Data and Analysis of Jefferson County Assessor Office
Cost of Lots Paid by Homebuilders to Brookfield
Solterra Community

September 3, 2020

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FUNDAMENTAL QUESTION:

Do the Solterra homeowners owe Brookfield, the Solterra developer, any additional money for building the infrastructure (i.e. streets, pipes in the ground for water and sewer, fire hydrants, retreat, playgrounds)?

> Did the Solterra homeowners already pay for the infrastructure costs when they bought their homes?

> Is Brookfield "double charging" Solterra residents for the infrastructure - once through the cost of the lot and a second time through the "metro district loans"?

SUMMARY OF ANSWER:

$118 million already paid by Builders/Homeowners to Brookfield for the Solterra lots (total occupied lots 1163) which were all developed by Brookfield

MINUS $37.8 million Brookfield paid to develop the lots (build all the infrastructure - i.e. pipes in the ground) - already paid by Solterra homeowners

MINUS $4.3 million Brookfield paid for the land - already paid by Solterra homeowners.

EQUALS $75,900,000 profit to Brookfield - already paid by Solterra homeowners.

(The total amount paid to Brookfield for the developed lots and the total amount of profit is actually closer to $141 million and $98 million respectively when we add in the average cost of the lots for 221 Brookfield homes and additional Cardel homes, neither of which have yet been recorded with the Jefferson County Assessor.)

Brookfield is "double charging" the residents for the cost of the infrastructure.

1. First charge for infrastructure: Brookfield didn't give the developed lots away for free. Homeowners paid Brookfield for the $37.8 million infrastructure cost plus $4.3 million for the cost of the land plus a profit of $75,900,000 - when they paid for the home lot.

2. Second charge for infrastructure: Homeowners are also paying off Brookfield's self-created metro district "loan" - to have the residents pay the $37.8 million infrastructure cost a second time. Homeowners are currently paying over $2 million each year for the next 30+ years to pay off the $29 million in bond debt issued between 2007 and 2016 to finance only $7 million in principal on the cost of the infrastructure. This bond debt was voted on by the Solterra Board when Brookfield controlled the boards.

(And according to their November, 2019 letter to the Solterra Board, Brookfield says we still "owe" them more than $41 million in addition to what has already been paid. The maximum principal under the Solterra Service Plan would be a total of $70/$91 million. In April, 2017, Brookfield said we had only paid $7 million of the principal - they said the rest of the $29 million bond debt issued as of 2016 was for "interest" on the money Brookfield "loaned" to the homeowners to pay for infrastructure costs.)

HERE IS THE RESEARCH THAT ANSWERS THE QUESTION - DO WE OWE BROOKFIELD ANY MONEY. (*The actual documents are attached as exhibits*.)

1. How do developers make money developing land?

Developers find raw land. They purchase and then develop the land by making improvements to the land (i.e. pipes in the ground).

This work by the developer prepares the land for builders who then construct homes or commercial buildings on the developed land. Sometimes, the developer also builds homes or businesses on the same lots he has developed, as is the case with Brookfield homes in Solterra.

The developer sells these improved (developed) lots to builders. He makes his money by charging the other builders and homeowners his costs to a.) buy the land, b.) develop the land, c.) pay himself a profit.

The developer simply makes money by selling the developed lots for more than the developer paid.

This traditional way developers get paid back for their cost of the infrastructure - by including that cost in the price of the lot - is well established in the industry. There are a multitude of references for this fundamental business model on google - here is a sample:

https://www.nahb.org/~/media/NAHB/advocacy/docs/industry-issues/land-use-101/orientation/land-development-checklist

https://pdfs.semanticscholar.org/5b99/53559cfee34d3cdc6b64db10aa96cefee25b.pdf

https://www.westga.edu/~bquest/2000/resident.html

In most of the United States, in Colorado before the 1980's, and in Colorado where metro districts are not permitted (i.e. Longmont), developers follow the traditional model of including the cost of the infrastructure in the cost of the lot.

Data collected by the Census Bureau shows that metro districts, like the Colorado metro districts, are unusual and exist in only 16 states. California and Texas, along with Colorado, account for a significant majority of these metro districts in the United States.

https://www.census.gov/library/publications/2019/econ/2017isd.html

Colorado Metro Districts are the exception, not the rule.   Because they are unique, they present unique risks - as the Census Bureau report concluded: "These districts can collect property taxes and issue public debt. ***That's why it's important to keep track of public funds controlled by these districts*"** (emphasis added)

https://www.census.gov/library/publications/2019/econ/from_municipalities_to_special_districts.html (p. 3.)

2. Metro Districts added a second layer of profit to the traditional model of development financing

In the 1980's the construction industry worked with the State Legislature to re-write the special district laws in Colorado to facilitate creating metro districts where there were no people and to minimize the developer's business risk.   Since that time, developers have increasingly used metro districts to impose taxes on future residents to pay for infrastructure with two interest bearing loans. Almost every new development in Colorado built since the 1980's used metro district loan (first interest bearing loan) and bond debt (second interest bearing loan to pay off the first loan) financing.   Paying two "loans" "created" for the residents by Brookfield; paying interest on interest.

But at the same time that the residents are paying for infrastructure through metro district financing, the residents are also still paying for the infrastructure when they pay for their home lots.

The Solterra builder/homeowner paid at least $118 million for the Solterra home lots, including $4.3 million for the land, $37.8 million for the infrastructure and at least $75.9 million to Brookfield for profit. The lots weren't free.

3. Three components determine the cost of a developed lot: The cost of the land. The cost of the infrastructure/development. The profit.

a.) Cost of the raw land.

In Solterra, Brookfield bought the land out of the Mt. Carbon bankruptcy. Mt. Carbon was a district created in the 1980's to develop Rooney Valley. Mt. Carbon went bankrupt. The land was the only asset. Carma/Brookfield bought the land from the bankruptcy trustee.

Carma/Brookfield paid for the land two ways:

1. Carma/Brookfield paid off the bankruptcy debt by imposing a 21 mill property tax levy on the future residents. Solterra residents are paying off the Mt. Carbon bankruptcy debt.

2. Carma/Brookfield paid an additional $4.3 million for the land. Currently there are 1163 lots. $4.3 million equals approximately $3,697 per lot for the cost of the land.

https://www.courtlistener.com/opinion/1844441/in-re-mount-carbon-metropolitan-dist/
(see page 9 of the decision - land purchased for by Carma from Resolution Trust Corporation for $4.3 million)

https://www.westword.com/news/spaced-out-057808

b.) Cost of the infrastructure

In August, 2006, Brookfield told the City of Lakewood that the cost of the infrastructure for Solterra would be $37.8 million.

(Attachment A - City of Lakewood Memorandum August 22, 2006 showing the Mt. Carbon tax and the $37.8 million cost of developing the Solterra home lots)

(Attachment B - Financial Budget Prepared by Brookfield for the City of Lakewood and attached to the application to create a special district dated August, 2006, showing the cost of developing the lots - $37.8 million)

The total cost of the Solterra infrastructure ($37.8 million) as reported by Brookfield to the City of Lakewood in Brookfield's application for a metro district breaks down to approximately $32,502 per lot in Solterra.

That number ($32,502 per lot) is also consistent with the industry average cost per lot to develop home lots. Both industry representatives, the Special District Association and the Colorado Homebuilder's Association, agree that the industry average for the cost of developing the infrastructure for home lots is $30,000 - $40,000 per lot.

(This link provides the Colorado Homebuilder's Association's published statement that the industry average cost of infrastructure in Colorado was $30,000 to $40,000 per home.

https://www.hbacolorado.com/advocacy/colorado-metro-districts (see "**Affordability Estimates for the public infrastructure costs associated with new development range from $30,000 to $40,000 per home.**")

(Attachment C is a screen shot from a presentation by the Special District Association to the City of Aurora where they explained that paying for infrastructure by including it in the cost of the lot instead of using metro district financing will increase the cost of the home by $30,000 - 40,000 - but what they don't say is that the cost of the infrastructure is still there in the cost of the lot - it was never subtracted)

So, Brookfield reported to the City of Lakewood that the cost of developing the lots in Solterra that were then sold to the builders/homeowners was $37.8 million ($32,502 per lot). And this number is confirmed as a reliable figure - not only because it is what Brookfield said the cost would be - but the number is also consistent with the industry average of $30,000 - $40,000 per lot as reported by representatives of the development community.

c.) Profit

We have a reliable number for the cost of the land. $4.3 million.

We have a reliable number for the cost of the infrastructure. $37.8 million.

By obtaining the cost of the lot - how much money did the Builder/Homebuyer pay Brookfield for the developed lot - we can tell how much money Brookfield recieved for the developed lots. Did Brookfield make more money than it paid when it sold the developed lots to builders and homeowners?

Data from the Jefferson County Tax Assessor shows how much money builders/homeowners paid Brookfield for each developed lot in Solterra

1.) ***The total amount Brookfield received from the builders for the developed lots is at least $118 million.*** (That number is actually much higher because at least 221 lots were kept by Brookfield to build its houses and there are an additional 117 townhome lots Cardel is purchasing but have not been recorded with the County yet. The cost of the lot was included in the final sales price to the homeowner for lots Brookfield kept. There would be no public record of how much Brookfield charged itself for the lot. But, since Brookfield charged at least as much as other builders for the same house on similar lots, the cost of the developed lot was more than $0. The number is not known and not included, but it will be more than $0. So, $118 million paid to Brookfield is low. As shown in the chart below, the total is closer to $141 million paid for all the 1351 Solterra lots.)

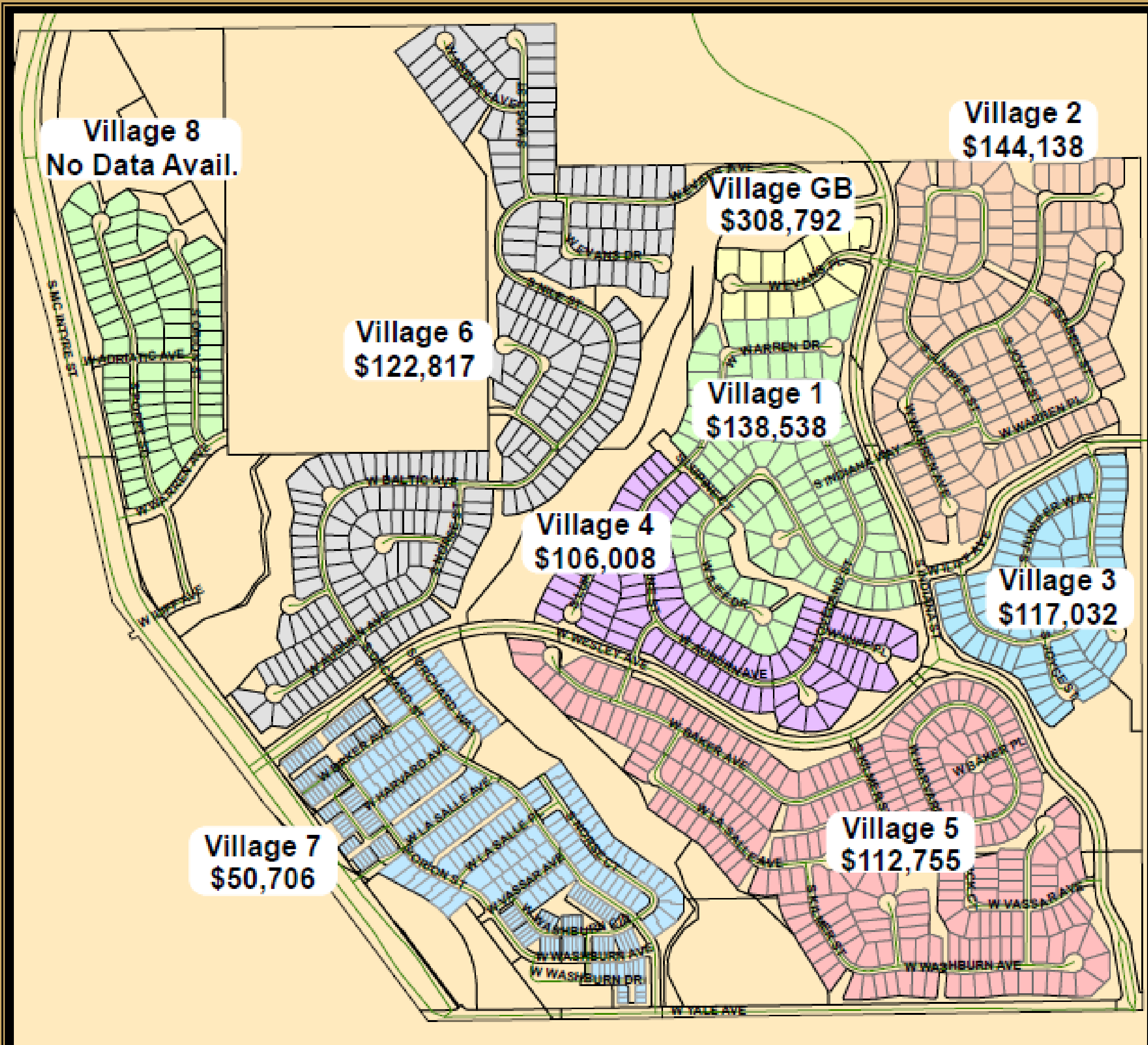
2.) ***The cost for each lot ranged from $50,000 to $335,000.***

Here is a summary chart of the data:

Homes Occupied Version 4 (Database & Site Verification)					
Village	**Lots**	**Docs Found**	**%**	**Est Lot Cost**	**Est Total Lot Costs**
GB	13	13	100%	$308,792	$4,014,296
1	104	80	77%	$138,538	$14,407,952
2	136	129	95%	$144,138	$19,602,768
3	71	71	100%	$117,032	$8,309,272
4	87	82	94%	$106,008	$9,222,696
5	259	231	89%	$112,755	$29,203,545
6	231	220	95%	$122,817	$28,370,727
7 (Cardel)	113	112	99%	$50,706	$5,729,778
7 (Brookfield)	149	0	0%		$0
	1163	**938**	**81%**		**$118,861,034**
1) No Docs found for Brookfield Homes in V7, Brookfield did not charge through a Deed					
2) If Brookfield would have charged in V7 at same lot cost as Cardel, add $7,555,194					
3) Cardel has 35 more Townhomes for V7, add $1,774,710					
4) Cardel has 82 more Townhomes for V8, add $4,157,892					
5) Brookfield has 72 Single Homes for V8, add $8,856,000					
5) Additional $23,053,680 would increase overall lot costs to $141,186,734					

Here are the same costs averaged for each of the different Solterra neighborhoods:

Solterra Average Lot Costs by Village



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Data Sources:

JeffCo GIS Parcel Layer (8/28/20 verison)
Fossil Ridge Metro Distric (Village Areas)
Extensive Manual DB/GIS Edits - PT

1 inch = 700 feet

(Attachment D is a sample warranty deed that was referenced to establish the cost of each lot. The deed represents information collected by the Jefferson County Assessor for each transaction for each lot. The fee charged for filing each deed is equal to .01% of the price paid. That fee is "DF" on the document (for "document fee"). The same number also appears in the Assessor's transaction data. These numbers were checked with individual homeowners in available cases to confirm that the amount of money they paid for their lot is identical to the number recorded by the Assessor and provided to the Assessor by Brookfield.)

(Attachment E is one page from the data worksheet - 30 pages long. It shows the amount paid to Brookfield by the builder/homeowner for every lot in Solterra for which records exist with the Jefferson County Assessor. As you can see, the research disclosed nearly 90% of the records in all but one neighborhood. The complete list is attached as Attachment F so a resident may check to see what they paid for their developed lot. It took a lot of work to compile this information. But it is all available to the public on the Assessor's website.)

Here is the link to the Jefferson County Tax Assessor's data. The website contains all the information to establish how much the builder/homeowner paid to Brookfield for the developed lot - which included the cost of the land, the cost of the infrastructure and profit for Brookfield:

https://propertysearch.jeffco.us/propertyrecordssearch/dashboard

3.) Profit is $118 million total revenue for the sale of developed lots, minus $4.3 million for the cost of the land, minus $37.8 million for the cost of the infrastructure.

Brookfield made their money by selling the lots for more than they paid.

$75,900,000.00 profit paid by Solterra homeowners to Brookfield.

<u>Conclusion</u>:

Solterra homeowners have already paid Brookfield at least **$118 million** which included **$37.8 million** to develop the lots (build all the infrastructure - i.e. pipes in the ground),

$4.3 million for the land, and, at least **$75,900,000** in profit to Brookfield.

Brookfield is "double charging" the residents for the cost of the infrastructure. Solterra homeowners paid for the infrastructure the first time when they paid for the home lot. They are now paying a second time through the metro district two loan financing plan to pay for the same infrastructure.

(Note, according to Brookfield, the homeowners have only paid back $7 million of the principal on the metro district loan Brookfield created before the residents arrived and the maximum amount of principal under the Service Plan is $70/$91 million. Brookfield is demanding another $41 million in bond debt (plus interest) to pay Brookfield $41 million now - and that is just the beginning. Brookfield is not saying how much of that $41 million is paying down the principal on the $70/$90 million authorized in the Service Plan. The Solterra Board is not saying how much principal is being paid down by issuing $10 million in additional bonds)

MOVING FORWARD

Many issues remain to be addressed. For example, taking back our right to vote on any future tax/bond debt and an independent forensic financial audit.

But two things are true.

First, it is now clear that we already paid Brookfield for the cost of building the infrastructure when we paid for the home lot with the price of our homes. We do not owe Brookfield any more money.

Second, we need to do something to stop the Solterra Board from committing us to pay more of our taxes to Brookfield without a vote of all the residents at an election as provided for in the Colorado Constitution. Our vote is the only check and balance on Brookfield.

Unless the Solterra board returns our right to vote, we have no choice but to recall them from the boards. We need your help to obtain the signatures necessary to recall the board and return the residents' right to vote. Please let us know you will help by contacting the following email: Jkhjr1@gmail.com