



LAW OFFICES
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP

Michael T. Schulman
mschulman@wrslawyers.com

RN5034-001

February 19, 2020

VIA ELECTRONIC MAIL
tracy.carter@fsresidential.com

Board of Directors
Somerset Owners Association
c/o First Service Residential
7650 Town Square Way
Reno, Nevada 89523

Attention: Tracy Carter

Re: Somerset Owners Association (the "Association")

Dear Board Members:

This is a letter which is not subject to the attorney client privilege and which may be disseminated to members of the Association regarding certain matters in which we are presently representing the Association. The purpose of this letter is to apprise the members of such matters and/or for them to utilize such letter in complying with NRS 116.4109 if they are selling their homes.

Somerset Owners Association v. Somerset Development, et al.

Washoe County District Court Case No. CV17-02427
Nevada Supreme Court Case Nos.: 79920 / 79921

On December 29, 2017, on behalf of the Association, we filed a civil action against Somerset Development and other parties regarding defects found by American Geotechnical in the over 70,000 lineal feet of common area rockery walls. One day earlier we served the NRS Chapter 40 defect notices on the same entities. The developer has engaged counsel who has been in contact with the Association's counsel to discuss preliminary issues and scheduling. We will be in a position to provide more details in future updates as the litigation proceeds.

On April 11, 2018, a Doe Amendment to the Complaint was filed, substituting true named parties for fictitious names.

Inspections of the property took place on April 23, 2018. On April 27, 2018, Parsons Bros Rockeries California, Inc. was dismissed without prejudice and on May 10, 2018, Parsons Rocks! LLC was also dismissed without prejudice.

On May 3, 2018, a First Amended Complaint was filed on behalf of the Association. On May 10, 2018, a Stipulation and Order for Dismissal Without Prejudice was filed, dismissing Parsons Rocks! LLC.

Mediation between the principal litigants was held on June 22, 2018. Mediation proceedings are confidential, so the details of the session cannot be disclosed. However, although the case did not settle, significant progress was made among and between respective counsel regarding certain procedural matters which will expedite determining the rights of the parties and the course of the case.

On July 31, 2018, as part of discovery, we began disclosing documents to all parties on behalf of the Association and will continue to disclose as required by the rules.

On August 13, 2018, Q&D Construction filed its Answer to the First Amended Complaint. On August 17, 2018, Somerset Development Company filed an Answer to the First Amended Complaint and Cross-Claim. On August 17, 2018, Somerset Development Company, Somerset LLC and Somerset Development Corporation ("Somerset Defendants") filed a Demand for Jury Trial. On August 21, 2018, Parsons Bros Rockeries filed its Answer to the First Amended Complaint. On August 29, 2018, the Somerset Defendants filed a Third-Party Complaint against Stantec Consulting, Inc., which filed its Answer on August 30, 2018.

On August 31, 2018, a Request for Exemption from Arbitration was filed due to the case involving an amount in excess of \$50,000 per plaintiff. The Request was unopposed and granted on September 11, 2018.

The Early Case Conference took place on September 11, 2018, and the Joint Case Conference Report was filed on October 17, 2018. The discovery cutoff was set for December 31, 2019, with a jury trial scheduled for February 3, 2020.

The discovery phase commenced with the parties propounding discovery requests and responding to the requests.

On December 26, 2018, a Notice of Repairs was served upon the parties notifying them that repairs, alteration, and/or modifications on the slope stabilization will commence on or after

January 21, 2019, in the common area along Gypsy Hill Trail at Timaru Trail. The repairs will continue until completion. Additional inspections took place on February 15, 2019.

On January 17, 2019, on behalf of the Association, we filed a Motion to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose. With client permission and pursuant to stipulation, Parsons Bros Rockeries was dismissed out of the Association's January 17, 2019 Motion to Strike Certain Affirmative Defenses on March 26, 2019.

On January 31, 2019, Defendant Parsons Bros Rockeries served their First Set of Requests for Admissions upon the Association and Defendant Somerset Development Company. The Association and Defendant Somerset Development Company responded on March 5, 2019.

On March 26, 2019, Somerset Development Company filed a Separate Motion for Summary Judgment based on the statute of repose. On that same day, Defendants also filed a companion Joint Motion for Summary Judgment based on the provisions of NRS 40.668. Plaintiff filed Oppositions on April 26, 2019.

On April 24, 2019, Parsons Bros Rockeries filed a Motion for Summary Judgment against the Association and Somerset Development Company based upon the fact that Parsons was legally dissolved as of October 18, 2019, and is protected under NRS 78.585 which provides a three-year limitation period to sue dissolved corporations.

On May 7, 2019, counsel for Stantec issued a letter challenging certain opinions and conclusions of Plaintiff's expert witnesses as expressed in Plaintiff's opposition pleadings, as well as the arguments based on these opinions and conclusions. Supplemental Declarations and exhibits were filed in response on May 13, 2019, along with a reply letter.

On May 8, 2019, a Stipulation and Order was filed vacating the current February 3, 2020 trial date along with all related pretrial dates and deadlines, including all discovery deadlines previously agreed to by the Parties. The parties were ordered to meet and confer within ten days of the ruling to reset discovery and trial deadlines.

All briefing for the March and April Motions for Summary Judgment was completed and submitted to the Court for ruling. A hearing was requested in Plaintiff's Motion and opposition pleadings, however, whether to set a hearing is discretionary with the Court.

On July 2, 2019, the Court issued Orders on both Defendant Somerset Development Company and Defendant Parson Brothers Rockeries' Motions for Summary Judgment. The

Order stated that the “statute of repose and statutes of limitations issues are potentially case determinative and may render this motion practice moot. The Court would also note the parties have only conducted discovery into the statute of repose and statutes of limitations issues, as discovery was divided into phases.” “For this reason, the Court believes delaying a ruling on this motion practice is the prudent and efficient course of action.” Both parties may re-submit their Motions following the Court’s ruling on the Motions for Summary Judgment heard July 15, 2019.

Plaintiff’s Motion to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose, Defendants’ Motion for Summary Judgment and Somerset Development Company’s Separate Motion for Summary Judgment were heard on July 15, 2019.

On October 2, 2019, the Court granted Defendants’ joint Motion for Summary Judgment and denied Somerset Development’s Motion for Summary Judgment and Plaintiff’s Motion to Strike as moot. November 1, 2019, is the deadline in which to appeal the rulings. All Defendants filed Memorandum of Costs. Defendants Somerset Development Company and Q&D Construction also filed Motions for Attorney’s Fees.

The Board met with counsel on October 21, 2019, and discussed case strategy and appeal. The trial dates in this matter were vacated pending the appeal process.

On November 1, 2019, on behalf of the Association, two Notices of Appeal were filed as to the Order Denying Plaintiff’s Motion to Strike Certain Affirmative Defenses Relating to Statutes of Limitations and Repose, entered on October 3, 2019, (NSC Case No. 79920) and to the Order Granting Defendants’ Motion for Summary Judgment, entered on October 2, 2019, (Case No. 79921). Both appeals were assigned to the NRAP 16 Settlement Program.

On November 13, 2019, the parties conducted a telephonic conference with the Settlement Judge. Mediation in this matter is set for March 13, 2020.

On November 22, 2019, a Motion for Certification of Final Judgment for Purposes of Appeal was filed on behalf of the Association, of which Defendants agreed not to oppose. On December 9, 2019, the Order granting Plaintiff’s NRCP 54(B) Motion for Certification was filed.

On November 25, 2019, Oppositions were filed against each Defendants’ Motion for Attorneys’ Fee. Additionally, on November 25, 2019, a Request for Judicial Notice was filed. On December 20, 2019, Defendants filed Requests for Submission regarding the motions for attorney’s fees requesting the Court render a decision. On January 9, 2020 and January 10, 2020, Applications for Judgment for Costs were filed by Defendants.

Board of Directors
Somerset Owners Association
February 19, 2020
Page 5

On February 5, 2020, the Court granted Somerset Defendants and Stantec's respective Applications for Entry of Judgment for Costs. Additionally, on February 5, 2020, Defendant Q&D Construction filed an Application for Entry of Judgment for Costs. The Application was granted on February 10, 2020.

On January 31, 2020, the Court denied Parson's Motion for Attorney's Fees. On February 10, 2020, the Court denied Q&D's Motion for Attorney's Fees and on February 12, 2020, the Court denied Defendant Stantec's Motion for Attorney's Fees.

The appeal briefing is on hold pending the March 13, 2020 mediation.

Except as stated herein, the undersigned knows of no other pending litigation of the Association, as of the date of the writing of this letter. You should contact the Community Manager to determine whether or not the Association is involved in any other litigation matters.

Very truly yours,

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP



MICHAEL T. SCHULMAN

MTS:tam