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VIA FIRST CLASS MAIL

Kristyne M. Schaaf-Olson
Murphy Schmitt Hathaway Wilson & Becke, PLLC
325 W. Gurley Street, Suite 102
Prescott, AZ 86301

RE: The Gardens at Willow Creek - Passmore

Dear Ms. Schaaf-Olson:

Thank you for your October 11, 2019 letter. Your general understanding of the Association's position is correct. However, the Board expects the Passmores to be in compliance with the Association's age restrictions by June 30, 2020. In other words, they expect that the Passmores will have made alternative living arrangements for Collin by that date. I would also like to take this opportunity to clarify the Association's intent with regard to Collin's use of common area. The Association's intent was simply that Collin be accompanied by Mr. or Mrs. Passmore when utilizing the recreational amenities, i.e. pool, clubhouse, etc., the same as any guest who would use these facilities. The Association's intent was not to require a chaperone everywhere Collin goes or to prevent him from "walking to and from the mailbox" as the Passmores have previously suggested.

As I have previously indicated, the Board is sympathetic to the Passmores' situation. All of the Board members understand that these are difficult circumstances. However, the entire reason for the community's existence as an age restricted community is to allow for deed restrictions that restrict children from residing in the community. The Housing for Older Persons Act allows for the operation of such deed restrictions, and the Association is not acting outside of the scope of this law.

The Board must balance the interests of all parties involved, not just the Passmores, but all of the other residents who purchased property in an age restricted community expecting the age restrictions to be followed. While some Association members have expressed support for Collin's residency, others have not, and have indicated to the Board that they expect the age restrictions to be enforced and that they may take action to see that the age restrictions are enforced if the Board allows Collin to reside in the community for an extended period of time.

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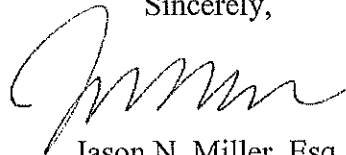
Arizona law places a duty on the Association to enforce its restrictions, including its restrictions on underage residents. *Gfeller v. Scottsdale Vista North Townhomes Ass'n*, 193 Ariz. 52, 969 P.2d 658 (Ct. App. 1998); *Johnson v. Pointe Community Ass'n*, 205 Ariz. 485, 73 P.3d 616 (Ct. App. 2003). This duty is not optional. The Passmores' request that Collin be allowed to reside in the community until he is 19 is asking the Association to ignore one of the community's most fundamental restrictions, and by doing so, risk a breach of duty claim against the Association by other residents. It also asks the Association to risk undermining the age restriction's effectiveness in the future by allowing for claims that the restriction has been waived. At this time, the Association is not willing to assume those risks.

Furthermore, the Architectural Committee's ability to grant the requested waiver is questionable. The intent of Article III, Section 5 appears to be geared towards waivers of architectural-related restrictions. That is why the Architectural Committee has the right to grant the waiver and not the Board. It could also be argued that the waiver does materially interfere with an owner's use and enjoyment of the property. Because the community is age restricted, another owner could reasonably expect that the age restrictions will be followed. Granting the waiver could materially interfere with that expectation.

The Board has given the Passmores one year to make other living arrangements for Collin because of the circumstances in this matter, but the Association cannot grant an additional three years. In coming to this decision, please understand that the Association has no ill will towards the Passmores or Collin, nor is it trying to make a difficult family situation more difficult. But on balance with all of the various interests, the Board cannot grant the wavier requested.

In conclusion, the Board will not extend its June 30, 2020 deadline at this time and expects the Passmores to be in compliance with the Association's age restrictions by the deadline. If Passmores would like to propose other options, the Board would be happy consider those options. The Board is also willing to meet with the Passmores in person if necessary.

Sincerely,



Jason N. Miller, Esq.

for

CARPENTER, HAZLEWOOD, DELGADO & BOLEN, LLP

cc: The Association