Dear Neighbor:

We are writing this letter as fellow homeowners in this community, about the Board's proposed Amended and Restated Declaration of Covenants, Conditions and Restrictions (the "Proposed CC&R's"). One of us is also an attorney, but this letter is not legal advice or a legal position, nor is it written on behalf of anyone other than the signers.

This letter is ***not about monthly dues or assessments***. We do not object to the $18.00 in base monthly dues for all homeowners. (We're troubled that the Proposed CC&R's say a "minimum" of $18.00 per month, suggesting it could be higher, but we trust the Board's representation that they intend to set the base dues at $18.00, not higher.) We do not object to the special assessments for all homeowners, even though one of us has a tennis court and will never benefit from the irrigation system. The requirement for a majority vote for a special assessment, and the establishment of a Capital Reserve Fund, made this a reasonably comfortable compromise. We appreciate that the Proposed CC&R's do not require mandatory membership, and therefore do not create a planned community, with its attendant dangers and problems.

However, please consider the following, brand new issues.

1. The definition of "Member" in the Proposed CC&R's now makes our properties, all 281 of them, "assets of the Community Association." This is an official document affecting our properties, that is to be recorded with the Maricopa County Recorder; and we do not want a recorded document stating that our properties are "assets of the Community Association." We don't think you do either.

2. The Proposed CC&R's at Paragraph 8.3.1 create an immediate lien of record on all of our properties, to secure "payment of all present and future Dues . . . ." As soon as these Proposed CC&R's are recorded, there will be a lien of record on your property to secure an amount that has not yet even become due. We believe, but are not sure, that the existence of such a lien, subordinate only to tax liens and a first mortgage, may make it difficult (for example) to take a second mortgage on your home. Moreover, the lien is "fully enforceable" upon sale or refinance of your home. What does that mean, given that the lien secures future payments as well? How far into the future can the lien be enforced at the time of sale or refinance?

3. The Proposed CC&R's purport to create new easements affecting all of our properties, without clearly specifying what the easements are or to whom they are granted. An easement is an interest in your property, which you will effectively be conveying if the Proposed CC&R's are passed.

The owners each own the Bridle Paths behind their homes, to the mid-point. The originally-recorded plat for each section created an irrigation easement in the area that we now call the bridle paths. The plat also created the utility easements necessary for the installation and maintenance of utilities in our neighborhood.

However, the Proposed CC&R's at Paragraph 3.2 purport to create a new easement "over and through each individual Lot" for certain enumerated purposes. There are other references to new "easements" being created in the Proposed CC&R's.

Most ominously, Paragraph 3.3 grants to Sunburst Farms East, Inc., "and its directors, agents, employees and independent contractors," "the following easements," followed by the language "any and all easements." We are not entirely sure what additional, newly-created easements we are granting to the Board in this paragraph, but it sounds pretty open-ended! This document is intended to be a formal recorded document that will affect title to our properties and we are uncomfortable with such a vague, open-ended conveyance of an interest in our real property being contained in this document. You should be too.

Not only are these newly-created easements unspecified, but the Board even has the power to remove improvements on your property if the improvements interfere with the unspecified easement. Paragraph 5.1. That's scary.

No satisfactory explanation has been given why the existing utility and bridle path easements shown on the plat recorded almost forty years ago are not sufficient, and why new easements must be created, especially ones that are not specifically described. Granting an easement means granting an interest in your real property. This is not a step that should be taken lightly.

4. Paragraph 3.1 gives us the "right and easement of enjoyment in and to the Bridle Paths, Easements for ingress to and egress from their Property." Setting aside the ambiguity of the term "Bridle Paths, Easements" (which appears frequently in the document), this language appears to give us easements in our own property – that part of the Bridle Path that we own behind our properties. Why is that necessary?

Indeed, the definition of "Bridle Paths" appears to expand – indefinitely – the property included in that easement: "If not reflected on the Plat, Bridle Paths shall also include that property historically used in common by Owners for ingress/egress, utilities, pedestrian and vehicular purposes since the recordation of the Plat." (Definition of "Common Areas" and "Bridle Paths.") What specific property is being added to the Bridle Path Easements shown on the plat? And why?

5. The Proposed CC&R's permit the Board to enact "rules and regulations" – with essentially no limit on what those rules and regulations can say. Paragraph 6.4. Any such rules "shall have the same force and effect as if they were set forth in and were a part of this Declaration." In effect, then, the Board can amend the CC&R's on its own accord, and in pretty much any respect it wants to.

At one section's meeting on October 6, 2007, attorney Wilson insisted that the Rules and Regulations could not be inconsistent with the CC&R's. That statement is probably true, and it limits the Rules and Regulations in some respects. But, nothing in the Proposed CC&R's limits what can be in the Rules and Regulations about, for example, property use and appearance. Although the Proposed CC&R's refer to City of Phoenix code for restrictions on property use and appearance (paragraph 4.1), the Proposed CC&R's do not say that the Board can never enact rules that are stricter than the City of Phoenix code. It does not matter if that was the intention; the Proposed CC&R's do not say it. A future Board of Directors that wants to impose architectural controls in the Rules and Regulations can do it because nothing in the Proposed CC&R's says they cannot. The example raised at our meeting was prohibiting the parking of a boat in your driveway. If such a rule were enacted, it would not be "inconsistent" with any part of the Proposed CC&R's.

6. The Proposed CC&R's permit unlimited and uncontrolled assessments on all owners. At first blush, the Proposed CC&R's appeared to require majority approval for any special assessment. Paragraph 8.6. But, Paragraph 8.1.1(c) contains an unambiguous back door method for unlimited assessments:

> For unanticipated expenses not covered in the budget, the Board shall allocate those expenses to all of the Owners.

This language sidesteps the need for majority vote for any special assessments, and simply gives the Board the power to assess ("allocate") any unbudgeted expenses to all of the Owners. There is no limit on the amount or frequency of such "allocations," or what "unanticipated expenses" they may be used for.

7. The Proposed CC&R's give the Board new, unprecedented, and inappropriate powers, including hiring a property manager and employees, Paragraph 6.2; being exculpated from all negligence whatsoever even if totally unrelated to the performance of Board duties, Paragraph 6.5; imposing "any . . . reasonable sanction" for nonpayment of dues, without limiting what the sanction may be, Paragraph 8.3.2; and even acquiring land! Paragraph 9.1. Why are we empowering the Board to acquire land? The Board also

now has the power to "provide" and "operate" unspecified "facilities, services, projects, programs, studies and systems." What does that even mean? Whatever a future Board wants it to mean?

Finally, and perhaps most incredibly, the Board now "may expend its funds for any purposes which any municipality may expend its funds under the laws of the State of Arizona or such municipality's charter." The City of Phoenix, by statute, can acquire and sell land and property; levy taxes to create and maintain a library; issue bonds; engage in planning and zoning; issue building permits; create parks and appoint park rangers; establish a police force and animal control; and establish city courts and jails. Evidently, if these Proposed CC&R's pass, your Board will be able to do all the same things. Of course that's silly. But that's what the documents say.

8. We won't go into all the details here, but the Proposed CC&R's are also sloppy and imprecise, defining terms they don't use (for example, "Assessable Property"), using terms they don't define (for example, "Declarant," "Builder," "Membership," and "Annexable Property"), and riddled with grammatical errors that make large portions of them difficult to understand. For example, the definition of "Lot" is grammatically incoherent.

A "quorum" for meetings of owners (in addition to being grammatically incoherent) is defined as thirty percent of "authorized votes in the Community Association" – that is, thirty percent of Members. If thirty people are members, then a quorum for an owners' meeting will be ten of the 281 owners.

9. The Proposed CC&R's are also filled with internal contradictions and ambiguities. For example, the definition of "Owner" provides that someone becomes an "Owner" as soon as they sign a purchase contract to buy a home in our community. However, Paragraph 7.4 provides that a transfer of ownership is transferred by deed, not by a purchase contract.

***Make no mistake***: when it comes time to sell your home, any prospective buyer will read the CC&R's to determine whether they want to buy your home. It is very likely that these Proposed CC&R's, for all of the foregoing reasons, will chase off prospective buyers and considerably lower the value of your home.

We regret that the Board did not circulate the Proposed CC&R's for a comment period before circulating them as "final," because we suspect that most, if not all, of the problems in the document are inadvertent and are the result of the original, very poor drafting by the previous attorney over a year ago. By the same token, the meetings that were held did not afford enough time to study the document and ask many of the questions above, which is also unfortunate.

Even if some explanation is now given for any of the foregoing, explanations and promises are not part of the recorded documents. The documents recorded against your property will be interpreted according to what they say, not according to some explanation or promise that does not appear in the document itself.

***Please don't vote for the Proposed CC&R's***. If you have submitted your proxy, please revoke it in writing delivered to the Board (and keep a copy of the revocation, noting the date and time delivered and to whom).

The Board's concept may be a reasonable way to address the issues we've batted around for the past four years (monthly dues, special assessments, and membership). There is simply no need to create a dozen new issues in the process.

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