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Palisair HOA Board of Directors
c/o Mr. Marc Rohatiner, Esq.
(mrohatiner@wrslawyers.com)

VIA ELECTRONIC MAIL ONLY

Re: 1378 Las Canoas Road - "Afifi Property" - FINAL APPROVAL

Dear Members of the Board:

Further to the HOA attorney, Mr. Marc Rohatiner's briefing schedule, I am forwarding you the Afifi's submittal regarding the formal and long-overdue Final Approval of the construction of the Afifi Property.

1. The Afifi Construction Fully Complies with the CC&Rs.

a. The construction of the Afifi Home Does not Block views.

As you know, the CC&Rs prevent construction if it blocks views from other properties. The Afifi construction does not block views from any home. This was verified with walk throughs of the Afifi Property by the prior board before granting preliminary approval. It was also reconfirmed by many of the current board members who came to the Afifi Property last summer and saw for themselves. To that point, the Afifi Property is the last house on Las Canoas Road, it is the highest in elevation, and there are no homes behind it. For this reason, even before we performed any construction, the prior home that has always existed at the Afifi Property was a two-story house as well.

b. The HOA issued Preliminary Approval in March 2014.

As you also doubtless know, HOA's March 25, 2014 gave us preliminary approval for our construction. Prior to that approval, we had submitted plans showing the entirety of the construction to the HOA, including plans for the two story structure, the basement,

as well as the pool and deck areas. In fact, in January 2014 when the basement was added, plans were immediately sent to the board reflecting the same (I have provided copies of those plans to Mr. Rohatiner as well). The HOA then set up a meeting at the Bundy's home (across the street from ours) to meet with neighbors, at which our architect and designer was also present to show the plans and answer any questions. Following all of these events and receipt of plans, the HOA issued its preliminary approval letter, approving the plans we had presented to the board. In addition, the letter stated:

“Of pertinent note, **there is no loss of rights posed** for your existing structure and views....” (Emphasis Added)

This statement is borne out by the realities that nothing about the Afifi Property or the construction on it violates the CC&Rs, and no rights of any other homeowner are abrogated.

2. Formal Final Approval is Almost 2 Years Overdue

As you will see from the recitation below, the final approved permitted plans were submitted in July 2014, and while we received final approval in actions, the formal signatures are long overdue.

a. July 2014

The permits from the City of Los Angeles were issued on **July 11, 2014¹**. That same day, I had the entire set of plans forwarded to Mr. Steven Di Saia, who I understood to be the head of the construction review committee of the HOA. In that email, I specifically asked Mr. Di Saia when he would like us to present the two sets of plans for the formal signing to take place where the board keeps one copy and the homeowner keeps another copy. I did not hear back.

My wife, Leila, and I then drafted a letter for our neighbors, identifying ourselves, and advising that construction would be starting soon, and we provided our cell phone numbers in case any of them had any issues with construction. The letter is attached to this submittal, and as it explains, we had lived through our neighbors construction on several occasions and were sensitive to the inconvenience that results from it. My wife walked every home on Las Canoas to introduce herself and give a copy of the letter to each neighbor.

¹Many months ago, I provided Mr. Rohatiner all the pertinent correspondence and any attached sets of plans which I refer to in this letter. I trust he has provided them to the board already. If for whatever reason that is not the case, I will happily provide additional copies.

Apparently, Mr. Ball, after receiving the letter contracted the HOA, not us. The only thing I did hear from Mr. Di Saia after sending the final plans was that a neighbor was concerned that a large retaining wall was being built on our property (similar to the one built in the adjoining development above Palisair).² I immediately obtained Mr. Ball's contact information, telephoned him, introduced myself, and set up a meeting with him. I drove to his office, and brought the entire set of plans that the City had permitted with me. He said he heard we were building a 20 foot retaining wall, and that he would have to face such a large wall which he found displeasing and unsightly. He also referred to the construction of the large retaining wall in the neighboring development. I showed him our plans, and he saw that the height of the retaining wall that we were allowed to build facing his property was roughly 2.5 feet tall, at the edge of the pool. We spent approximately 45 minutes together and he and I looked through the plans, including different perspectives of the development, i.e. birds eye views, as well as cross-sections of the various levels. He was pleased with what he saw. He confirmed after our meeting that he was happy with the plans, and we talked about looking forward to being neighbors together. We exchanged cell phone numbers and parted ways.

After that, there was one other neighbor who I spoke to, and agreed to meet, but he said that since Mr. Ball was happy with what he saw, this neighbor had no issues, since they both had the same concern about a 20 foot high retaining wall. There being no more issues, construction started thereafter. At this point, since our plans were no different than the approved set in terms of location or height of the structures, we had every confidence that we were given final approval.

Construction continued for months, until approximately January 2015 when Mr. Ball intervened by arriving at our property and threatening litigation. He and I met again, and this time the subject of the landscaping that he intended to plant was brought up, which I will not get into at this stage, since it is relevant to Mr. Ball's submittal to which I will respond subsequently.

b. Summer of 2015

After the issues with Mr. Ball escalated, in the summer of 2015, I was advised a new board had been elected, and I met a number of the board members at our home, including Mr. Friedman, Ms. Kirkpatrick, Ms. Olan and several others. They inspected the construction site, the plans, and views.

I then was invited to attend, and attended a board meeting at which I understood final approval was to be given formally. I was present, as was the HOA architect Mr. Richard Blumenberg. I had plans with me, as did the Board. We discussed the board's set of plans, and I

²The emails from Mr. Di Saia after the permitted set of plans are also included in my submissions to Mr. Rohatiner.

explained there were sets missing which I had submitted before the preliminary approval letter. Mr. Blumenberg verified that permitted set complied with the set for which preliminary approval was given and that nothing in there affected views. Questions about Mr. Ball's claims were also raised. It is important to note that Mr. Ball's claims had by this time morphed. He was no longer complaining about retaining walls. Now he claimed he did not know about a basement, and that was the source of his aggravation. This is wholly disputed for several reasons. First, Mr. Ball only thought of this excuse when he looked at the plans that the Board had, and incorrectly assumed that the plans did not include a basement. Therefore he decided to use that as a "change" that was not approved, arguing against Final approval. However, what he did not know was that while the first set of plans submitted to the board had no basement, a subsequent set showed the basement in January 2014, *two months before the Preliminary approval letter*. Nonetheless, he had raised these issues. I showed the board members the former plans and Mr. Blumenberg verified that regardless of whether the plans showed a basement or a straight wall, the impact on views did not exist and was the same. None of that affected a final approval.

i. Pitched Roof Change.

Finally, Mr. Blumenberg raised the issue of a flat vs. pitched roof. He indicated that the roof was a flat roof as permitted, but the prior set showed a pitched roof. I explained to the board then, and now again, that we had initially designed the house with a pitched roof and I preferred that. However, in subsequent discussions with Steve Di Saia, he informed me that the pitch roof requirement was no longer part of the CC&Rs. Since our designer believed a flat roof was more conducive to his design, he changed it to a flat roof when he learned of this. Thus the set permitted by the City in July 2014 had the flat roof configuration. Please recall, that this exact set was delivered to Mr. Di Saia in July 2014, and nobody ever notified me of a problem, objection or other critique with the roof, the pitch, or for that matter anything about those plans.

When this issue was raised in the meeting (in the summer of 2015 for the first time), Ms. Kirkpatrick asked me whether I would be willing to change it to a pitched roof, and if so, the board would issue the final approval. I stated that I had submitted plans in July 2014, a year ago then, and nobody had said a word to me about this. Meantime, my construction had proceeded. I said if it can be done without putting us behind or great expense, I will look into it, but specifically reserved all rights. In fact, our framing had already been inserted at that time, and it cost me an additional approximately \$10,000 to \$20,000 to change the roof configuration. But I did it, and our architect submitted the revised plans both in hardcopy (which I dropped off at Ms. Bantle's house) and via email to Mr. Blumenberg. The roof configuration was changed to a pitched roof even though the request came a year after I submitted plans showing the flat roof. We have since modified the roof, and completed construction of the roof in that pitched configuration.

At this point, the Final Approval which was effectively given to me as of July 2014, and following which construction has commenced and is now nearly completed, needs to be formalized. I would ask that board to confirm Final Approval of the Afifi Property construction plans in writing at the next board session so that this long torrid chapter can be closed properly.

I realize the board consists of homeowners volunteering their time, for which I am grateful. That is why I have been extraordinarily patient and understanding. Otherwise, it would have been just as easy for me to make threats, pound my fist and make claims against the HOA as Mr. Ball, his counsel, and others have done.

Very Truly Yours,
AFIFI LAW GROUP,

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