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March 11, 2021

Attn: Kris Stanton, President  
Board of Directors  
Westwood Village Homeowners Association, Inc.  
**Transmitted via email to: [meclimbin@aol.com](mailto:meclimbin@aol.com)**

Dear Kris:

I have been asked to provide an opinion as to whether the real property adjacent to the "Bullfrog Unit" is Limited Common Area thereby entitling the owner to exclusive use. In responding to this request, I have reviewed all recorded condominium documents beginning with the original Declaration recorded October 25, 1973, and all of the amendments, addendums and restatements up through and including the First Amendment to the Second Amended and Restated Declaration of Westwood Village Condominium filed August 27, 2018. I have also reviewed the Idaho Condominium Property Act codified at Idaho Code §15-1501.

The first reference to the Bullfrog Unit is found in the Addendum #3 to Declaration of Condominium recorded as Instrument No. 204363, where it was contemplated that the "Bullfrog" shall contain one unit consisting of a single family residence with the precise location of the footprint of that building to be determined at a later date. The first deed relating to the Bullfrog Unit is a Warranty Deed recorded as Instrument No. 358289, from Grantors Homme to Grantees Schubert filed February 1, 1989, describing the premises as follows:

The right to construct the Bullfrog Unit of the Westwood Village Condominium, according to the Amendment and Restatement of Westwood Village Condominium Declaration, recorded as Instrument No. 288945, records of Bonner County, Idaho, and as amended by Amendment and Restatement recorded December 3, 1987, as Instrument No. 343148, records of said county.

The foregoing Warranty Deed is conveying to the Grantees the right to build the Bullfrog Unit on Common Area property of Westwood Village as authorized by Addendum No. 3 to the Declaration of Condominium.

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By instrument executed July 1, 1989, the actual footprint for the Bulldog Unit was approved by the Westwood Village Homeowners Association by Amendment to the Declarations recorded July 21, 1989, as Instrument No. 364016. This Declaration identifies the specific dimensions of the Bullfrog and further provides:

“THE BULLFROG UNIT IS A SINGLE-FAMILY RESIDENCE, CONSISTING OF THE EXTERIOR WALLS, ROOF, AND FOUNDATION OF SAID RESIDENCE AND ALL ENCLOSED THEREBY. ALL OTHER AREA WITHIN THE BOUNDARIES OF THE SITE NOT WITHIN THE UNIT OWNERSHIP SHALL REMAIN COMMON PROPERTY OF WESTWOOD VILLAGE.”

The subsequent deeds of conveyance describe the premises simply as the “Bullfrog Unit” as described in the Condominium Declarations and their subsequent amendments.

The Bullfrog Unit was approved as a single family residence to be placed on Common Area and other than the footprint of the building, there is no evidence of any additional conveyance of property surrounding the Bullfrog Unit from the Westwood Village Homeowners Association. Therefore, the property surrounding the Bullfrog Unit retains its status as Common Area owned by the Unit Owners within Westwood Village.

I was intimately involved in the extensive project to amend and restate the Declarations of Condominium during 2012 and 2013. The purpose behind that project was to consolidate and clarify the Declaration of Condominium and all of the numerous amendments and addendums. I worked closely with Rocky Seelbach and the Board in drafting the Second Amended and Restated Declaration of Condominium. There was no intent to address any ownership rights relating to property within Westwood Village other than a small parcel of property near the entrance that was acquired from Westwood Terrace. Considerable time was spent attempting to distinguish the different treatment between multi-family units within Westwood and the single family units as they are treated differently relating to maintenance and repair. In hindsight, including the Bullfrog (which is a single family residence) in the discussions regarding Lots 16, 18, 19 and 42 may have created some confusion but, clearly, was not designed to create property rights that did not exist. Lots 16, 18, 19 and 42 are independently owned legally described lots which were included within the Declaration of Condominium. They were and still are legal lots that are titled in the name of the owners. The property where the Bullfrog is situated is not a legal lot and title to the real property lies with Westwood Village Homeowners Association subject to the condominium form of ownership similar to the multi-family units throughout the

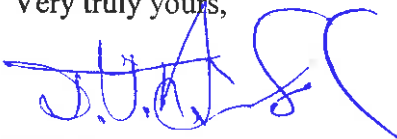
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subdivision. There were significant discussions that the maintenance and repair responsibilities associated with the Bullfrog were more closely aligned with the four individually owned lots and it was for that reason that the Bullfrog was treated differently than the multi-family unit dwellings.

Perhaps the Second Amended and Restated Declaration of Condominium created an ambiguity but, it does not change the ownership of the real property. In my opinion, the owner of Bullfrog owns the footprint where the improvements were constructed and is responsible for the maintenance and repair of not only the interior but also the structural and exterior of the unit. In my opinion, the land surrounding the Bullfrog Unit remains Common Area which perhaps could be converted to Limited Common Area following the procedures that are available through the Westwood Village Homeowners Association.

I hope the foregoing will assist in your discussions relating to this issue.

Very truly yours,



J. T. Diehl

JTD/da

Enclosure