

# BEUS GILBERT

PLLG

ATTORNEYS AT LAW

4800 NORTH SCOTTSDALE ROAD  
SUITE 6000  
SCOTTSDALE, ARIZONA 85251-7630  
(480) 429-3000  
FAX (480) 429-3100

PAUL E. GILBERT  
DIRECT (480) 429-3002

EMAIL: PGILBERT@BEUSGILBERT.COM

90142-001

December 17, 2007

## VIA FACSIMILE

Christopher J. Anaradian  
Development Services Manager  
City of Tempe  
31 East 5<sup>th</sup> Street  
Tempe, Arizona 85281

Re: US Airways Cross Access Easement – Case: SPD 97:91 - Stipulations.

Dear Chris:

It is always a pleasure working with you and it comes as a disappointment that we must request that the City of Tempe immediately enforce the following stipulations referenced below from the original 1997 Preliminary and Final Planned Area Development approvals regarding the ultimate development of the current US Airways building and any attendant construction.

### **SPD 97:91 – Approved Stipulations by City Council on December 18, 1997.**

...

6. **The final PAD shall be recorded prior to the issuance of permits, and shall show cross access to be maintained throughout this site over the driving aisles.** No changes or modifications to the driving aisles will be allowed without the prior approval of the Engineering Department.
7. **The Developer shall provide the City with satisfactory evidence of cross access onto adjacent property to the east, prior to the issuance of a building permit.**

...

Based on the express statement at the City Council hearing last week by US Airways' attorney, no easement agreement is in place as required above, we must request the City take appropriate and immediate action by revoking the Certificate of Occupancy at the current US

Mr. Christopher J. Anaradian  
Development Services Manager  
December 17, 2007  
Page 2 of 2

---

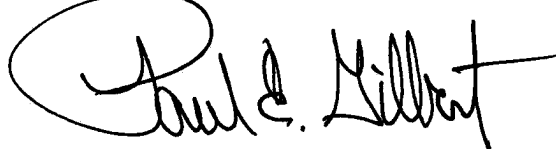
Airways building (111 West Rio Salado Parkway) and stop all construction on the Tempe Gateway project until such time as this issue is resolved.

If enforcement by the City does not occur posthaste, our client will be forced to close off their portion of 2<sup>nd</sup> Street and parking spaces located along Maple Street. Although this is a mechanism which we do not wish to use, we are deeply concerned with the issuance of building permits by the City with outstanding stipulations and the apparent disregard by US Airways to comply with the specific requirements of zoning case SPD 97:91.

Again, we appreciate your time and we look forward to having this matter resolved quickly. If you have any questions regarding this correspondence, please feel free to call me.

Very Truly Yours

BEUS GILBERT PLLC

A handwritten signature in black ink that reads "Paul E. Gilbert". The signature is written in a cursive style with a large, circular flourish at the beginning of the name.

Paul E. Gilbert

cc: Lisa Collins, Deputy Development Services Manager- Planning Division (via facsimile)  
Mayor Hugh Hallman (via facsimile)  
Vice Mayor Hut Hutson (via facsimile)  
Councilmember P. Ben Arredondo (via facsimile)  
Councilmember Barbara J. Carter (via facsimile)  
Councilmember Shana Ellis (via facsimile)  
Councilmember Mark Mitchell (via facsimile)  
Councilmember Onnie Shekerjian (via facsimile)  
Andrew Ching, Tempe City Attorney (via facsimile)  
Charlie Meyer, Tempe City Manager (via facsimile)  
Stephen C. Earl, Earl Curley & Lagarde PC (via facsimile)  
Paul Lambert, US Airways V.P. of Corporate Real Estate (via facsimile)  
C.A. Howlett, US Airways Senior V.P. Public Affairs (via facsimile)  
Tony Wall (via facsimile)  
Michael Monti (via facsimile)  
Eddie Goitia (via facsimile)