

March 5, 2021

Members/Shareholders of
Lake Francis Mutual Water Company, Inc.
Dobbins, CA 95935

Re: Relationship Between Water Company and CC&Rs

Dear Member/Shareholder:

Our law firm represents the Lake Francis Mutual Water Company, Inc. ("LFMWC") as its general counsel. The LFMWC Board of Directors (the "Board") requested that we communicate with the members and shareholders (hereinafter "Members") of LFMWC as it relates to the relationship between LFMWC and the *Declaration of Restrictive Covenants on Tract No. 100, Yuba County, California*, recorded on September 25, 1967, in Book 456, on Page 538 of the Official Record of Yuba County (the "CC&Rs").

As an initial matter, LFMWC is a mutual water company under California Public Utilities Code Section 2725, which is "a private corporation . . . organized for the purposes of delivering water to its stockholders and members." LFMWC is governed by the *Articles of Incorporation of Lake Francis Mutual Water Company, Inc.*, as amended on May 3, 1967 (the "Articles"), and the *By-Laws of Lake Francis Mutual Water Company, Inc.*, as adopted on May 3, 1961 (the "Bylaws"). All LFMWC actions must comply with the provisions outlined in the Articles and Bylaws. If there is a provision in the Articles or Bylaws that conflicts with California law, the provision in California law will override and control the conflicting language, while leaving the remaining provisions in the Articles or Bylaws to have legal effect.

The Articles and Bylaws make no reference to the CC&Rs, and the documents do not allow LFMWC to enforce provisions in the CC&Rs. In fact, the text of the Articles

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expressly prohibits LFMWC from taking any action to enforce the CC&Rs. Section Two of the Articles provides:

The only purpose for which this corporation is formed is to develop, distribute, supply, or deliver water for irrigation or domestic use, or both, to its members or shareholders, at actual cost, plus necessary expenses.

LFMWC can only act within the authority granted to it in its Articles. Because LFMWC can only act to "develop, distribute, supply, or deliver water" to its Members, LFMWC cannot enforce the CC&Rs. This would be true even if the CC&Rs were interpreted to include LFMWC as a party to the CC&Rs, which it is not.

The CC&Rs are equitable servitudes. Under California law, equitable servitudes are restrictions on the use of property that any person who owns property subject to the equitable servitude may enforce. The CC&Rs do not create a homeowners association that is authorized to enforce the CC&Rs. Our interpretation of the CC&Rs, as outlined in Section 10 of the CC&Rs, is that the only people or entities that can enforce the CC&Rs are those that own identified lots within the Lake Francis Estates development that are expressly subject to the CC&Rs and listed in the description of the subject lots. LFMWC does not own a subject lot in the Lake Francis Estates development, and is not subject to the CC&Rs. As a result, LFMWC lacks the ability to enforce the restrictions in the CC&Rs.

It appears that there is a belief that because the founding members of the architectural control committee (the "ACC"), as outlined in Section 6 of the CC&Rs, are the same founding members of LFMWC, the ACC and LFMWC are the same entity. This is an assumption of a correlation between the two, and is not accurate. LFMWC and the ACC are two completely separate and independent entities. The founding members of the ACC also differ from the founding members of the Board. The ACC originally included K.R. Ingersoll and Emma Ingersoll as members, as well as three other individuals that owned property in the Lake Francis Estates development. The Seventh Section of the Articles established the founding members of the Board to be Ray Ingersoll (we understand to be the same person as K.R. Ingersoll), Emma Ingersoll, and Donald E. Huckins. The founding membership of the ACC is not identical to the founding membership of the Board. Also, it is impossible for these founding members to be considered identical because the ACC originally consisted of five members, while

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the Board consisted of three members. It is true that the same individuals developed the land, and created a water company to provide water to the land, but they did not create a legal connection between the CC&Rs and LFMWC. Had that been their intention, it would be simple to include a clause in the CC&Rs giving LFMWC the authority and obligation to enforce the CC&Rs. That was not done, so it would be unreasonable to infer some sort of intent when it would have been easy to expressly add that to the CC&Rs.

After the October 2020 Member election and the resignation of a member of the Board, a small number of Members have expressed concern with the proper membership of the Board. Although LFMWC disagrees with these concerns, it hopes to clearly settle and resolve disputes about who are the members of the Board at the upcoming Member election that will be held on May 10, 2021. In order to assuage these concerns and limit unnecessary controversy, the Board will not take any material action affecting LFMWC until the conclusion of the upcoming election, except it will continue to maintain the normal operations of LFMWC.

We thank you for your time and consideration in this matter.

Very truly yours,

BAYDALINE & JACOBSEN LLP

/s/ John D. Hansen

John D. Hansen

cc: Lake Francis Mutual Water Company, Inc.