

Tom Barry – City Manager  
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March 20, 2018

Jonathan and Caralee Newman  
3515 Buckskin Dr. NE  
Minot, ND 58703

RE: Heidrich Homes Complaints  
3515 Buckskin Dr. NE; Minot ND 58703

Dear Mr. and Mrs. Newman:

The City is in receipt of your January 15, 2018 written complaint specifically relating to your foundation; furthermore, City representatives were present when you and your neighbors (collectively the "Heidrich Homes neighborhood") provided information at the February 5, 2018 regular City Council meeting, the March 1, 2018 gathering, and the March 5, 2018 regular City Council meeting. With that, I believe the City is fully versed on the issues and that of the Heidrich Homes neighborhood's position with regard to these matters.

I, the City staff, and our City Council are all very sorry that you and your neighbors have, and continue, to experience the home construction issues you've described. I recognize that this is very unsettling for your family and those that live within the subdivision. When you met with the City Council at the March 5<sup>th</sup> regular City Council meeting you made the following requests, on behalf of the Heidrich Homes neighborhood:

1. That the City (1) inform the homeowners as to how to file a claim to start the building inspection process; (2) conduct a thorough inspection of each home constructed by Heidrich Homes; (3) certify to the owners, in writing, whether or not each home satisfies the requirements of the applicable building code(s); and (4) advise the owners on how to bring the homes into compliance with the applicable building code(s);
2. That, if the building code(s) are not met, the City take responsibility to correct the defects at no cost to the homeowner(s), within a time frame agreed to by the City and the homeowner(s);
3. That the Board of Appeals convene and determine whether Certificate(s) of Occupancy should have been issued with regard to the Heidrich Homes properties;
4. That the City prohibit the builder, Jeff Heidrich, from rezoning, building, or selling his property until the City is made whole from any costs expended under item (2) above;
5. That the City create a certification program for all contractors to ensure that all contractors that work in the City of Minot are competent and agree to abide by applicable city and state laws;
6. That the City research grant programs to relieve unfair financial burdens; and
7. That the City Council respond to the requests by the April 2, 2018 regular City Council meeting.

As City staff and council members have previously indicated, the City is sympathetic to the issues and concerns you have raised. The City does not take your complaints lightly and is deeply concerned about the quality of the construction of your homes. However, staff believes these issues should be directed to your contractor, not the City. Nevertheless, you continue to raise a variety of concerns regarding the construction quality of your neighborhood's homes, the majority of which were constructed between 2003 and 2012. These concerns have included such things as poor septic systems, substandard electrical systems, lack of insulation, water proofing concerns, and foundation settling. As has been previously communicated to you and the homeowners, many of these concerns are outside the scope of the City's building inspection.

Furthermore, contractors in North Dakota are required to ensure and certify that all plans, specifications, and designs meet the building codes. North Dakota Century Code requires all buildings to be built to IBC (International Building Code) and IRC (International Residential Code) standards. When a contractor or builder applies for a building permit the contractor still has a legal responsibility that all work shall meet all of the building codes.

Additionally, the City has previously informed you that specific statutory immunities, set forth in N.D.C.C. § 32-12.1-03(3)(f), apply to this situation. The City maintains that it is statutorily immune from the claims you allege. In addition, you were previously informed that the building permit application relating to these matters included applicable indemnification provisions. The City maintains that the indemnification provisions apply to the claims you raise.

While the City wishes you success with regard to rectifying these concerns, the City will not be taking any additional action relating to the above-described requests. If you have any questions or concerns regarding the City's position, I recommend you contact a private attorney. Also, this letter is being sent directly to you since you represented yourself to be the representative of the Heidrich Homes neighborhood, so the City expects you will share this information with the group. If additional mailings should be needed, please advise me accordingly. Lastly, I intend to include this issue on the agenda at the next Committee of the Whole Meeting on March 28<sup>th</sup> at 4:15 p.m. You are welcome to attend that meeting.

Sincerely,



Tom Barry  
City Manager

cc: Mayor and City Council  
Kelly Hendershot, City Attorney  
Lance Meyer, City Engineer  
Mitch Flanagan, Building Official