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November 15, 2024

LETTER TO LEGENDS OF HUTTO HOMEOWNER MEMBERS

RE: Questions & Concerns Regarding Unofficial Homeowner Meeting

Dear Members of Legends of Hutto Homeowners' Association, Inc.,

Recently, certain rumors have been circulating on the Legends of Hutto Homeowners Association official Facebook page which originate from a small group of Legends of Hutto Members who are unaffiliated with the Association's Board of Directors (the "***Board***"). Unfortunately, because the Board's administration permissions for the Facebook page have been revoked by one of the said Members, we have been unable to respond to the accusations levied by this group. We understand the concern of our Members and we felt it essential to address some of the misinformation and misstatements of law which have been made.

For clarity, the alleged meeting organized on October 28, 2024 to discuss some of these rumors and misstatements of fact and law (the "***Unofficial Meeting***") was not an official "Meeting of the Members" pursuant to the Association's Declaration of Conditions, Covenants and Restrictions (the "***Declaration***"). There are specific legal and procedural requirements which must be followed before an official Special Meeting of the Members may be convened. The organizer of this Unofficial Meeting failed to properly follow these procedures. For those interested in the procedural requirements for convening a Special Meeting of the Members, the Association's Declaration and the Bylaws can be found in your RowCal homeowner portal.

Now, we will address the various misstatements of fact and law put forth in the October 28, 2024 meeting.

1. In an effort to effectively communicate what has transpired thus far, the Board would like to first outline a timeline of events:
    a. Some time at the beginning of 2024, at least prior to March 2024, one of the Members of the Association revoked the Board of Director's administrative permissions to the Association's official Facebook Page. Subsequently, said Member began making posts on the Facebook page purportedly in the Association's official capacity. These unauthorized posts included many disparaging and false statements directed toward the current Board of Directors, which understandably led to confusion and misplaced suspicion among the other Members of the Association.
    b. In response to the hijacking of the Association's Facebook page and the disparaging, unofficial remarks made in the posts, the Board sent numerous requests to the responsible Member to reinstate the Board's administrative permissions and cease all operation of the Facebook page. These requests, unfortunately, were ignored. On March 12, 2024, the Association sent a demand letter to the responsible Member, demanding he relinquish all control of the Facebook page back to the Board. This demand was also ignored.
    c. After giving the Member over five (**5**) months to respond to the Association's demands, and receiving no response, the Association was forced to enlist the help of legal counsel to resolve the matter. Due to the Member's unauthorized access of the Association's official Facebook page and revocation of the Board of Directors' administrative permissions, as well as the vexatious and harassing statements made by this Member which caused confusion among the other Members and

made it increasingly difficult for the Board to carry out its official function, the Association had no other choice but to file suit to recover the Association's official property.

d. On August 30, 2024, the Board was served with a lawsuit filed by the very same Member in Williamson County district court. This new lawsuit is completely unrelated to the Association's suit against the Member to recover the official Facebook Page.

e. On the same August 30, 2024 date, the Association received an official financial records request from the Member, requesting hundreds of pages of documents from the Association unrelated to the suit filed by the Association against the Member, and unrelated to the Member's suit filed against the Association. This financial records request, being an official request pursuant to the Texas Property Code, necessitated the assistance of counsel. The Association has fully complied with the Member's records request.

f. Since filing the suit against the Association, the Association's counsel has received no less than twenty-eight (**28**) comprehensive, detailed and contentious emails from the Member. Each of these emails warranted equally comprehensive and detailed responses.

g. To date, the Member's unauthorized control of the Association's official Facebook page and removal of the Board's administrative permissions, as well as the required legal action to regain the Association's property and the legal defense of the Member's lawsuit against the Association, has cost, and continues to cost, the Association tens of thousands of dollars. To be clear, the Association is legally obligated to recover the Association's official Facebook page and defend the lawsuit filed against it.

2. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 1: "The association is not abiding by any governing documents or state laws." **This is factually incorrect. The Association and Board are in full compliance with the provisions of the Declaration, the Association's Bylaws, and Texas statutory authority**.

3. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 2: "The Association [does not have the authority to] remove any member of the ACC unless the Declarant … gave a written instrument for that. However, that instrument doesn't exist." **This is factually and legally incorrect for the following reasons**:
   a. Article 4, Section 4.1 of the Declaration provides that "Declarant, *its successors and assigns*, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate the right to the Board *by written instrument*. Thereafter, *the Board shall have the right to appoint and remove all members of the Architectural Committee*."
   b. Declarant recorded the Declaration on November 11, 2001 in the official public records of Williamson County under document number 2001087279. The Declaration is the instrument that gives the Association's Board of Directors, as the Declarant's successor, the right to appoint and remove all members of the Architectural Committee.

4. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 3: " I requested information [about] PioneerBeck … [and was told] by the Board president … that 'you're not allowed to see that. … I have requested multiple documents … [and] every time I have requested documents … I don't get the document requested or I get ignored. …'" **This is factually and legally incorrect for the following reasons**:
   a. Pursuant to Texas Property Code Section 209.005, any homeowner requesting Association records must submit a written request for access or information … by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association.
   b. The Member has submitted numerous financial records request this year. The Member submitted his most recent written request by certified mail on August 30, 2024. And as previously stated, all requests submitted through the proper channels by the Member have been fully complied with pursuant to the Texas Property Code.
   c. Finally, Board president Chris Everett has never informed the Member he was not allowed access to information requested. The Member was informed that there are proper channels by which to obtain said records and information. The Member was then asked to submit a formal financial

records request with pursuant to the Texas Property Code. The Member subsequently submitted a formal financial records request and the Association complied fully with said request.

5. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 4: "You're going to see that the Association has spent $30,000 in legal fees, I would say probably half of those are … from me. Because every time I made a request, they send it to an attorney…." **These comments are factually inaccurate and misleading for the following reasons**:
    a. The Association has spent under $30,000 in litigation or other legal matters for 2024.
    b. While a large portion of the litigation and other legal expenses for 2024 involve the legal matters between the Association and the offending Member, there are numerous other legal matters for the Association which are not related to the litigation between the Association and the Member.
    c. Any time a homeowner in the Legends of Hutto subdivision submits an official financial records request, said request must be reviewed by legal counsel before the Association can comply with the request. The Member's insinuation that this only happens with his requests is false.

6. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 5: "nothing in our Association documents give them the ability to self-manage." **This is legally incorrect for the following reasons**:
    a. First, concerning the Board's decision to change management firms, the Member's assertion is not based on personal knowledge and largely inaccurate. That being said, his opinions and statements on the matter are irrelevant to the proper, efficient and legal management of the Association.
    b. Moreover, Article 5, Section 5.5 of the Declaration provides that "the Association *shall have the powers to do and perform any and all acts that any be necessary or proper for, or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration*." Essentially, this provision means that management of the Association is vested in the Board of Directors to carry out how they see fit.
    c. Section 5.5(c) of the Declaration further provides that the Association has the power "to retain and pay for the services of manager to manage and operate the Association, to the extent deemed advisable by the Board. To the extent permitted by law, the Association and the Board ***may*** delegate any duties, powers and functions to the Manager." In legal parlance, the term "may" specifically means that the Association and Board can choose whether or not to hire a third-party manager. This implicitly means that in the absence of a third-party manager, the Board is well within its power and rights to self-manage. There is nothing in the Declaration or any Texas statute which provides that the Association cannot self-manage.

7. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 6 "if they're going to self-manage … they've got to tell me …" **This is legally incorrect. Nothing in the Declaration or statutory authority provides that the Board must provide notice or inform individual homeowners or Members that they are self-managing the Association.**

8. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 7 "The management companies are not doing what they were/are paid to do." **This is factually inaccurate and not based on the Member's personal experience or observations. As the Member stated at the beginning of the Unofficial Meeting, he does not currently live in the Legends of Hutto subdivision, but rather he currently lives in Colorado. He does not have any direct experience with the actions of the Association's past or present property management companies.**

9. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 8: "Texas state law says any enforcement action allows the homeowner a right to a hearing in front of the board." **This is legally incorrect for the following reasons**:
    a. The statute which speaks to whether a homeowner has a right to a hearing in front of the Board is Texas Property Code Section 209.006. This statute provides that a homeowner may "request a hearing … on or before the 30th day after the date the notice was mailed[.]" *See* Tex. Prop. Code Ann. § 209.006(b)(1)(B).

b. However, Texas Property Code Section 209.006(a) explicitly provides that "before a property owners' association may … file a suit against an owner *other than a suit to collect a regular or special assessment or foreclose under an association's lien*," the association must provide the owner the aforementioned 30-day opportunity for a hearing. *See* Tex. Prop. Code Ann. § 209.006(a).
c. Moreover, Texas Property Code Section 209.007(d) provides that "the notice and hearing provisions of Section 209.006 … do not apply if the association *files a suit that includes foreclosure as a cause of action*. *See* Tex. Prop. Code Ann. § 209.007(d).
d. Importantly, an enforcement action to collect a regular or special assessment is also an enforcement action that includes the Association's right to foreclose on the lien which attaches to a homeowner's lot when he or she purchases the lot in the subdivision.
e. Thus, the Association is not legally required to provide a hearing to a homeowner who has been notified of an enforcement action for a delinquent assessment.

10. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 9: "The Association or Board cannot amend, extend or change a contract without having an open board meeting. … The Board voted to extend our contract to do additional inspection drives without having an open board meeting. Texas state law says you cannot do that." **This is legally incorrect for the following reasons**:
    a. Pursuant to Texas Property Code Section 209.0051(10), a board may not, unless done in an open meeting, consider or vote on … the adoption or amendment of a *dedicatory instrument*."
    b. Texas Property Code Section 209.002(4) provides that "dedicatory instrument" means "each governing instrument covering the establishment, maintenance, and operation of a residential subdivision." In other words, the Declaration is the Association's dedicatory instrument. Contracts entered into between the Association and third-parties for the various needs of the association are **not** dedicatory instruments.
    c. Rather, Texas Property Code Section 209.0051(c) explicitly states that while regular and special board meetings must be open to owners, this open meeting requirement is subject to "the right of the board to adjourn a board meeting and reconvene in *closed executive session* to consider actions involving … *contract negotiations*." Importantly, this means that the Board does not have to have an open board meeting to decide whether to extend, change or amend a contract with a third-party for services.

11. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 10: "The Board cannot vote on fines or enforcement actions without having an open board meeting. You cannot enforce a fine and fee policy without publishing it." **This is legally incorrect and factually misleading for the following reasons**:
    a. Under Section 209.0051, the board of a property owners' association, must conduct business at a meeting open to all members. However, as previously mentioned, this requirement is "subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving," among other matters, "pending or threatened litigation." *See* Tex. Prop. Code § 209.0051(c). Section 209.0051(c) further states that "following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms."
    b. The Member argues that the statute restricts a board from considering or voting on any enforcement action or fine in a closed executive session. However, the statute only restricts the Board from considering an enforcement action or fine in a closed executive session when the board "takes action outside of a meeting" without giving "prior notice to owners under Subsection(e)." So, as long as the Board's closed executive session takes place when it adjourns a public meeting for which all owners or members have been given notice pursuant to Texas Property Code Section 209.0051(e), and the notice for the open meeting includes a "general description of any matter to be brought up for deliberation in executive session" then that a board does not violate the statute by discussing an enforcement action or fine in a closed executive session that meets the requirements of Subsection 209.0051(c). In other words, every single notice the Association sends out concerning its open member meetings includes language regarding all matters which may be brought up for deliberation in any potential closed executive sessions. As long as this language is contained in said notice of

open member meetings, then the Association is in full compliance with the statute when it adjourns for a closed executive session to discuss the particulars of enforcement actions or fines.

c. The Association has fully complied with the requirements of Texas Property Code 209.0051 in all matters concerning fines or enforcement actions, for open meetings and closed executive sessions, both for the complaining Member, and any other Member in the Legends of Hutto subdivision.

d. Further, on June 27, 2024, the Board conducted an open board meeting to vote on whether to amend the fine schedule and collection policy. Members were properly notified and allowed to attend said open board meeting. Following this special meeting, the Board then conducted another open board meeting on July 27, 2024 to vote and approve the amendments to the fine schedule and collection policy. Again, the Members were notified of and invited to attend this second special meeting.

12. Misstatements of fact and law circulated at the Unofficial Meeting, Claim 11: "The regular annual assessments may be paid at the end of the [fiscal] year." **This is legally incorrect for the following reasons**:

    a. Article 6, Section 6.2 of the Declaration provides that "all such regular [annual] assessments shall be due and payable to the Association *at the beginning of the fiscal year* for the Association for which such Assessments are payable, or during such fiscal year in *equal monthly installments on or before the first day of each month, or in such other manner as the board may designate in its sole and absolute discretion*.

    b. Legends of Hutto Homeowners Association, Inc. Collection Policy for Delinquent Accounts Effective January 1, 2005, and recorded in document number 2005036230 in the real property records of Williamson County (the "***Collection Policy***"), Section B, subsection (a), provides that "*all annual assessments shall be due and payable in advance on or before the 1st day of January*."

    c. Accordingly, when the Collection Policy was filed and recorded in Williamson County Property records, it became the document which contains the authoritative provisions prescribing the method by which a Member is permitted to make their annual assessment payments. Therefore, the only two methods by which a Member is permitted to make their regular assessment payments is (1) in equal monthly installments on or before the first day of each month; or (2) in advance on or before the 1st day of January of the fiscal year.

The Board of Directors will continue to do everything in its power to be open and transparent with our Members. We feel that, at minimum, our Members deserve accurate and correct information about any ongoing disputes that have been publicly shared with the community. If anyone has any questions or concerns regarding these matters moving forward, do not hesitate to reach out to any of the directors, and we will be happy to discuss this with you personally.

Sincerely,
Legends of Hutto Homeowners Association, Inc.—Board of Directors