

**The Ranch at Prescott
Homeowners Association
P.O. Box 10000
Prescott, AZ 86304
(928) 776-4479
(928) 776-0050 (Fax)
October 26, 2006
HOA Council Meeting Minutes**

Council Members in attendance were: Phil Alvarado – Unit I, Janet Aldridge – Unit II, Russ Parker – Unit III, Mike Enders – Unit IV, Kent Robinson – Unit V, Ron Knudsen - Unit VI, Dion Mannen - Unit VII-1, and Scott Lee - Unit IX. Bob Tinney – Unit VII-1, was absent. Approximately 22 non-council/alternate homeowners were in attendance.

Bob Balzano called the meeting to order – Introduced the newly elected Chairman, Dion Mannen and Vice Chairman, Russ Parker. The meeting was then turned over to Dion Mannen.

On behalf of the Council, Dion Mannen thanked Kent Robinson, the out-going Chairman, for an excellent job over the last year to year and a half.

Approval of the 8/24/06 Meeting Minutes

Dion Mannen called for a motion to approve the minutes of the August 24, 2006 Council Meeting. Russ Parker moved to approve the minutes; Mike Enders seconded the motion. There being no discussion, the minutes were unanimously approved.

Dion Mannen called for a motion to approve the minutes of the Special Council Meeting of September 28, 2006. The purpose of the meeting was to select the Council Chairman and Co-Chairman for one year terms. The minutes of the Special Meeting were read by Bob Balzano. Kent Robinson moved to approve the minutes and Russ Parker seconded the motion. There being no discussion,

the minutes were approved. Mike Enders abstained from the vote as he was not present at the Special Council Meeting.

Public Communications

Bill Preston, 3119 Rainbow Ridge Drive, expressed his concerns that the financial records of the Association had not been recently audited. During the Annual Meeting it was stated that a compilation of the Association financial records is published annually, but that a full audit is conducted only once every five to seven years since the cost per audit is approximately \$4,500.00. Mr. Preston felt this was a very long time between audits. Mr. Preston also felt it would be prudent to have the bank statements reviewed annually to confirm that the Association money is actually in the bank as represented. He recommended that an audit be done every third year.

Bob Balzano explained that there are four different options of establishing the Council's financial accountability: 1) a financial information compilation without notes; 2) a compilation with notes; 3) a financial review; and 4) an audit. Any of these procedures are performed by an outside CPA firm. These options will be presented to the Council at the November meeting so that they may decide on which procedure is most efficient and effective for the Association. A method must be selected and the 2006 information compiled before June 1, 2007. In the interim the Council is provided with a monthly balance sheet; income and expense statements; check register and delinquency reports. Copies of the financial information are posted on the web-site and members who would like copies may contact Bob Balzano and copies will be provided. Additionally, in order to alleviate any concerns regarding bank account balances, Bob Tinney, Association Treasurer, can review Association bank statements at any time.

Old Business

a. HOA Web-site Update – Phil Alvarado

The cost for our consultant to update the web-site during the last three months was \$300.00. This was a little higher than usual as \$50.00 of the total was for training provided to Ray Waguespack and Phil Alvarado so they would be able to update the web-site themselves. This training was not successful, but we are hoping to reduce our future costs somewhat. For example, if Bob Balzano combines the three financial reports currently posted into one file, it may cost less to upload. Any ideas and suggestions are welcome.

The agenda for the Council Meetings is usually posted about one week prior to the meeting, but this was not done for October. Mr. Balzano is most contrite in forgetting to forward the agenda for posting on time this month.

The Fall edition of the HOA Newsletter is now posted. Phil is happy to announce that Rosalie Naigle has expressed her interest in taking over the Newsletter at the start of next year. The HOA Newsletter will be placed on the November agenda. Ray Waguespack has some opinions and suggestions regarding its distribution.

Mr. Alvarado suggested that whenever we send out any all-member correspondence we should include our website address. There are still many in the association who are not aware of the website.

There was one complaint from a member that stated the website was not user friendly. Bob Balzano has asked the sender to amplify their comments so we can improve.

b. Re-cap Annual Meeting – Kent Robinson

The Annual meeting was held at the Yavapai College Performance Hall. There were approximately 150 members present. There was a good exchange and many good comments from the audience. The meeting lasted approximately 1.5 hours. Please forward your comments and suggestions for next years meeting to Dion Mannen.

c. HOAMCO's Contract Renewal

Kent Robinson recapped the information that he gave at the August Council meeting regarding putting HOAMCO's management contract with the Association up for competition. On August 30 a letter notice was sent to HOAMCO notifying them that the management services contract would be competed. A committee consisting of Bob Tinney, Rosalie Naigle and Dick Tetreaut was appointed to prepare and issue a request for proposal (RFP), evaluate responses and make recommendations to the Council. Mr. Robinson then turned over the floor to Rosalie Naigle to report on the status of this activity.

Ms. Naigle reported that three RFPs were submitted locally and one in Phoenix. Locally, the A-1 Community Management Company declined to propose stating that it was not in a position to handle an association the size of The Ranch at Prescott. The Pierce Management Company stated that it was not taking any new business at this time. The Reedy Group have closed their Prescott office and were not issued an RFP, Therefore, only two proposals were received, one from HOAMCO and one from the management company in Phoenix. These proposals were just received and will be reviewed by the Council for action at its November meeting.

d. 2007 Budget Status – Rosalie Naigle

Rosalie Naigle reported on behalf of the budget committee. Ms. Naigle reviewed the proposed 2007 budget. In summary, there will be no increase in

the annual assessments. More money will be allocated this year toward weed abatement and a quarterly newsletter has been added to the budget. Although \$7,200 has been budgeted for the newsletter, Ms. Naigle stated that her research indicated she could get it printed and distributed for substantially less than the budgeted amount. She has several bids for printing that are less than the amount budgeted. Currently, a copy of the newsletter is posted on the website.

Ray Waguespack, 3006 Rainbow Ridge Drive, stated that there is no state statute that requires an Association to publish a newsletter and/or the minutes of the meetings and, in his opinion, the money budgeted will be wasted. The newsletter should only be distributed by posting on the web-site.

Dion Mannen commented that there are people who do not use the computer and they have a right to see what is going on with the Association. Further, communication with all the members of the Association is a priority with the Council.

Ray Waguespack commented that he would rather see the money spent on an audit, tax preparation, etc.

Bernie Cygan, 549 Sandpiper Drive, stated he also owns property in another development and receives a quarterly newsletter which he finds to be very enlightening. He felt there was an obligation to communicate with all the owners in The Ranch whether residents or nonresidents and likes the idea of the quarterly newsletter.

Molly Pendergast, 699 West Lee Blvd., asked whether the quotes that Ms. Naigle received included printing, collating, and stapling. Ms. Naigle said they did.

Dion Mannen called for a motion approving the operating budget for 2007. Kent Robinson moved to approve the budget; Phil Alvarado seconded the motion. There being no further discussion, the motion was unanimously approved.

e. Update Proposed CC&R Changes – Kent Robinson

Kent Robinson gave an update on the proposed CC&R changes that were discussed during the August Council meeting. At that meeting Mr. Robinson put forward a proposed change dealing with staggering the terms of the Council Members so as to avoid a situation where the entire Council might be replaced at the same time. Mr. Robinson provided the Council with the proposed language for review and asked that the Council be prepared to address this issue at the November meeting. The proposal provides that an

election for half of the Council seats would be conducted each year in September for terms of two years.

f. Unit IX Representation – Kent Robinson

Kent Robinson reported that at the August, 2006 Council meeting a legal opinion was provided by Carpenter & Hazelwood in response to the question raised by Joe Pendergast regarding whether Scot Lee was an “Owner” of property in The Ranch as the term “owner” is defined in the CC&Rs, when he was elected to Council in 2005. Briefly, the issue is whether, according to the language of the CC&R’s, Council members candidates need to be “Owner’s of Record” (Deed recorded with Yavapai County). Scot Lee has provided the Council with evidence that he had a valid deed to his property prior to the time of the election; but that deed was not recorded and therefore not a matter of record. The Carpenter & Hazelwood opinion stated that, according to the CC&Rs, Mr. Lee must be an Owner of Record to be a Council member, however noting that this was a technicality that could be corrected by his recording of the deed. Mr. Robinson stated he believed this to be a narrow interpretation of the CC&R’s, possibly not consistent with Arizona law..

As requested at the August Council meeting, Scot Lee provided the Council with his attorney’s opinion regarding the legal definition of property ownership in Arizona. This opinion does not agree with the Carpenter & Hazelwood interpretation of the Association CC&Rs.. In summary, Mr. Lee’s attorney’s opinion states that a deed is the evidence of property ownership, not the act of recording it; Recording the deed simply gives notice to third parties of the ownership. Mr. Robinson explained that his own attorney told him if these conflicting opinions were submitted to the Courts for a decision, a Judge would likely not even consider the case.

Dion Mannen advised that in all of the legal opinions received no one says the Council has done anything illegal. Now a possible technicality has been raised, which has been remedied by Mr. Lee’s recording of his deed.

Bernie Cygan, 549 Sandpiper Drive, advised that he was tired of reading about this issue in every month’s Council minutes. It takes a great deal of the Council’s time and then it is tabled and brought up again at the next meeting.

Mike Enders reminded the Council that even Carpenter and Hazelwood advised that the simple solution was for Mr. Lee to record his deed, which he did.

Phil Alvarado made four recommendations to the Council regarding the Unit IX representation that are contained in the following statement"

"Jim Lee is our Developer and Declarant; he created our CC&Rs. The CC&Rs created the ARC. Jim Lee has the authority to appoint the head of the ARC; Jim has appointed Scot Lee to head the ARC.

Other than possibly Jim, Scot knows more about the history, function operation and direction The Ranch is and should be taking. Scot is our most direct contact with Jim Lee. At our stage of development, the HOA and HOA Council badly needs what Jim and Scott can provide in the form of information, direction and advice. The most effective means of maintaining this valuable resource is to have Scot on the HOA Council.

- 1) Make whatever changes to the CC&Rs that would provide a permanent seat on the HOA Council to whomever is the head of the ARC. This would provide a continued and permanent link on the council by the Developer's appointed ARC chairman and our most important HOA committee.
- 2) Limit the seats that a HOA Council person may hold at any one time to one. This would permit both the ARC Chairman and Unit IX representative to separately be on an equal footing with the Council representative from other units.
- 3) If the above suggestions are acted upon, the Council would appoint a Unit IX representative to fill the position vacated by the current ARC representative until the next regular OA election at which time a Unit IX representative would be elected. This would hopefully clear up the potential legal problems we are facing today.
- 4) Table the Unit IX representation items that are now on today's agenda until the above suggestions are considered, research and possible action on."

Kent Robinson suggested the Council table the issue until it had a time to review Mr. Alvarado's suggestions. He stated that the suggestions have merit, but would require a CC&R change.

Kent Robinson moved to table this issue; Phil Alvarado seconded the motion. Additional discussion ensued.

Dion Mannen expressed his concern with the fact that a minor technicality has again given this issue a high priority stating that we need to move on. This is a dead issue.

A vote was taken and the motion to table this issue was denied by a vote of six to two.

Kent Robinson stated that the fact of the matter is that in any event the Council does not have the authority to remove Scott Lee. Removal of a Council Member must be done by a two-thirds majority vote of the Association Members. He stated that the Council's action that resulted in

ending Unit VIII representation by Jim Lee was in response to a different issue. We did not remove a Council Member, we found any representation of Unit VIII to be invalid. No further action taken.

New Business

a. Pendergast Letter – Dion Mannen & Kent Robinson

Dion Mannen reported that just prior to the annual meeting Mr. Joseph Pendergast wrote a letter to the property owners in Unit IX. Among other things, the tone of the letter brought into question the integrity of the Council.

Kent Robinson also stated that the title block of the letter from Mr. Pendergast to Unit IX property owners was misleading. It identified Mr. Pendergast as "Advocate for Fair Representation, "Ranch at Prescott" Homeowners Association Board of Directors." Mr. Robinson stated that Mr. Pendergast is not authorized to act for the Council, nor is he a Member of the Council. Therefore, upon advice of legal counsel, Mr. Robinson (then Chairman) sent a message to Mr. Pendergast and Unit IX property owners disclaiming Mr. Pendergast's representation of Council. Mr. Robinson stated he hoped that Mr. Pendergast's misrepresentation was an oversight made without too much thought.

Dion Mannen advised that at the annual meeting a statement was made from a concerned resident proposing a class-action lawsuit if needed to preserve the integrity of the community and its Architectural Review Committee and processes. Mr. Mannen went on to state he wanted to submit the letters from Mr. Pendergast, Mr. Lee's attorney and the Council into the record so that, if referred to later, the record is complete. The letters are attached hereto as Exhibits 1 (Letter from Mr. Pendergast), 2 (Mr. Lee's attorney's response), 3 Email from Kent Robinson), 4 (Mr. Pendergast's second letter to the Council), and 5 (Kent Robinson's and Dion Mannen's response).

Mike Enders stated that the hashing and rehashing of the Unit IX representation issue was a waste of time. He then moved that Agenda items 6f and 7a should not be brought back before this Council in their present form. The motion was seconded by Kent Robinson.

Rosalie Naigle stated that she said it when this issue first arose, and still believes, that the Unit IX representation matter is nothing more than a personal vendetta and not a Council issue.

The motion of Mr. Enders was approved by an affirmative Council vote of six Members

b. Manager's Report – Bob Balzano

Bob Balzano presented the Manager's report.

Mr. Balzano received two bids for weed abatement, and trail maintenance which are broken down into the following categories:

Nature Trail – Repair of erosion

Common Ground:	\$ 1,069.00
Johnny's Tree Service:	\$ 745.00

Weed abatement - easements and roads

Common Ground:	\$ 2,712.00
Johnny's Tree Service:	\$ 2,415.00

Totals: Common Ground \$5682.00: Johnny's Tree Service \$5,290.00.

Phil Alvarado moved to accept the bid from Johnny's Tree Service; Russ Parker seconded the motion. The motion carried unanimously. Johnny's Tree Service will start on the project next week. It will start with cutting the weeds in the easements and the project should be completed within four (4) weeks.

It was brought to Mr. Balzano's attention that there are a few dead trees remaining on the side of the tennis courts just past the bridge. Additionally, Mr. Balzano was asked to check into having the abandoned culvert pipe in the retention basin hauled off.

Financials Reports 8/31/06

Desert Hills Bank Operating Account	\$ 35,217.36
Desert Hills Bank Operating MM Account	\$103,599.28
Desert Hills Bank Reserve Account	\$ 17,457.08
Accounts Receivable Assessments	\$ 1,875.00

Compliance: 42 compliance notices were issued to owners as a result of property inspections for the month of October, 2006. 468 notices have been issued year to date.

The November council meeting will be held Thursday, November 30 at 3 p.m. to accommodate Thanksgiving. There will not be a Council meeting for the month of December 2006.

The ARC meetings are held the second and fourth Wednesdays of each month. Submissions are due by noon on the first and third Wednesdays of each month.

c. Proposed Compliance Policy – Bob Balzano

Mr. Balzano presented the proposed compliance policy to the Council. This policy was developed in order to comply with new State of Arizona legislation which went into effect on September 21, 2006 and has been reviewed by an attorney specializing in association-related matters. Discussion ensued and Russ Parker suggested one change. add the word “business” regarding 10 “business” days notice throughout the policy for consistency. Mike Enders moved to authorized HOAMCO to apply the new compliance policy as outlined and to include Mr. Parker’s suggestion. Kent Robinson seconded the motion. The motion was carried unanimously.

Janet Aldridge asked whether the compliance policy could be adopted by the Oaks. Mr. Balzano advised he had talked with Jane Kirkland, President of the Oaks, and she seemed amenable to accepting the compliance policy.

d. Real Estate “For Sale” Sign Specifications – Scott Lee

Scott Lee advised the Council that realtors have not been complying with the signage policy and the posting application language which sets forth specifications for signs in the Community. Scot reported that many signs are now the wrong color, the wrong size and contain the wrong information. This policy also applies to homeowners selling their own property. Although this is an ARC issue, Mr. Lee asked the Council if he should enforce the language of the policy by removing those signs not in conformance. The Council agreed this was the appropriate action to be taken.

e. Other Business

Joe Pendergast, 699 West Lee Blvd., requested clarification that the possible class-action lawsuit that the Council had earlier referred was not a suit he was involved in. Dion Mannen stated the possible class-action suit was referred to by a resident at the annual meeting with regard to those challenging the CC&Rs. Mr. Pendergast stated he would also be in favor of a class-action suit if the CC&Rs are challenged and the rules are not followed.

Dion Mannen called for volunteers to assist Bob Balzano with the inspections of the Community. The next inspection will be Monday, November 13, 2006.

The meeting was adjourned at 5:05 p.m.

Respectfully,

Phil Alvarado

Attachments to HOA Minutes of 10/26/2006

Attachment #1

August 29, 2006

Dear Mystic Heights Property Owner:

In 2005 the "Ranch at Prescott" subdivision went through its transition from developer (declarant) control (Bullwhacker Associates - Jim Lee) to property owner control in accordance with the provisions of the CC&R's. This occurred when the developer's voting power (15 votes per lot) became less than the voting power of the individual property owners (1 vote per lot). As that point approached, Jim Lee appointed the first Homeowners Association Board of Directors consisting of one representative for each of the 9 Units of development plus one extra for Unit 7, it being a very large unit.

After the transition occurred, an election was held in September of 2005 whereby the property owners got to vote for their first Board to "replace" the Board appointed by the developer. A letter was sent to each property owner soliciting candidates for this election. That letter stated that "the candidate must reside in his Unit". Subsequent to that, in a private meeting, the developer-appointed Board changed that rule to allow any property owner (not just one residing in the subdivision) to run for office. This information was not communicated to any of the property owners. Also, just before the deadline for voting for the new Board, Jim Lee sent out a letter campaigning for his appointees and incorrectly stating that the Ranch Social Club was trying to take over and control the new Board. This letter was received by the property owners the day before the voting deadline. Needless to say, the vast majority of the developer's candidates were "elected". "Elected" is in quotes because, with the property owners believing that they had to actually reside (live in) the subdivision, there was NO competition in several Units to Jim Lee's candidates and they took office "by acclamation" (those Units' property owners didn't even get to cast a vote).

Such is the story in your Unit 9, Mystic Heights. Scot Lee, son of the developer, was "elected" by acclamation, although he was not even a property owner at the time of the election and therefore not even a member of the Homeowners Association. He just recently, August 2006, recorded a deed on lot 54 of Mystic Heights. In essence, his position on the Board of Directors for the past 12 months has been a fraud. However, unless someone owning property in Mystic Heights would declare their eligibility and volunteer to take a position on the Board of Directors of the Homeowners Association, the present remaining Board will, in all likelihood, appoint Scot Lee again to that position. This, after the manner in which he unqualifiedly assumed the position in the first place. He already is, together with his father Jim Lee, the present ruling majority of the Ranch Architectural Committee.

The purpose of this letter is to solicit your interest in being on the Board. It requires merely attendance at their monthly meetings, without missing three in a row, until September, 2007, when the next election will be held. Consider it. It has its personal rewards in that you will be a big influence in how your property investment is protected. I, myself, cannot represent Unit 9 because my property is in another Unit.

The Annual Meeting of your Homeowners Association is scheduled for Friday, September 28 at 3 PM in the Yavapai Performance Hall. You must be there even if you do not plan to run for the position. It is the only meeting of the year when the attending property owners can strongly influence the Board's actions and even over-rule them.

Joseph W. Pendergast
(928) 776-7115

Advocate for fair representation, "Ranch at Prescott"
Homeowners Association Board of Directors.

Attachment #2

The Law Firm of

Favour Moore & Wilhelmsen, P.A.

1540 Plaza West Drive
Post Office Box 1791
Prescott, Arizona 86302

Telephone (928) 443-2444
Facsimile (928) 771-0450
fmw@fawill.com
MargueriteKirk@fawill.com

Marguerite Kirk

September 26, 2006
File No. 8373.121

via Personal Service

Joseph Pendergast
699 West Lee Blvd.
Prescott, Arizona 86303

Re: Your Letter to Mystic Heights Property Owners

Dear Mr. Pendergast:

As you are aware from your prior litigation against my client, this firm represents Scot Lee. Our client has brought to our attention a letter you have authored dated August 29, 2006, and sent to all homeowners in Unit 9, commonly known as Mystic Heights. A review of your letter raises several serious concerns about the veracity of its contents as well as your motivation in defaming my client.

Several of your allegations in the letter you have forwarded to Mystic Heights homeowners are simply false. You contend that my client "was elected" by acclamation, although he was not even a property owner at the time of the election and therefore not even a member of the Homeowners Association." (*Emphasis in original removed*). This allegation is absolutely false, and you are aware of its falsity. My client does in fact own land in Unit 9 and has for quite some time. Your allegation to Unit 9 homeowner's that my client's "position on the Board of Directors for the past 12 months has been a fraud," is a blatant mischaracterization of facts with the obvious intent of impugning my client's integrity.

Your statements are actionable as defamation *per se* and constitute injurious falsehoods. *Aldabbagh v. Arizona Dept. of Liquor Licenses and Control*, 162 Ariz. 415, 783 P.2d 1207 (App. 1989); *Hirsch v. Cooper*, 153 Ariz. 454, 737 P.2d 1092 (App. 1986); and *Western Technologies, Inc. v. Sverdrup & Parcel, Inc.*, 154 Ariz. 1, 739 P.2d 1318 (App. 1986).

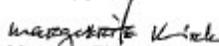
This correspondence is to demand that you immediately retract your baseless comments about my client that you have made to all Mystic Heights homeowners. We demand that your retraction be made at the homeowner's meeting scheduled for September 28, 2006, at 3:00 p.m. that you reference in your letter. Alternatively, we would request that you write a letter of

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retraction and immediately forward it to all Unit 9 homeowners. Should you choose not to do so, we can only conclude that you forwarded your August 29, 2006, letter to Unit 9 homeowners in an obvious attempt to disparage and defame my client, and clearly motivated by your ill-will toward my client.

^{AND}
If you do not immediately cease from retracting your defamatory letter, and from making further slanderous statements, my client has directed us in accordance with Arizona law to take all appropriate legal action, including bringing an action against you for defamation and injurious falsehood.

Very truly yours,


Marguerite Kirk
For the firm

cc: Scot Lee

Attachment #3

Page 1 of 1

Subj: **Your Letter to Mystic Heights Property Owners**
Date: 9/27/2006 2:21:32 P.M. US Mountain Standard Time
From: akrbcr@msn.com
To: brassring@peoplepc.com
CC: MargueriteKirk@cableone.net, tilsoy@msn.com, reparker@cableone.net, MGEnders@aol.com, ronandbarb@mailstation.com, Dionmannen@aol.com, tinneys2@hotmail.com, scotlhoan15@hotmail.com, dangleisner@hotmail.com, sranss@worldnet.att.net, Ray520w@aol.com, bobjan@cableone.net, robert@hoamco.com, aldridge3549@cableone.net

Mr. Joe Pendergast:

Today I received a copy of a letter bearing your signature that was sent to Mystic Heights (Ranch at Prescott Unit 9) property owners on August 29, 2006. This letter details your views regarding Scot Lee's September 2006 election as the Ranch at Prescott Homeowners Association Council Representative for Unit 9. I understand that Mr. Lee's legal representative has since sent a letter to you questioning the veracity of several allegations in the letter. However, this message is to inform you of a concern that your letter raises for me as Chairman of the Ranch at Prescott Homeowners Association Council. Specifically, I note that in the signature block of your August 29 letter you have identified yourself as "Advocate for fair representation, "Ranch at Prescott" Homeowners Association Board of Directors". Assuming that you meant The Ranch at Prescott Homeowners Association and/or its governing Council, you imply that you represent the Homeowners Association and Council. As you are well aware, neither the Ranch at Prescott Homeowners Association or its governing Council has appointed you or any other person as its "Advocate for fair representation". Therefore it appears that you have misled the property owners of Unit 9.

By copy of this message to Mr. Lee's legal representative, I am advising that Joseph W. Pendergast is not the "Advocate for fair representation" for The Ranch at Prescott Homeowner's Association or its governing Council and that the allegations made in the August 29 letter do not necessarily represent the position of the Association Members or its governing Council Representatives. By copy of this message to Bob Balzano of HOAMCO, I am requesting that he inform Unit 9 property owners of these facts.

E. Kent Robinson, Chairman
The Ranch at Prescott Homeowners Association

Attachment #4

September 30, 2006

Chairman and Members of the
Ranch at Prescott Homeowners Association Council
P.O. Box 10000
Prescott, Arizona 86304

Gentlemen:

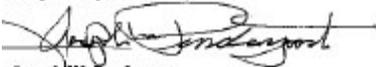
I am a member of the Ranch Homeowners Association and very interested in its governance. I have attended all of the regularly scheduled monthly Council meetings, save one, during the past year.

On August 29, 2006 I sent a letter to property owners in Unit 9 of the Ranch soliciting their interest in serving on the Council (Attachment #1). I believed that the present Council position was vacant, the person who had occupied it being declared ineligible for lack of being a record owner therefore not a member of the Association at the time of his appointment in 2005, which ineligibility was confirmed by the Carpenter & Hazlewood Law firm engaged by you.

In response to my sending that letter, I received an audacious letter from Favour Moore & Wilhelmsen, P.A. representing Scot Lee and demanding retraction of the statements included in my August letter regarding the ineligibility of the present Unit 9 representative to be a Council member (Attachment #2). If their letter, in fact, represents Scot Lee's interests, then I would hope that the Association did not pay for it and, if Favour Moore & Wilhelmsen still represent the Association, then there appears a major conflict of interest.

I find it outrageous that an individual member of the Council can take it upon himself to try to suppress anyone who, acting in the interest of the governance of the Association, merely attempts to encourage Association members' interest in participating in Association affairs and activities. I would hope that you would address this at the next meeting of the Council.

Respectfully,



Joseph W. Pendergast
Ranch Association Member

Attachment #1: Pendergast letter 8/29/06

Attachment #2: Favour Moore & Wilhelmsen letter 9/26/06

Cc: Favour Moore & Wilhelmsen, P.A. w/attachments

Attachment #5



**The Ranch at Prescott
Homeowners Association
P.O. Box 10000
Prescott, AZ 86304**

November 15, 2006

Mr. Joseph W. Pendergast
699 West Lee Boulevard
Prescott, AZ 86303

Dear Mr. Pendergast:

This will respond to your letter dated September 30, 2006, and attachments thereto, regarding the Unit IX representation issue that you have frequently raised with the Association governing Council. In view of the potential for litigation of this matter, this letter identifies a number of statements made in your letters of August 29, 2006 and September 30, 2006 that are inaccurate, misleading and/or a mischaracterization of facts.

Letter dated August 29, 2006 to Unit IX Property Owners

- 1) Paragraph 1, line 2. Bullwhacker Associates is the Declarant, not Jim Lee.
 - 2) Paragraph 1, line 5&6. Your comment fails to note that the Declarant, Bullwhacker Associates, is required by the Ranch at Prescott Homeowners Association CC&R's to "appoint the first Homeowners Association Board of Directors" (actually the Homeowners Council).
 - 3) Paragraph 2, line 2. The first appointed, and then the elected, governing entity for Homeowners Association is a "Council", not a "Board of Directors" as you indicate here and in the signature block of this letter. These are two distinctly different types of governing entity.
 - 4) Paragraph 2, line 5. No "private meeting" that you refer to ever took place. The meeting you erroneously refer to as "private" was the regularly scheduled meeting of the Interim Homeowners Association Council, held on the last Thursday of each month, therefore August 29, 2006. This was an open meeting, as required by Arizona statute, for which notice and proposed agenda were posted. The minutes of that meeting were published and remain available on the Association web-site at ranchatprescotthoa.org.
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Attachment #5 (Continued)

- 5) Paragraph 2, lines 6 and 7. You incorrectly state that "This information [regarding the candidacy of non-resident property owners] was not communicated to any of the property owners". In fact, the referenced information was immediately communicated by the Council. This is evidenced by the fact that the name of Don Jemnewein of Unit VI, a non-resident property owner, appears on the Association's September 2005 election ballot.
- 6) Paragraph 2, lines 11-14. It is pure conjecture, certainly not fact, that the lack of more than one Council candidate in three of the Units (excluding the Oaks which held its own election) was due to "the property owners believing that they had to actually reside (live in) a subdivision". Further, "vote by acclamation" is a commonly used cost saving practice in situations where only one candidate is nominated and no provision exists for write-in candidates.
- 7) Paragraph 3. The allegation of "fraud" stated in paragraph 3 is untrue, demeans the Council's integrity, and is not supported by any fact.
- 8) Paragraph 3, line 10. Jim Lee is not a member of the Association's Architectural Committee and, therefore, is not a part of what you describe as "the ruling majority of the Ranch at Prescott Architectural Committee". That Committee consists of Scot Lee and three outside architects.
- 9) Title block of letter. You misrepresented yourself and misled the Unit IX property owners when you stated in the title block of this letter that you are 'Advocate for fair representation, 'Ranch at Prescott' Homeowners Association Board of Directors,' for The Ranch at Prescott. The governing Council of the Association has made no such appointment. Therefore, you were informed by the attached September 27, 2006 e-mail message, copy attached, from the Council Chairman that your use of the title is not sanctioned by the Council.

Letter dated September 30, 2006 to HOA Chairman and Council Members

- 1) Although dated September 30, 2006, this letter was not actually delivered by you to the Council Chairman until October 24, 2006, nearly a month later than its date.
- 2) Paragraph 2, Line 3 to 7. The opinion that the Council requested from the Carpenter and Hazlewood Law firm does not in fact declare as ineligible or confirm the "ineligibility" of the present Unit IX representatives. This was an opinion, nothing more nothing less, as to the interpretation of the CC&Rs usage of the words "owner" and "record owner".
- 3) Paragraph 3. As you well know, the Association did not pay for any legal advice received by Scot Lee from the firm of Favour Moore & Wilholmsen, P.A. This is the Declarant's law firm which has not represented the Association since the Declarant turned over the operation of the Association to its Members in May, 2005.
- 4) Paragraph 4. The Council is unaware of the any Member of Council that took "it upon himself to suppress anyone who, acting in the interest of governance of the Association, merely attempts to encourage Association members' interest in participating in Association affairs and activities." As was stated at the Annual meeting by the Chairman, it is the potential for litigation (regarding allegation of false statements made in your letter of August 29, 2006) that has caused the Council (and presumably yourself) to proceed carefully in discussion of the Unit IX representation matter.

As you are aware, the Council has received differing legal opinions regarding the CC&Rs use of the words "owner" and "record owner" when referring to property ownership under Arizona law. Therefore, at our October 26, 2006 Council meeting a

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decision was taken not to consider further hearing and/or action on the matter of the Unit IX representation. I believe that you will agree that during the last nine months, the Council has given you considerable latitude and agenda time to be sure that this issue was fully heard and considered.

Sincerely,



Dion Manner, Chairman
The Ranch at Prescott Homeowners Association

Cc: Council Members
Robert Balzano/HOAMCO

Attachment 1 – Pendergast letter dated September 30, 2006 with attachments.
Attachment 2 – Robinson e-mail of September 27, 2006

END OF ATTACHMENTS