Written by Steve Ostermann
Wednesday, 21 April 2010 18:17

Firms that lease space to downtown businesses seek $8 million in claim alleging village breached obligations

Three development firms that lease space to businesses in downtown Grafton have filed a claim against the village seeking $8 million in damages and the termination of development agreements they signed with the municipality.

Urban Planning and Development, Grafton Riversite Partners and The Dillon Group filed the claim with the village.

The developers own multiple adjacent lots in the 1200 block of 13th Avenue containing several businesses, including the Bridgewater Condo/Water Terrace office building, a brewpub and office complex that houses the Milwaukee Ale House and the Engstrom office building.

The Village Board on Tuesday tabled taking action on the claim, which alleges the village “has breached its obligations” under the terms of three agreements it signed with the developers in 2005 and 2006.

The agreements were negotiated for redevelopment projects in the downtown tax incremental financing district. The developers are required to guarantee assessed property values by improving the lots using design standards in the village’s downtown master plan and TIF district project plan.

The claim alleges the village failed to cooperate with developers by “permitting delays, stop orders, arbitrary or inequitable design standards, onerous parking requirements and leveraging of project approvals” that prevented them from meeting deadlines for property improvements.

The claim also alleges the village “has frustrated the purpose” of the agreements and project plans “by actively supporting the removal of the Bridge Street Dam.”

Without the dam, the developers would not have entered into the agreements, the claim alleges.

The claim alleges that delays in negotiating the agreements and the village acquiring easements for a downtown riverwalk along the east side of the properties resulted in increased land costs. In addition, the claim alleges village employees
substituted unapproved terms and pages into the agreement for the Engstrom building after negotiations.

Besides asking the village to terminate all three agreements, the developers are seeking $8 million to cover lost sales revenue, reductions in property values, the cost of financing, delays and redesign work and interest, a refund of money drawn on letters of credit for shortfalls in the property values and pay for attorney's fees.

Village Administrator Darrell Hofland said the village has fulfilled its obligations under the development agreements, which he said have been crucial to downtown redevelopment efforts.

Hofland said the Community Development Authority has contributed $1.3 million for public improvements in the area. Major improvements have included the construction of the riverwalk and the rebuilding of 13th Avenue and Bridge Street, he noted.

Village Attorney Michael Herbrand recommended the board disallow the claim, which Hofland said has been referred the claim to village insurance carrier. Under state law, if the the claim is disallowed, the developers have six months to decide if they will file a lawsuit against the village.

The Village Board is expected to discuss the claim again at its May 3 meeting.