



NELSON CHRISTENSEN
HOLLINGWORTH & WILLIAMS, P.C.

December 2, 2016

VIA E-MAIL

Weber County Engineering Division
2380 Washington Blvd, Suite 240
Ogden, UT 84401

Re: *Powder Ridge Plat Application.*

Dear Engineering Division:

I serve as legal counsel for the Powder Ridge Owners Association, Inc. (herein the "**Association**" or "**Applicant**"). This letter responds to Item No. 11 of Weber County Engineering's Review, which Item No. 11 asks "What about the construction rights granted under the Powder Ridge Condominiums Phase 1 Building 3 Amended plat?"

Short Answer.

The construction rights relating to the Phase 1 Building 3 area expired on October 23, 2008.

Detailed Answer.

The Powder Ridge Time Share Condominium Project (the "**Time Share Project**") was developed in 1988 pursuant to Utah's Condominium Ownership Act (the "**Condominium Act**") near the Powder Mountain Ski Resort. As originally developed, the Time Share Project consists of six buildings and a community center which are governed by the Amended and Restated Declaration of Condominium for Powder Ridge Condominiums Phase I Amended, dated September 17, 2003 (the "**Declaration**") which is attached as Exhibit 1 to the Application filed by the Association. The Association oversees and governs the Time Share Project. Specifically, Section 11.1 of the Declaration provides that the Master Association "shall be responsible for the exclusive management, control operation and maintenance of the Common Areas."

As with other Utah condominium projects, portions of the Time Share Project were subject to additional construction and development and thus are required by the Condominium Act to be identified and described in the declaration. The Declaration contains provisions which allowed for the construction of certain additional units within those specific areas of the Time Share Project. In particular, Section 22 of the Declaration described a limited "**Right to Construct**" on the "**Convertible Land**."

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Section 22.2 of the Declaration limited the "Right to Construct" on the "Convertible Land" to 30 "Future Units." The Convertible Land is legally described in Section 22.2 of the Declaration as Parcel A and Parcel B, and is shown on the Powder Ridge condominiums Phase 1 Amended plat map (the "**Amended Map**") which is attached as Exhibit 2 to the Application. "**Future Units**" are defined in Section 1.19 of the Declaration as the thirty units designated on the Amended Map and on Schedule II of the Declaration.

Construction of the Future Units was restricted in terms of timing, location, design and intended use. The Future Units are limited to 30 in total number (*see* Section 22.3(d)) and are subject to the same use restrictions described in the Declaration (*see* Section 22.3(e)). The design and architecture of the Future Units must be substantially identical to the existing Units. *See* Section 22.3(f). Once construction of the Future Units starts, the interior must be complete within 18 months from commencement of the interior. *See* Section 22.3(k).

And importantly, the constructions rights were limited in time – they had a definite expiration date. Section 22.3(l) of the Declaration expressly provides that the Right to Construct on the Convertible Land expires on the date which is five years from the date the Declaration was recorded. The Declaration was recorded October 23, 2003, so the Right to Construct on the Convertible Land expired on October 23, 2008. The provisions of Section 22.(l) further provide that on the expiration date of October 23, 2008 all portions of the Convertible Land shall be deemed part of the Common Areas.

To conclude, any construction rights pertaining to the Convertible Land have long since expired and the Convertible Land is now deemed part of the Common Area. If you have any further questions, please do not hesitate to give me a call.

Sincerely,

NELSON CHRISTENSEN
HOLLINGWORTH & WILLIAMS, PC



Jeffrie L. Hollingworth

cc: Dave Edwards (via email)
Rhonda Kippen (via email)
Von Hill (via email)