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September 13, 2013

Mr. William Manion
President
Porto Cima Townhome Owners Association
P.O. Box 482
Lake Ozark, Missouri 65049

RE: Your letter of September 7, 2013

Dear Bill:

These comments are intended to address the four points raised in your letter of September 7, 2013.

Section 4.5 of the First Amended and Restated Supplemental Declaration of Covenants and Restrictions for Porto Cima Townhouse Properties states that the Townhouse POA is responsible for maintaining, among other things itemized in that section, "all exteriors of all Townhouse Units, including but not limited to, maintaining, repairing and replacing porches, roofs, gutters, downspouts, exterior building surfaces, windows, fascia, doors, decks and other exterior improvements, including repainting or staining as needed." The term "exterior" is defined in Webster's II New College Dictionary to mean "a part or surface that is outside". Therefore, I agree with your conclusion that the Association is responsible for the maintenance of the dryvit surface, roof, decks and railings. However, I think the Association maintenance responsibility goes further than those four enumerated items based upon the language sent forth in Section 4.5 of the Declaration. I believe the Association is responsible for the maintenance of any portion of the exterior structure.

I agree with your statement that all structural components inside the exterior of the Townhouse Units are the maintenance responsibility of the individual Townhouse owners. Studs, insulation and drywall clearly are part of the interior and not the exterior of the Townhouse units.

You are correct that Section 5.9 of the First Amended and Restated Supplemental Declaration of Covenants and Restrictions for Porto Cima Townhouse Properties gives the Townhouse POA the power in paragraph (b) of that Section to levy a Specific Townhouse Assessment against a particular Townhouse Unit to cover costs incurred in bringing that

particular Townhouse Unit into compliance with the terms of the Declaration and Supplemental Declaration enumerated therein as well as any costs incurred as a consequence of the conduct of a Townhouse Owner or the occupants of a Townhouse Unit, their licensees, invitees or guests. Please note that it is a requirement that the Townhouse POA must give the Townhouse Owner prior written notice and an opportunity for a hearing before levying any Specific Townhouse Assessment under Section 5.9(b). You are correct that non-payment of any Specific Townhouse Assessment under Section 5.9(b) can be secured by the filing of a lien against the Townhouse Unit, which lien can be foreclosed upon by the Townhouse POA.

Based upon Section 5.7, the Townhouse POA is clearly authorized to levy Neighborhood Assessments against all Townhouse Units in a Neighborhood, which are subject to assessment under Section 5.4 for the purpose of funding Neighborhood Expenses. Neighborhood Expenses are defined in Article I, Section 17 to mean the actual and estimated expenses which the Townhouse POA incurs or expects to incur for the benefit of Townhouse Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Townhouse Declaration or in any Townhouse Supplemental Declaration(s) applicable to such Neighborhood(s). Section 5.8 states that the Neighborhood Assessment may be imposed by either: (i) a petition signed by the majority of the Townhouse Owners within the Neighborhood, or (ii) as determined by the Board.

The term "Base Townhouse Assessment" is defined in Article I, Section 3 to mean the assessment levied by the Townhouse POA against the Townhouse Owners and Townhouse Units as set forth in Sections 5.5 and 5.6. Section 5.5 states that the Base Townhouse Assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Townhouse Owners and in particular for the construction, leasing, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Exclusive Common Area and the improvements situated thereupon, including, but not limited to, payment of taxes and insurance on the Exclusive Common Area and the construction, maintenance, repair and replacement thereof or additions thereto, and for the cost of labor, equipment, materials, management and supervision in connection therewith. The term "Exclusive Common Area" is defined in Article I, Section 9 to mean all real property now or in the future subjected to the Townhouse Declaration, excluding Townhouse Units, regardless of whether such Townhouse Units have been conveyed.

Section 5.6 states that the Base Townhouse Assessment and the Neighborhood Assessment may be increased each year over the amount of such Assessment for the previous year provided that a majority of the Board of Directors of the Townhouse POA and without a vote of the Townhouse Membership vote in favor of such increase, subject to the limitation that any such increase in any year cannot exceed the greater of five percent (5%), rounded to the nearest whole dollar amount, or increases in the Consumer Price Index for the twelve (12) month period ending June 30th of the preceding year using the "All Urban Consumers, U.S. City Average" for "General Summary/

Mr. William Manion
September 13, 2013
Page 3

I agree with your interpretation of the last sentence in Section 5.6, which you believe allows the establishment of a contribution to a reserve fund that is not capped by the five percent (5%) limitation. I believe that is true if the terminology "initial Neighborhood Assessment" is interpreted to mean the first budget established by the Board each year for Neighborhood Expenses as described in Section 5.2, and if the reserve fund is the reserve fund being established for a Neighborhood for which the Townhouse POA maintains capital items as a Neighborhood Expense. I do not believe the language of the last sentence would allow a reserve budget for the Area of Common Responsibility to be increased to a level which would result in the Base Townhouse Assessment exceeding the limitations imposed by Section 5.6.

If you want to discuss any of these issues further, please feel free to contact me.

Sincerely,

Pohl & Pohl, P.C.



Robert W. Pohl

RWP/dpp