

July 16, 2019

Lone Pine Real Estate, LLC
Attn. Scott Schorer
Via Email to:
sschorer1@gmail.com

Re: Review of HOA Governing Documents and related Declarant rights

Dear Scott:

On behalf of Lone Pine Real Estate, LLC (“Lone Pine”), this office has reviewed the Declaration, Covenants, Conditions and Restrictions for Roosevelt Ridge (the “Declaration”) in order to provide an assessment of the Declarant’s rights, including Special Declarant Rights reserved to Lone Pine in Declaration. Specifically, I examined Lone Pine’s rights related to enforcing design standards, the potential alteration of design standards, and Special Declarant Rights reserved to Lone Pine in the Declaration. Capitalized terms not otherwise defined in this letter have the meaning assigned to such terms in the Declaration.

Regarding design matters, Section 2.19 in the Declaration provides Lone Pine special rights throughout the Development and Sale Period, which is defined in the Declaration as “the period commencing on the date on which Declarant, or any person or entity under the control of, or which is controlled by, or is under common control with the Declarant forms the Association and ending on the day when the last Lot within [Roosevelt Ridge] has been sold.”

Section 9.2 of the Declaration provides that for the entirety of the Development and Sale Period, the Declarant “shall have the ***exclusive authority*** to:

- (i) promulgate, modify, amend and withdraw Design Guidelines from time to time;
- (ii) to review and act upon all applications for review of proposed Improvements; and
- (iii) (iii) to grant variances from the application of the Design Guidelines.

* * *

So long as Declarant has any rights under this Article 9, the jurisdiction of any other Person or the Association with respect to the review and/or approval of proposed Improvements and the other matters covered by this Article 9 shall be limited to such matters, if any, as Declarant specifically delegates.

The Declarant has exclusive authority to amend Design Guidelines (as determined by the Declarant) and to enforce such guidelines. The Design Guidelines are made available to the all Owners, potential buyers, and the public at: www.rooseveltridge.com/2005/09/02/design-guidelines.

Further, under Section 9.13 of the Declaration, if an Owner violates the Design Guidelines, the Declarant may:

- Record notice of noncompliance against the real property on which the noncompliance exists.
- Revoke any approval previously granted, in which event all activity related to the approval must cease.
- Enter upon the real property upon which the violation exists and remove the noncomplying improvement or otherwise cure such violation, at the Owner's sole cost and expense.
 - The Owner (or Applicant as the case may be) must then reimburse all expenses incurred in connection with such enforcement. Failure to promptly pay may result in an assessment against the Owner's Lot.
- Sue for all damages, losses, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred as a result of the violation.

Finally, under Article 12 of the Declaration, Lone Pine maintains additional Special Declarant Rights which it may exercise "at any time prior to the later to occur of the date on which the Declarant Control Period expires and the date that is twenty years after the date on which this Declaration is Recorded [August 26, 2005]." Those Special Declarant Rights include, but are not limited to:

- The right to construct Improvements within the Project Area upon land owned by the Declarant.
- The right to construct and maintain trails, and appurtenant improvements, within the Easement Area.
- The right to supplement or amend the Plat and the Declaration.
- The right to annex property into the Project Area and create new lots (subject to the maximum number of Lots being 28).
- The right to subdivide Lots owned by Lone Pine (provided subdivision of an existing Lot does not create a Lot less than 17.5 acres).
- The right to combine Lots owned by Lone Pine and to adjust Lot lines, reconfigure, or re-plat the same.
- The right to remove property owned by Lone Pine from the Project Area.

- Rights of first refusal on Lots resold by an Owner within two years of acquiring the same from the Declarant.
- The right to merge or consolidate the HOA with another.

As we previously discussed, there is a distinction between declarant control and special declarant rights, and the latter are often drafted in order to provide the declarant maximum flexibility so that a development is fully built out according to the declarant's intended plan. As required by C.R.S. § 38-33.3-205 the Special Declarant Rights and the rights of the Declarant to create, modify, amend, and enforce the Design Review Guidelines were expressly set forth in the Declaration. The Special Declarant Rights are also subject to express time limitations discussed above. Each Owner was provided a copy of the same prior to closing on their respective Lots and each Owner purchased those Lots subject to the Declaration.

Do not hesitate to contact this office regarding the above. Specific fact patterns or circumstances requiring application and understanding of the above described matters should be dealt with on a case by case basis.

Sincerely,

THE HEGARTY LAW FIRM LLC

C. John Hegarty, Esq.

CJH