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Letter to the Editor

Kane Creek/Echo Canyon development — lots for sale

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Summary - The developers of the Echo Canyon subdivision, located in the Colorado River floodplain, are selling parcels with declarations that give them significant control and relieve them of responsibility for the project. These declarations warn that property values may decrease and that owners assume risks associated with the amenities and river. Potential buyers are advised to seek legal advice before purchasing.



Photo caption: The site of the proposed Echo Canyon development, formerly known as the Kane Creek development, lies along Kane Creek Boulevard southwest of Moab. It's the first in Utah to be certified as a preliminary municipality under a new state law. File photo

Editor,

As I've shared in a previous letter to the editor, the developers are now selling parcels in their newly recorded subdivision located in the Colorado River floodplain. Each warranty deed includes the

standard phrase "Subject to Restrictions and Covenants of Record" referring to documents recorded with Grand County that apply to this subdivision.

Two of these lengthy documents recently recorded by the developers are called Declarations. Despite the fact that Echo Canyon is a municipality, these declarations appear structured to give the developers far more authority and control over Echo Canyon than the future residents. But more importantly, the declarations appear structured to relieve the developers of almost all responsibility and liability for the project.

A few notable paraphrased and condensed portions of the language that are found in these declarations:

- The limitations, restrictions, responsibilities, obligations and liabilities imposed on property owners by this Community Declaration may in the future reduce the value of the owners' lots and dwellings in Echo Canyon and negatively impact the marketability of these lots and dwellings.
- Each owner and occupant assumes the risks of any destruction, injury or death which may be caused by operation of the amenities and the river.
- Declarant (Developers) does not warranty the safety, insurability or environmental stability of any lot or Residence within the Project and shall bear no responsibility for damages or losses related to natural waterway conditions or events.
- Potential purchasers are strongly encouraged to seek independent legal and professional advice to fully understand the implications of the Preliminary Municipality and the Developer's ongoing control rights before purchasing property within the Development.
- There is also a section in the declarations addressing "Condemnation," explaining what happens if the entire development is condemned. Most of us can envision a rundown, unhealthy and unsafe condemned building.
- Why would these developers feel a need to include language addressing condemnation before a single home is even built? Could it be because they plan to build homes in the Colorado River floodplain? Or maybe because they plan to install extensive infrastructure within, and build multi-million dollar homes on top of 10 feet of fill they placed that doesn't meet the engineering requirements for structural fill?

If you are planning to purchase a parcel in this subdivision or know somebody who is, I strongly recommend reading through these declarations before doing so.

Dave Closser
Moab

Note: Dave Closser is a member of Kane Creek Development Watch.