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June 25, 2012

VIA FACSIMILE (805) 413-1190 AND U.S. MAIL

Board of Directors

Wood Ranch Sycamore Canyon Village Homeowners Association
c/o Ms. Alicia Camarillo
The Lamons Company
One Boardwalk Avenue, Suite 102
Thousand Oaks, California 91360

Re: Our Clients: Ted and Paula Sullivan
Clients' Property: [REDACTED] Wood Ranch Parkway, Simi Valley,
California 93065 - Lot 384, Tract 4053 ("Property")
"Stop Work Order" dated June 15, 2012

Dear Ms. Camarillo:

This letter responds to the "Stop Work Order" that the Board of Directors of Sycamore Canyon Village Homeowners Association ("Association") sent to our clients, Theodore and Paula Sullivan, dated June 15, 2012.

This Stop Work Order, like so many other communications from the Association to our clients, constitutes continuing harassment and disrespect of Mr. and Mrs. Sullivan, and the Board's intentional refusal to acknowledge our clients' property rights; specifically as they apply to their ownership of a single family farm/ranch lot designated as Planning Unit 100 in the Wood Ranch Specific Plan. This is the final time we intend to repeat the description of the Sullivans' express legal rights that the Board continues to ignore.

Section 1.18 of the Restated CC&Rs of the Association define "Governing Documents" as "these CC&Rs, Articles of Incorporation . . . and such other written documents, reports, maps, schedules and exhibits as are required by law to be recorded, filed or issued in connection with the Village." "Village" is defined in Section 1.33 as "the planned residential development known as Sycamore Canyon Village situated in the master planned community known as Wood Ranch in Simi Valley, California."

Mr. and Mrs. Sullivan and this office have repeatedly advised the Association's Board about the Wood Ranch Specific Plan, which the Board is, again, ignoring. Please note that the

original CC&Rs of the Association recorded on July 29, 1988 included a definition of the Specific Plan as the "Wood Ranch Specific Plan approved by the City on August 11, 1980 by Resolution No. 80-125, amended on April 27, 1981 by Resolution No. 81-52, as the same may be amended from time to time." The Governing Documents of the Association include the Wood Ranch Specific Plan.

The Wood Ranch Specific Plan states, in pertinent part:

Section I-

11. "Residential Land Use shall mean any parcel or area of land devoted to housing and ancillary uses, but not including mobile homes. The categories of residential land use shall correspond to the residential land use designation of the General Plan.

15. Open Space Land Use shall mean land which will remain essentially undeveloped and provide for preservation of an environment suitable to wildlife and flora indigenous to the area as well as an environment for food production and outdoor recreation. Such designation shall include single family farm lots . . ." (Emphasis added).

Section VIII.

B.6. Agricultural uses shall be encouraged as means of maintaining open space.

C.4. Open Space: These areas shall be maintained in their natural state except where agriculture is feasible."

Webster's New World Dictionary, Second College Edition (1986) defines "agriculture" as: "the science and art of farming; work of cultivating the soil, producing crops, and raising livestock." *Merriam Dictionary* defines "agriculture" as: "the science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products."

The Board of Directors has known prior to, or at least as of January 14, 2010 that our clients planted, or intended to plant, trees on the Property for agricultural use and that the City of Simi Valley approves our clients planting unlimited trees on the Property for agricultural use. On January 15, 2010 Alicia Camarillo sent an email to the Board of Directors (Don Diamond, Evan Clements, Joe Bellomo, Richard Olson, Robert Mundy and others) stating, in pertinent part:

"Sullivan Matter: - Contacted City's Planning Dept./Tom Preece regarding zoning and orchard trees. I learned the following

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residential zoning includes "crop production is a permitted use." Mr. Preece advised that as long as there is no grading (which requires permits) Sullivan can plant (unlimited trees). I asked regarding the fruiting season and whether the picking of the fruit could be regulated - not from the city and he referred me to the Agricultural Commissioner where they advised that they oversee pesticide enforcement and quarantine fruit other than that - not their Dept. They said that if we encounter a problem with the fruit not being picked up and creating a health hazard we would need to contact the Health Dept."

The Wood Ranch Specific Plan expressly distinguished between "residential land use" which includes all lots within the Association except the farm lots, and "open space land use" which applies to our clients' Property and any other farm lots within the Association. Our clients have submitted all required applications to the Association for approval of improvements related to their residence, and front, side and backyard, and obtained those approvals which fall within the purview of the Association/Architectural Review Board. Part II, Architectural Standards of the Member Handbook states, in pertinent part: "The purpose of the Architectural Review Board (ARB) is to review plans of proposed changes and additions to Residences in order to ensure the architectural consistency and appropriateness of both the Residence and improvements on the Lot, including landscaping."

The Association arguably has objective criteria to use when determining whether to approve or disapprove an Owner's request to paint his/her house a particular color or to install landscaping, including certain types of plants or trees in front, side or backyards. That is not the case with the agricultural use of the Property by our clients. Despite numerous requests by the Sullivans, the Association has never provided them with a list of reasonable criteria that the Board/ARB would use to determine which type of citrus, avocado or other trees "should" be planted. In fact, the Board is well aware that it/ARB do not have the requisite expertise to be able to make those determinations. Moreover, the Governing Documents of the Association do not intend for the Board/ARB to be involved in these agricultural decisions which belong solely to the Sullivans. As an example, the Member Handbook requires an underground irrigation system to be installed for all planted areas. Contrary to this requirement, trees in an orchard need above ground tubing. Section 8.8 of the CC&Rs prohibits machinery or equipment of any kind to be placed, operated or maintained on/adjacent to a Lot, except that which is usual and customary for use, maintenance or construction of a private residence. This section is inapplicable to the operation of an agricultural space, i.e., a farm lot, which requires the use of tractors and other similar equipment. There are other examples of this type of language in the CC&Rs which applies only to "residential" lots and not to "farm" lots.

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A court will refuse to uphold an association's action if it perceives that an association has unreasonably interpreted its own substantive rules, or that its determination under those rules is unreasonable. In *Laguna Royale Owners Ass'n v. Darger* (1981) 119 Cal. App. 3d 670, 683, the court ruled: "The criteria for testing the reasonableness of an exercise of such a power by an owners' association are (1) whether the reason for withholding approval is rationally related to the protection, preservation or proper operation of the property and the purposes of the Association as set forth in its governing instruments and (2) whether the power was exercised in a fair and nondiscriminatory manner."

Mr. and Mrs. Sullivan have planted, or are in the process of planting, various trees on the Property for agricultural use. Any stoppage of that work will cause irreparable injury to them and their Property. The operation of the Property as a farm is expressly approved by the Wood Ranch Specific Plan which is a Governing Document of the Association. There are no criteria under which the Association/Board/ARB can deny the Sullivans the right to plant (unlimited) trees on the Property for agricultural use. Therefore, there is no legal or equitable basis for the Board of Directors to demand that the Sullivans stop this work.

Notwithstanding the Sullivans' express legal right to perform the work at issue, the Association, and the Owners in the Association, have benefitted from these trees that Mr. and Mrs. Sullivan have planted, and are planting, on the Property. They are beautiful and contribute to the neighborhood. Mr. and Mrs. Sullivan have received many compliments about these trees. They are not wasteful and the Association has not been injured in any way.

Mr. and Mrs. Sullivan will not stop the planting of the trees for agricultural use on the Property. This letter shall serve as the demand by Mr. and Mrs. Sullivan that the Board immediately rescind the June 15, 2012 Stop Work Order which is an obvious reflection of the Board's further discrimination against them.

All of our clients' rights remain expressly reserved.

Very truly yours,

SILVER & ARSHT

SAMUEL J. ARSHT

cc: Mr. and Mrs. Ted Sullivan ✓
David Gorney, Esq.

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