



DESERT GREENS COMMUNITY

To: Members of the Association
From: Desert Greens 2001 Homeowners Association Board of Directors

Dear Members,

As many of you know, the Association is dealing with a number of issues and problems that face the community concerning residential development and compliance with Association governing documents. Many residents ask the Board on a regular basis for information and updates concerning these matters and all matters of the Association generally. In response to those inquiries, the Board is issuing this informational letter to give the Members an update on some of those issues that are often inquired about.

It is important to note that the Board does seek legal counsel for guidance on many of the legal challenges it faces. As a part of that, the Board oftentimes cannot disclose particulars on the legal advice that it receives, as much of that information is privileged communication or otherwise needs to remain confidential so as not to jeopardize the Association's legal positions. With that said, the Board does want to be as open as it can in providing information to its members and this letter is issued in that regard.

First, the Board is currently in a legal dispute with Pedley Family, LLC ("Pedley"), which is primarily centered around Pedley's claim that it is a successor declarant with all of the declarant rights under the CC&Rs and Nevada law. The Board believes that Pedley is not a successor declarant and, therefore, Pedley is not entitled to the development rights that a declarant would otherwise be entitled to under Nevada law. The Board has concerns over the development practices, sales and marketing aspects of Pedley's actions in the community and the Board believes that Pedley is not legally authorized to engage in many of those activities in the manner that Pedley has. Pedley's position is that it is a successor declarant and is entitled to act accordingly.

On behalf of the Association, the Board filed a claim with the Nevada Real Estate Division against Pedley regarding its status as a successor declarant, among other issues. The Board will be mediating that claim in the presence of an assigned mediator and Pedley representatives in the near future.

Second, there has been discussion in the past about voting rights of lessees in the community and whether or not the Association's CC&Rs can be amended to give lessees voting rights. As it stands now, the only persons that the Bylaws and CC&Rs give voting rights to are the Association 'members.' Membership rights under the CC&Rs are rights that are attached to

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ownership of a lot. Every lot owner is a 'member' in the Association and has membership rights due to his/her ownership of a lot. Under the Bylaws and CC&Rs, only owners are 'members' and members are, by definition, owners of lots.

While, in theory, the current owners/members could vote to amend the CC&Rs so that the definition of 'members' included lessees, any such amendment—even if the requisite number of members approved such an amendment—could not change what the law requires as to the more prominent matters that association communities vote on from time to time. Nevada law in Chapter 116 of the Nevada Revised Statutes discusses a number of association-related items that owners can vote on. For example, the election of directors to the Board of Directors can only be done by lot owners. Any amendment to the CC&Rs that would give voting rights to lessees to vote for directors would not be enforceable. NRS 116.31034 makes it clear that only owners (not 'members' however that may be defined in the CC&Rs) may participate in the election of directors. Any right given to lessees to vote in the election of directors would be in violation of Nevada law and not enforceable.

Also, Chapter 116 of the Nevada Revised Statutes provides numerous rights to owners to receive notice of and attend Board meetings, and review Association records, among other rights. The language in Chapter 116 states 'unit owners' have those rights, not 'members' (even if defined to include lessees). As such, amending the CC&Rs to define 'members' as including lessees would not be enforceable if the change was intended to give lessees those same inspection rights.

Again, please note that the Board is not at liberty to discuss details that are privileged or would otherwise compromise its legal positions. Nevertheless, the Board is hopeful that the above information is useful as a general update to the membership.

Desert Greens 2001 HOA Board

A handwritten signature in cursive script that reads "Michael (Buzz) Heldt". The signature is written in dark ink and is positioned to the left of the printed name.

Michael Heldt
Board President