



Serrano seeks \$2 million tax refund

By Mike Roberts | Village Life staff writer | April 27, 2010 12:01

Parker Development, the company behind Serrano, claims the county over-collected its' Mello-Roos taxes as far back as 2000 and has requested a roughly \$2 million refund from an account dedicated to Serrano infrastructure.

“We’re not asking for anything paid by anyone else,” said Serrano spokesman Kirk Bone, “just what we’ve overpaid over the last several years.”

However, the request discussed at the April 13 El Dorado County Board of Supervisors meeting might hit a legal snag.

While not disputing an over-collection, county Auditor-Controller Joe Harn said the terms of the 1992 Serrano Mello-Roos “bond indenture” dictate that overpayments can only be refunded in a limited time frame, after which, his options are limited.

“There is no mechanism (in the bond indenture) to issue a credit for the collection of delinquencies more than a year old,” he told the supervisors. “It’s not in there.”

Any overpayments not refunded after a year go to pay off the bond, according to Harn.

Bone had no opinion on the single year limit for refund requests. “That’s why we need an independent auditor to look at all this,” he said.

Mello-Roos “Community Facilities Districts” allow the sale of bonds that help fund infrastructure, schools and public services. Serrano residents pay between \$1,000 to \$2,000 in Mello-Roos taxes each year.

Undeveloped parcels also pay Mello-Roos, but at a lower rate, based on how much was collected from the developed parcels. In the convoluted world of Mello-Roos special taxes, the developed parcels pay first, leaving the balance to the owners of the undeveloped parcels - in Serranos’ case Parker Development owns most of those. Thus, the developer argues, they are owed the refund for overpayment.

Contacted later by phone, Harn confirmed that he’d received refund requests related to delinquency rates prior to Sept. 15 in each of the prior two years, resulting in \$502,035 in refunds.

But the discussion of refunds from 2000 to 2008 could require outside help. In a January letter to the board, Chief County Counsel Lou Green pointed out that refunds prior to 2006 are time-barred by a four year statute of limitations.

Serrano attorney Mike Cook asked the board for permission to hire bond counsel Sam Sperry, who represented the county on Serrano's Mello-Roos bond in the past.

Green told the board he didn't think outside counsel was necessary.

"Staff doesn't feel that this is that difficult," he said. "This board is capable of sifting through the determinations."

Supervisor Jack Sweeney angrily countered, "We're going to be asked to make some extremely technical, complex decisions here. This will be more of an adjudicatory than a policy decision."

As their meeting threatened the 12 hour mark, the board members opted for a public hearing during the June board meeting and directed the attorneys for both sides to work together to get Sperry's opinion.

The discussion will continue at 2 p.m. on June 22.

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