Village of Sugar Grove awarded $2.15 million judgment against Bond Company who refused to pay for improvements in Settlers Ridge Subdivision

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Contact: (630) 466-4507 xt 29

The Village of Sugar Grove was awarded a judgment for $2,150,400 to complete improvements that were to be made by the now defunct Kimball Hill Corporation in the Settler's Ridge subdivision. This has been an on-going lawsuit with the Fidelity and Deposit Company of Maryland since 2010. Fidelity does have the right to appeal, but would need to pay 9% interest during the appeal process.

In the wake of the 2008 financial collapse, many cities and villages were left with failed and partially built subdivisions in their communities. In order to protect against such failures municipalities routinely requirement developers to post bonds in the event the developer goes bankrupt. "Requiring bonds protects the residents of the community from developers who cannot meet their obligations. It is a fundamental part of the development process" said Village Administrator Brent Eichelberger.

However, in the case of the Settler's Ridge subdivision in Sugar Grove, notwithstanding those protections, when the financial collapse occurred, the Surety (Fidelity and Deposit Company of Maryland) which had pledged to insure the Village against such a loss, refused to pay. This left the subdivision with partially completed streets and other public improvements.

The Village, after consulting with the Village Attorneys Mickey, Wilson, Weiler Renzi & Andersson, P.C., concluded the only option was to file suit to compel the surety to honor its commitments. "Our case was fundamentally very simple; the surety pledged to reimburse the Village if the developer failed to meet its obligations, in this case the developer declared bankruptcy and collapsed. It was the unequivocal obligation of the Surety to pay. There was no basis for the Surety to refuse to pay this claim" said Bernard K. Weiler, lead attorney for the litigation team that successfully prosecuted the litigation.

Ultimately the Circuit Court of Kane County agreed. Judge David Akemann ruled in favor of the Village stating in his order on November 13th 2015 that "The Court finds that the Kimball Hill Inc., did not fully perform its obligations under the Bonds and that due to the default of Kimball Hill, the F & D, as surety, is liable for the reasonable cost of correcting the defects and/or completing the omissions rather than the difference in value between what ought to have been done in full performance and what was actually done." The judgment was rendered in the amount of $2,150,400.00.

"We are very pleased with the verdict" said Village President Sean Michels. "The residents have had to wait far too long for their roadways and other improvements to be completed. This verdict brings us closer to that reality. It is also is an important vindication of the process and that surety companies in Illinois cannot simply ignore the needs of the communities they purport to do business with."