



September 18, 2024

Brookwillow Village Homeowners  
Association, Inc.  
c/o Board of Directors  
2472 Orion Way  
Grand Junction, CO 81505

*Denver Office*

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Re: *Brookwillow Village Homeowners Association, Inc./Insurance Obligations  
Our File No. 1346.0018*

Dear Members of the Board:

Pursuant to your request, we have looked at the Association's insurance obligations contained in the Declaration to determine what, if any, insurance is required to be purchased by the Association.

We understand while currently the Association has obtained insurance on the attached, townhome products, the cost of insurance at the Association level has become cost prohibitive and the Association is looking for options. One of these is to determine what exactly the Association is required to insure.

The Association's insurance obligations are set forth in Article VI, which requires the Association to maintain the following types of insurance on the "Common Elements":

(a) Property insurance for broad form covered causes of loss; except the total amount of insurance must not be less than the full insurable replacement cost of all insured property less applicable deductibles at the time the insurance is purchased and at each renewal date, exclusive of land, foundations, excavations and other items normally excluded from property policies.

(b) Commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the Common Elements.

(c) A policy providing comprehensive fidelity coverage or fidelity bonds to protect against dishonest acts on the part of officers, directors, Owners, trustees and employees of the Association.

The Declaration defines Common Elements at Article I, Section 11 as "any real estate owned or leased by the Association other than a Unit." (Emphasis provided).

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The Colorado Common Interest Ownership Act (“CCIOA”) uses the terms Unit and Lot interchangeably. Therefore, a Lot is defined in the Declaration as a separate numbered lot or plot of land shown upon any recorded subdivision map of the Community. As the Townhome Units and Single-Family Units are located on Lots and constitute Units, the Association has no affirmative obligation to provide insurance for these improvements.

Furthermore, the condominiums are subject to a separate declaration and association and are not considered to be common elements of the Master Association. Thus, the Association is not obligated to provide insurance on these units either.

As to maintenance requirements, similar to the insurance requirements, the Association has no affirmative duty to maintain the Townhome Units. The Declaration, at Article VIII, provides that the Association’s maintenance obligations are limited to the Common Elements. The Units, including all improvements constructed thereon, are required to be maintained by the Owners.

All this being said, there are challenges in the way the Declaration is drafted. Requiring the Owners to maintain the Townhome Units on their own may result in varying levels of maintenance. The Association may want to discuss both the insurance and maintenance requirements with the Owners to discuss how best to proceed.

Sincerely,



David A. Firmin  
**Altitude Community Law P.C.**

DAF/daf