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May 14, 2010

Richard A. Finnegan, Attorney at law
2112 Black Lake Blvd SW
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Re: Harstine Island Estates Association

Dear Rick:

Thank you for your letter of April 28, 2010.

I think I answered all of the points you raise in my previous letter, but please allow me to make sure my clients' position is clear by responding directly to the claims made in your letter:

1. The Board President said, "during the final design, we found that the current booster station components are too small to serve the number of lots within the pressure zone system. ...This requires larger components than the existing ones. Basically the increase in the cost of the system is the result of the need to increase the size of the components to meet the necessary DOH approval associated with moving the Booster station."

2. The cause of the need for the more expensive components has nothing to do with the booster station being moved.

3. The increased price for components is not "associated with" any particular booster station; it is associated with the increased number of lots within the system.

4. The increased price for components is not associated with the "new" booster station, as opposed to the old booster station.

5. If your client wanted my clients to pay for a larger pump and other components that are not related to the booster system, then it could have said so directly. "Associated with" does not include "anything that touches" the booster station.

6. If the language is ambiguous, then a primary rule of construction is to construe it against the drafter, your client.

7. If that is not enough to satisfy your client, then another primary rule of construction is to ascertain the parties' intent. Do you have any evidence whatsoever that my clients intended to be responsible for additional costs occasioned by the increases in use of the system, and not related to the movement of the booster station? Your client's expert, Mr. Martig, clearly understood the reason for the Agreement in his previous stamped estimates, in which he underlined the fact that my clients wanted the tank and pump station moved; the only reason for the move was to get it farther away from their house.

8. Of course, my clients do not have pre-approval authority over all aspects of construction. Obviously, they agreed to an open-ended number. But they did so expressly relying on your client's good faith in performance of its obligations under the contract. It is not good faith to spend more money on a pre-fab unit when a site-built booster station would be less expensive. And if that difference in cost is significant, without any reasonable explanation, then we will have an issue with how much my clients have to pay. For that reason, we would appreciate it if you could send copies of the booster station plans, so we can have highly competent local contractors let us know what it would cost to build on site. I assume your client would want to save money for the association as well, and this might be a good way to do it.

Next, I want to make a very clear record about our requests for association records. As to the following, please clearly indicate what records exist, what they are, and where they can be found. If no records exist, please clearly indicate that fact. If records do not now exist, please consider this a request for records that are created in the future, when they are created. By records, we mean all records of the association, including emails, letters, documents, minutes, contracts, notes and all other writings of any nature; and all of these as they apply directly to the question asked, or have any relevance to it. As to any records that you admit do exist, please provide a copy of the same at your earliest convenience.

- Costs for labor, components, and materials of the new booster station, and copies of vendor documents; compare and contrast the same with the cost to construct the booster station on-site in February of 2008.

Response: _____

- Is a new pump required because of the change in location? Are any other different, more expensive components required because of the change in location? If so, why? Please specify the manufacturer and model number of components that are currently planned for installation that will increase the cost of the project over the components that would have been acceptable if the site had not changed.

Response: _____

- Is the association aware of any State or County (or other) laws or regulations of any kind that would result in a higher cost of construction because the site of the booster station is changed? If so, what are these laws or regulations? And, please provide contact information within any agencies for the association's source of this information.

Response: _____

- What is the cost estimate for the difference between soundproofing the booster station to code, and to the "best available soundproofing practices" standard?

Response: _____

- What evidence do the Board members have that supports their claim that my clients intended to be responsible for charges for upgrades that would have been necessary if the booster station had not been moved? This is intended to apply to records from the Board or from my clients.

Response: _____

My clients and I regret that the Board has taken the position that the Agreement was intended by either party to require them to pay for upgrades that have nothing to do with the relocation of the booster station. Our position is that not only does the Board have almost no chance of prevailing as to this position, because it is so contrary to what the Agreement was actually about; but also, each and every one of the Board members who was involved at all in the negotiations knows personally that this was not the intent of the Agreement. Perhaps each could

April 12, 2010

Finnigan

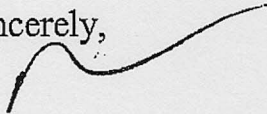
Page 5

be asked if, at the time of the Agreement, they understood that Mr. Kirkpatrick and Ms. Donnelly were agreeing to pay for components that were to become necessary because of the increased demand on the system, and that were not related to the relocation of the booster station.

The intent of the entire Agreement was that Mr. Kirkpatrick and Ms. Donnelly wanted the whole apparatus farther away from their residence, and were willing to pay half of the associated costs of the move to the new location. I suggest that your client rethink its position to the contrary.

Thank you for your kind consideration of this matter. I look forward to your response at your earliest convenience.

Sincerely,



Robert D. Wilson-Hoss

RWH:tg

c: client