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May 21, 2024

VIA EMAIL ONLY

Kyle A. von Johnson
CHDB Law LLP
1400 E. Southern Ave., Ste. 400
Tempe, Arizona 85282
Kyle.vonjohnson@chdblaw.com

Re: ***Power Ranch Community Association vs. Woodcrest East, LLC***
Maricopa County Superior Court Case No. CV2023-000397

Dear Kyle:

Thank you for your email of this morning. It follows an email we received from Curtis last week inquiring about the same topic. As we believe Curtis will be a witness in this matter, we direct our response to you.

Curtis asked us to send an email "outlining the terms of [our client's] proposed settlement by Monday at noon." We have now received an email from you asking for our client's settlement terms. The terms remain the same as they were when Mr. Huish told the town hall the following: "By the end of May 2024, if Power Ranch will dismiss their case with prejudice, I'll withdraw my $13 million counterclaim, and I will not seek reimbursement of my legal fees." Mr. Huish's spontaneous response was to a question asked in a town hall Q&A setting, so I note the following additional requirements for any settlement:

1. A comprehensive settlement agreement ("Agreement") is executed by the parties.

2. The Agreement approves the 2022 Woodcrest Tract and Declaration.

3. Woodcrest East is recognized as a "Condominium Development" with "Condominium Units" within Power Ranch.

4. There are no limitations for Woodcrest East to lease its condominiums, other than Woodcrest East agrees not to have any short-term rentals, i.e., Airbnb and rentals under 90 days (except pursuant to a lease extension).

In our opinion, the offer is one your client should accept. If you are successful in striking the 2022 Declaration (which is unlikely for many reasons, including those set forth below), the Woodcrest East land would again be subject to the 2007 CC&Rs. It is worth pointing out several provisions in this *approved* declaration from 17 years ago:

- Woodcrest "shall have the right and an easement to maintain sales *or leasing* offices…Declarant reserves the right to maintain models, management offices, storage areas and sales and *leasing* offices in any Units or in any Buildings owned or *leased* by Declarant and on any portion of the Common Elements in such number, of such size and in such locations as Declarant deems appropriate. Declarant may from time to time relocate models, storage areas, management offices and sales and *leasing* offices to different locations within the Condominium." *See* Section 4.5(a).

- "So long as Declarant is marketing Units in the Condominium, Declarant shall have the right to restrict the use of the parking spaces, including the right to reserve parking spaces "for use by prospective Unit purchasers, Declarant's employees and others engaged in the sales, leasing, maintenance, construction or management activities." *See* Section 4.5(b).

- Leasing is expressly allowed in Sections 5.22 and 5.5.

Any success Power Ranch might achieve in this case, in other words, is illusory, as the parties would revert to the version of the CC&Rs that expressly permits the declarant to lease and maintain leasing offices. This highlights the Board's unreasonableness in denying Woodcrest the same rights and privileges it already had under the 2007 Declaration. The 2007 Declaration further underscores the point that the ability for a declarant to lease property subject to a condominium tract declaration does not alter the zoning or use of that property.

Please give me a call if you would like to discuss this offer further.

Sincerely,

Jonathan A. Dessaules

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