

MEMORANDUM

Date: July 16, 2025

To: Mary Ann Armijo, President, Board of Directors, Timberlake Ranch Landowners Association

From: Gary S. Friedman, Esq. - Friedman, Walcott, Henry & Winston, LLC

Re: Equestrian/Pedestrian Easements

This Memorandum is in response to a request to summarize and clarify the identification and existence of equestrian and/or pedestrian easements as referenced in the governing documents of Timberlake Ranch Landowners Association. In connection with preparation of this Memorandum, I have reviewed the plats and deeds provided to me, as well as the recorded Declaration and Bylaws of the Association. No separate title search for any additional documents was requested or performed.

1. Timberlake Ranch Subdivision in McKinley County, NM Units 1 – 10.

A review of the recorded plats for Units 1 thru 10 evidences only one applicable easement in the subdivision plat for Unit 3 recorded as Document # 190,939. That easement is a 20' wide easement for pedestrians and horses only and is located between Lots 14 & 15 in Block 6, from Black Bear Road to the Cibola National Forest. **It is important to note that this is the only reference to an easement for pedestrian use in all of the plats or deeds reviewed for this Memorandum.**

2. Cloh Chin Toh Ranch.

I was provided with unrecorded Plats/Sheets 3 and 4 of the Cloh Chin Toh Ranch property which references multiple equestrian easements.

A. Plat/Sheet 3. Sheet 3 references the following: i) a 100' wide equestrian easement (Sections 29 & 32) along most of the southerly boundary line of the subdivision; ii) a 25' wide equestrian easement from Timberlake Road between Lots 82 & 84, 81 & 84, and 81 & 82; and iii) a 25' wide equestrian easement between Lots 89 & 90 and from Timberlake Road to the horse pasture between Lots 57 & 58.

B. Plat/Sheet 4. Sheet 4 references the following: i) a 100' wide equestrian easement (Section 29) along the southerly boundary line; ii) a 25' wide equestrian easement from the cul-de-sac to the 100' equestrian easement between Lots 33 & 34; iii) a 25' wide equestrian easement from the cul-de-sac to the 100' equestrian easement between Lots 26 & 27; and iv) a 25' wide equestrian easement from the cul-de-sac to the 100' equestrian easement between Lots 8 & 9.

3. Deeds.

I was provided with four deeds which evidence equestrian easements thru certain Lots in Timberlake Ranch Subdivision, McKinley County, Units 1 – 10. When Ramah Lake Ventures, the developer, deeded out certain lots to individual owners a 10' wide equestrian easement was reserved. **None of these easements were reserved for pedestrian use, which means the current owners of the Lots burdened by the easements have the right to object to and contest in Court any pedestrian use of the easement crossing their respective lot(s).** These four deeds are as follows:

A. A warranty deed recorded in Book 19, Page 2272 on November 4, 2002 from Lawrence Peralez & Barbara Chavez to Steven Wills for Lot 61 in Block 14 of Unit 7 reserves a 10' wide equestrian easement along the westerly boundary of Lot 61. This deed also references the earlier recorded deed from Ramah Lake Ventures to Mr. Peralez and Ms. Chavez.

B. A warranty deed from Ramah Lake Ventures to Davis and Chavez recorded in Book 9, Page 8132 on February 22, 1996 reserves a 10' wide equestrian easement along the south boundary of Lot 45, in Block 14 of Unit 6. From a review of the subdivision plat this equestrian easement is located between Lots 44 and 45 and runs from the cul-de-sac from where Elk Drive and Culebra Road meet.

C. A warranty deed from Jeannette Troy to John and Dawn Lashley reserves a 10' wide equestrian easement along the northwest boundary of Lot 14, in Block 14 of Unit 4. This deed also references the earlier recorded deed from the developer (Ramah Lake Ventures) recorded on July 11, 2000 in Book 15 Comp., Page 4680. From a review of the subdivision plat this equestrian easement is located between Lots 13 and 14 and runs from Cottonwood Loop to the Common Area.

D. A warranty deed from the Dougherty-Anderson Trust to Joyce Kramer signed on July 31, 2018 reserves a 10' wide equestrian easement along the northern boundary of Lot 29, in Block 14 of Unit 5. The deed also references an earlier recorded Real Estate Contract recorded on February 9, 1982 in Book 80 Misc., Page 604. From a review of the subdivision plat this equestrian easement is located between Lots 28 and 29 and runs from Aspen Loop to the Common Area.

4. The Declaration.

The Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Timberlake Ranch Landowners Association references easements in general in its preamble and in Article II. It makes no specific mention of either equestrian easements or pedestrian easements.

The preamble states in part that "Timberlake Ranch and each of the Lots therein shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, liens and charges contained in this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Timberlake Ranch (the "Declaration")....Said covenants, conditions, restrictions, easements, liens and charges shall run with said Property and shall be binding on all parties having or acquiring any right, title or interest in said Property or any part thereof and shall inure to the benefit of each Owner...."

Article II states in part that "All provisions of the Articles of Incorporation of the Association, filed on May 9, 1986 (the "Articles"), and the Amended & Restated Bylaws of the Association, adopted on November 3, 2007 (the "Bylaws"), are hereby ratified and confirmed by the Association and constitute covenants, conditions, restrictions, easements, liens and charges under this Declaration.

5. The Bylaws.

The Amended and Restated Bylaws of Timberlake Ranch Landowners Association does not contain any references to easements in the body of the document. However, certain legal descriptions contained at the end of the Bylaws refer to various equestrian easements and easements in general. Specifically, Exhibit A-3 mentions the 100' equestrian easement located in the Cloh Chin Toh Ranch property. Exhibit A-4 provides that part of the Association subdivision includes "the following lands which have been designated as roads, streets, rights-of-way or equestrian easements on the subdivision plats in the following subdivisions...." Exhibit A- 5 includes the roads, streets, rights-of way or access easements within Section 24, Township 11 North, Range 16 West, McKinley County, New Mexico. There are no references to any pedestrian easements in the legal descriptions for the Bylaws.

Please note that these easements are referenced in the Bylaws under Article I. Definitions (f) for Common Areas. That reference is misleading since, in general, an easement is a legal right that allows someone to use a part of another person's property for a specific purpose without owning it. Common area means property within a development which is owned, leased or required by the declaration to be maintained or operated by a property owners' association for the use of all its members and is typically designated as common area on a recorded plat (common areas are designated in Timberlake Ranch Landowners Association's plats) or in a recorded declaration. Accordingly, an easement is not part of a common area, but could provide access to a common area, such as is the case in Timberlake Ranch.

6. Conclusion. Only one pedestrian easement exists of record in the entire real property for the Timberlake Ranch Landowners Association. That particular easement in Unit 3 of the Timberlake Ranch subdivision property, as noted above, is for equestrian and pedestrian use. All other equestrian easements created and granted either in the subdivision plats or in individual deeds do not grant any easement for

pedestrian use. A separate group of policies, guides and procedures are not enforceable against land owners to the extent they attempt to create any type of easement, including an easement for pedestrian use, that was not granted in either the recorded Declaration, Plats or applicable deeds.