



5555 GLENRIDGE CONNECTOR, NE
SUITE 925, GLENRIDGE HIGHLANDS
ATLANTA, GEORGIA 30342-4728
TELEPHONE 404.236.8600
TELECOPIER 404.236.8601

direct dial: 404 236 8614
email: mdever@fdmlaw.com

January 17, 2019

VIA EMAIL ONLY

Jason D. McLarry, Esq.
Troutman Sanders
600 Peachtree Street, NE
Suite 3000
Atlanta, GA 30308
jason.mclarry@troutman.com

Re: Piedmont Park Community Center
FD&M File No. 5523.1101

Dear Mr. McLarry:

This law firm has been retained to represent Be Our Guest Investments, LLC with regard to the unsafe condition of the subsurface soils which resulted in the presence of a sinkhole below the Piedmont Park Conservancy ("PPC") building which houses the Piedmont Park Community Center and my client's leasehold interest ("Community Center Building"). Recently, my client became aware of the attached Memorandum from the PPC dated January 10, 2019 which is filled with inaccuracies and claims that the Community Center Building is structurally sound.

Since the moment the sinkhole was discovered my client has requested any and all current engineering reports identifying the cause of the sinkhole, confirming the structural soundness of the soils under the Community Center Building, identifying the appropriate scope of repair to the sinkhole and affirming that the building is structurally sound, that no voids exist under the building and that all repairs were conducted in accordance with engineering specifications. Incredibly, no such engineering report has been provided by the PPC. And yet, the sinkhole was filled with some unknown material, during the night by an unknown contractor.

The Memorandum references two separate engineering reports that deem the repair reasonable and the structure sound and well founded. To the extent such reports exist, provide me with a copy by noon January 18th.

While my client has received from PPC one report from Palmer Engineering dated September 18, 2018, it is important to note that said report preceded any alleged repair of the sinkhole. Notably, Palmer is not a geotechnical engineering firm. The Palmer report specifically states that Palmer performed no structural tests, took no material specimens and confirms that no geotechnical investigation was performed. The Palmer report recommendations are premised on the sinkhole being caused by the sewer line underneath the building, which is contrary to the

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City of Atlanta's findings in July and October. The Palmer report makes no repair recommendations but does recommend the engagement of a geotechnical engineer.

To the contrary, my client has provided the PPC with a report from Piedmont Geotechnical Engineering dated November 7, 2018 (post filling of the sinkhole) that states, "without knowing the source (cause) of the void, we can not predict whether future loss of ground will occur and, if so, whether such loss of ground could impact future performance of the building or its safety". In addition, my client's contractor has issued a report post filling of the sinkhole which states, "prior to us being able to warrant new work on top of this previous deficiency, we will need geotechnical evidence of what the repairs were and that they are structurally sound". Further, geotechnical engineers have confirmed that by filling the sinkhole it is impossible to determine the cause of the sinkhole or if the life safety emergency has been ameliorated.

We have grave concerns about the accuracy of the PPC's January 10, 2019 Memorandum which is being disseminated to the public. PPC's executive director, Mark Banta has repeatedly described the sinkhole as a life safety emergency. It is important to my client, and to the public, that a geotechnical engineer has identified the cause of the sinkhole, identified and supervised the scope of repair and has certified the Community Center Building structure and soil are safe. The presence of the sinkhole is so concerning that my client's lender will not fund additional construction advances until it receives confirmation from a third party geotechnical engineer that the sinkhole cause has been properly repaired/remediated and poses no life safety issues. You have had his lender letter, and the above letters from my client's contractor and geotechnical engineer, for months.

If no such geotechnical report exists, the PPC has breached its duty to provide my client a safe and habitable building to operate its business. It has also has abdicated its responsibility to the public to provide a safe environment for Park visitors, as it continues to lure park goers to a building housing an unaddressed "life safety emergency" condition. Instead of action, the PPC has chosen to impugn the reputation of my client by distorting the true reasons for my client's absence from the leasehold and by distributing false and misleading information about a sinkhole it has literally and figuratively covered up.

Very truly yours,



H. Michael Dever

HMD:hmb
enclosures
cc: Client



Contact: Amy Han Dietrich
Director of Marketing, Communications and Public Relations
Piedmont Park Conservancy
E: adietrich@piedmontpark.org
P: (404) 480-3758

January 10, 2019

Community Center is Structurally Sound

Thank you for your support of the Piedmont Park Conservancy's EnviroVentures Summer Camp program. A couple of months back, the Conservancy received media attention from a local news station related to the Community Center. This building is home to our camp facility, Willy's Restaurant and a new restaurant project under construction but stalled since mid-September 2018.

The media attention results from a commercial dispute between the tenant and the Piedmont Park Conservancy related to the cost and schedule of tenant improvements to the building's interior. The tenant stopped work on the project and has not returned, and the Conservancy has placed the tenant on notice.

Safety is paramount to the Piedmont Park Conservancy for all of our facilities and program participants. The Community Center was and is structurally sound according to two separate reports from the Community Center's Engineer of Record. The tenant has disputed the stamped engineering report but has not produced any stamped engineering report that counters the Engineer of Record's findings.

The void under slab has been repaired since September 28, 2018. The methods used to inspect the void, access the sewer asset and repair the void, have been deemed reasonable, and thorough by the City of Atlanta Department of Watershed Management engineers as well as the building's Engineer of Record. In addition, The City of Atlanta has conducted numerous inspections and tests on the sewer structures underneath the building and those in the area. They have provided these results to the tenant and the Conservancy.

According to the Engineer of Record's report, there are no other signs of significant soil erosion or under-slab voids other than the void that has been repaired. There is no distress in the building structure or finishes that one might associate with soil settlement. Although the City of Atlanta's tests did not confirm that it was the city's asset that caused the under-slab void, having specific and current understanding of the footings, soils, soil and void repair, the Engineer of Record is confident the structure is sound and well founded. He has provided a stamped engineering report stating the same.

Please contact the Conservancy with any questions or concerns in this matter.