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September 8, 2025

Mr. David A. Livingston

El Dorado County Counsel

El Dorado County Government Center

330 Fair Lane

Placerville, CA 95667

Re: Parcel 2 & 4 of Lot 9, 10 and 11 Block One of the Township of El Dorado
APN # 329-221-34-100 and 329-221-32-100

Dear Mr.

I have been retained by Mr. Kurt Dickson regarding a problem with property that my client owns in the Township of El Dorado. The assessor's parcel numbers are APN # 329-221-34-100 and 329-221-32-100.

Mr. Dickson has been trying for several years to develop his two small parcels within the Township into either single-family residence or multi-family. When the last general plan was created, the Board of Supervisors either intentionally or inadvertently zoned the Township of El Dorado as multi-family.

Unfortunately, by zoning the property in this manner without committing to the infrastructure necessary to permit multi-family development renders my client's property undevelopable and constitutes a taking by the County of El Dorado. This matter has been discussed with the planning and building departments along with members of the Board of Supervisors. My client has been told repeatedly that this problem would be rectified but as of this date nothing has happened.

Under both California and U.S. Federal law, zoning actions by a county government that deprive a property owner of all reasonable or economically viable use of their property can constitute a "taking."

The U.S. Supreme Court has established that a zoning regulation effects a taking if it does not substantially advance legitimate state interests or denies the owner economically viable use of their land. In Agins v. Tiburon, 447 U.S. 255, the Court held that zoning laws must bear a substantial relationship to the public welfare and cannot deprive the owner of all reasonable use of their property without just compensation Agins v. Tiburon, 447 U.S. 255. Similarly, in Cedar Point Nursery v. Hassid, 594 U.S. 139, the Court reaffirmed that regulations restricting property use may constitute a taking if they go "too far," applying a balancing test that considers factors such as the economic impact of the regulation and its interference with reasonable investment-backed expectations. Cedar Point Nursery v. Hassid, 594 U.S. 139. California law aligns with this federal framework.

David A Livingston
Notice of Taking by Zoning
Kurt Dickson
September 8, 2025

The California Supreme Court has held that a zoning ordinance may be unconstitutional if it deprives the landowner of substantially all reasonable use of their property. In Grupe v. Cal. Coastal Com, 166 Cal. App. 3d 148, the court emphasized that a taking occurs when a regulation results in the loss of all reasonable economic value of the property Grupe v. Cal. Coastal Com, 166 Cal. App. 3d 148. This principle is consistent with the state's reliance on the "diminution in value" test to determine whether a taking has occurred.

My client has received correspondence from the county planning department that he cannot place a single-family residence on his properties because of the zoning approved by the county and that he cannot develop multi-family on the property because the township of El Dorado was constructed originally as a company town for the lumber mill and its streets and infrastructure are not sufficient to support multi-family development.

While the planning department may believe that in the distant future a single developer will purchase all the lots in El Dorado, the county has done nothing to further this dream but, in the meantime, has made all the properties in the Township worthless and has created a situation that every single parcel in El Dorado has been taken by the county.

This letter is to serve as a notice that if this problem cannot be rectified promptly my client, and likely many others in the Township, will join in filing a suit in Federal Court against the county for this unlawful taking.

Sincerely,

Steven C. Bailey

Steven C. Bailey
Attorney at Law

SCB:ss
Cc: Client