



1120 N.W. Couch Street, Tenth Floor

Portland, OR 97209-4128

PHONE: 503.727.2000

FAX: 503.727.2222

www.perkinscoie.com

Michael C. Robinson  
PHONE: (503) 727-2264  
FAX: (503) 346-2264  
EMAIL: MRobinson@perkinscoie.com

March 9, 2010

**VIA EMAIL**

Mr. John Sonnen  
Planning Director  
City of West Linn  
22500 Salamo Road, #100  
West Linn, OR 97068

**Re My Clients, Troy and Gina Bundy  
City of West Linn File No. WAP-09-03**

Dear John:

As you know, this office represents Troy and Gina Bundy. I am writing to follow up on our meeting of last Thursday. First, I want to express my thanks for the time that you, Peter and Cindy took to meet with us. As Troy and Gina told you, their objective is to settle this matter and to retain the pool that their family enjoys so much. As we explained at that meeting, their violation of the West Linn Community Development Code ("CDC") was purely unintentional, and they believed that they had authority to proceed with the pool construction. While they now realize that is incorrect, they are doing their best to remedy the violation of the relevant provisions of the CDC. I am writing to respond to the issues that we discussed.

**1. 120 Day Period Under ORS 227.178(3) and Hearing Date.**

Mr. Spir's January 27, 2010 letter to the Bundys states that the 120 day clock began to run on November 11, 2009, the date the Bundys submitted their application. (Mr. Spir's letter is at packet page 17, and the Bundys' application is date-stamped November 11, 2009.) Mr. Spir's letter states that the 120 day clock ends on April 9, 2010. Because the application was submitted on November 11, the 30 day completeness review provided under ORS 227.178(3) ended on December 11, 2010. Relevant authority provides that if no determination of completeness is provided within the 30 day period, the 120 day period begins to run on the 31st day, which in

91004-0005/LEGAL17848099.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DENVER · LOS ANGELES · MADISON  
MENLO PARK · PHOENIX · PORTLAND · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

Mr. John Sonnen  
March 9, 2010  
Page 2

this case was December 12, 2010. Thus, the City has until April 11, 2010 to render a final decision. I understand that the hearing date is scheduled for April 5, 2010.

Because my firm just began its representation of the Bundys and because they intend to address the reasons for denial of the application, it is fair that the hearing be continued to a reasonable date to allow me to work with the Bundys to prepare the best application possible to be heard by the City Council. As you know, the City Council hearing is *de novo*. I therefore request that the hearing be set for May 3. If that hearing date is set, the Bundys will extend the 120-day clock until May 21, 2010, inclusive.

**2. Enforcement.**

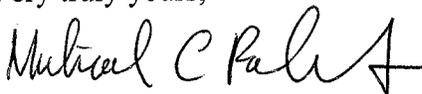
My understanding from our meeting on March 4, 2010 is that the City does not plan to take enforcement action now. However, after having reviewed the file, I question whether that is accurate. If the City plans to take enforcement action before the land use proceeding is complete, please let me know so I can plan accordingly. I am not asking you to waive the City's right to enforce the matter, but I am asking you to confirm that the City does not plan to take enforcement action until the land use application is concluded.

**3. Enclosure Around Pool.**

Assistant City Attorney Cindy Phillips raised the issue of a requirement for a fence around the swimming pool. The Bundys replied that there is a locked cover of substantial material over the pool, which will prevent a person from falling into the pool. I said at our meeting that if the City wants something specific installed around the pool, please let me know in writing and the Bundys will consider it. However, the issue of a fence around the pool is unrelated to the land use matter.

Thank you in advance for your courtesy and assistance.

Very truly yours,



Michael C. Robinson

MCR:crl

cc Mr. & Mrs. Troy Bundy (via email)  
Ms. Cindy Phillips (via email)  
Mr. Peter Spir (via email)