



January 12, 2021

Direct Dial: 949.851.7607  
Email: gpowers@jacksontidus.law  
Reply to: Irvine Office  
File No: 6494-127203

**VIA EMAIL (clerk@cityofsanmateo.org) AND OVERNIGHT MAIL**

Honorable Mayor and City Councilmembers  
c/o City Clerk  
City of San Mateo  
330 West 20<sup>th</sup> Avenue  
San Mateo, CA 94403

**RE: Pulte Homes – Delays for Hearing on Appeal filed by Laurianna Ceja Diaz (the “Appeal”) Regarding the Planning Commission’s Approval of PA-2020-043 (Modifying PA-2018-013) – 1, 2 3 Waters Tech Drive (the One90 Project)**

Dear Honorable Mayor and City Councilmembers:

We represent Pulte Home Company, LLC (“Pulte”). This letter is to express our concern over the repeated delays in holding a hearing on the Appeal filed by Laurianna Ceja Diaz (“Appellant”), dated November 5, 2020.<sup>1</sup> We respectfully request that the City Council proceed with the hearing on the Appeal at its January 19, 2021 meeting, regardless if Appellant seeks further delays or continuances.

The Appeal was filed over two months ago, on November 5, 2020. Since that time, Pulte has repeatedly asked to have the hearing on the Appeal because the City is withholding Pulte’s building permits for all multi-family units in the One90 project (“Project”) while the Appeal is pending. Pulte has requested to be allowed to proceed “at-risk” while the Appeal is pending, but the City has denied Pulte’s request. This is drawing out the construction time for the overall Project, and is causing Pulte serious damages, such as extraordinary carry costs, mobilization and de-mobilization costs, and delay damages. More specifically, the ongoing delays in having the Appeal heard has caused at least two months’ delay in opening model homes, opening and selling homes, and carry costs at approximately \$60,000 per day. It also significantly delays the construction of the 19 below-market-rate homes in the Project since the 10% affordable housing units are in the multi-family portion of the Project, and the City will not issue permits for the multi-family units while the Appeal is pending.

Pulte has repeatedly requested to have the Appeal heard as soon as possible since it was filed in November. Pulte was told the Appeal could not be heard at the December 7, 2020 City

---

<sup>1</sup> We request that this letter be included in the administrative record for this matter.

Honorable Mayor and City Councilmembers  
c/o City Clerk  
City of San Mateo  
January 12, 2021  
Page 2

Council meeting because that meeting was “purely ceremonial.” All the while, the City continued to refuse to issue building permits for the Project multi-family units, despite Pulte’s repeated requests to be allowed to proceed at-risk while the Appeal is pending.

Then, just a few days prior to the January 4, 2021 City Council meeting, the Appellant requested a continuance of the Appeal hearing. The purported basis for her continuance request was a “family emergency” that would prevent her from attending the City Council meeting. Nevertheless, Appellant was present at the City Council meeting for the hearing on the Appeal. At the meeting, I pointed out to the City Council that the Appellant was present, and therefore her continuance request (that was based entirely on her assertion that she could not attend) should be denied. Nevertheless, the City Council approved the Appellant’s request for the continuance even though she was present, and without any discussion whatsoever. At that point, Pulte was once again put off for another two weeks, to the January 19, 2021 meeting. All the while, the City continues to refuse to issue building permits for the multi-family units in the Project, and Pulte continues to accrue costs and significant damages as the result of these ongoing delays and continuances.

It should be noted that the right to a speedy hearing is for the benefit of the applicant (Pulte), not the Appellant, since it is the applicant’s project that has been approved and significant delays in hearing an appeal harm the applicant. Here, it has been two months since the Appeal was filed, and Pulte still has not been afforded a fair hearing. Due process requires that the Appeal be heard, and not dragged out indefinitely while Pulte continues to suffer damages as the result of the ongoing delays and continuance – particularly because the City will not allow Pulte to proceed at-risk while the Appeal is pending.

In addition, we request that the Appellant not be allowed to benefit from the unnecessary delay in the hearing on the Appeal by being allowed to file additional or supplemental materials to her appeal at this stage. The date for the Appeal hearing had been set for over a month, and the Appellant’s request for a continuance came in just a few days before the hearing date (and, notably, right after Pulte submitted its opposition letter to the Appeal to the City Clerk). The Appellant already received the benefit of her continuance request even though she was at the City Council meeting and the Appeal could have been heard on January 4, 2021. Appellant should not be allowed to request a continuance on the basis that she cannot attend the hearing, then attend the hearing while still having her continuance request granted, and then be given two additional weeks to file supplemental arguments in support of her Appeal.

We look forward to have the Appeal heard at the January 19, 2021 City Council meeting. Pulte respectfully requests that no more delays or continuances be granted, and that Pulte receive a fair hearing at the next City Council meeting.

Honorable Mayor and City Councilmembers  
c/o City Clerk  
City of San Mateo  
January 12, 2021  
Page 3

In the meantime, please do not hesitate to contact me if you have any questions.

Respectfully,



Gregory P. Powers

cc: Donald Sajor, Pulte Area General Counsel and Vice President\*  
Daniel Carroll, Vice President of Land\*  
Aaron Head, Pulte Div. Vice President of Land Planning and Development\*

\*via email only