

**PROPOSITION 207
PROCEDURE FOR WAIVER OF DIMINUTION OF VALUE CLAIM**

Purpose and Objective

New A.R.S. Sec. 12-1134 requires the payment of compensation to the owners or properties that have been reduced in value by the adoption of new land use regulations. This creates a liability risk for the City each time that there is a “land use” action such as rezoning, conditional use permit, preliminary development or planned area development requests, or even conditions or stipulations attached to the approval of such an application *even where the applicant accepts or represents that he accepts the conditions or stipulations.*

In an effort to minimize the City’s liability for “diminution of value” claims, the Development Services Department needs to secure a written consent and waiver from the OWNER of the property that is the subject of the application at a point that is AFTER a recommendation issues by the Planning and Zoning Commission and BEFORE the matter goes to the City Council. If the City Council modifies or adds conditions or stipulations the applicant will be asked to verbally acknowledge their consent and willingness to waive claims related thereto in writing once presented with the conditions and stipulations in written form. The consent and waiver form is attached hereto.

Notifications of “Consent and Waiver” Requirement

Written notice of the consent and waiver requirement will be provided at or in connection with the filing or submittal of any new application.

Waiver from Property Owner

In order to have a properly executed consent and waiver form the OWNER of the real property must sign the form and the signature must be properly notarized. The signature of an applicant who is not the owner at the time final action is taken by the City Council is not sufficient. If multiple parties own the property, all of the parties with an ownership interest must provide signed and notarized consent and waiver forms.

Waiver must be Timely

All consent and waiver forms in connection with any particular matter must be in proper order and must have been received by the City **BEFORE** the matter is heard by the City Council. This will not bind the Owner(s) to any conditions or stipulations modified or added by the City Council; and therefore, they will be asked to sign the Consent and Waiver form a second time (if changed by City Council) after the conditions and stipulations are presented in writing.

Waiver to be Permanent Record

All consent and waiver forms received in connection with any particular matter shall be maintained with the permanent record of approval. Development Services Department staff will arrange with the City Clerk for all original forms to be made part of the permanent record of the action taken on the matter. Consent and waiver forms will also be recorded with the Mohave County Recorder.

Failure to Provide Waiver Form

An application will not be delayed because of the failure to receive the necessary consent and waiver forms, unless the applicant requests the delay. Instead, the application may be forwarded with a recommendation for denial when considering all the circumstances. Where Development Services Department staff is already recommending denial, notwithstanding a positive recommendation from the Planning and Zoning Commission, the failure of the applicant to provide a consent and waiver form(s) from the landowner(s) can be a secondary basis for recommending denial of the application. A letter will be sent to the property owner documenting that they have declined to file a Proposition 207 waiver form and the application will be moved forward, taking into consideration said failure to execute the waiver.

Additional Information

For additional information, please contact a Planner at (928) 763-0123.

EXHIBIT A

When recorded, please return to:
City of Bullhead City
City Clerk's Department
2355 Trane Rd.
Bullhead City, AZ 86442

CONSENT TO CONDITIONS/WAIVER FOR DIMINUTION OF VALUE

This application may only be signed by the legal owner of the property. Your signature confirms that you are the legal owner of the property and have the authority to bind all owners at the time of the application. You must notify the City if there is any change in ownership prior to final action on this land use application.

In your opinion, if this land use action is granted, will it diminish the value of the property?
_____ *Yes* _____ *No*

If yes, please explain why.

The undersigned is the owner of the parcel of land described in Exhibit A attached hereto that is the subject of _____. By signing this document, the undersigned agrees and consents to all the conditions recommended by the Planning and Zoning Commission of the City of Bullhead City in conjunction with the approval of _____ and waives any right to compensation for diminution in value pursuant to Arizona Revised Statutes § 12-1134 that may now or in the future exist as a result of the approval of _____. Dated this ___ day of _____, 2010.

OWNER: By: _____
Print Name

Sign Name

Its: _____
[Title]

State of _____
County of _____

On _____ before me, _____ (notary name), personally appeared _____ personally known to me OR proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature