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June 17, 2015

Board of Directors,  
ArrowCreek Homeowners Association  
Jeanne Tarantino, PCAM, AMS, CMCA  
Associa Sierra North  
10509 Professional Circle #200  
Reno, NV 89521

*Sent via e-mail*

**RE: Article VII of Articles of Incorporation and the Acquisition of Golf Course**

Dear Board of Directors,

Pursuant to a Member's assertion, you have requested our opinion regarding the effect, if any, that Article VII in the Articles of Incorporation (hereinafter "Articles") may have on the Association's ability to acquire the ArrowCreek Golf Club. That is, it is our understanding that a Member of the Association has opined that Article VII of the Articles prevents the Association from acquiring the Golf Club. We disagree and our opinion follows.

Article VII of the Articles provides (emphasis added):

**Members** of the corporation shall not be liable for payment of any corporate debts of any nature whatsoever nor shall any of the **property of the members** be subject to the payment of corporate debts to any extent whatsoever, except to the extent valid and proper assessments for the corporate purposes provided herein create such liability or subject members' real property to assessment liens.

Based upon a plain language reading of this provision of the Articles, it is our opinion that the Member in question's interpretation of said provision is flawed. It is understood that pursuant to Article VII, an **individual** Member (homeowner) will not be directly held liable for corporate debts (the Association's); this Member in question's interpretation is overly broad. For instance, if the Association hires a landscaper and fails to pay said landscaper, the landscaper cannot directly go after individual Members of the Association to satisfy said Association debt. But, the Association does have the power to assess Members for corporate purposes and as outlined by the Association's Governing Documents. One of the purposes of the Association, as stated in Article IV of the Articles, is to maintain the Common Area within the ArrowCreek Subdivision, including, but without limitation, recreational and community facilities. Should the Association vote to acquire the ArrowCreek Golf Club, it will become a Common Area and will be maintained by the Association in compliance with the Association's Articles and Governing Documents.

As previously addressed in our letter of February 11, 2015, NRS 82.131(7) acknowledges that a non-profit corporation can engage in business for profit. NRS



82.131(7) specifically provides that “every corporation may . . . **[c]arry on business for profit and apply any profit that results from the business to any activity in which it may lawfully engage.**” Emphasis added. That is, the Association may acquire the Golf Course and apply any profits towards maintenance of the Common Areas of the Association, thus satisfying the purpose under the Articles and the regulations set forth in the Governing Documents.

Nevada law also specifically and expressly contemplates an association acquiring additional common elements and encumbering association common elements in order to do so.

That is, NRS 116.310(1) specifically governs the powers of unit-owners' association, and provides that an association (emphasis added):

- (g) **May cause additional improvements to be made as a part of the common elements.**
- (h) **May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property . . .**

Furthermore, NRS 116.3112(1) specifically governs the encumbrance of common elements and provides that (emphasis added):

1. In a condominium or planned community, portions of the common elements may be conveyed or **subjected to a security interest by the association if persons entitled to cast at least a majority of the votes in the association, including a majority of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action;** but all owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. **Proceeds of the sale are an asset of the association.**

The Association has proposed acting according to Chapter 116 in acquiring the golf club by seeking a separate vote to encumber the common elements in order to acquire additional common element – both power vested in an association under Nevada law.

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Accordingly, it is our opinion that the Association will not be in violation of Article VII of the Articles should the Association, pursuant to a satisfactory (and separate) votes to both amend the CC&Rs and to encumber common elements, acquire the ArrowCreek Golf Club.

Sincerely,

**MADDOX, SEGERBLOM AND CANEPA, LLP**



Eva G. Segerblom