



In jeopardy again?

VAIL HOMEOWNERS ASSOCIATION

Letters to Vail

January 16, 2023

Is Another Booth Heights Extension About to Take Place?

On Tuesday, the Town Council will consider another extension of Vail Resorts' entitlements to construct Booth Heights in East Vail. If passed, the entitlements would keep Booth Heights alive by extending VR's development entitlements another two years to at least November 20, 2024, or maybe even years later. Although couched as being necessary to allow sufficient time to work on a settlement of the Town's Condemnation lawsuit, the question is whether this is really in the best interest of the Town.

The entitlements have already been extended multiple times. Originally, they would have expired beginning in late 2021, but through a series of resolutions intended to allow time to negotiate a settlement, they were extended until November 20, 2023. When no agreement was forthcoming, the Town filed its condemnation lawsuit. Now a critical hearing on the Town's motion for immediate possession of the Booth Heights property is set for later this month which would also be postponed as part of the entitlement extension.

Experienced trial attorneys and experienced negotiators know that nothing is gained by giving up something for nothing. What is the Town to get for the extension? Nothing but VR's hollow promise to continue negotiations. But the Town has already heard this before when the entitlements were extended in 2020 and 2021 to allow time to negotiate a settlement. Instead of good faith negotiations, VR just strung the Town along until it finally rejected any settlement. Then VR thumbed its nose at \$12 million for the property.

Hoping that VR will now finally negotiate in good faith is not a strategy. A strategy is filing a lawsuit and proceeding to condemn the property. A strategy is making a good faith offer of \$12 million for property that VR didn't even know it owned until a few years ago. A strategy is complying with court-ordered mediation. Two months ago, the Court ordered the parties to mediation. Yet, here we are two months later with nothing reported except, that for VR to continue, the extensions must be granted.

VR has had many months, even years, to negotiate a settlement but has stonewalled all attempts of the Town to reach an agreement. What is the reason to believe that now, suddenly, VR is going to change tunes and come to the table in good faith? Even the way that this proposal came about shows that VR's strongarm tactics are still in play. According to reporting in the *Vail Daily*, VR's attorney required this extension as a condition for continuing talks. That makes it apparent that good faith is still in short supply since VR could have already reached a settlement, and there is still plenty of time to conclude one within the 10 months still remaining on the current extension.

Some feel that it is necessary to give in to VR's demand for an entitlement extension so that the Town will appear cooperative to the Court. That is a strange turn of events since it has been the Town who has tried to reach a settlement and VR that has stonewalled all efforts. Should it be that rather than try to curry favoritism, the Town should be informing the Court about what is really been going on? And, as far as appearing cooperative, the Town has already agreed to move the hearing on the impending motion for immediate possession to May. There is no need to also extend the entitlements.

Unfortunately, the community has only very limited knowledge about what is happening. It is all happening behind closed doors. Even this proposal is to be discussed in executive session—scheduled for 40 minutes in the afternoon—so there will be no opportunity for public input in the discussion.

So, what is really going on? Could it be that VR is trying to run out the clock on the current Town Council in hopes that the new Town Council that will be installed in 2024 will be more malleable or even willing to dismiss the condemnation case? And, is Booth Heights really about housing or is this a VR power play intended to teach a lesson to the TOV and all other communities where VR does business?

Most important, giving in to VR demands will not settle this dispute. It might actually make it more difficult to settle as VR will be encouraged to seek even more concessions down the road. And, even postponing the critical immediate possession hearing may not be helpful unless there is real reason to believe that a settlement is possible. As experienced trial attorneys also know, often parties only become serious about reaching a settlement when there is an impending trial or other critical date looming.

For these reasons, the VHA urges the Town Council to reject the extension of VR's entitlements. If VR really wants to negotiate in good faith, there is nothing to prevent a settlement being reached in the coming weeks.

VHA provides clear and concise discussions of matters affecting the Vail community in the belief that an informed citizenry will be an engaged citizenry. We intend to promote more citizen involvement and community discussions of issues facing the Town. If these are issues that concern you, please make your views known to [town officials](#). Public discussion of current issues by concerned citizens creates an environment to further community initiatives. We heartily encourage your input in shaping the road ahead.

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