

When Recorded Return To:

Town of Prescott Valley
7501 East Civic Circle
Prescott Valley, AZ 86314



AGREEMENT
TO WAIVE CLAIM FOR DIMINUTION IN VALUE
REGARDING ACTION
PROPOSED BY TOWN OR REQUESTED BY PROPERTY OWNER

This Waiver is related to Proposition 207 (Article 2.1 to Chapter 8, Title 12 of the Arizona Revised Statutes) dealing with eminent domain and regulatory takings. The Waiver is as an agreement between the Town and the owners in conjunction with the land use law actions requested by the property owners. Each owner of a fee interest in the subject property is asked to sign the waiver agreement and have the signatures properly notarized. Extra sheets for the Owners signature can be made for multiple owners involved in an application. A legal description should be attached by the applicant. The Town will complete the application number when the application is processed and attach a copy of the completed application.

This Agreement to Waive Claim for Diminution in Value Regarding Action Proposed by Town or Requested by Property Owner ("Agreement") made as of this 14th day of January, 2010, by and between the Town of Prescott Valley, a municipal corporation of Arizona ("Town") and

VETERANS OF FORGIEEN WAR, MINGUS MTH. POST 10227
("Owner(s)");

WITNESSETH:

WHEREAS, on December 4, 2006, the Governor of Arizona signed into law the Private Property Rights Protection Act (Proposition 207) approved by the voters on November 7, 2006; and

WHEREAS, Proposition 207 added a new Article 2.1 to Chapter 8, Title 12 of the Arizona Revised Statutes (comprising §§12-1131 through 12-1138) dealing with eminent domain and regulatory takings; and

WHEREAS, ARS §12-1134 permits an owner of private real property to seek just compensation from the state or a political subdivision thereof that enacts or applies a land use law which (subject to certain exceptions) reduces

existing rights to use, divide, sell or possess said property and thereby reduces the fair market value of the property; and

WHEREAS, "land use law" includes any statute, rule, ordinance, resolution, or law enacted by the state or political subdivision that regulates the use or division of land or any interest in land; and

WHEREAS, ARS §12-1134(I) recognizes that the state or political subdivisions may reach agreements with private property owners to waive claims for diminution in value resulting from land use law actions proposed by the state or political subdivision or requested by the property owners; and

WHEREAS, Arizona courts have recognized the inherent authority of municipal corporations to enter into agreements within the scope of their legislative powers, the same as individuals and other corporations, in matters that appertain to said municipal corporations [see, *Town of Tempe v. Corbell*, 17 Ariz. 1 (1915)]; and

WHEREAS, the Town (through its Common Council) has, on the date first-above written, duly considered and approved this Agreement with the Owner(s) to waive any claims said Owner(s) may have for diminution in value that may result, now or in the future, from the land use law action(s) proposed by the Town or requested by the Owner(s) as more fully set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein (and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

SECTION ONE. This Agreement applies to that private real property described in Exhibit "A" attached hereto and expressly made a part hereof ("Property").

SECTION TWO. The land use law action(s) proposed by the Town or requested by the Owner(s) to which this Agreement applies have been designated as follows by the Town's Community Development Department:

ANX 09-002 § ZMC 09-006

and are based on certain application(s), copies of which ("Application(s)) are shown as Exhibit "B" attached hereto and expressly made a part hereof ("Action(s)").

SECTION THREE. By signing this Agreement, the Owner(s) expressly agree(s) and acknowledge(s) that the Owner(s) hereby waive(s) any right to

claim diminution in value or claim just compensation for diminution in value of the Property under ARS §12-1134, now or in the future, in relation to the Action(s). This includes (but is expressly not limited to) agreement and consent by the Owner(s) to all conditions that may ultimately be imposed as part of the Action(s).

SECTION FOUR. It is expressly understood by the parties that this Agreement does not add to, detract from, or otherwise modify any discretion, right, power, authority, obligation, or duty of the Town under applicable law with respect to any legislative, administrative, or quasi-judicial action(s).

SECTION FIVE. This Agreement (including any exhibits attached hereto and any addendum) constitutes the entire understanding and agreement of the Owner(s) and the Town and shall supersede all prior agreements or understandings between the Owner(s) and Town regarding the Property. This Agreement may not be modified or amended except by written agreement of the Owner(s) and the Town.

SECTION SIX. This Agreement is made and entered into in Yavapai County, Arizona, and will be construed and interpreted under the laws of the State of Arizona.

SECTION SEVEN. The parties agree that this Agreement may be filed in the Official Records of the County Recorder's Office, Yavapai County, Arizona.

SECTION EIGHT. This Agreement runs with the land and is binding upon all present and future owners of the Property.

SECTION NINE. This Agreement is subject to the cancellation provisions of ARS §38-511.

SECTION TEN. The Owner(s) warrant(s) and represent(s) that the Owner(s) is/are the owner(s) of fee title to the Property, and that no other person(s) has/have any ownership interest(s) in the Property. The person(s) who sign(s) on behalf of the Owner(s) personally warrant(s) and guarantee(s) to the Town that he/she/they have the legal authority to bind the Owner(s) to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representatives the day and year first-above written.

TOWN OF PRESCOTT VALLEY, a
municipal corporation of Arizona,
(Town)

Harvey C. Skoog, Mayor

ATTEST:

Diane Russell, Town Clerk

APPROVED AS TO FORM:

Ivan Legler, Town Attorney

STATE OF ARIZONA)
) ss:
County of Yavapai)

The foregoing instrument was acknowledged before me this ___ day of _____, 20___ by Harvey C. Skoog, Mayor of the Town of Prescott Valley, a municipal corporation of Arizona, on behalf of said municipal corporation.

Notary Signature

My Commission Expires:

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by and through their authorized representatives the day and year first-above written.

_____, (Owner(s))

Charles Allen FOR THE VFW

Owner(s) Signature

Owner(s) Signature

STATE OF ARIZONA)
) ss:
County of Yavapai)

On this 21 day of October, 2009
personally appeared before me,
_____ who is personally known to me,
X whose identity I verified on the basis of AZ ID
_____ whose identity I verified on the oath/affirmation of _____
a credible witness,
to be the signer of the foregoing document, and he/she acknowledged that
he/she signed it.

John A. Bowers
Notary Signature

My Commission Expires:
Dec. 11, 2009

EXHIBIT "A"

LEGAL DESCRIPTION:

A portion of land located in a portion of Section 22, Township 14 North, Range 1 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at a one half inch iron bar with a 2 inch aluminum cap monumenting the Northeast corner of Fain Heritage Park Site as recorded in Book 33 of Maps and Plats, Page 1, records of Yavapai County;

Thence South 69° 03' 28" West (of record South 68° 47' 15" West), 110.94 feet;

Thence South 69° 03' 28" West (of record South 68° 47' 15" West), 452.45 feet;

Thence South 77° 05' 10" West (of record South 76° 50' 45" West), 341.15 feet;

Thence South 12° 54' 50" East (of record South 13° 09' 15" East), 100.00 feet;

Thence South 63° 47' 42" West (of record South 63° 33' 17" West), 323.72 feet;

Thence South 87° 11' 49" West (of record South 86° 13' 40" West), 123.30 feet, also being the **POINT OF BEGINNING**;

Thence South 11° 33' 04" East, 125.00 feet;

Thence South 61° 58' 39" West, 205.28 feet;

Thence South 87° 12' 12" West, 159.81 feet;

Thence North 43° 10' 03" West, 356.23 feet;

Thence South 76° 18' 10" East, 212.56 feet;

Thence North 87° 12' 17" East, 20.42 feet;

Thence North 87° 13' 40" East, 115.28 feet;

Thence North 87° 11' 49" East, 217.71 feet, to the **POINT OF BEGINNING**.

Area contains 87,147 Square feet or 2.00 acres, more or less.



EXHIBIT "B"

Community Development Department
7501 E. Civic Circle
Prescott Valley AZ 86314
Phone (928) 759-3050
Fax (928) 772-7829
email: comdev@pvaz.net

PLANNING DIVISION - HEARING APPLICATION
ZONING MAP CHANGE

COMMERCIAL
 RESIDENTIAL

Tier I Tier II Tier III
PORTION 103-08-050X

Project Name: V.F.W. Assessor's Parcel #: A PORTION OF 103-08-050X

Site Address: 2375 N 5TH STREET Unit: _____ Lot: _____

Applicant/Owner: <u>MINUS MOUNTAIN POST 10227</u> <u>VETERANS OF FOREIGN WARS</u>	For Staff Use Only
	Meeting Date: <u>12 / 14 / 09</u> Application No.: <u>ZMCO9-006</u> Township <u>14 N</u> Section <u>22</u> Range <u>1 W</u> Date Received: <u>10/27/09</u> Zoning: <u>RCU-70</u> Fees & Charges: <u>400 + (2x15) = 430</u> Receipt #/Date: _____ Assigned To: <u>JS</u> Taken By: <u>JS</u>
Mailing Address: <u>P.O. Box 25702</u> <u>PRESCOTT VALLEY, 86312</u>	Mailing Address: _____ Phone: _____ Fax: _____ Email: _____
Phone: <u>928-710-6320</u> Fax: _____ Email: <u>P.ABRAHAM@COMMSPEED.NET</u>	
Agent (If different than property owner. Agent letter must accompany submittal): <u>Claycomb/Rockwell</u> <u>Michael Brown</u> <u>9991 E Valley Rd, PV AZ 86314</u>	
Detailed Request: <u>Amey and then Rezone any two acres to RS zoning</u> <u>to accommodate development of a VFW Lodge</u>	
I hereby certify that the information submitted for this application is complete and accurate to the best of my knowledge; and that I am the applicant or the bona fide agent of same as stated in the attached documentation.	
Signature <u>Charles Abraham</u>	Date <u>OCT 27, 2009</u>
Print Name <u>CHARLES ABRAHAM COMMANDER</u>	

VFW AUTHORIZES CLAYCOMB/ROCKWELL TO ACT AGENT