

ONLINE EXTRA: Centerpointe East contests city billing for interchange costs

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PRESCOTT - The recent delay in the start of construction on the Highway 89A interchange near Side Road could end up costing the [City of Prescott](#) nearly a half-million dollars.

For years, the city has listed a \$480,000 contribution from the Centerpointe East commercial subdivision as one of the sources of money to help pay for the \$17.1 million interchange project.

But this past week, the city received a seven-page notice of claim from an attorney for the Centerpointe East Commerce Park maintaining that his clients "have no payment obligation to the city related to...the interchange."

The claim emphasizes that the long-standing agreement between the city and Centerpointe East required that construction be under way on the interchange by June 2009.

But because of a lawsuit that continued throughout much of early 2009 over which contracting firm would get the interchange contract, construction did not begin until November.

While the claim letter refers to design, survey and fencing work that reportedly had begun at the site by the June deadline, it adds, "As the city knows, the contract was not issued for many months after June 12, 2009. Therefore, by demanding payment,

the city is in breach of contract."

The letter also brings up the city's 2008 decision to relocate the interchange about a third of a mile east of the existing Side Road.

Although the city originally had planned to locate the interchange at the Side Road turnoff, an April 2008 decision by the [Prescott City Council](#) moved the project to the east.

As a part of that decision, the city received about 25 acres of right-of-way for the interchange from nearby property owner David Cavan. Officials estimated the value of Cavan's contribution at between \$7 million and \$8 million.

At the time, a number of Centerpointe property owners protested the interchange relocation, maintaining that it would reduce the value of their property.

Last week's written claim reiterates that, and estimates the value of the loss at \$.75 to \$1.50 per square foot for the 2,719,866 square feet of affected property. In total, the claim estimates the subdivision's monetary loss at between \$2 million and \$4 million.

Alex Vakula, attorney for Centerpointe East, said he included the amount to satisfy a state statute that requires that a notice of claim include damages.

"That number was only included because of the statutory requirement," Vakula said, adding that most of the property owners would prefer to sit down with the city to try to resolve the issue rather than pursue litigation.

The Centerpointe subdivision involves 32 lots, Vakula said, and individual property owners had been receiving bills from the city for the interchange expense.

Assistant City Attorney Tom Lloyd said Friday afternoon that his department was reviewing the case.

"There are a lot of documents to review, and we're reviewing them in conjunction with the claim," Lloyd said. "It's very complex."

He declined to comment on the merits of the property owners' defenses, noting that they could be a part of future litigation.

Lloyd was uncertain when and in what form the city would respond to the claim, although he mentioned the possibility of discussing the matter initially with Vakula.

If the Centerpointe East claim were to prevail, it would be the latest financial repercussion from the interchange lawsuit, which already has cost the city about \$125,000 in outside legal fees.

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