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Re: Sunburst Farms East, Inc. Litigation

Dear Homeowner:

We apologize for troubling you with this matter. We felt compelled to write on behalf of our clients, as they are once again embroiled in litigation with the Sunburst Farms East Board of Directors over their insistence that the Sunburst Farms community become a mandatory homeowners association, and that our clients indirectly pay for well water they do not receive.

This is the fourth round of litigation since the 1970s. Those homeowners that oppose the efforts of Sunburst Farms East to force them to pay assessments for water they do not use and to live in a homeowners association they did not consent to join have won the three previous rounds of litigation. The reason they win over and over again is because it is contrary to Arizona law to force people to become members of a homeowners association without their consent, and it is contrary to Arizona law to assert that simply because a majority of homeowners in the neighborhood use the water, that they can force other homeowners that do not use the water to pay for it. We are confident of winning a fourth time.

The suggestion that we are not disputing the documents recently recorded by Sunburst Farms East is false and misleading. Our clients have been disputing these documents since their inception, and our firm formally disputed these documents in October 2007. We made our intent to challenge the documents very clear, but rather than address our concerns, the Board ignored us completely. Our firm has extensive experience in homeowner association litigation. While we understand the Board has insisted that the new documents do not have the effect of creating a mandatory homeowners association, we can assure you that your new CC&Rs are essentially identical to all mandatory homeowner association documents we have seen. These CC&Rs provide the Board with nearly limitless power and control over all of

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you, ranging from the ability to impose special assessments, common expenses, “unanticipated expenses,” transfer fees, and capital reserve fees, in addition to the “Rules” the Board can adopt in its sole discretion, which could prohibit any owner from improving their home without the Board’s approval, among many other possibilities. The Board claims these CC&Rs are “voluntary membership” documents, yet the only thing a member can volunteer **not** to do is vote in Association elections.

It is because the Board chose to record these documents in violation of the 1985 Settlement Agreement strictly prohibiting such efforts that we are now able to execute upon the Judgment entered in 1985 and schedule the sale of the well. Our clients do not want the well. Our clients have only sought to execute upon the Judgment because the current Board leaves our clients with no other choice by their ongoing unlawful actions. We are at a loss to understand why certain residents in Sunburst Farms East insist on attempting to force our clients to live in a homeowners association and pay for water they do not use over and over again, especially when the law is so clearly against them. While there are many things in dispute, the one thing that is abundantly clear is that the money spent by Sunburst Farms East in these ongoing rounds of litigation far exceeds any amount Sunburst Farms East could hope to collect from our clients if they did pay for the water they do not use.

It is our understanding that the majority of homeowners in Sunburst Farms East do not necessarily support the current Board of Directors, but simply wish to live in peace and avoid entanglement in this unfortunate dispute. Our clients wish they had that choice as well. They did not bring these actions, but simply responded to the Board’s continuing insistence on violating Arizona law by seeking to create a homeowners association and seeking to force our clients to pay for water they do not use. For that, our clients are constantly subjected to lies and innuendo which are offensive and highly misleading. While it is apparent that the Board of Directors can, with a straight face, insist that somehow our clients are the bad guys, there is a reason they have lost the previous three rounds of litigation, and why we are confident they will lose the fourth round of litigation. Nevertheless, addressing this issue with them shall once again require that we incur significant attorneys’ fees. The Board’s actions put the whole neighborhood at risk, because when they are defeated once again, they will expect you to pay for their misdeeds.

As was stated by Philosopher Edmund Burke, “The only thing necessary for the triumph of evil is for good men to do nothing.” Perhaps the silent majority in Sunburst Farms East could once and for all take control of Sunburst Farms East and force its Board of Directors to act in compliance with Arizona law and for the interests of everyone involved. We can assure you that ongoing litigation is in the interest of no one.

We appreciate your consideration. We hope you understand our desire to at least provide some sort of response to what we believe is false propaganda being perpetuated by the current Board of Directors. While we, as do many of you, wish to avoid this type of dispute because life is too short for involvement in this type of mess, our clients feel they have no other choice but to once again defeat this Board of Directors regarding these issues. Our



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actions appear to be our clients' only hope of being able to live in peace. Any assistance you deem appropriate to offer in that regard would be greatly appreciated.

Very truly yours,

CHEIFETZ IANNITELLI MARCOLINI, P.C.

By: _____

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