

November 18, 2022

Via US. Mail and Email:

NAME

ADDRESS

E: _____

RE: Dissolution Procedures

To Whom It May Concern:

This letter is intended to outline the mechanism by which Tonto Hills Improvement Association (“THIA”), through its Board of Directors’ (“Board”), could dissolve the THIA should it wish to do so.

Because the THIA Bylaws, Articles of Incorporation, and Declaration of Restrictions are silent on the issue, any dissolution would need to be completed consistent with Arizona statute. Dissolution would need to be a product of both a Board vote and a Membership vote.

A corporation can be dissolved by its members if the Board of Directors propose the dissolution and the members vote for the dissolution. *See* A.R.S. § 10-11402(A). In order to propose the dissolution, the Board would need to vote at a Regular Meeting of the Directors, a Special Meeting of the Directors, or an Executive Session of the Directors. *See* Bylaws of The Tonto Hills Improvement Association, Art. 4, § 3, 4, & 7. The act(s) of the majority of the Directors present at a meeting where there is a quorum will be the act of the Board of Directors as a whole entity. *Id.* at Art. 4, § 7.

Here, the Board of Directors must vote at an Executive Session of the Directors, a Regular Meeting of the Directors, or a Special Meeting of the Directors to present the THIA dissolution to the individual members. Then, the majority of the Members would need to vote in the affirmative for the dissolution.

If the dissolution constitutes a legal action,¹ then the Board will need to conduct an Executive Session. The Tonto Hills Improvement Association Bylaws mandates an

¹ If the dissolution does not qualify as a legal issue, there are two other routes for the Board of Directors to discuss the dissolution and vote: (a) a Regular Meeting of the Board of Directors; or (b) a Special Meeting of the Board of Directors. A Regular Meeting of the Board of Directors is held immediately after the Annual Meeting of the Members, and there are required quarterly Regular Meetings. *Id.* at Art. 4, § 3. A Special Meeting of the Board of Directors could be requested by the President or any two Directors. *Id.* at Art. 4, § 4.

November 7, 2022

Page 2 of 2

Executive Session when a Board Member requests and a matter to be discussed is shown as pending litigation or legal question.² *Id.* at Art. 4, § 10. It is unclear whether dissolution constitutes a legal question, but it would seem likely that it does as the product would be the legal dissolution of THIA. The Executive Session may be called by one member of the Board and may be conducted so long as there is a quorum at the Executive Session. The Board could vote on proposing the THIA dissolution to the individual members at the Annual Meeting of the Members or a Special Meeting of the Members. A majority of the Board has to vote in favor of presenting the dissolution to the individual members for vote.

Each member is granted one vote when voting on matters submitted for membership vote. *Id.* at Art. 2, § 2. There is one membership for each lot. *See* Articles of Incorporation § 11. Here, once the THIA dissolution has been voted on by the Board, the Board would propose the dissolution to the individual members. Then, the individual members would all have one vote in the affirmative or negative of the THIA dissolution at the Annual Meeting of the Members or a Special Meeting of the Members. Those members who have multiple lots would receive an additional vote per additional lot. If the majority of the members vote in favor of a dissolution, the THIA can be dissolved.³

Best Regards,

Katie Lane

² An Executive Session must consider one of the following: (1) legal advice from an attorney, (2) pending litigation or legal questions, (3) violations of the Code of Conduct by members of the Board, (4) personal information about an individual member of the association, (5) matters related to the job performance of Board members and employees, and (6) discussion of a lot owner's appeal for any violation.

³ There is no mention of a quorum at the Annual Meeting of the Members or a Special Meeting of the Members. A quorum may be required or the THIA has been conducting business with a specified quorum. Consequently, it is likely that a sufficient quorum is required in order for the members to be able to vote on the THIA dissolution.