

From: [Curtis, Tim](#)
To: [Bloemberg, Greg](#)
Subject: FW:
Date: Tuesday, September 5, 2023 1:12:34 PM
Attachments: [axon auction 53-121237 notice \(4\).pdf](#)
[appraisal enagement letter.pdf](#)
[page 46 appraisal prohibited.pdf](#)
[continuing for page 46 appraisal.pdf](#)
[resolution 11146.pdf](#)

FYI

From: Stockwell, Brent <BStockwell@scottsdaleaz.gov>
Sent: Tuesday, September 5, 2023 12:09 PM
To: Padilla, Joe <JPadilla@Scottsdaleaz.gov>; Anderson, Eric C. <EcAnderson@Scottsdaleaz.gov>; Cluff, Bryan <BCluff@Scottsdaleaz.gov>; Carr, Brad <bcarr@scottsdaleaz.gov>; Curtis, Tim <tcurtis@scottsdaleaz.gov>; Perreault, Erin <EPERREAUULT@scottsdaleaz.gov>
Cc: Scott, Sherry <SScott@scottsdaleaz.gov>; Worth, Daniel <DaWorth@scottsdaleaz.gov>; Murphy, Bill <bmurphy@Scottsdaleaz.Gov>; Ekblaw, Kroy <Kekblaw@scottsdaleaz.gov>; Cooper, Scott G <SCooper@Scottsdaleaz.gov>
Subject: FW:

Hi all –

Jim asked that I coordinate with Planning and Legal on making sure we provide information to the City Council about the facts relevant to the information provided by Mr. Lieb below, as this has been communicated to the City Council members and some are concluding that the City cannot even here the Axon rezoning request. Let me know how I can be of assistance. Bill/Dan/Kroy/Scott – FYI so you are aware and in case you have any input.

Many thanks. Sincerely,
Brent Stockwell, MPA, ICMA-CM
Assistant City Manager
Direct: 480-312-7288

From: Thompson, Jim <JThompson@Scottsdaleaz.gov>
Sent: Monday, September 4, 2023 7:19 PM
To: Scott, Sherry <SScott@scottsdaleaz.gov>; Perreault, Erin <EPERREAUULT@scottsdaleaz.gov>; Stockwell, Brent <BStockwell@scottsdaleaz.gov>
Subject: Fwd:

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From: Michael Lieb <michaelalieb@yahoo.com>
Sent: Monday, September 4, 2023 6:14:17 PM
To: Zachary T. Graham <zachary.graham@nationwide.com>; wymern@nationwide.com

<wymern@nationwide.com>; James K. Rost <rostj@nationwide.com>; Thompson, Jim
<JThompson@Scottsdaleaz.gov>; brian.ellis@nationwide.com <brian.ellis@nationwide.com>

Subject:



HOBBS, ATTY GENERAL AND SCOTTSDALE ALLOWS AXON TO CIRCUMVENT THE AUCTION PROCESS AND CHEAT THE K-12 PUBLIC EDUCATION OUT OF \$125 MILLION OR MORE"

All the politico's are ignoring the appraisal, the auction notice and the legally binding "IGA" intergovernmental agreement between the State and the City of Scottsdale as all of these agreements reference numerous times the exact wording "RESIDENTIAL LAND USES ARE PROHIBITED". The current owner of the site AXON was fully aware of this.

The attorney General Office is a party to the legally binding IGA between the State and City of Scottsdale as the ATTY General office is one of the 4 entities to receive notices.

zoning case Not because it will add too many more years of apartment inventory to that submarket, but because it undermines the land departments ability to notice or restrict auctions, as well as having the effect of rendering future auctions as undependable with open ended use rights to the buyer market. Land developers deed restrict parcels of inventory all the time. They do so in order to protect values. There is way too much Trust Land still to be auctioned off in our State, for the State Land Department to risk their auction credibility over this case.

Please remind the politicians the statements in green below are right off the ASLD websites and 5 year plan.

They advised that the lands should be administered in a manner that met a "highest and best use" doctrine. – meaning that the decision to sell or lease the land should be based upon the potential use of each parcel.

Since ASLD's inception, its mission has been to manage the State's Land Trust and to generate maximum revenues, through prudent planning decisions for the Beneficiaries.

Our strategic priorities are: • increasing transparency • Maximizing the value of the Trust portfolio

Mission: To responsibly manage the assets of a perpetual trust in alignment with the interests the beneficiaries and the State.

SO HERE ARE THE FACTS: Please forgive if some of the dates are not exactly accurate as I don't have a team of researchers as its just me ☐

FACT #1 In my opinion, this re-zoning requests is ILLEGAL and should NOT even being processed by the City of Scottsdale as they agreed in a legally binding IGA not to do so UNLESS the ASLD has amended this entire Crossroads East agreement which they took years to get finalized. The IGA Intergovernmental agreement which is legally binding done in 2018 along with Resolution 11146 says and I quote:

"7.MODIFIED ZONING under third amended and re-stated development agreement (Contract No. 2001-141-COS-A#) In expense and effort put forth by the ASLD in connection to preparing the property for development, the Modified zoning, including the land use, densities and intensities set forth in the Land Use Budget and the amended development standards, shall be vested for the duration of this agreement upon approval by the city of this agreement.

8. Changes to the zoning For the duration of this agreement. The City shall not initiate any changes to the zoning. However, if a owner requests re-zoning AND the zoning change is inconsistent with the provisions of this agreement, such zoning change SHALL NOT BE PROCESSED UNTIL a application is filed by the ASLD to AMEND this agreement and such zoning change shall not become effective until the effective date of such amendment to this agreement to incorporate the zoning change.

FACT #2 When the Scottsdale Mayor and city council in August 2020 and Axon agreed to a \$9.4 million development agreement their was NEVER a mention of ANY multifamily because it was prohibited.

Fact#3 When the ASLD decided to move forward with selling this site they signed a engagement letter with MAI appraiser Karl Baltutat and in the letter the state advises the appraiser when appraising the value for "highest and best use" that RESIDENTIAL USES ARE PROHIBITED! This is important because this direction CLEARLY limited the value.

Fact#4 When the ASLD and the applicant AGREED to the final appraisal it was clear thru out the appraisal with a number of statements but specifically on page 48 of the appraisal under HIGHEST AND BEST USE header its says" According to the Crossroads East plan a WIDE variety of land uses are allowed on the subject property including office, retail, industrial, etc, BUT NOTABLY RESIDENTIAL USES ARE PROHIBITED ON THE SUBJECT PROPERTY

Fact# 5 Once the appraisal was agreed to it then went to Board of Appeals which is a quasi judicial board appointed by the governor. The Board of appeals approved the appraisal and the notice which made it clear this land was being sold under which prohibits residential:

(D) The Sale Parcel is subject to the Third Amended and Restated Development Agreement (the "Development Agreement") between the City of Scottsdale and the ASLD, filed in the Office of the Maricopa County Recorder on June 15, 2018 at document number 20180456551.

Fact #6 The legal auction noticed put out by ASLD and prepared by the ASLD atty specifically says under the TERMS OF THE SALE section (L)

(L) Development shall be limited to the use of the I-1 zoning district outlined in the Development Plan of the Development Agreement.

Fact #7 You have seen me referring to allowing this 2500 units would be circumventing the ASLD rules and process and would CHEAT the K-12 out of \$125 million. Its simple. In Dec 2022 the ASLD sold at a public auction to Garden Communities a 41.2 acre property of land for \$44.1 million approved for 882 units which is \$50,000 a unit up in the Desert ridge area which is clearly in proximity to this AXON site and most real estate folks would tell you AXON site would be more valuable, so i'm probaly on the low side.

SIMPLE MATH 2500 units X \$50,000 a unit equates to \$125 million.

Fact #8 I don't thing the ASLD has ever allowed this re-zoning precedent as t is 100% contradictory to their charge to maximize value for the beneficiaries.

In summary I truly hope you will take the time to read this as in my opinion the FUTURE OF THE ASLD credibility is at stake.

BTW I think back to large employers like American Express, Sumitomo, TMSC and Nationwide as examples of large employers who where successful in the process and never came back to try to change the land uses in my opinion in order to profit off the taxpayers and K-12 beneficiaries.

Thanks for your consideration and I hope you will take this seriously and discuss with the governors office.

Tell AXON they are a great employer and we want them in our state, but not at the public schools expense!!!

BTW here is all the documents from Scottsdale.

I think I can give you some helpful direction:

- click this [link](https://eservices.scottsdaleaz.gov/edmviewer/16672889) on a desktop with high-speed internet and be patient: <https://eservices.scottsdaleaz.gov/edmviewer/16672889>
- go to page 275 - this is where the City Council Report starts and it lists the ordinances that the Council adapted (these should be searchable on the City Clerk's website). Specifically, you want:
 - Ordinance 4346 (Approves the zoning district map amendment that adopts the Crossroads East Development Plan (includes the Land Use Budget of which zoning is allowed where) and the ASLD-COS Development Agreement)
 - Resolution 11145 (Crossroads East Development Plan)
 - Resolution 11146 (Crossroads East Development Agreement b/t ASLD and COS - COS Recording #2002-141-COS-A3)

<https://eservices.scottsdaleaz.gov/bldgresources/Cases/Details/47946>

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