

November 6, 2014

The Honorable Mark Mitchell
Mayor of the City of Tempe
P.O. Box 5002
Tempe, Arizona 85280

Re: **Removal of the “No Residential Use” Restriction from a Portion of the Land Conveyed by Bureau of Land Management Patent 02-97-005 to the City of Tempe**

Dear Mayor Mitchell:

The City of Phoenix has received a request from Alex Smith of the City of Tempe’s Community Development Department to remove the “no residential use” restriction from Lot 3A of the final plat at Playa del Norte, as shown in Book 685 of Maps at Page 32, Official Records of Maricopa County (Parcel). Specifically, the restriction is identified as No. 9 in Bureau of Land Management (BLM) Patent AZ-02-97-0005 between the BLM and the City of Tempe for a larger conveyance of land used for the Tempe Town Lake. Prior to the approval of this Patent, our two cities agreed by letter (attached) that a “no residential use” restriction be placed on the BLM land, as implied by a separate 1994 noise abatement Intergovernmental Agreement (IGA), due to the BLM land’s close proximity to the 1992, 65 DNL contour. BLM requires this letter to be signed between the City of Phoenix and the City of Tempe before BLM will remove the referenced patent restriction.

The goal of the Intergovernmental Agreement between our two cities and the FAR Part 150 Noise Compatibility Study is to implement and maintain responsible planning practices that protect our communities from high levels of aviation noise and discourages the introduction of incompatible land uses. Our teams have worked together collaboratively in recent years toward this goal. Most recently, the City of Tempe staff participated in an extensive study and outreach effort to update the Phoenix Sky Harbor International Airport (Airport) Noise Exposure Maps (NEMs).

Please note that as of the date of this letter, the Federal Aviation Administration (FAA) has not formally accepted the NEMs study.

In the spirit of cooperation between our cities, the City of Phoenix will not object to the City of Tempe’s request to remove the “no residential use” restriction from the Parcel. The City of Phoenix desires to protect the future of the Airport, which provides service to our constituents and is the largest economic generator in the state of Arizona.

Before the BLM releases the restriction, the following use restrictions shall be recorded on the Parcel under the referenced Patent due to the aircraft overflights and to mitigate any future risk of additional noise exposure:

1. New construction shall be sound mitigated to ensure that indoor noise levels do not exceed a decibel day-night level (DNL) of 45 decibels.
2. Building plans submitted for compliance review to the City of Tempe's Community Development Department shall be sealed and signed by an engineer licensed in Arizona with a proficiency in sound mitigation or noise control. The engineer shall note on the building plans that the building design indoor noise levels do not exceed DNL of 45 decibels.
3. Property owner shall record a Notice to Prospective Purchasers of Proximity to the Airport in order to disclose the existence and operational characteristics of the Airport to future owners or tenants of the Parcel.
4. The Property owner shall record an Avigation and Noise Easement (draft attached) for noise and other negative impacts resulting from aircraft flying to and from the Airport and other operations at the Airport.

The City of Tempe will ensure that the foregoing items are recorded prior to conveyance of the property and run with the Parcel.

Please countersign this letter in the space provided below and this letter will be submitted to BLM to allow for release of the referenced restriction from the Parcel.

Sincerely,

Greg Stanton
Mayor
City of Phoenix

AGREED AS TO FORM AND CONTENT

Mark Mitchell
Mayor of the City of Tempe

Enclosures