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VIA ELECTRONIC CIRCULATION

Membership

Harps Mill Woods Homeowners Association, Inc.

RE: Harps Mill Woods HOA Governance

Dear Members,

My name is David Omer and I am an attorney in Raleigh, North Carolina. I have been privileged over the past months to work alongside your Board of Directors for the Harps Mill Woods Homeowners Association. The Board has asked me to prepare this brief letter in order to bring added clarity to a proposed amendment to the Association's governing documents.

The original Declaration for the Association was recorded in April of 1995, at Book 6488, Page 626 in the Office of the Wake County Register of Deeds. The Declaration is the primary source of authority for governance of the Association, and it includes, among other provisions, Section 10.1, providing that the covenants may be amended by "the Owners of not less than seventy-five percent (75%) of the Lots ..." In substantial alignment with the relevant provision of the Declaration, N.C. Gen. Stat. § 47F-2-117(a) allows declarations such as yours to be amended by "owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, or any larger majority the declaration specifies..."

North Carolina common law also addresses amendments of declarations. In *Armstrong v. Ledges Homeowners Ass'n, Inc.*, the North Carolina Supreme Court ruled that while amendments of declarations are permissible, they are required to be reasonable and within the original purpose of the original declaration. 360 N.C. 547, 633 S.E.2d 78 (2006). A number of additional opinions provide additional guidance on this topic.

In recent years, the burgeoning popularity of short-term and "vacation" rentals in residential homes has led many homeowners associations to explore the possibility of regulating or prohibiting the same. This development is largely due to the increase in noise, disturbance, traffic, and safety concerns associated with short-term rentals, as well as the concurrent decrease in community aesthetic standards and property values. As have many homeowners associations throughout the state, your Harps Mill Woods Board of Directors has endeavored to amend your Declaration to address this potential complication, and has asked my office to assist in this venture.

The Association's Board of Directors wishes, therefore, to amend the Declaration to (i) limit permissible rentals to terms of six months or more, and (ii) to "cap" the number of simultaneous rentals at fifteen percent (15%) of the total homes in Harps Mill Woods. This putative amendment is intended to be "forward-facing" only, meaning that it will only be enforced against homeowners who purchase in the community after the amendment's recording. Homeowners who purchased

prior to such time will not be subject to the amendment or its new requirements. A sample proposed Amendment is attached for your review.

In order for the amendment to carry, the Association is required to collect ballots signed by owners representing no less than seventy-five percent (75%) of the total lots in Harps Mill Woods. These ballots, which will be distributed by the Association, will require the notarized signature of each record owner of the lot. By way of example, if you own your home along with your spouse, both your signature and that of your spouse will need to be notarized and returned to the Association. Ballots which are not notarized, or which omit a record owner's signature, cannot be counted toward the seventy-five percent threshold.

An informational meeting and question-and-answer session will be held on December 3, 2024, at 7:00pm at . The Association may elect to provide a remote-attendance option, in which case a link to the meeting will be provided. Please plan to attend, either in person or remotely, as your participation will be critically important to the success of this venture.

I sincerely appreciate your attention, look forward to working with you, and hope that this information is helpful in understanding recent events. Thank you again for allowing **OMER LAW FIRM, PLLC** to assist in this matter.

Sincerely,

OMER LAW FIRM, PLLC



David G. Omer, Esq.
Attorney and Counselor at Law