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To Independence Avenue Owners Association ("Association")

RE: Summary of Key Updates to Governing Documents

Dear Owner:

As you may be aware, my office has been retained by the Board of Directors ("Board") of the Association to provide assistance in amending the Association's existing declaration. The Board has undertaken significant efforts to review and present the revised documents in order to present them to Owners.

The following governing documents were reviewed in relation to the proposed changes in the draft Second Amendment and Third Amendment:

- A. All Phase Plats (A-E); and
- B. Declaration recorded in 2007, along with all supplemental declarations (adding new phases) along with the 2015 Amendment to the Declaration.

As you are probably aware, the primary matter driving these changes relates to the deck replacement project. In your original declaration, the decks were the responsibility of each owner to repair and replace. Then in 2015 there was an amendment to the maintenance duties that moved deck maintenance to the Association. That change created a separate complication related to the fact that some units have decks while others do not. These proposed amendments are the outcome of extensive discussion by the Board, along with legal counsel and professional management advice. In the process of creating these amendments, there were a couple of other changes. I would like to outline those changes for your review as you consider these amendments.

Proposed Second Amendment:

The Second Amendment is designed to clarify certain maintenance responsibilities while making small adjustments.

- 1) To begin with, the definition of "Unit" is changed to better capture the reality of what your units include.
- 2) Certain elements of owner maintenance duties were changed, as follows:
 - a) **Window wells** and related covers are now the owner's responsibility.
 - b) **Pipes or conduit** located outside the Unit are now the Association's responsibility even if that section only serves one Unit (this is changed from the current language which makes it an owner responsibility outside the Unit as long as that section of pipe or conduit only serves

- that owner's Unit. This change is designed to avoid situations where the owners are responsible for common area spaces digging and landscaping repair.
- c) **Driveways** are clarified as an Association maintenance item.
 - d) Clarification is added that if either the Association or the Owner is responsible for repair of a certain element of the community, any damage resulting from negligence in relation to that duty would be the responsibility of the negligent party.
- 3) The insurance section was updated to match current Utah statutes on the topic of insurance. In particular, language requiring director and officer coverage was added.
- 4) Annual meeting scheduling has been made more flexible.
- 5) **Reinvestment Fee** language was added. Reinvestment fees are becoming a common practice for the majority of Utah homeowner associations. Your board is proposing language that would likely result in a reinvestment fee upon sale that is lower than what Utah statutes allow. State law allows the fee to be up to 0.5% of the sales price, but the language proposed here would fix that fee to the current assessment rate (multiplied by 3).

Proposed Third Amendment:

The Third Amendment directly addresses the issue of cost allocation for unique features which may not exist for all Units. The "Specific Assessment" language was changed to include a "Unique Feature Special Assessment". This feature allows the Association to do a reduced assessment for owners that do not have a unique feature with their Unit, such as decks.

This language is designed to strike a balance when the Association must repair items such as decks by providing a reduced assessment for owners without that element and placing more of that financial responsibility on owners that have the element repaired by the Association. This allows the Association to ensure common systems (like joined decks) get the repairs they need while taking into consideration that some owners don't have access to those elements. There is an example in the proposed language to give owners and future boards guidance on how that Unique Feature Specific Assessment is calculated. This formula applies to decks, patios, carports, and fences.

There is also a provision that applies when the cost of repairing those Unique Features is below a certain threshold.

Summary

These two proposed amendments are presented independent of each other for purposes of voting. However, the Board would encourage each Owner to carefully consider the unique issues facing the community and how these amendments are designed to address those issues. Although there is no perfect solution to handling maintenance duties for a community where units have diverse designs, these proposals are the result of a significant amount of time and effort by your Board to find a fair solution.

Sincerely,
/s/ Blake D. Johnson
Attorney at Law