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Mr. Richard J. Gregorek
Brislawn Loftan Gregorek PLLC
Attorneys and Counselors at Law
3450 Carillon Point
Kirkland, WA 98033

Re Response to your letter dated July 30, 2007 concerning dispute between Bella Beach Homeowners' Association (the "Association") and Ken and Linda Ham, Skyshine LLC ("Skyshine") and Ocean Front Villa, LLC ("Ocean Front")

Dear Mr. Gregorek:

The Association Board of Directors and I have reviewed your letter of July 30, 2007 concerning the above matter. Ocean Front owns the property at 5055 West Bell Circle in the Bella Beach development. Ocean Front has contracted with Skyshine as its property manager to manage the rental of the West Bell Circle property. Ken and Linda Ham are the sole members of Ocean Front and Skyshine.

For purposes of responding to your letter, I assume that all the statements contained in the fourth paragraph and the first two sentences of the fifth paragraph of your letter of July 30, 2007 are true statements of fact and law. Unfortunately, none of these points address the Board's authority to adopt additional rules and regulations imposing requirements and restrictions not otherwise imposed under the Oregon laws to which you refer nor to the obligation of any owner of property within the Bella Beach development to comply with such rules and regulations. The Board's authority to adopt

such additional rules and regulations is explained in detail in my letter to you dated March 29, 2007. I note that you have never responded to the points made in that letter concerning the Board's authority.

Although somewhat reiterative of my previous letter, I will use this opportunity to outline once again the Board's position as concerns the matters of dispute between Ocean Front and the Association.

The obligation of the directors of the Association is to administer the affairs of the Association (Bylaws of Bella Beach Homeowners' Association Section 3.2). As cited in my letter, in pursuit of the performance of those duties, the Board may adopt ". . . rules and regulations governing the conduct of persons and the operation and use of lots and common areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property." (Declaration of Protective Covenants, Conditions, Restrictions and Easements for Bella Beach, Section 4.23)

In the spring and early summer of 2006, the Board received complaints from HOA members regarding noise, loose dogs, dog waste, late-night hot tub usage, large gatherings taking over the common areas, over crowding of rental houses, and a variety of parking issues. After discussing such matters thoroughly, sending a questionnaire to all HOA members, and after due deliberation, the Board determined that in large part, the disturbances were related to general lack of property management professionalism, including the failure by the property management companies to properly screen applicants and the failure to properly educate rental applicants about the requirements of the Bella Beach Rules and Regulations, Bylaws and the Declaration. The Board determined that to ameliorate any further complaints, the Board would require property management companies to first obtain approval of the Association before acting as a property manager at Bella Beach, and to assure a higher standard of professionalism, to require all property management companies to be licensed by the State of Oregon. Following procedures established by the Bylaws, on January 16, 2006, the Board enacted the rules for homeowners using property management companies and developed a simple, one-page application for such property management companies to complete for the Association.

The Board then provided notice of the new Rules and Regulations to all homeowners and thereafter, most property management companies completed the Bella Beach application, were or became licensed and were approved by the Board. Unfortunately, Skyshine has failed or refused to provide such an application and is therefore not authorized to engage in property management services within the Bella Beach development. Notwithstanding such failure and refusal, it is the understanding of the Board that Ocean Front continues to retain Skyshine as a property manager for its property on West Bell Circle.

Oregon Revised Statutes Section 94.77 requires that each owner comply with all rules and regulations adopted in accordance with the Bylaws. Sections 10.5 and 10.5.2 of the Declaration empower the Board of Directors to levy special assessments to collect amounts due the Association from an owner for breach of the member's obligations under the rules and regulations. The failure by Ocean Front to comply with the rules and regulations as concerns the property management company utilized by Ocean Front is just such a breach.

In summary, the Board was and is authorized to adopt rules requiring persons or entities managing property owned by others in Bella Beach to be approved by the Board and to be licensed property managers, whether or not such licensing is required under Oregon law. The Board utilized the proper procedures to adopt such rules and regulations and, in purchasing lots in Bella Beach and as required by Oregon law, all owners in Bella Beach are required to comply with such rules and regulations.

The Board and the Association are required to enforce the rules and regulations uniformly against all owners at Bella Beach. In enforcing the property management rule against Ocean Front, neither the Board nor the Association is restraining or tortiously interfering with the business of Skyline as the Board has no interest or control over that entity. On the other hand, to Ocean Front and other owners in Bella Beach, the Board does have an interest and authority on behalf of all Bella Beach homeowners to assure compliance with the Declaration, the Bylaws and the Rules and Regulations. Ocean Front has failed to participate in the process open to all Bella Beach owners, pursuant to which the Rules and Regulations were promulgated, and continues to engage Skyshine, an unlicensed and unapproved property management company. In short, it is the acts of Ocean

Front, not the Association, that have caused any "restraint" of Skyshine since the adoption of the property management rules.

I understand that the Board is prepared to conduct a hearing regarding the failure of Ocean Front to demonstrate that they have retained a property management company that is licensed by the State of Oregon and approved by the Association and are considering appropriate action in accordance with the fiduciary obligations of the Board to all owners in Bella Beach.

In the interest of maintaining good relations with all Bella Beach owners, the Board again respectfully requests that your clients comply with the duly enacted rules of the Bella Beach Homeowners' Association. Should Ocean Front refuse to so comply, the Board will have no option but to take such action as it deems necessary to compel such compliance.

In response to the allegations contained in your letter of July 30, 2007, please be advised that no present member of the Association Board, nor member of the Board at the time the property management rule was drafted, nor any family member of either have or had an ownership interest in or employment by any property management company or rental agency operating at Bella Beach.

Sincerely yours,

Brian D. Green
Attorney at Law

BDG:jw

cc: Bella Beach HOA Board of Directors
Thomas S. Smith, Esq.

Gregorek Letter 9-26-07.wpd