

From: Erin McManis <emcmanis@mulcahylawfirm.com>
Subject: RE: Clarification points from Your May 8th memo
Date: May 13, 2014 at 11:41:50 AM MST
To: Richard Grady <richardggrady@gmail.com>
Cc: Beth Mulcahy <BMulcahy@mulcahylawfirm.com>

Hello Richard,

With respect to the conflict of issue with the Committee member, it is our legal opinion that it is a conflict of interest for a member of the Architectural Committee that owns Lots potentially being developed for commercial purposes to participate and vote in matters that would directly impact him personally. This would include participating and voting on matters. However, Statute would not prohibit a Committee member with a conflict of interest from abstaining from voting, it is our opinion that abstaining from both participating and voting is the best course of action.

In regard to commercial parcels being landlocked, an Owner can argue there would be an easement by necessity in that there would be a requirement to be allowed access to the parcel. Even if the parcel was landlocked at the time of purchase the owner could make the argument. I do believe the Association's obligations is to follow the terms of the Declaration, and if there needs to be an easement to access the parcel that would be between the adjacent owners and would not involve the Association (especially because the association does not own the roadways). If an Owner wanted additional parking, any action that the Association took would need to coincide with the parking provisions of the Declaration.

If you have any further questions, please let us know.

Thank you.

Sincerely,

Erin McManis, Esq.

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