improvements.

IV. RECOMMENDATION

It is the recommendation of the Local Improvement District Administrator that the City Council overrule any and all objections with no change to the proposed assessment amounts for the Deltawood Phase II Local Improvement District for sanitary sewer improvements.

Respectfully submitted,

Andrew H. Aebi

Andrew H. Aebi
Local Improvement District Administrator



Matt Hickey
Bureau of Environmental Services

October 3, 2012

185693

City of Portland
Office of the City Auditor
1221 S.W. 4th, Rm. 130
Portland, Oregon 97204

Dear City of Portland Auditor:

RE: Objection to Proposed Assessments for Deltawood Phase I and Phase 2 LID Assessments

I am the owner of a property of 9410 NE Gertz Court in the Deltawood LID that is subject to the following proposed assessment amounts: Phase 1: **\$11,566.30** and Phase 2: **4,844.00** with total assessments of **\$16,410.30**


In addition to this proposed **\$16,410.30** assessments, I am obligated to pay the cost of connecting the property to the new sewer. A Deltawood neighbor recently obtained two estimates to connect to the sewer of **\$5,200** and **\$5,800**. In total, the cost burden of the assessments and sewer connection may be over **\$21,600**, an amount which is approximately **55%** of the average selling price of **\$39,483** of all homes sold in Deltawood over the past two years.

In the past **24** months, as shown on the attached Realtors Multiple Listing Service (RMLS) search results, **six** homes have sold for prices ranging from **\$29,500** to **\$50,000** with an average sales price of **\$39,483**. An RMLS search for Deltawood sales in the past 12 months showed that **no** homes have been sold through the RMLS in Deltawood. Discussions with two realtors that have tried to sell homes in Deltawood over the past year said that they were unable to sell the homes due to the substantial amount of the city's potential assessment and the high HOA dues which have been over \$200 per month in order to repay the city the approximately \$56,000 that is owed for unpaid past water and sewer bills when Deltawood had common sewer and water.

Imposing these LID assessments and sewer connection costs will have a detrimental impact on the values, the marketability and the equity of Deltawood homeowners. I understand that the Safety Net Program will allow homeowners to defer payments for assessment and connections costs. However, these are only deferrals and the unpaid principal and interest will accrue against the property. If any of the homeowners have equity in their homes, this assessment will likely be more than their equity and will exacerbate the number of foreclosures and bankruptcies that have occurred among the 41 homeowners in this neighborhood since Portland real estate values started declining in 2007.

Homeowners in Deltawood are struggling to keep their homes. I respectfully request that City Council consider not imposing the Deltawood Phase I and Phase 2 LID Assessments.

Sincerely,


Vivian Rezac

Attachment: 24 Month RMLS Sales in Deltawood

Christine Hermann
503-747-6775

Residential
Fairplay Realty

10/3/2012 8:36:32 AM

6 Matches

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Sold

MLS#	P	Type	Address	City	Area	Bedrm	Bath	Sqft	Price
10086455	1	DETACHD	9412 NE GERTZ CT	Portland	142	2	1	726	\$29,500
11670990	9	DETACHD	9507 NE GERTZ CIR	Portland	142	3	1	930	\$31,000
10048866	10	DETACHD	9515 NE GERTZ CIR	Portland	142	2	1	891	\$36,900
11445687	8	DETACHD	9528 NE GERTZ CIR	Portland	142	2	1	760	\$40,000
10093903	2	DETACHD	9517 NE GERTZ CIR	Portland	141	2	0.1	891	\$49,500
10077893	9	DETACHD	9509 NE GERTZ CIR	Portland	142	2	1	951	\$50,000

Total 6 Sold	Average DOM/CDOM: 99 / 168		Average List: \$41,733	Average Sold: \$39,483
	Median DOM/CDOM: 92 / 92		Median List: \$37,000	Median Sold: \$38,450
	Average SQFT: 858	Average L\$/SQFT: \$49	Average S\$/SQFT: \$46	
	Median SQFT: 891			

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

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Aebi, Andrew

From: denise kraft [denisekraft56@hotmail.com]
Sent: Friday, September 28, 2012 5:10 PM
To: Commissioner Fish; rep.lewfrederick@state.or.us; Leonard, Randy; Commissioner Fritz; Aebi, Andrew; investigators@katu.com; ombudsman@portlandoregon.gov
Subject: The Deltawood Community

ATTENTION.....ATTENTION.....ATTENTION

FOLLOWING THIS YOU WILL RECEIVE INFORMATION REGARDING THE DELTAWOOD COMMUNITY. I REQUEST THAT YOU TAKE THE TIME NECESSARY TO READ THE CONTENTS IN ITS ENTIRETY. I HAVE BEEN REDIRECTED AND REDIRECTED AND AM BECOMING QUITE FRUSTRATED THAT NO ONE WILL ADDRESS THE ISSUES. I SINCERELY HOPE THAT SOMEONE WILL TAKE ACTION IN THIS MATTER.

10/3/2012

Aebi, Andrew**From:** denise kraft [denisekraft56@hotmail.com]**Sent:** Friday, September 28, 2012 5:11 PM**To:** rep.lewfrederick@state.or.us; Commissioner Fish; Commissioner Fritz; Aebi, Andrew; Leonard, Randy; investigators@katu.com; ombudsman@portlandoregon.gov**Subject:** The Deltawood Community

To Whom It May Concern:

There are BIG PROBLEMS in the Deltawood Community, located between N.E. MLK Blvd. and N.E. Vancouver Way and N.E. Gertz Road. The community consists of forty one homes many vacant due to foreclosure, other occupied by low income owners and renters. I bought my home in June of 2010, PROBLEMS arose upon move in a leak was occurring at the parkway area of my home preventing any water use within my home. I became aware of their being a HOA at closing, although no contact information or CCR's were presented, I was required to pre-pay for water use in an amount of \$228.00 per month, New neighbors directed me to the home of Lorna Baxtor (president of the HOA), who redirected me to Community Management Inc. (Jed Spera). Jed told me to call a plumber, I did so plumber #1 determined it to be a City issue and for me to call The Portland Water Bureau. I did so, upon giving my address she said "Oops that's a SPECIAL PLACE you will have to contact your HOA. i phoned Jed again, and was told once again to call a plumber. I did so plumber #2 gave a repair quote of \$200.00-\$300.00 and determined the repair to be the responsibility of the HOA. Plumber #2 phoned Jed to get authorization to perform the repair this was denied, now stating it had to be D&F Plumbing to do the repair. I phoned D&F Plumbing and was told Big John the only plumber who knew the water set-up was out on a family emergency with an unknown date of return. I informed Jed of this and I called another plumber. Plumber #3 arrived gave a repair quote of \$200.00-\$300.00 and also determined the repair to be the responsibility of the HOA. Plumber #3 called Jed to get authorization to perform the repair, again this was denied. Plumber #3 directed me to let D&F do the repair, watch the job, and if he determines it to be your responsibility ,call me and I will get a mediator out. This leak was allowed to continue for thirteen days, I had no water in my home, a foot of water underneath my home, where water covers had been now filled with 3 feet of water, water rushing down the street to the entrance driveway forming a large pond at a rate of five gallons per minute. In my household was myself, my 29 yr. old daughter, her 2 and 4 yr. old daughters, my 17 and 19 yr. old sons, and his 19 yr. old girlfriend, 2 cats and 2 large dogs. I incurred much cost and damage during this time, payment of plumbers, purchasing water for use, water damage beneath my home estimated repair cost \$2200.00. Two accidents also occurred my dog fell into the crawlspace as it had to be open for use of a sump pump to remove the water. While playing outside my 2 yr. old granddaughter fell within the water cover area chin deep in water. I am most grateful I was right there as this easily could have been a fatal injury. I made many calls to Jed, him responding by hanging up or cursing at me I could not believe that anyone that had the authority to execute a repair would endanger a family in so many ways. During my wait for repair I received a letter from Vial Fotheringham LLP. stating that if the repair was due to any update the previous owner had done I would be responsible. Big John finally arrived on June 29, 2010, he had the assistance of my sons to perform the repair. He intended on using a sleeve and tape, when questioned he went and bought a clamp for \$10.00, also needed were two water covers one he took from a vacant home the other he purchased for \$50.00. Big John walked over to Lorna Baxtor's home and brought her over to my residence where he told her the repair was the responsibility of the Homeowners Association. I heard nothing for over eight months, and then I received notice of the action being filed. As I inquired about this I was told a SPECIAL BOARD MEETING was held and the board of directors deemed the repair to be my responsibility, they had the legal authority to do so and there was nothing I could do about it. The cost being claimed for the \$1345.00 which substantially differs from that of two other qualified plumbers. The total cost being claimed now is \$4500.00. I have tried to get legal assistance with this matter and there are no resources available all stating they do not handle homeowner association issues. This is not economic justice, it is low income homeowners being victimized by a so-called HOA. If one does not defend against the action, a default judgement is entered. This is and has occurred within this community too many times, the HOA placing liens and foreclosing on homes. I have been contacted by Ryan Harris (Vial Fotheringham LLP), he offered settlement, his offer reduction of attorney fees by 25% further

10/4/2012

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stating you do realize if this goes to court I will WIN. I can not believe or understand as to why The Deltawood Homeowners Association is and has been allowed to operate?

In my over two years of residency i have discovered MUCH and PLENTY pertaining to The Deltawood Community. I definitely have been DUPED, and have unknowingly and unwillingly acquired substantial debt. This entire community has been placed UNDER WATER at the hands of The Deltawood Community Association and The City Of Portland. Many owners have already and many more will lose there homes This area had been over looked by the City for many many years...no improvements made, many that should have occurred decades ago. I have become consumed in trying to make sense of ot all and to hopefully find resolution. My first discovery was The Deltawood Homeowners Association is and has been operating under false pretences. The fee that is collected that was said to be for water usage was incorrect. The fee collected was being used to re-pay a past due water bill acquired due to water and sewer pipes that were broken and leaking everywhere in the community. Apparently these leaks had been allowed to exist for years as they resulted in a past due amount being owed that exceeded \$100,000.00 to The Portland Water Bureau.If a person buys a home in this community they are never told that due to the location they now have an obligation to assist in re-payment of this debt. The Deltawood Homeowners Association also uses fees to assist in many of their devious acts, Community Management Inc., Vial Fotheringham LLP, and D&F Plumbing to whom they also owe past due plumbing repair bills. The Deltawood Community Association has and is in violation of the requirements stated they must meet in performing as a Homeowners Association. The common area must be accessible to all homeowners and it is the responsibility of the HOA to maintain these areas using collected fees to do so. The common area is fenced and padlocked prohibiting any access, except to the owners where their homes adjoin this area. This has given some owners the opportunity to exceed their properties without notification or permission. This area has been locked for over two years, maintenance had not occurred until Sept. 8 2012, the grass was neck high and had not been mowed in over two years. Currently Lorna Baxtor (president of the HOA) has exclusive use of this area for her goat. As I look back and remember all that I have been subjected to, I am so hurt as it appears evident I too will lose my home. This saddens me greatly, to enable my purchase I used my entire inheritance paying for new home in full, knowing this would be my final resting place and what I could pass on to my children. I have been hung up on and cursed at by Lorna Baxtor and Community Management Inc, (jed Spera) as I tried to resolve my no water issue . My warm welcome was extended further when driving through the community by Lorna's husband, displaying obscene gestures at my vehicle. The HOA has been severely negligent in numerous areas and most malicious in foreclosure on many many owners.

Why is there no regulation of Homeowner Associations? I filed a complaint with the Attorney General Consumer Protection, there response " They choose to act on wrong doing occurring on a larger scale than a homeowner and a homeowners association." The Mayor claims this is not an area he has jurisdiction over. THEN WHO DOES? I have written and written everywhere with many never replying back, as it took six emails to hear a response back from Sam Adams.

My next discovery is that of The LID II Project planned well before I ever moved but never disclosed. The LID II Project to replace all water and sewer line in the community, also giving every homeowner individual water meters to their homes. The cost being placed on every homeowner \$17,000.00 with additional amounts to come. I have many questions surrounding this- - - This community is occupied by many low income owners why would the total cost be placed onto us? Their are many many grants available that one would think someone would have applied for. The Portland Water Bureau was aware of the condition of the pipes - - why would they allow the leaks to continue to accumulate such a large water bill amount being owed. The Deltawood Community Association is a non-profit, whom has hired Community Management Inc, why would neither apply or find grant funding for this project? The City of Portland could also have found grant funding as a much needed improvement. Sam Adams was responsible in assisting Dignity Village with the funding for a similar project done there. Apparently no one applied or found grants WHY IS THIS? I witnessed the condition of the water and sewer pipes being removed for replacement, the condition greatly concerning. The pipes were swollen, rusted and decaying. What are the health risks that every person living in this community has been exposed to? For my family I have determined some health conditions to become apparent during my residency. I was told by The Portland Water Bureau "THIS IS A SPECIAL PLACE" some how I don't feel too "SPECIAL". At completion of this project the roads were re-paved. This is a low water area taking the effect on some owners during Winter, their homes being surrounded by water. Some owners having to use a sump pump to remove water from going beneath their homes. As others have large ponds developing in their yards, making it essential to use plywood as

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a means of entering your home to lessen the mud and guck. No storm drains were placed anywhere so I would assume the water issues will remain. WHY?

I am requesting answers and information as not any of this makes any sense. I would hope that someone also would become alarmed and take action. There are many issues that must be addressed. IS THIS ECONOMIC JUSTICE? IS THIS GENTRIFICATION? IT IS DESTROYING THIS COMMUNITY

Thank You
Denise Kraft
denisekraft56@hotmail.com
503-960-2228

10/4/2012