
HARRIS RANCH CID TAXPAYERS' ASSOCIATION

September 13, 2021

Members of the Board
Harris Ranch Community Infrastructure District No. 1 (“HRCID”)
City of Boise
150 N. Capitol Blvd.
Boise, Idaho 83702

Re: The HRCID Was Unlawful from the Beginning

Members of the HRCID Board:

As you know, the Harris Ranch CID Taxpayers’ Association (“Association”) provided a confidential memorandum to you and the City more than two and a half months ago that explains in detail why we believe that the HRCID, the bonds it has issued, and the special taxes and assessments it has imposed violate both the Federal and State Constitutions in numerous ways. Those include failures by the City, acting through the HRCID, to comply with: (1) the 2/3rds voter approval requirement for the issuance of bonds; (2) the requirement of uniformity of taxation of similar properties in the City; (3) prohibitions against the City lending its credit to a private developer; and (4) constitutional protections of due process of law and equal protection of the laws.

We provided the memorandum to you privately in the sincere hope that you would work with the Association to address in a cooperative manner the apparent legal infirmities with the HRCID. As we undertook at the time, we did not share that memorandum with the homeowners in Harris Ranch, or with the broader community, or with the press. And we agreed to suspend our activities in that regard as a gesture of good faith. We hoped that a cooperative undertaking would minimize, to the extent possible, the political, financial, and reputational consequences to the City, its officials, and your advisors of the apparent invalidity of the HRCID, its outstanding bonds, and its special taxes and assessments.

The Association subsequently has submitted to you multiple letters of objection regarding proposed and past payments to the Developer. We have challenged the legal basis for those payments on a variety of grounds which seem rather obvious to us. We have also explained to you that, contrary to your own recent public statements: (i) the HRCID is NOT being used to finance “local amenities” but rather public improvements of general benefit to the City; and (ii) prospective purchasers of homes in the HRCID are NOT being given adequate and timely notices which “fully and fairly disclose” (as required by the Idaho CID Act) the existence and

nature of the HRCID, the bonds authorized, and the special taxes and assessments imposed *before* they are contractually obligated to purchase their homes.

Your response has been... silence. You instead have huddled in numerous “executive sessions,” closed to the public, with your legal counsel and staff, and have now hired additional outside lawyers, including litigation counsel. Your actions are forcing the Association to do the same. We are *very* disappointed, as we had hoped that you would do otherwise.

In the meantime, we have continued our review of past and proposed payments to the Developer, and of the voluminous documents related to the HRCID. We are not surprised, given what we had already discovered, that we have stumbled upon yet another fundamental legal flaw with the formation of the HRCID, this time from a statutory standpoint.

Discussion

As we noted in our original memorandum to you, the boundaries of the HRCID were “gerrymandered” by the Developer and the City to exclude all then-existing homes in Harris Ranch from its boundaries.¹ That apparently was done for the sole purpose of insuring that three members of the Harris family, who owned all the remaining property in the HRCID, would be the only people to “vote” on the formation of the HRCID and the authorization of almost ***\$54 million*** in bonds. As we also noted in our memorandum, the boundaries of the HRCID thus look like a giant jigsaw puzzle from which a third or more of the pieces are missing. We have attached a map of the HRCID for your reference.

Another curious feature of the HRCID is the big stripe down the middle which has been excluded from its boundaries. That apparently is the right-of-way for the large transmission lines owned by Idaho Power Company which run down the center of that stripe (“Idaho Power ROW”). What makes the stripe curious is the requirement under the Idaho CID Act that ***all property in a CID must be “contiguous”*** (which, according to Merriam-Webster, means “touching”). Idaho Statutes, Sec. 50-3102(5). The HRCID instead consists of three ***non***-contiguous sections: (1) the section to the west of the Idaho Power ROW; (2) the section to the east of the Idaho Power ROW which includes Harris Ranch North and the future Harris Ranch East; and (3) a comparatively small triangle, consisting of the Harris Crossing subdivision, sitting all by itself at the intersection of S. Eckert Road and E. Warm Springs Ave.

So, the question arises, how could this have happened? How could three ***non***-contiguous sections all be part of the HRCID despite the statutory requirement? We believe that we have found the answer. In our continuing review of documents, we discovered that the City and the Developer did in two short steps what the law expressly forbids them from doing in one step. That is, they formed the HRCID with the section to the *west* of the Idaho Power ROW, and then *before that was even completed*, they began the process to “amend” the boundaries to include the

¹ Hundreds of homes in Harris Ranch thus were *excluded* from the HRCID even though they benefit equally with homes *included* in the HRCID from the facilities being financed by the HRCID.

two additional sections to the *east* of the Idaho Power ROW.² This appears to be a transparent subterfuge to avoid the clear and express requirement imposed by the State Legislature in the Idaho CID Act that *all* properties in a CID be “contiguous.” If cities and developers were allowed, by predesign, to include non-contiguous properties in a CID in this manner, it would make the limitation in the CID Act meaningless. And, as you likely know at least intuitively, or your lawyers can explain, statutes are construed by the courts so that material provisions, especially of limitation, are *not* rendered meaningless.

The entire HRCID thus appears to us to be invalid for a reason separate from and in addition to its Constitutional infirmities – the blatant failure to comply with the boundary requirements under the Idaho CID Act.³

Requested Actions

As the HRCID appears to be invalidly formed in violation of applicable law, including the Federal and State Constitutions as well as the Idaho CID Act, we therefore make the following requests:

- That the HRCID’s \$19.5 million in outstanding bonds be refinanced and the new bonds purchased by the City⁴, as the party responsible for all this;
- That the HRCID’s bonds then be cancelled;
- That the HRCID be dissolved;

² The formation of the HRCID, consisting initially of the section west of the Idaho Power ROW, was approved by the Boise City Council on May 11, 2010. *Ten days later*, on May 21, 2010, the Developers filed a petition with the City to “amend” the boundaries of the District to include the two sections to the east of the Idaho Power ROW. That was *before* the Board of the District, consisting of three members of the City Council, had even had its first meeting. That meeting occurred on June 8, 2010. Given the time and effort required to put together the petition to amend the boundaries of the HRCID, that effort undoubtedly commenced long before the HRCID was even formed. That, we suspect, was the plan from the beginning and demonstrates the utter disregard for the law which appears to have characterized the actions of the City, the HRCID and the Developer.

³ We note that the Developer and the City *could* have complied with the Idaho CID Act by including the Idaho Power ROW within the boundaries of the HRCID. If the Idaho Power ROW had been included in the HRCID, however, Idaho Power would have been subject to very substantial special taxes on its ROW even though it may have benefited little if any from the improvements undertaken in the HRCID. That demonstrates one of the principal flaws of the Idaho CID Act: properties which are *not* benefited can nonetheless be subjected to CID special taxes, while properties which *are* benefited are free from those special taxes. So, Idaho Power, a potentially formidable opponent, was thus carved out of the HRCID by the City and the Developer. It appears that the City and the Developer were well aware of the “contiguity” requirement, as they cited it in amending the boundaries of the HRCID again in October 2010 to include streets and other public areas previously omitted so that all the properties initially included would be “contiguous.”

⁴ This is intended to protect existing bondholders from the consequences of the invalidity of the HRCID. This should be at the expense of the City, as most of the improvements financed to date are of general benefit to the City and its residents.

- That the City recover amounts paid to the Developer unlawfully, with interest at the rate specified in the Development Agreement; and
- That amounts recovered from the Developer be applied to reimburse homeowners in the HRCID for the unlawful special taxes and assessments they have paid to date, with any balance to be retained by the City.

We note that this letter and our previous letters do not include all our objections to the HRCID, its bonds, its special taxes, and assessments, and the prior, requested or proposed reimbursements to the Developer. We ask that all further financings and activities of the HRCID cease pending the resolution of these legal issues.

Sincerely,

pp Bill Doyle

Executive Committee,
Harris Ranch CID Taxpayers' Association

Cc: The Honorable Lauren McLean, Mayor, the City of Boise
Council Member Liza Sanchez, Council Pro Tem
Council Member Patrick Bageant
Council Member Jimmy Hallyburton
David Hasegawa, City of Boise
Jaymie Sullivan, City of Boise
Rob Lockward, City of Boise
Amanda Brown, City of Boise