

**MICHAEL B. MILLER, Esq.**

UTAH BAR No. 11275

OFFICE: 801.692.0792

MMILLER@MILLERHARRISONLAW.COM

Admitted to practice in Utah

March 26, 2020

Stone Creek Canyon Phase 3 Owners

Re: Proposed Amended CC&Rs and Bylaws

Dear Association Member,

I hope this letter finds you well. I serve as legal counsel to the Stone Creek Canyon Homeowners Association, Inc. (“Association”). By way of brief background, my law firm specializes in community association law. I have personally represented hundreds of homeowner and condominium associations throughout Utah for over 13 years. For the past several years, I have also served on the Utah Legislative Action Committee for the Community Association Institute (“ULAC”). As a member of ULAC, I have personally drafted and fought for and against legislation that impacts Utah condominium and homeowner associations.

Stone Creek Canyon Phase 3 (“Project”), the Association, and each resident is currently governed by the:

- “Declaration of Protective Easements, Covenants, Conditions and Restrictions of Stone Creek Canyon Phase 3” (also known as CC&Rs), as recorded with the Weber County Recorder on March 24, 2008 as Entry Number 2329658; and
- “Bylaws of Stone Creek Canyon Homeowners Association, Inc.” which were recorded as “Exhibit A” to the document recorded with the Weber County Recorder on October 5, 2007 as Entry Number 2296680.

In addition to the Association’s governing documents, the Association is subject to the Utah Community Association Act (found at U.C.A. §57-8a-101 et seq.) (“Act”) and the Utah Revised Nonprofit Corporation Act (found at U.C.A. §16-6a-101 et seq.). Some of the provisions in these legislative acts apply to the extent that an association’s governing documents are silent on a given issue. However, some provisions automatically trump anything written contrary in the governing documents. Accordingly, it is prudent for an Association to update its governing documents as laws change to eliminate confusion and to keep them in conformity with applicable laws.

Approximately one (1) year ago, the Association’s board of directors (“Board”) determined that it was in the Association’s best interests to update the Association’s CC&Rs and Bylaws. The objectives were simple – to bring the Association into compliance with current

laws, improve the clarity of the maintenance responsibilities between owners and the Association, clarify the insurance responsibilities of the Association and owners, remove language that protected the developer/declarant of the Project, protect lending options and the marketability of the townhomes, and to provide for a more effective and efficient method to operate and govern the Association.

Over the past several months, drafts of the Amended CC&Rs and Bylaws have gone back and forth between the Board, Association management, and legal counsel for the Association. We strongly believe the proposed documents are greatly improved over the current documents.

Enclosed herewith, you will find the proposed Amended CC&Rs and Amended Bylaws (referred collectively to the "Amended Documents"). The Amended Bylaws are located at Exhibit B.

The purpose of this letter is to briefly summarize the more substantive changes in the Amended Documents from the current documents. These changes are as follows:

- In 2011, the Utah State Legislature made drastic changes to condominium and townhome property insurance laws. The current CC&Rs are out of compliance and outdated. The Amended CC&Rs were drafted to comply with these legislative changes. See Section 8.2.
- One of the most important functions of a townhome association is the maintenance of property. A common point of contention between an association and an owner is the division of maintenance responsibilities. The Amended CC&Rs provide much more clarity on the maintenance, repair, and replacement obligations between the Association and the Owners. See Article VII. In addition, we included a "Maintenance Allocation Chart" to the Amended CC&Rs for even added clarity. See Exhibit C.
- The Amended CC&Rs and Bylaws take advantage of more recent changes in legislation designed to utilize technological advances. For example, the Amended CC&Rs and Bylaws clarify that email, text message, use of an Association website, and so forth may be used to send notices to Association members. This saves the Association money in copying, administrative, and mailing charges. See Section 14.1 of the Amended CC&Rs and Section 3.4 of the Amended Bylaws.
- Nearly all newer townhome associations charge a "reinvestment fee" each time title to a Unit changes as allowed by 2010 legislation. These reinvestment fees serve as a great source of secondary revenue for associations, which helps to keep monthly assessments lower and increases reserve funding. They are so common today that the standard Utah Real Estate Purchase Contract now includes a provision detailing how much the reinvestment fee is. See Section 5.15 in the Amended CC&Rs.
- The current CC&Rs and Bylaws were written by the Association's developer (referred to as the "Declarant" in the current CC&Rs and Bylaws). Within the current documents, the Declarant reserved special rights and protections which are no longer necessary since the Declarant turned control of the Association over to the owners. As a result, all Declarant references were removed.
- While the Amended CC&Rs do not prohibit or restrict the leasing of Units, they do include some protections to prevent the Project from turning into an apartment style short-term leasing development. For example, lease terms must be for a minimum of 6 months. In addition, Units must be leased with a written lease agreement, in which the tenants agree to abide by the Association's governing documents.

March 26, 2020

Page 3

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Finally, they allow the Board to request the names, contact information, and vehicle descriptions of tenants.

- Section 5.11 of the Amended CC&Rs provide the Association all remedies allowed by the Act in the collection of delinquent assessments. Assessments are the lifeblood of any community, so the enforcement of delinquencies is always crucial.

As stated above, the foregoing is a summary of the more substantive changes being proposed in the Amended Documents. I would encourage each of you however, to review them in totality and compare them with the current documents. If you have any questions or concerns, please contact a member of the Board or Association management.

Thank you very much for your time and attention. We look forward to getting the proposed Amended Documents approved and recorded. They will become effective upon recording.

Sincerely,

**MILLER HARRISON LLC**



Michael B. Miller

Enclosures