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October 5, 2021

VIA E-MAIL AND FIRST CLASS MAIL

sdeschaaf@paysonaz.gov; jowens@owenslawaz.com

Ms. Sheila DeSchaaf
Assistant Town Manager
Town of Payson
303 N. Beeline Highway
Payson, Arizona 85541

Jared R. Owens, Esq.
200 W. Frontier St., Suite L
Payson, AZ 85541

Re: Our client: Alpine Heights Home Owners Association
Lot 147 (900 Hillcrest Drive) – Unpaid Assessments

Dear Ms. DeSchaaf and Mr. Owens:

This firm represents the Alpine Heights Home Owners Association (“Association”), the nonprofit corporation association of owners whose members own residential lots 1 through 257 within Alpine Heights, according to Map #559, Gila County Records. This letter concerns unpaid assessments as to Lot 147 (Map 559), which is owned by the Town of Payson (the “Town”) and Tayco Properties LLC (“Tayco”), the client of Mr. Owens, as tenants-in-common. There also appears to be a misconception about your obligation to pay such assessments as members of the Association, and the fact that you and Lot 147 are subject to the recorded declarations. Mr. Owens, you wrote a letter to our client on July 6, 2020 expressly denying that Tayco is an owner of Lot 147, and pointed to the Town as the owner.

There appears to be no question that the Town purchased Lot 147, a vacant residential lot, from Harold and Barbara Rush (as trustees) by Warranty Deed recorded

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April 15, 2019 at Recorder's No. 2019-004041. There is also no question that the Town then conveyed one part of Lot 147 (now called Area B per Record of Survey recorded in Survey Map No. 5063 and Recorder's No. 2019-007553), to Tayco by Warranty Deed recorded October 3, 2019 in Recorder's No. 2019-010789.

The Town apparently caused a "split" of Lot 147 by the Survey in question, resulting in what is now ownership of Lot 147 by the Town and Tayco as tenants-in-common, each owns an "Area" of the platted Lot. The Town did nothing with the Association to attempt to formally change the status of Lot 147 as burdened by recorded restrictions and the recorded plat/map. The joint ownership is borne out by a title report obtained by the Association.

This is consistent with the recorded Declarations of Restrictions for Alpine Heights, the last of which was recorded in No. 2020-014196, preceded by one recorded in 2009-004365. Each of those states that the Owner(s)" shall mean and refer to the "owner of record", whether one or more persons or entities, of any Lot. In a letter about the Association's then-existing lien notice in 2020, Mr. Owens claimed that Tayco was not an "owner" because it had not "purchased" from the Town, but simply traded property. He referred to language in the Declarations that says "Owner" includes purchasers under agreements for sale, which clearly only explains the broader definition.

The argument that Tayco did not purchase a portion of Lot 147 has no bearing, even though it clearly gave value. The Town conveyed a portion of Lot 147 to Tayco. "When a grantee accepts a deed containing restrictions, he assents to these restrictions and is bound by their performance as effectively as if he had executed an instrument containing them." Heritage Heights Home Owners Association v. Esser (Ct. App. 1977). Therefore, Lot 147 is burdened fully by the recorded Declarations and their covenants and restrictions, including the owners' contractual obligation to pay assessments.

Alpine Heights has had restrictions and an Association governing its 257 lots designated as "residential lots" *since 1978*, per the original Declaration recorded in Book 453, Page 525. The Town did nothing to take Lot 147, or any part, out of the plat - Map 559, or out of the Declarations as amended over time, by simply "splitting" the Lot as may be permitted by Town ordinances or County regulations. Those ordinances or regulations do not impact recorded contractual restrictions that run with the land. The Town did not condemn property. The Town did not attempt to have the lot owners approve an amendment of the Declaration and Map 559, a part of the Declaration. Therefore, all restrictions, including residential status of the lot, and architectural approval, apply. We can only assume that neither the Town nor Tayco may have obtained title insurance to reveal these issues through a title report.

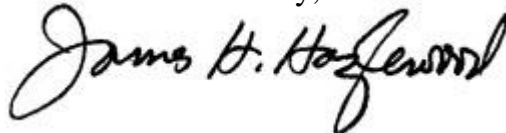
The small annual assessments for 2019, 2020 and 2021 are due and payable, plus late charges and collection fees, totaling \$360.00 (*see enclosed statement*), pursuant to Article VI of the 2020 Declaration. The Association is also entitled to its collection attorneys' incurred, totaling \$750.00 for this letter. The Association does not care if the Town or Tayco pays the assessments for Lot 147 going forward. They simply need to be paid to avoid contractual remedies. Moreover, all restrictions and obligations in the Declaration must be followed.

Please send payment for \$1,110.00* within 30 days to:

Alpine Heights Home Owners Association
PO Box 355
Payson, AZ 85547

(*A late fee of \$10.00 per month begins accruing after October 15.)

Sincerely,

A handwritten signature in black ink that reads "James H. Hazlewood". The signature is written in a cursive style with a large, looping initial "J".

James H. Hazlewood, Esq.
for

CARPENTER, HAZLEWOOD, DELGADO & BOLEN, LLP

JHH
Enclosure