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**Central Parke at Victoria Falls**  
**Victoria Falls Special Taxing**  
**District**  
**(CR-49-2005)**

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*Briefing for the County Council of Prince George's County*

*March 25, 2008*

Office of Audits and Investigations

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# Purpose of Review

- Determine the extent to which the developer/builders complied with agreed upon disclosure actions related to the Victoria Falls Special Taxing District (VFSTD)
- Address legal questions raised by residents related to the creation of the VFSTD
- Clarify requirements for County maintenance of public infrastructure improvements in the VFSTD and verify that bond proceeds were used for public infrastructure improvements

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# Background

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- March 10, 2005, Developer and Builders petitioned the County to create the VFSTD – included 584 proposed housing units of the community’s planned 609 housing units
    - 25 homeowners who had settled prior to petition date were excluded from the VFSTD

- June 23, 2005, County Executive submitted legislation (CR-49-2005)
  - Created VFSTD
  - Authorized issuance of special obligation bonds of up to \$12,000,000 to finance public infrastructure improvements
    - Improvement Fund - \$9,307,373
    - Capitalized Interest - \$1,038,162
    - Reserve Fund - \$1,084,465
    - Administrative Expense Fund - \$50,000
    - Cost of Issuance - \$520,000
  - Levied special tax and established a special tax fund dedicated to repayment of bond debt service and expenses
  - Developer sought County support for public infrastructure improvements in order to be able to provide both the planned private amenity package, as well as the necessary public infrastructure costs. The developer had included some private amenities in the first phase of the project (i.e. resort clubhouse) and wanted other planned amenities to be delivered early in the community's development phase. Because the developer's construction bank loan was close to the maximum loan amount, the developer sought County support for the public infrastructure improvements so that it wouldn't have to delay or reduce the scope and quality of planned amenities.

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- In considering the proposed legislation, the County Council focused on the need to ensure that adequate disclosure of the special tax be given to initial and subsequent property owners.
  - Slenker Land Corporation (The Pines of Laurel, LLC), the developer, in response to the County Council's concerns, committed to carrying out a series of buyer notification policies and procedures to ensure disclosure to all purchasers of homes in the VFSTD:
    - Building Lot Purchase Agreements between developer and builders would acknowledge that the lots are proposed to be included in the VFSTD and the responsibility of the builders and future property owners to pay the special tax.
    - Deeds from the developer to the builders, as appropriate, would include a VFSTD disclosure.
    - Each homebuilder must incorporate a special tax district (contract) addendum disclosure as part of all contracts with homebuyers or other purchasers of lots in a form specified by the developer and the homebuyer must sign the document.
    - Deeds from builders to homebuyers would include a VFSTD disclosure.
    - The Disclosure Statement for the Victoria Falls Community Association, Inc. (HOA) was to be amended to include a notice of the VFSTD.
    - The Victoria Falls Community Constitution was to be amended to provide notice to all future homebuyers of the Special Taxing District.
    - An informational brochure on the VFSTD was to be developed by the developer for distribution by the builders to all future homebuyers.
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- In addition to disclosure commitments made by the developer, the following actions required by County and State law also are intended to ensure disclosure to both initial and subsequent home purchasers of the VFSTD:
    - Filing of a Declaration of Special Tax by the County in the land records of Prince George's County
    - County will include a separate line item on all tax bills stating the special assessments that are due and owing on the property
    - HUD-1 would disclose any special taxes owed at the time of settlement that have not been paid by the seller (*Not examined because special tax payments were capitalized until July 1, 2007 and would not have appeared on HUD-1 forms for the settlements that occurred before that date.*)
  - County Council held a public hearing and adopted CR-49-2005 on July 26, 2005 and the Resolution took effect on July 29, 2005, the date it was approved by the County Executive.
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# **Developer and Builder Compliance with Disclosure Commitments**

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- **All Building Lot Purchase Agreements** (between developer and builders) provided VFSTD disclosure.
    - Builders include:
      - DREES (32' townhome/villa) 115 units,
      - Michael Harris (single family) 103 units,
      - Craftstar (28' townhome/villa) 116 units, and
      - Sturbridge (condominium) 250 units
  - After enactment of CR-49-2005, **all** deeds from developer to builders included a VFSTD disclosure.
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- Contract Addendum Disclosure (between builders and homebuyers) – includes disclosures before adoption of CR-49-2005 and after adoption of CR-49-2005
  - Developer/builders began using Pre-CR-49 disclosures in 2004.
  - Pre-CR-49 Contract Disclosure (Addendum to New Home Sales Contract):
    - **Provided notice of proposed VFSTD and the homebuyer’s responsibility to pay the tax should it be levied. In addition, for each of the four types of housing units, provided a dollar range for the special tax that would be charged in the initial year. Annual ranges were from \$1,000 to \$1,300 (multifamily units), \$1,200 to \$1,500 (townhomes/villas), and \$1,300 to 1,800(single family).**
    - **Provided notice that if the VFSTD was not created, the homebuyer would be responsible for paying Deferred Water and Sewer charges, ranging from \$600 to \$800, depending on the size of the housing unit.**
  - Post-CR-49 Contract Addendum Disclosure:
    - **Provided notice that the VFSTD was created and a special tax was levied on homebuyers to pay debt service on bonds.**
    - **Provided an estimate of the initial maximum special tax amount for each type of housing unit and provided notice that the special tax amount could be increased by a maximum of 2% each year.**
    - **Required that homebuyer disclose the special tax to future homebuyers and provided language regarding the VFSTD that the homebuyer is required to include in a future deed conveying the property to another purchaser.**

- Of the 400 housing unit transactions reviewed for all 4 builders that should have received a contract addendum disclosure, **93%**, or 371, of the transactions had either Pre-CR-49 or Post-CR-49 disclosures.

<b>Builder</b>	<b>Total No. of Homes Sold as of 2/27/2008</b>	<b>Homebuyers who Received a Pre-CR 49 Contract Addendum</b>	<b>Homebuyers who Received a Post-CR 49 Contract Addendum Disclosure</b>	<b>Home Buyers without Contract Addendum Disclosures</b>
Drees	69	36	5	28
		54%	7%	41%
Michael Harris	74	22	52	0
		30%	70%	0%
Craftstar	113	33	79	1
		29%	70%	1%
Sturbridge	144	20	124	0
		14%	86%	0%
<b>All Builders</b>	<b>400</b>	<b>111</b>	<b>260</b>	<b>29</b>
<b>Percent Totals</b>	<b>100%</b>	<b>28%</b>	<b>65%</b>	<b>7%</b>
<b>Percent of Homebuyers with either a Post-CR-49 or Pre-CR 49 Contract Addendum Disclosure</b>				
<b>371 homebuyers or 93%</b>				

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- 7%, or 29, of the transactions did not have contract disclosures
    - 28 of these transactions were for DREES, which did not initially provide Post-CR-49 disclosures for a period of time, despite efforts by the developer to secure compliance

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# Deeds from Builders to Homebuyers: Deed Language

*‘The Grantee, for and on behalf of the Grantee and the Grantee’s heirs, personal representatives, successors and assigns, by the acceptance of this deed, further covenants and agrees to pay the special tax levied against properties located with the Victoria Falls Special Taxing District created by Resolution adopted by the County Council of Prince George’s County, Maryland on July 26, 2005 pursuant to the provisions of such Resolution.’*

- **Deeds from Builders to Homebuyers**

- Of the 334 housing unit transactions reviewed for all 4 builders that should have included a VFSTD disclosure in the homebuyers' deeds, 69%, or 231, of the transactions included the VFSTD disclosure in the deeds.

<b>Builder</b>	<b>Total Number of Homes Settled as of 2/27/2008 that required a VFSTD disclosure in Deed</b>	<b>Homebuyers with VFSTD and WS disclosures in Deed</b>	<b>Homebuyers with VFSTD disclosure in Deed</b>	<b>Homebuyers without a Deed as of 2/27/2008</b>	<b>Homebuyers who did not have VFSTD disclosure but should have had VFSTD disclosure in Deed</b>
Drees	69	63	4	1	1
		91%	6%	1%	1%
Michael Harris	63	0	5	0	58
		0%	8%	0%	92%
Craftstar	86	0	48	0	38
		0%	56%	0%	44%
Sturbridge	116	0	111	0	5
		0%	96%	0%	4%
<b>All Builders</b>	<b>334</b>	<b>63</b>	<b>168</b>	<b>1</b>	<b>102</b>
<b>Percent of Builders</b>	<b>100%</b>	<b>19%</b>	<b>50%</b>	<b>0%</b>	<b>31%</b>
<b>Percent of Homebuyers with VFSTD disclosure in the deed</b>					
<b>231 homebuyers or 69%</b>					

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- 31%, or 102 transactions, did not have the VFSTD disclosure in the deeds:
    - Drees had 1 of these transactions
    - Michael Harris had 58 of these transactions
    - Craftstar had 38 of these transactions
    - Sturbridge had 5 of these transactions
  - 0%, or 1 transaction, did not have a copy of the deed

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- On October 20, 2005, the developer transmitted an amended Disclosure Statement for the Victoria Falls Community Association, Inc. (HOA), dated September 19, 2005, which included a new Section 30, which provided notice of the VFSTD. Builders were instructed to include the amended document with HOA documents provided to homebuyers.
    - In 76 transactions, copies of the amended HOA document were included in the documentation we reviewed and, in all but one case, the HOA documents were initialed by the homebuyers.
  - On October 20, 2005 the developer transmitted an amended Victoria Falls Community Constitution to provide notice to all future homeowners of the VFSTD. Builders were instructed to include the amended document with HOA documents provided to homebuyers.
    - In 51 transactions, copies of the amended VF Community Constitution were included and initialed by the homebuyers in the documentation that we reviewed.
  - On October 20, 2005, the developer also reported that an informational brochure on the VFSTD was being prepared and would be available soon for distribution to all future homebuyers.
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# County and State Disclosure Requirements

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- On September 8, 2005, the County filed a “Notice of Creation of Special Taxing District and Imposition of Special Tax” (“Notice”) for recordation in the County’s land records to provide notice that the 584 specific lots were in the VFSTD, were subject to the special tax, and, should they be sold, there is an obligation to disclose the VFSTD to subsequent purchasers.
    - In 63 transactions, copies of the “Notice” were included and initialed by the homebuyers in the documentation that we reviewed.
  - Beginning July 1, 2007, after the initial two-year period where the special taxes were paid through a capitalized interest account that was funded through the bond issue, County tax bills were issued that included a specific line item for the special tax.
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**Consumer Protection  
Division, Maryland Office of  
the Attorney General**

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- Reviewed documents that were provided by some residents of Victoria Falls for sufficiency of the disclosures provided by the builder at contract of sale.
    - Concluded that the disclosures included in the various documents that were provided for review were “***sufficient in detail to constitute notice to homebuyers that they were subject to a Special Taxing District.***”
    - Key documents cited included: Contract Addenda (Disclosure), Deeds, and HOA Disclosures.

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# Conclusion

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# Disclosure commitments:

- Fully met disclosure commitment for ***Building Lot Purchase Agreements***
  - Fully met disclosure commitment in ***Deeds conveyed from developer to builders***
  - Largely met ***Contract Addendum Disclosure*** commitment, with at least 93% of purchasers signing disclosures
  - Moderately met disclosure commitment in ***Deeds conveyed from builders to homebuyers***, with at least 69% of required deeds having the VFSTD disclosure in the deeds
  - Fully met commitment to ***amend HOA to reflect VFSTD***
  - Fully met commitment to ***amend the VF Community Constitution to reflect VFSTD***
  - Fully met commitment to prepare and distribute an ***informational brochure on the VFSTD*** for use by builders
  - Fully met commitment for County to ***file VFSTD Notice in land records***
  - Fully met commitment for County to ***include a separate VFSTD line item on tax bills***
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# Summary Conclusion

- Overall, the County **fully met** both of its written disclosure requirements.
- The developer/builders **fully met** 5 of the 7 written disclosure commitments they were responsible for.
  - Developer/builders **largely to moderately met** Contract Addendum and Homebuyer Deed Disclosure commitments:
    - 93% of homebuyers signed Contract Addendum Disclosures.
    - 69% of homebuyer deeds included VFSTD disclosures.
- Considered together, the combination of up to 9 written disclosure documents would appear to afford multiple opportunities for homebuyers to be informed about the VFSTD.

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# Additional Observations

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- Capitalization of interest debt service costs as part of bond proceeds for the first two years delayed the actual billing of the special tax to homeowners, which likely contributed to confusion when the first special tax assessments appeared in the tax bills issued after July 1, 2007.
- Dual references to both Deferred Water and Sewer Charges and the VFSTD in the early phase sales also may have contributed to a level of confusion of what the home owner was actually paying for.
- Actual Special Tax for FY 2007 - 2008:
  - Condominiums (Sturbridge)- \$1,089
  - 28' Townhome/Villa (Craftstar)- \$1,284
  - 32' Townhome/Villa (Drees) - \$1,357
  - Single Family (Michael Harris) - \$1,467
- On November 20, 2007, the County Council enacted CB-39-2007, which amended the County's consumer protection laws requiring that, prior to signing the sales contract, sellers of properties located in special taxing districts must provide written notice to purchasers of the existence of the special taxing district and that the property they are purchasing is subject to the special tax. Notices are to be signed and dated by parties to the contract, purchaser has the option to rescind the contract within 5 days of receiving notice, if notice is not received on or before the date of contract sale, and failure to provide notice is a misdemeanor and subject to penalties.

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# Legal Opinion on the Establishment of the VFSTD

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# Legal Opinion on the Establishment of the VFSTD

- Ballard Spahr Andrews & Ingersoll, LLP, County Bond Counsel, is of the opinion that the Victoria Falls Special Taxing District was created in compliance with the provisions of the Act and that the legal issues raised by the homeowners are without merit.

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**County Maintenance of VFSTD Public  
Infrastructure Improvements and Review  
and Approval Procedures for Drawdown of  
Bond Funds for Infrastructure  
Expenditures**

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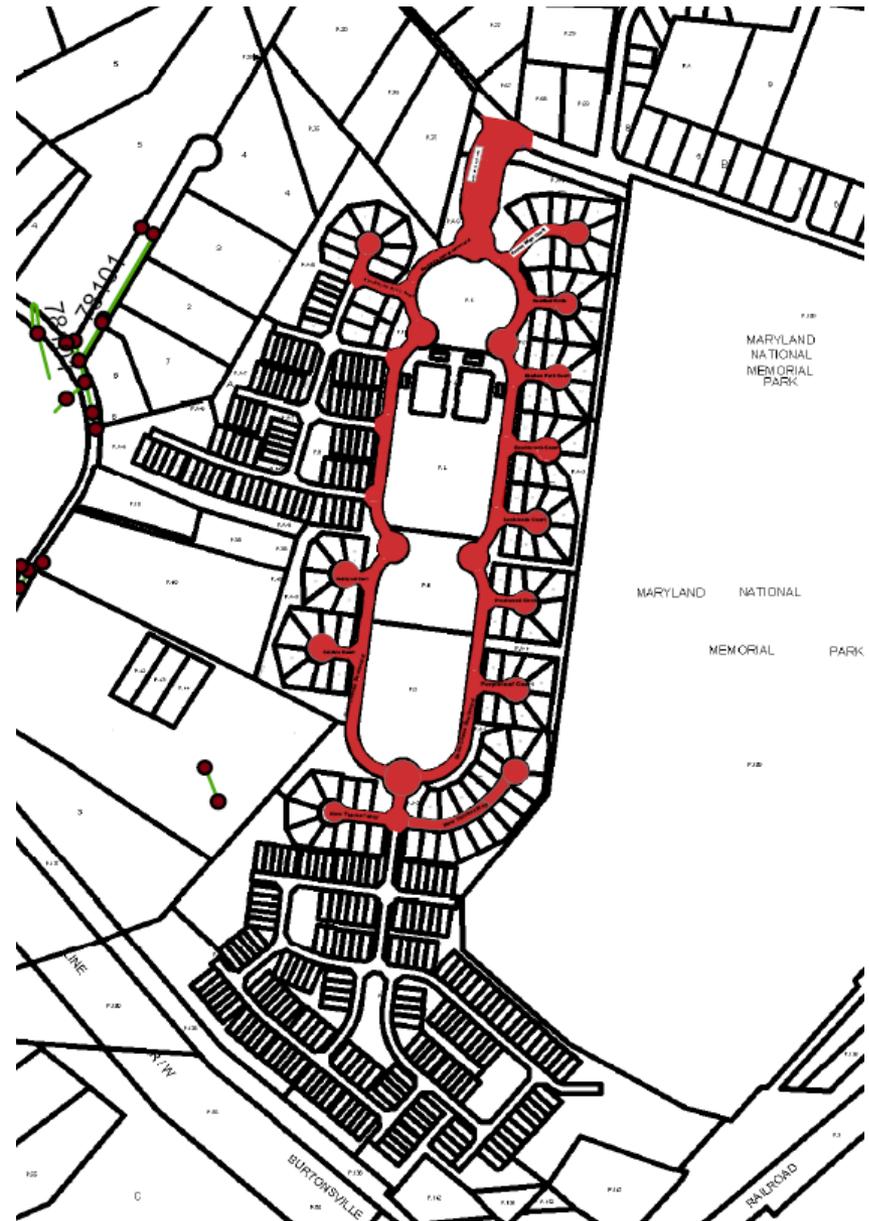
Department of Public Works and  
Transportation  
Prince George's County

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- ❑ Developer, Slenker Land Corporation (The Pines of Laurel, LLC), installed roadway infrastructure at Victoria Falls under DPW&T street construction permits in accordance with Subtitle 23, the County Road Ordinance.
  - ❑ DPW&T received billing statements for work performed by the developer, which were then reviewed by a third party engineer.
  - ❑ Once billing statements were reviewed and ultimately approved by DPW&T, then payment was made to developer from an existing drawdown bond.

- ❑ There is a maintenance covenant in place for the developer and subsequently the Homeowners Association (HOA) to maintain those roadways serving townhouses and condominiums within subdivision. It is DPW&T's policy not to maintain roadways that serve townhouses and condominiums.
- ❑ DPW&T Inspectors have inspected the construction of all roadway infrastructures at Victoria Falls to ensure compliance with County permit requirements and the standards of the Department.
- ❑ All street construction permits are current and our inspection staff is working with the developer to correct any deficiencies found prior to acceptance of the work and release of any permits. All repairs done to date as a result of deficiencies discovered through inspections were done at the expense of the developer. We are not aware of the allegation that the developer had passed the cost of repairs to the HOA. The roadway infrastructure has not passed a final inspection and, as such, all needed repairs will continue to be done at no expense to the County.

## Map: Central Parke at Victoria Falls

- This map, which was provided by the Department of Public Works and Transportation, shows the publicly maintained streets in red.



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# Department of Environmental Resources

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# Department of Environmental Resources

- Reported receiving no complaints about the quality of workmanship related to the stormwater management infrastructure improvements that were financed by bond proceeds for the VFSTD.
- Two permits were issued for the stormwater management infrastructure improvements and both have gone through a final inspection and were approved by the inspector's office.