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September 3,
2007

THE TOLL BROTHER'S DISADVANTAGE

**This Issue:
Guidelines are
just Guidelines?**

info@tolldisadvantage.com

Welcome to our Toll Brothers Disadvantage Website. Buyer beware! Toll Brothers loopholes with City Guidelines and vague Public Reports can burden your pocket book!

We purchased a home site from Toll Brothers Treviso community in North Scottsdale in January of 2005.

Toll Brothers did not start building our home until June of 2005. After the footings were poured, we visited the home site and at that time we realized our lot sloped down lower than the typical homes being build in the community. We assumed that Toll Brothers had followed the necessary steps to obtain building permits and would ensure that the lot met design standards and guidelines. We based our assumption on Toll Brothers public report Registration No. DM 04-047758 dated May 17, 2004 that specifies on Page 4 E. "Finished Floor elevations will be free from inundation by a 100 year-year frequency storm". Page 4 F. "Grading is to comply with the City of Scottsdale requirements".

In September of 2005 we had a frame stage walk through with Toll Brothers. We were to meet with the Toll Brothers Project manager and sales representative, however neither were present and our walk through was completed by the construction managers assistant. At the end of the walk through when we were voicing our concerns about the slope of our driveway and the hillside adjacent to the home, the Toll Brothers Construction manager appeared for 5 minutes. Toll Brothers construction manager offered assurance that grading was in compliance with City of Scottsdale and that a retaining wall was not necessary to retain the hillside. The assistant assured us that the steep driveway would be graded to minimize the slope and we were told final inspection would not occur if there were grading/drainage issues.

In March of 2006, we closed escrow on our new home. The typical driveway installed by Toll Brothers, included in the purchase price, is decomposed granite. When we moved into our home we were unable to use the driveway because it was too steep and the vehicles would slip down the driveway and just spin when trying to back out of it. We had to drive along the front of the property to get our vehicles back to the street.

March 8, 2006 the City of Scottsdale approved temporary occupancy for our home but the Inspector denied permanent occupancy. The inspector noted the following: "Have engineer of record provide stamped, engineered solution for drainage issues at garage." Inspector

may, at his discretion, request City of Scottsdale approval. Unfortunately, we were unaware that upon moving in our home had been denied final occupancy with grading/drainage stipulations.

In June of 2006 a Toll Brothers representative informed us that our home still had not received final inspection and occupancy. Toll Brothers was required to have the lot re-excavated because of drainage concerns. Excavators spent hours grading trenches along the front and sides of the home. This ultimately created a steeper slope along the front of the driveway and the side of the house adjacent to the hillside. Toll Brothers indicated this was necessary to get final inspection.

During the same month, June of 2006, we had pavers installed over the decomposed granite driveway that was installed by Toll Brothers and we had stairs installed to allow visitor access from the street to the front door. The installers were unable to minimize the slope down the driveway because there isn't much you can do to minimize a 25% grade over 35 feet. We were not very happy that the driveway sloped as much as it did but again relied on Toll Brothers completing the necessary steps to ensure our home met City requirements.

In July of 2006 our home was given final occupancy approval by the City of Scottsdale. Although we were aware that the inspection had been delayed until the lot was re-graded, we were unaware that the City had requested that an "Engineer provide a stamped solution for the drainage issues". We were unaware of the request because one must visit the City of Scottsdale permit department to obtain the Building Permit Inspection History and we were not prompted obtain the report at that time. Regardless of the City of Scottsdales inspector request, Toll Brothers failed to provide the requested information and Toll employees completed re-grading the lot without the expertise of a Civil Engineer. The City of Scottsdale signed off on the final site inspection, apprehensively, without having the stamped engineer solution.

In October of 2006 we met the new Toll Brothers project manager for Treviso at a community picnic. When I introduced myself and identified our lot number, it prompted the Toll Brothers project manager to say oh, you the family with the really steep driveway. The project manager then proceeded to tell me that the City of Scottsdale had requested that our driveway be excavated and a permanent drainage system be installed. Toll Brothers project manager response to the city was "you go tell the homeowner you want for us to rip their driveway". We were stunned and it was at that point that we realized we may have a bigger issues.

In November of 2006 we called the City of Scottsdale. The City of Scottsdale planning and development department indicated that had our lot grading and drainage been submitted as a custom build, it wouldn't have passed initial approval and permits would not have been issued. HOWEVER, because our lot was submitted by a Civil Engineering firm for the entire subdivision, our lot specifications were inadvertently approved.

Since discovering that our lot exceeds City of Scottsdale Planning and Design guidelines we have tried to work with Toll Brothers for months and months trying to have the grading and drainage lot issues corrected. Toll Brothers refuses to correct the issues, even though Toll Brothers acknowledged that it is a problem, as does the City of Scottsdale.

In July of 2007, our lot flooded with the hillside washing down into our driveway and into the drainage areas, thus blocking the water from draining properly and causing our garage to

flood. Even after our home flooding, our landscape washed away and many tears, Toll Brothers refuses to accept responsibility.

Toll Brothers response is:

"I have spoken with Senior Management in the company and our position remains the same and the responsibility of selecting this home on your lot when you had options for other available home sites was clearly yours. Toll will not consider any refund or contribution to a site improvement to your property."

Below is our response and continued position:

At the point of purchase, the lot was unimproved and was natural open space. Toll Brothers did not DISCLOSE to us at any time that the home sites grading and drainage would deviate from City of Scottsdale planning and design guidelines. City of Scottsdale guidelines are as follows:

www.scottsdaleaz.gov/design/dspm/purpose.asp

ESLO 2-2.308

Maximum linear grade of driveway shall be 18 percent and the average grade for the length of the driveway shall be 12% -

Our home site, Lot 80 has a maximum linear grade of 24.2% and 16.3% average grade, with a 35 foot length

Toll Brothers response during a meeting was "Mrs. Young, those are just guidelines".

In addition to Toll Brothers disregarding City of Scottsdale design guidelines, we feel that Toll Brothers is in violation of the Public Report Registration No. DM 04-047758 dated May 17, 2004 that specifies:

- Page 4 Section E. Finished floor elevations are to be free from inundation of a 100 year flood storm

Our home site was not free from inundation by a storm that didn't even qualify as a 100 year flood storm. The storm washed the hillside into the graded drainage areas, thus blocking the drainage path and flooded all three bays of our garage.

- Page 4 F. "Grading is to comply with the City of Scottsdale requirements".

We have been working with the City of Scottsdale and our home does not meet grading and drainage requirements. Regardless, Toll Brothers refuses to work with us and if we want to have the issues corrected, we are required

to submit a complete survey of the lot and hire a civil engineer to submit plans for the retainer walls and relocation of the steep driveway.

Our story is similar to others in the North Scottsdale area and this article and it seems that we are a victim of a major loophole. The following was recently published in the Sonoran News and can be accessed at:

<http://www.sonorannews.com/OtherNews.html#story2>

Scottsdale intends to revise drainage and flood policies

Update expected by year's end

By Curtis Riggs

SCOTTSDALE – City officials intend to have drainage and flooding policies revised by the end of the year in an effort to get more control over how development impacts flooding.

The July 31 storm caused a great deal of damage to roads and properties in the northern portion of the city. Approximately 20 north Scottsdale residents showed up to tell the Scottsdale City Council about their problems at the first council meeting held after the summer recess earlier this month. Council members asked City Manager Jan Dolan to speed up the timeline in addressing the issues, which have been increased by rampant development in recent years.

Councilmen Tony Nelssen, who lives in north Scottsdale and sees problems caused by changes in drainage and flood plains daily, asked Dolan about ways the city could speed its response to the problem.

“This is not about one event,” he said while pointing out the late summer storms merely bring attention to an old problem.

Dolan responded the city has improved oversight and held discussions with developers over the last several years in an attempt to reduce the number of resident complaints.

North Scottsdale resident Howard Myers told the council the current city policies are simply not working.

“We do have drainage ordinances and we also have the Environmentally Sensitive Land Ordinance,” he said. “They are pretty good ordinances, but they are not enforced and there is one big loophole; you can do whatever you want as long as an engineer signs it.” Nelssen emphasized the city needs to “get a handle” on construction in and around natural washes.

“Building with the environment instead of against it will go a long way toward addressing drainage problems,” he said. “It’s part of life and we need to expect that, but we do not need to expect additional runoff when it hasn’t occurred before because of manmade development.” Councilman Bob Littlefield responded the city should make drainage solutions fit the specific needs of different areas of the city.

“We need to make a decision as a city to try and keep north Scottsdale looking as natural as possible,” he said. “The downside to this is the drainage issue up there is more dynamic. But it is not a challenge than cannot be met.”