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February 3, 2010

Michael A. Ungerbuehler, Esq.
The Association Law Firm, PLLC
417 E. Jackson Street
Orlando, Florida 32801

Re: Villas of Lake Destiny Homeowner's Association, Inc.
Common Area Expenses and Ownership of Recreational Areas/S.B. Club Condominium
Association, Inc.
Pohl & Short File Number 8789-1

Dear Mr. Ungerbuehler:

This firm represents the Villas of Lake Destiny Homeowner's Association, Inc. ("The Villas").

I have reviewed your prior letter to David N. Glassman dated November 16, 2009, together with the proposed Shared Facilities Agreement, and the original Agreement between S.B. Club Condominium Association, Inc. (Sun Bay") and Lake Destiny Development Corporation, Inc. recorded in Official Records Book 5118 at Page 4442 (the "Agreement"). I also previously obtained a complete search of, and reviewed the chain of title concerning the current ownership for, the recreational facilities (the "RecFacs") that were the subject of your November 16th letter. I have met with members of the Board of The Villas, and physically viewed both the Lake Destiny and Sun Bay properties.

The public records reflect title to the RecFacs being vested solely in The Villas. In light of the fact that the RecFacs are situated wholly within the boundaries of Sun Bay's property, The

Villas has previously stated its willingness to convey the RecFacs to Sun Bay, provided certain conditions are satisfied. These conditions relate to resolution of disputes concerning the common area expenses and the reserves shared by the two associations.

It appears that both Sun Bay and The Villas acknowledge that the common area expenses and the reserves are defined by Section 4 of the Agreement. Since the original Agreement adequately defines those financial responsibilities, The Villas elects not to execute the proposed Shared Facilities Agreement, which appears to expand the obligations of The Villas.

The Villas acknowledges that for a period of time in 2009 it had fallen behind in its payment schedule. It is my understanding that The Villas is now current in its obligations. From The Villas' perspective, however, problems have periodically arisen due to bills submitted by Sun Bay which have not adequately identified the appropriateness of the particular expenses as they relate to the Agreement.

The Villas requests that each invoice reflect the manner in which the billing is connected to an obligation defined by the Agreement. For example, The Villas previously received an invoice through Sun Bay for work performed by a company that treats overflow ponds. Since this is not defined as an obligation of The Villas under the Agreement, the invoice was rejected. On occasion other bills also have been rejected. Usually The Villas, when rejecting the submitted bill, has asked for further clarification as to how it is an obligation under the terms of the Agreement. Just as Sun Bay's Board has its fiduciary duties, The Villas' Board has the same fiduciary obligation to its members to pay only those items designated within Section 4 of the Agreement. If there is no further response from Sun Bay as to the questioned statement, the invoice is not paid.

The purpose of this letter, in part, is to reaffirm the formula for the sharing of expenses and reserves as originally agreed to by the two associations in the Agreement. Attached to this letter and identified as SCHEDULE A is a shared cost breakdown of all *ongoing* permitted expenses and reserves, which Schedule was prepared by this office. *Please advise if Sun Bay agrees with this analysis.*

Mr. Ray Foss, President of The Villas, previously provided Sun Bay a schedule of the cost-sharing agreement, a copy of which is enclosed. This schedule appears accurate. It should be a useful tool in coordinating future invoices for payment by The Villas. If each paragraph number is referenced for the charges submitted to The Villas, payment can readily be identified, or specific questions raised by The Villas relative to the particular cost submission. For example, pool and deck charges should reflect the specific cost breakdown by the maintenance company providing the services and materials, and Sun Bay should reference Section 4(j) in its submission. If a bill were submitted which includes work on the pool (Section 4(j)), and also includes work not covered under the Agreement, the pool company would need to revise its bill to reflect that portion allotted to Section 4(j).

The Reserves. The Villas acknowledges its obligations to contribute to the reserves reflected on SCHEDULE A. However, the Board Members of The Villas have also advised,

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relative to the reserves, that although requested, they have never received information from Sun Bay regarding the balances, nor the handling of expenditures of reserve funds to which they have contributed. On more than one occasion, The Villas advises that they have requested in writing such accounting, and suggested a transparent process for handling reserve funds that represent shared expense obligations. However, I have been advised that Sun Bay has not responded to those requests. For that reason, The Villas' board, in conformity with its fiduciary obligations, has previously set up an escrow account and deposited the amounts demanded by Sun Bay for reserves into said account. Once the required accounting from Sun Bay's cost reserve account has been provided, the escrow funds can be paid. That accounting must be in the form of monthly bank reconciliation statements between January 1, 2006 and the present date for Sun Bay's reserve accounts for joint expenses, not comingled with other Sun Bay reserves.

Based on the above comments, I recommend the following:

1. Sun Bay provide invoices and cost breakdowns for all outstanding sums owed by the Villas, if any;
2. Each cost breakdown reflect the subsection of the Agreement which creates The Villas' obligation to contribute to said cost item;
3. The parties agree to comply with the formula presented in the Agreement, and future invoices reflect the appropriate subsection of the Agreement which creates The Villas' obligation to contribute;
4. Sun Bay make its Bank Statements for shared expense Reserve Accounts available to the board members of The Villas, and that these records be available for inspection on a monthly basis; and
5. Upon resolution of the above, to the satisfaction of The Villas, and in consideration of said resolution, The Villas will Quit Claim the recreation areas at issue to Sun Bay.

The Villas will continue to pay its appropriate share of expenses according to the schedule of obligations specified in the original Agreement.

I look forward to your response within the next ten days.

Very truly yours,



Mark A. Grimes

MAG/ps

Enclosures

cc: Ray Foss, President
Frank L. Pohl, Esq.

SCHEDULE A - COST ANALYSIS

SEC. 4 OF AGREEMENT recorded in O. R. Book 5118 at Page 4442 (the "Agreement")

Note: unless otherwise stated, Sun Bay is obligated for the remaining contributions set forth by each formula:

- Sec. 4(a). The Villas to pay 41% of ongoing maintenance and operations for the security gate and systems. [also referenced in Sec. 4(f)]
- Sec. 4(b). The Villas agrees to contribute to the ongoing maintenance expenses of a) the sewerage lift station, b) the waterscapes/water retention lift station motors, pumps and associated equipment, and c) the motor, pumps, lights and equipment associated with the main entry fountain, all as provided in Sections j, below. The specific percentage share for these items is set forth in Sections j, below. (Note: this section provides for Sections g-j, below. However, since g-i are no longer applicable, only "j" is recited.)
- Sec. 4(c). Maintenance and reserves for the boat ramp are to be paid as provided in paragraph j, below (g-h are no longer applicable). Additionally, The Villas and Sun Bay to contribute equally to (i.e. The Villas to pay 50% of) the ongoing maintenance and operation of the five (5) fountains installed in the ponds adjoining Sun Bay and the Villas.
- Sec.4(f). The Villas to contribute 41% of the ongoing maintenance and operation costs of signs and gate house.
- Sec. 4(j). The Villas to pay 41% of all expenses and reserves for maintenance, repair, and replacement of the following:
 - 1) Pool and deck
 - 2) Tennis courts
 - 3) Sewage lift station
 - 4) Waterscape lift station
 - 5) Main entry fountain
 - 6) Boat ramp
 - 7) Portion of painting reserve dedicated to the recreational facilities
- Sec. 4(j). The Villas to pay 20% of the expenses for electricity
- Sec. 4(j). The Villas to pay 16% of all road reserves
- Sec. 4(j). The Villas to contribute \$1,200 per year to operations portion of Sun Bay's budget for its administrative costs

**Sun Bay Club - Villas of Lake Destiny
Cost Sharing Agreement**

| Invoice Description | Percentage Allocation | | Agreement Para. |
|---|-----------------------|------------|-----------------|
| | SBC | VLD | |
| Gate - maintenance and operations | 59% | 41% | |
| Operating Expenses | 59% | 41% | 4. a. |
| Fountains serving ponds adjoining SBC and VLD properties | 50% | 50% | |
| Operating Expenses | 50% | 50% | 4. c. |
| Gate House Signs and Gate House operating & maintenance | 59% | 41% | |
| Operating Expenses | 59% | 41% | 4. f. |
| Maintenance, repair, & replacement of Pool & Pool Deck | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Operating Expenses (not paid from reserve) | 59% | 41% | |
| Maintenance, repair & replacement of Tennis Ct. | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Operating Expenses (not paid from reserve) | 59% | 41% | |
| Maintenance, repair & replacement of Sewerage Lift Sta. | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Maintenance, repair & replacement of Waterscape Lift Sta. | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Operating Expenses (not paid from reserve) | 59% | 41% | |
| Maintenance, repair & replacement of Main Entry Fountain | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Operating Expenses (not paid from reserve) | 59% | 41% | |
| Maintenance, repair & replacement of Boat Ramp | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Operating Expenses (not paid from reserve) | 59% | 41% | |
| Painting reserve for painting dedicated to rec facs | 59% | 41% | |
| Reserve funding - Deposited in VoLD Escrow | 59% | 41% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| Electricity | 80% | 20% | |
| Operating Expenses | 80% | 20% | 4. j. |
| Road Reserve | 84% | 16% | |
| Reserve funding - Deposited in VoLD Escrow | 84% | 16% | 4. j. |
| Expenses paid from reserve | 100% | 0% | |
| SBC Administrative Costs | | | |
| Monthly Contribution | | \$ 100.00 | 4. j. |