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April 11, 2018

Via Certified Mail –
Return Receipt Requested

Board of Directors
Palisair Home Owners Association
P.O. Box 901
Pacific Palisades, CA 90272

Re: Hearing Regarding Alleged CC&R Violation (Trees)

Ladies and Gentlemen:

This firm represents Deborah Streiber, the owner of 1000 Las Lomas Ave. and a member of the Palisair Home Owners Association (the “PHOA”).

The Board of Directors (the “Board”) of the PHOA purported to conduct a “hearing” on January 15, 2018 (the “Hearing”) concerning complaints submitted by the residents living at 1020 Las Lomas and 1031 Anoka Place (the “Complaining Members”) alleging view obstruction by a tree located on Ms. Streiber’s property. By letter dated January 24, 2018 (the “Notice”), the President of the Board notified Ms. Streiber of the following:

- The tree unreasonably obstructs or unreasonably diminishes the quality and nature of the view from adjoining properties;
- Pruning the tree is not a satisfactory solution because it will continue to diminish the quality and nature of the view even in a pruned condition;
- That Ms. Streiber is required to cut down the tree within thirty (30) days of receipt of the Notice; and
- If the tree is not cut down within such thirty (30) day period, the PHOA will impose a fine of \$250.00 per month until the tree is cut down, as provided in the PHOA’s rules and regulations.

Thereafter, the HOA delivered a statement to Ms. Streiber dated March 8, 2018 assessing a monthly charge of \$250 for the month of March, 2018 for a “Landscape Violation.”

The Board's actions, including the imposition of the fine, are void and unenforceable for the reasons set forth herein.

First, there is no authority in the PHOA's governing documents authorizing the Board or the PHOA to impose fines. Neither the PHOA's Third Modification of Restrictions (the "CC&Rs") or the PHOA's Bylaws (the "Bylaws") authorize fines. While the Board purported to enact a fine policy (the "Fine Policy") as set forth in an Annual Policy Statement dated November 1, 2017 (the "Policy Statement"), any such policy would constitute rulemaking. California Civil Code Section 4350 states that an operating rule is valid and enforceable only if the rule is within the authority of the board conferred in the governing documents or by law. Nowhere in the CC&Rs or the Bylaws is the Board given the authority to engage in rulemaking, nor is any right to do so in this context conferred by law. Accordingly, the Board has no authority to impose fines and its purported attempt to do so as set forth in the Notice is void and unenforceable.

Second, even if the Fine Policy is valid, the Board violated the express provisions of this policy. The Policy Statement advises the members that the full details of the Fine Policy are contained in Application Process, Rules & Fees for Alterations or Construction available on the website. That document provides that at any hearing in which a fine is imposed:

"The homeowner's attorney may attend and participate in the hearing, in which case the Board's attorney will also attend. If the homeowner's attorney will attend, the homeowner must provide advance written notice to the Board."

Unfortunately, the Board violated this policy by refusing to allow Ms. Streiber to be represented by an attorney at the Hearing. By email dated September 16, 2017 to the HOA, Ms. Streiber advised the Board that her attorney (myself) would attend the meeting. By email dated September 18, 2017, Howard Weisberg on behalf of the Board wrote that Ms. Streiber's attorney may not attend. Following postponement of the hearing, Suzanne Weisberg on behalf of the Board sent an email on November 20, 2017 to Ms. Streiber stating that Ms. Streiber's attorney was not welcome to attend. Following another postponement, by email to Ms. Streiber dated November 26, 2017, Suzanne Weisberg on behalf of the Board again instructed Ms. Streiber that Ms. Streiber's attorney could not attend. I should further note that I appeared with Ms. Streiber at the first inspection of the purported obstruction in August 2017, but was approached by Mr. Weisberg and informed that Ms. Streiber was not allowed to have her attorney present and was instructed to leave.

Clearly, the actions of the Weisbergs on behalf of the Board are in direct conflict with the Fine Policy. The Board cannot impose a fine without following the requirements it adopted. But what is particularly galling is that one or more members of the Board, including Suzanne

Board of Directors
Palisair Home Owners Association
April 11, 2018
Page 3

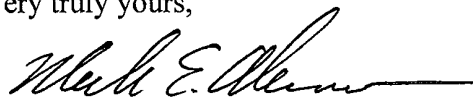
Weisberg, are themselves attorneys or former attorneys, and the Gabayans' son, who spoke on their behalf, is also an attorney. Accordingly, this appears to be an attempt to set up a rigged process to steamroll a homeowner.

Third, the Board effectively sandbagged Ms. Streiber by allowing extraneous and inflammatory material to be presented at the Hearing. Specifically, one of the Complaining Members submitted a letter from Dan Urbach, a broker with The Agency suggesting the tree caused a reduction in value of between \$500,000 to \$600,000 to the Complaining Member. There was also a second letter concerning the impact on value that was summarized but not reviewed by the Board. This material is not only speculative, but it has nothing to do with whether a tree unreasonably obstructs a view or unreasonably diminishes the nature and quality of the view. There is nothing in the CC&Rs about the impact of value caused by a tree – the standard is purely visual. The speculation posed by brokers is designed to inflame passions and scare homeowners. It is particularly unfair since Ms. Streiber had no notice that this would be introduced and, having been told she could not have an attorney present, had no ability to respond or challenge such information. Allowing such information was manifestly unfair to Ms. Streiber.

Finally, as all of you know, Ms. Streiber prunes the tree in question regularly twice a year – once in early October and again in March. The inspection that took place occurred in August when the tree's height and growth was at its fullest, and was subsequently pruned in October. The Notice claims that a second inspection was conducted after the October pruning. However, Ms. Streiber was not informed of any such inspection and therefore was not present. She has no way of knowing what the view impact was or what was communicated between the Board and the Complaining Members. This is yet another example of the Board (or certain members) rigging the process.

In summary, the Board's actions are in breach of its governing documents, applicable law and have denied Ms. Streiber her substantive and procedural due process rights. The Hearing was invalid and the Board's actions arising therefrom, including the imposition of a fine, are void and unenforceable. As a result, there is no need to address the substance of the Board's conclusions at this time.

Very truly yours,



Mark E. Abramson, Esq.

cc: Deborah Streiber (via E-Mail)