



November 29, 2016

Doug Jorden  
Jorden, Hiser & Joy, P.L.C.  
5080 North 40<sup>th</sup> Street, Suite 245  
Phoenix, AZ 85018

Andrew Abraham  
Burch & Cracchiolo, P.A.  
702 East Osborn Road  
Phoenix, AZ 85014

Re: Application by TMS Ventures, LLC for Hillside Building Committee Review for  
Property Located at 5507 East San Miguel, Paradise Valley, Arizona ("TMS  
Property")

Dear Mr. Jorden and Mr. Abraham:

The Town staff has been made aware of the pending litigation between TMS Ventures and the four property owners neighboring the TMS Property (that is, Joe and Teresa Zachariah, Roseanne Appel, Alfred and Ingrid Harrison, and Jerry Smith, collectively, the "Four Neighbors"), including having been supplied copies of some of the pleadings in that litigation (Maricopa County Superior Court Case No. CV2016-005381, the "Pending Litigation"). Further, the Town Hillside Committee has been sent a detailed letter dated September 20, 2016 from attorney Francis Slavin, representing three of the Four Neighbors, with many new historical facts and legal assertions (the "Slavin Letter"). Given the Pending Litigation and new factual and legal issues raised by the Slavin Letter, we wanted to communicate to you the Town staff's position on the processing of the Application for Hillside Building Committee Review for the TMS Property (the "TMS Application"), namely, that the processing of the TMS Application should be seen as "at risk" at this time, for the reasons noted below.

First, given the Pending Litigation, the Town staff will insist that a final order or final settlement of the Pending Litigation on the form of legal access be provided to the Town staff prior to the issuance of any building permit for the TMS Property. Second, based on the determination by the courts of the form of legal access to the TMS Property (or possibly that there is no legal access at all), any prior Hillside Committee approval may be inapplicable or void and another application may need to be processed.

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The Town staff fully believes and intends that the TMS Property access issues are a private matter to be resolved by the parties to the Pending Litigation. Further, depending on the court's resolution of other issues that have been raised in the Pending Litigation and in the Slavin Letter, additional or different development requirements may apply.

The Town wants to be sure that you are aware that the existing uncertainties may impact the Town's development requirements and the review and approval processes for the TMS Property. At this time, the Town intends to continue to process the TMS Application as requested by your client, but this is "at risk" to your client and, as noted above, the Town's development and processing requirements are dependent upon the final outcome of the Pending Litigation. Further, the Town's issuance of a building or other construction permits will be contingent upon final resolution of the Pending Litigation.

Sincerely,



Andrew Miller  
Town Attorney



Eva Cutro  
Community Development Director

cc: Hillside Building Committee Members  
Kevin Burke, Town Manager  
Duncan Miller, Town Clerk