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Mr. Paul Amundson
9060 NW 33rd Place
Newport, OR 97365

RE: AUO of North Shore Terrace Condominium

Dear Mr. Amundson:

We have been asked to advise the board as to whether decks and fences within North Shore Terrace Condominium are common elements, so that expenses for their repair and maintenance are common expenses of the association.

ANSWER:

Yes, repair and maintenance of decks and fences are common expenses of the association.

DISCUSSION:

As you know, the six buildings were constructed as separate stages of the condominium project, and each building is described and governed by a separately recorded declaration. I have reviewed each declaration in order to answer your question.

Decks. Each declaration, except that for Stage I (Building 86), specifically includes decks as limited common elements. Therefore, maintenance and repair of all decks is a common expense of the association. I noticed that one or more of the declarations referred to balconies, which are treated the same way.

Stage I has covered patios rather than decks. These patios are described as a part of each individual unit.

Fences. The declarations for Stages I-IV (Buildings 86, 66, 76 and 96 east, respectively) refer to six-foot "good neighbor" fences. Each states that this fence is a general common element. Accordingly, repair and maintenance would be a common expense of the association.

The declaration for Stage V (Building 96 west) gives the owner of each unit the option to construct the same type of fence to enclose the unit's limited common element yard and/or limited common element entryway. I do not know whether some or all of these four units have such fences. The declaration does not specifically state that this fence, if constructed by an owner, will be a general common element. I conclude that it is, both for consistency and because it is not defined as a limited common element, so it must be a general common element. Of course, repair and maintenance is a common expense regardless of what kind of common element it is.

The same applies to Stage VI (Building 85), except that the declaration refers to existing fences rather than those that may be constructed by the individual owners.

I hope this sufficiently answers your question. If you have any follow-up questions, please feel free to let me know.

Very truly yours,



CLIFFORD G. COLLARD

CGC/pkh