

ROBERT L. LABBÉ
ATTORNEY AT LAW
ADMITTED IN NY & CALIFORNIA
3309 Via Lido, Newport Beach, CA 92663
Main: 949.278.8265 Email: rlabbe@labbecompany.com

<< *Delivered Via Email March 1, 2023 @9:15 AM*>>

Hearing Date: March 2, 2023

Re: Public Hearing on a Coastal Development Permit and Variance (Planning Application PA22-0104)

Address: 52 Emerald Bay Dr.
Laguna Beach CA 92651

To: Orange County Zoning Administrator
OC Development Services/Planning
601 N Ross Street
PO BOX 4048, Santa Ana, CA 92702-4048
<https://myoceservices.ocgov.com>
cc. Kevin Canning, Contract Planner
Email: kevin.canning@ocpw.ocgov.com

From: Robert L. Labbé, Esq.
Admitted in California and New York
3309 Via Lido
Newport Beach CA 92663
rlabbe@labbecompany.com
(949) 278.8265

Representing: Neel and Sharlene Grover
31 Emerald Bay
Laguna Beach CA 92651

The following is hereby respectfully submitted to the Orange County Zoning Administrator:

Notice of Further Objections

As you know, the undersigned is the attorney representing Neel and Sharlene Grover (collectively, “client”), Emerald Bay Community Association (“EBCA”) members and adjacent neighbors of the 52 Emerald Bay property residing at 31 Emerald Bay Drive, Laguna Beach CA 92615.

The purpose of this correspondence is to provide formal written notification to the Orange County Zoning Administrator (“OCZA”) that our client has additional objections to (i) the Preliminary approval by the EBCA Board of Directors of the plans for a new residence submittal for 52 Emerald Bay Dr., Laguna Beach CA 92615 (the “52 Plans”) and (ii) the approval by the

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OCZA of a Coastal Development Permit and Variance (“PA22-010452”) which is the subject of the upcoming March 2, 2023 Public Hearing.

Additional Basis for Objections (*inter alia*)

The previous objections raised in our November 30, 2022 letter earlier submitted are incorporated herein by reference as basis for our client’s objections to PA22-010452.

A 2nd Request for Resolution is Currently Pending before the EBCA Board under Civil Code Section 5935

On February 24, 2023, the undersigned issued on behalf of our client a 2nd Request for Resolution pursuant to California Civil Code Section 5935 (the “2nd Request for Resolution”) which once again objected to the EBCA Board of Directors Preliminary approval of the plans for the 52 EB Project and brought forth additional facts. A copy of the 2nd Request for Resolution dated February 24, 2023 is attached as **Exhibit “A”** and incorporated herein by reference.

On February 27, 2023 3:10 PM, Ms. Toni Hughes, CCAM-LS, CMCA, Community Manager of Emerald Bay acknowledged receipt of the 2nd Request for Resolution on behalf of the EBCA. A copy of Ms. Hughes email acknowledging receipt is attached as **Exhibit “B”**.

The 2nd Request for Resolution is being placed on the EBCA Board of Directors Agenda for consideration at their upcoming **March 7, 2023** meeting.

It is therefore submitted that until action is taken by the EBCA Board on the 2nd Request for Resolution at the March 7, 2023 Board meeting that PA22-010452 is not yet ripe for consideration by OC Development Services/Planning or the OCZA as being premature for determination, since the Emerald Bay Local Coastal Program (“LCP”) requires review and approval by the EBCA of the 52 Plans prior to your body acting thereon.

The foregoing is submitted as grounds for our client’s request for a continuance of the consideration by the OCZA of PA22-010452 to the OCZA’s **March 16, 2023** meeting.

Additional Grounds for Objecting to PA22-010452

Further grounds for objecting to PA22-010452 include, but are not limited to:

Material Errors by the Board and Architectural Committee: Our client has submitted to the EBCA Board with the 2nd Request for Resolution sufficient facts and evidence to demonstrate that the EBCA Board and Architectural Committee violated the CC&Rs when:

- (i) the Architectural Committee recommended approval of the 52 Emerald Bay Plans on April 26, 2022; and

- (ii) the EBCA Board acted on the Architectural Committee’s recommendation of approval and the Board of Directors Preliminary approval of the 52 Project on May 3, 2022.

Background

No Alternative Designs Were Ever Provided by Applicant. At an April 5, 2022 Board meeting, the Board considered the Committee’s recommended approval of the 52 Plans, and deferred a Board decision on the Committee’s approval recommendation, and specifically directed the Committee via motion to further consider their recommendation in order to provide the Applicant and their design team “additional time for consideration of if there is a different design possible that does not reduce available on-street parking spots.” (*Harley Bassman, Board Member*).

Moreover, immediately prior to the conclusion of the April 5, 2022 Board meeting, Scott McCarter, who was Chair of the Committee stated that if the Applicant did not find a way to revise the 52 Plans while maintaining existing off-street parking utilizing the East-side parking, that the 52 Plans would be denied. The Committee held a workshop to consider different designs that did not reduce on-street parking followed by the April 26, 2022 Architectural Committee meeting; however, Applicant failed to provide any alternative designs to the Architectural Committee, ostensibly because Applicant’s Architect could not find a way to not reduce available on-street parking spots.

Additional Documentation Provided by Applicant Appears to Have Been Materially Inaccurate. Chad Peterson of D’Arcy Architecture (“Applicant’s Architect”) advised the County of Orange in an email dated November 30, 2022 that the Committee “. . . unanimously approved [the 52 Project] after reviewing *“additional documentation”* without providing said documentation. Thereafter, on May 3, 2022 the Board went on to approve the 52 Plans as designed. It is our client’s information and belief that the “additional documentation” referred to by the Applicant’s Architect consisted of only a ‘Concept Exhibit’ which was erroneous and materially inaccurate insofar as:

- (i) the size of the on-street parking spots were exaggerated, which lead the Committee to be under the impression that there was only sufficient space for two (2) on-street parking spots in front of the 52 Property instead of three (3);
- (ii) the size of the on-street parking spots in what was presented to the Committee was different than their size as depicted in the approved 52 Plans; and,
- (iii) the end of the east-side driveway parking ended at the 5’ setback line in what was submitted to the

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Committee; however, the same driveway ends at the property line in the approved 52 Plans, resulting in a further substantial discrepancy between what was submitted to the Committee and what is found in the actual approved 52 Plans; and,

Therefore what was presented to the Committee by the Applicant's Architect apparently did not accurately depict the on-site parking configuration, did not correctly depict how the on-site parking configuration impacts the on-street parking located in front of the 52 Property and did not tie to the actual 52 Plans which were approved by the Committee and subsequently approved by the Board, material errors upon which the Committee relied, having the effect of misleading the Committee and depriving the Committee the ability to make an informed decision on the Application as related to parking when making its final approval recommendation to the Board.

The Architectural Committee Erred in its Review of Existing Cul-de-Sac Conditions and Parking. The Committee acted in direct reliance on the erroneous and materially inaccurate Concept Exhibit when issuing its final approval recommendation of the 52 Plans. Our client commissioned a survey of the cul-de-sac by a licensed Surveyor (something the Applicant apparently had not done) from which a Parking Study was prepared by our client's Expert Witness. The Parking Study, being based on an actual Survey of the cul-de-sac, accurately measures and depicts on-street parking, and proves the inaccuracy of the Concept Exhibit relied on by the Committee. The Parking Study has been submitted with the 2nd Request for Resolution attached hereto as **Exhibit "A"**.

The Architectural Committee was not Qualified to issue a valid approval or disapproval recommendation of the 52 Plans to the Board.

The Board Relied on the Approval of an Unqualified Architectural Committee that was Lead to Believe Three (3) On-Street Parking Spaces were Not Feasible. The minutes from the May 3, 2022 Board meeting demonstrate that, per Director Scott Swensen, the Board "*relies heavily on the professionals on the Architecture Committee*" in approving the 52 Project. The Board's approval was based on an erroneous recommendation of approval by the Architectural Committee, evidenced by its final recommendation of approval at the April 26, 2022 Committee meeting from which the meeting record states: "**Impacts to on-street parking in this area are important considerations. FINAL COMMITTEE RECOMMENDATIONS: 1. The Committee previously deferred its recommendation due to inadequate information provided to address the Board's concern for the on-street parking situation. The Committee considered the Applicant's exhibit, the Applicant addressed the Board's comments, and it appears that three on-street parking spaces are not feasible. Therefore, the Committee recommends Approval of the plans.**" This recommendation was based on inaccurate information contradicted by our Expert Witness' Parking Study supported by a Survey (see Parking Study submitted with 2nd Request for Resolution attached as **Exhibit "A"**).

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THEREFORE, the May 3, 2022 Preliminary Approval of the 52 Plans by the EBCA Board of Directors is defective and void *ab initio*. Since the Emerald Bay LCP requires review and approval by the EBCA prior to the OCZA acting, PA22-010452 is not yet ripe for consideration by OC Development Services/Planning or the OCZA as being premature for determination until such time as valid, lawful EBCA Board of Directors approval of the 52 Plans is issued.

MOREOVER, the March 2, 2023 OC Public Works Staff Report indicates a “Proposed Maximum Building Height” of 31 ft. which is in excess of the 30 ft. height over natural grade limitation for Tract 940, in which 52 Emerald Bay is located. This proposed height exceeds Emerald Bay CC&R’s, Tract 940 Amended Schedule A, April 22, 1985 Building Restrictions attached as **Exhibit “C”**.

The March 2, 2023 OC Public Works Staff Report, at p. 7 of 12, indicates the following with respect to the 52 Project Application:

STANDARD	REQUIRED	PROPOSED
Building Site Area	7,200 square feet	4,598 square feet (existing)
Maximum Building Height	35 feet maximum	31 feet

A Proposed Maximum Building Height of 31 ft. above natural grade exceeds the maximum building height set forth in the Emerald Bay CC&R’s for Tract 940 of 30 ft., and compliance with the Emerald Bay CC&R’s is a prerequisite for OC Development Services/Planning or the OCZA approval of PA22-010452. Therefore, PA22-010452 cannot be approved.

Relief Sought. It is respectfully submitted therefore that the Orange County Zoning Administrator should postpone consideration of PA22-010452 to its March 16, 2023 meeting or if considered at the March 2, 2023 Public Hearing, deny application PA22-010452.

Further Reservation or Rights. Our client specifically reserves the right to assert any other grounds upon which to object to the approval of PA22-010452, including with respect to all recorded Easements affecting our client’s property and the Applicants, and reserves the right to assert such additional grounds in the future.

Respectfully submitted.

Robert Labbé

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Exhibit List

Exhibit “A”: 2nd Request for Resolution to the EBCA Board of Directors dated February 24, 2023 and Exhibits A - E thereto.

Exhibit “B”: Toni Hughes, CCAM-LS, CMCA, Community Manager email of February 27, 2023 acknowledging receipt on behalf of EBCA of 2nd Request for Resolution.

Exhibit “C”: Emerald Bay CC&R’s, Tract 940 Amended Schedule A, April 22, 1985 Building Restrictions.

Exhibit "A"

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February 24, 2023

<<Via Email 02/24/23 1st Class USPS Mail>>

Re: Notice to Emerald Bay Community Association

To: Emerald Bay Community Association
Attention: Ms. Toni Hughes, CCAM-LS, CMCA, Community Manager
Attention: Emerald Bay Board of Directors
600 Emerald Bay
Laguna Beach CA 92651
office@ebca.net

From: Robert L. Labbe, Esq.
3309 Via Lido
Newport Beach CA 92663
rlabbe@labbecompany.com
(949) 278.8265

Representing: Neel and Sharlene Grover
31 Emerald Bay
Laguna Beach CA 92651

Re: Proposed Project #52
52 Emerald Bay Dr.
Laguna Beach CA 92651

cc. Jillisa L. O'Brien, Esq.
Law Office of Jillisa L. O'Brien, P.C.
5 Corporate Park, Suite 260
Irvine, CA 92606-5169 Mr. Steve
jobrien@obrien-law-pc.com

cc. Mr. Steven Scheck
Palmieri, Tyler, Wiener, Wilhelm & Waldron LLP
1900 Main Street, Suite 700
Irvine, CA 92614
sscheck@ptwww.com

February 24, 2023

Notice of Updated Request for Resolution as of February 24, 2023

As you know, the undersigned is the attorney representing Neel and Sharlene Grover, Emerald Bay Community Association (“EBCA”) members who reside at 31 Emerald Bay Drive, Laguna Beach CA 92615.

The purpose of this correspondence is to provide written notification to the EBCA, its Board of Directors, Manager and attorneys that Mr. & Mrs. Grover maintain their objections to the Board’s Preliminary approval of the plans for a new residence submittal for 52 Emerald Bay Dr. (the “52 Project”) and this letter will constitute our client’s updated Request for Resolution pursuant to California Civil Code Section 5935.

Basis of Dispute

Mokri Vanis & Jones, LLP previously notified the EBCA of certain of our client’s objections to the Board of Directors Preliminary approval of the 52 Project in a letter dated May 3, 2022 to the EBCA Board of Directors, same are incorporated herein by reference and reiterated.

Moreover, our client’s grounds for objecting to the Board’s Preliminary approval of the 52 Project include:

- **Mass & Scale**: The 52 Project’s outsized mass and scale and lack of consistency with the development of surrounding homes, supported by the Summary of Mass & Scale in Relation to Surrounding Cul-de-Sac Properties (16) and in Relation to Subgroup of Homes Facing Green/Beach (6) is attached as **Exhibit “A”**. The Summary demonstrates the 52 Project is between **1.55X** and **1.57X** the scale of the surrounding homes.
- **Proposed Parking is Not Practical**: The 52 Project parking is not practical, and the scarcity of beach side on-street parking makes the potential elimination of 25% of the cul-de-sac’s available parking a tangible burden and negative imposition on neighboring property owners and the Members of Emerald Bay at large.
- **Elimination of Parking Space Requires a 2/3rds Vote of Members**: The Board was required to put the matter of the elimination of an EBCA common area parking space up to a vote of the entire EBCA Membership and secure a two-thirds (2/3rds) vote of approval prior to granting Board approval. The EBCA Architectural Regulations, Appendix A, p. 36, define “Association Property” as areas including beach Lots, park and recreational areas, **streets**, walkways, and all easements in all of Emerald Bay owned by the Association, and all facilities and improvements thereon. (CC&R’s, ARTICLE I, No. 5). Board approval of the 52 Plans would grant one Association member, Applicant, with exclusive use of Association property to the exclusion of all other EBCA Members. Civil

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Code §5100 and §4600 and §E.13 of the EBCA Architectural Regulations, provide the conditions under which the Board may grant exclusive use of EBCA common area property (to wit, authorizing curb cuts that take away street parking and elimination of street parking for exclusive use as a driveway). None of the conditions that would enable the granting of an easement on EBCA property by the Board have been met. Since streets/curbs are EBCA property (common areas), exclusive use of such areas cannot be granted to one Member without providing notice to the entire membership and obtaining a 2/3's vote of approval from EBCA membership.

- **Material Errors by the Board and Architectural Committee:** Our client has ample evidence to demonstrate that the EBCA Board and Architectural Committee violated the CC&Rs. An action for Declaratory Relief seeking a judicial declaration that Civil Code §4765 (Procedures for Architectural Review) was not complied with by the Board or the Committee, will be lodged by our client seeking to invalidate and nullify the Board of Directors Preliminary approval of the 52 Project on May 3, 2022 if the dispute is not otherwise resolved. The evidence will include, but not be limited to the following:
 - **No Alternative Designs Were Provided by Applicant.** At the April 5, 2022 Board meeting, when the Board considered the Committee's recommended approval, and deferred a Board decision on the Committee's approval recommendation, the Board specifically directed the Committee via motion to further consider their recommendation in order to provide the Applicant and their design team "additional time for consideration of if there is a different design possible that does not reduce available on-street parking spots." (*Harley Bassman, Board Member*). See copy of April 5, 2022 Board meeting minutes attached as **Exhibit "B"**. Moreover, immediately prior to the conclusion of that April 5, 2022 Board meeting, Scott McCarter, who was Chair of the Committee stated that if the Applicant did not find a way to revise the 52 Plans while maintaining existing off-street parking utilizing the East-side parking, that the 52 Plans would be denied. The Committee held a workshop to consider different designs that did not reduce on-street parking followed by the April 26, 2022 Architectural Committee meeting; however, Applicant failed to provide any alternative designs to the Architectural Committee, ostensibly because Applicant's Architect could not find a way to not reduce available on-street parking spots.
 - **Additional Documentation Provided by Applicant Appears to Have Been Materially Inaccurate.** Chad Peterson of D'Arcy Architecture ("Applicant's Architect") advised the County of Orange in an email dated November 30, 2022 attached as **Exhibit "C"** that the Committee ". . . unanimously approved [the 52 Project] after reviewing "***additional documentation***" without providing said documentation. Thereafter, on

May 3, 2022 the Board went on to approve the project as designed. It is our client's information and belief that the "additional documentation" referred to by the Applicant's Architect consisted of only a 'Concept Exhibit' which was erroneous and materially inaccurate insofar as:

- (i) the size of the on-street parking spots were exaggerated, which lead the Committee to be under the impression that there was only sufficient space for two (2) on-street parking spots in front of the 52 Property instead of three (3);
 - (ii) the size of the on-street parking spots in what was presented to the Committee was different than their size as depicted in the approved 52 Property plans; and,
 - (iii) the end of the east-side driveway parking ended at the 5' setback line in what was submitted to the Committee; however, the same driveway ends at the property line in the approved 52 Property plans, resulting in a further substantial discrepancy between what was submitted to the Committee and what is found in the approved 52 Plans; and,
 - (iv) therefore what was presented did not accurately depict the on-site parking configuration, did not correctly depict how the on-site parking configuration impacts the on-street parking located in front of the 52 Property and did not tie to the actual 52 Plans which were approved by the Committee and subsequently approved by the Board, material errors upon which the Committee relied, having the effect of misleading the Committee and depriving the Committee the ability to make an informed decision on the Application as related to parking when making its final approval recommendation to the Board.
- **The Architectural Committee Erred in its Review of Existing Cul-de-Sac Conditions and Parking.** The Committee acted in direct reliance on the erroneous and materially inaccurate Concept Exhibit when issuing its final approval recommendation of the 52 Plans. Our client commissioned a survey of the cul-de-sac by a licensed Surveyor (something Applicant had apparently never done) from which a Parking Study was prepared by

our client's Expert Witness. The Parking Study is attached as **Exhibit "D"** and being based on an actual Survey of the cul-de-sac, accurately depicts on-street parking, and proves the inaccuracy of the Concept Exhibit relied on by the Committee.

- **The Architectural Committee was not Qualified** to issue a valid approval or disapproval recommendation of the 52 Plans to the Board.

- **The Board Relied on the Approval of an Unqualified Architectural Committee that was Lead to Believe Three (3) On-Street Parking Spaces were Not Feasible.** The minutes from the May 3, 2022 Board meeting demonstrate that, per Director Scott Swensen, the Board "*relies heavily on the professionals on the Architecture Committee*" in approving the 52 Project. The Board's approval was based on an erroneous recommendation of approval by the Architectural Committee, evidenced by its final recommendation of approval at the April 26, 2022 Committee meeting, a copy of which is attached as **Exhibit "E"**: "**Impacts to on-street parking in this area are important considerations. FINAL COMMITTEE RECOMMENDATIONS: 1. The Committee previously deferred its recommendation due to inadequate information provided to address the Board's concern for the on-street parking situation. The Committee considered the Applicant's exhibit, the Applicant addressed the Board's comments, and it appears that three on-street parking spaces are not feasible. Therefore, the Committee recommends Approval of the plans.**" This recommendation was based on inaccurate information contradicted by our Expert Witness' Parking Study supported by a Survey.

- **The Board Failed to Consistently Apply the Architectural Regulations.** In approving the 52 Plans the Board acted capriciously and arbitrarily in its review process when compared to its denial of the Speed plans for #45 Emerald Bay a few homes away in the same cul-de-sac, where they deemed the Speed's parking impractical, the landscaping insufficient and required the mass, size and scale of the Speed's project to be significantly reduced. When asked by Jeffrey Speed how the Architectural Committee could possibly reconcile the objections they had to his building plans for #45, with their approval of the 52 Property plans, the Chair of the Architectural Committee, Scott McCarter, responded that he "had not looked at the Speed plans". (Jefferey Speed).

- **The Board failed to "Equally Enforce the Same Rules" and to provide a "Consistent and Fair Review Process"** for approval of plans as required by the CC&R's and should have required that adjustments be made to the 52 Plans to reduce size and massing to reduce required

parking, and mitigate negative neighbor impacts as was done in the Speed's Application.

- **Neither the Architectural Committee or the Board Examined the Impact of the Easements Affecting the 52 Property and Adjacent Properties** by the 52 Plans (31 and 50 Emerald Bay), which Easements all stem from a recorded settlement agreement and amended settlement agreement in Neighbors of Emerald Bay v. County of Orange, William E. Boehringer II (OCSC Case # 803978). The Easements affect access, egress and ability to park on the three (3) closely proximate cul-de-sac lots (#52, #50 and #31), and permanently restrict the use by the Grover Property driveway at 31 Emerald Bay, i.e., they severely restrict our client's ability to park in their own driveway, rendering the limited on-street parking that much more necessary, and materially impact the practicality of the 52 Plan parking.

The Easements were granted in favor of the 52 Property in exchange for the 50 and 31 Property owners not opposing a 52 structure with a height limit not exceeding 23 ft. above natural grade, restricting the permissible height envelope of the Applicant's 52 Property. The permanent nature of the recorded Easements granted in favor of the 52 Property evidence the permanent nature of the 23 ft. above grade height limitation.

Relief Sought

- That the EBCA Board's Preliminary approval of the 52 Project submission at the May 3, 2022 Board meeting be declared null and void by the Board as soon as the Board next convenes.
- That the 52 Project application be returned to the Architectural Committee for *de novo* review by a qualified, duly constituted Architectural Committee, taking into account the compatibility of the planned development with the mass and scale of the surrounding properties and the aesthetics of the neighborhood in a non-capricious and fair manner, consistent with its treatment of past submissions in the cul-de-sac, such as the Speed application, and which maintains the existing on-street parking as was requested by the Board at the April 5, 2022 meeting attached as Exhibit "B".
- That if the Board rejects the above relief, that the Board convene a limited series of settlement communication privileged Architectural Committee Workshops attended by our client's Architectural representative, for a review of alternative designs which are

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both in conformity with the EBCA Architectural Regulations and the CC&R's and are less injurious to our client.

- That the EBCA reimburse the Grover family the \$125,000 expended in legal and Expert Witness fees since the onset of this matter through the date hereof, the whole according to proof as will be provided by our client to the Board in the form of invoices and proof of payment thereof.

Thirty (30) Day Response Period

As you know, we are required to provide notice that the party receiving the Request for Resolution is required to respond within thirty (30) days of receipt or the request will be deemed rejected.

ADR Code Sections

If any recipient hereof requires a copy of the Alternative Dispute Resolution Civil Code Sections please advise the undersigned in writing and same will be provided.

Thank you for your consideration and we look forward to constructive next steps.

Sincerely,

Robert Labbé

Robert L. Labbé
Attorney at Law
Admitted in California and New York
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[Exhibit list to follow on next page]

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Exhibit List:

Exhibit “A”: Summary of Mass & Scale in Relation to Surrounding Cul-de-Sac Properties (16) and in Relation to Subgroup of Homes Facing Green/Beach (6) demonstrating the proposed 52 Project would be between **1.55X** and **1.57X** the scale of the surrounding homes.

Exhibit “B”: April 5, 2022 Board Meeting Minutes.

Exhibit “C”: Chad Peterson of D'Arcy Architecture (“Applicant’s Architect”) email dated November 30, 2022 advising the County of Orange that the Committee “. . . unanimously approved [the 52 Project] after reviewing “*additional documentation*”.

Exhibit “D”: Parking Study based on Land Survey of the Cul-de-Sac depicting on-street parking.

Exhibit “E”: April 26, 2022 Architectural Committee Final Recommendation of Approval to Board.

Exhibit "B"

From: Emerald Bay Community Association <Office@ebca.net>

Sent: Monday, February 27, 2023 3:10 PM

To: Robert Labbe <rlabbe@morcapadvisors.com>; Emerald Bay Community Association <Office@ebca.net>

Subject: RE: 52 Application - 2nd Demand Letter to the EBCA Board dated 2-24-23 - Exhibits D & E

Good Afternoon Mr. Labbé,

Thank you for sending the documents - I am confirming receipt of both physical and electronic copies.

Kind Regards,

TONI HUGHES, CCAM-LS, CMCA
COMMUNITY MANAGER

600 EMERALD BAY
LAGUNA BEACH, CA 92651
OFFICE: (949) 494 - 8571
WEBSITE: EBCA.NET

-----Original Message-----

From: Robert Labbe <rlabbe@morcapadvisors.com>

Sent: Friday, February 24, 2023 3:43 PM

To: Emerald Bay Community Association <Office@ebca.net>

Subject: RE: 52 Application - 2nd Demand Letter to the EBCA Board dated 2-24-23 - Exhibits D & E

Exhibits D and E.

-----Original Message-----

From: Robert Labbe <rlabbe@morcapadvisors.com>

Sent: Friday, February 24, 2023 3:38 PM

To: 'office@ebca.net' <office@ebca.net>

Subject: 52 Application - 2nd Demand Letter to the EBCA Board dated 2-24-23 - Exhibits A, B, C

Exhibits A, B, C.

-----Original Message-----

From: Robert Labbe <rlabbe@morcapadvisors.com>

Sent: Friday, February 24, 2023 3:37 PM

To: 'office@ebca.net' <office@ebca.net>

Subject: 52 Application - 2nd Demand Letter to the EBCA Board dated 2-24-23

Dear Ms. Hughes:

Please find attached your courtesy copy of the Updated Demand Letter to the EBCA Board dated 4/24/23.

Exhibits will follow via separate email due to file size.

Jillisa O'Brien has already been provided a copy for placing on the Agenda and presentation to the Board.

Sincerely,

Robert L. Labbé, Esq.
Attorney at Law
Admitted in California and N.Y.
Real Estate Dispute Resolution and Real Estate Finance
3309 Via Lido, Newport Beach CA 92663
Tel: 949.278.8265

This email is without prejudice to any of our client's rights and no admissions are made as to any client liability. This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

Exhibit C

TRACT 940

AMENDED SCHEDULE A, APRIL 22, 1985

BUILDING RESTRICTIONS

The following building restrictions apply to all lots in said Tract:

IMPROVEMENTS:

Improvements to each Lot or Parcel in said Tract are restricted to one private Single Family residence and garage for two or more automobiles. No temporary Structures of any kind shall be permitted.

No exterior radio, TV, or other type of antenna shall be permitted on any Lot or Parcel which is visible from any property within Emerald Bay.

Solar energy systems which utilize reasonably effective solar energy technology may be installed on a residence, but the appearance and location of the system and installation thereof shall require prior written approval of the Architectural Committee. The Committee may set forth in its regulations reasonable requirements as to the materials to be used in a solar energy system and the location of such system on the residence.

NON-CONFORMING STRUCTURES:

A non-conforming Structure that is damaged or destroyed by means other than the intentional act of the owner, or his Family, guests or agents, may be reconstructed in accordance with its pre-existing height and dimensions so long as no additional non-conforming portions are erected and the proposed structure otherwise meets the requirements of ARTICLE VIII and the Architectural Regulations.

If an owner of a non-conforming Structure elects to remove or substantially remodel said Structure, such owner shall comply with all the then current building restrictions and Architectural Regulations and the provisions of ARTICLE VIII hereof in the same manner as for an original Structure.

SETBACKS:

Unless otherwise specified as to a particular tract, all Structures shall be setback five feet from all adjacent Lot or Parcel boundaries, except for fences and walls.

ZONE 'A'

Lots 1 through 6, 15 through 49, 54 through 59, and 68, 70, 72, 73, through 77

No Structure on any Lot or Parcel in this Zone shall exceed two Stories; the height of any Structure on any Lot or Parcel in this Zone shall not exceed thirty (30) feet above the Natural Grade of the Lot or Parcel.