

**From:** Risksorter@aol.com [mailto:Risksorter@aol.com]  
**Sent:** Monday, October 20, 2014 12:16 PM  
**To:** Larissa DeLango  
**Subject:** Silo Ridge Development

To: Mr. Norman Fontaine and the Town of Amenia Planning Board

My name is John Duffy. I reside, with my wife, Maxine Paetro, at 23 Flint Hill Road in Amenia, as well as in New York.

I spent 30 years in the surety industry as an executive, credit officer and underwriting manager. My experience included performance and payment bonds; forfeiture guarantees; and structured finance guarantees.

After leaving the surety industry, I worked for 6 years as a consultant to a surety in runoff, assisting with the liquidation of their homebuilding and reclamation portfolios.

My concern with this project stems from Discovery Land's (DL) reported involvement in the Spanish Oaks residential/golf course project near Austin Texas.

In an article, dated, September, 7, 2010, statesman.com reported that the project, scheduled for completion in 2012, had been reclaimed, i.e. foreclosed on by its lender, Comercia Bank, late in 2010.

The article also reported that

- DL was the managing partner on this project.
- DL and its partners invested \$20 million in the project in 2005
- DL and its partners attributed the project's failure to the problems that befell the real estate market in 2008.
- The project ran counter to DL's "core principle" of using minimal debt to finance a project. When real estate sales plummeted, the loan could not be repaid.
- DL admitted that the project had been undercapitalized.

I've been advised that the Planning Board cannot require DL to furnish financial information on themselves or any partner or lender. But, given what occurred at Spanish Oaks, general prudence requires that the Planning Board obtain the strongest possible security at Silo Ridge.

And this security should be in the form of a surety bond or a bank letter of credit.

But I can tell you that, as a surety underwriter, I would not have even considered the application for a surety bond from a developer that had been foreclosed on. No consideration whatsoever.

My question is, if the foreclosure and supporting information, as reported by statesman.com is correct, what is the Planning Board's view?

- Is the Planning Board even aware of the Spanish Oaks foreclosure?
- What bonding/security, if any, does Silo Ridge currently carry? What is the amount and what does it cover?
- What level of bonding/security can the Planning Board, by law, require?
- If there currently exists bonding/security, is it in the form of a performance bond; dual-obligee (lender included) completion bond; or reclamation bond? Or has a bank letter of credit (L/C) been taken? For instance, were the project to be abandoned, is there a bond or L/C to cover the reclamation of any disturbed land?
- If there is currently no bonding/security requirement, why not?
- And, if not, does the Planning Board know if DL even has a surety or potential L/C provider? When you don't know a company's finances firsthand, anything is possible. And this includes companies with the smoothest pitchmen and glossiest brochures.

My point is that, if the Planning Board, itself, is prevented by law, from financially assessing DL, a surety or L/C provider can and **MUST** do its due diligence before providing security for a project the scope of Silo Ridge.

No one wishes to see a failed project. For my part, for the project to make sense at all, it must also be in compliance – not only as a finished product, but also in terms of risk mitigation during the construction phase. Because, without the latter, we could wind up with a) an uncompleted project and b) unfunded costs. Not to mention an environmental eyesore/catastrophe.

I urge the Planning Board to view the bonding/security aspect as crucial and, given DL's failure to perform at Spanish Oaks, require – assuming they can provide it – the strongest third-party support the law will allow. If DL cannot provide such security, I would view that as a serious problem.

In addition, it only makes sense that the bonding/security strategy – whether it is based on separate bonds for separate construction phases (usually, the preferred alternative) or a single master bond – should be laid out early enough in the planning phase, so that it can be aired during the public hearing phase and not determined post site-plan approval. Performance security is essential, not an add-on.

Anything short of this approach would not only be imprudent from a risk mitigation standpoint but an abdication of responsibility on the part of the Planning Board. Should the markets again

implode as they did in 2008 – and, right now, they are looking volatile – Silo Ridge could face an extremely uncertain future.

And that's one risk you don't want to bear.

Sincerely,

John A. Duffy