

SOUTHERN CALIFORNIA

575 Anton Boulevard
Suite 1080 Metro Center
Costa Mesa, CA 92626

714.429.0600

714.429.0699 **f**

NORTHERN CALIFORNIA

2175 N. California Blvd.
Suite 500
Walnut Creek, CA 94596

925.838.2090

925.820.5592 **f**

WWW.BERDINGWEIL.COM

September 10, 2021

**VIA FIRST CLASS U.S. MAIL
AND ELECTRONIC MAIL TO**

Email - CityAttorney@santaclaraca.gov

Brian Doyle, Esq.
City Attorney of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Re: Requesting Written Consent of the City of Santa Clara for Casa del Rey HOA of Santa Clara's Proposed Amended and Restated CC&Rs

Dear Mr. Doyle:

We are legal counsel for **Casa del Rey HOA of Santa Clara**, a homeowner association overseeing a common interest development in the City of Santa Clara (the "Association"). The Association's current Declaration of Covenants, Conditions and Restrictions were originally recorded on January 13, 1978 (referred to herein as the "CC&Rs") and in many areas are obsolete and not compliant with current legal requirements. With our firm as legal counsel, the Association has undertaken a project to prepare proposed updated, amended and restated CC&Rs (referred to below as the "Proposed CC&Rs").

The requisite number of Association members has already voted to approve the Proposed CC&Rs. However, pursuant to Article VII, Section 7.03, of the current CC&Rs City approval is also required for any amendments, which Section reads in relevant part as follows:

"The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument signed by not less than 51% of each class of voting membership of the Association for so long as there are two classes and thereafter by not less than 51% of the total voting power of the Association residing in members other than Declarant, provided however, that the percentage of voting power necessary to amend a specific clause or provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. *Any amendment of this Declaration shall also require the prior written approval of the City of Santa Clara.* Any amendment must be recorded in the Office of the Recorder of the County of Santa Clara, California, and shall in no way impair or invalidate the lien of any mortgage or deed of trust." (Emphasis added.)

The Proposed CC&Rs have been updated to reflect the many changes in the law (in particular, the Davis-Stirling Common Interest Development Act, California *Civil Code* §§4000 *et seq.*) that have occurred since the 1978 CC&Rs were originally recorded. However, the maintenance obligations of the Association for the Common Areas of the development have not been changed.

I am enclosing the Association's Proposed CC&Rs as approved by the members, as well as the existing 1978 CC&Rs for your ease of reference. On behalf of the Association, I respectfully request that the City indicate its written consent to the Proposed CC&Rs by signing and dating the signature page below and returning the same to my attention. I am enclosing a self-addressed, stamped envelope for your convenience. **In addition to the original signature page being returned to my office, we would request that upon signing, a scanned copy be sent to dbickham@berdingweil.com.**

Thank you so much for taking the time to review this letter and the enclosed materials. If you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

BERDING & WEIL LLP



Douglas P. Bickham, Esq.
Senior Attorney
dbickham@berdingweil.com

DPB:llm:ikb

cc: Board of Directors, Casa del Rey HOA of Santa Clara

Enclosures

REQUESTED ACTION

By signing below, I certify that the City of Santa Clara consents to the Proposed CC&Rs of the Association.

Brian Doyle
City Attorney
City of Santa Clara

Dated: _____