

EXHIBIT 2

Transcript of the Proceedings

Matthew Dominy

March 6, 2024

Power Ranch v. Woodcrest

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

POWER RANCH COMMUNITY)
ASSOCIATION, an Arizona)
non-profit corporation,) Case Number:
Plaintiff,) CV2023-000397
v.)
WOODCREST EAST, LLC, an Arizona)
limited liability company;)
VILLAGE EAST CONDOMINIUM, an)
Arizona non-profit corporation;)
KDL INVESTMENTS, LLC, an Arizona)
limited liability company,)
Defendants.)

(And related counterclaims.))

VIDEO-RECORDED DEPOSITION OF MATTHEW DOMINY
(30(b)(6) representative of Power Ranch Community Assn.)

Phoenix, Arizona
Wednesday, March 6, 2024
10:01 a.m.

Reported by:

MELISSA GONSALVES, RMR, CRR
Arizona Certified Reporter No. 50070

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By Mr. Connelly -----	4
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1 THE DEPOSITION OF MATTHEW DOMINY, 30(b)(6)
2 representative of Power Ranch Community Association, was
3 taken pursuant to Notice, on Wednesday, March 6, 2024, at
4 10:01 a.m., at the DESSAULES LAW GROUP, 7243 North 16th
5 Street, Phoenix, Arizona, before MELISSA GONSALVES, RMR,
6 CRR, an Arizona Certified Reporter, Certificate No. 50070.

7
8 APPEARANCES OF COUNSEL:
9 Representing the Plaintiff Power Ranch Community
Association:
10
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18 Also Present: Becky Cholewka, Esq.
19 Marcus Martinez, Esq.

20 Representing the Defendants Woodcrest East LLC:
21
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25 Phoenix, Arizona 85020
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VIDEOGRAPHER:

(The deposition was video-recorded by F. Robert Connelly)

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Phoenix, Arizona
Wednesday, March 7, 2023; 11:37 a.m.

D E P O S I T I O N P R O C E E D I N G S
MATTHEW DOMINY,
called as a witness herein, having been first duly sworn,
was examined and testified as follows:

E X A M I N A T I O N
BY MR. CONNELLY:

Q. Good morning, sir.
My name is Robert Connelly. I'm one of the
attorneys for Woodcrest East and associated defendants/
counterclaimants.
I'm going to be asking you some questions
with regard to a dispute that involves Woodcrest East and
Power Ranch Community Association.
First of all, were you just sworn in by the
court reporter?
A. Yes, I was.
Q. Okay. And you understand that your testimony
today is under oath?
A. Yes, I do.
Q. Okay. And, sir, if I could get you to put this
microphone on your shirt somewhere that's convenient to
you so hopefully we can hear you.

5

1 All right.

2 You sat through the deposition of your

3 fellow board member this morning; is that correct?

4 **A. Yes.**

5 Q. Okay. I'm going to go through a couple of the

6 preliminary issues for you, even though you probably

7 already heard it.

8 It's important that we not talk over one

9 another. It's important that we answer with a yes or no

10 or an I don't know, rather than uh-huh or huh-uh. If I

11 clarify that for you, I'm just trying to make sure the

12 record is clear. I'm not trying to be impolite or

13 anything like that.

14 If you need to take a break for any reason,

15 please let me know, and we can accommodate that. I would

16 just ask that you first answer the question which is

17 pending before we break. Does that sound fair?

18 **A. Yes.**

19 Q. Okay. Is there any medical condition, which you

20 might have, which might impact your ability to recall the

21 events that we're going to be talking about today?

22 **A. No.**

23 MR. CONNELLY: Okay. For the record, as a

24 preliminary matter, I'd like to raise an objection. It's

25 my understanding that this witness is going to be

6

1 testifying with regard to the same categories of

2 information that the previous witness testified to, and we

3 would object to having multiple witnesses testifying to

4 the same categories of information. I just want to put

5 that on the record.

6 BY MR. CONNELLY:

7 Q. Could you please state your name.

8 **A. Matthew Dominy.**

9 Q. Could you spell your last name?

10 **A. D-o-m-i-n-y.**

11 Q. Mr. Dominy, have you been deposed before?

12 **A. Oh, yes.**

13 Q. Okay. How many times?

14 **A. Probably 20.**

15 Q. Okay. Is there a reason for that?

16 **A. I've spent 40 years in public works.**

17 Q. Okay.

18 **A. Contractual disputes with contractors were an**

19 **everyday occurrence, so I've been deposed a few times.**

20 Q. Gotcha.

21 Just business issues and that sort of thing?

22 **A. Yeah.**

23 Q. Can you tell me: are you employed right now?

24 **A. I'm retired.**

25 Q. Can you give me a thumbnail sketch of your, say,

7

1 last employment? You've mentioned public works.

2 **A. Okay. I graduated from college in 1969, went**

3 **into the army for 10 years, came out of the army, went to**

4 **work in San Francisco, California, in a recycling plant,**

5 **moved back East, started working alternating work between**

6 **engineering consultants and municipal governments.**

7 Q. Okay. What was your degree in college?

8 **A. Civil engineering. I have a master's in**

9 **engineering management.**

10 Q. Okay. And where did you attend college?

11 **A. Bucknell University undergrad and University of**

12 **Florida, graduate school.**

13 Q. All right. How long have you been -- strike

14 that.

15 You are the treasurer with regard to the

16 Power Ranch Community at present?

17 **A. Correct; I am.**

18 Q. Okay. And how long have you had that position?

19 **A. A month and a half.**

20 Q. Okay. How long have you been a member of the

21 board of directors for Power Ranch?

22 **A. This time, a month and a half.**

23 Q. Okay. What about the last time?

24 **A. Ten years.**

25 Q. Okay. And can you give me those dates?

8

1 **A. 2012 to 2022.**

2 Q. And could you describe for me what positions you

3 held on the board of directors from 2012 to 2022?

4 **A. At various times I was either vice president or**

5 **president or just a board member.**

6 Q. When were you present, sir? If you know.

7 **A. Specifically, I don't remember.**

8 Q. Okay. I want to turn your attention to what's

9 been marked as Exhibit 1 to the preceding deposition.

10 We'll keep those numbers for this deposition.

11 Have you seen that document before, sir?

12 It's this one over here.

13 **A. No.**

14 Q. Okay. You can page through it if you want as

15 well. So that is what we've been calling the 2022

16 Declaration with regard to Woodcrest East. Does that

17 appear to be what the document is, based on the title

18 page?

19 **A. Yes.**

20 Q. Okay. And your testimony is you've never seen

21 that document before?

22 **A. Correct.**

23 Q. Okay. You are here pursuant to a Notice of

24 30(b)(6) Deposition.

25 What categories of information are you going

9

1 to be testifying to today, sir? If you would like to look
 2 at the Notice of Deposition.
 3 **A. Under the broad definition of the areas, I'm not**
 4 **sure there's any that I can't respond to. I might not be**
 5 **able to answer all of your questions.**
 6 Q. Okay. I'd like to start with the question I've
 7 raised in -- at the end of the preceding deposition.
 8 If I were to buy one unit of condominium
 9 within the Power Ranch Community and lease that unit,
 10 there's nothing in the Master Declaration which would
 11 prohibit that; correct?
 12 **A. Correct.**
 13 MR. VON JOHNSON: Objection; form.
 14 BY MR. CONNELLY:
 15 Q. If I bought two or three units in the same
 16 building in a condominium community --
 17 (The reporter interrupted to clarify.)
 18 BY MR. CONNELLY:
 19 Q. If I purchased two or three units within one of
 20 the condominiums in the Power Ranch Community in the same
 21 building, that would not be prohibited by the Master
 22 Declaration; true statement?
 23 MR. VON JOHNSON: Objection; form.
 24 THE WITNESS: I believe so, yes.
 25 //

10

1 BY MR. CONNELLY:
 2 Q. Okay. If I bought four within the same building,
 3 that would not be prohibited by the Master Declaration,
 4 would it?
 5 MR. VON JOHNSON: Objection; form.
 6 THE WITNESS: Remind me the premise of the
 7 question?
 8 BY MR. CONNELLY:
 9 Q. Sure.
 10 If I bought four condominium units in the
 11 same building in a condominium in Power Ranch and leased
 12 them all out, that would not be prohibited by the Master
 13 Declaration, would it?
 14 MR. VON JOHNSON: Objection; form.
 15 THE WITNESS: To my knowledge, that's correct.
 16 BY MR. CONNELLY:
 17 Q. Okay. If I bought 12 units in a condominium in
 18 the same building and leased them all out, that would not
 19 be prohibited by the Declaration; correct?
 20 MR. VON JOHNSON: Objection; form.
 21 THE WITNESS: I don't believe so, no.
 22 BY MR. CONNELLY:
 23 Q. That would be permissible?
 24 **A. Did you ask the positive --**
 25 Q. Yeah.

11

1 **A. -- or the negative?**
 2 Q. Yeah.
 3 That would be permissible under the CC&Rs;
 4 right?
 5 MR. VON JOHNSON: Objection; form.
 6 THE WITNESS: To my knowledge, yes.
 7 BY MR. CONNELLY:
 8 Q. Okay. And that wouldn't change the condominium
 9 into an apartment development, would it?
 10 MR. VON JOHNSON: Objection; form.
 11 THE WITNESS: I'm not sure I know the answer to
 12 that.
 13 BY MR. CONNELLY:
 14 Q. Okay. You don't know?
 15 **A. Sure.**
 16 Q. Okay. So turning to category 1 of the Notice of
 17 Deposition, that category references the Master
 18 Association's deliberations and decisions concerning the
 19 refusal to grant approval and recording of the Woodcrest
 20 Declaration, including, et cetera, et cetera.
 21 You don't have any personal, firsthand
 22 information that you can provide that is responsive to
 23 that category of information, do you?
 24 MR. VON JOHNSON: Objection; form.
 25 THE WITNESS: Can I read it again?

12

1 BY MR. CONNELLY:
 2 Q. Sure. Oh, I'm sorry.
 3 **A. Is your question about meetings with Woodcrest or**
 4 **about board actions?**
 5 Q. I believe it would be board actions regarding
 6 refusal to approve of the recorded 2022 Woodcrest
 7 Declaration.
 8 **A. Not to my knowledge.**
 9 Q. Okay. How about the facts considered and
 10 individuals who participated in the decision-making
 11 process with regard to refusing to grant approval to the
 12 2022 Declaration?
 13 **A. No information.**
 14 MR. VON JOHNSON: Objection; form.
 15 THE REPORTER: I'm sorry. I didn't hear your
 16 answer.
 17 THE WITNESS: No information.
 18 I'm sorry. I'll speak up.
 19 MR. VON JOHNSON: And there was an objection.
 20 BY MR. CONNELLY:
 21 Q. Your answer would be the same with regard to
 22 dates of meetings, deliberations and votes and the reasons
 23 for the decisions?
 24 MR. VON JOHNSON: Objection; form.
 25 THE WITNESS: As pertaining to that document?

13

1 BY MR. CONNELLY:
 2 Q. Yes, sir.
 3 A. Yes, my answer would be the same.
 4 Q. Okay. You are aware that there are apartment
 5 communities within the Power Ranch Community; correct?
 6 A. Correct.
 7 Q. Okay. It sounds like there are three apartment
 8 communities and three condo communities; correct?
 9 A. I believe that to be correct; yes.
 10 Q. Okay. Can you provide the names for the
 11 apartment communities?
 12 A. One of them is Painted Trail. I don't remember
 13 the name of the other two.
 14 Q. Okay. And there are three condominium
 15 developments within Power Ranch; is that correct?
 16 MR. VON JOHNSON: Objection; form.
 17 THE WITNESS: I believe so, yes.
 18 BY MR. CONNELLY:
 19 Q. That's Woodcrest East, Woodcrest West and the
 20 third one -- help me out -- was -- if you know the name.
 21 Do you know the name of the third one?
 22 A. The Knolls.
 23 Q. Oh, The Knolls, yeah.
 24 MR. VON JOHNSON: Objection; form.
 25 //

14

1 BY MR. CONNELLY:
 2 Q. Exhibit 2, before you, sir, is the master
 3 homeowners association Master Declaration, as we've been
 4 calling it. Would you agree with that?
 5 A. This document?
 6 Q. Yes, sir.
 7 A. Yes.
 8 Q. And that's Exhibit 2.
 9 There's no prohibitions in that document
 10 regarding the leasing of units with regard to Power Ranch,
 11 is there?
 12 MR. VON JOHNSON: Objection; form.
 13 THE WITNESS: Not that I'm aware of.
 14 BY MR. CONNELLY:
 15 Q. Okay. You'll agree with me that the Master
 16 Declaration for Power Ranch permits the leasing of units
 17 within the community; true statement?
 18 MR. VON JOHNSON: Objection; form.
 19 THE WITNESS: Yes.
 20 BY MR. CONNELLY:
 21 Q. And that applies to condominiums as well as
 22 apartments; right?
 23 A. Yes.
 24 Q. Okay. Do you remember the names of the apartment
 25 communities within Power Ranch?

15

1 MR. VON JOHNSON: Objection; form.
 2 THE WITNESS: No.
 3 BY MR. CONNELLY:
 4 Q. Turning your attention to page 7 of Exhibit 2,
 5 sir, this is the Section 1.45, which defines what rental
 6 apartments are; is that correct?
 7 A. Yes.
 8 MR. VON JOHNSON: Objection; form.
 9 BY MR. CONNELLY:
 10 Q. And the provision does not require the
 11 designation of an apartment development in order to be a
 12 rental apartment, does it?
 13 A. I would agree.
 14 Q. In fact, the term apartment development is not
 15 found in Section 1.45, is it?
 16 A. Correct.
 17 Q. Okay. You'd agree with me that an apartment
 18 development requires approval by Power Ranch; correct?
 19 MR. VON JOHNSON: Objection; form.
 20 BY MR. CONNELLY:
 21 Q. If you know.
 22 A. Ask the question again. I'm sorry.
 23 Q. You would agree with me that if you're wanting to
 24 build an apartment development, that requires the approval
 25 of Power Ranch?

16

1 A. Yes.
 2 MR. VON JOHNSON: Objection; form.
 3 BY MR. CONNELLY:
 4 Q. And if we turn to page 2 of that document, sir,
 5 at Section 1.3, we see the definition of "Apartment
 6 Development'..." means "a Parcel which is limited by a
 7 Tract Declaration to residential use, and contains Rental
 8 Apartments and surrounding areas which are intended, as
 9 shown by the site plan therefor approved by the Town and
 10 the Design Review Committee or otherwise, as one
 11 integrated apartment operation under the same ownership."
 12 Did I read that correctly?
 13 A. Yes, you did.
 14 Q. You'll agree with me that there's no site plan or
 15 tract declaration generated by Woodcrest East which
 16 indicates that it intends to use the property in question
 17 as an apartment development; true statement?
 18 MR. VAN JOHNSON: Objection; form.
 19 THE WITNESS: There is not to my knowledge.
 20 BY MR. CONNELLY:
 21 Q. You'll agree with me, sir, that the leasing of
 22 condominiums within Power Ranch does not require the
 23 approval of the Power Ranch Community Association, does
 24 it?
 25 A. Correct.

17

1 MR. VON JOHNSON: Objection; form.
 2 BY MR. CONNELLY:
 3 Q. And if I can turn your attention to page 4 of
 4 Exhibit 2, sir, there's a section denoted 1.16 for
 5 condominium development. And that is defined as: A
 6 "Condominium Development' shall mean a condominium
 7 established under the laws of the State of Arizona which
 8 is limited by a Tract Declaration to residential use."
 9 Did I read that correctly?
 10 **A. You did.**
 11 Q. And the Tract Declaration submitted by Woodcrest
 12 indicated that it was a condominium development; true
 13 statement?
 14 MR. VON JOHNSON: Objection; form.
 15 THE WITNESS: I have no idea.
 16 BY MR. CONNELLY:
 17 Q. You don't know one way or another?
 18 **A. No.**
 19 Q. And you don't know whether it was designated for
 20 residential use?
 21 MR. VON JOHNSON: Objection; form.
 22 THE WITNESS: Correct.
 23 BY MR. CONNELLY:
 24 Q. Turning your attention to 1.17: "Condominium
 25 Units' shall mean a unit, together with any appurtenant

18

1 interest in all common elements, within a condominium
 2 which is created under Arizona law."
 3 Did I read that correctly?
 4 MR. VON JOHNSON: Objection; form.
 5 THE WITNESS: You did.
 6 BY MR. CONNELLY:
 7 Q. As you sit here today, do you agree with me that
 8 Woodcrest East's development satisfies that sentence?
 9 MR. VON JOHNSON: Objection; form.
 10 THE WITNESS: This is 1.17 we're looking at?
 11 BY MR. CONNELLY:
 12 Q. Yes, sir.
 13 **A. Restate your question.**
 14 Q. Sure.
 15 Would you agree that Woodcrest Village East
 16 satisfies the definitional statement of "Condominium
 17 Unit," as "a unit, together with any appurtenant interest
 18 in all common elements, within a condominium which is
 19 created under Arizona law"?
 20 MR. VON JOHNSON: Objection; form.
 21 THE WITNESS: I don't know what has currently
 22 been submitted by Woodcrest, so I'm not sure I can answer
 23 that question.
 24 BY MR. CONNELLY:
 25 Q. You don't know one way or another?

19

1 **A. Yes.**
 2 Q. Okay. And that's because you've never seen
 3 Exhibit 1 before?
 4 MR. VON JOHNSON: Objection; form.
 5 THE WITNESS: Correct.
 6 BY MR. CONNELLY:
 7 Q. You didn't know of its existence until this
 8 morning?
 9 **A. Correct.**
 10 Q. Okay. You'd agree with me that this sentence
 11 provides that a condominium unit would be a unit that
 12 complies with Arizona law?
 13 MR. VON JOHNSON: Objection; form.
 14 THE WITNESS: Yes.
 15 BY MR. CONNELLY:
 16 Q. And then the next sentence: "Such term shall not
 17 include a Rental Apartment in an Apartment Development."
 18 Did I read that correctly?
 19 **A. You did.**
 20 Q. This sentence indicates that there can be rental
 21 apartments which exist not in an apartment development;
 22 true statement?
 23 MR. VON JOHNSON: Objection; form.
 24 THE WITNESS: I'm sorry. Ask your question
 25 again.

20

1 BY MR. CONNELLY:
 2 Q. Sure.
 3 This sentence indicates that there are
 4 rental apartments -- that there can be rental apartments
 5 in Power Ranch, which are not part of an apartment
 6 development?
 7 MR. VON JOHNSON: Objection; form.
 8 THE WITNESS: I still don't understand your
 9 question.
 10 BY MR. CONNELLY:
 11 Q. Okay. The second sentence of Section 1.17
 12 delineates rental apartments which are part of an
 13 apartment development.
 14 If all rental apartments were part of an
 15 apartment development, there would be no need to provide
 16 further clarification that the rental apartment is in an
 17 apartment development. As such, this sentence suggests
 18 there can be rental apartments within the Power Ranch
 19 Community that are not part of an apartment development.
 20 MR. VON JOHNSON: Objection; form.
 21 BY MR. CONNELLY:
 22 Q. In other words, there can be apartment -- rental
 23 apartments that are in condos.
 24 MR. VON JOHNSON: Objection; form.
 25 THE WITNESS: I believe that to be correct; yes.

21

1 BY MR. CONNELLY:
 2 Q. Okay. Do you know who exactly is responsible for
 3 approval of sub-association governing documents?
 4 MR. VON JOHNSON: Objection; form.
 5 THE WITNESS: Well, I would assume that to be the
 6 board of directors. Whether or not it has to go to a
 7 membership vote, I don't know.
 8 BY MR. CONNELLY:
 9 Q. Okay. Were you aware -- how many months out of
 10 2022 were you on the board of directors?
 11 A. One.
 12 Q. One month?
 13 A. Uh-huh.
 14 Q. Okay. Would that be January?
 15 A. Uh-huh.
 16 Q. Or December?
 17 January?
 18 A. Yep.
 19 Q. Okay. Is it possible that Exhibit 1 came before
 20 the board after you were off the board of directors, and
 21 that's the reason why you haven't seen that document?
 22 MR. VON JOHNSON: Objection; form.
 23 THE WITNESS: That premise was: Is it possible?
 24 BY MR. CONNELLY:
 25 Q. Is it possible; right.

22

1 A. Is it possible?
 2 Q. Well, that the document that we've indicated as
 3 Exhibit 1 was presented to the Board after the time that
 4 you left the board?
 5 A. Yes.
 6 Q. Would you have any information regarding
 7 deliberations or decision-making policies concerning
 8 approval of governing documents for any condominiums
 9 within the Power Ranch Community?
 10 A. No.
 11 Q. Is that because as your preceding deponent
 12 indicated, that was declarant controlled?
 13 A. Correct.
 14 Q. Do you have any information as you sit here
 15 today, sir, regarding communications with city or county
 16 officials on behalf of Power Ranch regarding condominiums
 17 within Power Ranch?
 18 A. No.
 19 Q. As you sit here today, sir, do you have any
 20 information regarding any communications between Power
 21 Ranch and any sub-associations regarding leasing policies
 22 and practices?
 23 A. No.
 24 Q. Okay. You heard from the -- as you sat in the
 25 deposition -- from the preceding deponent regarding

23

1 concerns over having lessees in the Woodcrest Village East
 2 Community. Did you hear that testimony?
 3 MR. VON JOHNSON: Objection; form.
 4 THE WITNESS: Yes.
 5 BY MR. CONNELLY:
 6 Q. For example: the transient nature of the lessees,
 7 and pride-of-ownership concerns, and financial concerns?
 8 A. Yes.
 9 Q. There was a suggestion that those concerns were
 10 raised in a meeting format. Were you party to any of
 11 those meetings?
 12 A. No.
 13 Q. Okay. Were you -- do you have any firsthand
 14 information regarding any concerns regarding the Woodcrest
 15 Village East community?
 16 A. Could you be a bit more specific?
 17 Q. Sure.
 18 A. That's a pretty broad question.
 19 Q. Sure, okay.
 20 There have been concerns raised about
 21 limiting the rights of Woodcrest Village East to lease out
 22 condominiums. Were you party to any discussions where
 23 those issues, such as the transient nature of lessees,
 24 pride of ownership, et cetera, were discussed?
 25 A. No.

24

1 MR. VON JOHNSON: Objection; form.
 2 BY MR. CONNELLY:
 3 Q. Have you been involved in any meetings or
 4 discussions with regard to Woodcrest Village East prior to
 5 the inception of this litigation?
 6 MR. VON JOHNSON: Objection; form.
 7 THE WITNESS: Yes.
 8 BY MR. CONNELLY:
 9 Q. Okay. What were those meetings or
 10 communications?
 11 A. I believe it was in March of 2021.
 12 Representatives from Woodcrest East came to Power Ranch
 13 and met with myself, as then-president of the board, and
 14 staff, sort of a general presentation on: Here's what
 15 we're thinking about for the property.
 16 Q. And do you recall any final assessment with
 17 regard to that meeting, whether any action was taken?
 18 A. No. The plans that were presented at that
 19 meeting were three-story, very modern architecture, and we
 20 expressed some reservation about that particular
 21 configuration, recognizing that there was still a DRC
 22 process and a Town process to go through, that it was at a
 23 very preliminary stage is kind of what we were thinking.
 24 I mean, it was not --
 25 Q. Sure.

25

1 **A. -- adjudicative in any way.**
 2 **And there was passing concern at that**
 3 **meeting about condos versus apartments, and the assurance**
 4 **we were given during those discussions was that it was**
 5 **intended to be condominiums.**
 6 Q. And you'll agree with me that condominiums can be
 7 rented out to lessees within the Power Ranch Community?
 8 MR. VON JOHNSON: Objection; form.
 9 THE WITNESS: Correct.
 10 BY MR. CONNELLY:
 11 Q. Your answer was correct?
 12 **A. Correct, sir.**
 13 Q. In that meeting or after that meeting, I believe
 14 there was the decision to reduce the structures themselves
 15 to two-story. Were you aware of that?
 16 **A. Yes. That was part of the DRC process.**
 17 Q. Okay. And then there was also a significant
 18 modification to the condominiums, to the architectural
 19 stylings of the condominiums themselves whereby the modern
 20 look was taken away and a more traditional look was
 21 created?
 22 **A. I believe that to be, yes.**
 23 Q. And did you have meetings with regard to those
 24 subsequent actions?
 25 **A. The action of going from -- let me think a**

26

1 **minute.**
 2 **Is your question about the number of stories**
 3 **or the architecture?**
 4 Q. My question is more about were there subsequent
 5 meetings or discussions generated as a result of those
 6 modifications?
 7 MR. VON JOHNSON: Objection; form.
 8 THE WITNESS: I still don't understand.
 9 BY MR. CONNELLY:
 10 Q. I'm trying to get a handle on how many times you,
 11 as the president of the board, met regarding the issue of
 12 Woodcrest Village East. How many meetings there were?
 13 MR. VON JOHNSON: Objection; form.
 14 THE WITNESS: Of the board?
 15 BY MR. CONNELLY:
 16 Q. Correct.
 17 **A. Other than as an informational item in the board**
 18 **packet, I don't believe there were any meetings**
 19 **specifically about deliberations on Woodcrest.**
 20 Q. Okay. And as you've already indicated, you
 21 wouldn't have been party to any meetings --
 22 **A. Correct.**
 23 Q. -- regarding the approval or disapproval of
 24 Exhibit 1?
 25 **A. Correct.**

27

1 Q. You can't speak to the Tract Declaration for
 2 Woodcrest Village East either, can you?
 3 **A. Correct.**
 4 MR. VON JOHNSON: Objection; form.
 5 BY MR. CONNELLY:
 6 Q. Can you speak to the issue of the payment of
 7 fees, of assessments that Woodcrest Village East may have
 8 recently paid --
 9 MR. VON JOHNSON: Objection; form.
 10 BY MR. CONNELLY:
 11 Q. -- to Power Ranch?
 12 **A. No.**
 13 Q. Can you speak to any information regarding why or
 14 the basis by which Woodcrest East's 120 votes were
 15 invalidated?
 16 MR. VON JOHNSON: Objection; form.
 17 THE WITNESS: No.
 18 BY MR. CONNELLY:
 19 Q. Do you know why that was?
 20 **A. No.**
 21 Q. Do you recall any information whereby Exhibit 1
 22 was approved but for Section 4.18, which related to
 23 leases?
 24 **A. No.**
 25 MR. VON JOHNSON: Objection; form.

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1 BY MR. CONNELLY:
 2 Q. You'll agree with me -- we've already touched on
 3 this -- and you can't provide any information with regard
 4 to what's in the sub-association declaration, can you?
 5 **A. Correct.**
 6 Q. Can you tell me in your own words why, as I
 7 indicated with the prior deponent, Woodcrest Village East
 8 is being singled out to impose rental restrictions --
 9 MR. VON JOHNSON: Objection; form.
 10 BY MR. CONNELLY:
 11 Q. -- on its property?
 12 **A. No.**
 13 Q. Whether a development is a condominium in Power
 14 Ranch turns on the application of Arizona law,
 15 specifically the Arizona Condominium Act; is that correct?
 16 MR. VON JOHNSON: Objection; form.
 17 THE WITNESS: I believe that to be correct; yes.
 18 BY MR. CONNELLY:
 19 Q. Okay. And you don't have any basis, as you sit
 20 here today, to suggest that Woodcrest Village East's
 21 intended use of the Community might violate the Arizona
 22 Condominium Act, do you?
 23 MR. VON JOHNSON: Objection; form.
 24 THE WITNESS: I have no knowledge.
 25 MR. CONNELLY: Okay.

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1 I'll take a break real quick, and I'll go
 2 through -- I may be reaching the end of my --
 3 MR. VON JOHNSON: Are we off the record?
 4 MR. CONNELLY: We're off the record.
 5 (Recessed: 12:13 p.m. - 12:29 p.m.)
 6 MR. CONNELLY: Back on the record.
 7 BY MR. CONNELLY:
 8 Q. Turning to category 12 of the Notice of
 9 Deposition, can you provide any firsthand information
 10 regarding what Power Ranch -- what efforts Power Ranch
 11 undertook regarding the interpretation of relevant laws
 12 and regulations concerning leasing policies?
 13 MR. VON JOHNSON: Objection; form.
 14 THE WITNESS: No.
 15 BY MR. CONNELLY:
 16 Q. Okay. Regarding category 13, can you speak on
 17 the issue of financial records, which might indicate the
 18 impact of leasing on sub-associations and the Master
 19 Homeowners Association?
 20 MR. VON JOHNSON: Objection; form.
 21 THE WITNESS: I'm sorry. Ask that again.
 22 BY MR. CONNELLY:
 23 Q. Sure.
 24 Can you speak on the issue of financial
 25 records, which might indicate the impact of leasing on the

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1 Master Homeowners Association and any sub-associations?
 2 **A. I don't think I understand what you're asking.**
 3 Q. Okay. Would there be any financial impact --
 4 excuse me -- if Woodcrest East was an apartment as opposed
 5 to a condominium community?
 6 **A. Yes, there is.**
 7 Q. Okay. And what would those financial impacts be?
 8 **A. From an assessment perspective -- excuse**
 9 **me -- single-family units, condo units, are assessed full**
 10 **assessments. Apartments are assessed one-quarter**
 11 **assessment.**
 12 Q. Okay.
 13 **A. So on an annual basis --**
 14 **(The reporter interrupted to clarify.)**
 15 THE WITNESS: -- that results in \$110,000 roughly
 16 of impact.
 17 BY MR. CONNELLY:
 18 Q. That quarter -- as opposed to a full
 19 assessment -- that quarter assessment is set forth in the
 20 governing documents; correct?
 21 **A. That's correct.**
 22 Q. All right. And there's a process by which to
 23 amend or modify those governing documents, is there not?
 24 **A. There is.**
 25 Q. Okay. Because Woodcrest Village East plans

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1 to -- strike that.
 2 Because Woodcrest plans to lease and not
 3 sell units in Woodcrest Village East, Power Ranch views it
 4 as an apartment development; is that correct?
 5 MR. VON JOHNSON: Objection; form.
 6 BY MR. CONNELLY:
 7 Q. Let me state it a different way.
 8 **A. I was going to say.**
 9 Q. Yeah.
 10 Do you view Woodcrest Village East as a
 11 condominium community or apartment development?
 12 **A. Condominiums.**
 13 Q. Okay. You'll agree with me that there are many
 14 homes and condominiums in Power Ranch today, which are
 15 available for rent?
 16 MR. VON JOHNSON: Objection; form.
 17 THE WITNESS: I'm not going to quibble about
 18 many, but, yes --
 19 (The reporter interrupted to clarify.)
 20 THE WITNESS: -- in basic concept, I agree.
 21 MR. CONNELLY: I believe that's all I have.
 22 THE WITNESS: I have one clarification.
 23 The meeting in 2021, I was at that point the
 24 vice president of the board and the chairman of the DRC.
 25 The president of the board at the time was also at the

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1 meeting.
 2 MR. CONNELLY: Was also?
 3 THE WITNESS: In the meeting.
 4 MR. CONNELLY: Okay.
 5 BY MR. CONNELLY:
 6 Q. So you want to clarify that you were not
 7 president but rather vice president at that time?
 8 **A. Correct.**
 9 **And chairman of the DRC.**
 10 MR. CONNELLY: Okay. I believe that's all I
 11 have.
 12 You have an opportunity to review, read and
 13 sign your deposition for accuracy and clarity.
 14 MR. VON JOHNSON: We'll read and sign.
 15 MR. CONNELLY: Okay.
 16 We're off the record.
 17 (The deposition concluded at 12:34 p.m.)
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1 DECLARATION UNDER PENALTY OF PERJURY
 2 I, the undersigned, declare under penalty of
 3 perjury, that I have read the foregoing transcript of the
 4 testimony taken on Wednesday, March 6, 2024, in the
 5 above-referenced matter, and that the foregoing is a true
 6 and correct transcript of my testimony contained therein,
 7 except for the changes, if any, noted on the attached
 8 errata sheet.
 9 Executed this ____ day of _____,
 10 20____.
 11
 12 _____
 13 MATTHEW DOMINY
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1 FIRM CERTIFICATE
 2 I CERTIFY that the foregoing deposition
 3 transcript was prepared by the reporter designated herein;
 4 that a digital copy of the reporter's transcript was
 5 submitted by the reporter to HERDER & ASSOCIATES for the
 6 purposes of preparing electronic and/or paper copies for
 7 the parties; that the transcripts have been prepared,
 8 distributed and invoiced pursuant to the order on file
 9 with HERDER & ASSOCIATES;
 10 I FURTHER CERTIFY that the production and
 11 distribution of the transcripts comply with Arizona Code
 12 of Judicial Administration 7-206(J)(1)(g)(2).
 13 DATED at Phoenix, Arizona, this 13th day of
 14 March 2024.
 15
 16 _____
 17 Designated Representative for
 18 HERDER & ASSOCIATES
 19 Firm Registration No. _____
 20
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1 REPORTER'S CERTIFICATE
 2 I CERTIFY that the foregoing deposition was
 3 taken by me pursuant to Notice; that I was then and there
 4 a Certified Reporter for the State of Arizona, and by
 5 virtue thereof authorized to administer an oath; that the
 6 witness before testifying was duly sworn by me to testify
 7 to the truth; that the questions propounded by counsel and
 8 the answers of the witness thereto were taken down by me
 9 in shorthand and thereafter transcribed under my
 10 direction, and that the foregoing typewritten pages
 11 contain a full, true, and accurate transcript of all
 12 proceedings had upon the taking of said deposition, all
 13 done to the best of my skill and ability; that deposition
 14 review and signature was requested; that HERDER &
 15 ASSOCIATES, is designated to produce, distribute and
 16 invoice the transcript.
 17 I FURTHER CERTIFY that I am in no way
 18 related to nor employed by any of the parties hereto, nor
 19 am I in any way interested in the outcome hereof.
 20 DATED at Phoenix, Arizona, this 13th day of
 21 March 2024.
 22
 23 _____
 24 Melissa Gonsalves, RMR, CRR
 25 Arizona Certificate No. 50070

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